

Judith Subia

From: Morgan, James C, CIV PSNS&IMF, Code 450.2 [james.c.morgan@navy.mil]
Sent: Wednesday, March 03, 2010 2:06 PM
To: Erika Conkling
Cc: Laura Morgan; Morgan, James C, CIV PSNS&IMF, Code 450.2
Subject: Comments for SMP meeting, Wed March 3rd

We have lived at 3103 Mountain View Ave N since April 2001. During that time we repaired our dilapidated dock. In doing so we reduced the footprint of the dock by 40% and also installed see through deck grating to comply with the new rules. Our first concern with this new set of rules is "What's wrong with the old ones?" Our opinion is that those are too restrictive and adversely affect property owners. Now if we repair our dock again, we'll have to shrink the foot print again? Are we going to have to change our landscaping to comply with the new rules?

Is that the next step? This appears to be getting rammed through without homeowner representation. We would greatly appreciate it if you could work to help homeowners increase their quality of life not minimize it.

R/
Jim Morgan
Port Engineer:
USS SHOUP (DDG-86)
W: 425-304-4580
C: 425-754-5858
email: james.c.morgan@navy.mil

Judith Subia

From: Brennan, Jerry [jerry.brennan@boeing.com]
Sent: Wednesday, March 03, 2010 4:48 PM
To: Erika Conkling
Cc: Chip Vincent
Subject: One Suggested Wording Change
Attachments: SMP 4-10-095F Suggested Rev.doc

Erika,

In review of the Feb 2010 SMP Draft I would like to suggest one revision for clarification purposes.

Enclosed electronically is the suggested revision which would ensure the ability of Non-Conforming structures keeping within their existing building footprint to be repaired, modified or replaced within the existing footprint.

I suggest adding one line to table 4-40-095F.2

Under : Alteration of a Non-conforming Structure

Left Hand Block = Alteration Within Existing Footprint, - No building footprint expansion.

Under Compliance Standard: No additional Vegetative Conservation required.

Thank you for your efforts on this large project.

Jerry Brennan
3405 Lake Washington Blvd n
Renton WA 98056

4-10-095F.2. Partial Compliance for Single-Family Development: The following provisions shall apply provided that expansion of the non-conformity shall not extend either further waterward than the existing structure, and shall comply with all other dimensional standards:

Alteration of a Non-conforming Structure		Compliance Standard
Alteration Within Existing Footprint	No building footprint Expansion	No additional Vegetation Conservation Required
Minor Alteration	Expansion of building footprint by up to 500 sq.ft. or up to 10% (whichever is less); or	Partial compliance with Vegetation Conservation provisions of RMC 4-3-090.F.1 Vegetation Conservation consisting of revegetation of a native community of at least 50% of the area between an existing building and the water's edge provided that the area to be revegetated shall not be more than 15 feet. Remove over water structures that do not provide public access, or do not serve a water-dependent use.
	Expansion of impervious surface by up to 1,000 sq. ft. or up to 10% (whichever is less)	
Moderate Alteration	Expansion of building footprint by more than 500 sq. ft. or between 10.1-25% (whichever is less); or	Partial compliance with Vegetation Conservation provisions of RMC 4-3-090.F.1 Vegetation Conservation consisting of revegetation of a native community of at least 80% of the area between an existing building and the water's edge, or at least 15 feet, provided that the area to be revegetated shall not be more than 25% of the lot depth feet. Remove over water structures that do not provide public access, or do not serve a water-dependent use. Piers and Docks shall be required to replace any solid surfaces with light penetrating surfacing materials. Shoreline stabilization structures not conforming to, or otherwise permitted by, the provisions of this code shall be replaced with conforming shoreline stabilization structures in accordance with the standards for new shoreline stabilization structures in RMC 4-3-090F.4 Shoreline Stabilization.
	Expansion of impervious surface by more than 1,000 sq. ft., or between 10.1-25% (whichever is less)	
Major Alteration	Expansion of building footprint by more than 25%; or	Full compliance required with all development standards for new structures, including, but not limited to: primary and accessory structures, docks, and shoreline stabilization structures if such structures are not otherwise permitted by the provisions of RMC 4-3-090 Shoreline Master Program.
	Expansion of impervious surface by more than 25%	

Judith Subia

From: Wyn Geiser [wyngeiser@hotmail.com]
Sent: Wednesday, March 03, 2010 4:22 PM
To: Erika Conkling
Subject: Shoreline Master Program

We are home owners at 5031 Ripley Ln NE and are concerned about the new program and wish the city had more input from the community since we will be the ones to be effected the most. I'm not sure how that can happen but we are all very interested in the future of our city.

Alwyn Geiser

8225 S 128th
Seattle, WA 98178
March 3, 2010

Ms. Ericka Conkling
Department of Community and Economic Development
1055 South Grady Way
Renton, WA, 98057 Renton City Hall

Dear Ms. Conkling,

Please accept these comments on the proposed Renton Shoreline Management Program. They address the proposed restrictions on single-family homes on Lake Washington in Renton related to coverage limit, building height, and setback.

Coverage Limit

The proposed SMP Maximum Lot Coverage is 25% although the State RCW does not specify coverage limit. Currently, Max Coverage for a lot is 35% or 2500 sq ft which ever is greater.

Data found in the Oct 2009 "Revised Draft Shoreline Inventory and Analysis", found on the website, describes the Impervious Surface by Reach. The three Reaches with Single Family Homes within Renton are Reach B, D and E. Reach D also includes Kennydale Beach Park. The overall impervious area is 32%. Without the park, the percent impervious would be significantly higher. See Attachment A for additional information.

The few lots that have not been redeveloped are larger parcels. The current 35% allowed coverage of these larger lots will likely result in more "uncovered" area, per lot, than the total area of some of the smaller lots. It seems that the new regulation is designed to make the undeveloped bigger lots make up for the developed smaller lots. The result will be that some of the bigger lots will be forced to have smaller houses than currently exist on the smaller lots. This will definitely lower property values for all parcels in the Reach.

Building Height

The State RCW allows a single-family height of 35 feet. The proposed SMP would restrict a single-family house to 30 feet. The reason given for this restriction was that it is consistent with the limits elsewhere in the city. The logic used for the decisions to establish the coverage maximum and the building height is inconsistent. The two restrictions will result in decreased property value by severely limiting the potential of this prime real estate.

Setback:

The following information from the Oct 2009 "Revised Draft Shoreline Inventory and Analysis", shows that the 60 foot and 70 foot setback requirements will affect, at most, six parcels on Lake Washington in Renton. This means than, at most, six single-family homes will be required to have a setback of more that 50 feet from the shore. This is not equal treatment of all property owners.

Extract from paragraph 4-3-090.F.1.c.i:

c. **Alternative Vegetated Buffer Widths and Setbacks for Existing Single-Family Lots**

- i. **Reduced Requirements Based on Lot Depth:** The reviewing official may apply the following vegetation buffers and building setbacks for existing single-family residences and existing single-family lots consisting of property under contiguous ownership without a variance. Lot depth shall be measured from the ordinary high water mark in a perpendicular direction to the edge of the contiguously owned parcel or to an easement containing existing physical improvements for road access for two or more lots.

Lot Depth	Building Setback	Vegetated Buffer
Greater than 150 feet or greater	70 feet	60 feet
Greater than 130 feet, up to 150 feet	60 feet	50 feet
100 feet, up to 130 feet	35 feet	25 feet
Less than 100 feet	25 feet	15 feet

The following maps show shoreline modifications on lots along Lake Washington in Renton. They are from the SMP website, "<http://rentonwa.gov/business/default.aspx?id=15508>". The parcel outline color coding is as follows:

Black	No Structure Present
Red	less than 20 Feet
Orange	20-50 Feet
Green	More than 50 Feet

Unfortunately, the setback groupings in the SMP do not correspond to the groupings shown graphically on these maps. Over half of the houses are closer than 20 feet to the shoreline and it is unclear from the maps how many are more than 35 feet from the shoreline.

Maps 11-A-D include single-family areas of Renton's Lake Washington shoreline and overlap to some extent. Following these individual maps is a mosaic of the maps merged to eliminate the duplication.

Inspection of these maps show that the majority of Renton's Lake Washington shoreline houses are coded red meaning that the building is closer than 20 feet to the shoreline. Only those parcels shown in green have buildings which are greater than 50 feet from the shoreline. Practically speaking, the 60 and 70 foot setbacks shown above could only be applied to the lots shown in green. I have tried to determine the exact number. Depending on which map is correct, there are either four or six single-family parcels that are coded in green.

Contrary to the statement on page 59 of the Oct 2009 "Revised Draft Shoreline Inventory and Analysis", the parcels shown in green—with structures more than 50 feet from the shore—are not newer structures. They are mostly older structures. Redevelopment of these lots should be encouraged, rather than restricted, for the increased value and aesthetic improvement of the area.

**Shoreline Master Program Update
City of Renton**

**Shoreline Modifications
Map 11-A**

- 0-No Shoreline Protection
- 1-Less than 20 Feet
- 2-20 to 50 Feet
- 3-More than 50 Feet
- MU-Modified
- Some Modifications/Partially Vegetated
- Hard Armoring Concrete
- Hard Armoring Rock Wall
- Hard Armoring Other
- Alternatively Modified and Natural
- Continuous/Industrial Structure
- Revised Shoreline
- C. Private Residential Docks - Covered
- D. Private Residential Docks
- F. Private
- J. Joint Use Private Residential Docks
- L. Boat Lift
- LC. Boat Lift and Covered Private Dock
- M. Marina
- O. Other Dock Structure
- R. Major Boat Repair Facility
- S. No Dock

July 20, 2009
Scale: 1" = 3,000'
North Arrow

City of Renton
Shoreline Master Program Update
Map 11-A



**Shoreline Master Program Update
City of Renton**

**Shoreline Modifications
Map 11-B**

- 0-No Shoreline Protection
- 1-Less than 20 Feet
- 2-20 to 50 Feet
- 3-More than 50 Feet
- MU-Modified
- Some Modifications/Partially Vegetated
- Hard Armoring Concrete
- Hard Armoring Rock Wall
- Hard Armoring Other
- Alternatively Modified and Natural
- Continuous/Industrial Structure
- Revised Shoreline
- C. Private Residential Docks - Covered
- D. Private Residential Docks
- F. Private
- J. Joint Use Private Residential Docks
- L. Boat Lift
- LC. Boat Lift and Covered Private Dock
- M. Marina
- O. Other Dock Structure
- R. Major Boat Repair Facility
- S. No Dock

July 20, 2009
Scale: 1" = 3,000'
North Arrow

City of Renton
Shoreline Master Program Update
Map 11-B



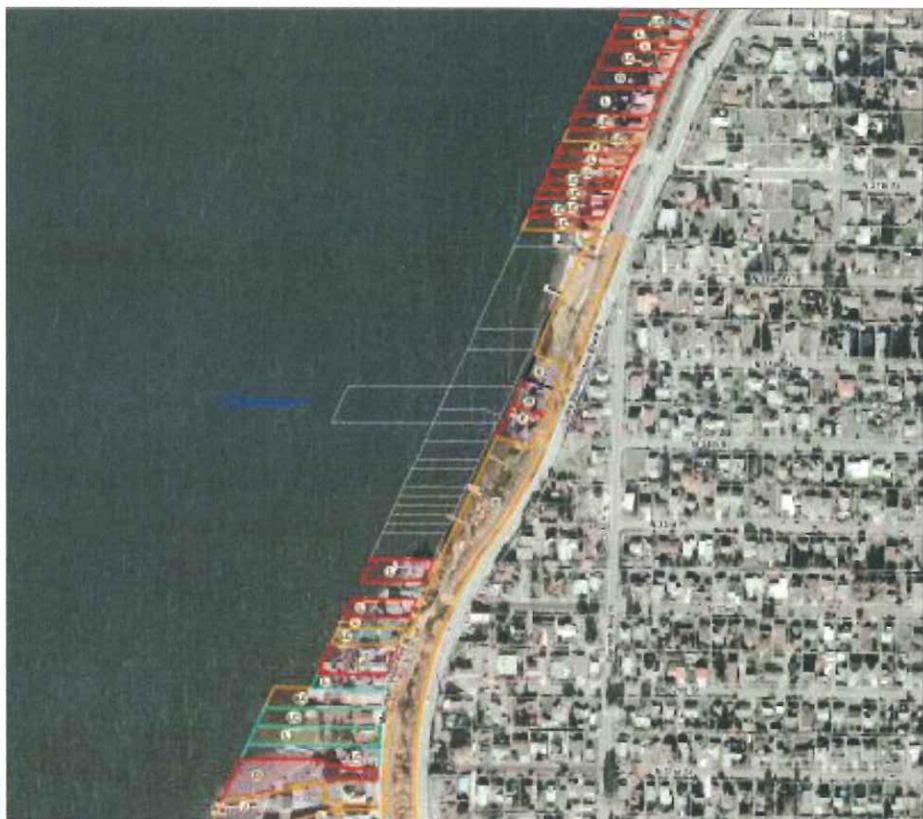
**Shoreline Master Program Update
City of Renton**

**Shoreline Modifications
Map 11-C**

- 0-No Structure Present
- 1-Less than 20 Feet
- 2-20 to 50 Feet
- 3-More than 50 Feet
- Natural/Un-modified
- Some Modification/Partially Vegetated
- Hard Armoring Concrete
- Hard Armoring Rock Wall
- Hard Armoring Other
- Alternatively Modified and Natural
- Commercial/Industrial Shoreline
- Restored Shoreline
- C. Private Residential Docks, Covered
- D. Private Residential Docks
- F. Floats
- J. Joint Use Private Residential Docks
- L. Boat Lift
- LC. Boat Lift and Covered Private Dock
- M. Marina
- O. Other Dock Structure
- R. Major Boat Ramp Facility
- X. No Dock

July 20, 2009
1:3,000

City of Renton
King County 2009 and ESA Additions



There is some overlap of maps 11-C and 11-D. The color coding of some parcels on one map is different from the color coding of those same overlapping parcels on the other map.

**Shoreline Master Program Update
City of Renton**

**Shoreline Modifications
Map 11-D**

- 0-No Structure Present
- 1-Less than 20 Feet
- 2-20 to 50 Feet
- 3-More than 50 Feet
- Natural/Un-modified
- Some Modification/Partially Vegetated
- Hard Armoring Concrete
- Hard Armoring Rock Wall
- Hard Armoring Other
- Alternatively Modified and Natural
- Commercial/Industrial Shoreline
- Restored Shoreline
- C. Private Residential Docks, Covered
- D. Private Residential Docks
- F. Floats
- J. Joint Use Private Residential Docks
- L. Boat Lift
- LC. Boat Lift and Covered Private Dock
- M. Marina
- O. Other Dock Structure
- R. Major Boat Ramp Facility
- X. No Dock

February 8, 2010
1:3,000

City of Renton
King County 2009 and ESA Additions



This is the four previous maps fitted together showing all parcels on Lake Washington that contain single-family homes, under Renton's jurisdiction.



To treat the lake shore properties equitably, I request the following amendments to the SMP as now posted:

Allow 35% or 2500 sq ft lot coverage which ever is greater since this is consistent with existing R-8 limits and is not other wise mandated by the State.

Allow a 35 foot height limit for single-family homes since this is specifically allowed by the State. This will allow redevelopment for a larger home with a smaller footprint resulting in mitigation of both impervious coverage and decreased property values.

Require no setback greater than 50 feet since to require more would result is the disparate treatment of the 4-6 houses that are currently more than 50 feet from the shore.

Thank you for considering these comments and analysis.

Sincerely,

Laurie Baker
3107 Mountain View Ave. N.
Renton, WA 98056

Attachment A

This chart comes from page 65 of the Oct 2009 "Revised Draft Shoreline Inventory and Analysis".

**Table 4-5. Impervious Surface in Lake Washington Shoreline Planning Area
Includes only the area within the Shoreline Planning Area**

Reach	Total Acres	Impervious Area (Acres)	Percent Impervious	Roadway % of Total Impervious areas	Building % of Total Impervious Areas
A	11	4	33%	65%	35%
B	6	2	24%	9%	91%
C	18	2	10%	58%	42%
D	13	5	37%	78%	22%
E	12	3	27%	52%	48%
F	15	1	10%	98%	2%
G	13	1	5%	18%	82%
H	3	0	0%	0%	100%
I	12	3	26%	96%	4%
J	2	0.31	17%	0%	100%
K	27	12	43%	78%	22%

Source: City of Renton, 2005

Single Family homes within the City of Renton are in Reaches B, D, and E. Kennydale Beach Park is included in Reach D and is largely pervious.

This table summarizes the data above for just the single family home Reaches that are currently within the City of Renton.

Reach	Total Acres	Impervious Area (Acres)	Non Impervious (Acres)	Percent Impervious (Corrected)	Notes
B	6	2	4	33%	Renton City Limits to Seahawks
D	13	5	8	38%	May Creek to Mountain View Ave. Including Kennydale Beach Park
E	12	3	9	25%	Mountain View Ave to Coulon Park
Single Family Coverage Summary	31	10	21	32%	

This illustrates that the impervious coverage in the single family Reaches is substantially greater than 32% since Kennydale Beach Park has little impervious area compared to the privately owned parcels. Reaches A and K are in the Potential Annexation Area and have even higher percent impervious than the area currently in the city.

Restricting impervious coverage to 25% will do little to change this average because most lots are currently well above this limit. The main result will be to restrict the redevelopment options for only four to six properties with little or no gain in benefit to the goals of the SMP.

March 1, 2010

City of Renton
Department of Community &
Economic / Development
Chip Vincent, Planning Director
Erika Conkling, Senior Planner

Subject: Letter for Reading and Recording at the March 3, 2010 Public Hearing on Draft Shoreline Master Program (SMP)

Dear Chip and Erika,

My wife and I are unable to attend the march 3, 2010 Public Hearing and would sincerely appreciate it if this message could be read and recorded at the meeting.

Would you please acknowledge receipt of this letter by e-mail letyoung@aol.com

Our names are Gary F. Young and Helen M. Young
Our mailing address is 3115 Mountain View Avenue North, Renton WA, 98056

Our home is located on Lake Washington just north of the Coulon Park on Mountain View Avenue North. We have lived at this location 23 years. Our home is on the waterfront and we have a dock with a slip sized to accommodate a 40 foot boat.

We are retired and in our 70's. We have put a lot of our retirement savings in our home and moorage and are now on a fixed income and not postured to provide additional funds to meet new conforming requirements.

We have maintained our home and moorage in good condition over the years and feel any penalty for maintaining the moorage in the future is unfair and unproductive. Also, we will at some point in time need to sell the home to support our old age care. We don't think it is fair to reduce the market value of our home as the result of penalties placed on the new owner to meet conforming requirements.

We would like to see a better balance between property owner and preservation of the Lake.

Our areas of concern regarding the current draft SMP are:

Home replacement requiring dock replacement

1. We feel that the requirement to bring the moorage into conformance if the house is replaced is unfair. Replacing the home should, of course, require that the new home meet the new conforming requirements but it should not be a requirement that the moorage also be reconfigured to meet the new conforming requirements. The home and the moorage should be treated as two separate entities.

Maintenance and repair of docks

1. Having to reconfigure the dock due to the replacement of a single piling places an unrealistic economic burden on the homeowner.
2. The concept of limiting the amount of repair that an owner can do to the dock without reconfiguring the entire dock is unsatisfactory. An approach where the owner can repair the dock a little bit each year rather than maintain the dock on a continuous basis is unrealistic for the home owner and the preservation of the Lake. What benefit is there to the owner or the lake preservation if the dock is not maintained continuously in good condition?

Maintenance and repair of covered moorage roofing

1. Replacement of moorage roofing should be allowed without requiring reconfiguring of the entire dock.

Design criteria for size of docks and fingers

1. The real beauty of Lake Washington for a boater is that one can take their boat out through the locks and to the inland waters and the open ocean if they like. This lends itself to larger boats. Thus, why limit a slip to 26 feet for example. If the boat size is going to be limited to just runabout size boats, one might just as well live on a land locked lake like Lake Sammamish, Lake Tapps, etc. The slip size really impacts the resale value of our lake frontage.
2. Why is the draft being prepared as if Renton is small boat country when our neighbors, Mercer Island and Seattle have considerable large boat moorage. Surely the north end of Mercer Island with many large boats is not limiting slips to 26 feet.

Your consideration to these items is appreciated.

Respectively Submitted

Gary F. Young

Helen M. Young

Judith Subia

From: Sharon Smith [sharon.smith1@comcast.net]
Sent: Tuesday, March 02, 2010 11:46 PM
To: Erika Conkling
Subject: SMP effect on my property

Dear City of Renton City Council and City Planning Commission:

I would like to express my deep concern about action you are taking towards this Shorelines Management Program. I sincerely believe the restrictions this new SMP would put on my property would be onerous, indeed.

My property's value at the present time is highly dependent on its flexibility for single family use. I believe the restrictions now exerted by the City of Renton are more than adequate to retain the quality of life and shorelines in Renton. Any further restrictions placed on my ability to expand my house or in any way use my property is unnecessary and would be destructive of my property values.

As you and I both know, the reduction in value of homes in Renton has a direct effect on tax revenues received by the City of Renton. We have seen the devastating effect in capital letters and double digits in the last couple years. The value of my home has dropped considerably, at least multiple hundreds of thousands of dollars. I think you would be doing the citizens of Renton a disservice, and providing no real benefit that is not now in existence, through the proposed SMP.

Remember, by the time anyone gets a permit from the City of Renton, the DNR, the Corps of Engineers, Fish & Wildlife and King County (did I miss anyone), there are more than ample provisions in place to protect the shorelines. Once it becomes so onerous to get a permit for property updates or upgrades, properties will degrade, not improve, and you will be defeating your own purpose. Property values will remain stagnant or decrease.

Please reconsider your options and represent your citizens well by NOT adding further hoops that need to be jumped through to provide upkeep and upgrades on our properties. There is plenty of oversight now.

I would propose that a concerted effort to rid our lake of milfoil would much better serve the Lake and the citizens, than adding the burden of details on how I keep my yard or how many willow trees I need to plant. The proposed 70 feet incursion into my land before I could make a major upgrade means that 90 percent of the people will be governed by the SMP in order to determine what they use to redo their living room floors. How ridiculous is that!!! Shorelines, my foot!!

Leave the SMP as it is and let the residents exert a little common sense and maybe you will get better than you are mandating, anyway.

Concerned Citizen,

Sharon M. Smith
5143 Ripley Lane N
Renton, WA 98056
425-430-8564

March 9, 2010

Erika Conkling
Renton City Hall
Department of Community and Economic Development
1055 South Grady Way
Renton WA 98057

RE: *Shoreline Master Program Update
Citizen Comments*

Dear Erika:

My name is Steve Porter and I live at 3205 Mountainview Ave North, Renton Washington 98056. I have lived in the City of Renton for over 15 years and lived at this Lake Washington waterfront residence for the past 11 years. Thank you for the opportunity to express my concerns with the City of Renton's proposed Shoreline Master Program updated.

My concerns deal with the fairness of the rules related to native vegetative buffers and water front docks.

In reviewing the City's proposed SMP new rules it appears that with the swipe of a pen, the City will essentially take all of the waterfront single family residences within city limits and make all of them non-conforming. I reviewed online GIS Data along with the King County Parcel Assessor maps and could not find a single developed lot (residence) that is effected by the proposed SMP changes that will be in conformance with the new rules as they relate to vegetative buffers or docks. Another way of looking at this issue is asking the question "Would the City Council approved a new city wide ordinance that effected 100% of the residential parcels within the city limits and make all of them non-confirming, and required the land owner to replace their entire backyard with a forest of native plantings to bring them into conformance"? I am pretty sure the council would have a tough time getting reelected if they did so. This action of making all the effected parcels non-conforming has the smell of an "*unconstitutional jurisdictional land taking*". I just think the rules should be fair for everyone and not put the burned of mitigation or "*land takings*" on the previously developed single family residential parcels.

DOE's guidelines (instructions to the City) describe the use of Best Available Science to maintain "No Net Loss of Ecological Value". In other words use common sense and best practices to avoid loss of ecological value, "Don't make it any worse that it already is"! Making your taxpaying citizens remove their back yards and install a forest of native plantings is not a fair method of meeting no net loss guideline.

I would recommend that the City look at their own waterfront parcels along the Cedar River and Lake Washington and consider initiating their own shoreline protection process as a show of good faith. For example, all of the lawn area within 70 feet of the shoreline in Gene Coulon Memorial Park could be replaced with a vegetative native planting buffer and the docks and elevated overwater structures could be resurfaced with DOE/Army Corps approved light penetrating surfaces. The trails and sidewalks located within the shoreline buffer of the Cedar River could be removed and replaced with native plantings. Having the City take these drastic improvement measures would help share the pain, would create some fairness, and help meet the goal of no net loss. Forcing all of the shoreline protection mitigation on the residential land owners is just not fair!

In lieu of unrealistic forced buffers, I would encourage the City to set up educational programs to help teach waterfront landowners effective organic landscape management techniques that don't use chemicals for pest control or fertilizer. Even if these programs were voluntary, they could start helping from day one. Similar types of educational programs have worked very well with educating our school children and the public in general with the negative effects of dumping waste down our storm drains.

If land owners are going to be forced to choose between deferring their home remodel or removing their back yard and installing a forest buffer of native plantings, they will likely defer the development. Some of the City's tax revenue comes from shoreline home front remodels. There has to be a fair way to implement DOE's shoreline management program guidelines but still offer opportunity to residential waterfront land owners to develop or remodel with reasonable shoreline mitigation. Buffers should be encourage and considered as part of redevelopment, along with other measures, but not forced in code!

If a residential remodel or and addition does not involve a shovel touching dirt (no site work or footprint expansion), regardless of the cost or value increase, the home owner should not be required to install a buffer or replace their dock with a conforming sized dock. Buffers should only be considered for major site redevelopment and new construction.

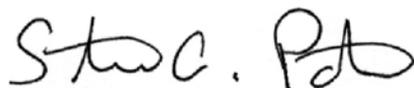
Comments regarding suggested SMP language for water front docks:

The language regarding replacement of existing docks is outrageous! All existing docks regardless of shape and size should b grandfathered and allowed to remain in their current condition. If a pile needs to be replaced or repaired for any reason, including if an errant boater damaged the dock, then the owner should be allowed to replace the pile or piles without having to remove all or a portion of the dock and re-install per the new sizing guidelines. The new sizing guidelines should only apply to new dock construction. I was wondering if the City is considering removing all of their existing overwater structures along the shoreline in Gene Coulon Memorial Park and re-installing them per the new sizing guidelines. I think the City should consider swallowing some of their own medicine before forcing it on their waterfront home owners.

I encourage the City Planning Commission, Planning Department and the City Council to consider the fairness of these new rules and don't force the entire burden SMP mitigation on the waterfront home owners.

Thank you very much for your consideration.

Sincerely,
Coughlin Porter Lundeen, Inc.



Stephen C. Porter, PE

Jerry Barber
Susan Lang
7023 Ripley Ln N
Renton, WA 98056
206-972-6364

March 9, 2010

City of Renton
Planning Commission

Re: Renton's Shoreline Management Program

Dear Planning Commission,

For me, attending the planning meeting last week (March 3rd) was a real eye-opener. For whatever reason I was not aware that such significant changes were being proposed. I spent a lot of time going through the SMP and trying to catch up.

I respectfully request that the commission extend the timetable for finalizing the SMP. It is a very complicated document and takes a while to digest.

I suggest that some effort be made to coordinate the SMP among the various jurisdictions of Lake Washington. It seems a coordinated approach makes a lot of sense and avoids issues that may arise where one SMP from Renton is significantly more stringent than one from Seattle for example and thus having significant negative impact on property values from Renton properties. This would also have a negative impact on Renton property tax revenues.

I appreciate the recent changes that allow dock owners to replace 100% of their dock surfaces (with light penetrating surface) that were recently made. I also request that owners are able to replace pilings on as needed basis to maintain the integrity of their dock structures. If dock owners are required to bring their docks into conformity this will clearly impact the property value of many owners. It will also lead to a situation where maintenance will be deferred and poorly maintained dock structures along the waterfront.

I recommend that owners are able to maintain their shoreline stabilization structure. Many owners have spent a great deal of money on their property behind the stabilization structures. Having to remove these structures is going to

have a significant impact on the property values and on the quality of their waterfront experience.

It strikes me that even if all the changes discussed were to magically be in place the waterfront in many places would not be conducive the species such as Salmon. Many waterfront owners have a significant problem with Milfoil that, as an invasive species, has significant impact on the shoreline ecology. It puzzles me to see there is no mention in the SMP on dealing with this significant problem.

Thank you for the opportunity to contribute to this effort.

Regards,

Jerry Barber
Susan Lang

Judith Subia

From: Sharon Smith [sharon.smith1@comcast.net]
Sent: Wednesday, March 10, 2010 4:30 PM
To: Erika Conkling
Cc: Anne Simpson; Jamie Huse; Jeff Hilton; Kevin Iden; Pat buzz; richard vaughn; Sharon Smith
Subject: Citizen Comment on proposed SMP, especially with regard to floating docks

03/10/2010

Dear Erika:

As Ripley Lane neighbors concerned with the proposed SMP and especially with reference to floating docks, we thank you and Jennifer Henning and Jerry Wasser for meeting with us and having what we all thought was a very productive exchange of thoughts and ideas. Your responsiveness to comments and concerns voiced by our group was gratifying, and we hope to continue to work together to come up with something that will work for the City of Renton, the Dept of Ecology, and also the citizens of Renton that are directly impacted by the proposed SMP.

At the meeting this morning we talked about a number of points, and, as per your summary, the main points we hit upon re potential repair and maintenance standards for floating docks is:

- 30% of the structure may be repaired without abiding by any of the standards of the code
- 100% of the decking may be replaced/repared. If the amount to be replaced exceeds 30% of the structure, then light-penetrating materials shall be used where possible, and as long as the structural integrity of the dock is not compromised
- Up to 50% of the supporting structures may be replaced within one year without conforming to new size requirements. The supporting structures for floating docks include pilings, floats, beams, etc.

We also discussed adding a provision that would allow an existing floating dock to be moved for the purpose of becoming a joint use or community dock, if moving the dock either prevents the construction of a new dock or results in the removal of a dock.

Thank you for your attention to this matter and we hope you will contact any or all of us on this matter in the future if you have any questions or comments. Buzz Dana is our most knowledgeable member, as he has been involved in original construction of these docks and knows the demands of structural necessities thoroughly. We all thank you for your time this morning.

Sincerely,

Ripley Lane Floating Docks Neighbors

James Huse
5227 Ripley Lane N
Renton, WA 98056
cindyhuse@comcast.net
425-204-2092

Buzz Dana
5219 Ripley Lane N
Renton, WA 98056
patandbuzz@q.com
425-687-0551

Sharon M. Smith
5143 Ripley Lane N
Renton, WA 98056
Sharon.smith1@comcast.net
425-430-8564

Richard Vaughn
5137 Ripley Lane N
Renton, WA 98056
richard.vaughn@microsoft.com
425-277-2587

Kevin Iden
5121 Ripley Lane N
Renton, WA 98056
idenkr@comcast.net
425-444-4336

Jeff Hilton
5117 Ripley Lane N
Renton, WA 98056
linghilton@gmail.com
425-390-0095

Judith Subia

From: Brennan, Jerry [jerry.brennan@boeing.com]
Sent: Wednesday, March 10, 2010 4:18 PM
To: Erika Conkling
Subject: Suggested changes to the Renton SMP

Erika,

I appreciate your efforts in this SMP work.

I would like to propose that the Vegetative Management section be greatly simplified and revised . I ask in your review you take a look at the following from the Army Corp & National Marine Fisheries who really drive the needs.

1 - The Army & National Marine Fisheries only require mitigation buffer of 10 feet, for major in water work, why does shore structure modification require a greater distance? Even the sliding scale is a great burden with the existing planting requirements. A lawn is not a bad thing through out the rest of the city why bad on the lake, water run off from the whole Kennydale hill drains out a 2 foot pipe near my property, you should see the oil and junk on the water after a rain, yet I only use Fish fertilizer and still need a buffer zone?

2 -Section 4-3-090 i. iv Redevelopment of non conforming uses requires a "Qualified Professional", what defines a qualified professional, why should I hire a Landscape Architect @ \$1000 to draw exactly what was drawn for the lot next door ? That is what I just had to do? All plants are defined by the State.

3 - Documentation requirements are overly excesie.This is all that is needed for reporting a planting plan for 5 years, Renton has us record a conservation Easement for the life of the property?

[http://www.nws.usace.army.mil/PublicMenu/documents/REG/Mitigation Planting Monitoring Report Form.pdf](http://www.nws.usace.army.mil/PublicMenu/documents/REG/Mitigation_Planting_Monitoring_Report_Form.pdf)

[http://www.nws.usace.army.mil/PublicMenu/documents/REG/Report for Mitigation Work Completion Form.pdf](http://www.nws.usace.army.mil/PublicMenu/documents/REG/Report_for_Mitigation_Work_Completion_Form.pdf)

Thanks for your consideration on these matters.

Jerry Brennan

Judith Subia

From: Pritchard, Kaaren [Kaaren.Pritchard@nordstrom.com]
Sent: Wednesday, March 10, 2010 12:12 PM
To: Shoreline
Subject: Renton Waterfront

My husband and I live in Renton, on Mountain View Ave. I have read so many things this past week, telling us of the proposed changes. We own a home on one of the smallest lots on Lake Washington. If the proposed changes were to go thru, I would have no yard for my children to play in, if my dock were to become damaged, I would not have the ability to rebuild it, and if something happened to my house, I would not be able to rebuild it.

Please listen to the comments and suggestions made below.

The decision must be based on reason, with all parties interests taken into consideration.

Thank you

Kaaren Pritchard

*Financial Manager BP Shoes
[206]373-4335*

kaaren.pritchard@nordstrom.com

Erika, thank you again for meeting and Anne Simpson and I yesterday. The dialog in comparing what other jurisdictions are doing, and how that equates apples to apples in what Renton has proposed, was most helpful. I do, however, have a number of recommendations to the SMP.

Setbacks

It appears that with the proposed setback limits, Renton would be close to 100% non-conforming. There are only a few properties that would be in compliance with the sliding scale proposal. On the surface, it appears Redmond's approved SMP has its setback limits at 35' which may be reduced to 20'. As you noted, this represents about 60% non-conforming for Redmond, meaning the size of the lots in their jurisdiction are on the average smaller than ours. My suggestion then is to adjust the Renton proposed sliding scale on the upper end of the scale, to where the non-conformance is closer to 60% rather than the extreme 100%. The recommendation is as follows:

Lot depth of greater than 150' , building setback of 50' (versus 70' proposed)

Lot depth of 130' to 150', building setback of 40' (versus 60' proposed)

Lot depth of 100' to 130', building setback of 35' - no change to proposed

Lot depth of less than 100', building setback of 25' - no change to proposed

Vegetated Buffer

According to Dept of Ecology, some amount of buffer is required to provide the necessary infiltration with runoff into the lake. One would think that a certain amount of buffer like the 15 feet proposed for setback limits of 25 feet would suffice, regardless of the larger setback sizes. I recommend that the buffer be the 15' for all the depth sizes above. This idea of everyone doing their fare share in contributing is not rational. If a buffer is required, then what is it and make it consistent for all lots. 15' seems acceptable since it is Renton's minimum amount proposed. This would also create more consistency on the lake shoreline.

I also recommend that [lawns and plantings qualify](#) as buffer. I feel this provides the infiltration the Do Ecology is looking for. I question if there is data that says natural reeds and the like is the *only means* to provide the infiltration proposed.

Docks/ Pilings

Repair/ maintenance - First of all, I'm pleased to see that we can replace/ repair the surface of the dock for up to 30%. If more than 30%, we can still repair the surface, but must conform to the light penetrating materials noted in the SMP.

I'm also pleased that the City has recognized that the removal of one piling should not require the tear down of the dock and rebuild to the new rules. I recommend this trigger should be [50%](#). If one needs to replace greater than 50% of the pilings, they must conform to the regulations and use the new piling and decking materials noted in the SMP. I do not agree to the fact that this portion of the dock need to reduce its footprint to be in compliance. If one changed the pilings, and changed the materials, and then reduced the footprint, this is far more than the NO NET LOSS rule. I recommend any repair to a dock enables one to [keep their current footprint](#).

Dock width - the current proposal requires that docks which conform be 4' in width, and may increase to 6' at the last 26' of your dock. The real issue, I believe, is the sensitivity of the light at the shoreline. I recommend the [first 30' of a dock that needs to be in conformance be 4', and the balance be 6'](#). 4' is very narrow when 2 people walk side by side on a dock, carrying baskets and the like.

Dock Length - the current proposal allows all docks to be 80'. If 8' of water at the ordinary low water mark is not achieved, the dock may be longer than the 80' but no more than 120'. I recommend this 8' threshold be [increased to 10'](#). I am concerned about children diving off the end of my dock which today is 10' deep. Kids don't always dive off the end, but off the side. The kids are diving into 8' or less as it is. Again, I recommend the [depth of water threshold be 10'](#).

Thanks again Erika for all your efforts to date and going forward. Please call or email for further clarification.

Monica Fix

Cell: 206-321-6154

Judith Subia

From: Joseph A. Ioppolo [jioppolo@msn.com]
Sent: Tuesday, March 09, 2010 10:40 PM
To: Shoreline; Judith Subia
Subject: FW: commissioner comments

Erika,

Thank you for the phone conversation this morning. I will review a few points we discussed.

1. I agree with the particulars discussed about my dock, as the end of my 175 foot, 4 foot wide dock has seven foot depth at low water, thus I can keep my dock as is and/or with a variance. I can also keep my current decking with less than 30% change on an annual basis.

2. I can maintain my current rock bulkhead with no change in the scope of the property protected by that bulkhead. Maintenance of said bulkhead is allowed under new SMP proposed guidelines.

3. In relation to the empty lot south of my home, I propose a 35 foot setback with property with a depth between 100 and 125 feet. I propose a setback of 25 feet with property depths of less than 100 feet.

I think you are performing an excellent job with a very difficult matter so important to so many citizens of Renton. Hopefully Ms. Subia can relay that message to the planning commission.

Finally you and the planning commissioners are welcome to visit and view my property any time to better understand what we lake front owners need to maintain our property and its value.

Sincerely,

Joseph A. Ioppolo
5201 Ripley Lane North
Renton 98056

425-271-3232
jioppolo@msn.com

PS.

I agree with the points below made by Monica Fix.

Setbacks

It appears that with the proposed setback limits, Renton would be close to 100% non-conforming. There are only a few properties that would be in compliance with the sliding scale proposal. On the surface, it appears Redmond's approved SMP has its setback limits at 35' which may be reduced to 20'. As you noted, this represents about 60% non-conforming for Redmond, meaning the size of the lots in their jurisdiction are on the average smaller than ours. My suggestion then is to adjust the Renton proposed sliding scale on the upper end of the scale, to where the non-conformance is closer to 60% rather than the extreme 100%. The recommendation is as follows:

- Lot depth of greater than 150' , building setback of 50' (versus 70' proposed)
- Lot depth of 130' to 150', building setback of 40' (versus 60' proposed)
- Lot depth of 100' to 130', building setback of 35' - no change to proposed
- Lot depth of less than 100', building setback of 25' - no change to proposed

Docks/ Pilings

Repair/ maintenance - First of all, I'm pleased to see that we can replace/ repair the surface of the dock for up to 30%. If more than 30%, we can still repair the surface, but must conform to the light penetrating materials noted in the SMP.

I'm also pleased that the City has recognized that the removal of one piling should not require the tear down of the dock and rebuild to the new rules. I recommend this trigger should be **50%**. If one needs to replace greater than 50% of the pilings, they must conform to the regulations and use the new piling and decking materials noted in the SMP. I do not agree to the fact that this portion of the dock need to reduce its footprint to be in compliance. If one changed the pilings, and changed the materials, and then reduced the footprint, this is far more than the NO NET LOSS rule. I recommend any repair to a dock enables one to **keep their current footprint**.

Dock width - the current proposal requires that docks which conform be 4' in width, and may increase to 6' at the last 26' of your dock. The real issue, I believe, is the sensitivity of the light at the shoreline. I recommend the **first 30' of a dock that needs to be in conformance be 4', and the balance be 6'**. 4' is very narrow when 2 people walk side by side on a dock, carrying baskets and the like.

Dock Length - the current proposal allows all docks to be 80'. If 8' of water at the ordinary low water mark is not achieved, the dock may be longer than the 80' but no more than 120'. I recommend this 8' threshold be **increased to 10'**. I am concerned about children diving off the end of my dock which today is 10' deep. Kids don't always dive off the end, but off the side. The kids are diving into 8' or less as it is. Again, I recommend the **depth of water threshold be 10'**.

Thanks again Erika for all your efforts to date and going forward. Please call or email for further clarification.

Judith Subia

From: Fix, Monica [monica.fix@boeing.com]
Sent: Tuesday, March 09, 2010 1:47 PM
To: Erika Conkling
Subject: RE: Recommendations to Renton's SMP

That is correct.

-----Original Message-----

From: Erika Conkling [mailto:EConkling@Rentonwa.gov]
Sent: Tuesday, March 09, 2010 12:18 PM
To: Fix, Monica
Subject: RE: Recommendations to Renton's SMP

Monica-

Thank you for your comments. Comments by email are required to have a mailing address attached. I just want to confirm that yours is:
3007 Mt. View Ave. N Renton, WA 98056.

Erika Conkling, AICP
Senior Planner
City of Renton Department of Community and Economic Development
1055 S. Grady Way
Renton, WA 98057
(425)430-6578 voice (425)430-7300 fax
econkling@rentonwa.gov

-----Original Message-----

From: Fix, Monica [mailto:monica.fix@boeing.com]
Sent: Tuesday, March 09, 2010 12:00 PM
To: Erika Conkling
Cc: Anne Simpson (annesimpson@comcast.net)
Subject: Recommendations to Renton's SMP

Erika, thank you again for meeting and Anne Simpson and I yesterday. The dialog in comparing what other jurisdictions are doing, and how that equates apples to apples in what Renton has proposed, was most helpful. I do, however, have a number of recommendations to the SMP.

Setbacks

It appears that with the proposed setback limits, Renton would be close to 100% non-conforming. There are only a few properties that would be in compliance with the sliding scale proposal. On the surface, it appears Redmond's approved SMP has its setback limits at 35' which may be reduced to 20'. As you noted, this represents about 60% non-conforming for Redmond, meaning the size of the lots in their jurisdiction are on the average smaller than ours. My suggestion then is to adjust the Renton proposed sliding scale on the upper end of the scale, to where the non-conformance is closer to 60% rather than the extreme 100%. The recommendation is as follows:
Lot depth of greater than 150' , building setback of 50' (versus 70' proposed) Lot depth of 130' to 150', building setback of 40' (versus 60' proposed) Lot depth of 100' to 130', building setback of 35' - no change to proposed Lot depth of less than 100', building setback of 25' - no change to proposed

Vegetated Buffer

According to Dept of Ecology, some amount of buffer is required to provide the necessary infiltration with runoff into the lake. One would think that a certain amount of buffer like

the 15 feet proposed for setback limits of 25 feet would suffice, regardless of the larger setback sizes. I recommend that the buffer be the 15' for all the depth sizes above. This idea of everyone doing their fare share in contributing is not rational. If a buffer is required, then what is it and make it consistent for all lots. 15' seems acceptable since it is Renton's minimum amount proposed. This would also create more consistency on the lake shoreline.

I also recommend that lawns and plantings qualify as buffer. I feel this provides the infiltration the Do Ecology is looking for. I question if there is data that says natural reeds and the like is the only means to provide the infiltration proposed.

Docks/ Pilings

Repair/ maintenance - First of all, I'm pleased to see that we can replace/ repair the surface of the dock for up to 30%. If more than 30%, we can still repair the surface, but must conform to the light penetrating materials noted in the SMP.

I'm also pleased that the City has recognized that the removal of one piling should not require the tear down of the dock and rebuild to the new rules. I recommend this trigger should be 50%. If one needs to replace greater than 50% of the pilings, they must conform to the regulations and use the new piling and decking materials noted in the SMP. I do not agree to the fact that this portion of the dock need to reduce its footprint to be in compliance. If one changed the pilings, and changed the materials, and then reduced the footprint, this is far more than the NO NET LOSS rule. I recommend any repair to a dock enables one to keep their current footprint.

Dock width - the current proposal requires that docks which conform be 4' in width, and may increase to 6' at the last 26' of your dock. The real issue, I believe, is the sensitivity of the light at the shoreline. I recommend the first 30' of a dock that needs to be in conformance be 4', and the balance be 6'. 4' is very narrow when 2 people walk side by side on a dock, carrying baskets and the like.

Dock Length - the current proposal allows all docks to be 80'. If 8' of water at the ordinary low water mark is not achieved, the dock may be longer than the 80' but no more than 120'. I recommend this 8' threshold be increased to 10'. I am concerned about children diving off the end of my dock which today is 10' deep. Kids don't always dive off the end, but off the side. The kids are diving into 8' or less as it is. Again, I recommend the depth of water threshold be 10'.

Thanks again Erika for all your efforts to date and going forward. Please call or email for further clarification.

Monica Fix

Cell: 206-321-6154

HALINEN LAW OFFICES, P.S.

A Professional Service Corporation

David L. Halinen, P.E., Attorney at Law
davidhalinen@halinenlaw.com

1019 Regents Boulevard, Suite 202
Fircrest, Washington 98466-6037

Tacoma: (253) 627-6680
Seattle: (206) 443-4684
Fax: (253) 272-9876

March 10, 2010

VIA EMAIL AND FIRST CLASS MAIL

Renton Planning Commission
c/o City of Renton Planning Division
Attn: Erika Conkling, Senior Planner
1055 S. Grady Way, Sixth Floor
Renton, WA 98057

RE: The City of Renton's February 2009 Draft Proposed SMP
Supplemental Public Hearing Testimony on Behalf of my Client AnMarCo

Dear Commission Members:

At the Planning Commission's March 3, 2010 public hearing concerning the City of Renton's February 2010 Draft proposed Shoreline Master Program (the "Draft SMP"), I testified on behalf of my client AnMarCo, the owner of the "Old Stoneway Site" located at 1915 Maple Valley Highway (a site along the Cedar River) and I also provided you with both (1) a binder containing a copy of the Draft SMP setting forth as of March 3, 2010 in a "track changes" (redlined) format various proposed revisions to the Draft SMP and associated comments and (2) a letter to the Commission and the City Council from AnMarCo. In addition, prior to the hearing, I emailed to Erika Conkling, Chip Vincent and Judith Subia PDF copies of the materials in the binder and the letter for inclusion in the hearing record.

At the end of the March 3, 2010 Planning Commission meeting, you voted to hold the written record open through today. I am thus taking this opportunity to submit this letter on behalf of AnMarCo to provide additional information and legal argument for the record in regard to the Draft SMP. Note that some of my comments below call for yet further revisions to the Draft SMP (i.e., beyond those set forth in the March 3, 2010 binder submitted at the hearing and in the PDF copy attached to the email to Erika Conkling, Chip Vincent and Judith Subia).

Please consider the following.

1. All shorelines are not critical areas.

A common misconception is that all waters regulated by the Shoreline Management Act are "critical areas" and therefore require riparian buffers to "protect" the functions and values of the "critical area". This misconception arises from the fact that the Growth Management Act includes fish and wildlife habitat conservation areas as a "critical area," RCW 36.70A.030(5), but left the definition to regulations. Definitions are found in WAC 365-195-130, which states in part:

- (2) Fish and wildlife habitat conservation areas that must be *considered* for classification and designation include:

*
*
*

(f) Waters of the state.

(Emphasis added.) Waters of the state specifically include all waters regulated by the Shoreline Management Act. But the fact that a shoreline exists does not per se make the shoreline a critical area.

In an early GMA ruling on critical areas the Central Puget Sound Growth Management Hearings Board ruled that under the language used “all shorelines” regulated by the Shoreline Management Act were “critical areas” required to be protected under the GMA per RCW 36.70A.060(2). *Everett Shoreline Coalition v. City of Everett*, CPSGMHB No. 02-3-009C, Final Decision and Order 1/9/03. In response, the Washington Legislature stepped in and amended the Growth Management Act with two important principles found in RCW 36.70A.480.

The first of those two principles is that the mere fact that shorelines abut waters of the state does not make them “critical areas”. Subsection (5) of RCW 36.70A.480 states:

- (5) Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(5) and have been designated as such by a local government pursuant to RCW 36.70A.060(2).

The second principle is that shoreline areas that are designated critical areas are not governed by the local critical area ordinance, but by critical area regulations imbedded in the updated master program, which is the exclusive source of regulation. Subsections 3(a) and 3(b) of RCW 36.70A.480 state in part:

- 3(a) As of the date the department of ecology approves a local government's shoreline master program adopted under applicable shoreline guidelines, the protection of critical areas as defined by RCW 36.70A.030(5) within shorelines of the state shall be accomplished only through the local government's shoreline master program and shall not be subject to the procedural and substantive requirements of this chapter

Renton Planning Commission
c/o City of Renton Planning Division
Attn: Erika Conkling, Senior Planner
March 10, 2010
Page 3

- 3(b) Critical areas within shorelines of the state that have been identified as meeting the definition of critical areas as defined by RCW 36.70A.030(5), and that are subject to a shoreline master program adopted under applicable shoreline guidelines shall not be subject to the procedural and substantive requirements of this chapter

The shoreline update process requires communities to conduct an inventory of shorelines identifying those shorelines which are in fact “critical” to the purposes of the fish and wildlife habitat conservation mandate of the GMA, which means:

... land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. *This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term.*

WAC 365-190-130(1); emphasis added.

Because the Legislature has specifically stated that all shorelines are not, by that fact alone, critical areas, the import of the legislative action is to require local governments to determine which of its shorelines are critical areas serving the purposes of the designation and to articulate why.

Note that the Courts will look to the rationale in the record for blanket adoption of shorelines as critical areas and such blanket adoptions jeopardize the validity of the regulation. In the *Citizens v. Sims* case (145 Wn. App. 649, 187 P.3d 786 (2008)), the Washington Court of Appeals invalidated King County’s blanket designation of all rural areas as critical to storm water protection, ruling that (1) the burden was on the local government to prove the need for blanket regulation and (2) the mere fact that the regulation may be beneficial *in certain circumstances* is not sufficient to support the *blanket* regulation.

Given (a) the legislative mandate in RCW 36.70A.480(5) to differentiate shorelines between those that are critical and those that are not and (b) the call of Renton’s Draft SMP for a 100-foot wide setback and vegetative buffer along all of the City’s SMP shorelines, in the Draft SMP (and its underlying documents) the City has obviously failed to abide by that mandate to differentiate between shorelines that are critical and those that are not. That failure is also a violation of the principle of the *Citizens v. Sims* case.

Please remember that biologists Andrew C. Kindig, PhD and Carl Hadley have documented in the record of this SMP proceeding that the industrially-used Old Stoneway is largely bare of vegetation. The site thus certainly does not serve as a critical habitat and a 100-

Renton Planning Commission
c/o City of Renton Planning Division
Attn: Erika Conkling, Senior Planner
March 10, 2010
Page 4

foot-wide setback and buffer thus certainly cannot be legally justified at least at that site. This is all the more true because, as Dr. Kindig explained near the bottom of page 3 of his September 8, 2009 letter to the Commission:

A 50-foot wide buffer zone at the bulkhead is sufficiently wide to provide **for** both (a) public access and (b) *shoreline ecological function enhancement* in the form of overhanging native vegetation to the potential the bulkhead allows. **Widening the buffer further at this location** (as the draft July 2009 SMP text calls for) would not increase shoreline functions further. A wider buffer at this location would, however, reduce development potential under COR zoning at the east and narrowest portion of the site. If the City wishes to achieve COR zoning objectives at this site, the proposed SMP should not limit COR redevelopment more than is reasonably necessary in order to restore shoreline functions to their potential with the bulkhead in place.

(Emphasis added.) Dr. Kindig reiterated these points beginning near the bottom of page 4 of his November 4, 2009 letter to the Planning Commission, where he stated:

Our technical analysis shows that, for the Old Stoneway Site it is possible to significantly enhance shoreline function and provide for public access while leaving the existing bulkhead to protect the site from the Cedar River and that, where bulkhead exists, *a buffer larger than about 50 feet offers no meaningful additional ecological function*. The Draft SMP fails to include language that, under circumstances like those at the Old Stoneway Site where some amount of the standard buffer is not functional. Indeed, the City already does this where roadways, for example, extend into the buffer and therefore define the extent of the buffer, recognizing that extending the buffer over the roadway would add no more ecological function.

(Emphasis added.) So far, the City has ignored these facts.

2. The GMA has no mandate for universal buffers on streams or lakes designated as critical areas.

It is important to note that, on streams or lakes designated as critical areas, the GMA has no mandate for universal width buffers. In *Swinomish Tribe v. WWGMHB*, 161 Wn.2d 415, 166 P.3d 1198 (2007), the Washington Supreme Court dealt with a case stemming from a dispute between environmental groups and property owners as to whether or not the requirement to protect critical area under RCW 36.70A.060(2) necessarily required buffers to protect streams or lakes designated as critical areas. The environmental groups argued that the term “protection” as used in that section required restoration or enhancement of degraded habitat to achieve some pre-existing condition, although none could articulate what that condition was and many argued for

restoration of the natural shoreline. The other view was that the GMA recognized that development had occurred in many areas along shorelines and that no net loss or protecting existing functions and values was the proper test. The Supreme Court observed that maintaining the *existing* functions and values was the GMA requirement and that mandatory buffers to enhance or restore the shoreline were not required by the GMA. In rejecting the argument that restoration of developed shorelines was the GMA requirement, the court noted:

A requirement to develop buffers would impose an obligation on farmers to replant areas that were lawfully cleared in the past, which is the equivalent of enhancement. Without a duty to enhance being imposed by the GMA, however, we cannot require farmers within Skagit County to replant what was long ago plucked up. The county need not impose a requirement that farmers establish riparian buffers.

161 Wn.2d at 431.

What is Renton's rationale for requiring a universal buffer over developed as well as undeveloped property? As noted in *Swinomish*, buffers on developed properties are clearly not required by GMA where the abutting lands have already been developed and, because such buffers are not supported by best available science (see the next section of this letter), they are unlawful.

3. Universal buffers on developed lands are not supported by best available science.

There is no science to support application of large, universal width buffers like the Renton Draft SMP's 100-foot-wide buffer that have the effect of creating large swaths of nonconformity by crossing elements of the built or developed environment. The best available science in the SMP record concerning the Old Stoneway Site is the set of the materials from Kindig and Hadley, and those materials contradict a buffer as wide as 100 feet.

In the City of Renton's October 2009 Revised Draft Shoreline Inventory and Analysis, the City's consultants have cited to "Management Recommendations for Washington's Priority Habitats: Riparian" (Knutsen and Naef 1997) as a source for best available science for imposing universal buffers including buffers on already developed areas. The problem is that that study (and others like it) are based on areas in which naturally functioning conditions were present (trees, shrubs and effective understory) or in which the authors were opining on methods of restoring such naturally functioning conditions by ultimately eliminating shoreline development. Where naturally functioning conditions do not exist (such as areas in which roads, houses, lawn, parking lots, or other elements of the built environment exist in areas crossed by proposed buffers), buffers cannot provide the benefits of the naturally functioning conditions and are typical not an appropriate or "reasonably necessary" approach to protecting the existing functionality.

Renton Planning Commission
c/o City of Renton Planning Division
Attn: Erika Conkling, Senior Planner
March 10, 2010
Page 6

Such buffers in developed areas are not only not appropriate, but in many instances counterproductive by creating nonconforming uses, because a nonconforming use tends to lock in historic practices by preventing or discouraging redevelopment.

WDOE and some consultants encourage local communities to impose universal buffers to “protect the environment,” with the promise that such programs are preferred by WDOE. This is true—DOE has not shown any will to ask communities to justify universal buffer requirements. But approval by WDOE is only the first step in implementing a shoreline update.

Bear in mind that such programs of universal width buffers are subject to challenge on adoption by local property owners for the reasons noted above. In *Citizens v. Sims* the Court of Appeals found it sufficient to disallow a universal 50% open space requirement in King County on the grounds that the record did not support the proposition that such universal prohibition of land use was “reasonably necessary” in all locations even though conceding that it might be useful and protective of the environment.

Note also that even if an ultimate SMP ordinance is not challenged “as adopted,” when it comes time to enforce the regulation the City will have to attempt to enforce the SMP’s requirements in permits. To do so the City must specifically address the requirements set down by the Washington State Supreme Court in *Isla Verde v. City of Camas*, 146 Wn.2d 740, 49 P.3d 867 (2002). The test provides that when a local government seeks to impose a buffer or open space requirement on a property owner in a specific context, the burden is on the government agency to prove that the requirement is “reasonably necessary” under the particular circumstances of the proposed development. The fact the mandate is included in the City’s SMP ordinance will not be sufficient to support the buffer requirement and in the absence of such proof—by the City—enforcement of the provision will be disallowed under RCW 82.02.020.

4. Linear parks or pathways are not authorized.

Ever since the early shoreline master programs, shoreline advocates have argued that the Shoreline Management Act requires private property owners to provide public access, either in the form of parks or in the form of a linear pathway or parkway connecting adjoining properties. The rationale underlying such arguments is generally the public access provisions of the Shoreline Management Act (SMA). For the reasons set forth below, the argument rely on a misreading of the shoreline master program, as hearings board and court cases have shown clearly that such requirements are beyond the authority of local governments to impose.

In the first place, the SMA’s public access requirement is phrased in terms of public access to publicly owned areas shorelines.

(5) Increase public access to publicly owned areas of the shorelines;

Renton Planning Commission
c/o City of Renton Planning Division
Attn: Erika Conkling, Senior Planner
March 10, 2010
Page 7

RCW 90.58.020, emphasis added.

In the second place, it is patently unlawful for the government to reach out to private property owners and exact a public easement as a condition for development. The fact that such a requirement is imbedded in a WAC provision or in a local regulation does not protect it from a finding of invalidity.

I made reference above to RCW 82.02.020, which prohibits any tax or fee on development. The provision is the statutory embodiment of substantive due process, in which the police power of local governments to force property exactions from private developments is limited to conditions that have a nexus to a particular development proposal and are roughly proportional to the impact caused by the project.

In *Nollan v. California Coastal Comm.*, 483 U.S. 825, 107 S. Ct. 3141, 97 L. Ed. 2d. 677(1987), the California Coastal Commission was attempting to force a linear pathway along the California coast in the context of a property owner seeking to secure the Commission's approval to develop shoreline properties. The U.S. Supreme Court acknowledged the local benefit of a shoreline pathway, but found that nothing in the development of a shoreline structure gave rise to the need to create a pathway. Such park-like amenities are public estates and require specific public action (acquisition) or voluntary gift, and may not be achieved through permit conditions. (*Nollan* involved the "nexus" leg of analysis.)

A second U.S. Supreme Court case (*Dolan v. City of Tigard*, 512 U.S. 374, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994)) expanded the point by noting that a required contribution to a public amenity must be proportional to the impact caused by a *proposed* improvement—not caused by an existing condition or use. (*Dolan* involved the proportionality leg of analysis.)

Under Washington law, the Legislature has enshrined the nexus and proportionality rules into specific limitations on local government in RCW 82.02.020. The intent of the statute was confirmed in two Washington Supreme Court cases (*Isla Verde v Camas*,¹ nexus; and *Benchmark v. City of Battleground*,² proportionality) and the Court made it clear that the statute prohibited requirements to provide open space to protect wildlife when the local government provided no specific evidence that it was reasonably necessary in the particular location (*Isla Verde*) as well as a requirements for dedication and improvement of a roadway that was well in excess of any use by the project (*Benchmark*).

In view of the above-cited cases, the requirements in the Draft SMP for linear pathways within private properties (including without limitation along the north side of Cedar River Reach

¹ *Isla Verde v. City of Camas*, 146 Wn.2d 740, 49 P.3d 867 (2002).

² *Benchmark Land Co. v. Battle Ground*, 146 Wn.2d 685, 49 P.3d 860 (2002).

Renton Planning Commission
c/o City of Renton Planning Division
Attn: Erika Conkling, Senior Planner
March 10, 2010
Page 8

C where AnMarCo's Old Stoneway Site is located) are clearly unlawful on their face. Accordingly, AnMarCo hereby requests that those requirements be eliminated.

Thank you for your consideration of this letter and for your continued long work on the Commission concerning the proposed SMP. Should you have any questions or comments concerning this submittal, please feel free to phone me at (206) 443-4684 or email me at davidhalinen@halinenlaw.com.

Sincerely,

HALINEN LAW OFFICES, P.S.



David L. Halinen

cc: AnMarCo
Attn: Donald J. Merlino, Partner

City of Renton Planning Division
Attn: C. E. "Chip" Vincent, Planning Director
Attn: Erika Conkling, Senior Planner

Dear Erica,

I want to thank you for the hard work you have done on the Shoreline Master Program.

I would like you to consider the following:

In my research of the other Cities drafting their SMP a common denominator exists, the urban zoned properties were not getting the restrictions on height and setbacks.

The vast majority of the lake is single family structures and single family land, and public land, and the thrust of the shoreline master program was to address those residential , lake and riverfront properties, together with wetlands, and pursue a “no net loss of ecological function goal”. Also having spoken with representatives reviewing the Master Program , I felt full support for the efforts to complete build out in areas within the Shoreline High Intensity Overlay District as currently proposed in the Master Plan for Southport.

Woven into the current language you have protected the height and setbacks, buffers, coverage standards, with language “except as consistent with a Master Site Plan approved prior to the adoption of this Section.

What I would like to have clarified and included is language such that as those properties are developed, changes to the intended development will typically occur.. For example we now are pursuing the FAA on a site within the High Intensity Overlay District, which will require some modification to the existing site plan to accommodate their specific security requirements. This is a significant opportunity for ourselves and Renton, and if we can add language to the SMP which allows modifications to the current Master Use Plan(s) so that the changes can be made to the master plan, so long as the overall development does not create a net loss in ecological function. With those changes it would allow for those development opportunities which arise over time to be possible.

Another issue which should be addressed, effects the larger developments for example at Southport, as the mixed use developments get built, some of the vesting rights may expire. The biggest projects typically last beyond the horizon of the initial master plans. Language should be incorporated so that the original vested site plans setbacks and heights and buffers, and lot coverage's are grandfathered into the site exclusions from the SMP . Again if you see the SMP current Table 4-3-090 it has height limitations on the high density properties at only 35' for up to 200' from the ordinary high water mark. This is not reasonable on the reach H property at Southport. Nor is it reasonable for many other high intensity zoned properties.

On Page 6, possible language?

7) Projects vested to the regulations and development standards prior to the adoption of this Ordinance are not subject to these standards unless substantial modifications of the projects is proposed which would result in a net loss of ecological function. Otherwise the vesting rights and underlying zoning restrictions shall prevail, and will be utilized on those sites in the future in drafting subsequent master plans or extensions of vesting rights.

Original language:

7) Projects vested to the regulations and development standards prior to the adoption of this Ordinance are not subject to these standards unless substantial modification of the project is proposed which result in new application for development of the project.

Having just returned from Mayor Denis Law's "State of the City" speech at the Chamber function, it is important to note, the Priorities identified for Renton include "the Quendal Terminals", and "Continue development efforts on South Lake Washington at Southport", and "Work hard with the Federal Aviation Administration to keep them in Renton as they expand their regional headquarters.

The small changes I have asked for meet the goals of the SMP – a no net loss principle, but allow the Mayor and the residents and owners in Renton to succeed on those identified properties. The loss of vesting and a reduction of heights to 35' etc would not help any of us towards those goals.

Thank you,

Michael Christ

Judith Subia

From: paulpasquier@aol.com
Sent: Monday, March 08, 2010 9:34 PM
To: Shoreline; annesimpson@comcast.net
Subject: Renton SMP

Erika, I have left a couple of messages in regard to the SMP. I am in agreement with the thoughtful suggestions and work that was done by Ann Simpson. Her recommendation fit the practical application of dock repair.

Paul Pasquier
3709 Lake Washington Bld N
Renton, WA

Judith Subia

From: 'Jeanne DeMund'<jcdemund@gmail.com> [jcdemund@gmail.com]
Sent: Sunday, March 07, 2010 6:33 PM
To: Erika Conkling
Cc: jcdemund@gmail.com
Subject: Shoreline Master Plan Comments

March 7, 2010

Erika Conkling
Senior Planner

Dear Ms. Conkling;

You are surely receiving a deluge of communications after the lively meeting last Tuesday night, so I will be brief.

1, With regards to the request for information about dock maintenance:

When I purchased my home in spring of 2009, the dock inspector I consulted prior to purchase indicated that while there were some maintenance items that could be performed at that time, he recommended waiting a couple of years, as there would be 2 or 3 pilings that would need to be replaced at about that time. The other pilings looked fine, and should last for an extended period of time. I took that to indicate that there would be ongoing, intermittent maintenance required, but that it was common to wait until a number of items needed to be addressed prior to performing the work. I understood part of the reason for that being the expense of getting equipment to do the work, and part the expense and effort to get permits for the work.

I will be happy to look for the contact information for the dock inspector, and any written report he did for me after March 22, when I will be back from the business trip I am leaving on tonight.

2. A question about the shade created by docks: Why is shade created by docks harmful, while shade created by trees along the shoreline is not harmful?

3. I plan to live in my home for as much of the rest of my life as I am physically able to live here. I want to be a responsible citizen, AND maintain my homes' value, part of which is in the dock. When and if my dock requires the amount of maintenance that is ultimately settled upon as the "tipping point" for total rebuild, I would be happy to rebuild it using whatever is state of the art dock technology at that time, provided it was possible to rebuild in the current configuration. I understand that state of the art technology now is smaller steel pilings and grated decks, which is a substantially more expensive solution than wood, but lasts longer and is better for the environment.

Language that allows rebuilding docks in their configuration at the time the SMP is adopted, but requiring upgrades to then-current best practices would, I believe, meet with approval by most shoreline residents.

I regret that I will be out of town for the March 17 deliberations, but I look forward to learning about the discussions when I return.

Thank you for your efforts during this process, and for your receptivity to the community's concerns.

Sincerely,
Jeanne DeMund
2811 Mountain View Ave. N.
Renton, WA 98056

This email request originated from the following link:
<http://rentonwa.gov/government/default.aspx?id=2782>

Judith Subia

From: Laurie Baker [laurieb@mvseac.com]
Sent: Friday, March 05, 2010 10:24 PM
To: Erika Conkling
Subject: ConklingErikaCommunications20100305.doc

Comments on the SMP for the Planning Commission

8225 S 128th
Seattle, WA 98178
March 3, 2010

Ms. Ericka Conkling
Department of Community and Economic Development
1055 South Grady Way
Renton, WA, 98057 Renton City Hall

Dear Ms. Conkling,

Please enter these comments into the record regarding the **Shoreline Management Program Communications Process**. These comments summarize for the Commission a discussion we had after the February 17, 2010 Planning Commission Meeting.

Communication efforts that have been reported at the various Planning Commission meeting include posters in Community Centers, Libraries and Parks. I don't recall seeing any of these. But then, when I go to the Library or the Park, I'm not there to read public announcements. I rarely go to the Community Center.

As I mentioned to you after the meeting, it seems that such a change in Land Use Regulations would be communicated as are other "Proposed Land Use Actions". By this I mean the large signs—about 3 feet by 5 feet—on two stakes and the leaflets on neon paper that are stapled to utility poles. I do read these. This sort of communication is usually on the property that is having a change in use, and it outlines what change is being considered.

The signs could have been posted at the entrance to all the streets that lead to waterfront property. The text could have included the key items such as:

- Setbacks to be increased up to 70 feet
- Dock repairs may trigger required modification of dock footprint
- Maximum lot coverage to be reduced from 35% to 25% for all new structures

Since these signs usually also include a diagram, one showing the location of the new setback line based on the size of the lots.

I suggest it is not too late to post such signs since it is clear that many citizens are concerned and some may not yet know what is being proposed.

Thank you for your consideration.

Sincerely,

Laurie Baker
3107 Mountain View. Ave. N
Renton, WA 98178

Judith Subia

From: Laurie Baker [laurieb@mvseac.com]
Sent: Friday, March 05, 2010 10:33 PM
To: Erika Conkling
Subject: ConklingErikaPropertyValues20100305.doc

Please accept these comments on the SMP for the Planning Commission

8225 S 128th
Seattle, WA 98178
March 3, 2010

Ms. Ericka Conkling
Department of Community and Economic Development
1055 South Grady Way
Renton, WA, 98057 Renton City Hall

Dear Ms. Conkling,

Please enter these comments into the record regarding the **Impact of Shoreline Master Program on Property Values**.

These comments are in response to your assertion in the Planning Commission Meeting on March 3, 2010 that you have “empirical proof” that these regulations would not negatively impact our property values.

It was clear that many of the property owners who spoke at the Planning Commission thought that the changes would have a negative impact on the value of their property. I share this conclusion and have talked to a real estate professional who concurred with me.

Would you please post your “empirical proof” on the website and also email it to those who signed in at the meeting.

Thank you for your assistance in this matter.

Sincerely,

Laurie Baker
3107 Mountain View Ave. N.
Renton, WA 98056

Judith Subia

From: Laurie Baker [laurieb@mvseac.com]
Sent: Friday, March 05, 2010 10:31 PM
To: Erika Conkling
Subject: ConklingErikaSetbacks20100305.doc

Please accept the following as comments on the SMP for the Planning Commission

8225 S 128th
Seattle, WA 98178
March 3, 2010

Ms. Ericka Conkling
Department of Community and Economic Development
1055 South Grady Way
Renton, WA, 98057 Renton City Hall

Dear Ms. Conkling,

Please enter these comments into the record regarding the **Setback Requirements and Street Variances** in the Shoreline Master Program. My main purpose in writing this letter is to demonstrate by the attached emails that I have been complying with your request to talk to you about our specific situation, and to clarify what I recall about your comments in the March 3, 2010 meeting regarding setbacks.

After the February 17, 2010 Planning Commission meeting you explained to me that the street setback on our lot could be reduced to 0 feet.

The language in the SMP at that time read:

iii. **Setback to Easement May be Reduced:** For such lots with a lot depth of less than 100 feet that are served with primary access from a private road, the setback from the edge of the easement may be reduced without a variance.

The following day we had an email exchange which is attached. I pointed out that the language in the document at that time did not apply to our lot as it was only for lots that were on private roads and less than 100 feet deep.

You responded that you would change the language to read:

“Variance from the front and side yard standards may be granted administratively if needed to meet the established setback from OHWM, as specified in this section, and if standard variance criteria are met.”

I do not have access to the recording of the meeting on March 3, 2010 but I understood you to state in the comments to the Commission after the Public Comments that the setback issue was mitigated by reducing the street offset.

My reading of the language above, which includes,

“if standard variance criteria are met”

is that there is nothing in the SMP that will actually allow a reduced street setback. Property owners will be subject to the same variance criteria as a non shoreline property owner. I think this is substantially different from what you indicated in the meeting.

Also, I proposed this language:

The required setback from the street will be reduced by an amount equal to the difference between rear setback in similarly zoned property and properties in the shoreline area, provided that in no case shall the setback from the street be less than 0 feet.

I do hope that the you will include this language in the SMP as I think it more clearly reflects what you stated in our February 17 conversation and what you stated to the Commission at the March 3 meeting.

Sincerely,

Laurie Baker
3107 Mountain View Ave. N.
Renton, WA 98056

Record of email exchanges between Laurie Baker and Erika Conkling on the subject of Setbacks.

Thanks Erika,

I found it and read it. It sounds very subjective and not much like what you told us after the meeting last week. In the spirit of keeping development back from the lake seems that something more positive would be appropriate.

Consider this.

The required setback from the street will be reduced by an amount equal to the difference between rear setback in similarly zoned property and properties in the shoreline area, provided that in no case shall the setback from the street be less than 0 feet.

Laurie

5. Decision Criteria: Except for variances from critical areas regulations, the Reviewing Official shall have authority to grant a variance upon making a determination in writing that the conditions specified below have been found to exist: (Amd. Ord. 4835, 3-27-2000)

a. That the applicant suffers undue hardship and the variance is necessary because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings of the subject property, and the strict application of the Zoning Code is found to deprive subject property owner of rights and privileges enjoyed by other property owners in the vicinity and under identical zone classification;

b. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated;

c. That approval shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the subject property is situated;

d. That the approval as determined by the Reviewing Official is a minimum variance that will accomplish the desired purpose. (Amd. Ord. 4835, 3-27-2000)

From: Erika Conkling [mailto:EConkling@Rentonwa.gov]
Sent: Thursday, February 25, 2010 5:01 PM
To: laurieb@mvseac.com
Subject: RE: Street Setback

4-9-250 Variances
Subsection B5 is the decision criteria.

Erika Conkling, AICP
Senior Planner
City of Renton Department of Community and Economic Development
1055 S. Grady Way
Renton, WA 98057
(425)430-6578 voice (425)430-7300 fax
econkling@rentonwa.gov

From: Laurie Baker [mailto:laurieb@mvseac.com]
Sent: Thursday, February 25, 2010 4:54 PM
To: Erika Conkling
Subject: RE: Street Setback

Erika,

Where do I find the standard variance criteria?
Is it in the code somewhere?

Laurie

From: Erika Conkling [mailto:EConkling@Rentonwa.gov]
Sent: Thursday, February 25, 2010 4:49 PM
To: laurieb@mvseac.com
Subject: FW: Street Setback

Laurie-

I amended the language in the vegetation conservation section to read the same as the language in the shoreline bulk standards table:

“Variance from the front and side yard standards may be granted administratively if needed to meet the established setback from OHWM, as specified in this section, and if standard variance criteria are met.”

Thank you for catching the inconsistency.

Erika Conkling, AICP
Senior Planner
City of Renton Department of Community and Economic Development
1055 S. Grady Way
Renton, WA 98057
(425)430-6578 voice (425)430-7300 fax

econkling@rentonwa.gov

From: Erika Conkling
Sent: Thursday, February 25, 2010 4:45 PM
To: 'laurieb@mvseac.com'
Subject: RE: Street Setback

Laurie-

I will fix the language on street setbacks. I am not sure if there will be another draft online prior to the hearing, but I will be sure to point out any revised language to the Planning Commission during the hearing.

Erika Conkling, AICP
Senior Planner
City of Renton Department of Community and Economic Development
1055 S. Grady Way
Renton, WA 98057
(425)430-6578 voice (425)430-7300 fax
econkling@rentonwa.gov

From: Laurie Baker [mailto:laurieb@mvseac.com]
Sent: Thursday, February 25, 2010 4:18 PM
To: Erika Conkling
Subject: Street Setback

Hello Erika,

Will you please let me know what is the status of the question about the street setback?

Also, do you plan issue any changes to the draft that was posted last Thursday?

Laurie



March 3, 2010

City of Renton Planning Commission
c/o Erika Conkling, Planner
Renton Planning Division
1055 S. Grady Way
Renton, WA 98057

Sent by email to: shoreline@ci.renton.wa.us

Re: Renton Shoreline Master Program – Feb. 2010 Draft

Dear Renton Planning Commission:

Thank you for the opportunity to comment on the proposed Renton Shoreline Master Program (SMP) update. Our mission at Futurewise is to promote healthy communities and cities while protecting working farms, working forests, and shorelines for this and future generations. We have members in the City of Renton as we do throughout Washington State.

When the first draft of the SMP came out we provided comments on it to staff. Most (but not all) of those comments were listed in the subsequent Staff Response document, and some of them were accepted in changes to the next draft. At the Planning Commission in October, I provided testimony. I also provided our previous comment letter and asked the Planning Commission to reconsider the comments that staff had rejected. In preparing for this letter, I was disturbed to find no reference to my testimony or the comment letter I had submitted. Consequently, I am in the position of having to provide our comments again. This letter is composed of our previous comments, with two exceptions. (1) Since that first hearing some of our comments were addressed. Those comments and those originally accepted by staff have been removed. (2) In addition, minor editing has been done – mostly to correct references to the different numbering system. We are pleased to note that many of our previous major concerns are no longer an issue.

The Renton SMP is important because it encompasses the south tip of Lake Washington and the lower reach of the Cedar River.

The draft Shoreline Master Program (SMP) has many good elements. Some of the key provisions, which we strongly support, are:

- The excellent science-based buffers used to protect intact shoreline areas, wetlands, and streams. Buffers are very important for providing fish and wildlife habitat, bank stabilization, filtering and treating surface water runoff, and cleaning groundwater passing through them, among other functions.
- The establishment of a comprehensive enhancement strategy for native vegetation along shorelines where existing development is already within the buffer. Maintaining

native vegetation along the lake is needed to maintain terrestrial insects and detritus on lake organisms and fish and which is necessary to maintain the health of the fish populations in lake Washington.¹ Native vegetation also helps to filter pollution out of the runoff that enters the lake. Emergent vegetation along the lake's shoreline can effectively reduce wave energy and property erosion.² Native vegetation also reduces the number of unwanted geese on the shoreline, reducing their negative impact on properties along the lake.

- The most intact shorelines are protected with a Natural or Urban Conservancy designation. This will help protect them from adverse impacts.
- We strongly support the creation of a use table to show where different uses are allowed and what review process is needed for them. This is a great improvement over earlier drafts, which addresses many difficult issues.
- We strongly support the replacement of the CAO wetland protection measures with new protection measures based on the current wetland science. This is a great improvement over earlier drafts.
- The establishment of a comprehensive public access strategy for different shorelines reaches within the city.
- Use of water-dependency strategy for Commercial uses.
- The comprehensive treatment of transportation facilities of different types, including aviation.
- The comprehensive treatment of utility facilities of different types.
- The methods of dealing with transportation and utility facilities for individual projects that can have impacts similar to larger facilities.

However, we do have some significant concerns. Below, we provide our recommendations to improve SMP.

General

The Shoreline Management Act (SMA; RCW 90.58.020) has 3 policy statement paragraphs. However, these extremely important policy statements are not included in the actual policies and regulations of the draft SMP, and we recommend that they be included. It is very important that these principles be very visible in the SMP to ensure their consideration in implementation of the SMP. One of the most important statements is: “This policy contemplates protecting against adverse effects to the **public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life**, while protecting generally public rights of navigation and corollary rights incidental thereto.” The Staff Response paper noted that the SMA policy is discussed in the Introduction; however, the

¹ Tom Kahler, The Watershed Company, and Martin Grassley and David Beauchamp, Washington Cooperative Fish & Wildlife Research Unit, *Final Report: A Summary of the Effects of Bulkheads, Piers, and Other Artificial Structures and Shorezone Development on ESA-listed Salmonids in Lakes* p. 48 (Prepared for the City of Bellevue: 13 July 2000). Accessed on March 3, 2010 at:
http://www.ci.bellevue.wa.us/pdf/Utilities/dock_bulkhead.pdf

² *Id.* at p. 49.

introduction does not have the legal standing that policies and regulations do. This cited statement is a fundamental objective of the SMA, and it needs to be stated in the Regulations.

Protection of the Channel Migration Zone is an important requirement of the SMP Guidelines for riverine shorelines³. However, the draft SMP only addresses channel migration for residential uses in any significant way (at Section E.9). It appears there are no maps for channel migration zones, even though they are required⁴. Similarly, the CAO only addresses channel migration indirectly. Broader application of protection measures are needed for it – both in terms of uses that are inappropriate for locations in this ecologically sensitive and hazardous area, and in terms of shoreline modifications that can damage its functions. The Staff Response paper stated that no CMZ study was available. However, this does not mean the CMZ doesn't need to be protected – as the SMP Guidelines describe. If no maps are available, then a proxy needs to be found to cover CMZs as much as possible. Where dikes are present, they can be used. Where a floodway is present, it could be used. The inventory even indicates that the floodplain is appropriate in some locations. In addition, use limits and development standards need to protect the functions of the CMZ. Lastly, the ecological functions of the CMZ need to be listed in some location – it is not just a hazard.

Shoreline Maps

The shoreline environment maps available on the website seem to have inconsistencies. Some areas appear to have two environments assigned: Natural and Urban Conservancy.

Shoreline Environments

The regulations for High Intensity – Isolated Lands (Section C.5.c) – say that the development standards in “this” section (Section 4-3-090) don't apply. This section is the SMP and its development standards. The original draft waived the development standards for all uses (formerly Section 7), such as commercial and industrial uses (including the water-dependency requirements), launch ramps, piers, and docks. The original provision was inappropriate, and this provision is an even more inappropriate waiver of shoreline protection measures. It needs to be reversed.

Use Provisions

We originally recommended developing a use table to describe where uses were allowed and what the permit review type was. We are please to see a use table in the latest draft. The remaining problem of the use provisions is that it doesn't cover all the different land use categories or the specific uses within them. Since a use that is not prohibited can be approved (and usually will be) as a conditional use, all the uses not covered in the SMP are allowed by default rather than by careful consideration. Furthermore they will often be subject to fewer regulations than the uses that are addressed by the SMP (which often have detailed development standards), even though they can be much more detrimental to shorelines. Still missing from the use provisions are forestry and agriculture. Also, only three items of commercial use is listed in the table. This means that all other commercial uses are allowed everywhere. We recommend that an “all other commercial uses” category be added to the table as a catch-all entry. We previously recommended adding “community services” to the

³ WAC 173-26-221(2)(c)(iv) & WAC 173-26-221(3), and many references throughout SMP guidelines.

⁴ WAC 173-26-201(3)(C)(vii)

commercial category. This was done in the development standards for commercial uses, but it is not reflected in the table and should be.

Similarly, the SMP modifications are not in the table and do not have any environment limits for where they are appropriate or not appropriate. Consequently all modifications are allowed everywhere, even those for uses that are not water-dependent and those that are structural. This is a particular concern for the Urban Conservancy and Natural environments, where low-intensity and natural functions are emphasized. Neither does the SMP address when more intensive modifications need more careful review through a conditional use permit, such as for stabilization and flood protection structures rather than non-structural options. The SMP allows modifications for any purpose. Such an approach is inappropriate.

Critical Areas Ordinance Integration

Section D.2.c incorporates the CAO into the SMP except for a few sections. We are pleased to see that the wetland protections in the CAO are excluded for shoreline areas, and replaced with updated provisions for the SMP. We support this approach.

However, the CAO as a whole does not provide adequate protection for other shoreline areas. An incredible number of uses and activities (many pages worth; RMC 4-3-050(C)(5-7)) are allowed in both the actual critical areas and their buffer as exempt development. There are several specific statements, such as at RMC 4-3-050(C)(5), that activities are exempt from any of the protection measures and review process in the CAO Section of the Renton Municipal Code. Such uses and activities are not exempt from shoreline review under the shoreline exemptions, yet the CAO protection measures will not be used to protect shoreline resources in these cases. Uses and facilities that aren't dependent on being close to the water should not be allowed in critical areas or their buffers. We recommend that these sections also be excluded from application to shoreline jurisdiction, and recommend that uses and activities allowed in critical areas and critical areas buffers be limited to water-dependent and water-related uses, unless a reduced buffer is approved.

Vegetation Management

We commend you on your thorough strategy for dealing with buffers and vegetation conservation, even in areas that are well developed. The primary accomplishment of the system is that in locations where development already exists within the science-based buffer, any new impacts from new development are offset by enhancement requirements. We support this approach, and emphasize that it is needed to justify not requiring the science-based buffer.

Our first concern relates to the buffer standards Table D.7.a. The table is explicit in applying setbacks/buffers only to "buildings", which is limited to enclosed structures. To correctly apply buffers to protect ecological functions, they need to be applied to structures (which would encompass other built facilities), alterations, activities and use areas. Without this change, buffers will simply become setbacks with lawns and recreation areas. It doesn't appear from other statements that this is the intent, but it is the current text of the table.

Our second concern has to do with the activities and uses that are allowed within the shoreline buffer, as provided below:

Section D.7.d: The following development activities are not subject to buffers and setbacks, provided that they are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and provided further that they comply with all the applicable regulations in RMC Chapter 4: ... [Note: a page of items follows.]

Many of the listed uses and modifications will inherently displace existing vegetation and habitat, and establish new impacts in locations so close to the water that the remaining setback/buffer can't protect the shoreline resources. Uses should not be in the buffer unless they are water-dependent or water-related (such as water crossings and providing access to the water). This is part of establishing mitigation sequencing within the SMP. There is no reason for the other items to be in the buffer. We recommend the list be abbreviated to say as much. Of particular concern is that buffers are waived for ALL water-*oriented* uses. This includes water-enjoyment uses such as restaurants, etc.

During the update effort, there will undoubtedly be much opposition to the use of science-based buffers. To support their continued use in the draft SMP, we provide a number of scientific citations supporting the need for buffers, especially for lakes, and summarize their importance below.

Science Supporting Protection of Buffers and Lake Environments

The Shoreline Management Act, in RCW 90.58.020, requires the protection of lakes, streams, and other shorelines. Indeed, RCW 90.58.020 requires that “[p]ermitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public’s use of the water.” RCW 90.58.020 also provides that the policy of the Shoreline Management Act “contemplates protecting against adverse effects to the public health, *the land and its vegetation and wildlife*, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.”⁵

The prevention of damage, vegetation, and adequate life requires the protection of vegetation and buffers on streams and lakes. Buffers protect many important functions:

- Providing streambank and lake shore stabilization against erosive waves and stream flows;
- Inhibiting surface erosion from surface runoff and flood flows;
- Filtering sediment from surface runoff and flood flows;
- Removing and transforming nutrients and harmful substances from surface runoff and flood flows;
- Removing and transforming nutrients and harmful substances from groundwater passing through root zones.
- Protecting fish in lakes;
- Providing wildlife food web and habitat functions (feeding, reproducing, resting, etc.) for riparian species, and for upland species that use riparian areas;
- Providing fish with over-water hanging cover from predators;

⁵ Emphasis added.

- Contributing in-water woody debris needed for creation of fish habitat;
- Contributing in-water organic matter to feed fish and other aquatic life.⁶

To effectively protect lakes requires 50 to 150 foot wide buffers.⁷ For rivers and streams, the maintenance of large woody debris requires 100 to 150 foot wide buffers.⁸ This is needed to maintain the structure of and streams especially pools which are necessary to maintain fish populations.⁹ This applies to Type 1, 2, and 3, or S and F, streams all of which have fish living in them. Sediment removal requires 100 feet.¹⁰ Wildlife habitat generally requires buffers of 100 to 200 feet wide, with wider buffers needed for some wildlife.¹¹ We urge you to adopt stream buffers that will protect these important functions. They are necessary to sustain river and stream health.

Public Access

The SMP utilizes an excellent approach to providing for public access by incorporating the public access objectives into the development provisions of the SMP. We only have one major concern. Public Access standard D.4.d.iii requires that all public access have over-water facilities. This is inappropriate. Over-water facilities are not needed for all public access, and will result in significant ecological impacts if applied at the scale contemplated by this standard - especially displacement of aquatic and buffer habitat, which is very difficult to replace. The first option for all development should be avoidance and minimization before allowing impacts with compensation. This provision should be edited to apply only in those instances "where over-water facilities are used," which preferably are for water-dependent uses such as marinas, swimming and fish piers, etc. The Staff Response paper indicated that this was not the intent; however, the text still reads as a requirement of all Public Access.

Piers and Docks

Docks and boating facilities have significant adverse effects on Lake Washington and other lakes.¹² The *Final Report: A Summary of the Effects of Bulkheads, Piers, and Other Artificial Structures and Shorezone Development on ESA-listed Salmonids in Lakes* recommends consideration of "of 'a no new piers' policy as the best option for protecting fish and fish habitat. Encourage the use of floats or buoys instead."¹³ The report recognizes that this may not be politically possible and recommends as a backup no net increase in overwater coverage.

⁶ See for example Karen Capiella and Tom Schueler, *Crafting a Lake Protection Ordinance* Urban Lake Management, Watershed Protection Techniques 3(4) p. 753 (2001), accessed on March 3, 2010 at: http://www.cwp.org/Resource_Library/Center_Docs/special/lakes/ulm_lakeprotectionord.pdf ; K. L. Knutson & V. L. Naef, *Management Recommendations for Washington's Priority Habitats: Riparian* pp. 157 – 63 (Wash. Dept. Fish and Wildlife, Olympia WA: 1997) accessed on March 3, 2010 at: <http://wdfw.wa.gov/hab/ripsum.htm>

⁷ Karen Capiella and Tom Schueler, *Crafting a Lake Protection Ordinance* Urban Lake Management, Watershed Protection Techniques 3(4) p. 756 (2001).

⁸ K. L. Knutson & V. L. Naef, *Management Recommendations for Washington's Priority Habitats: Riparian* p. 164 (Wash. Dept. Fish and Wildlife, Olympia WA: 1997).

⁹ *Id.* at p. XI.

¹⁰ *Id.* at p. 164.

¹¹ *Id.* at pp. 165 – 67.

¹² Tom Kahler, The Watershed Company, and Martin Grassley and David Beauchamp, Washington Cooperative Fish & Wildlife Research Unit, *Final Report: A Summary of the Effects of Bulkheads, Piers, and Other Artificial Structures and Shorezone Development on ESA-listed Salmonids in Lakes* pp. 47 – 49 (Prepared for the City of Bellevue: 13 July 2000).

¹³ *Id.* at p. 51.

In order to build a new dock, existing docks would have to be slimmed down to compensate for the increased coverage. So docks and piers should have carefully crafted standards to protect Lake Washington from their significant impacts.

While we generally support the docks and piers provisions, we believe additional clarification is needed in their relationship to Marinas (Boating Facilities as described in the SMP Guidelines). Boating Facilities are a specific “*use*” in the SMP Guidelines established for multi-user recreational boating. These can include commercial and non-commercial facilities, public and private facilities, large and small facilities. They include marinas, private community docks, boating clubs, public boat launches, large shared single-family residence docks (for more than 4 residences), all multi-family residential docks, and mooring buoy fields. The only facilities not considered Boating Facilities are those for 4 or less “single-family residences.”

The SMP Guidelines require¹⁴ local SMPs to deal with Boating Facilities as a specific use category. These facilities can be intensely used and need special provisions for dealing with such use. Consequently, the SMP Guidelines require that, when Boating Facilities are allowed (except for those serving four single-family residences or less), SMPs include regulations to ensure that they:

- result in no net loss of ecological functions;
- include limits for appropriate locations, access, and neighboring uses;
- include provisions for health, sanitation, and safety protections,
- mitigate aesthetic impacts;
- provide for public access
- protect the rights of navigation.

In the Draft SMP, Marinas are the rough equivalent of a Boating Facility. The problem is that the multi-user function is not fully captured, as described in the SMP Guidelines. Adjustment of the Marina definition, number triggers, and standards is needed to cover the following points:

- If a joint single-family-residential dock serves more than 4 residences it must be reviewed as a separate marina use.
- If ANY multi-family residential use is to have a dock it must be reviewed as a separate marina use, because a dock is only allowed for “water-dependent uses and public access”¹⁵ (with the exception of a single family residence).
- All other multi-user facilities must be reviewed as a marina use, including large boat launch facilities and mooring buoy fields.

A Boating Facility use (or Marina) must have its own use limits and development standards under the SMP Guidelines, including public access – this is a very important distinction compared to a dock accessory to a residence.

¹⁴ WAC 173-26-241(3)(c)

¹⁵ WAC 173-26-231(3)(b)

Transportation

The transportation section is very thorough and is a model for other jurisdictions on how to deal with the wide variety of transportation facilities, which can have very different inherent impacts.

The treatment of Aviation uses is an excellent example of how to deal with such facilities. It should be a model for other jurisdictions to use. Our only concern is that helicopter landing pads are allowed on water front property. The disturbance from such uses is much greater than seaplane taxi activity, in duration, prop-wash area, vibration, and noise. The disturbance to upland and aquatic life, not to mention adjacent land owners, make such facilities incompatible and inappropriate in any environment except High-Intensity, and should be prohibited in other environments. The Staff Response paper declined to address this issue because it is an existing policy of the city to allow them. However, the point of an SMP update is not to memorialize past policies that cause degradation and disturbance. It is to correct these situations. Helicopter parking is a high-impact *convenience* activity with other alternatives. Either it needs to provide more stringent protection for the above issues, or it needs to be prohibited.

Shoreline Stabilization

Section F.4.a.i is a general standard that we support. As a requirement for all development to avoid shore stabilization, it is the first step in mitigation sequencing – avoidance. However, in its current location, it only applies “for New or Expanded Shoreline Stabilization Structures.” Since it needs to, and is intended to apply to ALL development, we recommend that it be moved to the General Standards section under “Environmental Effects.”

Thank you for considering our comments. If you require additional information please contact me at dean@futurewise.org or 509-823-5481.

Sincerely,



Dean Patterson
Shoreline Planner
Futurewise

Judith Subia

From: Daved [Daved@waterfrontconstruction.com]
Sent: Tuesday, March 02, 2010 7:44 AM
To: Erika Conkling
Cc: laurieb@mvseac.com
Subject: CONCERNS WITH RENTON SMP PC RECOMMENDATION REVIEW DRAFT (1 of 3)
Attachments: Renton SMP Draft Comment Ltr with Attachments 001.jpg; Renton SMP Draft Comment Ltr with Attachments 002.jpg; Renton SMP Draft Comment Ltr with Attachments 003.jpg; Renton SMP Draft Comment Ltr with Attachments 004.jpg; Renton SMP Draft Comment Ltr with Attachments 005.jpg; Renton SMP Draft Comment Ltr with Attachments 006.jpg; Renton SMP Draft Comment Ltr with Attachments 007.jpg; Renton SMP Draft Comment Ltr with Attachments 008.jpg; Renton SMP Draft Comment Ltr with Attachments 009.jpg; Renton SMP Draft Comment Ltr with Attachments 010.jpg

Hi Erika,

Hope you are well. I want to thank you and Chip for a very productive meeting where the agreed changes to the Draft SMP will benefit waterfront property owners and the environment. Recommendations, and in some cases requirements, from Ecology after 35+ years (SMA) of sitting back and watching instead of introducing incremental regulations based on discovery, are leading to sweeping changes that are taking property owners by surprise. If regulators will step back from the process and look at the big picture they would agree that property owners are reacting as they should.

I am writing you in advance of tomorrow's Planning Commission meeting and forwarding a detailed letter and attachments over a couple of issues in the SMP PC Recommendation Review Draft (Feb 2010).

The issues are:

- 1) Combining upland development or redevelopment with requirements to bring existing pier and shoreline stabilization (bulkheads) into compliance with regulations
- 2) Requiring minor work on nonconforming docks to trigger a requirement for them to come into full conformity

I attended last night's CC meeting at the request of Laurie Baker, a Renton property owner who contacted me on Friday evening concerned about these issues. I had no idea the city was proposing such drastic and overreaching changes since they did not come up during my meeting with you and Chip several weeks ago.

A brief City Council discussion last night before I spoke said the thought was to send the draft to Ecology before it goes to them so the PC was actually handing over a document they knew would be accepted by the State. While this is laudable and a good strategy, the problem is that Ecology will not say anything if a SMP is overly restrictive and far exceeds the minimum requirements, as a matter of fact they would welcome this. We all must understand that the more existing structures Ecology can get local governments to declare nonconforming through adoption of new standards, combined with a highly restrictive policy on how much work can be done on such structures, means more nonconforming structures must be brought into conformity with the new regulations. If most of the new regulations made sense and were based on sound science this would make sense, but in this case Ecology has promoted many regulations on bulkheads, piers and residences that will not result in any environmental improvements along the shorelines. Most reports, even the Chinook Salmon Recovery Plan, have stated that scientists do not know if the recommendations will help with recovery. There are so many unknowns but the state has not allowed this to hesitate from introducing changes at the expense of property owners and taxpayers.

I saw an e-mail from one of the Planning Commissioners stating that pile repair and replacement may be a topic of discussion tomorrow. I will be at the meeting and can probably address some of their questions on standard pier and pile work. I need to leave the meeting by 7:00pm to get to Mercer Island's PC meeting so if the PC has any discussion points they must be addressed relatively early.

Please distribute the attached letter and documents to the Planning Commission members.

Thank you for your work on the SMP Update for your residents.

Respectfully,

Dave Douglas
Waterfront Construction, Inc.

P.S.- Due to the attachment file size I will send a total of 3 e-mails with numbers 2 and 3 only having attachments.



March 1, 2010

City of Renton
Planning Department
Attn: Erika Conkling- Senior Planner
Chip Vincent
City of Renton Planning Policy Commissioners
City of Renton City Council Members
1055 S Grady Way
Renton, WA 98056

Ref: REVIEW AND COMMENTS ON THE RENTON DRAFT SHORELINE MASTER PROGRAM PC
RECOMMENDATION REVIEW DRAFT (FEB 2010)

Dear Ms. Conkling, Mr. Vincent, Planning Policy Commissioners, and City Council Members,

I have reviewed and am submitting additional to the City of Renton based on my review of the proposed Shoreline Master Program PC Recommendation Review Draft (Feb 2010). I continue to be concerned over several issues where I believe the City is making mistakes that will adversely impact waterfront property owners. This may be attributed to unfamiliarity with the local, state and federal permitting process in general, Ecology SMP Submittal Checklist, Washington Administrative Code, or current construction trends as they apply to existing structures, nearly all of which will soon be declared as legally nonconforming. It may also be the result of obsessive environmental views from parties who by virtue of their position have unrestricted influence on the process.

Ms. Conkling, Mr. Vincent and the Planning Commission are aware that I have devoted many hours and provided technical input based on my experience as a Permit Coordinator with Waterfront Construction, Inc. who has been involved in the design, permitting and construction of over 250 overwater projects on Lake Washington and Lake Sammamish. Several weeks ago in a meeting with Ms. Conkling and Mr. Vincent we were able to engage in cordial communication and discuss some recommended changes, most of which were made after details and practical reasoning was discussed.

The City of Renton has long had a reputation with property owners and developers for being straightforward and easy to work with. Renton's waterfront property owners deserve intervention from those of us who personally understand the local, state and federal permit process and how Ecology haphazardly espoused the Corps RGP-3 regulations without conducting reasonable or responsible research into several of the unreasonable and never met standards and how the Corps actually applies their review to its own standards. Your waterfront property owners deserve to be fairly and responsibly represented by the City Staff and their elected and appointed Civic Leaders for protecting property rights and values, quality of life, and to ensure that the City is not unknowing being pressed beyond what is the minimum requirements of the State.

In addition, Ecology declared these standards as meeting their "no net loss" goal without explaining to local governments that this is not the same as the "not like to adversely affect" determination the RGP-3 was designed to meet under the Endangered Species Act Section 7 Consultation requirements for federal permits. Ecology also agreed that local governments could have an alternative process for the repair and replacement of existing structures where improvements

Seattle Office
Waterfront Construction, Inc.
205 NE Northlake Way, Suite 230, Seattle, WA 98105
P: (206) 548-9800 F: (206) 548-1022

Everett Office
Waterfront Construction, Inc.
10315 19th Avenue SE, Suite 106, Everett, WA 98208
P: (425) 357-0312 F: (425) 357-0320

could be easily documented but the Agency failed to promote this to local governments. The title of the RGP-3 makes it clear that it applies to "Construction of New or Modification of Existing Residential Overwater Structures" and not to the "Repair or Replacement" of residential overwater structures. Each of these typically refer to either something new that did not exist previously or something existing that is changed in form. It could be easily argued that a structure being replaced in the same size and within its same overwater footprint is no a "new" or "modified" structure for the intents and purposes.

The SMP Update is likely to declare all or nearly all existing overwater structures nonconforming so the repair, maintenance and replacement of these structures becomes a central point of concern in the updated SMP. The WAC and the SMP Submittal Checklist are virtually silent on the repair, maintenance and replacement of nonconforming structures with the exception of WAC 173-27-080 which addresses relocation of and damage to nonconforming structures. Because the Renton shoreline is essentially "built out" the City should look at all opportunities to foster teamwork and cooperation with waterfront property owners to replace nonconforming and highly impacting structures, especially in the most critical nearshore area, with more environmentally friendly structures, on a project-by-project basis, even when they do not meet the standards and regulations for new structures. The City of Sammamish is a good example of a City that has reserved the right to approve relocation of a nonconforming structure if it represents a clear improvement. They were also careful not to propose onerous and overly restrictive dimensional standards whereby restricting property owner flexibility.

I have laid the foundation above due to several recommendations in the PC Recommendation Review Draft Section 4-10-095 Shoreline Master Program, Nonconforming Uses, Activities, Structures, and Sites and 4.3.090.E.7 Piers and Docks, I feel should be reconsidered and removed or revised. These include:

4-10-095 Shoreline Master Program, Nonconforming Uses, Activities, Structures, and Sites

Section 4-10-095F.1 Partial Compliance for NON-SINGLE-Family Development (Page 145 and 146 Minor, Moderate and Major Alteration Matrix)

- Consultation with the Renton City Attorney Office should be conducted to verify if requiring property owners to upgrade piers and shoreline stabilization to bring them more into conformance is legal. Although non-single-family development is not exempt from the SDP process it is exempt from many other reviews that pier and shoreline stabilization work require. These could include:

City of Renton Planning Department (Substantial Development Permit and SEPA Review)

WA Department of Fish and Wildlife (Hydraulic Project Approval)

City of Renton Building Department (Building Permit for Pier Structure)

City of Renton Grading and Drainage (Building/Grading Permit for Shoreline Stabilization)

U. S. Army Corps of Engineers (Section 10/404 Permit)

National Marine Fisheries Service (ESA Review)

U. S. Fish and Wildlife Service (ESA Review)

WA Department of Natural Resources (If pier extends beyond the Inner Harbor Line)

This could also require services from a Structural Engineer, Geotechnical Engineer, Biologist (Biological Evaluation and *Lake/Stream Study)

*Renton is the only local jurisdiction which requires a Lake/Stream Study for routine projects. All others simply use the SEPA Checklist and if a Biological Evaluation is completed for federal permitting we also provide a copy to the local Planning Department. Can Renton drop this requirement?

The total cost for permitting and construction will be tens of thousands of dollars and it would not be unusual in the most extreme cases where both a bulkhead and pier are involved it would be well over \$100,000.00.

I believe the City of Kirkland was going to tie shoreline work on bulkhead and piers to residential development and the City Attorney advised against this.

If the City is going to adopt stricter rules regarding nonconforming structures than required by the WAC and the SMP Update requirements it should only apply to the structure affected by the work. The City, for some reason, appears to be going far beyond what is required.

Section 4-10-095F.2 Partial Compliance for SINGLE-Family Development (Page 146 and 147 Minor, Moderate and Major Alteration Matrix)

- Consultation with the Renton City Attorney Office should be conducted to verify if requiring property owners to make piers and shoreline stabilization come into conformance when they are not a part of a project is legal. This essentially requires a single-family residential project which is typically exempt from SDP and only involves the local government to now apply for and secure permits from:

City of Renton Planning Department (Substantial Development Permit and SEPA Review)
WA Department of Fish and Wildlife (Hydraulic Project Approval)
City of Renton Building Department (Building Permit for Pier Structure)
City of Renton Grading and Drainage (Building/Grading Permit for Shoreline Stabilization)
U. S. Army Corps of Engineers (Section 10/404 Permit)
National Marine Fisheries Service (ESA Review)
U. S. Fish and Wildlife Service (ESA Review)

This could also require services from a Structural Engineer, Geotechnical Engineer, Biologist (Biological Evaluation and *Lake/Stream Study)

*Renton is the only local jurisdiction which requires a Lake/Stream Study for routine projects. All others simply use the SEPA Checklist and if a Biological Evaluation is completed for federal permitting we also provide a copy to the local Planning Department. Can Renton drop this requirement?

The total cost for permitting and construction will be tens of thousands of dollars and it would not be unusual in cases where both a bulkhead and pier are involved it could be well over \$100,000.00.

I believe the City of Kirkland was going to tie shoreline work on bulkhead and piers to residential development and the City Attorney advised against this.

If the City is going to adopt stricter rules regarding nonconforming structures than required by the WAC and the SMP Update requirements it should only apply to the structure affected by the work. The City, for some reason, appears to be going far beyond what is required.

While these extreme recommendations would mean an increase in business for marine contractors including Waterfront Construction, it simply isn't right. Any rational person must question who devised such proposals and how it got this far in the process without being filtered out as totally unreasonable and obsessive. Has Ecology, the Biological Consultant or the Renton Staff clearly explained this to the Planning Commission? This goes far beyond "no net loss" and basically mandates "restoration", and that is not required by the State from private property owners. We have documents from Ecology that say "No net loss" means that the existing shoreline ecological functions should remain the same or be improved over time. All repair, maintenance and replacement projects clearly meet this goal.

Based on my interaction and working relationship with the City of Renton Planning Staff and my impression from the members of the Planning Commission, I refuse to believe these standards are really under consideration. I must believe that the Planning Commission did not understand what they were doing because the SMP update process can be confusing, complicated and skewed. If I understand these sections correctly please stop this from moving forward and If I read them in erroneously I joyfully welcome correction.

Please revisit these recommendations and consider the impacts and unreasonable requirements and costs it will place on your property owners. There is no other local government taking this overreaching approach toward nonconformities.

4-3-090.E.7 Piers and Docks

- **General Comment:**

Pages 7, 14, 15, 18, 19, 38, and 77 of the PC Recommendation Review Draft each emphasize the policies and regulations goal of "no net loss". Without exception, every pier, dock and bulkhead repair or replacement represents and if evaluated on its own merit, can document that "no net loss" has been achieved. In nearly every case, a "net gain", a term never used by Ecology or other environmental enthusiasts, is achieved.

- **4-3-090.E.7.b.i(2)(c) (Page 78)** Under the WAC, single-family residential docks are not required to demonstrate that adjacent owners have been contacted and declined to develop or utilize a shared dock.

Please consider removing this requirement.

- **4-3-090.E.7.b.i(2)(d) (Page 78)** Under the WAC, single-family residential docks are not required to demonstrate that a mooring buoy is impractical.

Please consider removing this requirement.

- **4-090.E.7.d (page 80) Design Standards Matrix**

When allowed (page 80): Which category does Community Docks fall under?

Ells and Fingers (page 82): Under joint-use should it say 26ft (per lot)?

Floats (Page 82): Under joint-use should it say 20 ft (per lot)?

- **4-090.E.7.e.iii (page 84) Maintenance and Repair of Docks**

Existing docks or piers that do not comply with these regulations may be repaired in accordance with the following criteria:

- **4-090.E.7.e.iii- When the repair/replacement involves the replacement of any of the pilings, the entire structure shall be replaced in compliance with these regulations.**

Requiring existing piers that do not comply with the new regulations to be replaced simply because one or more piling need repaired or replaced is totally uncalled for and unsupported by the WAC. Minor pile repair and replacements, especially involving only one, have never required a structure to comply with existing regulations. As a matter of fact, such work is exempt both from SDP and SEPA review, although if more than 50% of existing piles are being replaced (not spliced) some local governments require SEPA review.

This extreme measure is the equivalent of having a flat tire and needing to replace a car or sustaining minor damage to one corner of a house foundation and being required to demolish it and build a new residence. Does this make sense?

Even the WAC considers the replacement of piles and even an entire structure minor in nature and if it is the common method of repair for such a development it is exempt from the shoreline process. There is no other local government who has taken this position and there are none taking this position during their SMP Update process. Can the City explain the rationale for such a requirement?

WHY THIS DOESN'T MAKE SENSE

Not only is this out of line with the WAC and other local governments, but please consider the scenario below.

Essentially, a steel replacement pile costs approximately \$1,000 to \$2,000 depending on the pile diameter and length. A pile splice costs approximately \$800 to \$1,000 depending on location, time and materials. *Regardless of*

how many piles are repaired or replaced a project is typically exempt from SDP and SEPA (although some locals require SEPA if more than 50% are replaced) and receives a streamlined review by WDFW and the Army Corps due to the repetitive and standard nature of this type of work. Each project will require a Building Permit. The cost for all permits would be minimal and likely less than \$1,500 to \$2,000 including permit service charges from a company like Waterfront Construction.

Average cost for all permits and service charges (average)-	\$1,750.00
Average Construction Costs for Replacement (using 4 piles as an example)-	<u>\$6,000.00</u>
Average Total Cost-	<u>\$7,750.00</u>

Average cost for all permits and service charges (average)-	\$1,750.00
Average Construction Costs for Repair using Splicing (using 4 piles as an example)-	<u>\$3,600.00</u>
Average Total Cost-	<u>\$5,350.00</u>

Based on the current proposal to require a total pier replacement in a different layout it will require the basic cost above and additional permits and costs:

Average Permit Services-	\$ 8,250.00
Average Biological Evaluation and Lake/Stream Study:	\$ 5,000.00
Average City of Renton Planning Department (Substantial Development Permit and SEPA Review)	\$ 3,000.00
Average WA Department of Fish and Wildlife (Hydraulic Project Approval)	N/A
Average City of Renton Building Department (Building Permit for Pier Structure)	\$ 1,500.00
Average U. S. Army Corps of Engineers (Section 10/404 Permit)	N/A
Additional Mitigation with U. S. Army Corps of Engineers (Section 10/404 Permit), National Marine Fisheries Service (ESA Review), U. S. Fish and Wildlife Service (ESA Review), and Muckleshoot tribal Community (Native Riparian Planting Plan)	\$10,000.00
Additional Project Cost for Average 480sqft Pier @ \$110/sqft-	\$52,800.00
Additional costs for Structural Engineer (if required)-	<u>\$ 2,500.00</u>
Total Cost of a Nonconforming Structure Needing a Minor Pile Repair or Replacement-	<u>\$83,050.00</u>

DOES THIS MAKE SENSE?

I have included the following for your review and consideration:

- WAC Guidelines for Nonconforming Structures (Repair or Replaced Due to Damage)
- WAC Guidelines for SDP Exemptions
- WAC Guidelines for SEPA Exemptions
- City of Kirkland Draft SMP Update Nonconforming Structure Regulations
- City of Sammamish Draft SMP Update Nonconforming Structure Regulations
- City of Redmond Approved SMP Update Nonconforming Structure Regulations
- City of Mercer Island DSG Policy Memorandum Administrative Interpretation #05-02

I appreciate your time and the opportunity to comment on the Renton document. If you have any question or need additional information I may be contacted via phone at 425-357-0312 or e-mail at daved@waterfrontconstruction.com.

Sincerely,



David Douglas
Permit Coordinator
Waterfront Construction, Inc.

STATE RULE (WAC) REQUIREMENTS	LOCATION	COMMENTS
Piers and Docks. WAC 173-26-231(3)(b)		
<p>New piers and docks.</p> <p>allowed only for water-dependent uses or public access restricted to the minimum size necessary to serve a proposed water-dependent use permitted only when specific need is demonstrated (except for docks accessory to single-family residences).</p> <p>Note: Docks associated with single family residences are defined as water dependent uses provided they are designed and intended as a facility for access to watercraft. WAC 173-26-231(3)(b)</p>		
<p>When permitted, new residential development of more than two dwellings required to provide joint use or community docks, rather than individual docks. WAC 173-26-231(3)(b)</p>		
<p>Design and construction of all piers and docks required to avoid, minimize and mitigate for impacts to ecological processes and functions and be constructed of approved materials. WAC 173-26-231(3)(b)</p>		
Fill. WAC 173-26-231(3)(c)		
<p>Definition of "fill" consistent with WAC 173-26-020(14)</p>		
<p>Location, design, and construction of all fills protect ecological processes and functions, including channel migration. WAC 173-26-231(3)(c)</p>		
<p>Fill waterward of the OHWM allowed only by shoreline conditional use permit, for:</p> <ul style="list-style-type: none"> water-dependent use; public access; cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material in accordance with DNR Dredged Material Management Program; expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not feasible); mitigation action, environmental restoration, beach nourishment or enhancement project. WAC 173-26-231(3)(c) 		
Breakwaters, Jetties, and Weirs. WAC 173-26-231(3)(d)		
<p>Structures waterward of the ordinary high-water mark allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose. WAC 173-26-231(3)(d)</p>		
<p>Shoreline conditional use permit required for all structures except protection/restoration projects. WAC 173-26-231(3)(d)</p>		
<p>Protection of critical areas and appropriate mitigation required. WAC 173-26-231(3)(d)</p>		
Dunes Management. WAC 173-26-231(3)(e)		
<p>Development setbacks from dunes prevent impacts to the natural, functional, ecological, and aesthetic qualities of the dunes. WAC 173-26-231(3)(e)</p>		

Nonconforming Use and Development Standards.

When nonconforming use and development standards do not exist in the applicable master program, the following definitions and standards shall apply.

(1) "Nonconforming use or development" means 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.

(2) 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.

(3) Uses and developments that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040 (2)(g) upon approval of a conditional use permit.

(4) A use which is listed as a conditional use but which existed prior to adoption of the master program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use but which existed prior to the applicability of the master program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use.

(5) A structure for which a 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.

(6) A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that

(a) No reasonable alternative conforming use is practical, and

(b) The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.

In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

(7) A nonconforming structure which is moved any distance must be brought into conformance with the applicable master program and the act.

(8) If a nonconforming development is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.

(9) If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to subsection (6) of this section shall be considered a conforming use for purposes of this section.

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

Developments exempt from Substantial Development Permit requirement.

(1) Application and interpretation of exemptions

(a) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.

(b) An exemption from the substantial development permit process is not an exemption from compliance with the act or the local master program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the applicable master program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to the local master program or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance.

(c) The burden of proof that a development or use is exempt from the permit process is on the applicant.

(d) If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.

(e) Local government may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the act and the local master program.

(2) The following developments shall not require substantial development permits:

(a) Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect. 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 as defined in RCW 90.56.030.

(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated contributed or found labor, equipment or materials.

(b) Normal maintenance or 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, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to 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.

(c) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.

(h) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-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 either:

(i) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars, or

(ii) In fresh waters, the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

Categorical exemptions. (SEPA)

The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-800.

(1) **Minor new construction -- Flexible thresholds.**

(2) **Other minor new construction.** The following types of construction shall be exempt except where undertaken wholly or in part on lands covered by water (unless specifically exempted in this subsection) the exemptions provided by this section shall apply to all licenses required to undertake the construction in question, except where a rezone or any license governing emissions to the air or discharges to water is required:

(3) **Repair, remodeling and maintenance activities.** The following activities shall be categorically exempt. The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, involving no material expansions or changes in use beyond that previously existing, except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:

(a) Dredging.

(b) Reconstruction/maintenance of groins and similar shoreline protection structures, or

(c) Replacement of utility cables that must be buried under the surface of the bedlands. Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

25.08.070 Administration – General Standards

(1) Unless otherwise stated, this Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27.

25.08.080 Permit Process – Land Use Decisions

(1) Shoreline substantial development permits, statements of exemption, shoreline variances and shoreline conditional use permits shall be subject to all of the applicable requirements of SMC 20.05.

25.08.090 Permit Process – Appeals

(1) Appeals of the final decision of the City with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.

(2) 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/property owner or any aggrieved party pursuant to RCW 90.58.180.

(3) 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.

25.08.100 Non-conforming Use and Development – Alteration or Reconstruction

(1) Non-conforming Structures

(a) Reconstruction, replacement, or expansion of the exterior footprint of an existing, legally established non-conforming structure is allowed provided that the addition or reconstruction does not increase the degree of non-conformity except as allowed in SMC 25.06.020.

(b) Replacement may be allowed in a different non-conforming location if a determination is made by the City that the new location results in less impact to shoreline functions than replacement in the existing footprint.

(c) Existing structures that were legally established but which are non-conforming with regard to the setback, area, bulk, height or density standards established by this Program may be maintained, reconstructed, or repaired, provided that:

i. The maintenance/reconstruction/repair does not increase the extent of non-conformity by encroaching upon or extending into the building setback area or shoreline setback or other area where new construction or use would not be allowed except as specifically allowed in SMC 25.07.080.

20D.150.200 Shoreline Administration and Procedures.

20D.150.200-010 Administrative Interpretations.

The Administrator may adopt such code interpretations as necessary to administer the shoreline master program policies and regulations. Any formal written interpretations of shoreline policies or regulations shall be submitted to the Department of Ecology for review. (Ord. 2486)

20D.150.200-020 Nonconformances.

(1) Nonconformities, as defined in Chapter [20A.20 RCDG](#), Definitions, may continue to be used and maintained in accordance with the provisions of this chapter except as otherwise provided in RCDG [20D.150.150-020](#), Amortization of Off-premises Signs within the Shoreline, and RCDG [20D.160.10-110](#), Amortization of Sandwich Board Signs. The use and maintenance is permitted as a result of vested rights obtained through the legal establishment of the nonconforming use or structure.

(2) Nonconforming Shoreline Uses. A nonconforming use located within the shoreline jurisdiction may not be enlarged or expanded. If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming.

(3) Nonconforming Shoreline Structures. A nonconforming structure may not be expanded or altered in any way so as to increase that nonconformity; provided, however, that nonconforming shoreline structures may be maintained and repaired and may be enlarged or expanded, provided that said enlargement or expansion does not extend the structure closer to the shoreline. A nonconforming structure shall be brought into full compliance with the Redmond Community Development Guide (meaning the development shall be modified to make it code compliant) when alteration or expansion of the structure takes place and the following takes place within any three-year period:

(a) The gross floor area of the structure is increased by 100 percent or more; or

(b) The costs stated on all approved building permit applications for the structure equal or exceed the assessed value of the structure at the beginning of that three-year period. (Ord. 2486)

20D.150.200-030 Shoreline Permits.

(1) Purpose. It is the purpose of this section to describe the procedures and requirements for development within specified areas related to lakes, rivers, streams, wetlands, and floodplains as required to implement the Shoreline Management Act, as amended, Chapter 90.58 RCW, and to aid in implementation of the Federal Flood Insurance Program and the State Flood Control Zone Program.

(2) Permit Required. Within the shoreline jurisdiction, as described in RCDG [20D.150.20](#), development shall be allowed only as authorized in a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit or Shoreline Variance Permit unless specifically exempted from obtaining such a permit under RCDG [20D.150.200-030\(3\)](#), Exemptions. Enforcement action by the

Judith Subia

From: Daved [Daved@waterfrontconstruction.com]
Sent: Tuesday, March 09, 2010 9:40 AM
To: Erika Conkling
Cc: David Halinen; marlene@marlenewinter.com; annesimpson@comcast.net; jerry.brennan@boeing.com; hdahlby@hdahlby.com; laurieb@seac.com; lowella@serv.net; budmanis@comcast.net; n67683@gmail.com; kathydahlby@yahoo.com; Chris Oppfelt; Monica Fix; LETYOUNG@aol.com; melvin25@bellsouth.net
Subject: LETTER TO THE PLANNING COMMISSION

Hi Erika,
Please ensure these comments are passed to the Planning Commissioners as quickly as possible.
Thanks,
Dave Douglas
Waterfront Construction, Inc.

Dear Commission Chair Giometti
Commission Vice-Chair Osborn
Commissioner Brines
Commissioner Prince
Commissioner Chen
Commissioner Drollinger
Commissioner High
Commissioner Poole

Thank you for your hard work on wanting to get the City of Renton Shoreline Master Program (SMP) right. After various degrees of interaction with 10 local SMP update processes including many private and public meetings with property owners, Planning Departments and Commissions and City Councils that as more is known more questions are asked. As was shared with me by Commissioner Poole prior to last night's meeting is the fact that the Commission has received a barrage of one-sided information from Ecology, the Environmental Consultant, and the Planning Department. This is typical of how the process has been carried out by Ecology in all communities. Prior to the public process Ecology held regular meetings with all local planners to indoctrinate and prepare them for the update process. This is where they are armed with gloom and doom data regarding salmon recovery and the health of Lake Washington and Lake Sammamish and how private property owners are the cause and therefore, the only solution. Local planners, Planning Commissions, and City Councils have for the most part granted blanket credibility to Ecology and Environmental Consultants simply based on their title and position in the process. Any time we know there is an agenda involved we must position ourselves in the middle to objectively and carefully vet the information coming from both sides.

It was great to see a large crowd on hand as word has finally gotten out and property owners are able to see what Ecology is trying to do to property owners through the SMP Update process.

It is crunch time and the Planning Commission must decide if a flawed document will be forwarded to the City Council where it will receive less scrutiny because the Council has relied on the Commission to prepare a basically ready-to-go product. **On behalf of your property owners I must try with as much drive and diplomacy as possible, to get the Commission to slow the process down and take a more in-depth look at what is and is not required under Ecology's SMP Update Submittal Requirements.**

I could not stay at the March 3, 2010 meeting long enough to provide factual and passionate public testimony because I needed to attend a similar meeting on Mercer Island. I left my documentation (which was also provided to you via e-mail) with Mr. Lowell Anderson to represent me. **I was quite frustrated at the overstressing of environmental points made by Senior Planner Erika Conkling.** Ms. Conkling, whom I have much professional respect and admiration for as a highly qualified and pleasant planner, provided answers to some of the recent concerns the City has received from citizens in a diplomatic and somewhat compelling manner but from my position as the most experienced permit and marine construction professional in the room, it was simply not factual based on updates in other communities. Although I cannot recall every response Ms. Conkling provided, the following is provided based on my 8 years of experience with the local, state and federal shoreline permitting processes on Lake Washington. The items below are not in any order due to time constraints.

- 1) **Renton is no different than other Lake Washington community and does not need to have different standards than others.** For example, the RGP-3 which Ecology has pushed on local governments to document “no net loss” applies to all Lake Washington communities. Most are extracting some of these guidelines but very few are adopting them verbatim because they are not suitable due to the nature of a SMP.
- 2) **Renton, like most other Lake Washington communities is built out so the best way to improve the shoreline area is through redevelopment of existing piers and docks.** This mandates flexibility and an alternative process for property owners agreeable to replacing their existing structure with a more environmentally friendly design whereby each project can be evaluated on its
- 3) **Lake Washington is reportedly a very healthy water body.** Please gather all the facts and do not rely on alarmist reports.
- 4) **The scientific reports, white papers, and even the Chinook Salmon Recovery Plan are inconclusive at best regarding the impacts of piers, docks, and shoreline stabilization on the ecosystem, endangered species, and critical habitat.** (Bass are a salmonid predator but it is reported the state limits anglers to 1 bass. If true, why is this? Is this also the fault of property owners?)
- 5) **There are no dimensional standards required for replacement of existing docks and piers, only new.**
- 6) **The WAC and SMP Update Requirements are silent on nonconforming structures (including docks and piers) except for relocation, damage, or when a nonconforming use is discontinued for more than 12 months.** As a matter of fact, the WAC allows nonconforming structures to be maintained and repaired or replaced within the same footprint, and even enlarged or expanded as long as the nonconformity is not increased.
- 7) **IMPORTANT POINT:** Unlike the Building Code that is updated every few years based on new information, Ecology and most local communities have not been proactive in making incremental changes to Shoreline Master Programs as environmental impacts, whether conclusive or not, have become known. **Therefore, nearly all docks, piers and bulkheads will suddenly be considered nonconforming structures overnight causing a panic.** As a result if local governments adopt overly restrictive standards with no room for flexible design and redevelopment (like the flexibility the Corps uses during the federal review process) it will distance property owners from the process and encourage them to maintain more impacting structures for many decades. This is a point overlooked by Ecology and local governments. **MANY OF THE REGULATIONS PROMOTED BY ECOLOGY, ENVIRONMENTAL CONSULTANTS AND LOCAL PLANNING DEPARTMENS ARE SIMPLY NOT REQUIRED UNDER THE SMP UPDATE.**

- Ms. Conkling said she contacted other communities regarding nonconformities and each varies but that Renton should not use them but must develop its own position on this issue due to the uniqueness of its shoreline. **I disagree with this position in that all communities face similar conditions (which have been greatly exaggerated) to Renton and the only difference between communities is the position the staff, Commission and Council want to levy against property owners with existing and currently conforming structures.**
 - It is important to remember several things:
 - **The Corps RGP-3 standards (which communities are using for many of their standards) which Ecology has declared to mean “no net loss” was not intended to serve as such but was designed to meet a Corps’ determination of “not likely to adversely affect” listed species and/or critical habitat.** These are 2 totally different standards. Ecology did not conduct adequate research with the Army Corps to see how RGP-3 applications were processed and the RGP-3 was implemented well after Ecology had already defined “no net loss”. Accepting the RGP-3 to mean “no net loss” seemed like an easy out for Ecology but it has caused mild headaches for local governments and migraines for property owners, especially for those who have existing structures (which may soon become nonconforming).
 - **Over 95% of the projects approved on Lake Washington and Lake Sammamish since it was introduced in early 2005 have not met the RGP-3 standards and were issued a Letter of Permission, the most common type of Corps permit.**
 - I can provide the City with dozens of new and redevelopment projects on Lake Washington where habitat was vastly improved although the structures did not meet the RGP-3 standards.

- Excerpts from WAC 173-27-080
Nonconforming use and development standards.

When nonconforming use and development standards do not exist in the applicable master program, the following definitions and standards shall apply:

(2) 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.**

(3) Uses and developments that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040 (2)(g) upon approval of a conditional use permit.

(7) A nonconforming structure which is **moved** any distance must be brought into conformance with the applicable master program and the act.

(8) If a nonconforming development is **damaged** to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.

(9) If a **nonconforming use is discontinued for twelve consecutive months** or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to subsection (6) of this section shall be considered a conforming use for purposes of this section.

CITY OF REDMOND NONCONFORMING GUIDELINES (APPROVED): (VERY REASONABLE)

- (3) Nonconforming Shoreline Structures. A nonconforming structure may not be expanded or altered in any way so as to increase that nonconformity. Provided, however, that nonconforming shoreline structures may be maintained and repaired and may be enlarged or expanded provided that said enlargement or expansion does not extend the structure closer to the shoreline. A nonconforming structure shall be brought into full compliance with the Redmond Community Development Guide (meaning the development shall be modified to make it code compliant) when alteration or expansion of the structure takes place and the following takes place within any three-year period:
- (a) The gross floor area of the structure is increased by 100 percent or more; or
 - (b) The costs stated on all approved building permit applications for the structure equal or exceed the assessed value of the structure at the beginning of that three-year period.

CITY OF KIRKLAND PROPOSED NONCONFORMING GUIDELINES: (SENT TO ECOLOGY) (SOMEWHAT REASONABLE BUT FLEXIBLE FOR ALTERNATIVE DESIGN)

Replacement of Existing Pier or Dock for Detached Dwelling Unit (single family)

Requirements

Replacement of entire existing pier or dock, including piles OR **more than 50 percent of the pier-support piles** and more than 50 percent of the decking or decking substructure (e.g. stringers)

Must meet the dimensional decking and design standards for new piers as described in KZC 83.270.4, **except the City may administratively**

approve an alternative design described in subsection b. below.

Mitigation Existing skirting shall be removed and may not be replaced.

Existing in-water and overwater structures located within 30 feet of the OHWM, except for existing or authorized shoreline stabilization measures, shall be removed.

Minor Repair of Existing Pier or Dock for Detached Dwelling Unit (single family)

Requirements

Replacement piles

Must use materials as described under KZC 83.270.5

Must minimize the size of piles and maximize the spacing between pilings to the extent allowed by site-specific engineering or design considerations

Replacement of 50 percent or more of the decking or 50 percent or more of decking substructure

Must replace any solid decking surface located within the nearshore 30 ft. of the pier or dock with a grated surface material that allows a minimum of 40% light

CITY OF KENMORE PROPOSED NONCONFORMING GUIDELINES: (RECENTLY SENT TO CITY COUNCIL) (VERY REASONABLE)

Will reportedly remain the same whereby a nonconforming structure, including all piles, can be replaced as long as the nonconformity is not increased.

CITY OF SAMMAMISH PROPOSED NON-CONFORMING USE AND DEVELOPMENT- ALTERATION OR RECONSTRUCTION (SENT TO ECOLOGY) (VERY REASONABLE AND WILL BENEFIT THE CITY AND ENCOURAGE PROPERTY OWNERS TO MAKE IMPROVEMENTS, ESPECIALLY BASED ON (1)(b))

25.08.100 Non-conforming Use and Development – Alteration or Reconstruction

(1) Non-conforming Structures

(a) Reconstruction, replacement, or expansion of the exterior footprint of an existing, legally established non-conforming structure is allowed provided that the addition or reconstruction does not increase the degree of non-conformity except as allowed in SMC 25.06.020.

(b) Replacement may be allowed in a different non-conforming location if a determination is made by the City that the new location results in less impact to shoreline functions than replacement in the existing footprint.

(c) Existing structures that were legally established but which are non-conforming with regard to the setback, area, bulk, height or density standards established by this Program may be maintained, reconstructed, or repaired, provided that:

- i. The maintenance/reconstruction/repair does not increase the extent of non-conformity by encroaching upon or extending into the building setback area or shoreline setback or other area where new construction or use would not be allowed except as specifically allowed in SMC 25.07.080.

(d) Existing legally established structures that are non-conforming as to SMC 21A.50 buffer requirements for wetlands, streams, ponds, or landslide hazard areas and their building setbacks may be modified, expanded, and/or replaced according to SMC 21A.50.060, sections (1)(a) and (1)(b). Structure non-conformity for any reason other than SMC 21A.50 buffer requirements for wetlands, streams, ponds or landslide hazard areas and their building setbacks must comply with the regulations of this section.

(e) If a non-conforming structure is damaged by fire, explosion, or other casualty and/or natural disaster, it may be reconstructed to match the footprint that existed immediately prior to the time the damage occurred or in accordance with (b) of this section, provided that all of the following criteria are met:

- i. The owner(s) submit a complete application within twenty-four (24) months of the date the damage occurred; and

- ii. **All permits are issued within two years of initial submittal of the complete application,** and the restoration is completed within two (2) years of permit issuance. This period may be extended for one additional year by the Director if the applicant has submitted the applications necessary to establish the use or activity and has provided written justification for the extension; and
- iii. If a non-conforming structure is damaged by fire, explosion, or other casualty and/or natural disaster and these criteria are not met, the City may require the applicant to plant the vegetation enhancement area with native trees and shrubs in accordance with SMC 25.06.020.

(f) **A non-conforming structure that is moved** outside the existing footprint **must be brought into conformance** with this Program and RCW 90.58, **except as allowed by (b) of this section.**

(g) **If the repair or maintenance of a non-conforming dock changes the location of the structure or alters any dimension of the structure by more than ten percent (10%), it shall be subject to the regulations for new docks.**

As you can clearly see by the above regulations proposed in other jurisdictions located in the same watershed (Lake Washington and Lake Sammamish) and under similar Ecology discretion and review criteria as the City of Renton, many of your neighboring property owners will be allowed to retain existing nonconformities outright or will require extensive work to trigger replacement with a conforming structure.

Because Renton's shoreline has so many short piers with a lot of nearshore structures which state and federal regulatory agencies would like to see relocated further from the shoreline and over deeper water, and with the City allowing future piers to extend to 8 foot water depth or a maximum of 120 feet in length, you may want to consider something similar the City of Sammamish approach but in order to encourage the removal and replacement of soon-to-be nonconforming structures it could handle replacements on a project-by-project basis whereby if the applicant can clearly document the replacement pier is less impacting and results in "no net loss" and can secure approval from the Army Corps, the City will be meeting their requirement, supporting property owners and making this a win-win outcome.

Barb Nightingale from Ecology stated that all individual private property projects were not required to meet the "no net loss" requirement but the City is as a whole. If this is true, would it not be even more beneficial if the City's handling of new piers and the replacement or reconstruction of nonconforming structures all resulted in "no net loss"? By allowing nonconforming structures to be totally replaced in the same location (Army Corps and WDFW regulations will require grating, smaller piles, longer spans and other improvements) as long as the nonconformity is not increased or in a different configuration if it is an improvement would this not be ideal? The proposed standards would still apply to totally new (never existing) piers.

Regarding the question on how often all piles are replaced on a pier; VERY OFTEN. We do hundreds of piles repairs (splices) and replacements per year. Piles on Lake Washington tend to deteriorate at approximately the same rate with those located in the nearshore (splash zone) breaking down a little faster due to the more frequent wet-dry cycle they experience. Piles primarily deteriorate between the Ordinary High Water Mark (21.80') and Low Lake (20.0') since the lake level is controlled by the Army Corps at the Ballard Locks. The wood beneath the surface is in good condition because it is always wet so this allows us to typically splice (repair) piles. In the case of a total pier replacement there is always an improvement because old large diameter (12" to 14") wood piles (often treated) are replaced with smaller diameter (6" to 10") steel piles and by using glu-lam beams spans can be as much as 20-22 feet between piles rather than 10-12 feet. When combined with a 100% grated surface and elevated higher above the OHWL a replacement pier, even in the same footprint is a vast improvement. THIS IS WHY THE CITY SHOULD GIVE SERIOUS CONSIDERATION TO ALLOWING EXISTING NONCONFORMING PIERS TO BE TOTALLY REPLACED.

OTHER SMP UPDATE ISSUES PREVIOUSLY POINTED OUT AND REEMPHASIZED

- Redevelopment of nonconforming residences should not be directly tied to requiring conformity of the shoreline (bulkhead) and pier as previously outlined in my March 1, 2010 letter.

4-3-090.E.7 Piers and Docks

- **General Comment:**
Pages 7, 14, 15, 18, 19, 38, and 77 of the PC Recommendation Review Draft each emphasize the policies and regulations goal of "no net loss". Without exception, every pier, dock and bulkhead repair or replacement represents and if evaluated on its own merit, can document that "no net loss" has been achieved. In nearly every case, a "net gain", a term never used by Ecology or other environmental enthusiasts, is achieved.

- **4-3-090.E.7.b.i(2)(c) (Page 78)** Under the WAC, single-family residential docks are not required to demonstrate that adjacent owners have been contacted and declined to develop or utilize a shared dock.
Please consider removing this requirement.
- **4-3-090.E.7.b.i(2)(d) (Page 78)** Under the WAC, single-family residential docks are not required to demonstrate that a mooring buoy is impractical.
Please consider removing this requirement.
- **4-090.E.7.d (page 80) Design Standards Matrix**
 - **When allowed (page 80):** Which category does Community Docks fall under? (This is allowed under the Corps RGP-3 where this was taken from.)
 - **Ells and Fingers (page 82):** Under joint-use should it say 26ft (per lot)? (This is allowed under the Corps RGP-3 where this was taken from.)
 - **Floats (Page 82):** Under joint-use should it say 20 ft (per lot)? (This is allowed under the Corps RGP-3 where it was taken from.)

Thank you for your time. I know it is precious and limited but I also know that you want all the facts in order to make informed decisions on behalf of Renton and its citizens.

Respectfully,

David Douglas
Permit Coordinator
Waterfront Construction, Inc.

March 3, 2010

Renton Planning Commission
and Renton City Council
1055 S. Grady Way
Renton, WA 98057

RE: The City of Renton's February 10, 2010 Draft Proposed SMP
Existing Shoreline Stabilization Structures

Dear Commission Members and Council Members:

We, the undersigned, are an owner of shoreline property in Renton. We are writing to urge you to revise the February 10, 2010 Draft of the proposed Renton Shoreline Master Program (SMP) to allow existing shoreline stabilization structures to be repaired, retained and replaced in their current location and size (provided there is no expansion) regardless of whether there is (a) a change of use of our property, (b) "abandonment of the use for which the shoreline stabilization structure was originally constructed", or (c) expansion of the building footprint, remodeling, or expansion of impervious surface of "non-conforming" structures on our respective properties.

The February 10, 2010 Draft proposed RMC 4-3-090.F.4.C (Existing Shoreline Stabilization Structures) is patently unfair, uncalled for, and violates our property rights. As long as property owners are not proposing to expand their existing shoreline stabilization structures, they should not have to risk the loss of their existing shoreline stabilization structures or be forced to redevelop them regardless of whether there is (a) a change of use of our property, (b) "abandonment of the use for which the shoreline stabilization structure was originally constructed", or (c) expansion of the building footprint, remodeling, or expansion of impervious surface of "non-conforming" structures on our property.

Please revise RMC 4-3-090.F.4.C and RMC 4-3-095F of the February 2010 Draft SMP to remedy this.

Sincerely,

AnMarCo

Ariane Elvebak, Property Manager

Address:
9125-10th Avenue South
Seattle, WA 98108

CITY OF RENTON

SHORELINE MASTER PROGRAM

PLANNING COMMISSION RECOMMENDATION REVIEW DRAFT

February 2010

(includes clarification revisions regarding Piers and Docks)

**with AnMarCo's redlined proposed revisions
and comments through 3-3-2010**

Prepared by

Parametrix

411 108th Avenue NE, Suite 1800

Bellevue, WA 98004-5571

T. 425.458.6200 F. 425.458.6363

www.parametrix.com

and

City of Renton

Department of Community and Economic Development

www.shoreline.rentonwa.gov

TABLE OF CONTENTS

- SECTION I.** Findings of Fact.
- SECTION II.** Amendment to the Renton Comprehensive Plan to add a new element
Shoreline Management
- SECTION III .** Amendment of Renton Municipal Code Chapter 3 ENVIRONMENTAL
REGULATIONS AND OVERLAY DISTRICTS Section RMC 4-3-090 Shoreline
Master Program Regulations
- 4-3-090 SHORELINE MASTER PROGRAM REGULATIONS
- A. PROGRAM ELEMENTS
- B. REGULATED SHORELINES
- C. SHORELINE OVERLAY DISTRICTS
1. Natural Environment Overlay District
 2. Urban Conservancy Overlay District
 3. Single-Family Residential Overlay District
 4. Shoreline High Intensity Overlay District
 5. Shoreline High Intensity- Isolated Lands Overlay District
 6. Aquatic Overlay District
- D. General Development Standards
1. Applicability
 2. Environmental Effects
 3. Use Compatibility and Aesthetic Effects
 4. Public Access
 5. Facility Arrangement- Shoreline Orientation
 6. Archaeological, Historical, and Cultural Resources
 7. Standards for Density, Setbacks and Height
 8. Private Property Rights
 9. Treaty Rights
- E. USE REGULATIONS
1. Shoreline Use Table
 2. Aquaculture
 3. Boat Launching Ramps
 4. Commercial and Community Services
 5. Industrial Use
 6. Marinas
 7. Piers and Docks
 8. Recreation
 9. Residential Development
 10. Transportation
 11. Utilities
- F. SHORELINE MODIFICATION
1. Vegetation Conservation
 2. Landfill and Excavation
 3. Dredging

4. Shoreline Stabilization
5. Flood Control
6. Stream Alteration

SECTION IV. Amendment of Renton Municipal Code Chapter 8 PERMITS- GENERAL AND APPEALS Section 4-8-120C Submittal Requirements for Land Use Applications

SECTION V. Amendment of Renton Municipal Code Chapter 8 PERMITS- GENERAL AND APPEALS Section 4-8-120D Definitions of terms used in submittal requirements for Building, Planning, and Public Works permit applications

SECTION VI. Amendment of Renton Municipal Code Chapter 9 PERMITS-SPECIFIC Section RMC 4-9-197 Shoreline Permits

SECTION VII. Amendment of Renton Municipal Code Chapter 10 LEGAL NONCONFORMING STRUCTURES, USES, AND LOTS Section 4-10-095 Shoreline Master Program, Nonconforming Uses, Activities, Structures and Sites

SECTION VIII. Amendment of Renton Municipal Code Chapter 11 DEFINITIONS to add the definitions specific to the Shoreline Master Program

ORDINANCE NO. _____

WHEREAS, the people of the State of Washington enacted the Shoreline Management Act (RCW 90.58) by a vote of the people in 1971; and

WHEREAS, the Growth Management Act (RCW 36.70A.480) adds the goals and policies of the shoreline management act as set forth in RCW 90.58.020 as one of the goals of the Growth Management Act without creating an order of priority among the fourteen goals and the goals and policies of a shoreline master program for a city shall be considered an element of the city's comprehensive plan; and

WHEREAS, the Shoreline Management Act (RCW 90.58.080) provides a timetable that requires Renton to amend its master program by December 1, 2009, and the City received a grant from the Department of Ecology to support the update process; and

WHEREAS, the City developed a comprehensive public involvement plan that provided widespread public notice and held periodic public workshop meetings and Public Hearings with the Planning Commission between Spring 2008 and Autumn 2009 and City Council Meetings in 2010; and

WHEREAS, the City developed a Shoreline Inventory and Characterization document and distributed it for agency and public review and compiled and responded to comments and issued a Final document in October 2009; and

WHEREAS, the City developed a series of Technical Memoranda on specific topics relevant to the Shoreline Master Plan and held a series of public workshops on the documents and compiled and responded to comments; and

WHEREAS, the City issued a Draft Shoreline Master Program in July 2009 and considered and responded to government agency and public comments and prepared a Revised Draft Shoreline Master Program in October 2009; and

WHEREAS, the City issued a Draft Cumulative Impacts Analysis in July 2009 and considered and responded to government agency and public comments and prepared a Revised Cumulative Impacts Analysis in October 2009; and

WHEREAS, the City issued a Draft Restoration Plan in October 2009 and considered and responded to government agency and public comments; and

WHEREAS, the documents considered by the City in its Shoreline Master Program regulation update are listed in Exhibit A; and

WHEREAS, such modification and integration of the Shoreline Master Program is in the best interest of the public;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RENTON, WASHINGTON, DOES ORDAIN AS FOLLOWS:

SECTION I I. The above findings are true and correct in all respects. This ordinance is also supported by the following conclusions based on the adopted findings.

- 1) The City followed its established public participation program;
- 2) Revisions are needed to the Shoreline Master Program;
- 3) All development standards within these sections were reviewed and found to be in compliance with the Shoreline Management Act; and

5) The amendments to the Shoreline Master Program in this Ordinance are intended to provide for the management of the shorelines of the City by planning for and fostering all reasonable and appropriate uses. This policy is designed to ensure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

6) The Cumulative Effects Analysis for the Shoreline Master Program in this Ordinance demonstrates that the program will make a positive contribution to maintaining and enhancing the ecological functions of the shoreline in Renton, particularly in reference to near-shore habitat that is critical for an early life-cycle stage for Chinook salmon that are currently listed pursuant to the Endangered Species Act.

7) Projects vested to the regulations and development standards prior to the adoption of this Ordinance are not subject to these standards unless substantial modification of the project is proposed which result in new application for development of the project.

SECTION II. The Renton Comprehensive Plan is hereby amended to provide a new Element: Shoreline Management

Shoreline Management Goals

The City adopts the goals and principles of the Shoreline Management Act as provided in RCW 90.58.020 and as particularly relevant to Renton.

1. The shoreline jurisdiction is one of the most valuable and fragile of the City's natural resources. There is appropriate concern throughout the watershed and the greater Puget Sound Region relating to the utilization, protection, restoration, and preservation of the shoreline jurisdiction.
2. Ever increasing pressures of additional use are being placed on the shoreline jurisdiction, which in turn necessitates increased coordination in its management and development.
3. Much of the shoreline jurisdiction and the uplands adjacent thereto are in private ownership. Unrestricted construction on the privately owned or publicly owned shorelines is not in the best public interest; therefore, coordinated planning is necessary in order to protect the public interest associated with the shoreline jurisdiction while recognizing and protecting private property rights consistent with the public interest.
4. There is a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the City's shoreline jurisdiction.
5. It is the intent of the City to provide for the management of the shoreline jurisdiction by planning for and fostering all reasonable and appropriate uses. The Shoreline Master Program is designed to ensure the development in a manner that, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest.

6. The City's shoreline policies are intended to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.
7. In the implementation of the Shoreline Master Program, the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines shall be preserved to the greatest extent feasible consistent with the overall best interest of the state, the county, and the people generally. To this end, uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the state's shoreline.
8. Alterations of the natural condition of the shoreline jurisdiction, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures; ports; shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines; industrial and commercial developments that are particularly dependent on their location on or use of the shoreline jurisdiction; and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines.
9. Permitted uses in the shorelines zone shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline jurisdiction and any interference with the public's use of the water.

INTRODUCTION

The Washington State Shoreline Management Act (the Act) passed in 1971 and is based on the philosophy that the shorelines of our state are among our most "valuable" and "fragile" natural resources and that unrestricted development of these resources is not in the best public interest. Therefore, planning and management are necessary in order to prevent the harmful effects of uncoordinated and piece-meal development of our state's shorelines.

Shorelines are of limited supply and are faced with rapidly increasing demands for uses such as marinas, fishing, swimming and scenic views, as well as recreation, private housing, commercial and industrial uses.

The policy goals for the management of shorelines harbor potential for conflict. The Act recognizes that the shorelines and the waters they encompass are "among the most valuable and fragile" of the state's natural resources. They are valuable for economically productive industrial and commercial uses, recreation, navigation, residential amenity, scientific research and education. They are fragile because they depend upon balanced physical, biological, and chemical systems that may be adversely altered by natural forces and human conduct. Unbridled use of shorelines ultimately could destroy their utility and value. The prohibition of all use of shorelines also could eliminate their human utility and value. Thus, the policy goals of the Act relate both to utilization and protection of the extremely valuable and vulnerable shoreline resources of the state. The act calls for the accommodation of "all reasonable and

appropriate uses" consistent with "protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life" and consistent with "public rights of navigation. The planning policies of master programs (as distinguished from the development regulations) may be achieved by a number of means, only one of which is the regulation of development. Other means, as authorized by Revised Code of Washington (RCW) 90.58.240, include, but are not limited to: the acquisition of lands and easements within shorelines of the state by purchase, lease, or gift, either alone or in concert with other local governments, and accepting grants, contributions, and appropriations from any public or private agency or individual. Additional other means may include, but are not limited to, public facility and park planning, watershed planning, voluntary salmon recovery projects, and incentive programs.

Through numerous references to and emphasis on the maintenance, protection, restoration, and preservation of "fragile" shoreline, "natural resources," "public health," "the land and its vegetation and wildlife," "the waters and their aquatic life," "ecology," and "environment," the Act makes protection of the shoreline environment an essential statewide policy goal consistent with the other policy goals of the Act. It is recognized that shoreline ecological functions may be impaired not only by shoreline development subject to the substantial development permit requirement of the Act but also by past actions, unregulated activities, and development that is exempt from the Act's permit requirements. The principle regarding protection of shoreline ecological systems is accomplished by these guidelines in several ways, and in the context of related principles.

Local Responsibility

Under the Washington State Shoreline Management Act, local governments have the primary responsibility for initiating the planning program and administering the regulatory requirements of the Act, with the Washington State Department of Ecology acting in a supportive, review, or approval capacity depending on the particular shoreline proposal and regulatory requirements.

As set forth in the provisions of the Act, local governments must fulfill the following basic requirements:

- Use a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by affected shorelines.
- Include policies and regulations designed to achieve no net loss of those ecological functions, including:
 - Regulations and mitigation standards ensuring that each permitted development will not cause a net loss of ecological functions of the shoreline.
 - Local government shall design and implement such regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.
- Include goals and policies that provide for restoration of impaired ecological functions that include identifying existing policies and programs that contribute to planned restoration goals, as well as any additional policies and programs that local government

will implement to achieve its goals. This Master Program element considers established or funded non-regulatory policies and the direct or indirect effects of other regulatory or non-regulatory programs.

- Evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the Act, address adverse cumulative impacts, and fairly allocate the burden of addressing cumulative impacts among development opportunities.

Development of the Master Program

The Washington State Shoreline Management Act of 1971 (RCW 90.58) directs all local governments to develop a Master Program for the management of all shorelines of the state and associated shore lands that are under the local governments' jurisdictions.

Shoreline management is most effective and efficient when accomplished within the context of comprehensive planning. The Growth Management Act requires mutual and internal consistency between the comprehensive plan elements and implementing development regulations (RCW 36.70A).

This Master Program has been prepared and updated to comply with the requirements of the Shoreline Management and Growth Management Acts and to formulate guidelines that will regulate the utilization and development of the shorelines within the City of Renton. As part of this Master Program, the City of Renton has established administrative provisions, including a permit system for any substantial development, as well as review provisions to ensure that all development complies with the policies and regulations of the program.

The City of Renton has conducted a comprehensive inventory of the natural characteristics, present land uses, and patterns of ownership along the City's shoreline that provides a substantial information base for understanding ecological functions and other considerations for the development of this Master Program update.

The City of Renton, with the involvement of its local citizens, agencies, and interested parties has developed this Shoreline Master Program to serve as both a planning guide and resource for specific regulations pertaining to development and use of the shorelines in Renton. Included is a description of the goals, objectives, policies, environments, use regulations, and provisions for variances and conditional uses.

The basic intent of this Master Program is to provide for the management of shorelines of the state within Renton's jurisdiction by planning for and fostering all reasonable and appropriate uses and to ensure, if development takes place, that it is done in a manner which will promote and enhance the best interests of the general public. This Master Program has further been composed to protect the public interest and general welfare in shorelines and, at the same time, to recognize and protect the legal property rights of owners consistent with the public interest. The goals and policies of this Master Program are formulated so as to enhance the public use and enjoyment of the shorelines. It is recognized that the Shorelines of the State found in Renton are located within a major urbanized area, and that they are subject to ever

increasing pressures of additional uses necessitating increased coordination in the management and development of the shorelines. The Shoreline Master Program is a planned, rational, and concerted effort to increase coordinated and optimum utilization of the Shorelines of the State in Renton.

Regulated Shorelines

Overview: Over 18 miles of shoreline in the City of Renton’s planning area are under the jurisdiction of the Shoreline Management Act of 1971. By statutory standards, the Green River and Lake Washington are classified as Shorelines of Statewide Significance, and comprise approximately 5.8 miles of the Shorelines of the State regulated by City of Renton. In addition, the shorelines of the Cedar River, Black River, Springbrook Creek, and May Creek are shorelines within the City. These 18 miles of shoreline in the City of Renton are an extremely valuable resource not only to the City of Renton, but also for the watersheds of which they are part and for the greater Puget Sound community of which Renton is an integral part.

Shoreline Jurisdiction: In the City of Renton, the following bodies of water are regulated by the Act:

Applicability: The Renton Shoreline Master Program applies to Shorelines of the State, which includes Shorelines of Statewide Significance and Shorelines as defined in Renton Municipal Code (RMC) 4-11 and as listed below.

1. Shorelines of Statewide Significance:
 - a. Lake Washington
 - b. Green River (The area within the ordinary high water mark of the Green River is not within the Renton City Limits, but portions of the 200-foot shoreline jurisdiction are within city limits.)
2. Shorelines:
 - a. Cedar River
 - b. May Creek from the intersection of May Creek and NE 31st Street in the southeast quarter of the southeast quarter of Section 32-24-5E WM
 - c. Black River
 - d. Springbrook Creek from the Black River on the north to SW 43rd Street on the south
 - e. Lake Desire (in the city’s future annexation area)

Extent of Shoreline Jurisdiction: The jurisdictional area includes:

1. Lands within 200 feet, as measured on a horizontal plane, from the ordinary high water mark, or lands within 200 feet from floodways, whichever is greater;
2. Contiguous floodplain areas; and
3. All marshes, bogs, swamps, and river deltas associated with streams, lakes, and tidal waters that are subject to the provisions of the State

Shoreline Management Act.

Shorelines of Statewide Significance: Each shoreline has its own unique qualities which make it valuable, particularly Shorelines of Statewide Significance, which in Renton include Lake Washington and the Green River. Preference is, therefore, given to the following uses in descending order of priority (as established by Chapter 90.58.020 RCW) for Shorelines of Statewide Significance:

1. Recognize and protect the statewide interest over local interest for Shorelines of Statewide Significance.
2. Preserve the natural character of the shorelines.
3. Result in long-term over short-term benefits.
4. Protect the resources and ecology of the shorelines.
5. Increase public access to publicly owned areas of the shorelines.
6. Increase recreational opportunities for the public in the shoreline.
7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

Development, redevelopment, and use of Lake Washington shall recognize and protect the statewide interest in terms of providing for benefits to the general public in terms of:

- Preserving and enhancing the natural character and ecological functions of the shoreline to provide long-term public benefits to fish stocks, many of which depend on south Lake Washington for a key phase of their lifecycle.
- Increasing public access to the shoreline and integrating public access on individual sites with an integrated non-motorized trail system to allow access to persons not living or on near the shoreline.
- Ensuring that impacts of development are mitigated to ensure the long-term benefits of a productive environment over short-term economic benefits.
- Providing a variety of recreational opportunities for the public in multiple use development on the shoreline.
- Providing high standards for design and aesthetics in the shoreline site and building design to address the visual character and quality of the range of public use of the lake and shorelines. Design and review standards shall achieve high-quality landmark developments that are integrated with the natural environment, that provide appropriate transition to areas of less intense development, and integrate building height, bulk, setbacks, landscaping, and signage into a cohesive whole.
- The redevelopment of former industrial areas on the Lake Washington shoreline will lead to the creation of a vibrant new lakefront community providing additional housing, shopping, and employment opportunities to the region. Multiple use projects will take advantage of the amenities of the lake while providing opportunities for water-oriented uses, public access and/ or ecological enhancement.

Geographic Environments: Shorelines are classified into separate geographic areas known as “use environments” based upon current development pattern, biophysical capabilities, and other factors. Policies, standards, and regulations can be customized by the use environment, shoreline, and other uses depending on need. Generally, regulated shorelines include the water bodies and their shorelands extending landward from the floodway or ordinary high water mark for 200 feet in all directions. This jurisdictional area increases to include all marshes, bogs, swamps, and river deltas associated with the regulated Shorelines of the State. The total of this area is subject to shoreline use classification and regulation. The overlay districts in the Renton Shoreline Master Program are classified as zoning overlay districts and include six districts:

1. Shoreline Natural Environment Overlay District

Objective: The objective in designating a natural environment is to protect and preserve unique and fragile shoreline or wetland environments that are ecologically intact as close to their natural state as possible. The natural environment is intended to provide areas of wildlife sanctuary and habitat preservation.

Areas to be Designated as a Natural Environment: A Natural Area designation is assigned to shoreline areas if any of the following characteristics apply:

- The shoreline retains the majority of natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses.
- Shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments, which could be lost or significantly reduced by human development.
- The shoreline represents ecosystems that are of particular scientific and educational interest.
- Shorelines with large areas of relatively undisturbed areas of wetlands.
- Shorelines that support specific important wildlife habitat, such as heron rookeries.
- The shoreline is unable to support new development, extractive uses, or physical modifications or uses without significant adverse impacts to ecological functions.

2. Shoreline Urban Conservancy Environment Overlay District

Objective: The purpose of the Urban Conservancy environment is to protect, conserve, restore, and manage existing areas with ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed settings, while allowing compatible uses.

Areas to Be Designated as a Conservancy Environment:

- Areas of high scenic value.
- Areas of open space, floodplain, or other sensitive areas such as wetlands or

geological hazards that should not be more intensively developed.

- Areas that retain important ecological functions, including areas, which, even though they are partially developed, provide valuable wildlife habitat or essential aquatic habitat functions.
- Areas with the potential for ecological restoration.
- Areas that cannot provide adequate utilities for intense development.
- Areas with unique or fragile features.

3. Shoreline Single Family Residential Overlay District

Objective: The objective of the Single-Family Residential Shoreline Overlay District is to accommodate residential development and appurtenant structures that are consistent with this chapter.

Areas to Be Designated: The Single-Family Residential Shoreline Overlay District is applied to and characterized by single-family use and zoning.

4. Shoreline High-Intensity Overlay District

Objective: The objective of the High Intensity Overlay is to provide opportunities for large-scale office and commercial employment centers, industrial uses, **[Comment: Change made for consistency with the “Areas to Be Designated” paragraph, immediately below.]** as well as multi-family residential use and public services. This district provides opportunities for water-dependent and water-oriented uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. Development ~~should~~**will** also provide opportunity for public use, such as~~especially~~ access to and along the water's edge.

Areas to Be Designated: The Shoreline High-Intensity Overlay District is designated in areas characterized by: commercial, **industrial**, or mixed-use zoning or use, but not meeting the criteria for conservancy or natural designation.

Management Policies:

Water-Oriented Activities: Because shorelines suitable for high-intensity urban uses are a limited resource, development opportunities are largely limited to redevelopment. Existing industrial and commercial uses on the shoreline are not water-dependent. It is unlikely that the Renton shoreline will provide opportunities for a commercial port, or other major water-oriented industrial uses. However, there may be opportunity for some types of water-dependent uses to be integrated into existing multiple-use developments or redevelopment projects, particularly on Lake Washington. Opportunities for water-dependent and water-oriented uses are likely to be oriented to recreation, public enjoyment, transportation, and moorage, particularly on Lake Washington. Priority~~Emphasis~~**[Comment: The use of the term “emphasis” seems meaningless here.]** shall be given to development within already developed areas and particularly to water-oriented industrial and commercial uses.

Non-water-oriented Activities: Non-water-oriented uses should be permitted as part of development that also includes water-oriented use. Non-water-oriented uses should be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses, or on sites where there is not direct access to the shoreline. Non-water-oriented uses allowed in the shoreline should provide ecological restoration and/or public access along the full length of the developed shoreline frontage.

Public Access: Priority is also given to planning for public visual and physical access to water in the High Intensity Overlay District. Identifying needs and planning for the acquisition of urban land for permanent public access to the water is addressed in Public Access regulations in 4-3-090.E.4.g Table of Public Access Requirements by Reach. Public access is one of the primary public benefits necessary to locate development on the shoreline.

Ecological Restoration: Providing for restoration of ecological functions is one of the public benefits necessary to locate non-water-oriented development on the shoreline. Ecological restoration opportunities are limited in Renton due to the developed nature of much of the shoreline. ~~Generally, new development and redevelopment should remove and replace shoreline armoring that does not meet standards of this code, restore native vegetation and wetlands, as well as restore the aquatic substrate.~~ [Comment: The City should not advance such a radical policy. Existing shoreline armoring is a valuable portion of the property that it protects and should continue to be usable as part of new development or redevelopment as long as the proposed development or redevelopment will not involve its face to be expanded. As the submittals into the record of materials from Andrew Kindig, PhD and Carl Hadley clearly demonstrate, substantial ecological restoration/enhancement can be achieved by vegetating the shoreline setback/buffer without altering existing shoreline armoring.] Within the setback from the ordinary high water mark, public access may be required to be set back from restored areas with controlled access to the water's edge at locations that are less ecologically sensitive. [Comment: A requirement for setting back public access from restored areas should be limited to the area within the setback so as to not further impair shoreline property owners' development rights, rights that are otherwise already proposed to be highly impaired with the multitude of requirements in the proposed SMP.]

Aesthetics: Aesthetic objectives shall be implemented by appropriate development siting, building bulk, design standards, screening, landscaping, and maintenance of natural vegetative buffers.

5. Shoreline Isolated High-Intensity Overlay District

Objective and Areas to be Designated: The objective of the High Intensity Overlay – Isolated Lands overlay is to provide appropriate regulations for areas that are within

shoreline jurisdiction but are with separate parcels effectively isolated from the water by intervening elements of the built environment, largely consisting of railroads and roads or intervening private parcels. In most cases, these areas function as parallel designations with other designations applied to the area adjacent to the water.

6. Aquatic Environment Overlay District

Objective: The objective of the Aquatic designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

Areas to be Designated: The Aquatic Overlay District is defined as the area waterward of the ordinary high water mark of all streams and rivers, all marine water bodies, and all lakes, constituting shorelines of the state together with their underlying lands and their water column; but do not include associated wetlands and other shorelands shoreward of the ordinary high water mark.

Management Policies: Development within Aquatic Areas shall be consistent with the following:

- Allowed uses are those within the adjacent upland shoreline overlay, limited to water-dependent use or public access.
- New uses and over-water structures are allowed only for water-dependent uses, single-family residences, public access, or ecological restoration and only when no net loss of ecological functions will result.
- The size of new over-water structures shall be limited to the minimum necessary to support the structure's intended use. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities is encouraged and may be required.
- All developments and uses on navigable waters or their beds shall be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- Shoreline uses and modifications shall be designed and managed to prevent degradation of water quality, minimize alteration of natural conditions and processes, and result in no net loss of ecological functions
- Uses and modification of Public Aquatic Land shall incorporate public access and ecological enhancement, except where inconsistent with the operation of water-dependent uses.
- Fish and wildlife resource enhancement, including aquaculture related to fish propagation are allowed and encouraged.

Goals and Policies

Shoreline Uses and Activities Policies

- Objective SH-A.** Provide for use of the limited water resource consistent with the goals of the Shoreline Management Act by providing a preference for water-oriented uses.
- Objective SH-B.** Provide that the policies, regulations, and administration of the Shoreline Master Program ensure that new uses, development, and redevelopment within the shoreline jurisdiction do not cause a net loss of shoreline ecological functions.
- Objective SH-C.** Ensure that the policies, regulations, and administration of the Shoreline Master Program are consistent with the land use vision of the City's Comprehensive Plan.
- Policy SH-1.** Reasonable and appropriate shoreline uses and activities should be planned for:
1. Short-term economic gain or convenience in development should be evaluated in relationship to potential long-term effects on the shoreline.
 2. Preference should be given to those uses or activities which enhance the natural functions of shorelines, including reserving appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
 3. Provide for the following priority in shoreline use and modification of the shoreline:
 - (a) Water-dependent and associated water-related uses are the highest priority for shorelines unless protection of the existing natural resource values of such areas precludes such uses.
 - (b) Water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives, provided that adequate area is reserved for future water-dependent and water-related uses.
 - (c) Multiple use developments may be allowed if they include and support water-oriented uses and contribute to the objectives of the act including ecological protection and restoration and/or public access.
 - (d) Limit non-water-oriented uses to those locations where access to the water is not provided or where the non-water-oriented uses contribute to the objectives of the Act, including ecological protection and restoration and/or public access.
 - (e) Preserve navigational qualities, and the infrastructure that supports navigation, to support water-oriented use.
 4. Recognize existing single-family residential uses and neighborhood character and ensure that existing uses, new uses, and alteration of facilities:
 - (a) Do not result in a net loss of shoreline ecological functions.
 - (b) Avoid disturbance of unique and fragile areas.

- (c) Are provided with adequate public services including water, sanitary sewer, and stormwater management.
5. Future shoreline subdivision, multi-family developments, and planned urban developments of more than four ~~or more~~ units should provide public benefits, such as including ecological protection and restoration, and/or public access (except where public access is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable). **[Comment: See WAC 173-26-221(4)(d)(iii).¹]**

¹ WAC 173-26-221(4) states:

(4) Public access.

(a) **Applicability.** Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

(b) **Principles.** Local master programs shall:

(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

(ii) Protect the rights of navigation and space necessary for water-dependent uses.

(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.

(iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

(c) **Planning process to address public access.** Local governments should plan for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access. Such a system can often be more effective and economical than applying uniform public access requirements to all development. This planning should be integrated with other relevant comprehensive plan elements, especially transportation and recreation. The planning process shall also comply with all relevant constitutional and other legal limitations that protect private property rights.

Where a port district or other public entity has incorporated public access planning into its master plan through an open public process, that plan may serve as a portion of the local government's public access planning, provided it meets the provisions of this chapter. The planning may also justify more flexible offsite or special area public access provisions in the master program. Public participation requirements in WAC 173-26-201 (3)(b)(i) apply to public access planning.

At a minimum, the public access planning should result in public access requirements for shoreline permits, recommended projects, port master plans, and/or actions to be taken to develop public shoreline access to shorelines on public property. The planning should identify a variety of shoreline access opportunities and circulation for

6. New residential developments should provide open space areas at or near the shoreline through clustering of dwellings.

Policy SH -2. Aesthetic considerations should be integrated with new development,

pedestrians (including disabled persons), bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

(d) **Standards.** Shoreline master programs should implement the following standards:

(i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.

(ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-221(4)(c) demonstrates that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.

(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required except:

(A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-221 (4)(c).

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.

In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, local governments shall consider alternate methods of providing public access, such as offsite improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than four parcels.

(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

(v) Assure that public access improvements do not result in a net loss of shoreline ecological functions.

redevelopment of existing facilities, or for general enhancement of shoreline areas and should include:

1. Identification and preservation of areas with scenic vistas and areas where the shoreline has high aesthetic value as seen from both upland areas, areas across the water, and recreational and other uses on the water.
2. Appropriate regulations and criteria should ensure that development provides designs that contribute to the aesthetic enjoyment of the shoreline for a substantial number of people and provide the public with the ability to reach, touch, and enjoy the water's edge and view the water and shoreline.
3. Regulations and criteria for building siting, maximum height, setbacks, screening, architectural controls, sign regulations, designation of view corridors, and other provisions should ensure that development minimizes adverse impacts on views of the water from public property or views enjoyed by a substantial number of residences.

Policy SH -3. All shoreline policies, regulations, and development shall recognize and protect private rights consistent with the public interest and, to the extent feasible, shall be designed and constructed to protect the rights and privacy of adjacent property owners. Shoreline uses and activities should be discouraged if they would cause significant noise or odor or unsafe conditions that would impede the achievement of shoreline use preferences on the site or on adjacent or abutting sites.

Conservation Policies

Objective SH-D. The resources and amenities of all shorelines and the ecological processes and functions they provide, such as wetlands, upland and aquatic vegetation, fish and wildlife species and habitats, as well as scenic vistas and aesthetics should be protected and preserved for use and enjoyment by present and future generations. Natural shorelines are dynamic with interdependent geologic and biological relationships. Alteration of this dynamic system ~~may cause~~ ~~has~~ substantial adverse impacts on geologic and hydraulic mechanisms important to the function of the water body and ~~may~~ ~~can~~ disrupt elements of the food chain.

Policy SH-4. When necessary, Shoreline modifications should emulate and allow natural shoreline functions to the extent feasible and where needed utilize bioengineering or other methods with the least impact on ecological functions.

Policy SH-5. Native shoreline vegetation should be conserved to maintain shoreline ecological functions and mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible. Important functions of

shoreline vegetation include, but are not limited to:

- Providing shade necessary to maintain water temperatures required by salmonids, forage fish, and other aquatic biota.
- Regulating microclimate in riparian and nearshore areas.
- Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macro invertebrates.
- Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence/severity of landslides.
- Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
- Improving water quality through filtration and vegetative uptake of nutrients and pollutants.
- Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase aquatic diversity for salmonids and other species.
- Providing habitat for wildlife, including connectivity for travel and migration corridors.

Policy SH-6.

Existing natural resources should be conserved through regulatory and non-regulatory means that may include regulation of development within the shoreline jurisdiction, ecologically sound design, and restoration programs, including:

1. Water quality and water flow should be maintained at a level to permit recreational use, to provide a suitable habitat for desirable forms of aquatic life, and to satisfy other required human needs.
2. Aquatic habitats and spawning grounds should be protected, improved and, if and when feasible, increased to the fullest extent possible to ensure the likelihood of salmon recovery for listed salmon stocks and to increase the populations of non-listed salmon stocks.
3. Wildlife habitats should be protected, improved and, if feasible, increased.
4. Unique natural areas should be designated and maintained as open space for passive forms of recreation and provide opportunities for education and interpretation. Access and use should be restricted, if necessary, for the conservation of these areas.

Policy SH-7.

Existing and future activities on all Shorelines of the State regulated by the City of Renton should be designed to ensure no net loss of ecological functions.

Policy SH-8.

The City of Renton should work with other responsible government agencies to assure that surface water management in all drainage basins is considered

an integral part of shoreline planning.

1. Soil erosion and sedimentation that adversely affect any shoreline within the City of Renton should be prevented or controlled.
2. The contamination of existing water courses should be prevented or controlled.

Policy SH-9

Shoreline stabilization should be developed in a coordinated manner among affected property owners and public agencies for a whole drift sector (net shore-drift cell) or reach where feasible, particularly those that cross jurisdictional boundaries, to address ecological and geo-hydraulic processes, sediment conveyance and beach management issues. Where erosion threatens existing development, a comprehensive program for shoreline management should be established.

Policy SH-10.

Shoreline areas having historical, cultural, educational, or scientific value should be identified and protected.

1. Public and private cooperation should be encouraged in site identification, preservation, and protection.
2. Suspected or newly discovered sites should be kept free from intrusions for a reasonable time until their value is determined.

Policy SH-11.

Critical areas in the shoreline should be managed to achieve the planning objectives of the protection of existing ecological functions and ecosystem-wide processes and restoration of degraded ecological functions and ecosystem-wide processes. The regulatory provisions for critical areas should protect existing ecological functions and ecosystem-wide processes. In protecting and restoring critical areas within the shoreline, the City should integrate the full spectrum of planning and regulatory measures, including the comprehensive plan, interlocal watershed plans, local development regulations, and state, tribal, and federal programs.

Policy SH-12.

The City ~~should~~ **shall** implement the Restoration Plan provided as an adjunct to The Shoreline Master Program in coordination with other watershed management agencies and groups, and shall manage public lands and may acquire key properties and provide for off-site mitigation on city or other public or private sites.

Policy SH- 13.

Preservation of natural shoreline areas can best be ensured through public or non-profit ownership and management. Therefore, where private development is proposed in areas so designated, the City should require dedication as necessary.

Policy SH-14.

Shoreline use and development should be carried out in a manner that prevents or mitigates adverse impacts so that the resulting ecological

condition does not become worse than the current condition. This means ensuring no net loss of ecological functions and processes in all development and use. Permitted uses should be designed and conducted to minimize, in so far as practical, any resultant damage to the ecology and environment (RCW 90.58.020). Shoreline ecological functions that should be protected include, but are not limited to, fish and wildlife habitat, food chain support, and water temperature maintenance. Shoreline processes that shall be protected include, but are not limited to, water flow; littoral drift; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.

Economic Policies

Objective SH-E. Existing economic uses and activities on the shorelines should be recognized and economic uses or activities that are water-oriented should be encouraged and supported.

Policy SH-15. Shoreline uses should be integrated with the land use vision of the Comprehensive Plan. Harbor areas in Renton do not have reasonable commercial accessibility and necessary support facilities such as transportation and utilities to warrant reservation for commercial ports and related uses, but may support other water-dependent uses such as a marina or passenger ferry service. Water-oriented uses should be encouraged in multiple use development to provide opportunities for substantial numbers of people to enjoy the shorelines. Multiple uses should prove a significant public benefit with respect to the Shoreline Management Act's objectives such as providing ecological restoration and/or public access to and along the water's edge.

Policy SH-16. Future economic uses and activities should utilize the shoreline to achieve the use and other goals of the Act and ~~the~~The Shoreline Master Program, including:

1. Economic uses and activities should locate the water-oriented portion of their development along the shoreline.
2. New over-water structures should be limited to water-dependent use and the length, width, and height of over-water structures should be limited to the smallest reasonable dimensions.
3. Shoreline developments should be designed to maintain or enhance aesthetic values and scenic views.

Policy SH-17. Shoreline facilities for the moorage and servicing of boats and other vessels may be allowed in appropriate locations within residential, commercial, and other areas, provided they are located and designed to result in no net loss

of ecological functions.

1. Shared moorage is encouraged over individual single family docks.
2. Commercial docks and marinas should meet all health standards. Marinas and other economic activities should be required to contain and clean up spills or discharges of pollutants associated with boating activities.
3. Shoreline facilities for the moorage and servicing of boats and other vessels should be developed in size and location when it would not impair unique or fragile areas, or impact federal or state-listed species.

Policy SH-18. All economic activities on the shoreline shall provide for no net loss of ecological functions during construction and operation.

Policy SH-19. Festivals and temporary uses providing public benefits such as recreation or public access, and which are compatible with ecological functions, including water quality, water flow, habitat, or unique and fragile areas, may be permitted with appropriate review and conditions.

Public Access Policies

Objective SH-F. Increase public accessibility to shorelines and preserve and improve the natural amenities.

Policy SH-20. Public access should be provided consistent with the existing character of the shoreline and consideration of opportunities and constraints for physical and visual access, as well as consideration of ecological functions, as provided in Policy SH-31 Table of Public Access Objectives by Reach, and in conjunction with the following policies.

Policy SH-21. Public access to and along the water's edge should be available throughout publicly owned shoreline areas although direct physical access to the water's edge may be restricted to protect shoreline ecological values. Public access shall be provided over all public aquatic lands leased for private activity, consistent with compatibility with water-dependent uses.

Policy SH-22. Public access from public streets shall be made available over public property and may be acquired by easement or other means over intervening private property.

Policy SH-23. Future multi-family, planned unit developments, subdivisions, commercial, and industrial developments shall provide physical and visual public access along the water's edge consistent with the policy provided in Policy SH-26 Table of Public Access Objectives by Reach. Policy SH-26.

- Policy SH-24.** Public access to and along the water's edge should be located, designed, and maintained in a manner that protects the natural environment and shoreline ecological functions and is consistent with public safety as well as compatible with water-dependent uses. Preservation or improvement of the natural processes shall be a basic consideration in the design of shoreline areas to which public access is provided, including trail systems.
- Policy SH-25.** When making extensive modifications or extensions to existing commercial, industrial, multi-family planned unit developments, or subdivisions, and public facilities, public access to and along the water's edge should be provided if physically feasible.
- Policy SH-26.** Both passive and active public areas should be designed and provided.
- Policy SH-27.** In order to encourage public use of the shoreline corridor, public parking should be provided at frequent locations on public lands and rights of way ~~and may be required on private development.~~ **Comment: The purported grant of authority to require such parking on private development to encourage public use of the shoreline corridor on its face is both (a) a call for an unconstitutional taking of private property for public purposes without just compensation having first been paid and (b) a violation of RCW 82.02.020. It should thus be stricken, as AnMarCo requests here.**
- Policy SH-28.** In planning for public access, emphasis should be placed on foot and bicycle paths consistent with the Renton Bicycle and Trails Master Plan, rather than roads, except in areas where public boat launching would be desirable.
- Policy SH-29.** Physical or visual access to shorelines should be required as a condition of approval for open space tax designations pursuant to RCW 84.34.
- Policy SH-30.** Development and management of public access should recognize the need to address adverse impacts to adjacent private shoreline properties and should recognize and be consistent with legal property rights of the owner. Just compensation shall be provided to property owners for land acquired for public use. Private access to the publicly owned shoreline corridor shall be provided to owners of property contiguous to said corridor in common with the public.

Policy SH-31 Table of Public Access Objectives by Reach

SHORELINE REACH	Location	Public Access Objectives
Lake Washington		
Lake Washington Reach A	From Bellevue city limits to Renton city limits	This developed primarily single-family area currently provides no public access. The potential for provision of public access from new development is low because further subdivision and non-single family use is not likely but should be pursued if such development occurs. Public agency actions to improve public access should include visual access from public trail development along the railroad right of way inland of the residential lots; however, views may be limited by topography and vegetation. Access to the water should be pursued at an existing undeveloped railroad right of way, including parcels used for utilities and potential acquisition of parcels, with emphasis on parcels that are not currently developed because they do not currently have roadway access.
Lake Washington Reach B	From the city limits to the Seahawks training facility	This is primarily a single-family area with one multi-family development immediately south of the Seahawks Training Center. There is currently no public access. There is a public trail along I-405, but it does not have views of the water. The potential for provision of public access from new development is low because further subdivision and non-single family use is not likely, but should be pursued if such development occurs. Public agency actions to improve public access should include visual access from trail development along the railroad right of way inland of the residential lots (however, views may be limited by topography and vegetation) and potential acquisition of opportunities for public access to the water.
Lake Washington Reach C	From the Seattle Seahawks headquarters and training facility through the former Barbee Mill site.	This reach includes the recently constructed Seattle Seahawks headquarters and training facility to the north and the Barbee Mill site to the south. The Quendall Terminals parcel between the Seahawks and Barbee Mill sites is a Superfund site contaminated with coal tar and creosote. There is public access along a portion of the shoreline at the Seahawks site and adjacent to May Creek at the Barbee Mill site. Public harbor lands are along about a third of the subdivision water frontage. The

SHORELINE REACH	Location	Public Access Objectives
		<p>potential for provision of public access from new development will occur after cleanup of the Superfund site with multi-use development that should offer shoreline access across the entire property, consistent with vegetation conservation. Provision of public access from future redevelopment of the Seahawks and Barbee Mill site is possible under the existing zoning, which allows higher intensity use and provides an opportunity for continuous public access parallel to the shoreline. Public access should be provided to shared or commercial docks. Public agency actions to improve public access should include visual access from a future trail along the railroad (views may be limited to the northerly and southerly portion of the reach because of distance to the water and potential blockage by intervening buildings); enhancement of the May Creek trail to public streets; access on public aquatic lands; and potential acquisition of public access to the water.</p>
<p>Lake Washington Reach D</p>	<p>From May Creek to Mountain View Avenue</p>	<p>This reach is a single-family area with no public access except Kennydale Beach Park. The potential for provision of public access from new development is low because further subdivision and non-single family use is not likely but should be pursued if such development occurs. Public agency actions to improve public access should include visual access from public trail development along the railroad right of way; pedestrian and bicycle access on Lake Washington Boulevard; public viewing areas and possible public acquisition of access to the water including an existing undeveloped railroad right of way adjacent to the water; and potential public right of way and potential public acquisition of selected parcels, including undeveloped parcels with development constraints.</p>
<p>Lake Washington Reach E</p>	<p>From Mountain View Avenue to Gene Coulon Park</p>	<p>This reach is a single-family area with no existing public access. The potential for provision of public access from new development is low because further subdivision and non-single family use is not likely but should be pursued if such development occurs. Public agency actions to improve public access should include visual access from public trail</p>

SHORELINE REACH	Location	Public Access Objectives
		development along the railroad right of way; pedestrian and bicycle access on Lake Washington Boulevard; public viewing areas and possible public acquisition of access to the water including an existing undeveloped railroad right of way adjacent to the water; possible public street ends; and potential public acquisition of selected parcels.
Lake Washington Reach F	The less developed northerly portion of Gene Coulon Park	Public access is currently provided by a trail system through the park and a variety of primarily passive recreational facilities, a fishing pier, and a moorage dock. Public access is one element of park functions that should be continued and incorporated in future plans and balanced with goals for providing recreation and improving ecologic functions. Other public agency actions to improve public access should include visual access from public trail development along the railroad right of way, and pedestrian and bicycle access on Lake Washington Boulevard including addition of public viewing areas.
Lake Washington Reach G	The more developed southerly portion of Gene Coulon Park	Public access is currently provided by a trail system through the park together with a variety of passive and active recreational facilities, a boat launch, over-water facilities, and concession facilities. Public access is one element of park functions that should be continued and incorporated in future plans, as well as balanced with goals for providing recreation and improving ecologic functions.
Lake Washington Reach H	Southport multiple use development	Public access is currently provided along the waterfront and should continue in the future as part of multi-use development of the remainder of the property. The design should include supporting water-oriented uses and amenities such as seating and landscaping.
Lake Washington Reach I	Boeing Plant and to the Cedar River	This reach is about one-third state-owned aquatic lands designated as Harbor Area and managed by the Washington State Department of Natural Resources (DNR) and two-thirds is the Boeing Company's site. Landward of the inner harbor line, ownership is entirely the Renton Boeing Plant. Public access in this area includes the Cedar River Boathouse located on pilings in Lake Washington and accessed from the west from the Cedar

SHORELINE REACH	Location	Public Access Objectives
		<p>River Trail. The boathouse includes a public fishing area and provides canoe and kayak rentals, classes, and guided trips. Public access is currently not feasible on the three acres of state owned aquatic lands managed by DNR. In the future, if the Boeing site is redeveloped public access should be provided, balanced with goals for ecological restoration. Public agency actions to improve public access should include a waterfront trail, which would connect the public access at the Southport development to the Cedar River Trail. This action should be implemented when environmental and security issues can be resolved, as well as public access to public lands, balanced with the goals of preserving ecological functions.</p>
<p>Lake Washington Reach J</p>	<p>Renton Municipal Airport</p>	<p>Public access to the Lake Waterfront is provided from the lawn area of the Will Rogers, Wiley Post Memorial Sea Plane Base and should be maintained if the goal of public access is not in conflict with the aeronautical use of the property.. Public agency actions to improve public access should include enhancing opportunities for the public to approach the water's edge from the existing lawn area. Public access may necessarily be limited by safety and security limitation inherent in the primary use of the property for aeronautical purposes.</p>
<p>Lake Washington Reach K</p>	<p>From the Renton Municipal Airport to the Seattle city limits</p>	<p>This reach is predominantly single-family area with no existing public access. Public visual access is provided from Rainier Avenue. The potential for provision of public access from new development is likely limited to future redevelopment of a small mobile home park in the easterly portion of this reach and from redevelopment of existing multi-family uses. Public agency actions to improve public access should include enhanced public views from Rainier Avenue as well as enhanced pedestrian facilities or view points. This effort may include acquisition of several undeveloped parcels to provide access to the water's edge, consistent with goals for preservation and enhancement of ecological functions.</p>
<p>May Creek</p>		
<p>May Creek A</p>	<p>From the mouth of the</p>	<p>This reach is bounded by open space dedicated as part of a subdivision</p>

SHORELINE REACH	Location	Public Access Objectives
	creek to Lake Washington Boulevard	and includes public access provided by a trail along the creek. Public agency actions to improve public access should include enhanced public views from Lake Washington Boulevard including enhanced pedestrian facilities or view points, improved connections of the May Creek trail to public streets, and to the potential trail to the east across or under the railroad right of way and Lake Washington Boulevard.
May Creek B	From Lake Washington Boulevard to I-405	There is currently no public access in this reach. At the time of re-development, public access should be provided from a trail parallel to the water along the entire property with controlled public access to the water, balanced with goals of preservation and enhancement of ecological functions. Public agency actions to improve public access should include provisions to cross I-405 to connect with trail systems to the east.
May Creek C	From I-405 to NE 36th Street	This reach includes discontinuous public ownership with some private ownership. At the time of development of private lands, public access should be provided from a trail parallel to the water together with public agency actions to develop a trail on public land. All trail development should be set back from the water's edge with controlled public access to the water, balanced with goals of preservation and enhancement of ecological functions.
May Creek D	From NE 36th Street to the city limits	This reach is largely King County May Creek Park. Public access is informal and discontinuous. There are some private inholdings[??? along the creek. At the time of development of private lands, public access should be provided from a trail parallel to the water coordinated with public agency actions to develop a trail on public land. All trail development should be set back from the water's edge with controlled public access to the water, balanced with goals of preservation and enhancement of ecological functions.
Cedar River		
Cedar River A	Mouth to Logan Avenue	A public trail is provided on the east side of the river in the Cedar River Park. No public access is provided on the west side of the river adjacent to

SHORELINE REACH	Location	Public Access Objectives
		the municipal airport. Public physical access from a trail parallel to the water should be provided if the Renton Municipal Airport redevelops in the future, balanced with goals of ecological restoration.
Cedar River B	Logan Avenue to I-405 bridges	A public trail is provided on the north side of the river and a variety of public access is provided on the south side, including small city parks. Public access should generally be provided within the corridor of public lands adjacent to the river; however, adjacent private parcels not separated by public streets should provide active open space and other facilities to provide gathering places to enjoy the shoreline environment, together with water-oriented uses. Revisions to the existing trail to relocate further from the water's edge to allow revegetation should be considered in the future as part of public park and river maintenance plans.
Cedar River C	I-405 to the SR 169	A public trail is provided on the former Milwaukee railroad. Public access is provided at a public park on the north side immediately east of I-405. Public physical access from a trail parallel to the water should be provided as private lands on the north side of the river redevelop, integrated with vegetation conservation, and with controlled public access to the water's edge, balanced with goals of enhancement of ecological functions. The single-family residential area on the north side of the river provides no public access. The potential for provision of public access from new development is low because further subdivision and non-single family use is not likely but should be pursued if such development occurs. Public agency actions to improve public access should include additional interpretive trails and trail linkages through public lands on the south side of the river, if consistent with ecological functions and public acquisition of access to the water in existing single-family areas, where appropriate.
Cedar River D	SR 169 to UGA boundary	A public trail is provided on the former Milwaukee railroad. It is generally at a distance from the water's edge. Most of this reach is under public ownership or dedicated open space. The primary goal for management of

SHORELINE REACH	Location	Public Access Objectives
		<p>this reach should be ecological enhancement. Additional public access to the water's edge may be provided if consistent with ecological functions. The small residential area at the east end of the UGA provides no public access. The potential for provision of public access from new development is low because further subdivision and non-single family use is not likely but should be pursued if such development occurs. Public agency actions to improve public access should include improved visual access from the existing trail and possible public acquisition of access to the water.</p>
GREEN RIVER		
Green River Reach A	The Green/Black River below the pump station	<p>The area west of Monster Road provides no public access. Public physical access from a trail parallel to the water should be provided as private lands redevelop. Public agency actions to improve public access should include acquisition of trail rights to connect the Lake to Sound trail system to the Green River Trail and Fort Dent Park.</p> <p>The area west of Monster Road is part of the publicly owned Black River Forest where interpretive trails exist. Expansion of public access should occur only if consistent with ecological functions.</p>
Black River / Springbrook Creek		
Black/Springbrook A	From the City Limits to Grady Way	<p>The area west of Monster Road provides no public access. Public physical access from a trail parallel to the water should be provided as private lands redevelop. Public agency actions to improve public access should include acquisition of trail rights to connect the trail system to the Green River Trail and Fort Dent Park.</p> <p>The area west of Monster Road is part of the publicly owned Black River Forest where interpretive trails exist. Expansion of public access should occur only if consistent with ecological functions. Interpretive trails are present in the Black River Forest. Expansion of public access should occur only if consistent with ecological functions. A trail system is present on the west side of the stream adjacent to the sewage treatment plant and</p>

SHORELINE REACH	Location	Public Access Objectives
		should be retained and possibly enhanced.
Springbrook B	From Grady Way to SW 16th Street	A trail system is present on WSDOT right of way and crosses under I-405. Enhancement should be implemented as part of future highway improvements or other public agency actions.
Springbrook C	From SW 16th Street to the City Limits	<p>A public trail parallel to the stream was developed as part of the Boeing Longacres Office Park and extends from SW 16th Street under Oakesdale Avenue and terminates at the alignment of 19th Street at the parking lot of a pre-existing industrial building. If future development occurs in this area, a continuous trail system connecting to the continuous system to the south should be planned, consistent with protection of ecological values of wetlands and streamside vegetation.</p> <p>There is no trail system along the stream from SW 19th Street to the approximate alignment of SE 23rd Street. A continuous trail system is provided from 23rd Street to the city limits including portions through the Springbrook Wetland Mitigation Bank. If future development occurs in the area of the missing trail link, a trail system connecting to the continuous system to the south should be planned, consistent with protection of ecological values of wetlands and streamside vegetation buffers. Public actions should include interim linkages of the existing trail systems, which may include interim trails or routing on public streets and sidewalks. In the future, if vegetation buffers are developed within the stream corridor and adjacent lands, relocation of the trail farther from the stream should be considered with controlled access to the water's edge.</p>
Lake Desire A trail system is present in public open space in parks around the lake but there is no trail system adjacent to the lake.		
Lake Desire A	17408 West Lake Desire Dr. SE to 18228 West Lake Desire Dr. SE	Public access is provided by a WDFW boat launch. Existing single-family residential development provides no public access. The potential for provision of public access from new development is low because further subdivision and non-single family use is not likely but should be pursued if such development occurs. Public agency actions to improve public access

SHORELINE REACH	Location	Public Access Objectives
		should include public acquisition of access to the water where appropriate.
Lake Desire B	17408 West Lake Desire Dr. SE to the Natural Area at the south end of the Lake	Existing single-family residential development provides no public access. The potential for provision of public access from new development is low because further subdivision and non-single family use is not likely but should be pursued if such development occurs. Public agency actions to improve public access should include public acquisition of access to the water where appropriate.
Lake Desire C	Natural Area at the south end of the Lake	There is currently no formal public access to the water at the natural area. Interpretive access should be implemented in a manner consistent with ecological values.
Lake Desire D	From the Natural Area to 17346 West Lake Desire Dr. SE	Existing single-family residential development provides no public access. The potential for provision of public access from new development is low because further subdivision and non-single family use is not likely but should be pursued if such development occurs. Public agency actions to improve public access should include public acquisition of access to the water where appropriate. Access for interpretive purposes may be an element of public acquisition of wetlands.

Recreation Policies

Objective SH-G. Water-oriented recreational activities available to the public should be encouraged to the extent that the use facilitates the public's ability 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.

- Policy SH-32.** Water-oriented recreational activities should be encouraged.
1. Accessibility to the water's edge should be improved in existing parks and new development, substantial alteration of existing non-single family development, and intensification of existing uses where consistent with maintaining ecological functions.
 2. A balanced choice of public recreational opportunities should be provided on Lake Washington as a Shoreline of Statewide Significance that recognizes and protects the interest of all people of the state as well as Renton residents. Recreation use includes enjoyment and use of the water from boating and other activities. Shoreline park and recreation areas should be increased in size and number and managed for multiple uses including shoreline recreation and preservation and enhancement of ecological functions.
 3. Areas for specialized recreation should be developed at locations where physical and ecological conditions are appropriate.
 4. Both passive and active recreational areas should be provided.
- Policy SH-33.** Recreational boating and fishing should be supported, maintained, and increased.
- Policy SH-34.** Public agencies, non-profit groups, and private parties should use cooperative and innovative techniques to increase and diversify recreational opportunities including incorporation in development as well as public purchase of shoreland. Public agencies should establish the intent to acquire lands by incorporation of such policies in their plans and declaring public intent.
- Policy SH-35.** Public land, including city parks and public aquatic lands, should be managed to provide a balance of public recreation, public access to the water, and protection and enhancement of ecological functions.
- Policy SH-36.** Subject to policies providing for no net loss of ecological functions as well as local, state, and federal regulations, the water's depth may be changed to foster recreational aspects.
- Policy SH-37.** Provision of recreation facilities and use shall be consistent with growth projections and level-of-service standards established by the comprehensive plan.

Circulation Policies

Objective SH-H. Minimize the impacts of motor vehicular traffic and encourage non-motorized traffic within the shorelines as part of achieving no net loss.

Policy SH-38. Roadways within shorelines should be scenic boulevards, where possible, to enhance the scenic views of the shoreline and provide opportunities for public visual access to the shoreline. Existing arterials on the shoreline should incorporate substantial plantings of street trees or other landscaping and emphasize enjoyment of the shoreline.

Policy SH-39. Viewpoints, parking, trails and similar improvements should be considered for transportation system projects in shoreline areas. Bridge abutments should incorporate stairs or trails to reach streams where appropriate.

Policy SH-40. Public transportation should be encouraged to facilitate access to shoreline recreation areas.

Policy SH-41. Pedestrian and bicycle pathways, including provisions for maintenance, operation and security, should be developed.

1. Access points to and along the shoreline should be linked by pedestrian and bicycle pathways.
2. Separate pedestrian and bicycle pathways should be included in new or expanded bridges or scenic boulevards within the shorelines.
3. Separate pedestrian and bicycle pathways should be included in publicly financed transportation systems or rights of way, consistent with public interest and safety.
4. Public access provided in private development should be linked to public pathways adjacent to the private development.
5. Public access and non-motorized access to shorelines should be considered when rights of way are being vacated or abandoned.

Policy SH-42 Rail lines within the shoreline should provide opportunities for public access and circulation:

1. The rail line along the east shore of Lake Washington should be reserved for use as a public trail if rail use ceases. If rail use continues, joint trail and rail use should be explored.
2. Rail lines adjacent to the Green River should provide means for public access across the rail lines to access shorelines and public trails where this can be accomplished safely through bridges or undercrossings.

Policy SH-43 Trails should be developed to enhance public enjoyment of and access to the shoreline:

1. Trails within the shoreline should be developed as an element of

non-motorized circulation, of the City's Parks, Recreation and Open Space and Trails and Bicycle Master Plan and of the Shoreline Public Access program. Trails provide ~~the~~ potential for low impact public physical and visual access to the shoreline.

2. Trails should be developed as an element of a system that links together shoreline public access into an interconnected network including active and passive parks, schools, public and private open space, native vegetation easements with public access, utility rights of way, waterways, and other opportunities.
3. Public access to and along the water's edge should be linked with upland community facilities and the comprehensive trails system that provides non-motorized access throughout the City.
4. A system of trails on separate rights of way and public streets should be designed and implemented to provide linkages along shorelines including the Lake Washington Loop, the Cedar River, the Black/River Springbrook Creek, and the Green River.

Policy SH-44. Road standards should meet roadway function and emergency access standards and provide for multiple modes, while reducing impervious surfaces, where feasible, and managing surface water runoff to achieve appropriate water quality.

Policy SH-45. Commercial boating operations, other than marinas, should be encouraged as they relate to water-dependent uses and should be limited to commercial and industrial areas.

Shoreline Historical/Cultural/Scientific/Education Resources and Activities Policies

Objective SH-I. Provide for protection and restoration of buildings, sites, and areas having archaeological, historical, cultural, scientific, or educational value.

Policy SH-46. Sites with archaeological, historical, cultural, and scientific or educational value should be identified and protected or conserved in collaboration with appropriate tribal, state, federal, and local governments as well as private parties.

Policy SH-47. Such features may be integrated with other shoreline uses if appropriate to the character of the resource.

Policy SH-48. Include programs and interpretive areas in recreational facilities in or near identified shoreline areas with historical, cultural, educational, and scientific value.

Shoreline Restoration and Enhancement Policies

Objective SH-J. Provide for the timely restoration enhancement of shorelines with impaired

ecological functions. Such restoration should occur through a combination of public and private programs and actions. This Master Program includes a restoration element that identifies restoration opportunities and facilitates appropriate publicly and privately initiated restoration projects. The goal of this effort is to improve shoreline ecological functions.

Policy SH-49. A cooperative restoration program among local, state, and federal public agencies; tribes; non-profit organizations; and landowners should be developed to address shorelines with impaired ecological functions.

Policy SH-50. The restoration plan incorporated by reference into the Shoreline Master Program is based on:

1. Identification of degraded areas, areas of impaired ecological functions, and sites with potential for ecological restoration.
2. Establishment of overall goals and priorities for restoration of degraded areas and impaired ecological functions.
3. Identification of existing and ongoing projects and programs that are being implemented, or are reasonably assured of being implemented, which are designed to contribute to local restoration goals.
4. Identification of additional projects and programs needed to achieve restoration goals.
5. Identification of prospective funding sources for those projects and programs.
6. Identification of timelines and benchmarks for implementing restoration projects and programs.
7. Development of strategies to ensure that restoration projects and programs will be implemented according to plans, periodically reviewed for effectiveness, and adjusted to meet overall restoration goals.

SECTION III. Renton Municipal Code Chapter 3 ENVIRONMENTAL REGULATIONS AND OVERLAY DISTRICTS Section RMC 4-3-090 Shoreline Master Program Regulations is hereby amended to read as follows:

4-3-090 SHORELINE MASTER PROGRAM REGULATIONS

4-3-090. A. PROGRAM ELEMENTS

The Renton Shoreline Master Program consists of the following elements:

1. The Shoreline Management Element of the Renton Comprehensive Plan
2. This Section RMC 4-3-090 Shoreline Master Program Regulations which are subject to review and approval by the Washington State Department of Ecology pursuant to RCW 90.58.090.
2. RMC Chapter 4-11 Definitions which are subject to review and approval by the Washington State Department of Ecology pursuant to RCW 90.58.090 to the extent that they relate to Section RMC 4-3-090 or are defined by RCW 90.58.030.

3. RMC Section 4-9-197 Shoreline Permits which are subject to review and approval by the Washington State Department of Ecology pursuant to RCW 90.58.090 to the extent that they relate to specific procedural mandates of RCW 90.58.
4. RMC Section 4-10-095 Shoreline Non-Conforming Uses, Activities Structures and Sites which are subject to review and approval by the Washington State Department of Ecology pursuant to RCW 90.58.090 to the extent that they relate to specific procedural mandates of RCW 90.58.
5. The Shoreline Restoration Element of the Shoreline Master Plan, of which one printed copy in book form has heretofore been filed and is now on file in the office of the City Clerk and made available for examination by the general public, shall not be considered to contain regulations but shall be utilized as a guideline for capital improvements planning by the City and other jurisdictions undertaking ecological restoration activities within Shoreline Management Act jurisdiction.
6. The Shoreline Environment Overlay Map, of which one printed copy has heretofore been filed and is on file in the office of the City Clerk and made available for examination by the general public, and another printed copy of which is available at the Department of Community and Economic Development. An electronic copy may also be posted online at the City's website www.rentonwa.gov.

4-3-090. B. REGULATED SHORELINES

The Renton Shoreline Master Program applies to Shorelines of the State, which includes Shorelines of Statewide Significance and Shorelines as defined in RMC 4-11 and as listed below.

1. Shorelines of Statewide Significance:
 - a. Lake Washington
 - b. Green River (The area within the ordinary high water mark of the Green River is not within the Renton City Limits, but portions of the 200-foot shoreline jurisdiction are within city limits.)
2. Shorelines:
 - a. Cedar River
 - b. May Creek from the intersection of May Creek and NE 31st Street in the southeast quarter of the southeast quarter of Section 32-24-5E WM
 - c. Black River
 - d. Springbrook Creek from the Black River on the north to SW 43rd Street on the south
 - e. Lake Desire (in the city's potential annexation area at the time of adoption of the Shoreline Master Program.)
3. The jurisdictional area includes:
 - a. Lands within 200 feet, as measured on a horizontal plane, from the ordinary high water mark, or lands within 200 feet from floodways, whichever is greater;
 - b. Contiguous floodplain areas; and
 - c. All marshes, bogs, swamps, and river deltas associated with streams, lakes, and tidal waters that are subject to the provisions of the State Shoreline Management Act.

4-3-090. C. SHORELINES OVERLAY DISTRICTS

4-3-090. C.1 Natural Environment Overlay District

- a. **Designation of the Natural Environment Overlay District:** The objectives and criteria for the designation of this district are located in the Shoreline Management Element of the Comprehensive Plan.
- b. **Application:** The location of this district is found on the Shoreline Environment Overlay Map, see RMC 4-3-090.A.6, and shall include:
 - i. That portion of the north bank of the Black River lying west of its confluence with Springbrook Creek.
- c. **Acceptable Activities and Uses:** As listed in RMC 4-3-090E Use Regulations.

4-3-090. C.2. Urban Conservancy Overlay District

- a. **Designation of the Shoreline Urban Conservancy Environment Overlay District:** The objectives and criteria for the designation of this district are located in the Shoreline Management Element of the Comprehensive Plan.
- b. **Application:** The location of this district is found on the Shoreline Environment Overlay Map, see RMC 4-3-090.A.6 and shall include:
 - That portion of the Lake Washington shoreline within Gene Coulon Park extending from 100 feet north of the northerly end of the northernmost driveway to the northerly end of the park.
 - May Creek east of Lake Washington, including the open space area within the Barbee Mill site.
 - That portion of the south bank of the Cedar River extending from 350 feet east of I-405 right of way to SR 169.
 - The Cedar River, extending from SR 169 to the easterly limit of the Urban Growth Area.
 - That portion of Springbrook Creek beginning from approximately SW 27th Street on the north to SW 31st Street on the south, abutting City-owned wetlands in this area, and for that portion of the west side of the creek in the vicinity of SW 38th Street abutting the City's Wetlands Mitigation Bank shall be designated conservancy.
 - Per WAC 176-26-211(2)(e) all areas within shoreline jurisdiction that are not designated within the Shoreline Master Program are automatically assigned to be in the Urban Conservancy Overlay District until the shoreline can be redesignated through a Shoreline Master Program amendment approved by the Washington State Department of Ecology.
- c. **Acceptable Activities and Uses:** As listed in RMC 4-3-090E Use Regulations.

4-3-090. C.3. Single-Family Residential Overlay district

- a. **Designation of the Single-Family Residential Overlay:** The objectives and criteria for the designation of this district are located in the Shoreline Management Element of the Comprehensive Plan.
- b. **Application:** The location of this district is found on the Shoreline Environment Overlay Map, see RMC 4-3-090.A.6 and shall include:
 - Those shoreline areas with residential zoning and use located on Lake

Washington, the Cedar River and Lake Desire. Publicly owned park and open space areas with residential zoning shall be excluded.

- c. **Acceptable Activities and Uses:** As listed in RMC 4-3-090E Use Regulations.

4-3-090. C.4. Shoreline High Intensity Overlay District

- a. **Designation of the High Intensity Overlay District:** The objectives and criteria for the designation of this district are located in the Shoreline Management Element of the Comprehensive Plan.
- b. **Application:** The location of this district is found on the Shoreline Environment Overlay Map, see RMC 4-3-090.A.6 and shall include:
- The Commercial/Office/Residential (COR) zoning designation generally north of May Creek.
 - The southerly portion of Gene Coulon Park, generally south of and including the over-water walkway, concession areas, parking areas, boat launch areas, and the swimming beach.
 - The Urban Center North- 1(UC-N1), Urban Center North-2 (UC-N2), and Industrial- Heavy zoned (IH) areas along the south shoreline of Lake Washington, the Municipal Airport, and adjacent COR designated areas.
 - The Cedar River from the mouth to I-405.
 - The north side of the Cedar River east of I-405 within areas ~~of currently zoned COR zoning designation.~~ of currently zoned COR zoning designation.
 - Areas of Springbrook Creek not in Natural or Urban Conservancy overlays.
- c. **Acceptable Activities and Uses:** ~~The uses allowed in~~ The uses allowed in ~~Subject to~~ RMC 4-3-090E Use Regulations, which allows land uses in RMC 4-2 in this overlay district, subject to the preference for water-dependent and water-oriented uses. Uses adjacent to the water's edge and within buffer areas are reserved for water-oriented development, public access, and ecological restoration/enhancement.

4-3-090. C.5. Shoreline High Intensity – Isolated Lands - Overlay District

- a. **Designation of the High Intensity – Isolated Lands – Overlay District:** The objectives and criteria for the designation of this district are located in the Shoreline Management Element of the Comprehensive Plan.
- b. **Application:** The location of this district is found on the Shoreline Environment Overlay Map, see RMC 4-3-090.A.6 and shall include:
- Areas within shoreline jurisdiction of the Green River but isolated by the intervening railroad right-of-way.
 - Areas immediately north of the Cedar River (right bank) and north of Riverside Drive between Williams Avenue South and Bronson Way North.
- c. **Acceptable Activities and Uses:** Allowed uses are detailed in RMC 4-3-090E.1 Shoreline Use Table. The shoreline regulations that apply within this overlay are the land use regulations of Title IV, Development Regulations of the Renton Municipal Code, subject to the permit and procedural requirements of the Shoreline Master Program. In most cases, the performance standards in this section do not apply to development or uses in

this overlay.

4-3-090. C.6. Aquatic Shoreline Overlay District

- a. Designation of the Aquatic Overlay District:** The objectives and criteria for the designation of this district are located in the Shoreline Management Element of the Comprehensive Plan.
- b. Application:** The Aquatic Overlay District is defined as the area waterward of the ordinary high water mark of all streams and rivers, all marine water bodies, and all lakes, constituting shorelines of the state together with their underlying lands and their water column; but do not include associated wetlands and other shorelands shoreward of the ordinary high water mark. This designation is not found on the Shoreline Environment Map, but shall be assigned based on the description above.
- c. Acceptable Activities and Uses:** Subject to RMC 4-3-090E Use Regulations. Water-dependent uses and a limited range of water-oriented uses are allowed in the Aquatic Overlay, subject to provision of shoreline ecological enhancement and public access.

4-3-090. D. GENERAL DEVELOPMENT STANDARDS

4-3-090. D.1. Applicability

This section shall apply to all use and development activities within the shoreline. Items included here will not necessarily be repeated in RMC 4-3-090E Use Regulations, and shall be used in the evaluation of all shoreline permits.

Renton Municipal Code provisions in Title 4 Development Regulations, Chapter 4 City-wide Property Development Standards (RMC 4.4) contain regulations and standards governing site development of property city-wide, such as parking, landscaping, fencing, and others. Such provisions shall apply within shoreline jurisdictions unless there is a conflict with the standards set forth by the Shoreline Master Program. In case of conflict, the standards set forth in the Shoreline Master Program shall prevail.

4-3-090. D.2. Environmental Effects

a. No Net Loss of Ecological Functions:

- i. No net loss required.** Shoreline use and development shall be carried out in a manner that prevents or mitigates adverse impacts to ensure no net loss of ecological functions and processes in all development and use. Permitted uses are to be designed and conducted to minimize, in so far as practical, any resultant damage to the ecology and environment (RCW 90.58.020). Shoreline ecological functions that shall be protected include, but are not limited to, fish and wildlife habitat, food chain support, and water temperature maintenance. Shoreline processes that shall be protected include, but are not limited to, water flow; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.
- ii. Impact Evaluation Required:** In assessing the potential for net loss of ecological functions or processes, project-specific and cumulative impacts shall be considered

and mitigated on- or off-site.

iii. **Evaluation of Mitigation Sequencing Required:** An application for any permit or approval shall demonstrate all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in net loss of ecological functions. Mitigation shall occur in the following prioritized order:

- (1) Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action.
- (2) Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
- (3) Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment.
- (4) Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action.
- (5) Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments and monitoring the adverse impact and taking appropriate corrective measures.

b. **Burden on Applicant:** Applicants for permits have the burden of proving that the proposed development is consistent with the criteria set forth in the Shoreline Master Program and the Act, including demonstrating all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in a net loss of ecological functions.

c. **Critical Areas within Shoreline Jurisdiction:**

i. **Applicable Critical Area Regulations:** The following critical areas shall be regulated in accordance with the provisions of RMC 4-3-050 Critical Area Regulations, adopted by reference except for the provisions excluded in Subsection 2, below. Said provisions shall apply to any use, alteration, or development within shoreline jurisdiction whether or not a shoreline permit or written statement of exemption is required. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with the provision adopted by reference and the Shoreline Master Program. Within shoreline jurisdiction, the regulations of RMC 4-3-050 shall be liberally construed together with the Program to give full effect to the objectives and purposes of the provisions of the Shoreline Master Program and the Act.

- (1) Aquifer protection areas.
- (2) Areas of special flood hazard.
- (3) Sensitive slopes, twenty-five percent (25%) to forty percent (40%) or forty percent (40%) or greater that are up to 15 feet high, and protected slopes, forty percent (40%) or greater that are higher than 15 feet. **[Comment: Revisions requested for consistency with Renton regulations outside of the shoreline districts.]**
- (4) Landslide hazard areas.
- (5) High erosion hazards.
- (6) High seismic hazards.

- (7) Coal mine hazards.
 - (8) Fish and wildlife habitat conservation areas: Critical habitats.
 - (9) Fish and wildlife habitat conservation areas: Streams and Lakes: Classes 2 through 5 only.
 - ii. **Inapplicable Critical Area Regulations:** The following provisions of RMC 4-3-050 Critical Area Regulations shall not apply within shoreline jurisdiction:
 - (1) RMC 4-3-050-N Alternates, Modifications and Variances, Subsections 1 and 3 Variances, and
 - (2) RMC 4-9-250 Variances, Waivers, Modifications and Alternatives.
 - (3) Wetlands, including shoreline associated wetlands, unless specified below.
 - iii. **Critical Area Regulations for Class 1 Fish Habitat Conservation Areas:** Regulations for fish habitat conservation areas Class 1 Streams and Lakes, pertaining to water bodies designated as shorelines, are contained within the development standards and use standards of the Shoreline Master Program, including but not limited to RMC 4-3-090. F.1 Vegetation Conservation, which establishes vegetated buffers adjacent to water bodies and specific provisions for use and for shoreline modification in sections 4-3-090E and 4-3-090F.
 - iv. **Alternate Mitigation Approaches:** To provide for flexibility in the administration of the ecological protection provisions of the Shoreline Master Program, alternative mitigation approaches may be applied for as provided in RMC 4-3-050-N Alternates, Modifications and Variances, Subsection 2. Modifications within shoreline jurisdiction may be approved for those critical areas regulated by that section as a Shoreline Conditional Use Permit where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of the Shoreline Master Program and are scientifically supported by specific studies performed by qualified professionals.
- d. Wetlands within Shoreline Jurisdiction:**
- i. **Wetland Identification:** Wetlands shall be identified in accordance with the requirements of RCW 36.70A.175 and 90.58.380. Unless otherwise provided for in this chapter, all areas within shoreline jurisdiction within the City meeting the criteria in the Washington State Wetland Identification and Delineation Manual, (Ecology Publication 96-94) regardless of any formal identification are hereby designated critical areas and are subject to the provisions of this chapter.
[Comment: Revisions proposed so as not to extend the scope of the Shoreline Master Program beyond shoreline jurisdiction, which would be improper.]
 - ii. **Wetland Rating System:** Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the Washington State Wetland Rating System for Western Washington, revised August 2004 (Ecology Publication #04-06-025). These categories are generally defined as follows:
 - (1) **Category I Wetlands:** Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and storm water, and/or providing habitat for wildlife as indicated by a rating system score of 70 points or more. These are wetland communities of infrequent occurrence that often

provide documented habitat for critical, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.

- (2) **Category II Wetlands:** Category II wetlands have significant value based on their function as indicated by a rating system score of between 51 and 69 points. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.
- (3) **Category III Wetlands:** Category III wetlands have important resource value as indicated by a rating system score of between 30 and 50 points.
- (4) **Category IV Wetlands:** Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than 30 points. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.

iii. **Wetland Review and Reporting Requirements:** A wetland assessment study shall be required.

iv. **Wetland Buffers:**

- (1) **Buffer Required:** Wetland buffer zones shall be required for all regulated activities adjacent to regulated wetlands. Any wetland created, restored or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored or enhanced wetland. All buffers shall be measured from the wetland boundary as surveyed in the field. Buffers shall not include areas that are functionally and effectively disconnected from the wetland by a permanent road or other substantially developed surface of sufficient width and with use characteristics such that buffer functions are not provided and that cannot be feasibly removed, relocated or restored to provide buffer functions.
- (2) **Buffer May Be Increased:** The buffer standards required by this chapter presume the existence of a dense vegetation community in the buffer adequate to protect the wetland functions and values. When a buffer lacks adequate vegetation, the director may increase the standard buffer, require buffer planting or enhancement, and/or deny a proposal for buffer reduction or buffer averaging.
- (3) **Minimum Buffer Width:**

Wetland Category	Low Wildlife Function (less than 20 points)	Moderate Wildlife Function (20 – 28 points)	High Wildlife Function (29 or more points)
	Buffer Width (feet)		
Category IV	50	50	50 ¹
Category III	75	125	150 ¹
Category II	100	150	225
Category I	125	150	225

1. Habitat scores over 26 points would be very rare for Category III wetlands and almost impossible for Category IV wetlands that have a total rating of 30 or less.

- (4) **Buffer Requirements for Wetland Mitigation Banks:** Where wetland mitigation sites or wetland banks have been approved, required buffers shall be as

specified in the mitigation site or wetland bank approval.

- (5) **Increased Buffer for Steep Slopes:** Where lands within the wetland buffer have an average continuous slope of 20 percent to 35 percent, and the required buffer width is less than 100 feet, the buffer shall extend to a 30 percent greater dimension. In all cases, where slopes within the buffers exceed 35 percent, the buffer shall extend 25 feet beyond the top of the bank of the sloping area or to the end of the buffer associated with a geological hazard if one is present, whichever is greater.
- v. **Provisions for Small Isolated Wetlands:** All wetlands shall be regulated regardless of size, provided that the director shall assure that preservation of isolated wetlands and associated buffers of less than ten thousand (10,000) square feet of combined wetland and buffer shall maintain effective wetland functions, or be mitigated as provided below.
 - (1) Wetlands and associated buffers of one thousand (1,000) square feet or less may be displaced when the wetland meets all of the following criteria, as documented in a wetland mitigation plan:
 - (a) The wetland is not associated with a riparian corridor;
 - (b) The wetland is not part of a wetland mosaic, or collection of small wetlands that are hydrologically related to one another;
 - (c) The wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife;
 - (d) Impacts of displaced wetlands are mitigated pursuant to subsection x, below.
 - (2) Category 3 and 4 wetlands and buffers between 1,000 and 4,000 square feet may be displaced provided that all of the following criteria are documented in a wetland mitigation plan:
 - (a) The wetland does not score 20 points or greater for habitat in the 2004 Western Washington Rating System;
 - (b) The wetland is depressional and is recharged only by precipitation, interflow or groundwater and adjacent development cannot assure a source of recharge to maintain its hydrologic character through stormwater infiltration, or other means;
 - (c) The wetlands does not have a potential to reduce flooding or erosion or has the potential to maintain or improve water quality as evidenced by a score of at least 10 points on the applicable criteria of the Wetland Rating Form for Western Washington;
 - (d) The total area of the combined wetland and buffer is 10,000 square feet or less and:
 - (i) It does not achieve a score of at least 20 points on the Habitat Functions criteria of the Wetland Rating Form for Western Washington; and
 - (ii) The wetland and buffer is not connected to a larger open space complex which may include, but is not limited to a stream buffer, a

buffer associated with a geological hazard, or other designated open space buffer sufficient to allow movement of terrestrial wildlife to and from the wetland and buffer complex without interruption by roads, paved areas or buildings within 50 feet.

- (e) Impacts of displaced wetlands are mitigated pursuant to subsection x, below.
- vi. **Wetland Buffer Averaging:** The director may average wetland buffer widths on a case-by-case basis when the applicant demonstrates through a wetland study to the satisfaction of the director that all the following criteria are met:
 - (1) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower rated area;
 - (2) The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion;
 - (3) The total area of the buffer after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
 - (4) The buffer at its narrowest point is never less than 3/4 of the required width.
- vii. **Reasonable Use:** Wetland buffer averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
 - (1) There are no feasible alternatives to the site design that could be accomplished without buffer averaging;
 - (2) The averaged buffer will not result in degradation of the wetland’s functions and values as demonstrated by a wetland assessment study;
 - (3) The total buffer area after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
 - (4) The buffer at its narrowest point is never less than 3/4 of the required width except where the director finds that there is an existing feature such as a roadway that limits buffer dimension, or an essential element of a proposed development such as access that must be accommodated for reasonable use and requires a smaller buffer.
- viii. **Wetland Buffer Increase Allowed:** The director may increase the width of the standard buffer width on a case-by-case basis, based on a critical area study, when a larger buffer is required to protect critical habitats as outlined in RMC 4-3-050.K, or such increase is necessary to:
 - (1) Protect the function and value of that wetland from proximity impacts of adjacent land use, including noise, light and other disturbance, not sufficiently limited by buffers provided above;
 - (2) To maintain viable populations of priority species of fish and wildlife; or
 - (3) Protect wetlands or other critical areas from landslides, erosion or other hazards.
- ix. **Allowed activities in wetlands and buffers:** The following uses and activities may be

allowed in wetlands or buffer areas by the reviewing official subject to the priorities, protection, and mitigation requirements of this section:

- (1) **Utilities:** Utility lines and facilities providing local delivery service, not including facilities such as electrical substations, water and sewage pumping stations, water storage tanks, petroleum products pipelines and not including transformers or other facilities containing hazardous substances, may be located in Category II, III, and IV wetlands and their buffers and/or Category I wetland buffers if the following criteria are met:
 - (a) There is no reasonable location or route outside the wetland or wetland buffer based on analysis of system needs, available technology and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetlands;
 - (b) The utility line is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation;
 - (c) Clearing, grading, and excavation activities are limited to the minimum necessary to install the utility line, which may include boring, and the area is restored following utility installation;
 - (d) Buried utility lines shall be constructed in a manner that prevents adverse impacts to subsurface drainage. This may include the use of trench plugs or other devices as needed to maintain hydrology;
 - (e) Impacts on wetland functions are mitigated in accordance with subsection x, below.
- (2) **Roadways, Railways, and Bridges:** Public and private roadways and railroad facilities, including bridge construction and culvert installation, if the following criteria are met:
 - (a) There is no reasonable location or route outside the wetland or wetland buffer based on analysis of system needs, available technology and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetland;
 - (b) Facilities parallel to the wetland edge are located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation;
 - (c) Clearing, grading, and excavation activities are limited to the minimum necessary, which may include placement on elevated structures as an alternative to fill, where feasible;
 - (d) Impacts on wetland functions are mitigated in accordance with subsection x, below.
- (3) **Access to Private Development Sites:** Access to private development sites may be permitted to cross Category II, III, or IV wetlands or their buffers, pursuant to the criteria in B above, provided that alternative access shall be pursued to the maximum extent feasible, including through the provisions of RCW 8.24. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified, including placement on elevated structures as an alternative to fill, if feasible.

- (4) **Existing Facilities:** Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions, and subject to the provisions for non-conforming use and facilities in RMC 4-10.
- (5) **Stormwater Facilities:** Stormwater conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted within a Category II, III, or IV wetland buffer on a case by case basis if the following are met:
 - (a) Due to topographic or other physical constraints, there are no feasible locations for these facilities to discharge to surface water through existing systems or outside the buffer. Locations and designs that infiltrate water shall be preferred over a design that crosses the buffer;
 - (b) The discharge is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation and avoids long-term rill or channel erosion.
- (6) **Recreational or Educational Activities:** Outdoor recreational or educational activities which do not significantly affect the function of the wetland or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) may be permitted within a Category II, III, or IV wetlands or their buffers and within a Category I wetland buffer if the following criteria are met:
 - (a) Trails shall not exceed 4 feet in width and shall be surfaced with gravel or pervious material, including boardwalks;
 - (b) The trail or facility is located in the outer fifty percent (50%) of the buffer area unless a location closer to the wetland edge or within the wetland is required for interpretive purposes;
 - (c) The trail or facility is constructed and maintained in manner that minimizes disturbance of the wetland or buffer. Trails or facilities within wetlands shall be placed on an elevated structure as an alternative to fill;
 - (d) Wetland mitigation in accordance with subsection x, below.
- x. **Wetland Mitigation Requirements:** Activities that adversely affect wetlands and/or wetland buffers shall include mitigation sufficient to achieve no net loss of wetland function and values in accordance with RMC 4-3-090D.7 and this section. Compensatory mitigation shall be provided for all wetland alternation and shall re-establish, create, rehabilitate, enhance, and/or preserve equivalent wetland functions and values.
 - (1) **Preferred Mitigation Sequence:** Mitigation sequencing shall take place in the prioritized order provided for in RMC 4-3-090D.2.a.iii.
 - (2) **Consistency with Policies and Publications Required:** Wetland mitigation requirements shall be consistent with the applicable standards for studies and assessment in Chapter 6 of: Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. Wetland Mitigation in Washington State –

Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication #06-06-011a. Olympia, WA, except in cases when this code provides differing standards.

- (3) **Wetland alterations:** Compensation for wetland alterations shall occur in the following order of preference:
- (a) Re-establishing wetlands on upland sites that were formerly wetlands.
 - (b) Rehabilitating wetlands for the purposes of repairing or restoring natural and/or historic functions.
 - (c) Creating wetlands on disturbed upland sites such as those consisting primarily of nonnative, invasive plant species.
 - (d) Enhancing significantly degraded wetlands.
 - (e) Preserving Category I or II wetlands that are under imminent threat, provided that preservation shall only be allowed in combination with other forms of mitigation and when the director determines that the overall mitigation package fully replaces the functions and values lost due to development.
- (4) **Mitigation Ratios for Wetland Impacts:** Compensatory mitigation for wetland alterations shall be based on the wetland category and the type of mitigation activity proposed. The replacement ratio shall be determined according to the ratios provided in the table below. The created, re-established, rehabilitated, or enhanced wetland area shall at a minimum provide a level of function equivalent to the wetland being altered and shall be located in an appropriate landscape setting.

Wetland Category	Wetland Mitigation Type and Replacement Ratio*			
	Creation	Re-establishment	Re-habilitation	Enhancement Only
Category IV	1.5:1	1.5:1	2:1	3:1
Category III	2:1	2:1	3:1	4:1
Category II	3:1	3:1	4:1	6:1
Category I	6:1	6:1	8:1	Not allowed

*Ratio is the replacement area: impact area.

- (5) **Mitigation Ratio for Wetland Buffer Impacts:** Compensation for wetland buffer impacts shall occur at a minimum 1:1 ratio. Compensatory mitigation for buffer impacts shall include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers, and other measures.
- (6) **Special Requirements for Mitigation Banks:** Mitigation banks shall not be subject to the replacement ratios outlined in the replacement ratio table above, but shall be determined as part of the mitigation banking agreement and certification process.
- (7) **Buffer Requirements for Replacement Wetlands:** Replacement wetlands established pursuant to these mitigation provisions shall have adequate buffers to ensure their protection and sustainability. The buffer shall be based

on the category in subsection c.ii, above, provided that the director shall have the authority to approve a smaller buffer when existing site constraints (such as a road) prohibit attainment of the standard buffer.

- (8) **Adjustment of Ratios:** The reviewing official shall have the authority to adjust these ratios when a combination of mitigation approaches is proposed. In such cases, the area of altered wetland shall be replaced at a 1:1 ratio through re-establishment or creation, and the remainder of the area needed to meet the ratio can be replaced by enhancement at a 2:1 ratio. For example, impacts to 1 acre of a Category II wetland requiring a 3:1 ratio for creation can be compensated by creating 1 acre and enhancing 4 acres (instead of the additional 2 acres of creation that would otherwise be required).
 - (9) **Location:** Compensatory mitigation shall be provided on-site or off-site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success, provided that mitigation occurs as close as possible to the impact area and within the same watershed sub-basin as the permitted alteration.
 - (10) **Protection:** All mitigation areas whether on- or off-site shall be permanently protected and managed to prevent degradation and ensure protection of critical area functions and values into perpetuity. Permanent protection shall be achieved through deed restriction or other protective covenant in accordance with RMC 4-3-050E.4.
 - (11) **Timing:** Mitigation activities shall be timed to occur in the appropriate season based on weather and moisture conditions and shall occur as soon as possible after the permitted alteration.
 - (12) **Wetland Mitigation Plans Required:** Wetland mitigation plans shall be prepared in accordance with RMC 4-3-050-M.16. All compensatory mitigation projects shall be monitored for a period necessary to establish that performance standards have been met, but generally not for a period less than five (5) years. Reports shall be submitted quarterly for the first year and annually for the next five (5) years following construction and subsequent reporting shall be required if applicable to document milestones, successes, problems, and contingency actions of the compensatory mitigation. The director shall have the authority to modify or extend the monitoring period and require additional monitoring reports for up to ten (10) years when any of the following conditions apply:
 - (a) The project does not meet the performance standards identified in the mitigation plan;
 - (b) The project does not provide adequate replacement for the functions and values of the impacted critical area;
 - (c) The project involves establishment of forested plant communities, which require longer time for establishment.
- xi. **Development Standards Near Wetlands:** Development standards for adjacent development shall minimize adverse effects on the wetland, and shall include:
- (1) Subdivision of land shall assure that each lot has sufficient building area

outside wetlands and buffers. Lots in subdivisions shall be oriented whenever feasible to provide a rear yard of at least 20 feet between the buffer area and buildings;

- (2) Fencing shall be provided at the perimeter of residential development to limit domestic animal entry into wetlands and buffer areas;
- (3) Activities that generate noise shall be located as far from the wetland and buffer as feasible. Roads, driveways, parking lots and loading areas, mechanical or ventilating equipment shall be located on sides of buildings away from the wetland, or separated by noise attenuating walls;
- (4) Light penetration into buffer areas and wetlands shall be limited by locating areas requiring exterior lighting away from the wetland boundary, or limiting light mounting heights to a maximum 4 of feet. Windows that will be lit at night should be minimized on the side of buildings facing wetlands and buffers, or screened as provided below;
- (5) Runoff should be routed to infiltration systems, to the maximum extent feasible, to provide groundwater interflow recharge to wetlands and/or water bodies and to limit overland flow and erosion;
- (6) Surface or piped storm water should be routed to existing conveyances or to other areas, wherever hydraulic gradients allow. Where storm water is routed to wetlands, system design shall assure that erosion and sedimentation will be avoided to the maximum extent feasible;
- (7) To prevent channelized flow from lawns and other landscaped areas from entering the buffer, and to prevent washing of fertilizers, herbicides and pesticides into the buffer, if slopes adjacent to the buffer exceed 15%, a 10 foot wide swale to intercept runoff or other effective interception facility approved by the director shall be provided at the edge of the buffer;
- (8) Adopt and implement an integrated pest management system including limiting use of fertilizers, herbicides and pesticides within 25 feet of the buffer.

xii. **Vegetation Management Plan Required:** In order to maintain effective buffer conditions and functions, a vegetation management plan shall be required for all buffer areas, to include:

- (1) Maintaining adequate cover of native vegetation including trees and understory; if existing tree cover is less than a density of 20 trees per acre, planting shall be required consisting of seedlings at a density of 300 stems per acre or the equivalent;
- (2) Provide a dense screen of native evergreen trees at the perimeter of the buffer. If existing vegetation is not sufficient to prevent viewing adjacent development from within the buffer. Planting shall be required equivalent to two rows of 3' high stock of native evergreens at a triangular spacing of 15 feet, or three rows of gallon containers at a triangular spacing of 8 feet. Fencing may be required if needed to block headlights or other sources of light or to provide an immediate effective visual screen;
- (3) Provide a plan for control of invasive weeds, and remove existing invasive

species;

- (4) Provide for a monitoring and maintenance plan for a period of at least five (5) years, except this provision may be waived for single family residential lots at the discretion of the reviewing official.

e. Development Standards for Aquatic Habitat

- i. **Stormwater Requirements:** Development shall provide stormwater management facilities including water quality treatment designed, constructed, and maintained in accordance with the current stormwater management standards. Water quality treatment facilities shall be provided for moderate alteration of non-conforming structures, uses and sites as provided for in RMC 4-10-095 but only in relation to the portion of the site being altered. **[Comment: The change is proposed to avoid overreaching.]**
- ii. **Erosion and Sediment Control Requirements:** Best management practices for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved temporary erosion and sediment control plan, or administrative conditions.
- iii. **Lighting Requirements:** Nighttime lighting shall be designed to avoid or minimize interference with aquatic life cycles through avoidance of light sources that shine directly onto the water. Exterior lighting fixtures shall include full cut off devices such that glare or direct illumination does not extend into water bodies. Lighting shall include timers or other switches to ensure that lights are extinguished when not in use.

4-3-090. D.3. Use Compatibility and Aesthetic Effects

- a. **General:** Shoreline use and development activities shall be designed and operated to allow the public's visual access to the water and shoreline and maintain shoreline scenic and aesthetic qualities that are derived from natural features, such as shoreforms and vegetative cover.
- b. **View Obstruction and Visual Quality:** The following standards and criteria shall apply to developments and uses within the jurisdiction of the Shoreline Master Program:
 - i. **View Corridors Required:** Where commercial, industrial, multiple use, multi-family and/or multi-lot developments are proposed, primary structures shall provide for view corridors between buildings where views of the watershoreline are available from public right-of-way or trails. **[Comment: Mere views of the "shoreline" are not important enough to justify imposition of required view corridors.]**
 - ii. **Maximum Building Height:** Buildings shall be limited to a height of no more than 35 feet above average finished grade level except at specific locations specified in Shoreline Bulk Standards Table RMC 4-3-090.D.7.
 - iii. **Minimum Setbacks for Commercial Development Adjacent to Residential or Park Uses:** All new or expanded commercial development adjacent to residential use and public parks shall provide 15 ft. setbacks from adjacent properties to attenuate proximity impacts such as noise, light and glare, ~~and may address scale and aesthetic impacts~~ **[Comment: Text stricken because it is void for vagueness.]** ~~Fencing or landscape areas may be required to provide a visual screen.~~ **[Comment: Stricken**

- ~~because void for vagueness.].~~
- iv. **Lighting Requirements:** Display and other exterior lighting shall be designed and operated so as to prevent glare, to avoid unduly illuminating nearby properties used for non-commercial purposes, and to prevent hazards for public traffic. Methods of controlling spillover light include, but are not limited to, limits on the height of light structures, limits on light levels of fixtures, light shields, and screening.
 - v. **Architectural Features Required:** Buildings shall incorporate architectural features that reduce scale such as stepbacks, pitched roofs, offsets, and recesses.
 - vi. **Reflected Lights to be Limited:** Building surfaces on or adjacent to the water shall employ materials that limit reflected light.
 - vii. **Integration and Screening of Mechanical Equipment:** Building mechanical equipment shall be incorporated into building architectural features, such as pitched roofs, to the maximum extent feasible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen shall be provided consistent with building exterior materials that obstructs views of such equipment.
 - viii. ~~Visual Prominence of Freestanding Structures to be Minimized: Facilities not incorporated into buildings including fences, piers, poles, wires, lights, and other free-standing structures shall be designed to minimize visual prominence.~~
~~[Comment: Text stricken because it is void for vagueness.]~~
 - ix. **Maximum Stair and Walkway Width:** Stairs and walkways located within shoreline vegetated buffers shall not exceed 4 feet in width; provided that, where ADA requirements apply, such facilities may be increased to 6 feet in width or the ADA minimum width, whichever is greater. Stairways shall conform to the existing topography to the extent feasible.
 - x. **Other Design Standards:** Any other design standards included in applicable community plans or regulations adopted by the City shall be incorporated.
- c. **Community Disturbances:** Noise, odors, night lighting, water and land traffic, and other structures and activities shall be considered in the design plans and, when appropriate, their impacts avoided or mitigated. ~~[Comment: Avoidance or mitigation is not always possible or appropriate and, therefore, this hyper-broad statement is too rigid without the proposed modification.]~~
- d. **Design Requirements:** Architectural styles, exterior designs, landscaping patterns, and other aspects of the overall design of a site shall be in conformance with urban design and other standards contained in RMC 4-3-100 Urban Design Regulations, and other applicable provisions of RMC Title IV, Development Regulations, as well as specific policies and standards of the Shoreline Master Program.
- e. **Screening Required:** The standards in RMC 4-4-095 concerning screening of mechanical equipment and outdoor service and storage areas shall apply within shorelines with the additional criteria that the provisions for bringing structures or sites into conformance shall occur for minor alteration or renovation as provided in RMC 4-9-197.

4-3-090.D.4. Public Access

- a. **Physical or Visual Access Required for New Development:** Physical or visual access to shorelines shall be incorporated in all new development when the development would

either generate a demand for one or more forms of such access, would impair existing legal access opportunities or rights, or is required to meet the specific policies and regulations of the Shoreline Master Program. A coordinated program for public access for specified shoreline reaches is established in the Comprehensive Plan, Shoreline Policy SH-31 Table of Public Access Objectives by Reach Element, Policy SH-31 with provisions for public access, including off-site facilities designated in the table Public Access Requirements by Reach in RMC 4-3-090.D.4.f.

- b. **Public Access Required:** Public access shall be provided for the following development, subject to the criteria in subsection d.
- i. Water-dependent uses and developments that increase public use of the shorelines and public aquatic lands, or that would impair existing legal access opportunities, or that utilize public harbor lands or aquatic lands, or that are developed with public funding or other public resources.
 - ii. Non-water-dependent development and uses.
 - iii. Developments of more than four (4) single-family residential lots or single-family dwelling units, including subdivision, within a proposal or a contiguously owned parcel.
 - iv. Development of any non-single family residential development or use.
 - v. Any use of public aquatic lands, except as related to single-family residential use of the shoreline, including docks accessory to single-family residential use.
 - vi. Publicly financed or subsidized flood control or shoreline stabilization shall not restrict public access to the shoreline and shall include provisions for new public access to the maximum extent feasible.
 - vii. Public access provided by shoreline street ends, public utilities, and rights of way shall not be diminished by any public or private development or use (RCW 35.79.035 and RCW 36.87.130).
- c. **Criteria for Modification of Public Access Requirements:** The requirements for public access may be modified as a Shoreline Conditional Use for any application in which the following criteria are demonstrated to be met in addition to the general criteria for a shoreline conditional use permit. In cases where a Substantial Development Permit is not required, use of this waiver or modification may take place only through a shoreline variance. It is the responsibility of the applicant to demonstrate that the criteria are met. As a condition of modification of access requirements, contribution to an off-site public access site shall be required except when the modification is due to constitutional or other legal limitations on the public access requirement being applicable. **[Comment: See WAC 173-26-221(4)(d)(iii)(B), the text of which is set forth as part of footnote 1, which is on pages 15 and 16, above.]** Modification of access requirements may be approved when one or more of the following circumstances are applicable:
- i. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means.
 - ii. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions.
 - iii. The cost of providing the access, or mitigating the impacts of public access, is unreasonably disproportionate to the total long-term development and operational

- cost over the life-span of the proposed development.
- iv. Significant environmental impacts will result from the public access that cannot be mitigated.
 - v. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.
 - ~~vi.~~ Constitutional or other legal limitations on the public access requirement exist.
[Comment: See WAC 173-26-221(4)(d)(iii)(B), the text of which is set forth as part of footnote 1, which is on pages 15 and 16, above.]
 - ~~vi.~~vii. Prior to determining that public access is not required, all reasonable alternatives must be pursued, including but not limited to:
 - (1) Regulating access by such means as maintaining a gate and/or limiting hours of use;
 - (2) Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazing, hedges, landscaping, etc.); and
 - (3) Providing for specific facilities for public visual access, including viewing platforms that may be physically separated from the water's edge, but only if access adjacent to the water is precluded.
- d. **Design Criteria for Public Access Sites:** Public access shall incorporate the following location and design criteria:
- i. **Walkways or Trails Required in Vegetated Open Space:** Public access on sites where vegetated open space is provided along the shoreline shall consist of a public pedestrian walkway parallel to the ordinary high water mark of the property. The walkway shall be buffered from sensitive ecological features, may be set back from the water's edge, and may provide limited and controlled access to sensitive features and the water's edge where appropriate. Fencing may be provided to control damage to plants and other sensitive ecological features and where appropriate. Trails shall be constructed of permeable materials and limited to 4 to 6 feet in width to reduce impacts to ecologically sensitive resources.
 - ii. **Access Requirements for Sites Without Vegetated Open Space:** Public access on sites or portions of sites not including vegetated open space shall be not less than ten (10) percent of the developed area within shoreline jurisdiction or three thousand (3,000) square feet, whichever is greater, on developments including non-water-dependent uses. For water-dependent uses, the amount and location may be varied in accordance with the criteria in Subsection 4-3-090.F.3. Public access facilities shall extend along the entire water frontage, unless such facilities interfere with the functions of water-dependent uses. The minimum width of public access facilities shall be 10 feet and shall be constructed of materials consistent with the design of the development provided that facilities addressed in the Renton Bicycle & Trails Master Plan shall be developed in accordance with the standards of that plan.
 - iii. **Access Requirements for Overwater Structures:** Public access on over-water structures on public aquatic lands, except for docks serving a single-family residence, shall be provided and may include common use of walkway areas. Moorage facilities serving five (5) or more vessels shall provide a publicly accessible area of at least 10 feet at or near the end of the structure. Public marinas serving 20 or more

vessels may restrict access to specific moorage areas for security purposes as long as an area of at least 10 percent of the over-water structure is available for public access and an area of at least 20 square feet is provided at or near the end of the structure. Public access areas may be used in common by other users, but may not include adjacent moorage that obstructs public access to the edge of the water or obstructs views of the water.

- iv. **Resolution of Different Standards:** Where city trail or transportation plans and development standards specify dimensions that differ from those in subsections i, ii, or iii, above, the standard that best serves public access, while recognizing constraints of protection and enhancement of ecological functions shall prevail.
- v. **Access Requirements Determined by Reach:** A coordinated program for public access for specified shoreline reaches is established in the Comprehensive Plan, Shoreline Management Element, Policy SH-31 Table of Public Access Objectives by Reach and in subsection f- Table of Public Access Requirements by Reach (RMC 4-3-090D.4.f):
 - (1) The City shall utilize the reach policies for public access as guidance in applying these provisions to individual development sites.
 - (2) The City shall utilize the reach policies for public access as guidance in planning and implementing public projects.
- vi. **Fund for Off-Site Public Access:** The City shall provide a fund for off-site public access and may ~~assess~~ charges to new development that do not meet all or part of their public access requirements. Such a fund and charges may be part of or coordinated with park impact fees. Off-site public access shall be developed in accordance with the reach policies for public access.
- e. **Public Access Development Standards:** Public access facilities shall incorporate the following design and other features.
 - i. **Relation to other facilities:**
 - (1) **Preferred Location:** Public access shall be located adjacent to other public areas, accesses, and connecting trails, connected to the nearest public street, and include provisions for handicapped and physically impaired persons, where feasible.
 - (2) **Parking Requirements:** Where public access is within 400 feet of a public street, on-street public parking shall be provided, where feasible. ~~For private developments required to provide more than 20 parking spaces, public parking may be required in addition to the required parking for the development at a ratio of one (1) space per 1,000 square feet of public access area up to three (3) spaces and at one space per 5,000 square feet of public access area for more than three (3) spaces. Parking for public access shall include the parking spaces nearest to the public access area and may include handicapped parking if the public access area is handicapped accessible.~~ Requiring private development to provide public parking for public access is not a legitimate regulatory requirement. Only access can be required, and even that is subject to constitutional and other legal limitations.
 - (3) **Planned Trails To Be Provided:** Where public trails are indicated on the City's

transportation, park, or other plans, construction of trails shall be provided within shoreline and non-shoreline areas of a site.

ii. Design

- (1) **General:** Design of public access shall provide the general public with opportunity to reach, touch, and enjoy the water's edge and to view the water and the shoreline from adjacent locations and shall be as close horizontally and vertically to the shoreline's edge as feasible, provided that public access does not adversely affect sensitive ecological features or lead to an unmitigated reduction in ecological functions.
- (2) **Privacy:** Design shall minimize intrusions on privacy of adjacent use by avoiding locations adjacent to residential windows and/or outdoor private residential open spaces or by screening or other separation techniques.

iii. Use and Maintenance

- (1) **Public Access Required for Occupancy:** Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity or in accordance with other provisions for guaranteeing installation through a monetary performance assurance.
- (2) **Maintenance of Public Access Required:** Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.
- (3) **Public Access Must be Legally Recorded:** Public access provisions on private land shall run with the land and be recorded via a legal instrument such as an easement, or as a dedication on the face of a plat or short plat. Such legal instruments shall be recorded prior to the time of building occupancy or plat recordation, whichever comes first.
- (4) **Maintenance Responsibility:** Maintenance of the public access facility shall be the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal recorded agreement.
- (5) **Hours of Access:** Public access facilities on public property shall be available to the public 24 hours per day unless an alternate arrangement -is granted though the initial shoreline permitting process for the project. Public access facilities on private property shall ordinarily only need to be available to the public during daylight hours. Changes in access hours proposed after initial permit approval shall be processed as a shoreline conditional use. [Comment: The changes are proposed because nighttime access to the general public on private property is, in general, an unreasonable burden to place on private property owners. (Even public parks are generally closed at night because of the security and other problems posed by nighttime use.)]
- (6) **Signage Required:** The standard state-approved logo or other approved signs that indicate the public's right of access and hours of access shall be installed and maintained by the owner. Such signs shall be posted in conspicuous locations at public access sites and at the nearest connection to an off-site public right of way.

4-3-090. D.4.f Public Access Requirements by Reach

SHORELINE REACH	Public Access
Lake Washington	
Lake Washington Reach A and B	Public access shall be provided when lots are subdivided or new non-residential development occurs consistent with standards of this section.
Lake Washington Reach C	The potential for provision of public access from new development will occur after cleanup of the Superfund site with multi-use development, which shall include shoreline access across the entire property, with controlled access to the water's edge, consistent with requirements for vegetation conservation and ecological restoration and provisions for water-dependent use, consistent with standards of this section. Provision of public access from future redevelopment of the Seahawks and Barbee Mill site shall include a continuous public access trail parallel to the shoreline with controlled public access balanced with provisions for ecological restoration, as well as to shared or commercial docks, consistent with standards of this section.
Lake Washington Reach D and E	Public access shall be provided when lots are subdivided or new non-residential development occurs consistent with standards of this section.
Lake Washington Reach F and G	Public access is one element of park functions that should be continued and incorporated in future plans and balanced with goals for recreation and improving ecologic functions.
Lake Washington Reach H	Public access should continue in the future as part of multi-use development of the balance of the property consistent with standards of this section. Development should include supporting water-oriented uses and amenities such as seating and landscaping.
Lake Washington Reach I	Public access is currently not feasible on the three acres of upland state-owned aquatic lands managed by DNR. In the future, if the Boeing site is redeveloped, public access should be provided parallel to the shoreline along the entire property, consistent with standards of this section, together with goals for ecological restoration and water-dependent and water-oriented use.
Lake Washington Reach J	Public access to the Lake Waterfront is provided from the lawn area of the Will Rogers, Wiley Post Memorial Sea Plane Base and should be maintained if such access is not in conflict with the aeronautical use of the property.
Lake Washington Reach K	If redevelopment of non-single-family use occurs, public access shall consist of a public pedestrian walkway parallel to the shoreline along the entire property frontage with controlled access to the water's edge, consistent with standards of this section and requirements for

SHORELINE REACH	Public Access
	vegetation conservation and ecological restoration. Public access shall be provided when lots are subdivided consistent with standards of this section.
May Creek	
May Creek A	If development occurs adjacent to the streamside, open space standards for vegetation conservation and public access shall be met consistent with standards of this section.
May Creek B	. At the time of re-development, public access should be provided consistent with standards of this section from a trail parallel to the water along the entire property with controlled public access to the water consistent with standards of this section, and goals of preservation and enhancement of ecological functions.
May Creek C and D	At the time of development of private lands, public access should be provided consistent with standards of this section from a trail parallel to the water consistent with trails on public land. All trail development should be set back from the water's edge with controlled public access to the water and consistent with standards of this section and goals of preservation and enhancement of ecological functions. .
Cedar River	
Cedar River A	Public physical access from a trail parallel to the water should be provided if the Renton Municipal Airport redevelops in the future, balanced with goals of ecological restoration.
Cedar River B	Public access should generally be provided within the corridor of public lands adjacent to the river; however, adjacent private parcels not separated by public streets should provide active open space and other facilities to provide gathering places to enjoy the shoreline environment, together with water-oriented uses. Revisions to the existing trail to relocate further from the water's edge to allow revegetation should be considered in the future as part of public park and river maintenance plans.
Cedar River C	Public physical access from a trail parallel to the water should be provided as <u>public or</u> private lands on the north side of the river redevelop, integrated with vegetation conservation, and with controlled public access to the water's edge, balanced with goals of enhancement of ecological functions. Public access shall be provided when residential lots are subdivided consistent with standards of this section.
Cedar River D	The primary goal for management of this reach should be ecological enhancement. Additional public access to the water's edge may be provided if consistent with ecological functions. Public

SHORELINE REACH	Public Access
	access shall be provided when residential lots are subdivided consistent with standards of this section.
Green River Reach A	Public physical access from a trail parallel to the water should be provided as private lands redevelop. Public agency actions to improve public access should include acquisition of trail rights to connect the trail system to the Green River Trail and Fort Dent Park. Expansion of public access in the Black River Riparian Forest should occur only if consistent with ecological functions.
Black River/Springbrook A	Public physical access from a trail parallel to the water should be provided as private lands redevelop. Expansion of public access in the Black River Riparian Forest should occur only if consistent with ecological functions. A trail system is present on the west side of the stream adjacent to the sewage treatment plant and should be retained and possibly enhanced to connect to the Lake to Sound trail.
Springbrook B	Enhancement of the trail system on the WSDOT right of way that crosses under I-405 should be implemented as part of future highway improvements or other public agency actions.
Springbrook C	If future development occurs in this area, a continuous trail system connecting to the existing trails system to the south should be planned, consistent with protection of ecological values of wetlands and streamside vegetation.
Lake Desire	
Lake Desire A	If the existing boat launch area is altered in the future, public access other than boating facilities should include a viewing area. Public access shall be provided when lots are subdivided or new non-residential development occurs consistent with standards of this section.
Lake Desire B	Public access shall be provided when lots are subdivided or new non-residential development occurs consistent with standards of this section.
Lake Desire C	There is currently no formal public access to the water at the Natural Area. Interpretive access should be implemented consistent with standards of this section and goals for preservation and restoration of ecological values.
Lake Desire D	Public access shall be provided when lots are subdivided or new non-residential development occurs consistent with standards of this section.

4-3-090. D.5. Building and Development Location- Shoreline Orientation

- a. **General:** Shoreline developments shall locate the water-dependent, water-related, and water-enjoyment portions of their developments along the shoreline. Development and use shall be designed in a manner that directs land alteration to the least sensitive portions of the site to maximize vegetation conservation; minimize impervious surfaces and runoff; protect riparian, nearshore and wetland habitats; protect wildlife and habitats; protect archaeological, historic and cultural resources; and preserve aesthetic values.
- b. **Design and Performance Standards**
 - i. **Location of Development:** Development and use shall be designed in a manner that directs land alteration to the least sensitive portions of the site.
 - ii. **Stream/Lake Study Required:** An assessment of the existing ecological functions provided by topographic, physical, and vegetation characteristics of the site shall accompany development proposals, provided that an individual single-family residence on a parcel less than 20,000 square feet shall not be subject to this requirement. Such assessments shall include the following general information:
 - (1) Impacts of the proposed use/development on ecological functions with clear designation of existing and proposed routes for water flow, wildlife movement, and other features.
 - (2) Infrastructure requirements such as parking, services, lighting and other features, together with the effects of those infrastructure improvements on shoreline ecological functions.
 - iii. **Minimization of Site Alteration:** Development shall minimize site alteration in sites with substantial unaltered natural features by applying the following criteria:
 - (1) Vehicle and pedestrian circulation systems shall be designed to limit clearing, grading, and alteration of topography and natural features.
 - (2) Impervious surfacing for parking lot/space areas shall be limited through the use of under-building parking or permeable surfaces where feasible.
 - (3) Utilities shall share roadway and driveway corridors and rights of way wherever feasible.
 - (4) Development shall be located and designed to avoid the need for structural shoreline stabilization over the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses, particularly water-dependent uses, where no alternative locations are available and no net loss of ecological functions will result.
 - iv. **Location for Accessory Development:** Except in High Intensity Overlay Districts, ~~Accessory~~ development or use that does not require a shoreline location shall be located outside of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments ~~or unless otherwise allowed in a High Intensity designation.~~ When sited within shoreline jurisdiction, uses and/or developments such as parking, service buildings or areas, access roads, utilities, signs and storage of materials shall be located inland away from the land/water interface and landward of water-oriented developments and/or other approved uses unless a location closer to the water is reasonably necessary.

- v. **Navigation and Recreation to be Preserved:** Shoreline uses shall not deprive other uses of reasonable access to navigable waters. Existing water-related recreation shall be preserved.

4-3-090. D.6. Archaeological, Historical, and Cultural Resources

- a. **Detailed Cultural Assessments may be Required:** The City will work with tribal, state, federal, and other local governments as appropriate to identify significant local historical, cultural, and archaeological sites in observance of applicable state and federal laws protecting such information from general public disclosure. Detailed cultural assessments may be required in areas with undocumented resources based on the probability of the presence of cultural resources.
- b. **Coordination Encouraged:** Owners of property containing identified or probable historical, cultural, or archaeological sites are encouraged to coordinate well in advance of application for development to assure that appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, affected tribes, and historic preservation groups have ample time to assess the site and identify the potential for cultural resources.
- c. **Detailed Cultural Assessments Required:** Upon receipt of application for a development in an area of known or probable cultural resources, the City shall require a site assessment by a qualified professional archaeologist or historic preservation professional and ensure review by qualified parties including the Washington State Department of Archaeology and Historic Preservation, affected tribes, and historic preservation groups.
- d. **Work to Stop Upon Discovery:** If historical, cultural, or archaeological sites or artifacts are discovered in the process of development, work on that portion of the site shall be stopped immediately, the site secured, and the find reported as soon as possible to the reviewing official. Upon notification of such find, the property owner shall notify the Washington State Department of Archaeology and Historic Preservation and affected tribes. The reviewing official shall provide for a site investigation by a qualified professional and may provide for avoidance, or conservation of the resources, in coordination with appropriate agencies.
- e. **Access for Educational Purposes Encouraged:** Land owners are encouraged to provide access to qualified professionals and the general public if appropriate for the purpose of public education related to a cultural resource identified on a property.

4-3-090.D.7. Standards for Density, Setbacks, and Height

- a. **Shoreline Bulk Standards:** This table establishes the minimum required dimensional requirements for development including all structures and substantial alteration of natural topography. Additional standards may be established in Section RMC 4-3-090E, Shoreline Use Policies and Regulations and Section RMC 4-3-090F, Shoreline Modification.

Table 4-3-090. D.7a Shoreline Bulk Standards

	Natural	Urban Conservancy	Shoreline Single Family	High Intensity	High Intensity Isolated	Aquatic
Setbacks and Buffers						
Building Setback from Ordinary High Water Mark (OHWM)- Minimum						
Water-dependent Use	100 ft.	100 ft.	None ¹	None ¹	None	
Water-related or Water Enjoyment Use	100 ft.	100 ft.	100 ft. ²	100 ft. ³ ; <u>50 ft.</u> ¹⁰	None	
Non-Water-oriented Use	100 ft.	100 ft.	100 ft. ²	100 ft. ⁴ ; <u>50 ft.</u> ¹⁰	None	
Front Yard, Side Yard, and Rear Yard Setbacks	Governed by underlying zoning in RMC 4-2 except in cases where specific shoreline performance standards provide otherwise. Variance from the front, side, and rear yard standards may be granted administratively if needed to meet the established setback from OHWM, as specified in this section and standard variance criteria are met.					
Vegetation Conservation Buffer	100 ft.	100 ft.	100 ft. ²	100 ft. ^{3,4} ; <u>50 ft.</u> ¹⁰	None	
Building Height- Maximum						
In water	Not allowed	Not allowed	30 ft. ⁵	35 ft. ⁵		35 ft. ⁵
Within <u>Vegetation Conservation Buffer</u> <u>100 feet of OHWM</u> [Comment: <u>because the width of the Vegetation Conservation Buffer can vary (e.g., due to buffer averaging and, as AnMarCo contends that it should</u>	Not allowed	Not allowed	30 ft.	35 ft. ⁵	Governed by underlying zoning in RMC 4-2 ⁷	

	Natural	Urban Conservancy	Shoreline Single Family	High Intensity	High Intensity Isolated	Aquatic
<u>given special site circumstances like those existing at the Old Stoneway Site, this Table should not be structured around the premise of a uniform 100-foot width Vegetation Conservation Buffer.]</u>						
<u>Landward of Vegetation Conservation Buffer</u> More than 100 feet from OHWM	15 ft.	35 ft.	30 ft.	35 ft. ⁶ <u>except 70 ft. along certain portions of Cedar River Reach C⁶</u>	Governed by underlying zoning in RMC 4-2 ⁷	
Accessory Building	15 feet	15 feet	15 feet	Same as above	Governed by underlying zoning in RMC 4-2 ⁷	
Coverage Standards						
Impervious Area within <u>Vegetation Conservation Buffer</u> 100 feet of OHWM - Maximum	Not allowed	5%/10% ⁸	5%/50% ⁸	5%/50% ⁸	Governed by underlying zoning in RMC 4-2	
Lot Coverage for Buildings within <u>Vegetation Conservation Buffer</u> 100 feet of OHWM - Maximum	5% ⁹	5%. ⁹	25% ⁹	None ⁹	Governed by underlying zoning in RMC	

	Natural	Urban Conservancy	Shoreline Single Family	High Intensity	High Intensity Isolated	Aquatic
					4-2	
Lot Coverage for Buildings <u>landward of Vegetation Conservation Buffer more than 100 feet from OHWM-Maximum</u>	5%	15%	35%	Governed by underlying zoning in RMC 4-2	Governed by underlying zoning in RMC 4-2	

- (1) Setback shall be the maximum determined by the specific needs of the Water-dependent Use and shall not apply to a structure housing any other use.
- (2) Building setback and buffer may be based on lot depth as provided in RMC 4-3-090.F.1.c.
- (3) Water-oriented uses may be established closer to OHWM only in cases where the Vegetation Management Buffer is varied in accordance with RMC 4-3-090.F.1 and shall be no closer than 50 feet, except as consistent with a Master Site Plan approved prior to the adoption of this Section.
- (4) Non-water-oriented uses may be established closer to OHWM only in cases where the Vegetation Management Buffer is varied in accordance with RMC 4-3-090.F.1 and shall be no closer than 75 feet (50 feet in site specific cases addressed in note 10, below), except as consistent with a Master Site Plan approved prior to the adoption of this Section.
- (5) Additional height may be allowed if essential to the function of a water-dependent use, except as consistent with a Master Site Plan approved prior to the adoption of this Section.
- (6) Additional height may be allowed if essential to the function of a water-dependent use. Height up to that established in RMC 4-2 may be allowed for non water-dependent uses in the following reaches:

Lake Washington Reach C – Additional height may be allowed subject to a transition for height greater than 35 feet equal to a slope of 1 horizontal to 2 vertical from the point 100 feet from OHWM to the point at which maximum height is reached, provided that if the Vegetation Management Buffer is varied to be less than 100 feet, the transition may occur at the edge of the buffer, and provided no additional floor area is allowed by additional height in the area within 100 feet from OHWM compared to that allowed by a 35-foot height.

Lake Washington Reaches H and I – Additional height may be allowed for a multiple use structure containing a water-oriented use, provided a transition is provided equal to a slope of 1 vertical to 1 horizontal from a height of 35 feet from the building closest to the OHWM, provided that if the Vegetation Management Buffer is varied to be less than 100 feet, the transition may occur at the edge of the buffer and the transition slope provided within 100 feet of OHWM shall be at a maximum slope of 1 vertical to 2 horizontal, and provided no additional floor area is allowed by additional height in the area within 100 feet from OHWM compared to that allowed by a 35-foot height, except as consistent with a Master Site Plan approved prior to the adoption of this Section.

Lake Washington Reach J – Additional height may be allowed in the Renton Municipal Airport for any structure for which additional height is essential for airport operation and there is no feasible location outside the shoreline.

Cedar River Reach A – Additional height may be allowed in the Renton Municipal Airport for any structure for which additional height is essential for airport operation and there is no feasible location outside the shoreline.

Cedar River Reach B – Additional height may be allowed for multiple use containing water-oriented use, provided a transition is provided equal to a slope of 1 vertical to 1 horizontal from the elevation of the OHWM.

Cedar River Reach C – Additional height may be allowed for multiple use containing water-oriented use, provided a transition is provided equal to a slope of 1 vertical to 1 horizontal from a height of 35 feet (except a height of 70 feet along that portion of Cedar River Reach C that has one hundred-foot-plus tall hills on opposite sides of the river) from the building closest to the OHWM, -provided that if the Vegetation Management Buffer is varied to be less than 100 feet (50 feet in site specific cases addressed in note 10, below), the transition may occur at the edge of the buffer and the transition slope provided within 100 feet of OHWM (50 feet of OHWM in site specific cases addressed in note 10, below) shall be at a maximum slope of 1 vertical to 2 horizontal, and provided no additional floor area is allowed by additional height in the area within 100 feet from OHWM (50 feet of OHWM in site specific cases addressed in note 10, below) compared to that allowed by a 35-foot height (compared to that allowed by a 70-foot height along that portion of Cedar River Reach C that has one hundred-foot-plus tall hills on opposite sides of the river).

Black River A - Additional height may be allowed for multiple use containing water-oriented use, provided a transition is provided equal to a slope of 1 vertical to 1 horizontal from a height of 35 feet from the building closest to the OHWM, provided that if the Vegetation Management Buffer is varied to be less than 100 feet, the transition may occur at the edge of the vegetated buffer and the transition slope provided within 100 feet of OHWM shall be at a maximum slope of 1 vertical to 2 horizontal, and provided no additional floor area is allowed by additional height in the area within 100 feet from OHWM compared to that allowed by a 35-foot height.

Springbrook Creek Reaches B through D - Additional height may be allowed, provided a transition is provided equal to a slope of 1 vertical to 2 horizontal from the elevation of the OHWM and provided no additional floor area is allowed by additional height in the area within 100 feet from the OHWM compared to that allowed by a 35-foot height.

- (7) Height is governed by the underlying standards in RMC 4-2, provided that if a property is separated from OHWM by an intervening parcel in separate ownership and the distance from OHWM is less than 100 feet, the height adjacent to the intervening parcel is limited to an increase over the maximum allowed use of the intervening parcel at a slope of 1 vertical to 1 horizontal.
- (8) Up to 5% impervious surface is allowed in Vegetation Conservation Area buffers for access to the shoreline, or a pathway up to 6 feet wide, whichever is greater, provided that in cases where the depth of the Vegetation Management Buffer is varied in accordance with RMC 4-3-090.F.1 that portion of the first 100 feet from OHWM upon which development is located may be permitted a maximum of 50% impervious surface, unless a different standard is stated below:

Lake Washington Reaches H and I – Up to 75% impervious surface, except as consistent with a Master Site Plan approved prior to the adoption of this Section.

Lake Washington Reach J – No limit is provided for the Renton Municipal Airport.

Cedar River Reach A – No limit is provided for the Renton Municipal Airport.

Cedar River Reach B – No limit to impervious surface

Cedar River Reach D – No more than 5% impervious surface

Springbrook Creek Reaches B through D – No more than 65% impervious surface

- (9) No building coverage is allowed in Vegetation Conservation Area buffers. If the buffer depth is varied in accordance with RMC 4-3-090.F.1 that portion of the first 100 feet from OHWM upon which development is located may be permitted the following coverage:

Lake Washington High Intensity Overlay District– Up to 50% building coverage, except as consistent with a Master Site Plan approved prior to the adoption of this Section.

Cedar River Reach A – Up to 20% for the Renton Municipal Airport.

Cedar River Reach B – No limit on building coverage

Cedar River Reach C – No limit on building coverage within the High Intensity Overlay portion of Reach C [Comment: The change is proposed for consistency with Cedar River Reach B. (Reach B and the High Intensity Overlay portion of Reach C should be treated the same way.)]; Up to 50% building coverage elsewhere within this reach.

Cedar River Reach D – No more than 5% building coverage

Green River A – Up to 50% building coverage

Springbrook Creek Reach A – No more than 5% building coverage

Springbrook Creek Reaches B through D - Up to 50% building coverage

(10) In site-specific cases (such as along the Old Stoneway Site's bulkheaded Cedar River frontage, a site that is largely unvegetated) where (a) a net gain in shoreline ecological functions can be achieved (such as by planting overhanging vegetation within the setback/buffer) and (b) public access to the shoreline can be achieved via a riverfront trail within the setback/buffer, the width of the setback/buffer shall be 50 feet for all purposes of the SMP. [Comment: See previously submitted materials from biologists Andrew C. Kindig, PhD, and Carl Hadley and from AnMarCo's attorney David Halinen.]

- b. **City-wide Development Standards:** Table RMC 4-3-090.D.7 replaces the standards of the underlying zone in RMC 4-2 for those specific standards enumerated. All other standards of the Renton development regulations, flood control regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of the Shoreline Master Program conflict with provisions of other city regulations, the more restrictive shall prevail.
- c. **Measurement**
- i. Horizontal measurement shall be measured outward on a plane and in the direction that results in the greatest dimension from property lines, or from other features specified.
 - ii. Height is measured consistent with the definition of “Building Height” in RMC 4-11-020.
- d. **Activities Exempt from Buffers and Setbacks:** The following development activities are not subject to buffers and setbacks, provided that they are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and provided further that they comply with all the applicable regulations in RMC Title 4:
- i. **Water-Oriented Development:** Those portions of approved water-oriented development that require a location waterward of the ordinary high water mark of streams, rivers, lakes, ponds, marine shorelines, associated wetlands, and/or within their associated buffers.
 - ii. **Underground Utilities:** Underground utilities, including stormwater outfalls and conveyance pipes.
 - iii. **Modifications Necessary for Agency Compliance:** Modifications to existing development that are necessary to comply with environmental requirements of any agency, when otherwise consistent with the Shoreline Master Program, provided that the reviewing official determines that:
 - (1) The facility cannot meet the dimensional standard and accomplish the purpose for which it is intended;
 - (2) The facility is located, designed, and constructed to meet specified dimensional standards to the maximum extent feasible; and
 - (3) The modification is in conformance with the provisions for non-conforming development and uses.
 - iv. **Necessary Access:** Roads, railways, and other essential public facilities that must cross shorelines and are necessary to access approved water-dependent development subject to development standards in Section E- Use Regulations.
 - v. **Stairs and Walkways:** Stairs and walkways not greater than 5 feet in width or 18 inches in height above grade, except for railings.
 - vi. **Essential Public Facilities:** An essential public facility or public utility where the reviewing official determines that:
 - (1) The facility cannot meet the dimensional standard and accomplish the purpose for which it is intended; and
 - (2) The facility is located, designed, and constructed to meet specified dimensional standards to the maximum extent feasible.
 - vii. **Shared Moorage:** Shared moorages shall not be subject to sideyard setbacks when

located on or adjacent to a property line shared in common by the project proponents and where appropriate easements or other legal instruments have been executed providing for ingress and egress to the facility.

- viii. **Flood Storage:** Approved compensating flood storage areas.

4-3-090. D.8. Private Property Rights: Regulation of private property to implement any Program goals such as public access and protection of ecological functions must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, property rights guaranteed by the United States Constitution and the Washington State Constitution, applicable federal and state case law, and state statutes, such as RCW 34.05.328, 43.21C.060, and 82.02 and all rights shall be accommodated. **[Comment: The change is proposed for consistency with the end of 4-3-090. D.9. (Treaty Rights). Property rights should be accorded as much respect as rights held by Indian Tribes.]**

4-3-090. D.9. Treaty Rights: Rights reserved or otherwise held by Indian Tribes pursuant to Treaties, Executive Orders, or ~~Statutes~~**Statues**, including right to hunt, fish, gather, and the right to reserved water, shall not be impaired or limited by any action taken or authorized by the City under its Shoreline Master Program, and all rights shall be accommodated.

4-3-090. E. USE REGULATIONS

4-3-090.E. 1 Shoreline Use Table

Uses specified in the table below are subject to the use and development standards elsewhere in this section and the policies of the Shoreline Master Program.

KEY: X= Prohibited, P= Permitted, AD= Administrative Conditional Use Permit, H= Hearing Examiner Conditional Use Permit

	Natural	Urban Conservancy	Single-Family Residential	Aquatic	High Intensity	High Intensity Isolated
RESOURCE						
Aquaculture	X	P	X	P	P	X
Mining	X	X	X	X	X	X
Preservation and Enhancement of Natural Features or Ecological Processes	P ¹	P	P	P ⁸	<p>Except for the land uses specified in this table, land uses allowed in the underlying zoning in RMC 4-2-060 <u>[Comment: Saying 4-2-060 is too narrow. Conditions associated with the Zoning Use Table are set forth in 4-2-080 and Definitions relevant to many of the uses are set forth in 4-11. Throughout this entire shoreline use table (and any other related provisions of the SMP), AnMarCo requests that all references to "RMC 4-2-060" be changed to "RMC Title 4" to avoid missing important relevant provisions relating to land uses allowed in the underlying zoning.]</u> are allowed in this overlay district, subject to the preference for water-oriented uses. Land uses in the underlying zoning that require an administrative (AD) or Hearing Examiner (H) conditional use permit in the underlying zoning, require the corresponding shoreline conditional use permit.</p>	<p>Except for the land uses specifically prohibited in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district.</p>
Low intensity Scientific, Cultural, Historic, or Educational use	P ¹	P	P	P ⁸		
Fish and wildlife resource enhancement	P ¹	P	P	P ⁸		
RESIDENTIAL						
Detached dwellings	X	P ⁴	P ⁵	X	<p>Except for the land uses specified in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district, subject to the preference for</p>	<p>Except for the land uses specifically prohibited in this table, land uses</p>
Attached dwellings	X	X	X	X		
Accessory Dwelling Units	X	AD	AD	X		

Group Homes I	X	X	X	X	water-oriented uses. Land uses in the underlying zoning that require an administrative (AD) or Hearing Examiner (H) conditional use permit in the underlying zoning, require the corresponding shoreline conditional use permit.	allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district.
Group Homes II (for six or fewer residents)	X	X	P	X		
Group Homes II (for seven or more residents)	X	X	H	X		
Adult Family Home	X	X	H	X		
CIVIC USES						
K-12 Educational Institution (public or private)	X	X	P	X	Except for the land uses specified in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district, subject to the preference for water-oriented uses. Land uses in the underlying zoning that require an administrative (AD) or Hearing Examiner (H) conditional use permit in the underlying zoning, require the corresponding shoreline conditional use permit.	Except for the land uses specifically prohibited in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district.
Roads (not providing direct access to permitted or conditional uses)	X	X	H	X		
COMMERCIAL USES						
Home occupations	X	P	AD	X	Except for the land uses specified in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district, subject to the preference for water-oriented uses. Land uses in the underlying zoning that require an administrative (AD) or Hearing Examiner (H) conditional use permit in the underlying zoning, require the corresponding shoreline conditional use permit.	Except for the land uses specifically prohibited in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district.
Adult Day Care I	X	X	AD	X		
Adult Day Care II	X	X	H	X		
RECREATION						
Parks, neighborhood	H ¹	H ⁶	P	P ⁸	Except for the land uses specified in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district, subject to the preference for	Except for the land uses specifically prohibited in this table, land uses
Parks, regional/community	H ¹	H ⁶	AD ⁶	P ⁸		
Passive Recreation	H ¹	P	P	P ⁸		

Public hiking and bicycle trails, including overwater trails	H ¹	P ¹	P	P ⁸	water-oriented uses. Land uses in the underlying zoning that require an administrative (AD) or Hearing Examiner (H) conditional use permit in the underlying zoning, require the corresponding shoreline conditional use permit.	allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district.
Active Recreation	X	P ²	P	P ⁸		
Boat launches	X	P	X	P ⁸		
Mooring Piles	X	P	P	P ⁸		
Boat moorage	X	P	P	P ⁸		
Boat lifts	X	X	P ⁷	P ⁸		
Boat houses	X	X	X	X		
Golf courses	X	H ²	H	X		
Marinas	X	X	AD ⁶	P ⁸		
INDUSTRIAL						
Industrial Use	X	X	X	H ⁸	<u>Light manufacturing and fabrication, laboratories: light manufacturing, or assembly and/or packaging operations on the Old Stoneway Site (1915 Maple Valley Highway, Assessor's Parcel No. 1723059026) are Permitted.</u> [Comment: AnMarCo seeks use flexibility in this shoreline uses table for the noted uses on the Old Stoneway Site. (A zoning text amendment for the COR zone or a zoning map amendment to change the site's COR zoning to another zone would be necessary before such above-noted uses would be permitted under RMC 4-2-060.) Except for the land uses specified in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district, subject to the preference for water-oriented uses. Land uses in the underlying zoning that require an administrative (AD) or Hearing Examiner (H)	Except for the land uses specifically prohibited in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district.

					conditional use permit in the underlying zoning, require the corresponding shoreline conditional use permit.	
UTILITIES						
Structures for Floodway Management, including drainage or storage and pumping facilities	H ¹	P	P	P ⁸	Except for the land uses specified in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district, subject to the preference for water-oriented uses. Land uses in the underlying zoning that require an administrative (AD) or Hearing Examiner (H) conditional use permit in the underlying zoning, require the corresponding shoreline conditional use permit.	Except for the land uses specifically prohibited in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district.
Local service utilities	X	P ³	P ³	P ⁸		
ACCESSORY USES						
Parking areas	X	P ³	P ³	X	Except for the land uses specified in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district, subject to the preference for water-oriented uses. Land uses in the underlying zoning that require an administrative (AD) or Hearing Examiner (H) conditional use permit in the underlying zoning, require the corresponding shoreline conditional use permit.	Except for the land uses specifically prohibited in this table, land uses allowed in the underlying zoning in RMC 4-2-060 are allowed in this overlay district.
Roads	X	P ³	P ³	X		
Bed and Breakfast House	X	X	AD	X		
Sea Plane Moorage	X	X	P	P ⁸		
Helipads	X	X	P	P ⁸		
USES NOT SPECIFIED	X	X	H	H ⁸	H	X

Table Notes

1. Provided that the use does not degrade the ecological functions or natural character of the shoreline area.
2. Use is allowed, but structures shall not be placed within the shoreline jurisdiction.
3. Allowed only to serve approved or conditional uses, but should be located outside of shoreline jurisdiction if feasible.
4. Limited to existing lots, or clustered subdivisions that retain sensitive areas.
5. Includes uses customarily incidental to and subordinate to the primary use, and located on the same lot.
6. Existing use is permitted, but new use is subject to a shoreline conditional use permit.

7. Allowed as accessory to a residential dock provided that: all lifts are placed as far waterward as feasible and safe; platform lifts are fully grated.
8. Only allowed if the use is water-dependent.

4-3-090. E.2 Aquaculture

- a. **No Net Loss Required:** Aquaculture shall not be permitted in areas where it would result in a net loss of ecological functions and shall be designed and located so as not to spread disease to native aquatic life, or establish new non-native species which cause significant ecological impacts.
- b. **Aesthetics:** Aquaculture facilities shall not significantly impact the aesthetic qualities of the shoreline.
- c. **Structure Requirements:** All structures over or in the water shall meet the following restrictions:
 - i. They shall be securely fastened to the shore.
 - ii. They shall be designed for a minimum of interference with the natural systems of the waterway including, for example, water flow and quality, fish circulation, and aquatic plant life.
 - iii. They should not prohibit or restrict other human uses of the water, such as swimming and/or boating.
 - iv. They shall be set back appropriate distances from other shoreline uses, if potential conflicts exist.

4-3-090. E.3 Boat Launching Ramps

- a. **Boat Launching Ramps Shall be Public:** Any new boat launching ramp shall be public, except those related to a marina, water-dependent use, or providing for hand launching of small boats with no provisions for vehicles or motorized facilities
- b. **No Net Loss Required:** Choice of sites for boat launching ramps shall ensure no net loss of ecological functions through assessment of the shoreline conditions and impacts of alteration of those conditions, as well as the disturbance resulting from the volume of boat users.
- c. **Consideration of Impacts on Adjacent Uses:** Launch ramps location shall consider impacts on adjacent uses including:
 - i. Traffic generation and the adequacy of public streets to service.
 - ii. Impacts on adjacent uses, including noise, light, and glare.
 - iii. Hours of operation may be restricted to assure compatibility.
 - iv. Potential impacts on aquatic habitat, including impacts of disturbance by boats using the facility.
- d. **Water and Shore Characteristics:**
 - i. Water depth shall be deep enough off the shore to allow use by boats without maintenance dredging.
 - ii. Water currents and movement and normal wave action shall be suitable for ramp activity.
- e. **Topography:** The proposed area shall not present major geological or topographical obstacles to construction or operation of the ramp. Site adaptation such as dredging shall be minimized.
- f. **Design to Ensure Minimal Impact:** The ramp shall be designed so as to allow for ease of access to the water with minimal impact on the shoreline and water surface.
- g. **Surface Materials:** The surface of the ramp may be concrete, precast concrete, or other

hard permanent substance. Loose materials, such as gravel or cinders, will not be used. The material chosen shall be appropriate considering the following conditions:

- i. Soil characteristics
- ii. Erosion
- iii. Water currents
- iv. Waterfront conditions
- v. Usage of the ramp
- vi. Durability
- vii. Avoidance of contamination of the water

h. Shore Facilities Required:

- i. Adequate on-shore parking and maneuvering areas shall be provided based on projected demand. Provision shall be made to limit use to available parking to prevent spillover outside designated parking areas.
- ii. Engineering design and site location approval shall be obtained from the appropriate City department.

4-3-090. E.4 Commercial and Community Services

a. **Use preference and priorities:** New commercial and community services developments are subject to the following:

- i. **Water-Dependent Uses:** Water-dependent commercial and community service uses shall be given preference over water-related and water-enjoyment commercial and community service uses. Prior to approval of water-dependent uses, the reviewing official shall review a proposal for design, layout, and operation of the use and shall make specific findings that the use qualifies as a water-dependent use. Water-dependent commercial and community service uses shall provide public access in a manner that will not interfere with the water-dependent aspects of the use. The portion of a site not required for water-oriented use may include multiple use, ~~allowed~~approved non-water-oriented uses, ecological restoration, and public access. All uses shall provide public access in accordance with RMC 4-3-090.D4.f Table of Public Access Requirements by Reach. On Lake Washington, multiple use development that incorporates water-dependent use within the Vegetation Conservation Buffer~~100 feet of the OHWM~~ may not include non-water-oriented uses at the ground level.
- ii. **Water-Related Uses:** Water-related commercial and community service uses shall not be approved if they displace existing water-dependent uses. Prior to approval of a water-related commercial or community service use, review of the design, layout, and operation of the use shall confirm that the use has a functional requirement for a waterfront location, or the use provides a necessary service supportive of the water-dependent uses, and/or the proximity of the use to its customers makes its services less expensive and/or more convenient. Multiple use development within the Vegetation Conservation Buffer~~100 feet of the OHWM~~ that incorporates water-dependent use may not include non-water-oriented uses at the ground level except as consistent with a Master Site Plan approved prior to the adoption of this section. On Lake Washington, allowed water-related commercial and community service

uses shall be evaluated in terms of whether the use facilitates a state-wide interest, including increasing public access and public recreational opportunities in the shoreline.

- iii. **Water-Enjoyment Uses:** Water-enjoyment commercial and community service uses shall not be approved if they displace existing water-dependent or water-related uses or if they occupy space designated for water-dependent or water-related use identified in a substantial development permit or other approval. Prior to approval of water-enjoyment uses, review of the design, layout, and operation of the use shall confirm that the use facilitates public access to the shoreline ~~as,~~ or that the use provides for aesthetic enjoyment of the shoreline for a substantial number of people as a primary characteristic of the use. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space for that use within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.. On Lake Washington, development within the setback from the ordinary high water mark required by the provisions of the Shoreline Bulk Standards Table in RMC 4-3-090D.7100 feet of the OHWM that incorporates water-enjoyment use may not include non-water-oriented uses or activities at the ground level. Allowed water-enjoyment commercial uses shall be evaluated in terms of whether the use facilitates a state-wide interest, including increasing public access and public recreational opportunities in the shoreline.
- iv. **Non-water-oriented Uses:** Non-water-oriented commercial and community service uses may be permitted where:
 - (1) Located on a site physically separated from the shoreline by another private property in separate ownership or a public right-of-way such that access for water-oriented use is precluded, provided that such conditions were lawfully established prior to the effective date of the Shoreline Master Program, or established with the approval of the City; or-
 - (2) ~~Where p~~Proposed on a site where navigability is severely limited, the commercial or community service use provides a significant public benefit such as providing public access and ecological restoration; or-
 - (3) ~~Where t~~The use is part of a multiple use project that provides significant public benefit with respect to the objectives of the Act such as ecological restoration and public access by:
 - (a) ~~Restoration of ecological functions both in aquatic and upland environments that shall provide native vegetation buffers according to the standards for the specific reach as specified in RMC 4-3-090.F.1 Vegetation Conservation and in accordance with the Restoration Element of this plan and other plans and policies including the WRIA 8 Salmon Restoration Plans.~~
 - (b) ~~The balance of the water frontage not devoted to ecological restoration and associated buffers shall be provided as public access.~~ [Comment: The revisions to subsection 3 are proposed for clarification and because the draft SMP's text in regard thereto as presented in the Feb

2010 Draft SMP needlessly requires more of shoreline property owners than the already very restrictive provisions that WAC 173-26-241(3)(d) (Commercial development)² urges.]

- b. **Over-water Structures:** Over-water structures are allowed only for those portions of water-dependent commercial uses that require over-water facilities or for public recreation and public access facilities. Non-water-dependent commercial uses shall not be allowed over water except in limited instances where they are appurtenant to and necessary in support of water-dependent uses.
- c. **Setbacks:** Setbacks for non-water-oriented commercial buildings shall provide for public access adjacent to the water and shall be located no closer than ~~the setback~~100 feet from the ordinary high water mark ~~required by; provided this requirement may be reduced in accordance with~~ the provisions of the Shoreline Bulk Standards Table in RMC 4-3-090D.7, or through the conditional use process for specific designs that improve the overall quality of public access to and along the water's edge and maintain the ecological functions of Vegetation Conservation buffers in accordance with RMC 4-3-090.F.1.
- d. **Scenic and Aesthetic Qualities:** All new or expanded commercial and community services

²WAC 173-26-241(3)(d) (Commercial development) states in part:

Master programs should prohibit nonwater-oriented commercial uses on the shoreline unless they meet the following criteria:

(i) *The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or*

(ii) *Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.*

In areas designated for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.

Nonwater-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

Master programs shall assure that commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access.

In areas designated for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.

(Italics added for emphasis.)

developments shall take into consideration the scenic and aesthetic qualities of the shoreline and compatibility with adjacent uses as provided in RMC 4-3-090. D.3, Use Compatibility and Aesthetic Effects and RMC 4-3-090.D.5, Facility Arrangement- Shoreline Orientation.

4-3-090. E.5 Industrial Use

- a. **Use Preferences and Priorities:** Industrial developments shall be permitted subject to the following:
 - i. **Water-Dependent Uses:** New industrial uses in new structures within the required setback of the shoreline must be water-dependent.
 - ii. **Existing Non Water-Dependent Uses:** Existing non water-dependent uses may be retained and expanded, subject to provisions for nonconforming uses activities and sites, provided that expansion of structures within the required setback between the building and the water shall be prohibited unless it is demonstrated that the impacts of the expansion can be mitigated through on-site measures such as buffer enhancement or low impact stormwater development. Changes in use are limited to existing structures.
 - iii. **Water-Related Uses:** Water-related industrial uses may not be approved if they displace existing water-dependent uses. Prior to approval of a water-related industrial use, review of the design, layout, and operation of the use shall confirm that the use has a functional requirement for a waterfront location, or the use provides a necessary service supportive of the water-dependent uses, and/or the proximity of the use to its customers makes its services less expensive and/or more convenient. Allowed water-related commercial uses shall be evaluated in terms of whether the use facilitates a public interest, including increasing public access and public recreational opportunities in the shoreline.
 - iv. **Non-water-oriented Uses:** Non-water-oriented industrial uses may be permitted where:
 - (1) Located on a site physically separated from the shoreline by another private property in separate ownership or a public right-of-way such that access for water-oriented use is precluded, provided that such conditions were lawfully established prior to the effective date of the Shoreline Master Program; or
 - (2) On a site that abuts the water's edge where navigability is severely limited and where the use provides significant public benefit with respect to the objectives of the Act such as ecological restoration and public access by:
 - (a) ~~Restoration of ecological functions both in aquatic and upland environments that shall provide native vegetation buffers according to the standards for the specific reach as specified in RMC 4-3-090.F.1 Vegetation Conservation and in accordance with the Restoration Element of this plan and other plans and policies including the WRIA 8 and 9 Salmon Restoration Plans; and~~
 - (b) ~~The balance of the water frontage not devoted to ecological restoration and associated buffers shall be provided as public access in accordance with RMC 4-3-090. D.4 Public Access.~~ [Comment: The revisions to subsection 3 are proposed for clarification and because the draft SMP's text in regard

thereto as presented in the Feb 2010 Draft SMP needlessly requires more of shoreline property owners than the already very restrictive provisions that WAC 173-26-241(3)(f) (Industry)³ urges.]

- b. **Clustering of Non-water-oriented Uses:** Any new use of a facility or expansion of existing facilities shall minimize and cluster those water-dependent and water-related portions of their development along the shoreline ~~and place inland all facilities which are not water-dependent.~~
- c. **Over-water Structures:** Over-water structures are allowed only for those portions of water-dependent industrial uses that require over-water facilities. Any over-water

³WAC 173-26-241(3)(f) (Industry) states in part:

(f) Industry. Master programs shall first give preference to water-dependent industrial uses over nonwater-dependent industrial uses; and second, give preference to water-related industrial uses over nonwater-oriented industrial uses.

Regional and statewide needs for water-dependent and water-related industrial facilities should be carefully considered in establishing master program environment designations, use provisions, and space allocations for industrial uses and supporting facilities. Lands designated for industrial development should not include shoreline areas with severe environmental limitations, such as critical areas.

Where industrial development is allowed, master programs shall include provisions that assure that industrial development will be located, designed, or constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.

Master programs should require that industrial development consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC 173-26-221(4).

Where industrial use is proposed for location on land in public ownership, public access should be required. Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated. New nonwater-oriented industrial development should be prohibited on shorelines except when:

(i) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or

(ii) Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

In areas designated for industrial use, nonwater-oriented industrial uses may be allowed if the site is physically separated from the shoreline by another property or public right of way.

(Italics added for emphasis.)

structure is water-dependent, is limited to the smallest reasonable dimensions, and is subject to Shoreline Conditional Use approval.

- d. **Materials Storage:** New industrial development may not introduce exterior storage of materials outside of buildings within shoreline jurisdiction, except by approval of a Shoreline Conditional Use subject to the additional criteria that exterior storage is essential to the use.
- e. **No Discharge Allowed:** Each industrial use shall demonstrate that no spill or discharge to surface waters will result from the use or shall demonstrate in the permit application a specific program to contain and clean up spills or discharges of pollutants associated with the industrial use and activity.
- f. **Offshore Log Storage:** Offshore log storage shall only be allowed only to serve a processing use and shall be located where water depth is sufficient without dredging, where water circulation is adequate to disperse polluting wastes and where they will not provide habitat for salmonid predators.
- g. **Scenic and Aesthetic Qualities:** New or expanded industrial developments shall take into consideration the scenic and aesthetic qualities of the shoreline and compatibility with adjacent uses as provided in RMC 4-3-090. D.3 Use Compatibility and Aesthetic Effects and 4-3-090.D.5 Facility Arrangement-Shoreline Orientation.

4-3-090. E.6 Marinas

- a. **Lake Washington:** Marinas on Lake Washington shall be permitted only when:
 - i. Detailed analysis of ecological conditions demonstrate that they will not result in a net loss of ecological functions and specifically will not interfere with natural geomorphic processes including delta formation, or adversely affect native and anadromous fish.
 - ii. Future dredging is not required to accommodate navigability.
 - iii. Adequate on-site parking is available commensurate with the size and character of moorage facilities provided in accordance with the parking standards in RMC 4-4-080F. Parking areas not associated with loading areas shall be sited as far as feasible from the water's edge and outside of vegetated buffers described in RMC 4-3-090.F.1 Vegetation Conservation.
 - iv. Adequate water area is available commensurate with the actual moorage facilities provided.
 - v. The location of the moorage facilities is adequately served by public roads.
- b. **Location Criteria:**
 - i. Marinas shall not be located near beaches commonly used for swimming unless no alternative location exists, and mitigation is provided to minimize impacts to such areas and protect the public health, safety, and welfare.
 - ii. Marinas and accessory uses shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.
 - iii. Marinas, launch ramps, and accessory uses shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed, nor made dangerous.
- c. **Design Requirements:**

- i. Marinas shall be designed to result in no net loss of ecological functions.
- ii. Marinas and boat launches shall provide public access for as many water-dependent recreational uses as possible, commensurate with the scale of the proposal. Features for such access could include, but are not limited to: docks and piers, pedestrian bridges to offshore structures, fishing platforms, artificial pocket beaches, and underwater diving and viewing platforms.
- iii. Dry upland boat storage is preferred for permanent moorage in order to protect shoreline ecological functions, efficiently use shoreline space, and minimize consumption of public water surface areas unless:
 - (1) No suitable upland locations exist for such facilities; or
 - (2) It is demonstrated that wet moorage would result in fewer impacts to ecological functions; or
 - (3) It is demonstrated that wet moorage would enhance public use of the shoreline.
- iv. Marinas, launch ramps, and accessory uses shall be located and designed with the minimum necessary shoreline stabilization.
- v. Public access shall be required in accordance with RMC 4-3-090.D.4 Public Access.
- vi. Piers and docks shall meet standards in RMC 4-3-090E.7 Piers and Docks.
- vii. New covered moorage for boat storage is prohibited. Covered over-water structures may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water structures.

d. Operation Requirements:

- i. Marinas and other commercial boating activities shall be equipped with facilities to manage wastes, including:
 - (1) Marinas with a capacity of 100 or more boats, or further than one (1) mile from such facilities, shall provide pump-out, holding, and/or treatment facilities for sewage contained on boats or vessels.
 - (2) Discharge of solid waste or sewage into a water body is prohibited. Marinas and boat launch ramps shall have adequate restroom and sewage disposal facilities in compliance with applicable health regulations.
 - (3) Garbage or litter receptacles shall be provided and maintained by the operator at locations convenient to users.
 - (4) Disposal or discarding of fish or shellfish cleaning wastes, scrap fish, viscera, or unused bait into water or in other than designated garbage receptacles near a marina or launch ramp is prohibited.
 - (5) Public notice of all regulations pertaining to handling and disposal of waste, sewage, fuel, oil or toxic materials shall be reviewed and approved and posted where all users may easily read them.
- ii. Fail safe facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous products, as well as a spill response plan for oil and other products, shall be required of new marinas and expansion or substantial alteration of existing marinas. Handling of fuels, chemicals, or other toxic materials must be in compliance with all applicable federal and state water quality laws as well as health, safety, and engineering requirements. Rules for spill prevention and response,

including reporting requirements, shall be posted on site.

4-3-090.E.7 Piers and Docks

a. General Criteria for Use and Approval of All New or Expanded Piers and Docks

- i. Piers and docks shall be designed to minimize interference with the public use and enjoyment of the water surface and shoreline, nor create a hazard to navigation.
- ii. The dock or pier shall not result in the unreasonable interference with the use of adjacent docks and/or piers.
- iii. The use of floating docks in lieu of other types of docks is to be encouraged in those areas where scenic values are high and where substantial conflicts with recreational boaters and fishermen will not be created.
- iv. The expansion of existing piers and docks is preferred over the construction of new.
- v. The responsibility rests on the applicant to affirmatively demonstrate the need for the proposed pier or dock in his/her application for a permit, except for a dock accessory to a single-family residence on an existing lot.
- vi. All piers and docks shall result in no net loss of ecological functions. Docks, piers, and mooring buoys, including those accessory to single-family residences, shall avoid, or if that is not possible, minimize and mitigate adverse impacts to shoreline ecological functions such that no net loss of ecological functions results.
- vii. Over-water construction not required for moorage purposes is regulated as a recreation use.
- viii. New or expanded piers and docks allowed for water-dependent uses shall be consistent with the following criteria:
 - (1) Water-dependent uses shall specify the specific need for over-water location and shall be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use.
 - (2) Water-related, water-enjoyment and multiple uses may be allowed as part of a dock or pier to serve as water-dependent use structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated.
 - (3) Public access is required over all docks utilizing public aquatic lands that serve water-dependent uses, water-enjoyment uses and multiple uses, provided it does not preclude the water-dependent use.
 - (4) The dock or pier length shall not extend beyond a length necessary to provide reasonable and safe moorage.

b. Additional Criteria for New or Expanded Residential Docks:

i. Single-Family Docks:

- (1) **Single-Family Joint Use Docks:** A pier or dock which is constructed for private recreation moorage associated with a single-family residence, for private joint use by two or more single-family waterfront property owners, or a community pier or dock in new waterfront single-family subdivision, is considered a water-dependent use provided that it is designed and used only as a facility to access watercraft owned by the occupants, and to incidental use by temporary guests. No fees or other compensation may be charged for use by non-residents of

piers or docks accessory to residences.

(2) **Individual Single-Family Docks:** The approval of a new dock or pier or a modification or extension of an existing dock or pier shall include a finding that the following criteria have been met:

(a) A new dock providing for private recreational moorage for an individual lot may not be permitted in subdivisions approved on or before January 28, 1993, unless shared moorage is not available, and there is no homeowners association or other corporate entity capable of developing shared moorage.

(b) A new dock shall not be allowed for an individual lot in cases where a joint use dock has been constructed to serve the subject lot.

(c) Prior to approval of a new dock for private recreational moorage for an individual lot, the owner should demonstrate that adjacent owners have been contacted and they have declined to develop or utilize a shared dock. Such information should be provided in the project narrative at the time of permit submittal.

(d) A new dock should be approved only in cases where use of a mooring buoy is demonstrated to be impractical for reducing over water coverage.

ii. **Multi-Family Docks:** Multi-family residential use is not considered a water-dependent use under the Shoreline Management Act and moorage for multi-family residential use shall be provided only when the following criteria are met:

(1) The dock provides public benefits in the form of shoreline ecological enhancement in the form of vegetation conservation buffer enhancement in accordance with section RMC 4-3-090F.1 Vegetation Conservation and/or public access in accordance with section RMC 4-3-090D.4 Public Access;

(2) Moorage at the proposed dock shall be limited to residents of the apartments, condominiums, or similar developments for which the dock was built;

(3) Multi-family moorage serving more than four vessels meet the criteria for the approval of marinas in section RMC 4-3-090.E.6 Marinas.

iii. **Shared Docks Required for New Development:** Shared moorage shall be provided for all new residential developments of more than two (2) single-family dwelling units. New subdivisions shall contain a restriction on the face of the plat prohibiting individual docks. A site for shared moorage shall be owned in undivided interest by property owners within the subdivision. Shared moorage facilities shall be available to property owners in the subdivision for community access and may be required to provide public access depending on the scale of the facility. If shared moorage is provided, the applicant/proponent shall file at the time of plat recordation a legally enforceable joint use agreement. Approval shall be subject to the following criteria:

(1) Shared moorage to serve new development shall be limited to the amount of moorage needed to serve lots with water frontage. Shared moorage use by upland property owners shall be reviewed as a marina.

(2) As few shared docks as possible shall be developed. Development of more than one dock shall include documentation that a single dock would not

accommodate the need or that adverse impacts on ecological functions would result from the size of dock required.

(3) The size of a dock must consider the use of mooring buoys for some or all moorage needs and the use of all or part of the dock to allow tender access to mooring buoys.

(4) Public access shall be provided over all shared docks utilizing public aquatic lands that accommodate five (5) or more vessels.

c. Design Criteria - General

i. **Pier Type:** All piers and docks shall be built of open pile construction except that floating docks may be permitted where there is no danger of significant damage to an ecosystem, where scenic values are high and where one or more of the following conditions exist:

(1) Extreme water depth, beyond the range of normal length piling.

(2) A soft bottom condition, providing little support for piling.

(3) Bottom conditions that render it not feasible to install piling.

ii. **Construction and Maintenance:** All piers and docks shall be constructed and maintained in a safe and sound condition.

iii. **Approach:** Approaches to piers and docks shall consist of ramps or other structures that span the entire foreshore to the point of intersection with stable upland soils. Limited fill or excavation may be allowed landward of the OHWM to match the upland with the elevation of the pier or dock.

iv. **Materials:** Applicants for the new construction or extension of piers and docks or the repair and maintenance of existing docks shall use 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. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. Pilings shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete or steel.

v. **Pilings:** Pile spacing shall be the maximum feasible to minimize shading and avoid a "wall" effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment. The first piling set shall be spaced at the maximum distance feasible to minimize shading and shall be no less than 18 feet. Pilings beyond the first set of piles shall minimize the size of the piles and maximize the spacing between piling to the extent allowed by site-specific engineering or design considerations.

vi. **Minimization of Nearshore Impacts:** In order to minimize impacts on nearshore areas and avoid reduction in ambient light level:

(1) The width of piers, docks, and floats shall be the minimum necessary to serve the proposed use.

(2) Ramps shall span as much of the nearshore as feasible.

(3) Dock surfaces shall be designed to allow light penetration.

- (4) Lights shall avoid illuminating the water surface. Lighting facilities shall be limited to the minimum extent necessary to locate the pier or dock at night for docks serving residential uses. Lighting to serve water-dependent uses shall be the minimum required to accommodate the use and may not be used when the water-dependent aspects of the use are not in operation.
- vii. **Covered Moorage:** Covered moorage is not allowed on any moorage facility unless translucent materials are used that allow light penetration through the canopy or roof. Temporary vessel covers must be attached to the vessel.
- viii. **Seaplane Moorage:** Seaplane moorage may be accommodated at any dock that meets the standards of the Shoreline Master Program.

d. Design Standards

	Single-Family	Joint Use	Commercial and Industrial Water-dependent Uses	Non-water-dependent uses
WHEN ALLOWED:				
	Maximum of one pier or dock per developed waterfront lot or ownership.	A joint use dock may be constructed for two or more contiguous waterfront properties and may be located on a side property line, or straddling a side property line, common to both properties or be provided with an access easement for all lots served. ¹ Joint use docks or piers are allowed 1 vessel moorage consisting of an ell, finger pier, or float for each owner. Joint use docks or piers serving more than four vessels shall be regulated as	Water-dependent commercial and industrial uses may develop docks and piers to the extent that they are required for water-dependent use. Public access shall be provided in accordance with RMC 4-3-090.D.4 Public Access.	Docks are not allowed unless they provide public access or public water recreation use. Such docks and piers are subject to the performance standards for over-water structures for recreation in section RMC 4-3-090E.8 Recreation.

		marinas.		
LENGTH-MAXIMUM				
Docks and Piers	Minimum needed to provide moorage for a single vessel and up to two personal watercraft (e.g. jet skis). Maximum: 80 ft. from OHWM. ²	Minimum needed to provide moorage for a single vessel and up to two personal watercraft (e.g. jet skis) for each waterfront lot served. Maximum: 80 ft. from OHWM. ²	Minimum needed to serve specific vessels or other water-dependent uses specified in the application. Maximum: 120 ft. from OHWM. ² Facilities adjacent to a designated harbor area: The dock or pier may extend to the lesser of: <ul style="list-style-type: none"> a) The General standard, above; or b) The inner harbor line or such point beyond the inner harbor line as is allowed by formal authorization by the Washington State Department of Natural Resources (DNR) or other agency with jurisdiction. 	Docks are not allowed unless they provide public access or public water recreation use. Such docks and piers are subject to the performance standards for over-water structures for recreation in section RMC 4-3-090E.8 Recreation.
Ells and Fingers	26 ft.	26 ft.	Minimum needed to serve specific vessels or other water-dependent uses specified in the application.	
Floats	20 ft.	20 ft.	Minimum needed to serve specific vessels	

			or other water-dependent uses specified in the application.	
WIDTH				
Docks and Piers	4 ft. ⁴	6 ft. ⁴	Maximum walkway: 8 ft., but 12 ft. if vehicular access is required for the approved use. ³	Docks are not allowed unless they provide public access or public water recreation use. Such docks and piers are subject to the performance standards for over-water structures for recreation in section RMC 4-3-090E.8 Recreation.
Ells and Floats	6 ft. ⁴	6 ft. ⁴	Minimum needed to serve specific vessels or other water-dependent uses specified in the application.	
Fingers	2 ft.	2 ft.	Minimum needed to serve specific vessels or other water-dependent uses specified in the application.	
Ramp connecting a pier/dock to a float	3 ft. for walkway, 4 ft. total	3 ft. for walkway, 4 ft. total	Minimum needed to serve specific vessels or other water-dependent uses specified in the application.	
PILINGS- MAXIMUMS				
Mooring Piles	2 piles, up to 12 in. in diameter,	4 piles, up to 12 in. in diameter, installed within 24	Minimum needed to serve specific vessels or other water-	Docks are not allowed unless they provide

	installed within 24 ft. of a dock or pier and out of the nearshore area.	ft. of a dock or pier and out of the nearshore area.	dependent specified in the application.	uses public access or public water recreation use. Such docks and piers are subject to the performance standards for over-water structures for recreation in section RMC 4-3-090E.8 Recreation.
SETBACKS- MINIMUMS				
Side Setback	No portion of a pier or dock may lie closer than 5 ft. to an adjacent property line and may not interfere with navigation.	No portion of a pier or dock may lie closer than 5 ft. to an adjacent property line and may not interfere with navigation.	No portion of a pier or dock may lie closer than 30 ft. to an adjacent property line.	Docks are not allowed unless they provide public access or public water recreation use. Such docks and piers are subject to the performance standards for over-water structures for recreation in section RMC 4-3-090E.8 Recreation.

Table Notes:

1. A joint use ownership agreement or covenant shall be executed and recorded with the King County Assessor's Office prior to the issuance of permits. A copy of the recorded agreement shall be provided to the City. Such documents shall specify ownership rights and maintenance provisions, including: specifying the parcels to which the agreement shall apply; providing that the dock shall be owned jointly by the participating parcels and that the ownership shall run with the land; providing for easements to access the dock from each lot served and provide for access for maintenance; providing apportionment of construction and maintenance expenses; and providing a means for resolution of disputes, including arbitration and filing of liens and assessments.
2. Maximum length is 80' (80 ft.) unless a depth of 8' (8 ft.) cannot be obtained. In such circumstances the dock may be extended until the water depth reaches a point of 8' (8 ft.) in depth at ordinary low water, or to a maximum of 120' (120 ft.), whichever is

- reached first.
3. Additional width may be allowed to accommodate public access in addition to the water- dependent use.
 4. For piers or docks with no ells and fingers, the most waterward 26' (26 ft.) section of the walkway may be up to 6' (6 ft.) wide.
- e. **Maintenance and Repair of Docks:** Existing docks or piers that do not comply with these regulations may be repaired in accordance with the following criteria:
- i. When the repair and/or replacement exceeds thirty percent (30%) of the surface area of the dock/pier, light penetrating materials must be used for all replacement parts and components.
 - ii. When the repair involves replacement of the surfacing materials only, there is no requirement to bring the dock/pier into conformance with dimensional standards of this section.
 - iii. When the repair/replacement involves the replacement of any of the pilings, the entire structure shall be replaced in compliance with these regulations.
 - iv. When the existing dock/pier is moved or expanded or the shape reconfigured, the entire structure shall be replaced in compliance with these regulations.
- f. **Buoy and Float Regulations:**
- i. **Buoys Preferred:** The use of buoys for moorage is preferable to piers, docks, or floats and buoys may be sited under a Shoreline Exemption instead of a Substantial Development Permit, provided they do not exceed the cost threshold.
 - ii. **Floats:** Floats shall be allowed under the following conditions:
 - (1) The float is served by a dock attached to the shore for use of only a tender. The dock shall be the minimum length to allow access to a tender and may not exceed a length of 40 feet.
 - (2) Floats shall be anchored to allow clear passage on all sides by small watercraft.
 - (3) Floats shall not exceed a maximum of one hundred (100) square feet in size. A float proposed for joint use between adjacent property owners may not exceed one hundred and fifty (150) square feet per residence. Floats for public use shall be sized in order to provide for the specific intended use and shall be limited to the minimum size necessary.
 - (4) A single-family residence may only have one (1) float.
 - (5) Floats shall not be located a distance of more than eighty (80) feet beyond the ordinary high water mark, except public recreation floats.
- g. **Variance to Dock and Pier Dimensions**
- i. Requests for greater dock and pier dimensions than those specified above may be submitted as a shoreline variance application, unless otherwise specified.
 - ii. Any greater dimension than those listed above may be allowed subject to findings that a variance request compiles with:
 - (1) The general criteria for shoreline variance approval in RMC 4-9-197F.4.
 - (2) The additional criteria that the allowed dock or pier cannot reasonably provide the purpose for which it is intended without specific dimensions to serve specific

aspects of a water-dependent use.

4-3-090. E.8 Recreation

- a. **When Allowed:** Recreation activities are allowed when:
 - i. There is no net loss of ecological functions, including on- and off-site mitigation.
 - ii. Water-related and water-enjoyment uses do not displace water-dependent uses and are consistent with existing water-related and water-enjoyment uses.
 - iii. The level of human activity involved in passive or active recreation shall be appropriate to the ecological features and shoreline environment.
 - iv. State-owned shorelines shall be recognized as particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public in accordance with RCW 90.58.100(4).
- b. **Location Relative to the Shoreline:** Activities provided by recreational facilities must bear a substantial relationship to the shoreline, or provide physical or visual access to the shoreline.
 - i. Water-dependent recreation such as fishing, swimming, boating, and wading should be located on the shoreline.
 - ii. Water-related recreation as picnicking, hiking, and walking should be located near the shoreline.
 - iii. Non-water-related recreation facilities shall be located inland. Recreational facilities with large grass areas, such as golf courses and playing fields, and facilities with extensive impervious surfaces shall observe vegetation management standards providing for native vegetation buffer areas along the shoreline.
- c. **Over-water Structures:** Over-water structures for recreation use shall be allowed only when:
 - i. They allow opportunities for substantial numbers of people to enjoy the shorelines of the state.
 - ii. They are not located in or adjacent to areas of exceptional ecological sensitivity, especially aquatic and wildlife habitat areas.
 - iii. They are integrated with other public access features, particularly when they provide limited opportunities to approach the water's edge in areas where public access is set back to protect sensitive ecological features at the water's edge.
 - iv. No net loss of ecological functions will result.
- d. **Public Recreation:** Public recreation uses shall be permitted within the shoreline only when the following criteria are considered:
 - i. The natural character of the shoreline is preserved and the resources and ecology of the shoreline are protected.
 - ii. Accessibility to the water's edge is provided consistent with public safety needs and in consideration of natural features.
 - iii. Recreational development shall be of such variety as to satisfy the diversity of demands of the local community.
 - iv. Water-related and water-enjoyment uses do not displace water-dependent uses and uses are consistent with existing water-related and water-enjoyment uses.
 - v. Recreational development is located and designed to minimize detrimental impact

- on the adjoining property.
 - vi. The development provides parking and other necessary facilities to handle the designed public use.
 - vii. Effects on private property are consistent with all relevant constitutional and other legal limitations on regulation or acquisition of private property.
 - viii. Public parks and other public lands shall be managed in a manner that provides a balance between providing opportunities for recreation and restoration and enhancement of the shoreline. Major park development shall be approved only after a master planning process that provides for a balance of these elements.
- e. Private Recreation**
- i. Private recreation uses and facilities that exclude the public from public aquatic lands are prohibited. Private recreation uses that utilize public aquatic lands shall provide public access in accordance with criteria in RMC 4-3-090.D.4 Public Access.
 - ii. Private recreational uses open to the public shall be permitted only when the following standards are met:
 - (1) There is no net loss of ecological functions, including on- and off-site.
 - (2) There is reasonable public access provided to the shoreline at no fee for sites providing recreational uses that are fee supported, including access along the water's edge where appropriate. In the case of Lake Washington, significant public access shall be provided in accordance with public access criteria in RMC 4-3-090.D.4 Public Access.
 - (3) The proposed facility will have no significant detrimental effects on adjacent parcels and uses.
 - (4) Adequate, screened, and landscaped parking facilities that are separated from pedestrian paths are provided.
 - (5) Recreational uses are encouraged in multiple use commercial development.

4-3-090. E.9 Residential development

- a. **Single-family Priority Use and Other Residential Uses:** Single-family residences are a priority on the shoreline under the Shoreline Management Act (RCW 90.58.020). All other residential uses are subject to the preference for water-oriented use and must provide for meeting the requirements for ecological restoration and or public access.
- b. **General Criteria:** Residential developments shall be allowed only when:
 - i. Density and other characteristics of the development are consistent with the Renton Comprehensive Plan and Zoning Code.
 - ii. Residential structures shall provide setbacks as provided in Section RMC 4-3-090.D.7 Standards for Density, Setbacks and Height.
 - iii.
 - iv. Buffers are provided consistent with the vegetation conservation provisions of RMC 4-3-090.F.1 Vegetation Conservation.
- c. **Public Access Required:** New residential developments, including subdivision of land for more than four (4) parcels, shall provide public access in accordance with Section RMC 4-3-090.D.4 Public Access. Unless deemed inappropriate due to health, safety or environmental concerns, new multi-family, condominium, planned unit developments,

and subdivisions except short plats of four or fewer units, shall provide public access along the water's edge; in the case of subdivisions adjacent to public waterways shall provide access to a point that abuts the water and provide physical access to public waterways.

- d. **Shoreline Stabilization Prohibited:** New residential development shall not require new shoreline stabilization. Developable portions of lots shall not be subject to flooding or require structural flood hazard reduction measures within a channel migration zone or floodway to support intended development during the life of the development or use. Prior to approval, geotechnical analysis of the site and shoreline characteristics shall demonstrate that new shoreline stabilization is unlikely to be necessary for each new lot to support intended development during the life of the development or use.
- e. **Critical Areas:** New residential development shall include provisions for critical areas including avoidance, setbacks from steep slopes, bluffs, landslide hazard areas, seismic hazard areas, riparian and marine shoreline erosion areas, and shall meet all applicable development standards. Setbacks from hazards shall be sufficient to protect structures during the life of the structure (100 years).
- f. **Vegetation Conservation:** All new residential lots shall meet vegetation conservation provisions in RMC 4-3-090.F.1 Vegetation Conservation, including the full required buffer area together with replanting and control of invasive species within buffers to ensure establishment and continuation of a vegetation community characteristic of a native climax community. Each lot must be able to support intended development without encroachment on vegetation conservation areas, except for public trains and other uses allowed within such areas. Areas within vegetation conservation areas shall be placed in common or public ownership when feasible.
- g. **New Private Docks Restricted:** All new subdivisions shall record a prohibition on new private docks on the face of the plat. An area reserved for shared moorage may be designated if it meets all requirements of the Shoreline Master Program including demonstration that public and private marinas and other boating facilities are not sufficient to meet the moorage needs of the subdivision.
- h. **Floating Residences Prohibited:** Floating residences are prohibited.

4-3-090. E.10 Transportation

- a. **General Standards:** New and expanded transportation facilities shall be designed to achieve no net loss of ecological functions within the shoreline. To the maximum extent feasible the following standards shall be applied to all transportation projects and facilities:
 - i. Located outside of the shoreline jurisdiction; and as far from the land/water interface. Expansion of existing transportation facilities shall include analysis of system options that assess the potential for alternative routes outside shoreline jurisdiction or set back further from the land/water interface.
 - ii. Located and designed to avoid significant natural, historical, archaeological, or cultural sites, and mitigate unavoidable impacts.
 - iii. Designed and maintained to prevent soil erosion, to permit natural movement of groundwater, and not adversely affect water quality or aquatic plants and animals

over the life of the facility.

- iv. All debris and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion into any water body and shall be specified in submittal materials.
- v. Avoid the need for shoreline protection.
- vi. Provide for passage of flood waters, fish passage, and wildlife movement by providing bridges with the longest span feasible and when bridges are not feasible, providing culverts and other features that provide for these functions
- vii. Designed to accommodate as many compatible uses as feasible, including, but not limited to: utilities, view point, public access, or trails.

b. Roads

- 5. New public or private roads and driveways shall be located inland from the land/water interface, preferably out of the shoreline, unless:
 - (1) Perpendicular water crossings are required for access to authorized uses consistent with the Shoreline Master Program; or
 - (2) Facilities are primarily oriented to pedestrian and non-motorized use and provide an opportunity for a substantial number of people to enjoy shoreline areas, and are consistent with policies and regulations for ecological protection.
- 6. Road locations shall be planned to fit the topography, where possible, in order that minimum alteration of existing natural conditions will be necessary.
- 7. RCW 36.87.130 prohibits vacation of any right of way that abuts a freshwater except for port, recreational, educational or industrial purposes. Therefore, development, abandonment, or alteration of undeveloped road ends within Shoreline Master Program jurisdiction is prohibited unless an alternate use is approved in accordance with the Shoreline Master Program.

c. Railroads

- i. New or expanded railroads shall be located inland from the land/water interface and out of the shoreline where feasible. Expansion of the number of rails on an existing right of way shall be accompanied by meeting the vegetation conservation provisions for moderate expansion of non-conforming uses in RMC 4-10-095 Non-conforming Uses, Activities, and Sites.

d. Trails

- i. Trails that provide public access on or near the water shall be located, designed, and maintained in a manner that protects the existing environment and shoreline ecological functions. Preservation or improvement of the natural amenities shall be a basic consideration in the design of shoreline trails.
- ii. The location and design of trails shall create the minimum impact on adjacent property owners including privacy and noise.
- iii. Over-water structures may be provided for trails in cases where:
 - (1) Key trail links for local or regional trails must cross streams, wetlands, or other water bodies.
 - (2) For interpretive facilities.
 - (3) To protect sensitive riparian and wetland areas from the adverse impacts of at

grade trails, including soil compaction, erosion potential and impedance of surface and groundwater movement.

- iv. Trail width and surface materials shall be appropriate for the context with narrow soft surface trails in areas of high ecological sensitivity where the physical impacts of the trail and the number of users should be minimized with wider hard-surfaced trails with higher use located in less ecologically sensitive areas.

e. Parking

- i. **When Allowed:** Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to serve an authorized primary use.

- ii. **Public Parking:**

- (1) In order to encourage public use of the shoreline, public parking is to be provided at frequent locations on public streets, at shoreline viewpoints, and at trailheads.
- (2) Public parking facilities shall be located as far as feasible from the shoreline unless parking areas close to the water are essential to serve approved recreation and public access. In general, only handicapped parking should be located near the land/water interface with most other parking located within walking distance and outside of Vegetation Conservation buffers provided in RMC 4-3-090.F.1. Vegetation Conservation
- (3) Public parking facilities shall be designed and landscaped to minimize adverse impact upon the shoreline and adjacent lands and upon the water view.

- iii. **Private Parking:**

- (1) Private parking facilities should be located away from the shoreline unless parking areas close to the water are essential to serve approved uses and/or developments. When sited within shoreline jurisdiction, parking shall be located inland away from the land/water interface and landward of water-oriented developments and/or other approved uses.
- (2) Surface parking areas shall be located and designed to minimize visual impacts as viewed from the shoreline and from views of the shoreline from upland properties.
- (3) Parking structures shall be located outside of shoreline Vegetation Conservation buffers and behind or within the first row of buildings between the water and the developed portions of a site and designed such that the frontage visible from the shoreline accommodates other uses and parked cars are not visible from that frontage.
- (4) Parking lot design, landscaping and lighting shall be governed by the provisions of RMC Chapter 4-4 and the provisions of the Shoreline Master Program.

f. Aviation

- i. **Prohibited Near Natural or Urban Conservancy Areas:** Aviation facilities are prohibited within 200 feet of a Natural or Urban Conservancy Shoreline Overlay District

- ii. **Airports:**

- (1) A new airport shall not be allowed to locate within the shoreline; however, an

- airport already located within a shoreline shall be permitted.
- (2) Upgrades of facilities to meet FAA requirements or improvements in technology shall be permitted.
 - (3) Facilities to serve seaplanes may be included as an accessory use in any existing airport.
 - (4) Helipads may be included as an accessory use in any existing airport.
 - (5) Aviation-related manufacturing shall be permitted in an airport.
 - (6) New or upgraded airport facilities shall be designed and operated such that:
 - (a) All facilities that are non-water-dependent shall be located outside of shoreline jurisdiction, if feasible. When sited within shoreline jurisdiction, uses and/or developments such as parking, hangars, service buildings or areas, access roads, utilities, signs, and storage of materials shall be located as far from the land/water interface as feasible. The minimum setback shall be twenty (20) feet from the ordinary high water mark of the shoreline and shall be designed and spaced to allow viewing of airport activities from the area along the water's edge.
 - (b) New or upgraded airport facilities shall minimize impacts on shoreline ecological functions, including control of pollutant discharge. The standards for water quality and criteria for application shall be those in current stormwater control regulations.
 - (c) New facilities dispensing fuel or facilities associated with use of hazardous materials shall require a Shoreline Conditional Use Permit.

iii. Seaplanes:

(1) Private:

- (a) Operation of a single private seaplane on waters where FAA has designated a Seaplane Landing Area is not regulated by the Shoreline Master Program.
 - (b) Moorage of a seaplane is addressed in RMC 4-3-090.E.7 Piers and Docks.
- (2) **Commercial:** New commercial seaplane facilities, including docks and storage area bases may be allowed in industrial areas provided such bases are not contiguous to residential areas, and provided they meet standards in RMC 4-3-090.E.7 Piers and Docks.

iv. Helicopter Landing Facilities:

- (1) **Private:** Establishment of a helipad on a single-family residential lot is allowed subject to the standards of RMC 4-2-080.A.111 adopted by this reference.
- (2) **Commercial:** New commercial heliports, including those accessory to allowed uses are allowed by Shoreline Conditional Use Permit, subject to the standards of the Shoreline Master Program.

v. New Seaplane Facilities and Heliports- Criteria for Approval:

- (1) Review shall include consideration of location approval in terms of compatibility with affected uses including short and long-term noise impacts, impacts on habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, and migration routes.
 - (a) On adjacent parcels
 - (b) On over flight areas

- (2) Conditions may be imposed to mitigate impacts within the shoreline and also non-shoreline overflight and related impacts.

4-3-090. E.11 Utilities

a. Criteria for All Utilities

- i. Local utility services needed to serve water-dependent and other permitted uses in the shoreline are subject to standards for ecological protection and visual compatibility.
- ii. Regional utility systems shall be located outside of shoreline jurisdiction, to the extent feasible, except for elements that are water-dependent and crossings of water bodies and other elements of shorelands by linear facilities.
- iii. New public or private utilities shall be located inland from the land/water interface, preferably out of shoreline jurisdiction, unless:
 - (1) Perpendicular water crossings are unavoidable; or
 - (2) Utilities are necessary for authorized shoreline uses consistent with the Shoreline Master Program.
- iv. Linear facilities consisting of pipelines, cables and other facilities on land running roughly parallel to the shoreline shall be located as far from the water's edge as feasible and preferably outside of shoreline jurisdiction.
- v. Linear facilities consisting of pipelines, sewers, cables and other facilities on aquatic lands running roughly parallel to the shoreline that may require periodic maintenance that would disrupt shoreline ecological functions shall be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.
- vi. Utilities shall be located in existing rights of way and corridors, whenever reasonably feasible.
- vii. Utilities serving new development shall be located underground, wherever reasonably feasible.
- viii. Utility crossings of water bodies shall be attached to bridges or located in other existing facilities, if reasonably feasible. If new installations are required to cross water bodies or wetlands they should avoid disturbing banks and streambeds and shall be designed to avoid the need for shoreline stabilization. Crossings shall be tunneled or bored where reasonably feasible. Installations shall be deep enough to avoid failures or need for protection due to exposure due to stream bed mobilization, aggregation or lateral migration. Underwater utilities shall be placed in a sleeve if reasonably feasible to avoid the need for excavation in the event the need for maintenance or replacement.
- ix. In areas where utility installations would be anticipated to significantly alter natural ground water flows, a barrier or conduit to impede changes to natural flow characteristics shall be provided.
- x. Excavated materials from construction of utilities shall be disposed of outside of the Vegetation Conservation Buffer except if utilized for ecological restoration and shall be specified in submittal materials.

- xi. Utilities shall be located and designed to avoid natural, historic, archaeological or cultural resources to the maximum extent feasible and mitigate adverse impacts where unavoidable.
- xii. Utilities shall be located, designed, constructed, and operated to result in no net loss of shoreline ecological functions with appropriate on- and off-site mitigation including compensatory mitigation.
- xiii. All utility development shall be consistent with and coordinated with all local government and state planning, including comprehensive plans and single purpose plans to meet the needs of future populations in areas planned to accommodate growth.
- xiv. Site planning and rights of way for utility development should provide for compatible multiple uses such as shore access, trails, and recreation or other appropriate use whenever possible. Utility right of way acquisition should be coordinated with transportation and recreation planning.
- xv. Vegetation Conservation
 - (1) Native vegetation shall be maintained whenever reasonably feasible.
 - (2) When utility projects are completed in the water or shoreland, the disturbed area shall be restored as nearly as possible to the original condition
 - (3) All vegetation and screening shall be hardy enough to withstand the travel of service trucks and similar traffic in areas where such activity occurs.
- xvi. A structure or other facility enclosing a, telephone exchange, sewage pumping or other facility, an electrical substation, or other above ground public utility is built in the shoreline area, the facility shall be:
 - (1) Housed in a building that shall conform architecturally with the surrounding buildings and area or with the type of building that will develop as provided by the zoning district and applicable design standards.
 - (2) An unhoused installation on the ground or a housed installation that does not conform with the standards above, shall be sight-screened in accordance RMC4-4-095 with evergreen trees, shrubs, and landscaping materials planted in sufficient depth to form an effective and actual sight barrier within five (5) years.
 - (3) An unhoused installation of a potentially hazardous nature, such as an electrical distribution substation, shall be enclosed with an eight (8)-foot-high open wire fence, or masonry wall. Such installations shall be sight-screened in accordance RMC 4-4-095 with evergreen trees, shrubs, and landscaping materials planted in sufficient depth to form an effective and actual sight barrier except at entrance gate(s), within five (5) years.

b. Special Considerations for Pipelines

- i. Installation and operation of pipelines shall protect the natural conditions of adjacent water courses and shorelines.
- ii. Water quality is not to be degraded to the detriment of aquatic life nor shall water quality standards be violated.
- iii. Petro-chemical or toxic material pipelines shall have automatically controlled shutoff valves at each side of the water crossing.
- iv. All petro-chemical or toxic material pipelines shall be constructed in accordance with

the regulations of the Washington State Transportation Commission and subject to review by the City Public Works Department.

c. Major Utilities - Specifications

i. Electrical Installations:

(1) Overhead High Voltage Power Lines

(a) Overhead electrical transmission lines of 55 kV and greater voltage within the shoreline shall be relocated to a route outside of the shoreline, where feasible when:

- Such facilities are upgraded to a higher voltage.
- Additional lines are placed within the corridor.

(b) Structure of overhead power lines shall be single-pole type with insulators and other facilities in as compact a configuration as feasible.

(2) Underwater electrical transmission lines shall be located and designed to:

- (a) Utilize existing transportation or utility corridors where feasible.
- (b) Avoid adverse impacts to navigation.
- (c) Be posted with warning signs.

(3) Electrical Distribution Substations: Electrical distribution substations shall be:

- (a) Located outside of the shoreline, where feasible, and may be located within a shoreland location only when the applicant proves no other site out of the shoreland area exists.
- (b) Located as far as feasible from the land-water interface.
- (c) Screened as required by in the criteria for all utilities, above.

ii. Communications: This section applies to telephone exchanges including radar transmission installations, receiving antennas for cable television and/or radio, wireless communication facilities and any other facility for the transmission of communication signals.

(1) Communications installations may be permitted in the shoreline area only when there exists no feasible site out of the shoreline and water area.

(2) All structures shall meet the screening requirements in the criteria for all utilities, above.

(3) If approved within the shoreline, such installations shall reduce aesthetic impacts by locations as far as possible from residential, recreational, and commercial activities.

(4) Cellular communication facilities may be located in the shoreline only when mounted on buildings and screened by architectural features compatible with the design of the building.

iii. Pipeline Utilities: All pipeline utilities shall be underground. When underground projects are completed on the bank of a water body or in the shoreland or a shoreline, the disturbed area shall be restored to the original configuration. Underground utility installations shall be permitted only when the finished installation shall not impair the appearance of such areas.

iv. Public Access: All utility companies shall be asked to provide pedestrian public access to utility owned shorelines when such areas are not potentially hazardous to the public. Where utility rights of way are located near recreational or public use

areas, utility companies shall be encouraged to provide said rights of way as parking or other public use areas for the adjacent public use area. As a condition of location of new utilities within the shoreline, the City may require provision of pedestrian public access.

- v. **All-inclusive Utility Corridor:** When it is necessary for more than one (1) major utility to go along the same general route, the common use of a single utility right of way is strongly encouraged. It would be desirable to include railroad lines within this right of way also.

d. **Local Service Utilities, Specifications**

- i. **Electrical distribution:** New electrical distribution lines within the shoreline shall be placed underground, provided that distribution lines that cross water or other critical areas may be allowed to be placed above ground if:

- (1) There is no feasible alternative route.
- (2) Underground installation would substantially disrupt ecological functions and processes of water bodies and wetlands; horizontal drilling or similar technology that does not disturb the surface is not feasible.
- (3) Visual impacts are minimized to the extent feasible.
- (4) If overhead facilities require that native trees and other vegetation cannot be maintained in a Vegetation Conservation buffer as provided in Section RMC 4-3-090.F.1 Vegetation Conservation, compensatory mitigation shall be provided on or off-site.

- ii. **Waterlines:**

- (1) New water lines shall not cross water, wetlands or other critical areas unless there is no reasonably feasible alternative route.
- (2) Sizes and specifications shall be determined by the Public Works Department in accordance with American Water Works Association (AWWA) guidelines.

- iii. **Sanitary Sewer:**

- (1) The use of outhouses or privies is prohibited. Self-contained outhouses may be allowed for temporary, seasonal, or special events.
- (2) All uses shall hook to the municipal sewer system. There shall be no septic tanks or other on-site sewage disposal systems.
- (3) Sewage trunk lines, interceptors, pump stations, treatment plants, and other components that are not water-dependent shall be located away from shorelines unless:
 - (a) Alternative locations, including alternative technology, are demonstrated to be infeasible.
 - (b) The facilities do not result in a net loss of shoreline ecological functions.
 - (c) The facilities do not result in significant impacts to other shoreline resources and values such as parks and recreation facilities, public access and archaeological, historic, and cultural resources, and aesthetic resources.
- (4) Storm drainage and pollutant drainage shall not enter the sanitary sewer system.
- (5) During construction phases, commercial sanitary chemical toilets may be allowed only until proper plumbing facilities are completed.

- (6) All sanitary sewer pipe sizes and materials shall be approved by the Renton Public Works Department.

iv. Stormwater Management:

- (1) The City will work with private property owners, and other jurisdictions to maintain, enhance and restore natural drainage systems to protect water quality, reduce flooding, reduce public costs and prevent associated environmental degradation to contribute to the goal of no net loss of shoreline ecological functions.
- (2) All new development shall meet current storm water management requirements for detention and treatment.
- (3) Individual single-family residences may be subject to water quality management requirements to ensure the quality of adjacent water bodies.
- (4) Storm water ponds, basins and vaults shall be located as far from the water's edge as feasible and may not be located within vegetation conservation buffers.
- (5) The location design and construction of storm water outfalls shall limit impacts on receiving waters and comply with all appropriate local, state, and federal requirements. Infiltration of storm water shall be preferred, where reasonably feasible.
- (6) Storm water management may include a low impact development storm water conveyance system in the vegetation buffer, if the system is designed to mimic the function and appearance of a natural shoreline system and complies with all other requirements and standards of RMC 4-3-090F.1 Vegetation Conservation.

v. Solid Waste Facilities:

- (1) Facilities for processing, storage, and disposal of solid waste are not normally water-dependent. Components that are not water-dependent shall not be permitted on shorelines.
- (2) Disposal of solid waste on shorelines or in water bodies has the potential for severe adverse effects upon ecological functions, property values, public health, natural resources, and local aesthetic values and shall not be permitted.
- (3) Temporary storage of solid waste in suitable receptacles is permitted as an accessory use to a primary permitted use, or for litter control.

4-3-090. F. Shoreline Modification

4-3-090. F.1 Vegetation Conservation

- a. **Standard Vegetation Conservation Buffer Width:** Except as otherwise specified in this section, water bodies defined as Shorelines shall have ~~the~~ minimum ~~100-foot~~ vegetation management buffer contemplated by Table 4-3-090. D.7a Shoreline Bulk Standards measured from the ordinary high water mark of the regulated shoreline of the state. Where streams enter or exit pipes, the buffer shall be measured perpendicular to the ordinary high water mark from the end of the pipe along the open channel section of the stream.
- b. **Vegetation Conservation Buffer Widths by Reach:** The reviewing official may apply the following vegetation buffers provided for in Table RMC 4-3-090.F.1.I Vegetation Conservation Standards by Reach as an alternative to the Standard Vegetation

Conservation Buffer for sites for development that implement water-oriented use and public access as provided in the table for each reach.

c. **Alternative Vegetated Buffer Widths and Setbacks for Existing Single-Family Lots**

- i. **Reduced Requirements Based on Lot Depth:** The reviewing official may apply the following vegetation buffers and building setbacks for existing single-family residences and existing single-family lots consisting of property under contiguous ownership without a variance. Lot depth shall be measured from the ordinary high water mark in a perpendicular direction to the edge of the contiguously owned parcel or to an easement containing existing physical improvements for road access for two or more lots.

Lot Depth	Building Setback	Vegetated Buffer
Greater than 150 feet or greater	70 feet	60 feet
Greater than 130 feet, up to 150 feet	60 feet	50 feet
100 feet, up to 130 feet	35 feet	25 feet
Less than 100 feet	25 feet	15 feet

- ii. **Reductions for Narrow Lots:** For such lots with a lot width of less than 60 feet, setbacks and buffers may be reduced by ten (10) percent, but no less than:
 - (1) Building setback: 25 feet
 - (2) Vegetated buffer: 15 feet
- iii. **Setback to Easement May be Reduced:** For such lots with a lot depth of less than 100 feet that are served with primary access from a private road, the setback from the edge of the easement may be reduced without a variance.

d. **Reduction of Vegetated Buffer or Setback Width**

- i. **Reviewing Official May Reduce:** Based upon an applicant’s request, the Reviewing official may approve a reduction in the standard buffer widths/setbacks where the applicant can demonstrate compliance with criteria in the subsections below. Buffer enhancement shall be required where appropriate to site conditions, habitat sensitivity, and proposed land development characteristics.
- ii. **Water-dependent Uses:**
 - (1) Areas approved for water-dependent use or public access may be excluded from vegetated buffer if the approval is granted through review of a Substantial Development Permit, Conditional Use Permit, or Variance, provided that the area excluded is the minimum needed to provide for the water-dependent use or public access.
 - (2) Access to private docks through a vegetated buffer may be provided by a corridor up to six (6) feet wide.
- iii. **Vegetation Conservation Standard Table Applied:** Specific vegetated buffers specified for areas enumerated in Table RMC 4-3-090.F.1.I, Vegetation Conservation Standards by Reach, may be applied in accordance with those provisions.
- iv. **Buffer Reduction Standards:** Based upon an applicant’s request, and the acceptance of a Supplemental Stream or Lake Study, the reviewing official may approve a

reduction in the standard buffer widths/setbacks by up to 20 percent, except when the buffer widths/setbacks are established by subsection 4-3-090.F.1.c, above, where the applicant can demonstrate compliance with applicable criteria in the subsections below and any mitigation requirements applied as conditions of approval.

- (1) The abutting land is extensively vegetated with native species, including trees and shrubs, and has less than 5 percent non-native invasive species cover and has less than fifteen percent (15%) slopes; or
 - (2) The buffer can be enhanced with native vegetation and removal of non-native species and has less than fifteen percent (15%) slopes; and
 - (3) The width reduction will not reduce stream or lake ecological functions, including those of anadromous fish or non-fish habitat; and
 - (4) The width reduction will not degrade riparian habitat; and
 - (5) No direct or indirect, short-term or long-term, adverse impacts to regulated water bodies will result from a regulated activity. The Reviewing official's determination shall be based on specific site studies by recognized experts, pursuant to RMC 4-9-197 E.4.
- v. **Buffer Reductions for the Conversion on Non-Conforming Uses:** Based upon an applicant's request, and the acceptance of a Supplemental Stream or Lake Study, the reviewing official may approve a reduction in the standard buffer in a case where an existing non-conforming site is not re-developed and the proposal includes removal of existing over-water structures or removal or reconstruction of shoreline protection structures or other restoration of shorelines or buffer areas in a manner that meets the standards of the Shoreline Master Program, to a vegetated buffer a minimum 10 feet from existing buildings or impervious surface such as parking areas and driveways in current use to serve the non-conforming buildings or uses.
- e. **Increased Buffer Widths:** Vegetated buffers may be increased by the reviewing official as required or allowed by the criteria below.
- i. **Areas of High Blow-down Potential:** Where the stream/lake area is in an area of high blow-down potential as determined by a qualified professional, the buffer width may be expanded up to an additional fifty (50) feet on the windward side, when determined appropriate to site circumstances and ecological function by the Reviewing Official.
 - ii. **Buffers Falling Within Protected Slopes or Very High Landslide Areas:** When the required stream/lake buffer falls within a protected slope or very high landslide hazard area or buffer, the stream/lake buffer width shall extend to the boundary of the protected slope or the very high landslide hazard buffer.
- f. **Averaging of Buffer Width:**
- i. **Authority:** Based upon an applicant's request, and the acceptance of a Supplemental Stream or Lake Study, the Reviewing official may approve buffer width averaging.
 - ii. **Criteria for Approval:** Buffer width averaging may be allowed only where the applicant demonstrates all of the following:
 - (1) The water body and associated riparian area contains variations in ecological sensitivity or there are existing physical improvements in or near the water body

- and associated riparian area;
 - (2) Buffer width averaging will result in no-net loss of stream/lake/riparian ecological function;
 - (3) The total area contained within the buffer after averaging is no less than that contained within the required standard buffer width prior to averaging;
 - (4) In no instance shall the buffer width be reduced to less than 50 feet;
 - (5) The proposed buffer standard is based on consideration of the best available science as described in Washington Administrative Code (WAC) 365-195-905; or where there is an absence of valid scientific information; the steps in RMC 4-9-250F are followed.
- g. **Buffer Enhancement:** Buffer Enhancement as a separate action may be proposed on any property and may be implemented without full compliance with the standards of this Section, provided that the project includes a buffer enhancement plan using native vegetation and provides documentation that the enhanced buffer area will maintain or improve the functional attributes of the buffer. Any change to existing non-conforming facilities or use on a site shall meet the provisions for non-conforming sites.
- h. **Exemption Criteria:** As determined by the Reviewing official, for development proposed on sites separated from the shoreline by intervening, and lawfully created public roads, railroads, other off-site substantial existing improvements, or an intervening parcel under separate ownership, the requirements of this code for a vegetation buffer may be waived. For the purposes of this section, the intervening lots/parcels, roads, or other substantial improvements shall be found to:
- i. Separate the subject upland property from the water body due to their height or width; and
 - ii. Substantially prevent or impair delivery of most ecological functions from the subject upland property to the water body.
- i. **Vegetation Management:** Vegetation adjacent to water bodies in the Shoreline shall be managed to provide the maximum ecological functions feasible, in accordance with these standards.
- i. Streams and lakes ~~and~~ with Vegetation Conservation Buffer areas that are largely undisturbed native vegetation, shall be retained except where the buffer is to be enhanced or where alteration is allowed in conformance with this Section for a specific development proposal.
 - ii. In the absence of a development proposal, existing, lawfully established landscaping and gardens within a Vegetation Conservation Buffer, may be maintained in its existing condition including but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and replacement planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this code, provided this does not apply to areas previously established as native growth protection areas, mitigation sites, or other areas protected via conservation easements or similar restrictive covenants.
 - iii. Removal of noxious weeds and/or invasive species may be allowed without permit review in any Vegetation Conservation Buffer area provided that removal consists of

physical uprooting or chemical treatment of individual plants or shallow excavation of no more than 1,000 square feet of dense infestations.

- iv. New development or redevelopment of non conforming uses shall develop and implement a vegetation management plan that complies with the standards of this code. Unless otherwise provided, a vegetation management plan shall preserve, enhance or establish native vegetation within the specified vegetation buffer. If a low impact development storm water system is proposed in accordance with RMC 4-3-090E.11.d.iv(6), it must be included in the vegetation management plan. When required, vegetation management plans shall be prepared by a qualified professional, provided that the reviewing official may establish prescriptive standards for vegetation conservation and management as an alternative to requiring a specific plan for a development. Vegetation management plans shall describe actions that will be implemented to ensure that buffer areas provide ecological functions equivalent to a dense native vegetation community to the extent possible. Required vegetation shall be maintained over the life of the use and/or development. For private development a conservation easement or similar recorded legal restriction shall be recorded to ensure preservation of the vegetation conservation and management area.
- v. The reviewing official may approve, in cases of redevelopment or alteration of existing single family residential lots, a vegetation management plan that does not include large native trees, if such trees would block more than 30 percent of existing water views allowed from the existing residence on a lot. Native vegetation consisting of groundcover, shrubs and small trees shall be provided to provide as many of the vegetation functions feasible. This provision shall not apply to new lots created by subdivision or other means.

j. **Documentation:**

- i. For application of provisions of Section RMC 4-3-090.F.1 Vegetation Conservation applicable to existing single family residences and lots, determinations and evidence shall be included in the application file.
- ii. For all development requiring a Shoreline Substantial Development Permit, findings and determinations regarding the application of increased or reduced buffer width shall be included as specific findings in the permit.
- iii. For development not requiring a Shoreline Substantial Development Permit, approval of a reduced buffer width shall be require review as a shoreline variance by the Land Use Hearing Examiner per RMC 4-9-197. The setback provisions of the zoning district for the use must also be met unless a variance to the zoning code is achieved.

- k. **Off-site Vegetation Conservation Fund:** The city shall provide a fund for off-site provision of areas for Vegetation Conservation and may assess charges to new development that do not fully meet the standard Vegetation Conservation Buffer requirement of 100 square feet of vegetated area per linear foot of shoreline. Credit shall be given for areas of vegetation buffer on the shoreline provided by development. Expenditures from such a fund for provision of areas where the functions of shoreline vegetation conservation would be provided shall be in accordance with the Restoration Plan or other watershed

and aquatic habitat conservation plans and shall be spent within the WRIA in which the assessed property is located.

Table 4-3-090.F.1.I. Vegetation Conservation Buffer Standards by Reach

SHORELINE REACH	Vegetation Conservation Objectives
Lake Washington	
Lake Washington Reach A and B	This developed primarily single-family area provides primarily lawn and ornamental vegetation at the shoreline. Opportunities to limit ongoing adverse impacts shall be implemented through providing for native vegetation in buffers adjacent to the water based on the standards related to lot depth together with replacement of shoreline armoring with soft shoreline protection incorporating vegetation.
Lake Washington Reach C	If areas redevelop, the full 100 foot buffer of native vegetation shall be provided, except where water-dependent uses are located.
Lake Washington Reach D and E	This developed primarily single-family area provides primarily lawn and ornamental vegetation at the shoreline. Opportunities to limit ongoing adverse impacts shall be implemented through providing for native vegetation in buffers adjacent to the water based on the standards related to lot depth together with replacement of shoreline armoring with soft shoreline protection incorporating vegetation.
Lake Washington Reach F	Enhancement of native riparian vegetation shall be implemented as part of park management, balanced with opportunities to provide public visual and physical access to the shoreline. The city may fund shoreline enhancement through fees paid for off-site mitigation from development elsewhere on Lake Washington.
Lake Washington Reach G	Enhancement of native riparian vegetation shall be implemented as part of park management, while recognizing that in this portion of the park is oriented primarily to opportunities to provide public visual and physical access to the shoreline including over water structures, supporting concessions, boat launch and public beach facilities.
Lake Washington Reach H	Buffers for vegetation management are not required in this reach. This site has an approved Master Site Plan that includes significant public access. Opportunities for public access along the waterfront and the development of water-oriented uses are the designated priorities for this reach.
Lake Washington Reach I	The area of vegetation on public aquatic lands should be enhanced in the short term. Upon redevelopment, vegetation buffers shall be extended into the site adjacent to vegetated areas along the shoreline. Vegetation restoration shall be balanced with public access and water-oriented use on the balance of the site. Public access shall not

	impact any restored lands on this site.
Lake Washington Reach J	Enhanced riparian vegetation shall be provided in a manner consistent with maintaining aviation safety as part of airport management.
Lake Washington Reach K	Redevelopment of multi-family sites shall provide vegetation buffers at the full standard, with possible employment of provisions for averaging or reduction. Single-family development in this reach provides primarily lawn and ornamental vegetation at the shoreline. Opportunities to limit ongoing adverse impacts shall be implemented through providing for native vegetation in buffers adjacent to the water based on the standards related to lot depth together with replacement of shoreline armoring with soft shoreline protection incorporating vegetation.
May Creek	
May Creek A and B	Full standard native vegetation buffers shall be provided with development of this property.
May Creek C and D	Full standard native vegetation buffers shall be provided on this reach with existing private lots, subject to buffer standards related to lot depth, together with replacement of shoreline armoring with soft shoreline protection incorporating vegetation.
Cedar River	
Cedar River A	Enhancement of native riparian vegetation shall be implemented as part of park management, balanced with needs of flood control levees and opportunities to provide public visual and physical access to the shoreline.
Cedar River B	Enhancement of native riparian vegetation shall be implemented as part of flood control management programs that may be integrated with opportunities to provide public visual and physical access to the shoreline. Vegetation management and public access should be addressed in a comprehensive management plan prior to issuance of shoreline permits for additional flood management activities. This developed single-family area shall implement vegetation management based on the standards related to lot depth together with replacement of shoreline armoring with soft shoreline protection incorporating vegetation as provided for alternation of non-conforming uses, structures, and sites.
Cedar River C	Enhancement of native riparian vegetation shall be implemented as part of management of public parks. Full standard native vegetation buffers should be maintained on the

	public open space on the south side of the river, subject to existing trail corridors and other provisions for public access. Full standard buffers shall be provided upon redevelopment of the north shore, subject to public access set back from the water's edge and may provide for water-oriented use adjacent to the water's edge. The vegetation conservation buffer may be designed to incorporate floodplain management features including floodplain compensatory storage.
Cedar River D	Full standard native vegetation buffers shall be provided on this reach with existing private lots subject to buffer standards related to lot depth together with replacement of shoreline armoring with soft shoreline protection incorporating vegetation.
Green River	
Green River Reach A	Full standard native vegetation buffers shall be provided with redevelopment of this property in this reach, balanced with provisions for public access. Vegetation conservation within railroad rights of way shall not be required within areas necessary for railway operation. Vegetation preservation and enhancement should be encouraged in areas of railroad right of way not devoted to transportation uses. Expansion of railroad facilities may require specific vegetation preservation and enhancement programs, consistent with the standards of the Shoreline Master Program.
Black River / Springbrook Creek	
Black River/Springbrook A	Public open space that exceeds buffer standards should be maintained and native vegetation enhanced. Full standard buffers should be provided upon redevelopment of adjacent land, recognizing the constraints of existing transportation and public facilities.
Springbrook B	Full standard buffers should be provided upon redevelopment of adjacent land, recognizing the constraints of existing transportation and public facilities.
Springbrook C and D	Vegetation enhancement should be implemented within the drainage district channels in conjunction with management plans including adjustments to channel dimensions to assure continued flood capacity with the additional hydraulic roughness provided by vegetation. Full standard vegetated buffers should be provided upon redevelopment of adjacent land presuming re-vegetation of the stream channel. Vegetation management should retain a continuous trail system that may be relocated further from the stream edge.

Lake Desire	
Lake Desire A and B	This developed primarily single-family area provides primarily lawn and ornamental vegetation at the shoreline. Opportunities to limit ongoing adverse impacts should be implemented through providing for native vegetation in buffers adjacent to the water based on the standards related to lot depth together with replacement of shoreline armoring with soft shoreline protection incorporating vegetation. Shoreline vegetation enhancement should take place at the WDFW boat launching site balancing values of riparian vegetation with public access.
Lake Desire C	Existing shoreline vegetation in this publicly owned natural area should be preserved with some accommodation for interpretive access to the water s as part of park management plans, subject to the primary objective of protecting ecological functions.
Lake Desire D	This developed primarily single-family area provides primarily lawn and ornamental vegetation at the shoreline. Opportunities to limit ongoing adverse impacts should be implemented through providing for native vegetation in buffers adjacent to the water based on the standards related to lot depth together with replacement of shoreline armoring with soft shoreline protection incorporating vegetation. Shoreline vegetation enhancement should take place at the WDFW boat launching site balancing values of riparian vegetation with public access.

4-3-090. F.2 Landfill and Excavation

- a. ~~Minimum Necessary General Provisions~~: Landfill and excavation shall only be permitted in conjunction with an approved use or development and allowed with assurance of no net loss of shoreline ecological functions. Excavation below the ordinary high water mark is considered “dredging” and is addressed in a separate section. [Comment: The heading should be revised as shown because no “minimization” language exists any longer in this section.]
- b. **Criteria for Allowing Landfills and Excavations below OHWM**: Landfills and excavations shall generally be prohibited below the ordinary high water mark, except for the following activities, and in conjunction with documentation of no net loss of ecological functions as documented in appropriate technical studies:
 - i. Beach or aquatic substrate replenishment in conjunction with an approved ecological restoration activity;
 - ii. Replenishing sand on public and private community beaches;
 - iii. Alteration, maintenance and/or repair of existing transportation facilities and utilities currently located within shoreline jurisdiction, when alternatives or less impacting approaches are not feasible;
 - iv. Construction of facilities for public water-dependent uses or public access; when alternatives or less impacting approaches are not feasible and provided that filling and/or excavation are limited to the minimum needed to accommodate the facility;
 - v. Activities incidental to the construction or repair of approved shoreline protection facilities, or the repair of existing shoreline protection facilities;
 - vi. Approved flood control projects;
 - vii. In conjunction with a stream restoration program including vegetation restoration;
 - viii. Activities that are part of a remedial action plan approved by the Department of Ecology pursuant to the Model Toxics Control Act, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or otherwise authorized by the Department of Ecology, U.S. Army Corps of Engineers, or other agency with jurisdiction, after review of the proposed fill for compliance with the policies and standards of the Shoreline Master Program; and
- c. **Review Standards**: All landfills and excavations shall be evaluated in terms of all of the following standards:
 - i. The overall value to the public of the results of the fill or excavation site as opposed to the value of the shoreline in its existing state as well as evaluation of alternatives to fill that would achieve some or all of the objectives of the proposal.
 - ii. Effects on ecological functions including, but not limited to functions of the, substrate of streams and lakes and affects on aquatic organisms, including the food chain, effects on vegetation functions, effects on local currents and erosion and deposition patterns, effects on surface and subsurface drainage, and effects on flood waters.
 - iii. Whether shoreline stabilization will be necessary to protect materials placed or removed and whether such stabilization meets the policies and standards of the Shoreline Master Program.
 - iv. Whether the landfill or excavation will adversely alter the normal flow of floodwater

- (taking into consideration compensating flood storage that may be provided), including obstructions of flood overflow channels or swales.
- v. Whether public or tribal rights to the use and enjoyment of the shoreline and its resources and amenities is impaired.
 - d. **Performance Standards:** Performance standards for fill and excavation include:
 - i. Disturbed areas shall be immediately stabilized and revegetated, to avoid or minimize erosion and sedimentation impacts, both during initial work and over time. Natural and self-sustaining control methods are preferred over structures.
 - ii. Landfills and excavation shall be designed to blend physically and visually with existing topography.
 - e. **Shoreline Conditional Use Required:** All fill and excavation ~~waterward of~~below the OHWM not associated with ecological restoration, flood control or approved shoreline stabilization shall require a Shoreline Conditional Use Permit.

4-3-090. F.3 Dredging

a. General: Dredging and dredge material disposal, when permitted, shall be done in a manner which avoids or minimizes significant ecological impacts and impacts which cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

b. Dredging Limited: Dredging is permitted only in cases where the proposal, including any necessary mitigation, will result in no net loss of shoreline ecological functions and is limited to the following:

- i. Establishing, expanding, relocating or reconfiguring navigation channels and basins where necessary to assure safe and efficient accommodation of existing navigational uses. Maintenance dredging of established navigation channels and basins shall be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.
- ii. For flood control purposes, when part of a publicly adopted flood control plan.
- iii. For restoration or enhancement of shoreline ecological functions benefiting water quality and/or fish and wildlife habitat and approved by applicable local, state and federal agencies.
- iv. For development of approved water-dependent uses provided there are no feasible alternatives.
- v. Dredging may be permitted where necessary for the development and maintenance of public shoreline parks and of private shorelines to which the public is provided access. Dredging may be permitted where additional public access is provided.
- vi. Maintenance dredging for access to existing legally established boat moorage slips including public and commercial moorage and moorage accessory to single family residences, provided that dredging shall be limited to maintaining the previously dredged and/or existing authorized location, depth, and width. Dredging shall be disallowed to maintain depths of existing private moorage where it results in a net loss of ecological functions.
- vii. Minor trenching to allow the installation of necessary underground pipes or cables if no alternative, including boring, is feasible, and:
 - (1) Impacts to fish and wildlife habitat are avoided to the maximum extent possible.

- (2) The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.
- (3) Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.
- viii. Dredging is performed pursuant to a remedial action plan approved under authority of the Model Toxics Control Act, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or pursuant to other authorization by the Department of Ecology, U.S. Army Corps of Engineers, or other agency with jurisdiction, after review of the proposed materials for compliance with the policies and standards of the Shoreline Master Program.
- ix. Dredging is necessary to correct problems of material distribution and water quality, when such problems are adversely affecting aquatic life or recreational areas.

c. Dredging Prohibited: Dredging shall be prohibited in the following cases:

- i. Dredging shall not be performed within the deltas of the Cedar River and May Creek except for purposes of ecological restoration, for public flood control projects, for water-dependent public facilities, or for limited maintenance dredging in conformance with this section.
- ii. Dredging is prohibited solely for the purpose of obtaining fill or construction material. Dredging which is not directly related to those purposes permitted in subsection b, above, is prohibited.
- iii. Dredging for new moorage is prohibited.
- iv. Dredging may not be performed to maintain facilities established for water-dependent uses in cases where the primary use is discontinued unless the facility meets all standards for a new water-dependent use.
- v. Dredging of public aquatic lands is prohibited unless approval is granted from the Washington State Department of Natural Resources.

d. Review Criteria

- i. New development, including the development of associate piers and docks, should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. Where alternatives such as the utilization of shallow access to mooring buoys are feasible, such measures shall be used.
- ii. All proposed dredging operations shall be designed by an appropriate State licensed professional engineer. A stamped engineering report and an assessment of potential impacts on ecological functions shall be prepared by qualified consultants shall be submitted to the Renton Planning Division as part of the application for a shoreline permit.
- iii. The responsibility rests solely with the applicant to demonstrate the necessity of the proposed dredging operation.
- iv. The responsibility rests solely with the applicant to demonstrate that:
 - (1) There will be no net loss of ecological functions including but not limited to adverse effect on aquatic species including fish migration.
 - (2) There will be no adverse impact on recreational areas or public recreation enjoyment of the water.
- v. Adjacent bank protection:

- (1) When dredging bottom material of a body of water, the banks shall not be disturbed unless absolutely necessary. The responsibility rests with the applicant to propose and carry out practices to protect the banks.
 - (2) If it is absolutely necessary to disturb the adjacent banks for access to the dredging area, the responsibility rests with the applicant to propose and carry out a method of restoration of the disturbed area to a condition minimizing erosion and siltation.
- vi. Avoidance of Adverse Effects: The responsibility rests with the applicant to demonstrate the proposed dredging will avoid conditions that may adversely affect adjacent properties including:
- (1) Create a nuisance to the public or nearby activity.
 - (2) Damage property in or near the area.
 - (3) Cause substantial adverse effect to plant, animal, aquatic or human life in or near the area.
 - (4) Endanger public safety in or near the area.
- vii. The applicant shall demonstrate control of contamination and pollution to water, air, and ground through specific operation and mitigation plans.
- viii. Disposal of Dredge Material: The applicant shall demonstrate that the disposal of dredged material will not result in net loss of ecological functions or adverse impacts to properties adjacent to the disposal site.
- (1) The applicant shall provide plans for the location and method of disposing of all dredged material.
 - (2) Dredged material shall not be deposited in a lake, stream, or marine water except if approved as habitat enhancement or other beneficial environmental mitigation as part of ecological restoration, a contamination remediation project approved by appropriate State and/or Federal agencies, or is approved in accordance with the Puget Sound Dredged Disposal Analysis evaluation procedures for managing in-water-disposal of dredged material by applicable agencies, which may include the U.S. Army Corps of Engineers pursuant to Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits, and Washington State Department of Fish and Wildlife Hydraulic Project Approval.
 - (3) In no instance shall dredged material be stockpiled in a shoreland area that would result in the clearing of native vegetation. Temporary stockpiling of dredged material is limited to 180 days.
 - (4) If the dredged material is contaminant or pollutant in nature, the applicant shall propose and carry out a method of disposal that complies with all regulatory requirements.
 - (5) Permanent land disposal shall demonstrate that:
 - (a) Shoreline ecological functions will be preserved, including protection of surface and ground water.
 - (b) Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions or property.
 - (c) Sites will be adequately screened from view of local residents or passersby

on public right-of-ways.

(d) The site is not located within a Channel Migration Zone.

- e. **Shoreline Conditional Use Required:** Dredging shall require a Shoreline Conditional Use unless associated with existing water-dependent uses, habitat enhancement; a remedial action plan approved under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or the Model Toxics Control Act, or public recreation facilities or uses.

4-3-090. F.4 Shoreline Stabilization

a. **General Criteria for New or Expanded Shoreline Stabilization Structures:**

- i. **Avoidance of Need for Stabilization:** The need for future shoreline stabilization should be avoided to the extent feasible for new development. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.
- ii. **Significant Impact to Other Properties Prohibited:** The need for shoreline stabilization shall be considered in the determination of whether to approve new water-dependent uses. Development of new water-dependent uses that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.
- iii. **Shoreline Stabilization Alternatives Hierarchy:** Structural shoreline stabilization measures should be used only when more natural, flexible, non-structural methods such as vegetative stabilization, beach nourishment and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:
 - (1) No action (allow the shoreline to retreat naturally), increase building setbacks, and relocate structures.
 - (2) Flexible defense works constructed of natural materials including measures such as soft shore protection, bioengineering, including beach nourishment, protective berms, or vegetative stabilization.
 - (3) Flexible defense works, as described above, with rigid works constructed as a protective measure at the buffer line.
 - (4) Rigid works constructed of artificial materials such as riprap or concrete.
- iv. **Limited New Shoreline Stabilization Allowed:** New structural stabilization measures shall not be allowed except when necessity is demonstrated in one of the following situations:
 - (1) **To protect existing primary structures:**
 - (a) New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by currents, or waves ~~within three years, or where waiting until the need is immediate would prevent the opportunity to use measures that avoid impacts on ecological functions.~~

[Comment: The inclusion of the phrase “within three years, or where waiting until the need is immediate would prevent the opportunity to use measures that avoid impacts on ecological functions” is not required by the like sentence of WAC 173-26-231(3)(a)(iii)(B)(I) would place an unreasonable and unjust burden on shoreline property owners. The phrase falsely presumes that forecasting the timing of danger is an exact science and would purport to force property owners to wait until risk is immediate. The phrase should be stricken.]

Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization if on-site drainage is a cause of shoreline instability at the site in question.

- (b) The ~~shoreline stabilization~~~~erosion control~~ structure is evaluated by the hierarchy in subsection a.iii above.
 - (c) The ~~shoreline stabilization~~~~erosion control~~ structure will not result in a net loss of shoreline ecological functions.
- (2) **New Development:** In support of new development when all five of the conditions listed below apply and are documented by a geotechnical analysis:
- (a) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - (b) Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - (c) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents, and waves.
 - (d) The erosion control structure is evaluated by the hierarchy in subsection a.iii, above.
 - (e) The erosion control structure together with any compensatory mitigation proposed by the applicant and/or required by regulatory agencies is not expected to result in a net loss of shoreline ecological functions.
- (3) **Restoration and Remediation Projects:** To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to Chapter 70.105D RCW when all three of the conditions below apply and are documented by a geotechnical analysis:
- (a) The erosion control structure together with any compensatory mitigation proposed by the applicant and/or required by regulatory agencies is not expected to result in a net loss of shoreline ecological functions.

- (b) The erosion control structure is evaluated by the hierarchy in subsection a.iii, above.
- (4) **Protect Navigability:** To protect the navigability of a designated harbor area when necessity is demonstrated in the following manner by a geotechnical report:
 - (a) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - (b) The erosion control structure together with any compensatory mitigation proposed by the applicant and/or required by regulatory agencies is not expected to result in a net loss of shoreline ecological functions.
 - (c) The erosion control structure is evaluated by the hierarchy in subsection a.iii above.
- v. **Content of Geotechnical Report:** Geotechnical analysis pursuant to this section that addresses the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. The geotechnical analysis shall evaluate the need and effectiveness of both hard and soft armoring solutions in preventing potential damage to a primary structure. Consideration should be given to permit requirements of other agencies with jurisdiction.
- vi. **Stream Bank Protection Required:** New or expanded shoreline stabilization on streams should assure that such structures do not unduly interfere with natural stream processes. The reviewing official shall review the proposed design for consistency with state guidelines for stream bank protection as it relates to local physical conditions and meet all applicable criteria of the Shoreline Master Program, subject to the following:
 - (1) A geotechnical analysis of stream geomorphology both upstream and downstream shall be performed to assess the physical character and hydraulic energy potential of the specific stream reach and adjacent reaches upstream or down, and assure that the physical integrity of the stream corridor is maintained, that stream processes are not adversely affected, and that the revetment will not cause significant damage to other properties or valuable shoreline resources.
 - (2) Revetments or similar hard structures are prohibited on point and channel bars, and in salmon and trout spawning areas, except for the purpose of fish or wildlife habitat enhancement or restoration.
 - (3) Revetments or similar hard structures shall be placed landward of associated wetlands unless it can be demonstrated that placement waterward of such features would not adversely affect ecological functions.
 - (4) Revetments or similar structures shall not be developed on the inside bend of channel banks in a stream except to protect public works, railways and existing structures.
 - (5) Revetments shall be designed in accordance with WDFW streambank

protection guidelines.

- (6) Groins, weirs and other in-water structures may be authorized only by Shoreline Conditional Use Permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. A geotechnical analysis of stream geomorphology both upstream and downstream shall document that alternatives to in-water structures are not feasible. Documentation shall establish impacts on ecological functions that must be mitigated to achieve no net loss.

b. **Design Criteria for New or Expanded Shoreline Stabilization Structures:** When any structural shoreline stabilization measures are demonstrated to be necessary, the following design criteria shall apply:

- i. **Professional Design Required:** Shoreline stabilization measures shall be designed by a qualified professional. Certification by the design professional may be required to ensure that installation meets all design parameters.
- ii. **General Requirements:** Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses or to meet resource agency permitting conditions.
- iii. **Restriction of Public Access Prohibited:** Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions; WAC 173-26-221(4). Where feasible, incorporate ecological restoration and public access improvements into the project.
- iv. **Restriction of Navigation Prohibited:** Shoreline stabilization should not be permitted to unnecessarily interfere with public access to public shorelines, nor with other appropriate shoreline uses including, but not limited to, navigation, public or private recreation and Indian treaty rights.
- v. **Aesthetic Qualities to be Maintained:** Where possible, shoreline stabilization measures shall be designed so as not to detract from the aesthetic qualities of the shoreline.
- vi. **Public Access to be Incorporated:** Required restoration and/or public access should be incorporated into the location, design and maintenance of shoreline stabilization structures for public or quasi-public developments whenever safely compatible with the primary purpose. Shore stabilization on publicly owned shorelines should not be allowed to decrease long term public use of the shoreline.

c. **Existing Shoreline Stabilization Structures:** Existing shoreline stabilization structures not in compliance with this code may be retained, repaired, or replaced if they meet the applicable criteria below:

- i. **Repair of Existing Structures:** An existing shoreline stabilization structure may be repaired ~~as long as it serves to perform a shoreline stabilization function for a legally established land use, but shall be subject to the provisions below if the land use for which the shoreline stabilization structure was constructed is~~

~~abandoned per RMC 4-10-060 Non-conforming Uses, or changed to a new use.~~

ii. **Additions to Existing Structures:** Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

~~iii. **Changes in Land Use:** In the event of a change of land use, Aa~~ an existing shoreline stabilization structure ~~established to serve a use that has been abandoned per RMC 4-10-060 Non-conforming Uses, discontinued, or changed to a new use~~ may be retained or be replaced with a similar structure in its current location if the size of the structure's face is not expanded:

~~(1) There is a demonstrated need documented by a geotechnical analysis to protect principal uses or structures from erosion caused by currents or waves; and~~

~~(2) An evaluation of the existing shoreline stabilization structure in relation to the hierarchy of shoreline stabilization alternatives established in subsection a.iii, above, shows that a more preferred level of shoreline stabilization is infeasible. In the case of an existing shoreline stabilization structure composed of rigid materials, if alternatives 1-3 of the hierarchy in subsection a.iii would be infeasible then the existing shoreline stabilization structures could be retained or replaced with a similar structure.~~ **[Comment: The above changes are proposed because the previous text is unduly burdensome to property owners, amounts to a taking of their property, violates RCW 82.02.020, and goes far beyond the requirement for "no net loss of shoreline ecological function".]**

~~iv-iii.~~ **Waterward Replacement Prohibited for Structures Protecting Residences:** Replacement walls or bulkheads, ~~if allowed,~~ shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

~~v-iv.~~ **Restoration and Maintenance of Soft Shorelines Allowed:** Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark. Replenishment of substrate materials to maintain the specifications of the permitted design may be allowed as maintenance.

~~vi-v.~~ **No Net Loss:** Where a net loss of ecological functions associated with critical habitats would occur by leaving an existing structure that is being replaced, the structure shall be removed as part of the replacement measure.

4-3-090. F.5 Flood Control

a. **Permitted Flood Control Projects:** Flood control works shall be permitted when it is demonstrated by engineering and scientific evaluations that:

- i. They are necessary to protect health/safety and/or existing development;
- ii. Non-structural flood hazard reduction measures are infeasible; and
- iii. Measures are consistent with an adopted comprehensive flood hazard management

plan that evaluates cumulative impacts to the watershed system.

- b. **Prohibited Flood Control Projects:** New or expanding development or uses in the shoreline, including subdivision of land, that would likely require new structural flood control works within a stream, channel migration zone, or floodway should not be allowed.
- c. **Long Term Compatibility:** New or expanded flood control works and instream structures should be planned and designed to be compatible with appropriate multiple uses of stream resources over the long term, especially in shorelines of statewide significance.
- d. **Criteria for Allowing Flood Control Projects:** New flood control works should only be allowed in the shoreline if they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.
- e. **Native Vegetation:** Flood control works should incorporate native vegetation to the extent feasible to enhance ecological functions, create a more natural appearance, improve ecological functions, and provide more flexibility for long term shoreline management.
- f. **Consideration of Alternatives:** To minimize flood damages and to maintain natural resources associated with streams, overflow corridors and other alternatives to traditional bank levees, revetments and/or dams shall be considered. Setback levees and similar measures should be employed where they will result in lower flood peaks and velocities, and more effective conservation of resources than with high bank levees.
- g. **Public Access Required:** Flood control works shall provide access to public shorelines whenever possible, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, security problems, unmitigatable ecological impacts, unavoidable conflicts with proposed uses, or unreasonable cost. At a minimum, flood control works should not decrease public access or use potential of shorelines.

4-3-090. F.6 Stream Alteration

- a. **Definition of Stream Alteration:** Stream alteration is the relocation or change in the flow of a river, stream or creek.
- b. **Alterations to be Minimized:** Stream alteration shall be minimized, and when allowed should change natural stream processes as little as possible.
- c. **Allowed if No Feasible Alternative:** Unless otherwise prohibited by subsections RMC 4-3-090.E.10 Transportation and RMC 4-3-090.E.11 Utilities, stream alteration may be allowed for transportation and utility crossings and in-stream structures only where there is no feasible alternative.
- d. **Allowed for Flood Hazard Reduction:** Stream alteration may be permitted if it is part of a public flood hazard reduction program or a habitat enhancement project approved by appropriate State and/or Federal agencies.
- e. **Prohibited Alterations:** Stream alteration solely for the purpose of enlarging the developable portion of a parcel of land or increasing the economic potential of a parcel of land is prohibited.
- f. **Detriment to Adjacent Parcels Prohibited:** Stream alteration is prohibited if it would be significantly detrimental to adjacent parcels.
- g. **Applicant's Responsibility:** The applicant has the sole responsibility to demonstrate the

necessity of the proposal and compliance with the criteria of the Shoreline Master Program.

- h. **Professional Design Required:** All proposed stream alterations shall be designed by an appropriately state-licensed professional engineer. The design shall be submitted with a supplemental lake/stream study to the Planning Division as part of the application.
- i. **Impacts to Aquatic Life to be Minimized:** The design timing and the methods employed will have minimal adverse effects on aquatic life Including minimizing erosion, sedimentation and other pollution during and after construction.
- j. **Flow Levels to Be Maintained:** The project must be designed so that the low flow is maintained and fish escapement is provided for.

SECTION IV. Renton Municipal Code Chapter 8 PERMITS- GENERAL AND APPEALS Section RMC 4-9-120C Submittal Requirements for Land Use Applications is hereby amended to read as follows: *Note, only the portions of this table that are subject to changes are being shown:*

Submittal Requirements	Shoreline Exemption	Shoreline Substantial Development Permit	Shoreline Conditional Use Permit	Shoreline Variance
10% Notice of Intent to Annex				
60% Petition to Annex				
Affidavit of Installation of Public Information Sign				
Applicant Agreement Statement (for wireless communication facilities)				
Applicant's Confirmation of Condition Compliance				
Application Fee per RMC 4-1-170		X	X	X
Assessment Information				
Authorization for Abatement				
Binding Site Plan Map				
Business License Application for Home Occupation				
Calculations, Survey				
Colored Display Maps		1	1	1
Construction Mitigation Description		5	5	5
Draft Deed for Any Proposed Dedication of Land for Public Purposes				
Draft Homeowners' Association Documents, if				

applicable				
Draft Restrictive Covenants, if any				
Drainage Control Plan		5	5	5
Drainage Report		4	4	4
Elevations, Architectural		12	12	12
Elevations, Grading		4	4	
Environmental Checklist		12	12	12
Existing Covenants (recorded copy)		5	5	5
Existing Easements (recorded copy)		5	5	5
Final Plat Plan				
Flood Hazard Data, if applicable		12	12	12
Floor Plans		5	5	5
Geotechnical Report		5	5	5
Grading Plan, Conceptual		12	12	12
Grading Plan, Detailed				
Habitat Data Report		12	12	12
Hazardous Materials Management Statement				
Inventory of Existing Sites (for wireless communication facilities)				
Justification for the Comprehensive Plan Amendment, and, if applicable, Rezone				
Justification for the Rebuild Approval Permit (nonconforming structure)				
Justification of the Rebuild Approval Permit (nonconforming use)				
Justification for Conditional Permit Request			12	
Justification for the Rebuild Approval Permit (nonconforming structure)				
Justification for the Rebuild Approval Permit (nonconforming use)				

King County Assessor's Map Indicating Site				
Landscape Plan, conceptual		5	5	5
Landscape Plan, Detailed				
Lease Agreement Draft (for wireless communication facilities)				
Legal Description	4	12	12	12
Letter Describing Proposed Home Occupation				
Letter from Property Owner				
Letter to Examiner/Council Stating Reason(s) for Appeal per RMC 4-8-110C3				
Letter Explaining Which Comprehensive Plan Text/Policies Should be Changed and Why				
Letter of Understanding, Geologic Risk		5	5	5
List of Affected Property Owners within Annexation Area Boundary				
List of Surrounding Property Owners		2	2	2
Lot Line Adjustment Map				
Mailing Labels for Property Owners		2	2	2
Map of Existing Site Conditions				
Map of View Area (for wireless communication facilities only)				
Master Application Form	4	12	12	12
Master Plan				
Mobile Home Park Plan				
Monument Cards (one per monument)				
Neighborhood Detail Map	4	12	12	12
Nonconformity Relationship and Compatibility Narrative				
Parking, Lot Coverage, and Landscaping Analysis		5	5	5
Photo Simulations (for wireless communication)				

facilities only)				
Plan Reductions (PMTs)		1	1	1
Postage		X	X	X
Plat Certificate				
Preapplication Meeting Summary, if any	1	5	5	5
Preliminary Plat Plan				
Project Narrative	4	12	12	12
Project Sequencing Plan				
Proposal (nonproject, e.g., draft ordinance, plan, or policy)				
Proposal Summary (nonproject)				
Public Works Approval Letter				
Routine Vegetation Management Application Form				
Screening Detail, Refuse/Recycling		12	12	12
Service Area Map (for wireless communication facilities only)				
Short Plat Plan				
Short Plan Plan, Final				
Site Plan		12	12	12
Site Plan, Shoreline Permit	4			
Site Plan, Single Family				
Siting Process Report for Use permits for SCTF				
Source Statement, Fill Material, Aquifer Protection Areas				
Statement for Addressing Basis for Alternate and/or Modification		5	5	5
Statement Addressing the Basis for the Shoreline Permit Exemption Request	4			
Statement Addressing the PUD's Relationship to the City Comprehensive Plan				
Stream/Lake Study (8)	4	12	12	12
Survey				

Title Report or Plat Certificate		5	5	5
Topography Map (5' contours)		12	12	12
Traffic Study		5	5	
Tree Removal/Vegetation Clearing Plan		4	4	4
Urban Design District Review Packet				
Utilities Plan, Generalized		5	5	5
Vegetation Management Plan (Shoreline)		5	5	
Wetlands Delineation Map	12	12	12	12
Wetland Mitigation Plan- Preliminary	3	3	3	3
Wetland Mitigation Plan- Final	3	3	3	3
Wetlands Assessment	3	3	3	3

Table 4-8-120C Legend

Note: Only note 8 from the legend is included in this draft because the other notes are not applicable to shoreline permits

8. A standard stream or lake study is required for any application proposal. A supplemental study is also required if an unclassified stream is involved, or if there are proposal results in any impacts to or alterations of the water body or buffer, as identified in the standard stream or lake study. A stream or lake mitigation plan will be required prior to final approval for any plans or permits that result in impacts to or alterations of the water body or buffer.

SECTION V. Renton Municipal Code Chapter 8 PERMITS- GENERAL AND APPEALS Section RMC 4-8-120D Definitions of Terms Use in Submittal Requirements for Building, Planning, and Public Works Permit Applications is hereby amended to read as follows:

Note: Only the submittal requirement definitions that are proposed for change are shown below.

Elevations, Architectural: A twenty four inch by thirty six inch (24" x 36") fully dimensioned architectural elevation plan drawn at a scale of one-fourth inch equals one foot (1/4"=1') or one-eighth inch equals one foot (1/8"=1')(or other size or scale approved by the Building Official) clearly indicating the information required by the "Permits" section of the currently adopted International Building Code and chapter 19.27 RCW (State Building Code Act, Statewide amendments), including, but not limited to, the following:

- a. Existing and proposed ground elevations,
- b. Existing average grade level underneath proposed structure,
- c. Height of existing and proposed structures showing finished rooftop elevations based upon site elevations for proposed structures and any existing/abutting structures,
- d. Building materials and colors including roof, walls, any wireless communication facilities, and enclosures,
- e. Fence or retaining wall materials, colors, and architectural design,
- f. Architectural design of on-site lighting fixtures, and

- g. Cross-section of roof showing location and height of rooftop equipment (include air conditioner, compressors, etc.) and proposed screening.
- h. Required for the Urban Design Overlay District review packet:
 - i. Identify building elevations by street name and orientation, i.e., Burnett Ave. (west) elevation.
 - ii. Show the location of rooflines, doors and widow openings.
 - iii. Indicated typical detailing around doors, windows and balconies indicating finishes, color and reflectivity of glazing.
 - iv. Indentify offsets in walls intended to meet the minimum requirements for building modulation indicating the amount of offset.
 - v. Show on each elevation any roof top elements such as mechanical and elevator penthouses that protrude above the parapet or penetrate the roof and would be visible from other buildings of the same height.
 - vi. Photographs of proposed materials from manufacturers' catalog~~sues~~. A materials board showing actual materials and colors reference on the architectural elevations is recommended.
- i. Required for shoreline permits:
 - i. Include measurements of the existing and proposed elevations of the stream, river, or lake bottom in relationship to the proposed structure, if the proposed structure is located fully or partially in, or over, the water.

Geotechnical Report: A study prepared in accordance with generally accepted geotechnical practices and stamped by a professional engineer licensed in the State of Washington which includes soils and slope stability analysis, boring and test pit logs, and recommendations on slope setbacks, foundation design, retaining wall design, material selection, and all other pertinent elements. If the evaluation involves geologic evaluations or interpretations, the report shall be reviewed and approved by a geologist. Further recommendations, additions or exceptions to the original report based on the plans, site conditions, or other supporting data shall be signed and sealed by the geotechnical engineer. If the geotechnical engineer who reviews the plans and specifications is not the same engineer who prepared the geotechnical report, the new engineer shall, in a letter to the City accompanying the plans and specifications, express his or her agreement or disagreement with the recommendations in the geotechnical report and state that the plans and specifications conform to his or her recommendations. If the site contains a geologic hazard regulated by the critical areas regulations or is within a regulated shoreline, the preparation and content requirements of RMC 4-8-120D, Table 18 shall also apply.

Table 18- Geotechnical Report- Detailed Requirements

REPORT PREPARATION/CONTENT REQUIREMENTS	STEEP SLOPES	LANDSLIDE-MEDIUM	LANDSLIDE-HIGH	LANDSLIDE-VERY HIGH	HIGH EROSION	SEISMIC	COAL MINE-MEDIUM	COALMINE-HIGH	VOLCANIC HAZARDS	SHORELINE
1. Characterize soils, geology and drainage.	X	X	X	X	X	X	X	X	X	X
2. Describe and depict all natural and manmade features within one hundred fifty feet (150') of the site boundary.	X	X	X	X	X	X	X	X	X	X
3. Identify any areas that have previously been disturbed or degraded by human activity or natural processes.	X	X	X	X	X	X	X	X	X	X
4. Characterize ground water conditions including the presence of any public or private wells within one-quarter (1/4) mile of the site.	X	X	X	X	X	X	X	X		X
5. Provide a site evaluation review of available information regarding the site.	X	X	X	X	X	X	X	X	X	X
6. Conduct a surface reconnaissance of the site and adjacent areas.	X	X	X	X	X	X	X	X		X
7. Conduct a subsurface exploration of soils and hydrologic conditions.	X	X	X	X	X	X	X	X		X
8. Provide a slope stability analysis.	X	X	X	X	X		X	X		
9. Address principles of erosion control in proposal design including: <ul style="list-style-type: none"> • Plan the development to fit the topography, drainage patterns, soils and natural vegetation on site; • Minimize the extent of the area exposed at one time and the duration of the exposure; • Stabilize and protect disturbed areas as soon as possible; • Keep runoff velocities low; • Protect disturbed areas from 	X	X	X	X	X		X	X		X

<p>stormwater runoff;</p> <ul style="list-style-type: none"> • Retain the sediment within the site area; • Design a thorough maintenance and follow-up inspection program to ensure erosion control practices are effective. 									
10. Provide an evaluation of site response and liquefaction potential relative to the proposed development.					X				
11. Conduct sufficient subsurface exploration to provide a site coefficient (S) for use in the International Building Code to the satisfaction of the Building Official.					X				
12. Calculate tilts and strains, and determine appropriate design values for the building site.						X	X		
13. Review available geologic hazard maps, mine maps, mine hazard maps, and air photographs to identify any subsidence features or mine hazards including, but not limited to, surface depressions, sinkholes, mine shafts, mine entries, coal mine waste dumps, and any indication of combustion in underground workings or coal mine waste dumps that are present on or within one hundred feet (100') of the property.						X	X		
14. Inspect, review and document any possible mine openings and potential trough subsidence, and any known hazards previously documented or identified.						X	X		
15. Utilize test pits to investigate coal mine waste dumps and other shallow hazards such as slope entry portals and shaft collar areas. Drilling is required for coal mine workings or other hazards that cannot be adequately investigated by surface investigations.						X	X		

16. Provide an analysis of proposed clearing, grading and construction activities including construction scheduling. Analyze potential direct and indirect on-site and off-site impacts from development.	X	X	X	X	X	X	X	X		X
17. Propose mitigation measures, such as any special construction techniques, monitoring or inspection programs, erosion or sedimentation programs during and after construction, surface water management controls, buffers, remediation, stabilization, etc.	X	X	X	X	X	X	X	X	X	X
18. Critical facilities on sites containing areas susceptible to inundation due to volcanic hazards shall require an evacuation and emergency management plan. The applicant for critical facilities shall evaluate the risk of inundation or flooding resulting from mudflows originating on Mount Rainier in a geotechnical report, and identify any engineering or other mitigation measures as appropriate.									X	
19. Address factors specific to the site, or to the proposed shoreline modification, as required in RMC 4-3-090 Shoreline Master Program Regulations										X

Landscaping Plan, Conceptual: A fully dimensioned plan, prepared by a landscape architect registered in the State of Washington, a certified nurseryman, or other similarly qualified professional, drawn at the same scale as the project site plan (or other scale approved by the Reviewing Official), clearly indicating the following:

- a. Date, graphic scale, and north arrow,
- b. Location of proposed buildings, parking areas, access and existing buildings to remain,
- c. Names and locations of abutting streets and public improvements, including easements,
- d. Existing and proposed contours at five foot (5') intervals or less,
- e. Location, size, and purpose of planting areas, including those required in RMC 4-4-070, Landscaping, and those required in RMC 4-3-090 Shoreline Master Program Regulations,
- f. Location and height for proposed berming,
- g. Location and elevations for any proposed landscape-related structures such as arbors, gazebos, fencing, etc.,

- h. Location, size, spacing and names of existing and proposed shrubs, trees, ground covers, and decorative rockery or like landscape improvements in relationship to proposed and existing utilities, and
- i. The location, size and species of all protected trees on site. Protected trees shall have the approximate drip line shown (see RMC 4-4-130, Tree Retention and Land Clearing Regulations).

Stream or Lake Mitigation Plan: The mitigation plan must ensure compensation for impacts that result from the chosen development alternative or from a violation as identified in the impact evaluation. A mitigation plan must include:

- a. Site Map: Site map(s) indicating, at a scale no smaller than one inch equals twenty feet (1" =20') (unless otherwise approved by the Planning Director):
 - i. The entire parcel of land owned by the applicant, including one hundred feet (100') of the abutting parcels through which the water body(ies) flow(s);
 - ii. The ordinary high water mark (OHWM) determined in the field by a qualified biologist pursuant to RMC 4-3-050L1b (the OHWM must also be flagged in the field);
 - iii. Stream or Lake classification, as recorded in the City of Renton Water Class Map in RMC 4-3-050Q4 or RMC 4-3-090 (if unclassified, see "Supplemental Stream or Lake Study");
 - iv. Topography of the site and abutting lands in relation to the stream(s) and its/their buffer(s) at contour intervals of two feet (2') where slopes are less than ten percent (10%), and of five feet (5') where slopes are ten percent (10%) or greater;
 - v. One hundred (100) year floodplain and floodway boundaries, including one hundred feet (100') of the abutting parcels through which the water body(ies) flow(s);
 - vi. Site drainage patterns, using arrows to indicate the direction of major drainage flow;
 - vii. Top view and typical cross-section views of the stream or lake bed, banks, and buffers to scale;
 - viii. The vegetative cover of the entire site, including the stream or lake, banks, riparian area, and/or abutting wetland areas, extending one hundred feet (100') upstream and downstream from the property line. Include position, species, and size of all trees at least ten inches (10") average diameter that are within one hundred feet (100') of the OHWM;
 - ix. The location, width, depth, and length of all existing and proposed structures, roads, stormwater management facilities, wastewater treatment and installation in relation to the stream/lake and its/their buffer(s); and
 - x. Location of site access, ingress and egress.
 - xi. Location of where all proposed mitigation or remediation measures have taken place on the site;

- b. Mitigation narrative: Mitigation narrative on 8.5" x 11" paper that includes the following elements:
 - i. Description of the mitigation plan, which includes a summary of mitigation proposal required in the supplement stream or lake study;
 - ii. Performance standards with specific criteria provided for evaluating whether or not the goals and objectives of the project are achieved.
 - iii. Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies.
- c. Monitoring and Maintenance Plan: The plan shall be on 8.5" x 11" paper that includes the following elements:
 - i. Operations and maintenance practices for protection and maintenance of the site;
 - ii. Monitoring and evaluation procedures, including minimum monitoring standards and timelines (i.e., annual, semi-annual, quarterly);
 - iii. Contingency plan with remedial actions for unsuccessful mitigation.
- d. Surety device must be filed with the City of Renton.

Stream or Lake Study, Standard: A report shall be prepared by a qualified biologist unless otherwise determined by the Administrator, and include the following information:

- a. Site Map: Site map(s) indicating, at a scale no smaller than one inch equals twenty feet (1'=20') (unless otherwise approved by the Planning Director):
 - (1) The entire parcel of land owned by the applicant, including one hundred feet (100') of the abutting parcels through which the water body(ies) flow(s);
 - (2) The ordinary high water mark (OHWM) determined in the field by a qualified biologist pursuant to RMC 4-3-050L1b (the OHWM must also be flagged in the field);
 - (3) Stream or Lake classification, as recorded in the City of Renton Water Class Map in RMC 4-3-050Q4 or RMC 4-3-090 (if unclassified, see "Supplemental Stream or Lake Study" below);
 - (4) Topography of the site and abutting lands in relation to the stream(s) and its/their buffer(s) at contour intervals of two feet (2') where slopes are less than ten percent (10%), and of five feet (5') where slopes are ten percent (10%) or greater;
 - (5) One hundred (100) year floodplain and floodway boundaries, including one hundred feet (100') of the abutting parcels through which the water body(ies) flow(s);
 - (6) Site drainage patterns, using arrows to indicate the direction of major drainage flow;
 - (7) Top view and typical cross-section views of the stream or lake bed, banks, and buffers to scale;
 - (8) The vegetative cover of the entire sitestie, including the stream or lake, banks, riparian area, and/or abutting wetland areas, extending one

- hundred feet (100') upstream and downstream from the property line. Include position, species, and size of all trees at least ten inches (10") average diameter that are within one hundred feet (100') of the OHWM;
- (9) The location, width, depth, and length of all existing and proposed structures, roads, stormwater management facilities, wastewater treatment and installation in relation to the stream/lake and its/their buffer(s); and
 - (10) Location of site access, ingress and egress.
- b. Grading Plan: A grading plan prepared in accordance with RMC 4-8-120D7, and showing contour intervals of two feet (2') where slopes are less than ten percent (10%), and of five feet (5') where slopes are ten percent (10%) or greater;
 - c. Stream or Lake Assessment Narrative: A narrative report on 8.5" x 11" paper shall be prepared to accompany the site plan and describes:
 - (1) The stream or lake classification as recorded in the City of Renton Water Class Map in RMC 4-3-050Q4 or RMC 4-3-090;
 - (2) The vegetative cover of the site, including the stream or lake, banks, riparian area, wetland areas, and flood hazard areas extending one hundred feet (100') upstream and downstream from the property line, including the impacts of the proposal on the identified vegetation;
 - (3) The ecological functions currently provided by the stream/lake and existing riparian area and the impacts of the proposal on the identified ecological functions;
 - (4) Observed or reported fish and wildlife that make use of the area including, but not limited to, salmonids, mammals, and bird nesting, breeding, and feeding/foraging areas, including the impacts of the proposal on the identified fish and wild life;
 - (5) Measures to protect trees, as defined per RMC 4-11-200, and vegetation; and
 - (6) For shorelines regulated under RMC 4-3-090 Shoreline Master Program, the study shall demonstrate if the proposal meets the criteria of no net loss of ecological functions as described in RMC 4-3-090D2. If the proposal requires mitigation in order to demonstrate no net loss of ecological functions, a supplemental stream or lake study is required.

Stream or Lake Study, Supplemental:

- a. Unclassified Stream Assessment: If the site contains an unclassified stream, a qualified biologist shall provide a proposed classification of the stream(s) based on RMC 4-3-050L1 and a rationale for the proposed rating.
- b. Analysis of Alternatives: A report on 8.5" x 11" paper prepared by a qualified biologist that evaluates alternative methods of developing the property. The following alternatives shall be analyzed, including justification of the feasibility of each alternative:

- i. Avoid any disturbances to the stream, lake, or buffer by not taking a certain action, by not taking parts of an action, or by moving the action;
 - ii. Minimize any stream, lake, or buffer impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce the impacts;
 - iii. Rectifying the impacts by repairing, rehabilitating, or restoring the affected area;
 - iv. Reducing or eliminating the adverse impact over time by preservation and maintenance operations over the life of the action;
 - v. Compensate for any stream, lake or buffer impacts by replacing, enhancing, or providing similar substitute resources or environments and monitoring the impact and taking appropriate corrective measures;
- c. Impact Evaluations
- i. An impact evaluation for any unavoidable impacts prepared by a qualified biologist, to include:
 - (a) Identification, by characteristics and quantity, of resources (stream, lake) and corresponding functional values found on the site;
 - (b) Evaluation of alternative locations, design modification, or alternative methods of development to determine which options(s) reduce(s) the impacts on the identified resource(s) and function values of the site;
 - (c) Determination of the alternative that best meets the applicable approval criteria and identify significant detrimental impacts that are unavoidable;
 - (d) To the extent that the site resources and functional values are part of a larger natural system such as a watershed, the evaluation must also consider the cumulative impacts on that system;
 - (e) For shorelines regulated by RMC 4-3-090, evaluation of how the preferred alternative achieves the standard of no net loss of ecological functions under RMC 4-3-090D2.
 - ii. For a violation, the impact evaluations must also include:
 - (a) Description, by characteristics and quantity, of the resource(s) and functional values on the site prior to the violations; and
 - (b) Determination of the impact of the violation on the resource(s) and functional values.
- d. Mitigation Proposal shall include the following:
- i. Site Plan, at a scale approved by the City, containing all the elements of the site plan required in the standard stream and lake study, and the following:
 - (a) Indication of where proposed mitigation or remediation measures will take place on the site;

- (b) Separate indication of areas where revegetation is to take place and areas where vegetation is anticipated to be removed; and
 - (c) Any other areas of impact with clear indication of type and extent of impact indicated on site plan.
- ii. Mitigation narrative on 8.5" x 11" paper addressing all of the following:
 - (a) Resource(s) and functional values to be restored, created, or enhanced on the mitigation site(s);
 - (b) Environmental goals, objectives, and performance standards to be achieved by mitigation;
 - (c) Discussion of compliance with criteria or conditions allowing for the proposed stream/lake alteration or buffer reduction or buffer averaging, and a discussion of conformity to applicable mitigation plan approval criteria;
 - (d) A review of the best available science supporting the proposed request for a reduced standard and/or the method of impact mitigation; a description of the report author's experience to date in restoring or creating the type of critical area proposed; and an analysis of the likelihood of success of the compensation project; and
 - (e) Cost estimates for implementation of mitigation plan for purposes of calculating surety device.
 - iii. For shorelines regulated by RMC 4-3-090, discussion of how the proposed plans meet or exceed the standard of no net loss of ecological functions under RMC 4-3-090D2;
 - iv. Proposed construction schedule.

Vegetation Management Plan: A plan prepared by a qualified professional that details how to preserve, maintain, enhance, or establish native vegetation within a Vegetation Conservation Buffer required by the Shoreline Master Program Regulations in RMC 4-3-090. The plan shall describe actions that will be implemented to ensure that buffer areas provide ecological functions equivalent to a dense native vegetation community to the greatest extent possible. It shall also specify what is necessary to maintain the required vegetation over the life of the use and/or development, consistent with the provisions of RMC 4-3-090F.1.i, Vegetation Management.

Wetland Assessment: A wetland assessment includes the following:

- a. A description of the project and maps at a scale no smaller than one inch equals two hundred feet (1"=20'), unless otherwise approved by the City, showing the entire parcel of land owned by the applicant and the wetland boundary surveyed by a qualified wetlands ecologist, and pursuant to RMC 4-3-050M3;
- b. A description of the vegetative cover of the wetland and adjacent area including identification of the dominant plant and animal species;
- c. A site plan for the proposed activity at a scale no smaller than one inch equals two hundred feet (1"=20'), unless otherwise approved by the City, showing the

- location, width, depth and length of all existing and proposed structures, roads, storm water management facilities, sewage treatment and installations within the wetland and its buffer;
- d. The exact locations and specification for all activities associated with site development including the type, extent and method of operations;
 - e. Elevations of the site and adjacent lands within the wetland and its buffer at contour intervals of no greater than five feet (5') or at a contour interval appropriate to the site topography and acceptable to the City;
 - f. Top view and typical cross-section views of the wetland and its buffer to scale;
 - g. The purposes of the project and, if a wetland alteration or a buffer reduction or averaging proposal is being requested, an explanation of how applicable review criteria are met;
 - h. If wetland mitigation is proposed, a mitigation plan which includes baseline information, an identification of direct and indirect impacts of the project to the wetland area and wetland functions, environmental goals and objectives, performance standards, construction plans, a monitoring program and a contingency plan.
 - i. Alternative Methods of Development: If wetland changes are proposed, the applicant shall evaluate alternative methods of developing the property using the following criteria in this order:
 - i. Avoid any disturbances to the wetland or buffer;
 - ii. Minimize any wetland or buffer impacts;
 - iii. Compensate for any wetland or buffer impacts;
 - iv. Restore any wetlands or buffer impacted or lost temporarily;
 - v. Create new wetlands and buffers for those lost; and
 - vi. In addition to restoring a wetland or creating a wetland, enhance an existing degraded wetland to compensate for lost functions and values.
 - j. Such other information as may be needed by the City, including, but not limited to an assessment of wetland functional characteristics, including a discussion of the methodology used; a study of hazards if present on site, the effect of any protective measures that might be taken to reduce such hazards; an assessment of the hydrological connection of the wetland to shorelines within the jurisdiction of the Shoreline Management Act, and any other information deemed necessary to verify compliance with the provisions of this Section.

SECTION VI. Renton Municipal Code Chapter 9 PERMITS-SPECIFIC Section RMC 4-3-197 Shoreline Permits is hereby amended to read as follows:

4-9-197 SHORELINE PERMITS

4-9-197. A. Purpose

The purpose of this section is to ensure consistency with the State Shoreline Management Act and with the City's Shoreline Master Program.

4-9-197B. Shoreline Development Approval

4-9-197B.1. Development Compliance: All uses and developments within the jurisdiction of the Shoreline Management Act shall be planned and carried out in a manner that is consistent with the Shoreline Master Program and the policy of the Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required. The reviewing official shall assure compliance with the provisions of the Shoreline Master Program for all permits and approvals processed by the city.

4-9-197B.2. Shoreline Overlay: Shoreline regulations shall apply as an overlay and in addition to Development Regulations, including but not limited to zoning, environmental regulations, development standards, subdivision regulations, and other regulations established by the City.

- a. Allowed uses shall be limited by the general polices and specific regulations regarding use preferences for water-dependent and water-oriented uses. Allowed uses may be specified and limited in specific shoreline permits. In the case of non-conforming development, the use provisions of this code shall be applied to any change of use, including occupancy permits.
- b. In the event of any conflict between Shoreline policies and regulations and any other regulations of the City, Shoreline policies and regulations shall prevail unless other regulations provide greater protection of the shoreline natural environment and aquatic habitat
- c. All regulations applied within the shoreline shall be liberally construed to give full effect to the objectives and purposes for which they have been enacted. Shoreline Master Program policies, found in the City's Comprehensive Plan, establish intent for the shoreline regulations in addition to RCW 90.58 and Chapter 173 of the Washington Administrative Code 173-26 and 173-27.

4-9-197B.3. Substantial Development Permit: A substantial development permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to RCW 90.58.140(1). An exemption from obtaining a shoreline substantial development permit is not an exemption from compliance with the Act, the Shoreline Master Program, or from any other regulatory requirements.

- a. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.
- b. The burden of proof that a development or use is exempt is on the applicant/proponent of the exempt development action.
- c. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire project.

4-9-197B.4. Shoreline Conditional Use Permit: A development or use that is listed as a shoreline conditional use pursuant to the Shoreline Master Program or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.

4-9-197B.5. Shoreline Variance: When an activity or development is proposed that does not comply with the bulk, dimensional, and/or performance standards of the Program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.

4-9-197B.6. Land Division: In the case of land divisions, such as short subdivisions, long plats and planned unit developments, the reviewing official shall document compliance with bulk and dimensional standards as well as policies and regulations of the Shoreline Master Program and attach appropriate conditions and/or mitigating measures to such approvals to ensure the design, development activities and future use associated with such land division(s) are consistent with the Shoreline Master Program.

4-9-197B.7. Approval Criteria: In order to be approved, the reviewing official must find that a proposal is consistent with the following criteria:

- a. All regulations of the Shoreline Master Program appropriate to the shoreline designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a shoreline variance.
- b. All policies of the Shoreline Master Program appropriate to the shoreline area designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated. A reasonable proposal that cannot fully conform to these policies may be permitted, provided it is demonstrated to the Reviewing Official that the proposal is clearly consistent with the overall goals, objectives and intent of the Shoreline Master Program.
- c. For projects located on Lake Washington the criteria in RCW 90.58.020 regarding shorelines of statewide significance, and relevant policies and regulations of the Shoreline Master Program shall be also be adhered to.

4-9-197B.8. Written Findings Required: All permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Reviewing official, including compliance with bulk and dimensional standards and policies and regulations of the Shoreline Master Program. The Reviewing official may attach conditions to the approval of exempt developments and/or uses as necessary to assure consistency of the project with the Act and the Program.

4-9-197B.9. Building Permit Compliance: For all development within shoreline jurisdiction, the Building Official shall not issue a building permit for such development until compliance with the Shoreline Master Program has been documented. If a shoreline substantial development permit is required, no permit shall be issued until all comment and appeal periods have expired. Any permit issued by the Building Official for such development shall be subject to the same terms and conditions that apply to the shoreline permit.

4-9-197B.10. Restoration Project Relief: The City may grant relief from Shoreline Master Program development standards and use regulations when the following apply:

- a. A shoreline restoration project causes or would cause a landward shift in the ordinary

- high water mark, resulting in the following:
- i. Land that had not been regulated under this chapter prior to construction of the restoration project is brought under shoreline jurisdiction; or
 - ii. Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the applicable Shoreline Master Program; and
 - iii. Application of Shoreline Master Program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent.
- b. The proposed relief meets all of the following criteria:
- i. The proposed relief is the minimum necessary to relieve the hardship;
 - ii. After granting the proposed relief, there is net environmental benefit from the restoration project;
 - iii. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the Shoreline Master Program; and
 - iv. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section.
- c. The application for relief must be submitted to the Department of Ecology for written approval or disapproval. This review must occur during the department's normal review of a shoreline substantial development permit, conditional use permit, or variance. If no such permit is required, then the department shall conduct its review when the local government provides a copy of a complete application and all supporting information necessary to conduct the review.
- i. Except as otherwise provided in Subsection d of this section, the Department of Ecology shall provide at least 20-days notice to parties that have indicated interest to the department in reviewing applications for relief under this section, and post the notice on to their web site.
 - ii. The department shall act within 30 calendar days of close of the public notice period, or within 30 days of receipt of the proposal from the local government if additional public notice is not required.
- d. The public notice requirements of Subsection c of this section do not apply if the relevant shoreline restoration project was included in a Shoreline Master Program or shoreline restoration plan as defined in WAC 173-26-201, as follows:
- i. The restoration plan has been approved by the department under applicable Shoreline Master Program guidelines; and
 - ii. The shoreline restoration project is specifically identified in the Shoreline Master Program or restoration plan or is located along a shoreline reach identified in the Shoreline Master Program or restoration plan as appropriate for granting relief from shoreline regulations; and
 - iii. The Shoreline Master Program or restoration plan includes policies addressing the nature of the relief and why, when, and how it would be applied.

4-9-197C. Exemptions from Permit System

The following shall not be considered substantial developments for the purpose of this Master Program and are exempt from obtaining a Shoreline Substantial Development Permit (SSDP). An exemption from an SSDP is not an exemption from compliance with the Act or the Shoreline Master Program, or from any other regulatory requirements.

1. **Governor's Certification:** Any project with a certification from the Governor pursuant to chapter 80.50 RCW.
2. **Projects Valued at \$5,000 or less:** Any development of which the total cost or fair market value does not exceed five thousand dollars (\$5,000.00), if such development does not materially interfere with the normal public use of the water or shorelines of the state.
3. **Maintenance and Repair:** Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements.
 - a. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.
 - b. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to the shoreline resource or environment.
 - c. 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.
4. **Emergency Construction:** Emergency construction necessary to protect property from damage by the elements.
 - a. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow for full compliance with the Shoreline Master Program.
 - b. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed to be the appropriate means to address the emergency situation, upon abatement of the emergency situation, the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, chapter 17-27 WAC or this Shoreline Program shall be obtained.
 - c. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the Shoreline Master Program.
 - d. In general, flooding or other seasonal events that can be anticipated and may occur, but that are not imminent are not an emergency.
5. **Agricultural Construction or Practices:** Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures, including, but not limited to, head gates, pumping facilities, and irrigation channels. A

feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling, other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

6. Construction of Single-Family Residence and Accessory Buildings: Construction on shorelands by an owner, lessee or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of 35 feet above average grade level as defined in WAC 173-27-030 and which meets all requirements of the State agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this Section.

- a. "Single family" residence means a detached dwelling designed for and occupied by one (1) family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single family residence and is located landward of the ordinary high water mark and the perimeter of a wetland.
- b. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

7. Construction of Non-Commercial Docks: Construction of a dock including a community dock designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multi-family residences.

- a. This exception applies if
the fair market value of the dock does not exceed ten thousand dollars (\$10,000.00); however, if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500.00) occurs within five (5) years of completion of the prior construction, the subsequent construction shall be considered a substantial development permit; and
- b. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances.

8. Construction Authorized by the Coast Guard: Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys.

9. Operation, Maintenance, or Construction Related to Irrigation: Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands.

10. Marking of Property Lines on State-Owned Lands: The marking of property lines or corners on State-owned lands when such marking does not interfere with the normal public use of the surface of the water.

11. Operation and Maintenance of Agricultural Drainage or Dikes: Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on

September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system.

12. Activities Necessary for Permit Application: Site exploration and investigation activities that are prerequisites to preparation of an application for development authorization under the Shoreline Master Program, if:

- a. The activity does not interfere with the normal 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.
- c. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity.
- d. A private entity seeking development authorization under the Shoreline Master Program first posts a performance bond or provides other evidence of financial responsibility to the Planning Division to ensure that the site is restored to pre-existing conditions.
- e. The activity is not subject to the permit requirements of RCW 90.58.550.

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

14. Watershed Restoration Projects: Watershed restoration projects as defined below:

- a. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:
 - i. A project that involves less than ten (10) miles of stream reach, in which less than twenty five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings.
 - ii. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water.
 - iii. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the State, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred (200) square feet in floor area and is located above the ordinary high water mark of the stream.
- b. "Watershed restoration plan" means a plan, developed or sponsored by a state department, a federally recognized Indian Tribe, a city, a county or a conservation district, for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act. The watershed restoration plan

generally contains a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed.

15. Projects to Improve Fish and Wildlife Passage or Habitat: A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:

- a. The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose.
- b. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to chapter 75.20 RCW.
- c. The Planning Division has determined that the project is consistent with this Master Program.

16. Hazardous Substance Remediation: Hazardous substance remedial actions pursuant to WAC 173-27-040(3).

17. Projects on Lands Not Subject to Shoreline Jurisdiction Prior to Restoration: Actions on land that otherwise would not be under the jurisdiction of the Shoreline Management Act except for a change in the location of OHWM or other criteria due to a shoreline restoration project creating a landward shift in the ordinary high water mark that brings the land under the jurisdiction of the Act.

4-9-197D. Exemption Certification Procedures

1. Application Required: Any person claiming exemption from the permit requirements of this Master Program as a result of the exemptions specified in this Section shall make application for a no-fee exemption certificate to the Planning Division in the manner prescribed by that division.

2. Consistency Required: Any development which occurs within the regulated shorelines of the state under Renton's jurisdiction, whether it requires a permit or not, must be consistent with the intent of the state law.

3. Conditions Authorized: The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Shoreline Management Act and the Shoreline Master Program.

4. Permit Required if Project Not Exempt in Part: If any part of a proposed development is not eligible for exemption, then a shoreline permit is required for the entire proposed development project.

4-9-197E. Shoreline Permit Application Procedures

1. Information Prior to Submitting a Shoreline Substantial Development Permit Application: Prior to submitting an application for a shoreline permit or an exemption from a shoreline permit, the applicant should informally discuss a proposed development with the Planning Division. This will enable the applicant to become familiar with the requirements of this Master Program, Building and Zoning procedures, and enforcement procedures.

2. Shoreline Substantial Development Permit Required: No shoreline development shall be undertaken on shorelines of the City without first obtaining a “substantial development permit” from the Planning Division.

3. Shoreline Substantial Development Permit Application Forms and Fees: Fees shall be as listed in RMC 4-1-170, Land Use Review Fees. Submittal requirements shall include the materials listed in RMC 4-8-120C as well as other related requirements specified in RMC 4-3-090.

4. Secondary Review By Independent Qualified Professionals: When appropriate due to the type of critical areas, habitat, or species present, or project area conditions, the Reviewing Official may require the applicant to prepare or fund analyses or activities conducted by third party or parties selected by the Reviewing Official and paid for by the applicant. Analyses and/or activities conducted under this Subsection include, but are not limited to:

- a. Evaluation by an independent qualified professional of the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; and
- b. A request for consultation with the Washington Department of Fish and Wildlife, Washington State Department of Ecology, or the local Native American Indian Tribe or other appropriate agency; and/or
- c. Analysis of detailed surface and subsurface hydrologic features both on and adjacent or abutting to the site.

5. Public Notice: Three (3) copies of a notice of development application shall be posted prominently on the property concerned and in conspicuous public places within three hundred (300) feet thereof. The notice of development application shall also be mailed to property owners within three hundred (300) feet of the boundaries of the subject property. The required contents of the notice of development application are detailed in RMC 4-8-090B, Public Notice Requirements.

6. Standard Public Comment Time: Each notice of development application shall include a statement that persons desiring to present their views to the Planning Division with regard to said application may do so in writing to that Division and persons interested in the Planning Division’s action on an application for a permit may submit their views in writing or notify the Planning Division in writing of their interest within fourteen (14) days from the date of the notice of application.

7. Special Public Comment Time: Notice of development application for a substantial development permit regarding a limited utility extension as defined in RCW 90.58.140 (11)(b) or for the construction of a bulkhead or other measures to protect a single family residence and its appurtenant structures from shoreline erosion shall include a fourteen (14) day comment period. Such notification or submission of views to the Planning Division shall entitle those persons to a copy of the action taken on the application.

8. Review Guidelines: Unless exempted or authorized through the variance or conditional use permit provisions of this Master Program, no substantial development permit and no other permit shall be granted 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 thereunder.

9. Conditional Approval: Should the Planning Division Director or his/her designee find that any application does not substantially comply with criteria imposed by the Master Program and the Shoreline Management Act of 1971, he/she may deny such application or attach any terms or condition which he/she deems suitable and reasonable to effect the purpose and objective of this Master Program.

10. Notification: It shall be the duty of the Planning Division to timely furnish copies of all applications and actions taken by said division unto such other officials or departments whose jurisdiction may extend to all or any part of the proposed development, including any state or federal agencies and Indian tribes.

4-9-197F. Review Criteria

1. General: The Planning Division shall review an application for a permit based on the following:

- a. The application.
- b. The environmental checklist or environmental impact statement, if one is required.
- c. Written comments from interested persons.
- d. Information and comments from all affected City departments.
- e. Evidence presented at a public hearing.
- f. No authorization to undertake use or development on shorelines of the state shall be granted by the Responsible Official unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the Renton Shoreline Master Program.

2. Additional Information: The Planning Division may require an applicant to furnish information and data in addition to that contained or required in the application forms prescribed. Unless an adequate environmental statement has previously been prepared for the proposed development by another agency, the City's Environmental Review committee shall cause to be prepared such a statement, prior to granting a permit, when the State Environmental Policy Act of 1971 would require such a statement.

3. Procedural Amendments: In addition to the criteria hereinabove set forth in this Section, the Department of Community and Economic Development may from time-to-time promulgate additional procedures or criteria and such shall become effective, when reduced to writing, and filed with the City Clerk and as approved by the City Council and the Department of Ecology.

4. Burden of Proof on Applicant: The burden of proving that the proposed substantial development is consistent with the criteria which must be met before a permit is granted shall be on the applicant.

4-9-197G. Surety Devices

The Planning Division may require the applicant to post a surety device in favor of the City of Renton to assure full compliance with any terms and conditions imposed by said department on any shoreline permit. Said surety device shall be in an amount to reasonably assure the City that any deferred improvement will be carried out within the time stipulated and in accordance with RMC 4-1-230 Surety and Bonds.

4-9-197H. Administrative Appeals

The Department of Community and Economic Development shall have the final authority to interpret the Master Program for the City of Renton. Where an application is denied or changed, per Subsection E6 of this Section, an applicant may appeal the decision denying or changing a “substantial development permit” to the Shoreline Hearings Board for an open record appeal in accordance with RMC 4-8-110. See RMC 4-8-110H for appeal procedures to the Shoreline Hearings Board.

4-9-197I. Variances and Conditional Uses

1. Purpose: The power to grant variances and conditional use permits should be utilized in a manner which, while protecting the environment, will assure that a person will be able to utilize his property in a fair and equitable manner.

2. Authority

- a. **Conditional use permits:** conditional use permits shall be processed either by the City Hearing Examiner or administratively in accordance with the provisions to RMC 4-2-060 Zoning Use Table, provided that:
 - i. Additional requirements for conditional use permits may be provided within shoreline jurisdiction in this section and will prevail over the provisions of RMC 4-2-060.
 - ii. If an administrative process is not specified, a conditional use permit shall be processed by the Hearing Examiner.
 - iii. Proposed uses not specified in this Section or in RMC 4-2-060 and not prohibited may be allowed by Hearing Examiner conditional use permit.
- b. **Variances:** The Renton Land Use Hearing Examiner shall have authority to grant conditional use permits and variances in the administration of the Renton Master Program.
- c. **State Department of Ecology Decision:** Both variances and conditional use permits are forwarded to the Department of Ecology and the Attorney General’s office for approval or denial.
- d. **Time Limit, Permit Validity, and Appeals:** Conditional permits and variances shall be deemed to be approved within thirty (30) calendar days from the date of receipt by the Department of Ecology and the Attorney General’s office unless written communication is received by the applicant and the City indicating otherwise.
 - i. Conditional use permits and variances shall be filed with the State in accordance with RCW 90.58.140(6) and WAC 173-27-130.
 - ii. Permit validity requirements of Subsection J of this Section shall apply to conditional use and variance permits.
 - iii. Appeals of conditional use or variance permits shall be made in accordance with RMC 4-8-110H.

3. Maintenance of Permitted Uses Allowed: It shall be recognized that a lawful use at the time the Master Program is adopted is to be considered a permitted use, and maintenance and restoration shall not require a variance or a conditional use permit.

4. Variances:

- a. Purpose: Upon proper application, a substantial development permit may be

granted which is at variance with the criteria established in the Renton Master Program where, owing to special conditions pertaining to the specific piece of property, the literal interpretation and strict application of the criteria established in the Renton Master Program would cause undue and unnecessary hardship or practical difficulties.

- b. **Decision Criteria:** The fact that the applicant might make a greater profit by using his property in a manner contrary to the intent of the Master Program is not, by itself, sufficient reason for a variance. The Land Use Hearing Examiner must find each of the following:
 - i. Exceptional or extraordinary circumstances or conditions applying to the subject property, or to the intended use thereof, that do not apply generally to other properties on shorelines in the same vicinity.
 - ii. The variance permit is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties on shorelines in the same vicinity.
 - iii. The variance permit will not be materially detrimental to the public welfare or injurious to property on the shorelines in the same vicinity.
 - iv. The variance granted will be in harmony with the general purpose and intent of this Master Program.
 - v. The public welfare and interest will be preserved; if more harm will be done to the area by granting the variance than would be done to the applicant by denying it, the variance shall be denied, but each property owner shall be entitled to the reasonable use and development of his lands as long as such use and development is in harmony with the general purpose and intent of the Shoreline Management Act of 1971, and the provisions of this Master Program.
 - vi. The proposal meets the variance criteria in WAC 173-27-170.

5. Conditional Use

- a. **Purpose:** Upon proper application, and findings of compliance with conditional use permit criteria, a conditional use permit may be granted. The objective of a conditional use provision is to provide more control and flexibility for implementing the regulations of the Master Program. With provisions to control undesirable effects, the scope of uses can be expanded to include many uses.
- b. **Decision Criteria:** Uses classified as conditional uses can be permitted only after consideration and by meeting such performance standards that make the use compatible with other permitted uses within that area. A conditional use permit may be granted subject to the Reviewing Official determining compliance with each of the following conditions:
 - i. The use must be compatible with other permitted uses within that area.
 - ii. The use will not interfere with the public use of public shorelines.
 - iii. Design of the site will be compatible with the surroundings and the City's Master Program.
 - iv. The use shall be in harmony with the general purpose and intent of the City's Master Program.
 - v. The use meets the conditional use criteria in WAC 173-27-160.

4-9-197J. Time Requirements for Shoreline Permits

1. **Applicability:** The time requirements of this Section shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized under the Shoreline Master Program.
2. **Unspecified Time Limits:** Where specific provisions are not included to establish time limits on a permit as part of action on a permit by the City or the Department of Ecology, the time limits in Subsections J2 and J3 of this Section apply.
3. **Discretionary Time Limits for Shoreline Substantial Developments:** If it is determined that standard time requirements of Subsections J2 and J3 of this Section should not be applied, the Planning Division shall adopt appropriate time limits as a part of action on a substantial development permit upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of this Master Program and RCW 90.58.143.
4. **Discretionary Time Limits for Shoreline Conditional Uses or Shoreline Variances:** If it is determined that standard time requirements of Subsections J2 and J3 of this Section should not be applied, the Hearing Examiner, upon a finding of good cause and with the approval of the Department of Ecology, shall establish appropriate time limits as a part of action on a conditional use or variance permit. "Good cause" means that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted.
5. **Extension Requests:** Requests for permit extension shall be made in accordance with Subsections J2 and J3 of this Section.
6. **Standard Period of Validity:** Unless a different time period is specified in the shoreline permit as authorized by RCW 90.58.143 and Subsection J1 of this Section, construction activities, or a use or activity, for which a permit has been granted pursuant to this Master Program must be commenced within two (2) years of the effective date of a shoreline permit, or the shoreline permit shall terminate, and a new permit shall be necessary. However, the Planning Division may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed with the Division before the expiration date, and notice of the proposed extension is given to parties of record and the Department of Ecology.
7. **Certification of Construction Commencement.** Construction activities or commencement of construction referenced in Subsection J2a of this Section means that construction applications must be submitted, permits must be issued, and foundation inspections must be approved and completed before the end of the two (2) year period.
8. **Time Allowed for Construction Completion:** A permit authorizing construction shall extend for a term of no more than five (5) years after the effective date of a shoreline permit, unless a longer period has been specified pursuant to RCW 90.58.143 and Subsection J1 of this Section. If an applicant files a request for an extension prior to expiration of the shoreline permit the Planning Division shall review the permit and upon a showing of good cause may authorize a single extension of the shoreline permit for a period of up to one year. Otherwise said permit shall terminate. Notice of the proposed permit extension shall be given to parties of record and the Department of Ecology. To maintain

the validity of a shoreline permit, it is the applicant's responsibility to maintain valid construction permits in accordance with adopted Building Codes.

9. Effective Date of Filing:

For purposes of determining the life of a shoreline permit, the effective date of a substantial development permit, shoreline conditional use permit, or shoreline variance permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in Subsections J2 and J3 of this Section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions, or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

10. Notification of City of Other Permits and Legal Actions: It is the responsibility of the applicant to inform the Planning Division of the pendency of other permit applications filed with agencies other than the City, and of any related administrative or legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the Division prior to the expiration date established by the shoreline permit or the provisions of this Section, the expiration of a permit shall be based on the effective date of the shoreline permit.

11. Permit Processing Time: The City shall issue permits within applicable time limits specified by state law. Substantial development permits for a limited utility extension as defined in RCW 90.58.140(11)(b) or for the construction of a bulkhead or other measures to protect a single family residence and its appurtenant structures from shoreline erosion shall be issued within 21 days of the last day of the comment period specified in RMC 4-9-197E3.

12. Construction Not Authorized Until Proceedings Completed: No construction pursuant to such permit shall begin or be authorized and no building, grading or other construction permits or use permits shall be issued by the City until 21 days from the date the permit was filed with the Department of Ecology and the Attorney General, or until all review proceedings are completed as were initiated within the twenty one (21) days of the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

13. Special Allowance for Construction: If the granting of a shoreline permit by the City is appealed to the Shoreline Hearings Board, and the Shoreline Hearings Board has approved the granting of the permit, and an appeal for judicial review of the Shoreline Hearings Board decision is filed, construction authorization may occur subject to the conditions, time periods, and other provisions of RCW 90.58.140(5)(b).

4-9-197K. Rulings to State

Any ruling on an application for a substantial development permit under authority of this Master Program, whether it is an approval or denial, shall, with the transmittal of the ruling to the applicant, be filed concurrently with the Department of Ecology and the Attorney General by the Planning Division. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

4-9-197L. Transferability of Permit

If a parcel which has a valid shoreline permit is sold to another person or firm, such permit may be transferred to the new owner.

4-9-197M. Enforcement

All provisions of this Master Program shall be enforced by the Planning Division. For such purposes, the Director or his duly authorized representative shall have the power of a police officer.

4-9-197N. Rescission of Permits

1. Noncompliance with Permit: Any shoreline permit issued under the terms of this Master Program may be rescinded or suspended by the Planning Division of the City upon a finding that a permittee has not complied with conditions of the permit.

2. Notice of Noncompliance: Such rescission and/or modification of an issued permit shall be initiated by serving written notice of noncompliance on the permittee, which notice shall be sent by registered or certified mail, return receipt requested, to the address listed on the application or to such other address as the applicant or permittee may have advised the City; or such notice may be served on the applicant or permittee in person or his agent in the same manner as service of summons as provided by law.

3. Posting: In addition to such notice, the Planning Division shall cause to have notice posted in three (3) public places of which one posting shall be at or within the area described in the permit.

4. Public Hearing: Before any such permit can be rescinded, a public hearing shall be held by the Land Use Hearing Examiner. Notice of the public hearing shall be made in accordance with RMC 4-8-090D, Public Notice Requirements.

5. Final Decision: The decision of the Land Use Hearing Examiner shall be the final decision of the City on all rescinded applications. A written decision shall be transmitted to the Department of Ecology, the Attorney General's office, the applicant, and such other departments or boards of the City as are affected thereby and the legislative body of the City.

4-9-197O. Appeals

See RMC 4-8-110H.

4-9-197H. Violations and Penalties

1. Prosecution: Every person violating any of the provisions of this Master Program or the Shoreline Management Act of 1971 shall be punishable under conviction by a fine not exceeding one thousand dollars (\$1,000.00), or by imprisonment not exceeding 90 days, or by both such fine and imprisonment, and each day's violation shall constitute a separate punishable offense.

2. Injunction: The City Attorney may bring such injunctive, declaratory or other actions as are necessary to insure that no uses are made of the shorelines of the State within the City's jurisdiction which are in conflict with the provisions and programs of this Master Program or the Shoreline Management Act of 1971, and to otherwise enforce provisions of this Section and the Shoreline Management Act of 1971.

3. Violators Liable for Damages: Any person subject to the regulatory program of this Master Program who violates any provision of this Master Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The City Attorney may bring suit for damages under this subsection on behalf of the City. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by violation, the Court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the Court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

4-9-197Q. Shoreline Moratorium

1. The City Council may adopt moratoria or other interim official controls as necessary and appropriate to implement the provisions of the Shoreline Management Act.
2. Prior to adopting such moratorium or other interim official controls, the City Council shall:
 - a. Hold a public hearing on the moratorium or control within 60 days of adoption;
 - b. Adopt detailed findings of fact that include, but are not limited to, justifications for the proposed or adopted actions and explanations of the desired and likely outcomes; and
 - c. Notify the Department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing held.
3. Said moratorium or other official control shall provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium.
4. Said moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. A moratorium or control may be renewed for two six-month periods if the City Council complies with Subsection 4-9-197.Q.2.a. before each renewal.
5. If a moratorium or control is in effect on the date a proposed Master Program or amendment is submitted to the Department of Ecology, the moratorium or control must remain in effect until the department's final action under RCW 90.58.090; however, the moratorium expires six months after the date of submittal if the department has not taken final action.

SECTION VII. Renton Municipal Code Chapter 10 LEGAL NONCONFORMING USES, STRUCTURES, AND LOTS Section 4-10-095 Shoreline Master Program, Nonconforming Uses, Activities, Structures and Sites is adopted as follows:

4-10-095 Shoreline Master Program, Nonconforming Uses, Activities, Structures, and Sites

A shoreline use or development which was lawfully constructed or established prior to the effective date of the applicable Shoreline Master Program, or amendments thereto, but which does not conform to present regulations or standards of the program, may be continued provided that:

4-10-095A. Nonconforming Structures: Other than shoreline stabilization structures, Nonconforming structures shall be governed by RMC 4-10-050.

4-10-095B. Nonconforming Uses. Nonconforming uses shall be governed by RMC 4-10-060.

4-10-095C. Nonconforming Site: A lot which does not conform to development regulations on a site not related to the characteristics of a structure including, but not limited to, the vegetation conservation, ~~shoreline stabilization,~~ landscaping, parking, fence, driveway, street opening, pedestrian amenity, screening and other regulations of the district in which it is located due to changes in Code requirements, condemnation or annexation; provided, however, that shoreline stabilization is specifically excluded from this definition.

4-10-095D. Pre-Existing Legal Lot: Reserved.

4-10-095E. Continuation of Use: The continuation of existing use and activities does not require prior review or approval. Operation, maintenance, or repair of existing legally established structures, infrastructure improvements, utilities, public or private roads, or drainage systems, that do not require construction permits, if the activity does not modify the character, scope, or size of the original structure or facility or increase the impact to, or encroach further within, the sensitive area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities, provided that such management actions are part of regular and ongoing maintenance, do not expand further into the sensitive area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species.

4-10-095F. Partial and Full Compliance, Alteration of Nonconforming Structure or Site:

The following provisions shall apply to lawfully established uses, buildings and/or structures and related site development that do not meet the specific standards of the Shoreline Master Program. Alteration or expansion of existing structures may take place with partial compliance with the standards of this code, as provided below, provided that the proposed alteration or expansion will result in no net loss of shoreline ecological function.

4-10-095F.1. Partial Compliance for Non-Single-Family Development: The following provisions shall apply to all development except single family provided that expansion of the non-

conformity shall not extend either further waterward than the existing structure, and shall comply with all other dimensional standards:

Alteration of a Non-conforming Structure		Compliance Standard
Minor Alteration	Expansion of building footprint by up to 500 sq.ft. or up to 10% (whichever is less); or	<ul style="list-style-type: none"> Partial compliance with Vegetation Conservation provisions of RMC 4-3-090.F.1 Vegetation Conservation consisting of revegetation of a native community of at least 50% of the area between an existing building and the water's edge, or at least 15 feet. Remove over water structures that do not provide public access, or do not serve a water-dependent use.
	Expansion of impervious surface by up to 1,000 sq. ft. or up to 10% (whichever is less); or	
	Remodeling or renovation that equals less than 30% of the replacement value of the existing structures or improvements, excluding plumbing, electrical and mechanical systems and normal repair and maintenance.	
Moderate Alteration	Expansion of building footprint by more than 500 sq. ft. or between 10.1-25% (whichever is less); or	<ul style="list-style-type: none"> Partial compliance with Vegetation Conservation provisions of RMC 4-3-090.F.1 Vegetation Conservation consisting of revegetation of a native community of at least 80% of the area between an existing building and the water's edge, or at least 15 feet. Remove over water structures that do not provide public access, or do not serve a water-dependent use. Piers and Docks shall be required to replace any solid surfaces with light penetrating surfacing materials. Shoreline stabilization structures not conforming to, or otherwise permitted by, the provisions of this code shall be replaced with conforming shoreline stabilization structures in accordance with the standards for new shoreline stabilization structures in RMC 4-3-090F.4 Shoreline Stabilization. <p><u>[Comment: The stricken text has no logical or fair relation to the alterations in the column to the left. That text is unduly burdensome to property owners, amounts to a taking of their property, violates RCW 82.02.020, and goes far beyond the requirement for "no net loss of shoreline ecological function".]</u></p>
	Expansion of impervious surface by more than 1,000 sq. ft., or between 10.1-25% (whichever is less); or	
	Remodeling or renovation that equals 30.1-50% of the replacement value of the existing structures or improvements, excluding plumbing, electrical and mechanical systems and normal repair and maintenance.	
Major Alteration	Expansion of building footprint by more than 25%; or	<p>Full compliance required with all development standards for new structures <u>(other than for docks and shoreline stabilization structures)</u>, including, but not limited to: primary and accessory structures, docks, and shoreline stabilization structures if such structures are not otherwise permitted by the provisions of RMC 4-3-090 Shoreline Master Program. <u>[Comment: The text revisions shown are proposed because the prior text has no logical or fair relation to the alterations in the column to the left. That</u></p>
	Expansion of impervious surface by more than 25%; or	
	Remodeling or renovation that equals more than 50% of the replacement value of the existing structures or improvements, excluding plumbing, electrical and mechanical systems and normal repair and maintenance.	

		<u>prior text is unduly burdensome to property owners, amounts to a taking of their property, violates RCW 82.02.020, and goes far beyond the requirement for “no net loss of shoreline ecological function”.]</u>
--	--	--

4-10-095F.2. Partial Compliance for Single-Family Development: The following provisions shall apply provided that expansion of the non-conformity shall not extend either further waterward than the existing structure, and shall comply with all other dimensional standards:

Alteration of a Non-conforming Structure		Compliance Standard
Minor Alteration	Expansion of building footprint by up to 500 sq.ft. or up to 10% (whichever is less); or	<ul style="list-style-type: none"> Partial compliance with Vegetation Conservation provisions of RMC 4-3-090.F.1 Vegetation Conservation consisting of revegetation of a native community of at least 50% of the area between an existing building and the water’s edge provided that the area to be revegetated shall not be more than 15 feet. Remove over water structures that do not provide public access, or do not serve a water-dependent use.
	Expansion of impervious surface by up to 1,000 sq. ft. or up to 10% (whichever is less)	
Moderate Alteration	Expansion of building footprint by more than 500 sq. ft. or between 10.1-25% (whichever is less); or	<ul style="list-style-type: none"> Partial compliance with Vegetation Conservation provisions of RMC 4-3-090.F.1 Vegetation Conservation consisting of revegetation of a native community of at least 80% of the area between an existing building and the water’s edge, or at least 15 feet, provided that the area to be revegetated shall not be more than 25% of the lot depth feet. Remove over water structures that do not provide public access, or do not serve a water-dependent use. • Piers and Docks shall be required to replace any solid surfaces with light penetrating surfacing materials. Shoreline stabilization structures not conforming to, or otherwise permitted by, the provisions of this code shall be replaced with conforming shoreline stabilization structures in accordance with the standards for new shoreline stabilization structures in RMC 4-3-090F.4 Shoreline Stabilization. [Comment: The stricken text has no logical or fair relation to the alterations in the column to the left. That text is unduly burdensome to property owners, amounts to a taking of their property, violates RCW 82.02.020, and goes far beyond the requirement for “no net loss of shoreline ecological function”.]
	Expansion of impervious surface by more than 1,000 sq. ft., or between 10.1-25% (whichever is less)	
Major Alteration	Expansion of building footprint by more than 25%; or	Full compliance required with all development standards for new structures (other than for docks and shoreline stabilization structures) , including, but not limited to: primary and accessory structures, docks, and shoreline stabilization structures if such structures are not otherwise permitted by the provisions of RMC 4-3-090 Shoreline Master Program. [Comment: The text revisions shown are proposed because the prior text has no logical or fair relation to the alterations in the column to the left. That prior text is unduly burdensome to property owners, amounts to a taking
	Expansion of impervious surface by more than 25%	

		<u>of their property, violates RCW 82.02.020, and goes far beyond the requirement for “no net loss of shoreline ecological function”.]</u>
--	--	--

SECTION VIII. Renton Municipal Code Chapter 11 DEFINITIONS is amended to add the following definitions specific to the Shoreline Master Program

SHORELINE DEFINITIONS IN RENTON MUNICIPAL CODE CHAPTER 4-11

Note: only the definitions pertaining to the SMP are included in this section.

4-11-010 DEFINITIONS A:

ACT, SHORELINE MANAGEMENT: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) The Shoreline Management Act of 1971, chapter 90.58 RCW as amended.

ACTIVITY: A happening 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, wildlife nesting, or discharging of materials. Not all activities necessarily require a shoreline location.

AQUACULTURE: The culture of farming of aquatic animals and plants.

4-11-020 DEFINITIONS B:

BOAT LAUNCHING RAMP: A facility with an inclined surface extending into the water which allows launching of boats directly into the water from trailers.

BREAKWATER: A protective structure, usually built off-shore for the purpose of protecting the shoreline or harbor area from wave action.

BUFFER, SHORELINES: A strip of land that is designated to permanently remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic, riparian, or wetland site from upland impacts, to provide habitat for wildlife and to afford limited public access. Uses and activities within the buffer are ~~extremely~~ limited by the provisions of this Shoreline Master Program.

BULKHEAD: A vertical wall constructed of rock, concrete, timber, sheet steel, gabions, or patent system materials. Rock bulkheads are often termed “vertical rock walls.” Seawalls are similar to bulkheads, but more robustly constructed.

BUOY: A floating object anchored in a lake, river, etc., to warn of rocks, shoals, etc., or used for boat moorage.

4-11-030 DEFINITIONS C:

CIRCULATION: The movement of passengers or goods to, from, over, or along a transportation corridor.

CONDITIONAL USE, SHORELINE: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) A use, development, or substantial development which is classified as a conditional use or is not classified within the applicable Master Program.

CORRIDOR: A strip of land forming a passageway between two (2) otherwise separate parts.

4-11-040 DEFINITIONS D:

DEVELOPMENT: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) A use consisting of the construction of exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any other projects of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level.

DOCK: A fixed or floating platform extending from the shore over the water.

DREDGING: The removal of earth from the bottom or banks of a body of water.

4-11-060 DEFINITIONS F:

FLOOD CONTROL: Any undertaking for the conveyance, control, storage, and dispersal of flood waters.

FLOOD, ONE HUNDRED (100) YEAR: The maximum flood expected to occur during a one-hundred (100) year period.

FLOODPLAIN: The area subject to a one hundred (100) year flood.

FLOODWAY: For purposes of determining the jurisdiction of the Shoreline Master Program in conjunction with the definition of "shoreland," "floodway" means the area, as identified in a Master Program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

4-11-080 DEFINITIONS H:

HEARINGS BOARD: The Shorelines Hearings Board established by the Act.

4-11-120 DEFINITIONS L:

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

LOCAL SERVICE UTILITIES: Public or private utilities normally servicing a neighborhood or defined subarea in the City, e.g., telephone exchanges; sanitary sewer; stormwater facilities; distribution lines, electrical less than fifty five (55) kV, telephone, cable TV, etc.

4-11-130 DEFINITIONS M:

MAJOR SERVICE UTILITY: Public or private utilities which provide services beyond the City's boundaries, i.e., pipelines, natural gas, water, sewer, petroleum; electrical transmission lines fifty five (55) kv or greater; and regional sewer or water treatment plants, etc.

MARINA: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) A use providing moorage for pleasure craft, which also may include boat launching facilities, storage, sales, and other related services.

MASTER PROGRAM: The comprehensive shoreline use plan for the City of Renton and the use regulations, together with maps, diagrams, charts or other descriptive material and text, and a statement of desired goals and standards developed in accordance with the policies enunciated in Section 2 of the Act.

MOORAGE: Any device or structure used to secure a vessel for temporary anchorage, but which is not attached to the vessels. Examples of moorage are docks, pilings, or buoys.

MULTIPLE USE: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) The combining of compatible uses within one development, in which water-oriented and non-water-oriented uses are included.

4-11-140 DEFINITIONS N:

NONCONFORMING SITE: A lot which does not conform to development regulations not related to the characteristics of a structure but to the facilities provided on a site including but not limited to, the vegetation conservation, shoreline stabilization, landscaping, parking, fence, driveway, street opening, pedestrian amenity, screening and other regulations of the district in which it is located due to changes in Code requirements, or annexation.

NON WATER-DEPENDENT USE: Those uses which are not water-dependent.

NON-WATER-ORIENTED USE: Those uses which are not water-dependent, water-related, or water-enjoyment.

4-11-150 DEFINITIONS O:

OPEN SPACE: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) A land area allowing view, use or passage which is almost entirely unobstructed by buildings, paved areas, or other manmade structures.

ORDINARY HIGH WATER MARK (OHWM): On lakes and streams, that mark 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 as of the effective date of regulations, as it may naturally change thereafter, or as it may change in accordance with permits issued by the City or State. The following criteria clarify this mark on lakes and streams:

- A. Lakes. Where the ordinary high water mark cannot be found, it shall be the line of mean high water.
- B. Streams. Where the ordinary high water mark cannot be found, it shall be the line of mean high water. For braided streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs.

4-11-160 DEFINITIONS P:

PARTY OF RECORD: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) All persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

PERMIT, SHORELINE: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) Any substantial development, variance, conditional use permit, or revision authorized under chapter 90.58 RCW.

PIER: A general term including docks and similar structures consisting of a fixed or floating platform extending from the shore over the water. This definition does not include overwater trails.

PLANNED URBAN DEVELOPMENT: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) Special contractual agreement between the developer and a governmental body governing development of land.

PUBLIC AQUATIC LANDS: Land managed by the Washington State Department of Natural Resources (DNR) located inside the designated inner harbor line.

PUBLIC ACCESS: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) A means of physical approach to and along the shoreline available to the general public. This may also include visual approach.

PUBLIC INTEREST: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

4-11-180 DEFINITIONS R:

RECREATION: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) The refreshment of body and mind through forms of play, amusement or relaxation. The recreational experience may be active, such as boating, fishing, and swimming, or may be passive such as enjoying the natural beauty of the shoreline or its wildlife. This definition includes both public and private facilities.

4-11-190 DEFINITIONS S:

SETBACK: (For purposes of the Shoreline Master Program.) A required open space specified in the Shoreline Master Program, measured horizontally upland from and perpendicular to the ordinary high water mark.

SHORELAND or SHORELAND AREAS: Those lands extending landward for two hundred feet (200) in all directions, as measured on a horizontal plane from ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet (200) from such floodways; and all marshes, bogs, swamps, and river deltas, associated with streams, lakes and tidal waters which are subject to the provisions of the State Shorelines Management Act. For purposes of determining jurisdictional area, the boundary will be either two hundred feet (200) from the ordinary high water mark, or two hundred feet (200) from the floodway, whichever is greater.

SHORELINE STABILIZATION: Structural and nonstructural methods to address erosion and other stability impacts to property and dwellings, businesses, or structures caused by natural or other processes, such as currents, floods, tides, wind, or wave action.

SHORELINES: All of the water areas of the State regulated by the City of Renton, including reservoirs, and their associated shorelands, together with the lands underlying them, except:

1. Shorelines of statewide significance.
2. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less and the wetlands associated with such upstream segments.
3. Shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes.

SHORELINES OF STATEWIDE SIGNIFICANCE: Those shorelines described in RCW 90.58.030(2)(e).

SHORELINES OF THE STATE: The total of all “shorelines” and “shorelines of statewide significance” regulated by the City of Renton.

STRUCTURE: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

SUBDIVISION: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) A parcel of land divided into two (2) or more parcels.

SUBSTANTIAL DEVELOPMENT: Any development of which the total cost or fair market value exceeds five thousand dollars (\$5,000) or any development which materially interferes with the normal public use of the water or shoreline of the State. Exemptions in RCW 90.58.030(3)(e) and in RMC 4-9-190C are not considered substantial developments.

SUBSTANTIAL DEVELOPMENT PERMIT: The shoreline management substantial development permit provided for in Section 14 of the Shoreline Management Act of 1971 (RCW 90.58.140).

4-11-220 DEFINITIONS V:

VESSEL: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) Ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

4-11-230 DEFINITIONS W:

WATER-DEPENDENT USE: Referring to uses or portions of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

WATER-ENJOYMENT USE: Referring to a recreational use, or other use facilitating 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 the location, design and operation assures 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. Primary water-enjoyment uses may include, but are not limited to, parks, piers and other improvements facilitating public access to the shorelines of the state; and general water-enjoyment uses may include, but are not limited to, restaurants, museums, aquariums, scientific/ecological reserves, resorts/hotels and multiple use commercial/office; provided that such uses conform to the above water-enjoyment specifications and the provisions of the Shoreline Master Program.

WATER-ORIENTED USE: “Water-oriented” refers to a use that is water-dependent, water-related, water-enjoyment, or a combination of such uses.

WATER-RELATED USE: Referring to 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:

1. Of 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
2. The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent activities and storage of water-transported foods.

Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and log storage.

WETLANDS: (This definition for RMC 4-3-090, Shoreline Master Program Regulations, use only.) Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands include artificial wetlands created from nonwetland areas to mitigate the conversion of wetlands.

Judith Subia

From: Cara Visintainer [Cara.Visintainer@abbeyroadgroup.com]
Sent: Wednesday, March 03, 2010 6:46 PM
To: Shoreline
Subject: SMP Update Public Comment

City of Renton Planning Commission-

I am the District Engineer for King County Drainage District #1. The District has jurisdiction over Springbrook Creek within the City of Renton. The District has two primary concerns regarding the SMP update:

1) The District currently has a 5-year HPA for District maintenance. I would like to verify that the District remains exempt from Shoreline Permitting within the City for regular District maintenance along Springbrook Creek.

-If the District is not exempt, then the District wants to ensure that our regular maintenance program remains unaffected.

2) During the Shoreline Development process, the District requests to continue to be notified of development permits within District jurisdiction and remain as an integral part of the review and permitting process.

Thank You,

Cara Visintainer, PE
King County Drainage District #1
253.435.3699

Darius & Vicki Richards
3605 Lake Washington Blvd. North
Renton, WA 98056-1509
425-430-4469
dariusvicki@msn.com

March 3, 2010

Ms. Erika Conkling
Project Manager
Renton Shoreline Master Program

Dear Ms. Conkling:

We are greatly concerned about the impact of the proposed SMP on the maintainability and future value of our shoreline property at 3605 Lake Wash. Blvd. N., and am therefore requesting clarification of two items:

Dock Maintenance: Is it true that the replacement of only one piling will force owners to downsize their existing docks to 25' long by 4' wide? It is a given that dock pilings will, over a period of time, require replacement. It would seem that this rule is designed to force all owners to downsize their docks, sooner or later.

The problem this creates for dock owners is: Docks that are longer than 25 feet are that way for a reason: due to the gradual filling in of the lake, you need to be out that far into the lake in order for boats to maneuver and be moored at the dock. Most of us don't have large, deep-draft yachts, but virtually all of us have smaller watercraft which we keep on a boat lift. The reality of boat lifts is that they need to be in water that is about 8 feet deep in order to be functional. If they are placed in shallower water, they will not go down far enough for the operator to get their boat on or off the lift (particularly in the "shallow-water months of October – March).

Concrete Bulkhead Maintenance: Will we be allowed to do such maintenance as is required to keep our concrete bulkheads structurally sound over the long term? In my situation, our house is 25 feet away from the lake's edge (mean high water line). The soil between the house and bulkhead is planted with a lawn and flowers. This soil also sustains the root system of a stately, 80 year-old Western Red Cedar that is set back about 24 feet from the bulkhead. In winter, the water is about one foot deep at the bulkhead; at maximum depth in early summer, the water is about 5 feet deep. If we are forced to watch my bulkhead deteriorate, the shoreline will erode back to the point where we essentially will not have a front yard, and it will also destroy the viability of the cedar's root system. This tree is only one of six "heritage" conifers that remain on this portion of Kennydale shoreline (starting at the Kennydale Beach and ending 4 blocks north at the former Barbee Mill property). I should add that most of the cedar's root system has been compromised by concrete paving that has been installed at the adjoining property, so our lawn and garden area is essentially the only soil that remains to nourish the tree.

Both of these matters have the potential to seriously devalue our properties. For other shoreline owners who are retired like ourselves, our home and yard represents most of our net worth. This asset will be needed in future years, when we will no longer be self reliant and must pay others to house and feed us. We have already seen the negative effects of increasing property taxes and decreasing values on this "nest egg", so we are greatly concerned about yet another set of "rules" that will further deteriorate our situation.

Anything you can do to clarify these two issues would be greatly appreciated.

Sincerely,



Darius & Vicki Richards

March 3, 2010

Renton Planning Commission
Subject: comments on Proposed SMP

Dear Commissioners

My head is swimming – pun intended - after a frantic week of trying to brush up on what the state and city are trying to take away from lakeshore property owners. We have a lot to lose with the proposed SMP – small improvements to our homes would require a large percentage of our prime waterside land to be given over to natural vegetation. Replacement of a single piling would require building an entirely new smaller and user unfriendly dock. And again a small improvement would cause the Shoreline Stabilization Decision Tree to fall, triggering a review and most likely a new less stable shoreline. While all of these changes will maybe improve the life of a salmon, it is not the fish who will be footing the bill. As Dave Douglas has presented \$7500 for replacing 4 pilings quickly becomes \$83,000 for a new conforming dock.

As one half owner of a new home with hopefully a new dock prior to implementation of the proposed SMP, I don't currently have much at stake, but I am compelled to voice my concerns for my neighbors and property owners in general. Would this commission consider a proposal that mandated every Renton homeowner to re-landscape their back yard with 50% natural vegetation when adding a 510 sq foot room to their home? This would maybe improve the quality of storm water run off, which could possibly offset the "no net loss" when they launch their boat at Coulon for a day on the lake.

I understand the time and effort that the staff and commission have given to this Program. I particularly respect Ms. Conkling's knowledge and thoughtful consideration when discussing the proposed regulations. That however does not change the fact that we are a small percentage of the Renton population who are once again asked to carry a disproportionate burden. The proposed SMP not only takes property and its value from lakeshore owners, it makes us pay for our losses. About the only part of Mr. Sherrard's 169 page Shoreline Inventory and Analysis that didn't cause me pain is his suggestion to **"Work with King County to obtain a reduction in property tax for property owners that voluntarily improve their shoreline to improve shoreline functions."** In my opinion a carrot is more effective than a stick.

As our blood pressures rise along the lake I would like to suggest that the staff revisits the repair and maintenance of existing structures and buffer requirements.

1. While we should be allowed to repair and maintain what we have with no penalties, financial incentives should be made available for "improvements" such as light penetrating decking and alternatives to traditional hard armoring.
2. Also buffer requirements should be reduced and include a property tax reduction because that land is no longer privately controlled.

In closing, I would like to say that while putting the finishing touches on my comments I looked west over a calm and peaceful lake Washington. A variety of migrating waterfowl between the docks entertained my dog and a fishing boat zipped by at warp speed. Life here is good. Everyone in this room loves Renton's rivers and creeks and especially Lake Washington but keeping them clean and healthy should not rest solely shoulders of the 187 shoreline owners.

Respectfully submitted for your consideration,



Anne Simpson
3001 Mountain View Ave N
Renton, WA 98056
425 572 6344
annesimpson@comcast.net

March 3, 2010

Erika Conkling AICP
Sr. Planner
City of Renton
Dept of Community & Economic Development
1055 S. Grady Way
Renton, WA 98057

Dear Ms. Conkling,

I am a waterfront home owner located on Mountain View Ave N just north of Gene Coulon Park. With regards to the pending Shoreline Master Program, I have many questions and concerns with the Feb 2010 draft. Rather than get caught up in citing the various sections of the draft, let me just poise a few things.

1) My home sits on two 30' by ~300' plats. In the future, I may elect to subdivide the property by means of a lot-line-adjustment, creating an additional, taxable lot for future sale. The lot would sit upland to my waterfront home. Based on all the various requirements and proposed regulations, I would be limited in a number of ways. The coverage standard would be reduced to 35% and the building height of the home plus any assessor buildings would be less than currently allowed by code. Does this make sense given it is not a grand development i.e. a multiple family dwelling?

2) I question why the 100' set back limit. Why not 75' or 50'? Such an extreme set back of 100' from the current 25' drastically affects waterfront home's resale value. It's highly unlikely our assessed property values would be lowered nor future property tax credits applied.

3) With regard to partial compliance for single-family development, it appears that if I elect, for example, to add a second story to my detached garage, I would be subject to 80% of the land between my home and the high water mark be revegetated. This seems absurd to have to tear out my bulk head and add some kind of natural vegetation. Because of alterations to an existing home, whether changing the footprint or not, revegetation is required? This feels like an over reaction. Why wouldn't the restrictions if required, apply to just the structure itself?

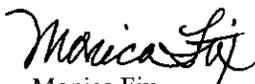
4) Should I elect to create a 2nd lot as noted above, and offer shared dock rights to the new homeowner upland from my home, this would be viewed as a marina per the drafted language. Does this mean public access is required?

And finally 5) I'm still confused with regard to maintenance and repair to existing docks. I'm pleased to see where replacement of the surface material only will not require bringing the dock into conformance as defined in this Program. I'm very worried however, that should the repair include the replacement of *any* of the pilings, the *entire* structure will need to be torn down and replaced with a dock which conforms to these regulations. For me this is critical. This would drastically limit the size of my dock to date, and merely for the repair of a piling?

Clearly more time and thought needs to go into the existing Feb 2010 Shoreline Master Program draft. I believe many Renton waterfront homeowners are not aware of the ramifications this program would impinge upon them. This is a significant change to our property rights and should be well vetted before the program is approved and implemented. Additionally, I think it only fair we understand how these proposed shoreline restrictions compare to other City shoreline regulations encompassing Lake Washington and Lake Sammamish.

I apologize I am late to the table with my concerns, however the requirements addressing docks and piers was only recently added in the Feb 2010 draft.

Thank you in advance for your consideration.



Monica Fix
3007 Mountain View Ave N.
Renton, WA 98056
425-271-8094

March 3, 2010

Erika Conkling, AICP
Senior Planner
City of Renton Department of Community and Economic Development
1055 S. Grady Way
Renton, WA 98057

Dear Ms. Conkling,

I respectfully submit for your consideration the following comments on the Shoreline Master Program, "Planning Commission Recommendation Review Draft", dated February 10, 2010. My comments deal with the issue of the "Best Available Science (BAS)" used by Renton to determine the riparian buffer width, colloquially referred to as setback, for single-family homes on Lake Washington.

As I stated in my letter to you, dated, December 30, 2009, I thought the proposed requirements—restrictions, constraints, etc.—are not based on sound science. After digging deeper into the material available from the Shoreline Management Programs (SMPs) being developed by various jurisdictions, I am now convinced that even if the BAS is sound science, it is being greatly misapplied. Let me illustrate my point with an analogy.

Let's say the best available science (BAS-J) is developed for the most effective jack hammer used for demolishing concrete structures. Subsequently, it would be inappropriate to try and apply most if not all of that same BAS-J to developing a dental drill. To a large extent, this is what Renton is doing in applying their BAS to its SMP. Let me illustrate why I think this analogy is applicable.

Under the guise of using the BAS as dictated by the 1971 SMA, Renton hired a number of consultants to develop guidelines and recommendations. In the work done by A.C. Kindig & Co., in "City of Renton Best Available Science Literature Review and Stream Buffer Recommendations", dated February 27, 2003, it states on page 1 under, "1.0 SUMMARY":

"This report summarizes the results of a literature review of the best available science, undertaken to develop and support recommendations to the City of Renton for stream and lakeshore protection by buffers sized to various stream or lake shore classes."

This then, establishes that the report applies not just to streams, but also lakes. Then on page 2 under, "3.0 URBAN CONSIDERATIONS" it states:

"Nearly all of the scientific literature and literature reviews are written from a perspective of riparian functions and widths necessary to provide fully functioning natural pathways in forested areas (May 2002, Pollack and Kennard 1998; Knutson and Naef 1997; Spence et al. 1996; FEMAT 1993; Thomas et al. 1993; Budd et al. 1987; Harmon et al. 1986). Much of the literature on riparian function has investigated the results of tree harvesting in forests, or

the effects of various agricultural practices. While these types of literature and summary reviews must be approached with caution when evaluating riparian functions and reasonable function potential under urban constraints, they are useful in describing riparian functional processes that allow extrapolation to the urban condition."

This verifies what I've always suspected. The BAS was developed for agriculture and forestry practices as they relate to protecting streams and lakes from grazing, excavation, logging, and mining—the jack-hammer part of the analogy. Yet what Renton and others want to do is to apply this so called BAS to the urban setting—the dental drill part of the analogy.

Also on page 6 under "4.1.1 Contaminants (metals, organics, bacteria, oil and grease) and Nutrients" we find:

"The one literature source that directly studied phosphorus removal from residential construction as a function of buffer width concluded that a 50-foot buffer would protect water quality, irrespective of slope so long as the buffer was well vegetated (Woodard and Rock 1995)."

This must be the only study done on contaminants, otherwise a review of the literature would have, undoubtedly, discovered more. It's interesting to note that this Woodard and Rock study for the contaminants in question states that a 50-foot buffer is adequate. Moreover, the same study is cited in several other subsections of "4.0 STREAM BUFFER FUNCTIONS" where a 50-foot buffer width seems adequate. So it appears a single study and a misapplication of BAS is being used to decide the riparian buffer widths for Renton's SMP.

Also, it appears there has been little, if any, real science developed specifically addressing the actual conditions found in the urban environment of any of the lakes in Washington State. There seems to be a lot of wishful thinking and inappropriate extrapolation from studies done for totally different environments than the urban one.

Consequently, since the riparian buffer widths being proposed are developed under the color of BAS, not developed for the urban environment, and because the Washington State Shoreline Management Act of 1971 does not require widths greater than 50 feet, I respectfully request that Renton's SMP be modified to require only setbacks up to 50 feet for the properties on Lake Washington.

As can be seen by the Shoreline Inventory developed by Renton, less than six (6) parcels with houses out of over 100 parcels total **could be required** to comply with greater than a 50 foot setback.

Lowell Anderson
3107 Mountain View Ave.
Renton, WA 98178
lowella@mvseac.com

March 3, 2010

Renton Planning Commission
and Renton City Council
1055 S. Grady Way
Renton, WA 98057

RE: **The City of Renton's February 10, 2010 Draft Proposed SMP
Existing Shoreline Stabilization Structures**

Dear Commission Members and Council Members:

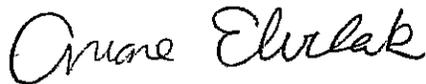
We, the undersigned, are an owner of shoreline property in Renton. We are writing to urge you to revise the February 10, 2010 Draft of the proposed Renton Shoreline Master Program (SMP) to allow existing shoreline stabilization structures to be repaired, retained and replaced in their current location and size (provided there is no expansion) regardless of whether there is (a) a change of use of our property, (b) "abandonment of the use for which the shoreline stabilization structure was originally constructed", or (c) expansion of the building footprint, remodeling, or expansion of impervious surface of "non-conforming" structures on our respective properties.

The February 10, 2010 Draft proposed RMC 4-3-090.F.4.C (Existing Shoreline Stabilization Structures) is patently unfair, uncalled for, and violates our property rights. As long as property owners are not proposing to expand their existing shoreline stabilization structures, they should not have to risk the loss of their existing shoreline stabilization structures or be forced to redevelop them regardless of whether there is (a) a change of use of our property, (b) "abandonment of the use for which the shoreline stabilization structure was originally constructed", or (c) expansion of the building footprint, remodeling, or expansion of impervious surface of "non-conforming" structures on our property.

Please revise RMC 4-3-090.F.4.C and RMC 4-3-095F of the February 2010 Draft SMP to remedy this.

Sincerely,

AnMarCo



Ariane Elvebak, Property Manager

Address:
9125-10th Avenue South
Seattle, WA 98108

March 2, 2010

Renton Planning Commission
and Renton City Council
1055 S. Grady Way
Renton, WA 98057

RE: The City of Renton's February 10, 2010 Draft Proposed SMP
Existing Shoreline Stabilization Structures

Dear Commission Members and Council Members:

We, the undersigned, are owners of shoreline properties in Renton. We are writing to urge you to revise the February 10, 2010 Draft of the proposed Renton Shoreline Master Program (SMP) to allow existing shoreline stabilization structures to be repaired, retained and replaced in their current location and size (provided there is no expansion) regardless of whether there is (a) a change of use of our property, (b) "abandonment of the use for which the shoreline stabilization structure was originally constructed", or (c) expansion of the building footprint, remodeling, or expansion of impervious surface of "non-conforming" structures on our respective properties.

The February 10, 2010 Draft proposed RMC 4-3-090.F.4.C (Existing Shoreline Stabilization Structures) is patently unfair, uncalled for, and violates our property rights. As long as property owners are not proposing to expand their existing shoreline stabilization structures, they should not have to risk the loss of their existing shoreline stabilization structures or be forced to redevelop them regardless of whether there is (a) a change of use of our property, (b) "abandonment of the use for which the shoreline stabilization structure was originally constructed", or (c) expansion of the building footprint, remodeling, or expansion of impervious surface of "non-conforming" structures on our property.

Please revise RMC 4-3-090.F.4.C and RMC 4-3-095F of the February 2010 Draft SMP to remedy this.

Sincerely,

Daniel C. Shane president

Address:

Ramac, Inc. 4607 Forest Ave SE
Mercer Island, WA 98040
own property along Cedar River

3/3/10

Mr. Ray Giometti,
Chairman - Renton Planning Commission

Dear Mr Giometti,

I am writing to express my concerns about certain provisions in the proposed Shoreline Master Program, specifically section 4-3-090.E.7.c, Maintenance and Repair of Docks section iii.

I feel that the requirement to replace the entire dock to the proposed new dock dimensional standards, when any piling needs to be replaced, as proposed in the SMP, is overly restrictive. This requirement imposes an unnecessary financial burden on waterfront property owners. The requirement to replace all the piling and reconfigure the dock, when only a few piling need replacement, would also increase the environmental impact of many dock repair projects.

I believe that a more reasonable standard would be similar to the decking repair standard in section ii.

The standard would be:

" When less then 50% of the existing piling are replaced, the piling can be replaced in their existing configuration and layout, utilizing either wood or steel piling.

When more then 50% of the existing piling are replaced, the piling layout must be reconfigured to conform to the new SMP requirements for piling layout and materials.

When piling are replaced on an existing pier/dock with no change in the existing deck configuration. There will be no requirement to bring the dock/pier deck configuration into conformance with new SMP dimensional standards for new docks.

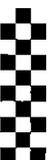
The requirements of section ii, for deck replacement, will apply."

This would allow property owners to maintain their existing pier configuration when rebuilding an existing pier and still have lesser environmental impact by decreasing the number and size of the replacement piling and providing for more light penetration.

I have been a pile driving contractor for over 30 years. I would be happy to answer any questions that the commission members have about dock building and repair or pile driving.

Sincerely,

Bill Keppler
2805 Mountain View Ave North
Renton, WA



Darius & Vicki Richards
3605 Lake Washington Blvd. North
Renton, WA 98056-1509
425-430-4469
dariusvicki@msn.com

March 5, 2010

Ms. Erika Conkling
Project Manager
Renton Shoreline Master Program

Dear Ms. Conkling:

At the Planning Commission public meeting on March 3, I promised to provide you with some basic information on dock maintenance, dock life expectancy and related issues. This was done in response to the Commission's interest in learning more about how much repair/replacement activity would typically take place at one time, including the replacement of pilings.

Background information on myself: I have resided at this address on Lake Washington for 36 years. My comments that follow are based on my personal experience in doing all of the repair and replacement work on my dock and boathouse. The pilings and all structural elements of the dock and boathouse are wood (no steel pilings, synthetic decking, etc.). I am an engineer, but not a structural engineer (but I know enough about the subject to have done this work in a professional manner). My guess is that the dock and boathouse were constructed post-World War 2, probably around 1950. Over the past 36 years, all of the structural elements of the dock, except for the pilings and the boathouse, have been replaced on a piecemeal basis. The dock is 60 ft. long, and has a total of 20 pilings, 10 of which support the boathouse.

Maintenance and life expectancy of the dock structure (please refer to Fig. 1 on page 3)

Starting from the top down: The Deck Boards are typically 2"x6" lumber and are pressure treated. They are the lightest-weight elements of the dock, and have the most exposure to weathering. They should last 5-10 years, at which time individual boards will require replacement.

Stringers are typically 4"x8" or 4"x10" lumber, pressure treated. They should last at least 25 years.

Cross Beams are typically 6"x6" or 6"x8" timbers, pressure treated. They should last at least 25 years.

Pilings – In the fresh-waters of Lake Washington, the life of pilings is determined by their *diameter*, their *rigidity* (a function of their diameter and how deeply they are driven into the lake bottom), their exposure to *floating debris*, and by their *exposure to water* (!). To clarify: that portion of the piling which is *always* submerged will have the longest life – probably in excess of 100 years for a one foot diameter piling. The top 4 feet of the piling, which is exposed to rain and wet/dry cycles as the lake raises and lowers, should last 50-80 years. The top one foot of the piling, which is compromised by the insertion of spikes or bolts, and also to “working” of the structure by wind and wave action, may start to deteriorate after 25 years.

Please note that these life expectancies are based on my personal experience. Professional dock maintenance and construction companies may have a different view, but of course their business depends on the sales of labor and materials.

To summarize all of the above, the “enemies” of a long dock life are:

- 1) lack of maintenance
- 2) wet/dry cycling
- 3) wind and wave action
- 4) damage from boats, floating logs and other debris
- 5) poor design or poor choice of materials (not likely, if the dock was professionally built)

Timing of repair and replacement activities:

Defective *deck boards* are very evident and can easily be replaced, a few at a time, as needed. Defective *stringers* are a bit more of a problem, because you have to take off the overlying deck boards first...but it can still be done on a piecemeal basis. Replacement of *cross beams* and *pilings* presents the most difficulty, because the weight of the overlying structure must be removed first. However, a complete dismantling of this structure is not needed; one can simply transfer the weight to temporary supports (cribbing), or the structure can be held up with a crane (for this type of work, one would likely need to engage a professional dock contractor).

Historically, I believe that most local dock owners have followed the practice of periodically replacing desk boards on an as-needed basis, although a few have waited until all the boards needed replacement. In cases where a good number of boards required replacement, that was generally a good time to replace stringers and beams as well. Finally, when it came time for piling replacement, most people would replace the entire overlying structure (no sense in reinstalling the old wood).

Final conclusions:

In the new, post SMP environment, people will potentially be penalized for doing piling replacements. Requiring complete dock reconstruction in cases where only one piling needs to be replaced will have a chilling effect on the residents' desire to maintain their docks; they may even let everything deteriorate to the point of failure before they act. This will put the docks of others at risk, due to damage from floating debris, especially during winter storms. Thus all owners would suffer, including those who had kept their docks in good repair.

Clearly owners need a regulation that allows the replacement of multiple pilings, without penalty. From a structural design standpoint, pilings typically are placed to work in "pairs", and when one includes the overlying stringers, the pilings work in "sets" of 4. So the optimum scenario would be to replace pilings in these groups of 4, which would require the removal of only 2 stringers (plus the overlying deck boards, of course). I believe that a regulation that allows simultaneous replacement of a minimum of 4 pilings, without penalty, will give dock owners the flexibility they need to be good stewards of their property and their shoreline environment. 25-50% replacement would be even better.

I will be glad to respond if you or any of the Planning Commission members have questions regarding any of the information I have presented.

Sincerely,



Darius F. Richards

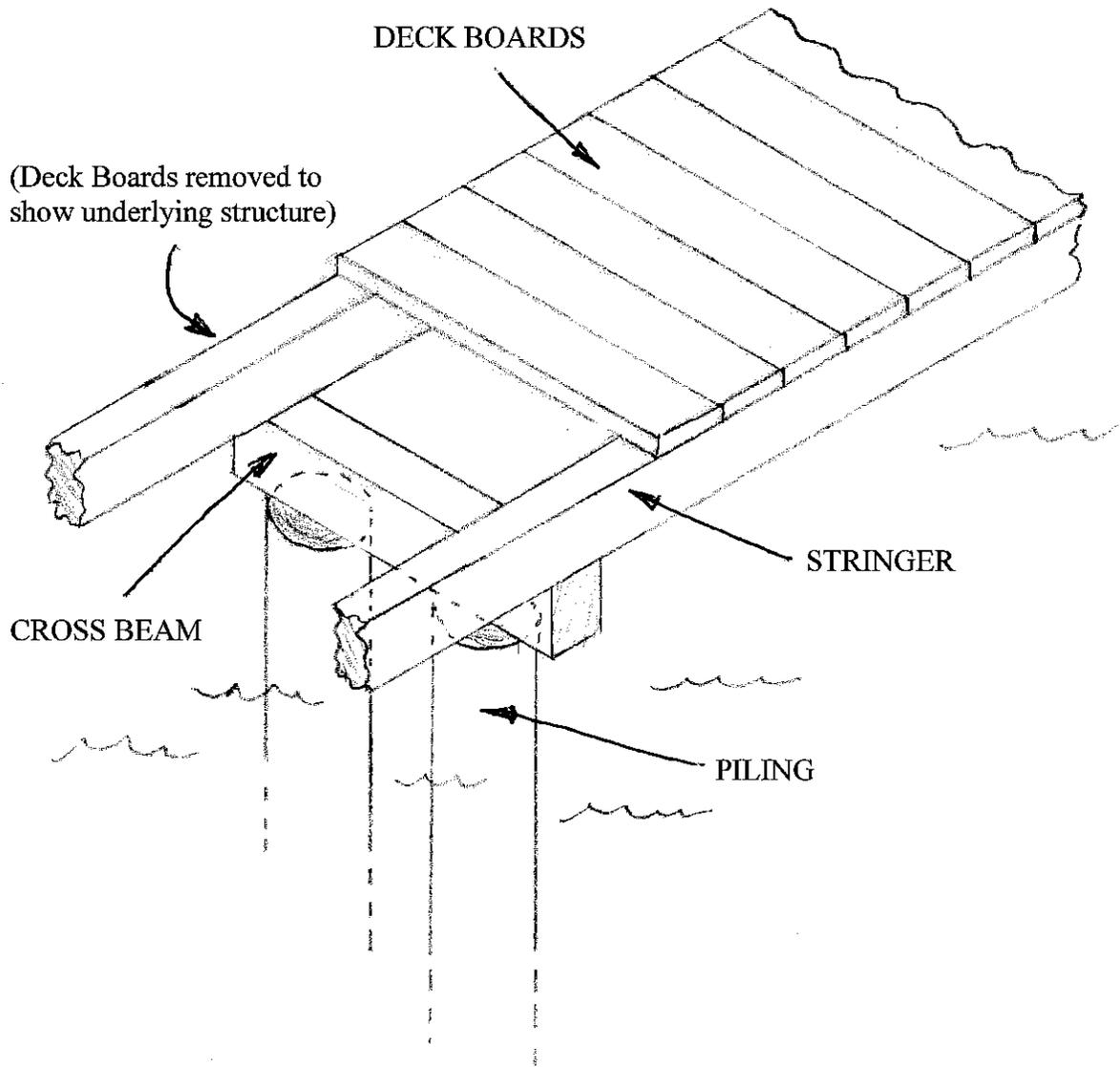


Fig. 1 STRUCTURAL ELEMENTS of a TYPICAL DOCK

Fix, Monica

From: Fix, Monica
Sent: Sunday, March 07, 2010 5:34 PM
To: Erica Conkling (econkling@~~cityofrenton.wa.us~~) *rentonwa.gov*
Cc: Anne Simpson (annesimpson@comcast.net)
Subject: Renton Shoreline master Plan

Erika,

First of all, thank you for all your hard work on this project. I can only imagine the hours you have vested in this. After attending last week's session and more discussion with my neighbor Anne Simpson, it feels like the decisions the City of Renton is about to make are too hasty.

All the buffers, setback limits and dock/pier conformances feel very arbitrary. Do we really have scientific data which illustrates the value of having buffers? And likewise for the shade of the dock versus trees which the ordinance views as favorable? Or the value of the setback limits? Again, the 100' feels very arbitrary.

I would like to see us evaluate other shoreline plans before we pass ours.

Thanks
Monica Fix

March 7, 2010
City of Renton
Planning Commission

Regarding Renton's Shoreline Management Program

Dear Planning Commission,

I respectfully request that you reconsider the timetable for deliberation and recommendation to the city council with regard to the SMP. While commissioner Osborne made it clear to those in attendance on March 3rd that the city had worked hard to educate the stakeholders to the SMP process and enlist our participation it was not until a few lakeshore owners studied the draft proposal and contacted their neighbors that the owners began to understand what is at stake.

As I have crammed to learn the terminology, understand the "best available science" and read hundreds of pages of documents from Renton and other Lake Washington jurisdictions, I am stuck by the fact that we are all trying to invent the wheel at the same time and will most likely have as many variations – some being square. Commissioner Poole's suggestion that Renton slow down and see what other jurisdictions submit and/or have approved is wise and according to Ms. Conkling this would not conflict with the City Council's agenda.

I advocate this approach as strongly as possible for the following reasons:

- 1) Redmond's approved SMP
 - a. does not require any buffer on Lk Sammamish
 - b. has a set back requirement or 35' which may be reduced
 - c. public access required with 10 or more housing units
 - d. nonconforming uses and structures may be continued to be used and maintained as long as they are not expanded or altered to increase the nonconformity

- 2) Kirkland's proposed SMP pending DoE approval
 - a. 10 ft wide planted with native vegetation along 75% of the shoreline frontage. May vary down to 5 ft in width but total area must equal a 10 ft wide area. Does not apply to swimming and boat access areas.
 - b. setbacks range from 15' – 60'
 - c. Nonconforming structures may be maintained, remodeled, repaired and continued; provided that nonconforming development shall not be enlarged, intensified, increased or altered in any way which increases its nonconformity, except as specifically permitted

d. dock length is variable to achieve 10' depth up to a maximum of 150' and 6' width beyond 30' from shoreline

3) Mercer Island's draft SMP

a. 20-foot vegetation buffer shall be established, measured landward from the OHW. 25% of the buffer area shall contain vegetation coverage. The five feet nearest the OHW shall contain at least 25% native coverage. A shoreline vegetation plan shall be submitted to the City for approval. A variety of ground cover, shrubs, and trees that provides lake shading is encouraged.

b. setback 25'

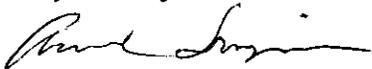
c. Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts and impacts which cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

d. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves.

These are just a few of the many examples that lead me to believe that Renton's proposed SMP is by far the most restrictive on Lake Washington. We chose to move to Renton three years ago for several reasons. One of most important being that the city was fair, reasonable and smart when dealing with issues such as these. By the number of changes that staff has already made to the overzealous recommendations of Mr. Sherrard and Parametrix it is obvious that this project got off to a flawed start.

While Renton has an obligation to get this done, the volunteers on the Planning Commission and the stakeholders along with help from the City's professional and knowledgeable staff have an obligation to get it done right.

Thank you for your consideration,



Anne Simpson
3001 Mountain Ave N
Renton, WA 98056

annesimpson@comcast.net

Reasonable regulations

Setback

50' for new construction and footprint increase greater than 20%
(reduceable with min lot size)

Buffer

not required but encouraged with new construction, lakeshore landscaping and other property improvements
(possible additional compromise - 10' average 75% lakeshore footage)

Docks

repair and maintenance

less than 75%/same demensions – no restrictions

greater than 75% same dimension - must use approved materials
(light penetrating decking, steel pilings)

new

80' or length to achieve 10' depth

Approved materials

Shoreline stabilization

repair and maintenance

No restrictions if demensions are not changed

No restrictions for any property changes

new

approved with geotechnical analysis

Dredging

approved for historical water dependent uses

RaMac, Inc.
4607 Forest Ave. SE
Mercer Island, WA 98040
206-275-3200

March 10, 2010

Re: SMP Update

City of Renton
Planning Commission
Attn: Erika Conkling
shoreline@rentonwa.gov

Members of Planning Commission:

We appreciate the amount of time and effort all of you have expended in working on the Renton Shoreline Master Program Update. RaMac, Inc. owns property along the Cedar River in the area designated as Cedar River Reach C. We have the following input regarding the SMP update:

Taking for Public Access. The current draft of the SMP (February 10, 2010) contains several policy objectives which set the rationale for taking private property for public use. Objective SH-F and nearly all the policies listed under it deal with the taking private property with no mention of compensation. The SMP then goes on to detail the how much property will be taken, that parking will need to be provided, and that the private owner will still be required to pay to maintain the public access.

Policy SH-13 reads "Preservation of natural shoreline areas can best be ensured through public or non-profit ownership and management. Therefore, where private development is proposed in areas so designated, the City should require dedication as necessary." This policy should be stricken from the SMP. The SMP should be based on facts and not opinions. The suggestion that the public or a non-profit organization is better suited to manage land owned by private citizens or organizations is dubious at best. We spend a great deal of time and money each year cleaning up after and repairing the damage done by "the public" on the river frontage we own. I believe you could go to nearly any area where there are public and private shorelines near each other and that in nearly every case the private shoreline would be in better condition than the public. Non-profit organizations are not inherently better than for-profit organizations. They have their own reasons for existence which may or may not align with the best interests of the shoreline. Private owners have a vested interest in maintaining the condition of the land they own. The opinion expressed by SH-13 should not be codified into law by the City of Renton.

RCW 90.58.20 (5) states the goal of the Shoreline Management Act is to "Increase public access to **publicly** owned areas of the shorelines" (emphasis added). Objective SH-F states "Increase public accessibility to shorelines and preserve and improve the natural amenities." This SMP objective and the policies which follow, SH-20 through SH-29, go well beyond the goal of the Shoreline Management Act and create an entirely new purpose to increase public access to all areas of the shoreline. SH-30 finally makes some mention of just compensation, but as will be discussed below, this is nowhere reflected in the remainder of the SMP.

Section 4-3-090.D.4 details the plan for conversion of private property into public with never a mention of compensation. 4-3-090.D.4, e, iii, (4) states "**Maintenance Responsibility:** Maintenance of the public access facility shall be the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal recorded agreement." The private owner whose land has been taken is now required to maintain that property for public access in perpetuity. If policy SH-13 is to be believed, the City is requiring the entities it thinks least able to maintain shorelines to give them away and then maintain them at private expense.

How does the City of Renton propose just compensation when the expense for the maintenance of the property will be ongoing? Is the City of Renton trying to force the privatization of the Parks Department? The constitutionality of these types of provisions is questionable and will certainly result in lengthy litigation for the City.

Not to mention, requiring the dedication of private lands for public use is burdensome and unnecessary particularly in areas, like Cedar River Reach C, that have an enormous amount of public access. The Cedar River has a public trail nearly the entire length of the river as well as several public parks. Other waterways and shorelines in the City have similar situations. Particularly along a river, if the public has access to one side of the river, they already have access to the other. During most of the summer the Cedar River can be waded across. There is no purpose in taking private lands to provide redundant access to a waterway.

Building Height Limitations. Limiting building height in Cedar Reach C to ensure view of the shoreline for single family residences is unnecessary. This reach of the Cedar River has 100 foot high hills on both sides. There are no single family residences to view the shoreline. The language could also be changed to say views of the water, not the shoreline. Having a view of vegetation along a river that is well below grade of the shoreline is no different than having a view of any other vegetation. If the water is not visible even with no buildings in the way, it does not make sense to limit building height so that people can still not have a view of something they couldn't see to begin with. Such "boilerplate" regulations should not be made without accommodating local conditions, which is one of the purposes of the Shoreline Management Act.

Buffers. The requirement that new, large buffers be created once again goes well beyond the stated goal of No Net Loss of ecological function. Creating a boilerplate one-size-fits-all provision for 100-foot buffers not only creates a mass of non-conforming uses with the stroke of a pen but also creates a burden of improvement rather than no net loss.

Many properties have existed for years without the buffers that would be required under the SMP. The City now wants to improve upon No Net Loss and throw the burden of improvement on private citizens.

Non-Conforming Uses. If the City is bound and determined to implement across the board buffers, it could follow the lead of the City of Redmond. Redmond has an SMP update which was approved by WDOE in July 2009. Redmond's SMP includes language which is much more friendly for non-conforming uses: 20D.150.60-10 (4) & (5)

“(4) Businesses currently located in the stream buffers or stream setbacks may continue to operate. A non-conforming use in the stream buffers or stream setbacks may be expanded provided the expansion does not result in a net loss of shoreline ecological functions over existing conditions. Non-conforming structures may be maintained and repaired and may be enlarged or expanded provided said enlargement does not extend the structure closer to the shoreline. Businesses currently located in the stream setbacks may sell their land to entities for redevelopment in the same general land use category (e.g. an industrial user may sell to a different type of industrial user), who may continue forward as a nonconforming use and with the existing nonconforming structures and may also redevelop pursuant to this section, 20D.150.60-010 and other applicable portions of the Shoreline Master Program.

(5) In any High Intensity/Multi-Use location within a buffer where the land is actively being used as part of a legitimate business operation, such land including either structures or active operational areas, established prior to January 1, 2008, may continue to operate. New structures, pavement, and other improvements are permitted within this area so long as incremental environmental benefit is provided and no net loss of shoreline ecological functions is demonstrated.”

Summary. As stated in the Staff Report page 15 “Renton's shorelines are primarily composed of already developed areas.” The conclusion in the sentence prior to that is that “Growth, development, and the conversion of land will not likely be affected by the proposed change.” This conclusion is erroneous. There are still a few parcels that can be developed or redeveloped and the SMP as drafted would have a significant negative impact on the growth, development, and conversion of land within the City. The high intensity uses along Cedar Reach C have the potential to provide housing and jobs within the City which would be seriously hindered if not precluded by the blanket approach of the SMP.

RCW 90.58.20 states “There is, therefor, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.” There is no intent here to prevent the development of shorelines only the uncoordinated and piecemeal development of the shorelines. RCW 90.58.20 continues, “It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses.” To foster means “to promote the growth or development of; further; encourage” (www.dictionary.com). Very little in the Renton SMP does anything to foster reasonable

and appropriate uses of the shoreline. Taking public property and then requiring the former owner to maintain it, limiting development, creating wide areas of non-conforming uses, and placing a burden of improvement on property owners will make it difficult if not impossible to develop existing land. If Renton wants to remain "Ahead of the Curve" it should promote an environment that is friendly to businesses and residents alike. Renton should use an incentive based approach for improvement and compliance rather than an oppressive regulation based approach.

Sincerely,

A handwritten signature in cursive script that reads "Daniel C. Shane".

Daniel C. Shane
President

TO: The Renton Mayor Denis Law, City Council Members, Planning Commission and Staff
Re: Renton Shoreline Master Program
Date: February 23, 2010

We, the undersigned owners of property on the shores of Lake Washington within Renton's jurisdiction, want to make you aware that we have many serious concerns about the proposed changes to the Renton Shoreline Master Plan and the planned approval process.

Some of us were informed on February 16, 2010 by Chip Vincent that (1) the final draft was not yet complete, (2) the Planning Commission will be asked to recommend the draft on March 3, 2010, and (3) the City Council will then be asked to endorse it quickly so it can be sent to the State Department of Ecology for review with no additional public hearing and without adoption by the City Council. This will effectively eliminate the opportunity for property owners and other citizens to comment to their elected City Council members on the plan. However, the draft of the SMP posted on the net on February 23, 2010 still contains the following commitment to have public hearings at City Council Meeting in 2010. This statement appears on page 4 of the February 23, 2010 draft of the SMP:

WHEREAS, the City developed a comprehensive public involvement plan that provided widespread public notice and held periodic public workshop meetings and Public Hearings with the Planning Commission between Spring 2008 and Autumn 2009 and City Council Meetings in 2010; and

The changes proposed in the Renton Shoreline Master Program place greater restrictions on our property than is mandated by the Washington State Shoreline Management Act (SMA) governed by RCW 90.58, WAC 173-26, and the other government agencies with regulatory jurisdiction over waterfront property.

These restrictions will decrease the value of our property. Setbacks will increase up to 70 feet for single family homes. Permits for any substantial improvements to some properties will require that all aspects of the property be brought into compliance with the new regulations. This will mean that legally permitted docks, bulkheads, and other structures will all have to be brought into compliance. The effect will be to limit improvements or to make them much more expensive.

At a recent meeting, Chip Vincent, Renton Planning Director answered a question related to dock repair. He stated that if more than 50% of a dock needed repair, the entire dock would have to be revised to the proposed new standard. His explanation of what exactly constituted 50% was very vague. It seemed that the intent was that if a dock needed substantial repair, then a permit would only be granted if the entire dock was brought into compliance with the proposed regulation. This has since been changed/clarified but is mentioned to illustrate that the current plan is easily misunderstood.

We ask that the Council carefully review the plan and receive our more detailed comments from the property owners before sending this lengthy and complex document to the State Department of Ecology. After it is approved by the state, the opportunity for the Council to make revisions will have effectively passed.

The SMP will have a long term impact on development, maintenance, and property values of Renton's Lake Washington shoreline. We would like to have an opportunity to share our concerns in an open Council hearing before this draft is sent to the State Department of Ecology so that you will understand the many issues that are of concern to us individually.

page 1

Name	Address	Date
Anne Simpson	3001 Mt View Ave N	2/23/10
Charlie Connor	↓	↓
Lowell Anderson	3107 Mt View Ave N	2/23/10
Laurie L Baker	3107 Mt View Ave N	2/23/10
Robert H. Burr	3013 Mt View Ave N	2/24/10
Bill Kepple	2805 Mt View Ave N	2/24/10
Debbie Kepple	2805 Mt View Ave N	2/24/10
Karen Pritchard	2807 Mt. View Ave N	2/24/10
Marc Pritchard	2807 Mt. View Ave N	2/24/10
John Surroughs	2815 Mt. View Ave N	2/24/10
Betsy Mann	" "	" "
Monica Rip	3007 Mt. View Ave N	2/25/10
Kelly S. Grace	3011 Mt. View Ave N.	2/24/10
Quail Morgan	3103 Mt. View Ave N.	2/24/10
A J Goetz	3209 Mt View St.	2/25/10
Tom - DAHLBY	3213 Mt. View N.	2/25/10
Ted Dahlby	32 3307 Mt View N	2-25-10
Kathleen J. Dahlby	3213 Mt View Ave N	2/25/2010
Larry Flynn	3115 MOUNTAIN VIEW AVEN.	2/25/10
Aileen M. Gossard	3115 Mountain View Ave	2/25/10
Kim Bowden	2727 MT. VIEW AVE N	2/25/10
Levi Larson	2727 Mt. View Ave N	2/25/10
Dick Bisack	2801 Mt View Ave North	2/25/10

Name	Address	Date
Dayton Deamin	3717 LAKE WASH. BLVD	2-24-10
Ken	3719 LAKE WA BLVD N.	2-24-10
Doree Baker	3815 LAKE WA BLVD. N.	2-24-10
Carol Klein	3619 LK WA BLVD N.	2/24/10
Darius J. Richards	3605 LK. WA BLVD. N.	2/24/10
Shannon Pool	3601 LK Wash Blvd N.	2/24/10
M Pool	3601 LK WA Blvd N	2/24/10
Vera Leaf	3711 LK WA. Blvd N.	2/24/10
Stephen F. B.	3613 LK. WA BLVD N	2/24/10
PER FOR: TAYLOR RIGGS by D. Deamin	3821 LK WASH BLVD N	2/25/10
PER FOR: STAN RIGGS by D. Deamin	3821 LK WASH BLVD N.	2/25/10
PER TONY BOYSTON by D. Deamin	3901 LK WASH BLVD N.	2/25/10
PER TONY BOYSTON by D. Deamin	3713 LAKE WASH BLVD.	2/25/10
Robert W. Taylor	3811 Lake Washington Blvd N.	2/28/10
Angela N. Grant	3825 Lake Washington BLVD No	2/28/10
Foto etc	3825 LAKE WASH BLVD No.	2/28/10
Ala E. Lasswell - Cynthia Green	3727 LK BLVD N	2-28-10
Karen A. Passauer	3709 LK WA B-VD N	2-28-2010
Rebecca A. Byus	3719 LK WA Blvd N	2/28/10
Stephann Deamin	3717 LK. Wash Blvd N.	2/28/10

P93

Name	Address	Date
Likki Littleman	3805 LK WA Blvd No.	2/25/10
Mailee Winter	2731 MT View No.	2/25/10
Daniel H. Johnson III	3233 Mountain View	2/25/10
Carpetal Mudd	2811 Mountain View N	2/25/10
Shoger Winter	2731 Mountain View Ave N	2-25-10
William C. Steneman	3101 Mountain View Ave N	2-25-10
Jessie L. Steneman	3101 Mt. View Ave N.	2-25-10
Nancy Porter	3205 Mt View Ave N.	2-25-10
Sto C. PA	3205 Mt. View Ave N.	2-25-10
Jerry Brennan	3405 LK WA Blvd No	2-28-10
Nary Brennan	3405 LK WA Blvd No	2-28-10

pg 4

Name	Address	Date
KEVIN IDEN	5121 RIPLEY LANE N. RENTON 98056	2-25-10
VIRGIE NEWK	11004 NE 17TH ST.	2-25-10
Don Dana	5219 RIPLEY LN. N. RENTON 98056	2-25-10
Patricia A. Dana	5221 RIPLEY LN N. RENTON 98056	2-25-10
Juan Miguel	6619 Ripley Ln. No. Renton WA 98056	02/25/10
Joseph J. Jacob	5201 RIPLEY LANE N. RENTON, WA 98056	2/25/10
Ling & Jeff HILTON	5117 Ripley Lane N 98056	
Ma & Flynn	5301 N Ripley Ln Renton WA 98056	2/25/10
PAT Dyer	5077 7029 Ripley Ln North WA 98056	2/25/10
Jenny BARBER	7023 Ripley Ln N, Renton, WA 98056	3
Sherre PANTANIDA	7011 Ripley Lane N, Renton, WA 98056	
Sherre PANTANIDA	6629 Ripley Lane N, Renton, WA 98056	
Nancy Mary	1009 Ripley Lane Renton 98056	2-25-10
Marjorie Gundhus	7001 Ripley Lane N Renton WA 98056	
Marjorie Gundhus	7005 Ripley Lane N Renton WA 98056	
James H Jacques	6833 Ripley Lane N 98056 WA	
James H Jacques	6831 Ripley Lane N Renton 98056	
Nancy Pheton	6831 Ripley Lane N Renton 98056	
PRISCILLA JONES	6823 Ripley Lane Renton 98056	
Sharon Smith	5143 Ripley Ln N, Renton 98056	
Sharon Smith	5137 Ripley Ln N Renton 98056	
Ripley Lane	6621 Ripley Ln Renton 98056	
Sally McCray	6815 Ripley Lane N Renton 98056	
John A Davis	6809 RIPLEY LANE RENTON 98056	

NAME	ADDRESS	DATE
Ron + Carol Jones	6801 Ripley Lane N. 98056	2/25/2010
Jan + Rob Lari's	6637 Ripley Ln N. 98056	
Harold A Bruce	6631 Ripley Lane No. 98056	
Betty J Dellinger	6425 Ripley Lane, WA, 98056	
Lee Dellinger	6425 Ripley Ln, Renton W 98056	
Robert Backlin	6417 Ripley Ln Renton WA 98056	
Becca Gvy Conversano	6615 Ripley Ln N. Renton WA 98056	
CHRISTIE MUELLER	6841 Ripley Lane N, Renton WA 98056	
Jim + Farina's	6611 Ripley Lane N. Renton WA 98056	
Meg Benson	6607 Ripley Ln N. Newcastle W 98056	
Monkpath Ryem	6421 Ripley Lane N Renton 98056	