City of Lake Stevens Mission Statement

The City of Lake Stevens' mission is not only to preserve the natural beauty that attracted so many of its citizens, but to enhance and harmonize with the environment to accommodate new people who desire to live here. Through shared, active participation among Citizen, Mayor, Council, and City Staff, we commit ourselves to quality living for this and future generations.

Growth in our community is inevitable. The City will pursue an active plan on how, when, and where it shall occur to properly plan for needed services, ensure public safety, and maintain the unique ambience that is Lake Stevens.

REGULAR CITY COUNCIL MEETING AGENDA
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street NE, Lake Stevens
Monday, June 13, 2011 - 7:00 p.m.

NOTE: ***WORKSHOP ON VOUCHERS AT 6:45 P.M.***

CALL TO ORDER: 7:00 p.m.
Pledge of Allegiance

ROLL CALL:

GUEST BUSINESS:

CONSENT AGENDA:	*A.	Approve June 2011 vouchers.	Barb
	*B.	Approve minutes of May 23, 2011 regular meeting.	Norma
	*C.	Approve minutes of May 31, 2011 workshop meeting.	Norma
	*D.	Approve Memorandum of Understanding regarding Inter-jurisdictional Housing Committee.	Becky
	*E.	Approve contract with Department of Corrections.	Mick

PUBLIC HEARINGS:

PUBLIC HEARING FORMAT:

1. Open Public Hearing
2. Staff presentation
3. Council's questions of staff
4. Proponent's comments
5. Comments from the audience
6. Close public comments portion of hearing
7. Discussion by City Council
8. Re-open the public comment portion of the hearing for additional comments (optional)
9. Close Hearing
10. COUNCIL ACTION:
    a. Approve
    b. Deny
    c. Continue

*A. Consideration of second reading of Ordinance No. 856, adoption of the Shoreline Master Program and associated documents, related code amendments and related Comprehensive Plan amendments. (Public Hearing and first reading May 23, 2011) — Karen

Lake Stevens City Council Regular Meeting Agenda June 13, 2011

	*B.	Consideration of second reading of Ordinance No. 855, land use code amendments related to the Shoreline Management Act. (Public hearing and first reading May 23, 2011)	Karen
ACTION ITEMS:	*A.	Approve minutes of June 6, 2011 Council workshop meeting.	Norma
	*B.	Approve Music on the Lake contracts.	Barb
	*C.	Approve Arts/Parks Foundation wine garden during Music on the Lake.	Barb
	*D.	Approve removal of Shadow Brook bridge.	Mick

DISCUSSION ITEMS:

COUNCIL PERSON'S BUSINESS:

MAYOR'S BUSINESS:

STAFF REPORTS:

INFORMATION ITEMS:

EXECUTIVE SESSION:

ADJOURN:

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* ITEMS ATTACHED
** ITEMS PREVIOUSLY DISTRIBUTED
\# ITEMS TO BE DISTRIBUTED

THE PUBLIC IS INVITED TO ATTEND

Special Needs

The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact Steve Edin, City of Lake Stevens ADA Coordinator, (425) 377-3227, at least five business days prior to any City meeting or event if any accommodations are needed. For TDD users, please use the state's toll-free relay service, (800) 833-6384, and ask the operator to dial the City of Lake Stevens City Hall number.

BLANKET VOUCHER APPROVAL

2011

We, the undersigned Council members of the City of Lake Stevens, Snohomish County, Washington, do hereby certify that the merchandise or services hereinafter specified have been received and that the following vouchers have been approved for payment:

Payroll Direct Deposits	**904309-904374**	**$120,995.28**
Payroll Checks	**31877-31881**	**$5,536.61**
Claims	**31875-31876, 31882-31964**	**$1,276,199.96**
Electronic Funds Transfers	**335-341**	**$126,691.69**
Void Checks		
Tax Deposit(s)	**6/1/2011**	**$42,702.95**
Total Vouchers Approved:		**$1,572,126.49**

This 13th day of June 2011:

Mayor

Councilmember

Finance Director

Councilmember

Councilmember

Councilmember

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Direct Deposit Register

23-May-2011

Wells Fargo - AP

Lake Stevens

Direct Deposits to Accounts

25-May-2011	Vendor	Source	Amount	Draft#	Bank Name	Transit	Account
9362	Department of Revenue	C	$138.66	335	Wells Fargo	121000248	4159656917
		Total:	$138.66		**Count:**	1.00	

Direct Deposit Summary

Type	*Count*	*Total*
C	1	$138.66

Pre-Note Transactions

Direct Deposit Register

01-Jun-2011

Wells Fargo - AP

Lake Stevens

Direct Deposits to Accounts

01-Jun-2011	Vendor	Source	Amount	Draft#	Bank Name	Transit	Account
12112	AFLAC	C	$1,777.60	336	Wells Fargo	121000248	4159656917
101	Assoc. Of Washington Cities	C	$74,350.52	337	Wells Fargo	121000248	4159656917
9407	Department of Retirement (Pers	C	$43,966.98	338	Wells Fargo	121000248	4159656917
9408	NATIONWIDE RETIREMENT SOL	C	$843.72	339	Wells Fargo	121000248	4159656917
1418	Standard Insurance Company	C	$5,211.75	340	Wells Fargo	121000248	4159656917
9405	Wash State Support Registry	C	$402.46	341	Wells Fargo	121000248	4159656917
	Total:		$126,553.03		**Count:**	6.00	

Direct Deposit Summary

Type	*Count*	*Total*
C	6	$126,553.03

Pre-Note Transactions

Detail Check Register

23-May-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
31875	**24-May-11**	**860**	**Lake Stevens Sewer District**			**$585.00**
05/11	Utilities - sewer			$585.00	$0.00	$585.00
001008521004700	Law Enforcement - Utilities			$65.00		
001010576804700	Parks - Utilities			$130.00		
001012572504700	Library - Utilities			$65.00		
001013519904700	General Government - Utilities			$260.00		
101016542004700	Street Fund - Utilities			$32.50		
410016542404700	Storm Water-Aerat. Utilities			$32.50		
31876	**24-May-11**	**13836**	**SCCFOA**			**$44.00**
5/26 mtg	Public Records mtg			$44.00	$0.00	$44.00
001003514104300	City Clerks-Travel & Mtgs			$16.00		
001004514234300	Finance - Travel & Mtgs			$28.00		
				Total Of Checks:		**$629.00**

Detail Check Register

27-May-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
31882	**27-May-11**	**13757**	**Comdata Corporation**			**$9,575.27**
20140946	Fuel			$9,575.27	$0.00	$9,575.27
001008521003200	Law Enforcement - Fuel			$9,575.27		
31883	**27-May-11**	**13265**	**Dennis A. Irwin**			**$300.00**
05/1-05/31/11	Dep Care Reimb			$300.00	$0.00	$300.00
001000281000000	Payroll Liabilities			$300.00		
31884	**27-May-11**	**1390**	**Snohomish Health District**			**$160.00**
Art Permit	Waste Screening - Lundeen RB Art			$160.00	$0.00	$160.00
112013575306400	Art - Public Art Acquisition			$160.00		
31885	**27-May-11**	**13824**	**Wash Teamsters Welfare Trust**			**$1,464.50**
06/01/11	Insurance Premiums			$1,464.50	$0.00	$1,464.50
001010576802000	Parks - Benefits			$58.58		
101016542002000	Street Fund - Benefits			$702.96		
410016542402000	Storm Water - Benefits			$702.96		
				Total Of Checks:		**$11,499.77**

Detail Check Register

06-Jun-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
31886	**06-Jun-11**	**957**	**Marysville Paving and Const.**			**$4,887.00**
9312			Basketball Court - Lundeen Park	$4,887.00	$0.00	$4,887.00
001010576806400			Parks - Capital Outlay	$4,887.00		
				Total Of Checks:		**$4,887.00**

Detail Check Register

09-Jun-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
31887	**13-Jun-11**	**13328**	**ACES**			**$329.00**
8227	Safety training			$329.00	$0.00	$329.00
001003517620000	Admin. Safety program			$77.64		
101016517620000	safety program			$146.08		
410016517620000	safety program			$105.28		
31888	**13-Jun-11**	**13418**	**AHBL, Inc**			**$882.00**
82501	Professional services			$882.00	$0.00	$882.00
001007558004109	Planning-Graphics Eagle Ridge			$882.00		
31889	**13-Jun-11**	**12540**	**ALLIED WASTE SERVICES #197**			**$238.30**
0197-001337797	Dumpster			$238.30	$0.00	$238.30
001010576803103	Parks-Lundeen-Operating Costs			$226.47		
001010576804500	Parks - Equipment Rental			$11.83		
31890	**13-Jun-11**	**12540**	**ALLIED WASTE SERVICES #197**			**$331.74**
0197-001338056	Dumpster			$331.74	$0.00	$331.74
101016542003102	Street Fund Operating Costs			$320.73		
101016542004500	Street Fund - Rentals/Leases			$11.01		
31891	**13-Jun-11**	**12540**	**ALLIED WASTE SERVICES #197**			**$100.99**
0197-001338413	Dumpster			$100.99	$0.00	$100.99
001013519903100	General Government - Operating			$88.66		
001013519904500	General Government-Equip Renta			$12.33		
31892	**13-Jun-11**	**174**	**Bills Blueprint**			**$65.16**
438677	Spring Clean Signs/Lamination			$48.87	$0.00	$48.87
001008521003104	Law Enforcement-Operating Cost			$48.87		
439259	Public Disclosure copies			$16.29	$0.00	$16.29
001013519903100	General Government - Operating			$16.29		
31893	**13-Jun-11**	**179**	**Blumenthal Uniforms**			**$1,684.66**
869387	Ballistic Vest Replacement/Jamison			$912.51	$0.00	$912.51
001008521002600	Law Enforcment Clothing			$912.51		
869494	Ballistic Vest Replacement/Miner			$772.15	$0.00	$772.15
001008521002600	Law Enforcment Clothing			$772.15		
31894	**13-Jun-11**	**13790**	**Bravo Landscaping**			**$3,258.00**
040511	shop fence			$3,258.00	$0.00	$3,258.00
101016543504802	Facilities R&M (City Shop)			$3,258.00		
31895	**13-Jun-11**	**11952**	**Carquest Auto Parts Store**			**$24.45**

Detail Check Register

09-Jun-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
2421-159064			locking gas cap	$24.45	$0.00	$24.45
101016542004800			Street Fund - Repair & Mainten	$24.45		
31896	**13-Jun-11**	**12404**	**CDW GOVERNMENT INC**			**$864.11**
XNS3529			Public Works building network	$130.38	$0.00	$130.38
101016543504802			Facilities R&M (City Shop)	$130.38		
XNX8134			Public Works building network	$733.73	$0.00	$733.73
101016543504802			Facilities R&M (City Shop)	$733.73		
31897	**13-Jun-11**	**13776**	**Chris L Griffen**			**$300.00**
C9558L			Public Defender svcs	$300.00	$0.00	$300.00
001013512800000			Court Appointed Attorney Fees	$300.00		
31898	**13-Jun-11**	**12954**	**CIRCLE-N-LAUNDRY**			**$608.16**
113			Uniform cleaning	$608.16	$0.00	$608.16
001008521002600			Law Enforcment Clothing	$608.16		
31899	**13-Jun-11**	**274**	**City of Everett**			**$3,675.00**
I11001239			Laboratory Analysis	$175.00	$0.00	$175.00
410016542403102			Storm Water - Operating Costs	$175.00		
I11001326			Animal shelter services	$3,100.00	$0.00	$3,100.00
001008539004100			Code Enforcement - Professiona	$3,100.00		
I11001335			Police Skills Refresher Training	$400.00	$0.00	$400.00
001008521004901			Law Enforcement - Staff Develo	$400.00		
31900	**13-Jun-11**	**276**	**City Of Lake Stevens**			**$35.05**
962			Retainage - New Chapter	$35.05	$0.00	$35.05
001007558004100			Planning - Professional Servic	$1.15		
001007559004100			Building Department - Professi	$1.15		
001008521004100			Law Enforcement - Professional	$20.10		
001013519904100			General Government - Professio	$5.75		
001013555504100			Community Center - Cleaning	$4.60		
101016542004100			Street Fund - Professional Ser	$1.15		
410016542404101			Storm Water - Professional Ser	$1.15		
31901	**13-Jun-11**	**12004**	**CITY OF MARYSVILLE**			**$17,626.93**
POLIN11-0063			Prisoner Housing-Okanogan April 2	$1,311.60	$0.00	$1,311.60
001008523005100			Law Enforcement - Jail	$1,311.60		

Detail Check Register

09-Jun-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
POLIN11-0068	Prisioner housing May 2011			$16,315.33	$0.00	$16,315.33
001008523005100	Law Enforcement - Jail			$16,315.33		
31902	**13-Jun-11**	**284**	**City Of Snohomish**			**$24.95**
208	Channel 21 - May 2011			$24.95	$0.00	$24.95
001013519904200	General Government - Communica			$24.95		
31903	**13-Jun-11**	**13823**	**City Wide Fence Co Inc**			**$2,584.68**
26634	shop fence gate			$2,584.68	$0.00	$2,584.68
101016543504802	Facilities R&M (City Shop)			$2,584.68		
31904	**13-Jun-11**	**13030**	**COMCAST**			**$64.90**
05/11 0692756	Annex Satellite office internet			$64.90	$0.00	$64.90
001008521004200	Law Enforcement - Communicatio			$64.90		
31905	**13-Jun-11**	**13030**	**COMCAST**			**$109.90**
05/11 0827887	Traffic Signal Control			$109.90	$0.00	$109.90
101016542640000	Street Fund - Traffic Control			$109.90		
31906	**13-Jun-11**	**13841**	**Comcast**			**$64.90**
05/11 0630988	Evidence room internet svcs			$64.90	$0.00	$64.90
001008521004200	Law Enforcement - Communicatio			$64.90		
31907	**13-Jun-11**	**13757**	**Comdata Corporation**			**$197.80**
20140946 adj	Fuel			$197.80	$0.00	$197.80
001008521003200	Law Enforcement - Fuel			$197.80		
31908	**13-Jun-11**	**91**	**Corporate Office Supply**			**$660.56**
115353	Supplies			$29.85	$0.00	$29.85
001013519903100	General Government - Operating			$29.85		
115365i	Supplies			$261.60	$0.00	$261.60
001013519903100	General Government - Operating			$261.60		
117295i	Supplies			$146.90	$0.00	$146.90
001013519903100	General Government - Operating			$146.90		
117556	Ink			$18.41	$0.00	$18.41
001008521003100	Law Enforcement - Office Suppl			$18.41		
1176841	office supplies			$203.80	$0.00	$203.80

Detail Check Register

09-Jun-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
001008521003100		Law Enforcement - Office Suppl		$203.80		
31909	**13-Jun-11**	**13196**	**Correctional Industries**			**$1,419.74**
WINV310349		Traffic signs		$1,419.74	$0.00	$1,419.74
101016542640000		Street Fund - Traffic Control		$1,419.74		
31910	**13-Jun-11**	**9386**	**Crystal and Sierra Springs**			**$88.57**
10156188 051211		Bottled Water		$88.57	$0.00	$88.57
001008521003104		Law Enforcement-Operating Cost		$88.57		
31911	**13-Jun-11**	**13495**	**DAHL Electric Inc**			**$2,042.77**
15766		new shop electric for lift		$2,042.77	$0.00	$2,042.77
101016543504802		Facilities R&M (City Shop)		$2,042.77		
31912	**13-Jun-11**	**13545**	**DataQuest LLC**			**$77.00**
CILKSTEVENS-201105		Background checks		$77.00	$0.00	$77.00
001003516104100		Human Resources-Professional S		$77.00		
31913	**13-Jun-11**	**12369**	**DELL MARKETING L.P.**			**$3,873.77**
XFC1N5C16		Qty 5 - OptiPlex 380 Desktop PCs		$3,873.77	$0.00	$3,873.77
510013519606400		Purchase Computer Equipment		$3,873.77		
31914	**13-Jun-11**	**13743**	**Dept of Commerce**			**$1,135,778.59**
PWTF-107784		PWTF PE10-951-003		$238.89	$0.00	$238.89
211016592008300		2010 PWTF Loan Interest Pymt		$238.89		
PWTF-81234		PWTF PW-02-691-029		$90,832.65	$0.00	$90,832.65
205080591007100		PWTF Principal Pymt		$85,691.18		
205080592008300		PWTF Loan Interest Pymt		$5,141.47		
PWTF-98937		PWTF PW-06-962-020		$413,285.26	$0.00	$413,285.26
207080591007100		PWTF Principal Pymt		$384,539.47		
207080592008300		PWTF Loan Interest Payment		$28,745.79		
PWTF-98973		PWTF PW-05-691-PRE-137		$68,421.05	$0.00	$68,421.05
208080591007100		Principal Payment		$52,631.58		
208080592008300		PWTF Loan Interest Payment		$15,789.47		
PWTF-99008		PWTF PC08-951-023		$563,000.74	$0.00	$563,000.74
209080591007100		PWTF Loan Principle Payment		$521,929.83		
209080592008300		PWTF Loan Interest Payment		$41,070.91		
31915	**13-Jun-11**	**12800**	**DEPT OF CORRECTIONS**			**$330.06**
MCC4591 0411		Repair and Maint		$330.06	$0.00	$330.06

Detail Check Register

09-Jun-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
101016542004800		Street Fund - Repair & Mainten		$330.06		
31916	**13-Jun-11**	**13497**	**Direct Carpet Services**			**$258.58**
45458		Carpet cleaning		$258.58	$0.00	$258.58
001008521004800		Law Enforcement - Repair & Mai		$258.58		
31917	**13-Jun-11**	**473**	**Electronic Business Machines**			**$317.68**
065564		Copier maint - city hall		$193.16	$0.00	$193.16
001013519904800		General Government - Repair/Ma		$193.16		
065802		Copier Maint		$124.52	$0.00	$124.52
001007558004800		Planning - Repairs & Maint.		$62.26		
101016542004800		Street Fund - Repair & Mainten		$62.26		
31918	**13-Jun-11**	**505**	**Everett Stamp Works**			**$29.43**
3245		Certify Stamp		$29.43	$0.00	$29.43
001003514103100		City Clerks-Office Supplies		$29.43		
31919	**13-Jun-11**	**12711**	**EVERGREEN SECURITY SYSTEMS**			**$103.17**
18910		Service to Security System		$103.17	$0.00	$103.17
001008521004800		Law Enforcement - Repair & Mai		$103.17		
31920	**13-Jun-11**	**13390**	**Evergreen State Heat**			**$403.45**
15843		HVAC service		$403.45	$0.00	$403.45
001013519904800		General Government - Repair/Ma		$403.45		
31921	**13-Jun-11**	**13468**	**Feldman & Lee**			**$5,250.00**
05/31/11		Public Defender svcs		$5,250.00	$0.00	$5,250.00
001013512800000		Court Appointed Attorney Fees		$5,250.00		
31922	**13-Jun-11**	**549**	**Foster Press**			**$114.03**
27688		Banner - Relay for Life		$114.03	$0.00	$114.03
001013519903100		General Government - Operating		$114.03		
31923	**13-Jun-11**	**13764**	**Frontier**			**$175.54**
05/16		Communications		$87.77	$0.00	$87.77
001013519904200		General Government - Communica		$29.26		
101016542004200		Street Fund - Communications		$29.25		
410016542404200		Storm Water - Communications		$29.26		
05/19		Communications		$87.77	$0.00	$87.77
001008521004200		Law Enforcement - Communicatio		$87.77		

Detail Check Register

09-Jun-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
31924	**13-Jun-11**	**567**	**Galls, an Aramark Co LLC**			**$190.00**
511385464			Boating Uniform/Guertin & Barnes	$190.00	$0.00	$190.00
001008521002600			Law Enforcment Clothing	$190.00		
31925	**13-Jun-11**	**12393**	**GLENS RENTAL SALES & SERVICE**			**$226.74**
S5303			rental of roller (new shop)	$226.74	$0.00	$226.74
101016543504802			Facilities R&M (City Shop)	$226.74		
31926	**13-Jun-11**	**13086**	**Gregs Custom Fishing Rods**			**$303.99**
5282011.2			chest waders	$303.99	$0.00	$303.99
410016542403102			Storm Water - Operating Costs	$303.99		
31927	**13-Jun-11**	**13138**	**Helmets R Us**			**$34.21**
31801			Decals for helmets	$34.21	$0.00	$34.21
001008521003104			Law Enforcement-Operating Cost	$34.21		
31928	**13-Jun-11**	**13509**	**Industrial Supply, Inc**			**$114.58**
479200			Gloves	$67.77	$0.00	$67.77
101016542002600			Street Fund - Clothing	$67.77		
479953			Rain jacket and pants	$46.81	$0.00	$46.81
410016542402600			Storm Water-Clothing	$46.81		
31929	**13-Jun-11**	**13232**	**Integra Telecom, Inc**			**$870.73**
8296661			Communication	$870.73	$0.00	$870.73
001003513104200			Administration-Communications	$6.64		
001003514104200			City Clerks-Communications	$7.75		
001003516104200			Human Resources-Communications	$7.19		
001003518104200			IT Dept-Communications	$18.81		
001004514234200			Finance - Communications	$14.94		
001007558004200			Planning - Communication	$55.23		
001007559004200			Building Department - Communci	$36.87		
001008521004200			Law Enforcement - Communicatio	$141.78		
001010575304200			Historical - Communications	$36.87		
001013519904200			General Government - Communica	$264.91		
001013555504200			Comminity Center-Communication	$36.87		
101016542004200			Street Fund - Communications	$120.26		
410016542404200			Storm Water - Communications	$122.61		
31930	**13-Jun-11**	**12682**	**INTERNATIONAL CODE COUNCIL**			**$125.00**
2843083			Dues	$125.00	$0.00	$125.00
001007559004900			Building Department - Miscella	$125.00		

Detail Check Register

09-Jun-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
31931	**13-Jun-11**	**13239**	**Karen Watkins**			**$13.00**
051911	Parking			$13.00	$0.00	$13.00
001007558004300	Planning - Travel & Mtgs			$13.00		
31932	**13-Jun-11**	**11777**	**Lake Stevens Fire**			**$290.00**
5461	Annual Inspection-Library			$185.00	$0.00	$185.00
001012572503100	Library - Office And Operating			$185.00		
5508	Annual fire inspection community ctr			$105.00	$0.00	$105.00
001013551503100	Community Center - Operations			$105.00		
31933	**13-Jun-11**	**852**	**Lake Stevens Journal**			**$237.85**
74936	Advertising - legal			$50.25	$0.00	$50.25
001007558004400	Planning - Advertising			$50.25		
74937	Advertising - Legal			$187.60	$0.00	$187.60
410016542404400	Storm Water - Advertising			$187.60		
31934	**13-Jun-11**	**12751**	**LAKE STEVENS POLICE GUILD**			**$881.00**
05/31/11	Guild Union Dues May 2011			$881.00	$0.00	$881.00
001000281000000	Payroll Liabilities			$881.00		
31935	**13-Jun-11**	**860**	**Lake Stevens Sewer District**			**$585.00**
06/11	Utilities - sewer			$585.00	$0.00	$585.00
001008521004700	Law Enforcement - Utilities			$65.00		
001010576804700	Parks - Utilities			$130.00		
001012572504700	Library - Utilities			$65.00		
001013519904700	General Government - Utilities			$260.00		
101016542004700	Street Fund - Utilities			$32.50		
410016542404700	Storm Water-Aerat. Utilities			$32.50		
31936	**13-Jun-11**	**12841**	**Law Offices of Weed, Graafstra**			**$7,548.00**
89	Professional services			$7,548.00	$0.00	$7,548.00
001005515204100	Legal - Professional Service			$4,528.80		
101016542004100	Street Fund - Professional Ser			$2,264.40		
410016542404101	Storm Water - Professional Ser			$754.80		
31937	**13-Jun-11**	**13802**	**Leland Consulting Group Inc**			**$845.00**
5066.2.4	Professional Services			$845.00	$0.00	$845.00
001007558804111	Planning-Economic Development			$845.00		
31938	**13-Jun-11**	**12603**	**LES SCHWAB TIRE CENTER**			**$768.65**
325446	2 New Tires for PW-13			$768.65	$0.00	$768.65

Detail Check Register

09-Jun-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
101016542004800		Street Fund - Repair & Mainten		$768.65		
31939	**13-Jun-11**	**13755**	**LMN Architects**			**$10,496.89**
51166		Professional services - Econ Dev		$10,496.89	$0.00	$10,496.89
001007558804111		Planning-Economic Development		$10,496.89		
31940	**13-Jun-11**	**13774**	**Maltby Container & Recycling**			**$290.00**
19585		Dump fees		$105.00	$0.00	$105.00
101016542004800		Street Fund - Repair & Mainten		$105.00		
19668		Dump fees		$185.00	$0.00	$185.00
101016542004800		Street Fund - Repair & Mainten		$185.00		
31941	**13-Jun-11**	**13711**	**New Chapter Cleaning**			**$665.95**
962		Janitorial Services		$665.95	$0.00	$665.95
001007558004100		Planning - Professional Servic		$21.85		
001007559004100		Building Department - Professi		$21.85		
001008521004100		Law Enforcement - Professional		$381.90		
001013519904100		General Government - Professio		$109.25		
001013555504100		Community Center - Cleaning		$87.40		
101016542004100		Street Fund - Professional Ser		$21.85		
410016542404101		Storm Water - Professional Ser		$21.85		
31942	**13-Jun-11**	**12684**	**NORTHWEST CASCADE INC.**			**$436.00**
1-283418		Equipment rental		$218.00	$0.00	$218.00
001010576804500		Parks - Equipment Rental		$218.00		
1-296617		Equipment rental		$218.00	$0.00	$218.00
001010576804500		Parks - Equipment Rental		$218.00		
31943	**13-Jun-11**	**11869**	**PUGET SOUND ENERGY**			**$360.21**
05/11 1294748676		Utilities - Gas		$196.19	$0.00	$196.19
001010576804700		Parks - Utilities		$65.40		
101016542004700		Street Fund - Utilities		$65.40		
410016542404701		Storm Water Utilities		$65.39		
050611		Utilities - Gas		$164.02	$0.00	$164.02
001010576804700		Parks - Utilities		$54.67		
101016542004700		Street Fund - Utilities		$54.67		
410016542404701		Storm Water Utilities		$54.68		
31944	**13-Jun-11**	**13304**	**Purchase Power**			**$500.00**
05/24/11		Postage		$500.00	$0.00	$500.00

Detail Check Register

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Check No	Check Date	VendorNo	Vendor			Check Amount
001007558004200			Planning - Communication	$50.62		
001008521004200			Law Enforcement - Communicatio	$1.73		
001013519904200			General Government - Communica	$440.96		
101016542004200			Street Fund - Communications	$3.34		
410016542404200			Storm Water - Communications	$3.35		
31945	**13-Jun-11**	**13784**	**Robinson Noble**			**$2,500.00**
11-366			Rain garden design City shop	$2,500.00	$0.00	$2,500.00
101016543504802			Facilities R&M (City Shop)	$2,500.00		
31946	**13-Jun-11**	**13842**	**Shannon & Wilson Inc**			**$750.00**
845565			36th St embankment-engineering sv	$750.00	$0.00	$750.00
101016595616440			36th Street Bridge Repair	$750.00		
31947	**13-Jun-11**	**12722**	**SHRED-it WESTERN WASHINGTON**			**$49.50**
101140140			shredding services	$49.50	$0.00	$49.50
001008521003104			Law Enforcement-Operating Cost	$49.50		
31948	**13-Jun-11**	**1382**	**Snohomish County Public Works**			**$1,984.47**
I000265399			Repair and Maint	$1,479.71	$0.00	$1,479.71
101016542004800			Street Fund - Repair & Mainten	$1,479.71		
I000271792			Repair and Maint	$504.76	$0.00	$504.76
101016542004800			Street Fund - Repair & Mainten	$504.76		
31949	**13-Jun-11**	**12961**	**SNOHOMISH COUNTY PUD**			**$1,449.01**
100033516			Utilites - Electric	$426.78	$0.00	$426.78
001010576804700			Parks - Utilities	$142.26		
101016542004700			Street Fund - Utilities	$142.26		
410016542404701			Storm Water Utilities	$142.26		
103743005			Utilities - Electric	$29.74	$0.00	$29.74
001010576804700			Parks - Utilities	$29.74		
107058135			Utilities - Electric	$488.18	$0.00	$488.18
001013555504700			Community Center - Utilities	$488.18		
110371813			Utilities - Electric	$156.02	$0.00	$156.02
410016542404700			Storm Water-Aerat. Utilities	$156.02		
113693176			Utilites - Electric	$43.39	$0.00	$43.39

Detail Check Register

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Check No	Check Date	VendorNo	Vendor			Check Amount
001010576804700			Parks - Utilities	$14.46		
101016542004700			Street Fund - Utilities	$14.46		
410016542404701			Storm Water Utilities	$14.47		
113698136			Utilities - Electric	$88.44	$0.00	$88.44
001010575304901			Historical Museum	$44.22		
001010575304905			Grimm House Expenses	$44.22		
123655497			Utilites - Electric	$144.32	$0.00	$144.32
101016542630000			Street Fund - Street Lighting	$144.32		
123657376			Utilities - Electric	$72.14	$0.00	$72.14
410016542404700			Storm Water-Aerat. Utilities	$72.14		
31950	**13-Jun-11**	**12961**	**SNOHOMISH COUNTY PUD**			**$11,393.89**
123659064			Utilities - Electric	$56.15	$0.00	$56.15
101016542630000			Street Fund - Street Lighting	$56.15		
123660140			Utilities - Electric	$149.33	$0.00	$149.33
001013519904700			General Government - Utilities	$149.33		
126972825			Utilities - Electric	$29.23	$0.00	$29.23
001010576804700			Parks - Utilities	$29.23		
126979257			Utilities - Electric	$45.38	$0.00	$45.38
001013519904700			General Government - Utilities	$45.38		
130296539			Utilities - Electric	$9,086.87	$0.00	$9,086.87
101016542630000			Street Fund - Street Lighting	$9,086.87		
130296540			Utilities - Electric	$796.95	$0.00	$796.95
101016542630000			Street Fund - Street Lighting	$796.95		
130296541			Utilities - Electric	$1,101.11	$0.00	$1,101.11
101016542630000			Street Fund - Street Lighting	$1,101.11		
133602113			Utilites - Electric	$128.87	$0.00	$128.87
101016542630000			Street Fund - Street Lighting	$128.87		
31951	**13-Jun-11**	**12961**	**SNOHOMISH COUNTY PUD**			**$3,146.28**
136830776			Utilites - Electric	$246.02	$0.00	$246.02

Detail Check Register

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Check No	Check Date	VendorNo	Vendor			Check Amount
101016542630000			Street Fund - Street Lighting	$246.02		
136834117			Utilities - Electric	$149.73	$0.00	$149.73
001008521004700			Law Enforcement - Utilities	$149.73		
1368355234			Utilities - Electric	$70.91	$0.00	$70.91
101016542630000			Street Fund - Street Lighting	$70.91		
136836662			Utilites - Electric	$354.65	$0.00	$354.65
001010576804700			Parks - Utilities	$354.65		
140153155			Utilities - Electric	$1,170.79	$0.00	$1,170.79
001008521004700			Law Enforcement - Utilities	$1,170.79		
140159009			Utilities - Electric	$412.16	$0.00	$412.16
001013519904700			General Government - Utilities	$412.16		
143482247			Utilities - Electric	$338.65	$0.00	$338.65
101016542630000			Street Fund - Street Lighting	$338.65		
143482636			Utilities - Electric	$403.37	$0.00	$403.37
001013519904700			General Government - Utilities	$403.37		
31952	**13-Jun-11**	**12961**	**SNOHOMISH COUNTY PUD**			**$630.74**
146798226			Utilites - Electric	$139.49	$0.00	$139.49
001008521004700			Law Enforcement - Utilities	$139.49		
146799726			Utilities - Electric	$104.56	$0.00	$104.56
101016542630000			Street Fund - Street Lighting	$104.56		
146799727			Utilities - Electric	$124.93	$0.00	$124.93
101016542630000			Street Fund - Street Lighting	$124.93		
146800948			Utilities - Electric	$185.89	$0.00	$185.89
101016542630000			Street Fund - Street Lighting	$185.89		
153434588			Utilities - Electric	$75.87	$0.00	$75.87
001010576804700			Parks - Utilities	$25.29		
101016542004700			Street Fund - Utilities	$25.29		
410016542404701			Storm Water Utilities	$25.29		
31953	**13-Jun-11**	**1356**	**SNOPAC**			**$16,082.57**

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Check No	Check Date	VendorNo	Vendor			Check Amount
4830			Dispatch Services	$16,082.57	$0.00	$16,082.57
001008528005100			Law Enforcement - Snopac Dispa	$16,082.57		
31954	**13-Jun-11**	**13139**	**Steven Edin**			**$223.18**
060111			AWC Conf	$223.18	$0.00	$223.18
001003516104300			Human Resources-Travel & Mtgs	$223.18		
31955	**13-Jun-11**	**11787**	**Teamsters Local No. 763**			**$567.00**
06/11			Teamsters Union Dues May 2011	$567.00	$0.00	$567.00
001000281000000			Payroll Liabilities	$567.00		
31956	**13-Jun-11**	**1491**	**The Everett Herald**			**$125.68**
1737311			Advertising - legal	$125.68	$0.00	$125.68
001007558004400			Planning - Advertising	$125.68		
31957	**13-Jun-11**	**13112**	**Tyler Enterprises**			**$125.00**
05/27/11			Professional services	$125.00	$0.00	$125.00
001007559004100			Building Department - Professi	$125.00		
31958	**13-Jun-11**	**11788**	**United Way of Snohomish Co.**			**$317.68**
05/11			United Way May 2011	$317.68	$0.00	$317.68
001000281000000			Payroll Liabilities	$317.68		
31959	**13-Jun-11**	**13045**	**UPS**			**$82.22**
74Y42201			Evidence shipping	$8.35	$0.00	$8.35
001008521004200			Law Enforcement - Communicatio	$8.35		
74Y42221			Evidence shipping	$73.87	$0.00	$73.87
001008521004200			Law Enforcement - Communicatio	$73.87		
31960	**13-Jun-11**	**12158**	**VERIZON NORTHWEST**			**$1,935.28**
05/23/11			Communications	$1,935.28	$0.00	$1,935.28
001003511104200			Executive - Communication	$57.67		
001003513104200			Administration-Communications	$59.67		
001003514104200			City Clerks-Communications	$34.70		
001003516104200			Human Resources-Communications	$57.48		
001003518104200			IT Dept-Communications	$114.96		
001007558004200			Planning - Communication	$114.96		
001008521004200			Law Enforcement - Communicatio	$837.07		
001010576804200			Parks - Communication	$219.59		
101016542004200			Street Fund - Communications	$219.59		
410016542404200			Storm Water - Communications	$219.59		

Detail Check Register

09-Jun-11 Lake Stevens

Check No	Check Date	VendorNo	Vendor			Check Amount
31961	**13-Jun-11**	**1579**	**VILLAGE ACE HARDWARE**			**$620.73**
05/31 statement		Supplies		$620.73	$0.00	$620.73
001008521004800			Law Enforcement - Repair & Mai	$49.78		
001010576803100			Parks - Operating Costs	$79.79		
001012572504800			Library - Repair & Maint.	$53.81		
101016542003102			Street Fund Operating Costs	$187.51		
101016542004800			Street Fund - Repair & Mainten	$72.81		
101016543504802			Facilities R&M (City Shop)	$170.74		
410016542403102			Storm Water - Operating Costs	$6.29		
31962	**13-Jun-11**	**12194**	**WA Dept of Ecology**			**$65.79**
2011-WAG994197		Wastewater permit		$65.79	$0.00	$65.79
410016542403130			Storm Water- DOE Annual Permit	$65.79		
31963	**13-Jun-11**	**12761**	**WASHINGTON STATE PATROL**			**$192.50**
I11009958		Background checks CPL licenses		$192.50	$0.00	$192.50
633008589000006			Gun Permit - FBI Remittance	$192.50		
31964	**13-Jun-11**	**12845**	**ZACHOR & THOMAS, INC. P.S.**			**$7,166.25**
535		Prosecutor services		$7,166.25	$0.00	$7,166.25
001013515210000			Prosecutor fees	$7,166.25		

Total Of Checks: $1,259,184.19

CITY OF LAKE STEVENS
REGULAR CITY COUNCIL MEETING MINUTES
Monday, May 23, 2011
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street N.E. Lake Stevens

CALL TO ORDER:	7:01 p.m. by Mayor Vern Little
COUNCILMEMBERS PRESENT:	Mark Somers, Kim Daughtry, Marcus Tageant, Kathy Holder, Suzanne Quigley, Neal Dooley and John Spencer
COUNCILMEMBERS ABSENT:	
STAFF MEMBERS PRESENT:	Planning Director Becky Ableman, City Administrator Jan Berg, City Attorney Paul McMurray, Public Works Director/City Engineer Mick Monken, Finance Director/Treasurer Barb Lowe, Principal Planner Karen Watson, Human Resource Director Steve Edin, Police Chief Randy Celori, IT Director Troy Stevens, and City Clerk/Admin. Asst. Norma Scott
OTHERS:	Todd Morrow, Katrina Ordracel, Tom Matlack, Douglas Bell, Angela Larsh, Bruce Morton, Gigi Burke, Cory Burke, Jim McCord, Bill Tackitt, Jennifer Soler, Ted Boyson, Paul Olliges, Patricia Perry, Bill Trimm

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Guest Business. Katrina Ordracel, representing United Way, reported they are preparing a random sample survey to do needs assessment.

Todd Morrow, representing Community Transit, reviewed the service they provide, who uses it, long range transit plan, and financial situation.

Public Hearing in consideration of first reading of Ordinance No. 856, adoption of the Shoreline Master Program (SMP) and associated documents, related code amendments and related comprehensive plan amendments. City Clerk Scott read the public hearing procedure which will be used for both hearings. Planning Director Ableman reported the plan is for the next 20 years. Public outreach is required by the State and involved the following: Citizen Advisory Committee, three Public Open Houses, Planning Commission had six meetings, and notices were sent to those within 200 feet of the shoreline.

Principal Planner Watkins commented the ordinance contains the following draft exhibits: Shoreline Master Program, Cumulative Impact Analysis, Shoreline Restoration Plan, No Net Loss Report, Code amendments related to the SMP, and GMA Comprehensive Plan Amendments for consistency with SMP. Information/public testimony included in the staff report are: E-mail from Kristen Kelly, Futurewise, requesting public testimony be kept open to June 13 hearing; Planning Commission Recommendation and public testimony transcription and responses survey from May18 meeting; E-mail from Department of Ecology (DOE) regarding new and replacement docks; and U.S. Army Corps of Engineers Regional General Permit #3 application form required by all jurisdictions on Lake Washington and Lake Sammamish,

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Sammamish River, Lake Union and Ship Canal. The only changes since last summer are Appendix B, some dock dimensions and some minor wording of text. SMP checklist from DOE is attached to the staff report which includes their comments and how each of their comments were addressed. Frequently asked questions to DOE are included. Planning Commission terminology for shall and should was discussed – shall means a mandate and should means that the particular action is required unless you can show a reason based on the Shoreline Management Act.

Helicopters were discussed at the Planning Commission. There is currently one on the lake. Residents expressed concern for safety hazards. FAA allows helicopters on private docks as long as they come in over the lake. The SMP is silent on this, but is in the code amendments.

Jet skis are now called personal watercraft. The question is should we limit the number of lifts, which are only allowed when attached to a dock, but they do cause increased dock shadowing.

E-mail from DOE discusses dock sizes - existing dock that is six feet wide can remain, if wider than 6 feet in the first 30 feet would need to be reduced to 6 feet, new docks would be 4 feet for the first 30 feet, replacement docks wider than 6 feet could be allowed to be 6 feet wide if they are grated within the first 30 feet.

Amendments proposed include definition of shall and should, change grating to be more general to allow anything which proves it provides 60% light penetration, allow replacement of docks to the same size and dimension up to 6 feet wide in the first 30 feet, personal watercraft lifts as part of dock only, not separate and must be at least 30 feet waterward of ordinary high water mark, no net loss section, and 3 minor changes to Appendix B Critical Areas Regulations In Shoreline Jurisdiction.

Planning Director Ableman noted we cannot compare other jurisdictions shoreline master programs because the baseline condition of our lake and fish habitat is different and DOE requires us to look at existing conditions on Lake Stevens. Lake setback is a 50 foot buffer with a 10 foot building setback. The County requires a 150 foot setback. DOE recognizes the lake is largely developed and will accept the 60 foot setback. The following is the order for preference of uses on a shoreline of statewide significance like Lake Stevens: 1) Recognize and protect the statewide interest over local interest; 2) Preserve he natural character of the shoreline; 3) Result in long term over short term benefit; 4) Protect the resources and ecology of the shoreline; 5) Increase public access to publicly owned areas of the shorelines; 6) Increase recreational opportunities for the public in the shoreline; and 7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

Public comments. Douglas Bell, resides at 10830 Vernon Road, who represents six other waterfront property families that want to prohibit helicopters on overwater structures. Helicopters are noisy, dangerous and not a water dependent use. Helicopter docks or landing areas will not be a reasonably safe distance – his house is only 20 feet from a dock that could be used for a helicopter pad. Prohibition would not affect the one current helicopter owner. For the record Mr. Bell provided a written statement.

Angela Larsh, with Urban Concepts LLC, 4509 Interlocken North, Seattle, is here representing Rich Meitzner. She commented it is important to recognize that under the current Shoreline Master Program there is a very clear division between how critical area regulations apply and

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how shoreline regulations apply. The critical area regulations will prohibit you from replacing your structure or any other improvement that does not comply with the 60 foot buffer if it is destroyed by human activity or natural causes. More than 60% of the properties along the lake do not comply with the current 60 foot setback. The bulkhead language does not allow for existing structures to be replaced. Lake Stevens should be able to be held to the same standards as other cities. Army Corps of Engineers regulations do not apply here. Mr. Meitzner has been using his helicopter and I think he is a responsible citizen. Mayor Little requested her comments be in writing regarding Mr. Meitzner's helicopter since her testimony time limit expired.

Tom Matlack, 2504 112th Drive NE, Lake Stevens commented it has been a very long process and thanked the committee members, Planning Commission, planning staff, and Council. Requested Council accept the recommendations that were in the staff report tonight from the Planning Commission

Ted Boyson, 10432 Sandy Beach Drive, stated do not pit neighbor against neighbor. There is room for fishing, waterskiing, wakeboarding, float planes, helicopters and many others. We have to be careful that we keep our rights. There is plenty of room for everybody to have fun and to exercise our rights. He enjoys seeing float planes, helicopters, and boats and hopes to enjoy them for many years.

Bruce Morton, 11222 Vernon Road, commented the SMP requires fabric material for boat lift canopies. The fish don't care whether the shade is from fabric or a solid roof. Fabric is more flimsy than solid wood and why are you afraid of it falling into the lake. He likes helicopters on the lake.

Gigi Burke, 920 E Lakeshore Drive, commented they could not build the house they built two years ago under these regulations. Other cities have eased the language so they can make decisions on an individual basis. She is proud of the lake but wants to be able to maintain their property in a cost effective manner. Ms. Burke submitted letters in support of helicopters.

Jennifer Soler, 914 E. Lakeshore Drive, stated she is new to Lake Stevens and is concerned about not being able to fix their bulkhead and gravel a level area for a BBQ. It would be expensive to replace the bulkhead under these regulations and can't rebuild if the house burns. Also over 60% of the homeowners around the lake are out of compliance with these new regulations. The language is too restrictive.

Paul Olliges, 824 E Lakeshore Drive, has lived there for over 15 years. These regulations force him to spend a lot of money on his property. The 8 foot dock needs repair and if it must be modified to 4 feet it would be a burden. Who is liable if he can't repair the dock? Do not put the burden on the people on the lake.

Jim McCord, 9827 N Davies Road, commented he is a second generation resident that lived on the lake probably for a total of 48 years. The comments and written statements made by Ms. Larsh are very important to him and he hopes Council takes a clear look at what they say and how they affect the people that live on the lake. Not everybody's properties conform to the guidelines. The water level changes and is different depths through the lake. When scuba diving he sees a lot of fish under the docks and you would be taking this away.

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Patricia Perry, 1611 Vernon Road, voiced concern about adding more restrictions that would lower the value of her home and not be able to use their property because of the perception of future problems that are not really factual.

Bill Tackitt, 12009 Lakeshore Drive, has been on the lake for about 35 years. The State Department of Ecology is a state agency that is trying to force local governments to impose standards that place the cost of their improvements on the backs of the private property owners. Property owners should be allowed to replace, repair and maintain their existing property including docks, floats and bulkheads. DOE does not give a set of demands only suggestions because if they did, they would spend the rest of their entire budget in the court of law. Why should we assume that the local planning process is not adequate to provide flexible implementation measures to ensure no net loss of environment standards? He voiced concern if his house burns down that he will not be able to rebuild in the same location.

Cory Burke, 920 E. Lakeshore Drive, is willing to pay his share to make this a more healthy lake for everybody but doesn't want to pay for it all himself. He is concerned if his house burns and cannot rebuild. Don't take what the state says. Most of his house is in the buffer and the house has been there for 60 years. His dock does not conform now.

MOTION: Councilmember Dooley moved to close the public comment portion of the hearing, seconded by Councilmember Tageant; motion carried unanimously. (7-0-0-0)

Councilmember Quigley asked what flexibility we have if we go beyond June 13. Planning Director Ableman responded we could continue to June 27. Ms. Ableman has requested from DOE an additional 6 weeks beyond June 30 for City review.

Councilmember Spencer asked what the appeal process is if DOE does not approve the City plan. Planning Director Ableman will outline for Council.

Councilmember Tageant asked if the City has any statistic or studies on the Lake that the City has done or that has been provided to us other than DOE. Planning Director Ableman responded we have the no net loss report which was prepared for us by our consultant as part of this process and some that might be site specific.

Councilmember Spencer noted on DOE's requirements for piers and docks, we need a good environmental attorney to review. Fish habitat requirements need to be questioned and DOE is making it difficult to comply and is putting the City in a bad position.

Councilmember Daughtry commented we should be able to protect the constituents and the lake and should be our plan not the State's. On no net loss, how do you determine that and what are we trying to protect. Planning Director Ableman responded we need to look at the accumulative effect. Fish habitat is the first 30 feet of the shoreline and more overwater structures degrades the habitat - is a balancing act.

Councilmember Dooley asked when we need to provide the SMP to DOE. Planning Director Ableman responded June 30 but has asked for a 6 week extension to August 15.

Councilmember Spencer noted the City has a critical areas ordinance and SMP also addresses critical areas. Planning Director Ableman responded there is some administrative flexibility.

DRAFT

Councilmember Quigley commented for staff to look at the City of Redmond language that was already approved by DOE, which has more flexibility for repairs for docks and bulkheads.

Planning Director Ableman will provide more information on structures that burn down.

Council consensus was to hold a May 31 workshop to develop questions for DOE and Fish & Wildlife on the SMP and invite them to the June 6 workshop.

MOTION: Councilmember Spencer moved to close the public hearing for the first reading only, seconded by Councilmember Dooley; motion carried unanimously. (7-0-0-0)

Public Hearing in consideration of first reading of Ordinance No. 855, land use code amendments related to the Shoreline Management Act. Principal Planner noted no public testimony has been received to date and Planning Commission recommendation is to adopt the ordinance.

Public Comment. Angela Larsh, representing Urban Design, stated since the City is defining shall and should then the City should look at how it applies to other regulations.

MOTION: Councilmember Dooley moved to close the public comment portion of the hearing, seconded by Councilmember Tageant; motion carried unanimously. (7-0-0-0)

MOTION: Councilmember Somers moved to close the public hearing, seconded by Councilmember Holder; motion carried unanimously. (7-0-0-0)

MOTON: Councilmember Spencer moved to adopt Ordinance 855 for first reading, seconded by Councilmember Somers; motion carried unanimously. (7-0-0-0)

Consent Agenda. Mayor Little removed the minutes from the Consent Agenda.

MOTION: Councilmember Tageant moved to approve Consent Agenda vouchers (Payroll Direct Deposits 904250-904308 in the amount of $121,902.70, Payroll Checks 31808-31811 for $10,095.87, Claims 31812-31871 for $118,967.77, Electronic Funds Transfers 332-334 for $5,004.68, Void Checks 31763, 31771, 31791, 31801 for deduct of $1,715.11, Tax Deposit for 5-13-11 in amount of $46,136.68, for total vouchers approved of $300,392.59), seconded by Councilmember Daughtry; motion carried unanimously. (7-0-0-0)

Supplemental Vouchers for May 2011. Councilmember Tageant moved to approve Supplemental Vouchers for May 2011 (Claims 31872-31874 for $145,883.60), seconded by Councilmember Holder; motion carried unanimously. (7-0-0-0)

Mayor Little called for a five minute recess at 9:05 p.m., reconvened at 9:10 p.m.

Bill Trimm contract. Planning Director Ableman commented this contract allows the City to establish key relationships with property owners/developers/businesses and brokers during the subarea planning process. This contract is not to exceed $10,000.

Bill Trimm noted that he will provide Council with reports and will mirror LMN's subarea planning procedure.

DRAFT

MOTION: Councilmember Quigley moved to approve Economic Development Professional Services Agreement for business/development recruitment services with William Trimm, seconded by Councilmember Somers; motion carried unanimously. (7-0-0-0)

Approve contract with Civic Plus for new City website. IT Director Stevens reported with the economic development strategy, redesign of the City's website is an important tool to engage the community and businesses by allowing them to subscribe to information on the site. It is time for the City to move toward to a more dynamic website. Civic Plus is currently serving 20 cities/counties in Washington alone. Other software was reviewed. Civic Plus is a content management system with a special focus on government. The site can be redesigned every four years under this contract. He is recommending approval of the contract pending review and approval by the City Attorney.

Councilmember Holder asked about training. IT Director Stevens responded there is a 3-day training session including web based library and tutorials.

Councilmember Spencer asked when it would be launched. IT Director Stevens responded in approximately 26 weeks.

MOTION: Councilmember Quigley moved to approve contract with Civic Plus for new City web site, seconded by Councilmember Tageant; motion carried unanimously. (7-0-0-0)

Minutes of May 9, 2011 regular meeting. Councilmember Quigley corrected the minutes on the second page under Shoreline Master Plan to delete the last two sentences (Once the City adopts the Shoreline Ordinance, DOE has 6 months to approve or make changes. If DOE makes changes, the City would adopt a new ordinance.) and add "Once the City adopts the Shoreline Ordinance, DOE is taking about 6 months to approve plans. DOE has three options: 1. approve plan; 2. request changes by the City then a new ordinance would be necessary; or 3. disapprove and remand plan to City for correction.

MOTION: Councilmember Holder moved to approve the May 9 minutes as corrected, seconded by Councilmember Dooley; motion carried unanimously. (7-0-0-0)

Purchase of new permit tracking system. Planning Director Ableman reported as follows: current system is antiquated, purchased the update but never received the upgrade, and ready to request the refund but found out they went out of business. The cities of Edmonds and Arlington are using this system. The reason for the low cost is the vendor is looking to increase their customer base. The proposal is $1,000 to begin setup this year and $4,000 next year for completion with a $5,000/year fee for maintenance/subscription to begin in 2012. Council and staff discussed having an escrow account that would house the source code for the product in case something happens to the company.

IT Director Stevens noted the source code is easily transferable. There is a potential to go into a cost sharing with the other cities for the escrow. It would cost about $1,200 to add the citizen access module.

DRAFT

Adjourn. Councilmember Quigley moved to adjourn at 9:36 p.m., seconded by Councilmember Spencer; motion carried unanimously. (7-0-0-0)

Vern Little, Mayor

Norma J. Scott, City Clerk/Admin. Asst.

DRAFT

CITY OF LAKE STEVENS
WORKSHOP MEETING MINUTES
Monday, May 31, 2011
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street N.E. Lake Stevens

CALL TO ORDER:	7:00 p.m. by Council President Suzanne Quigley
COUNCILMEMBERS PRESENT:	Kim Daughtry, Kathy Holder, Neal Dooley, Mark Somers, Marcus Tageant, John Spencer, and Mayor Vern Little
COUNCILMEMBERS ABSENT:	
STAFF MEMBERS PRESENT:	City Administrator Jan Berg and Planning Director Becky Ableman
OTHERS:	

Council discussed the Shoreline Master Program – identified questions and topics for Department of Ecology, Fish & Wildlife and Makers Architecture to answer at the Workshop of June 6, 2011.

Adjourn. 8:07 p.m.

_____ _____
Suzanne Quigley, Council President Norma J. Scott, City Clerk/Admin. Asst.

DRAFT

LAKE STEVENS CITY COUNCIL
STAFF REPORT

Agenda Date: June 13, 2011

Subject: Proposed Memorandum of Understanding for Inter-Jurisdictional Housing Committee

Contact Person/ Department: Rebecca Ableman, Planning & Community Development Director

Budget Impact: None

RECOMMENDATION(S)/ACTION REQUESTED OF CITY COUNCIL:
The recommendation is for the Council to review the proposed Memorandum of Understanding (Attachment 1 and 2) and authorize the Mayor to sign it.

SUMMARY:
Background: In 2009, the "Feasibility Study for Inter-Jurisdictional Housing Programs" was approved by the Snohomish County Tomorrow (SCT) Steering Committee. The study recommended that an organization of jurisdictions within Snohomish County be formed to help cities and counties meet their goals for housing. The organization would provide technical assistance to the jurisdictions at their request, for example, on housing issues related to the Comprehensive Plan. At some point, the organization could also provide funding to leverage other resources for housing projects. An organization with a similar approach exists in King County: "ARCH" (A Regional Coalition for Housing).

In 2010, the City Council voted to approve joining with other jurisdictions to form a committee—now called the Inter-Jurisdictional Housing Committee (associated with SCT)—to explore creating a longer-term program along the lines of ARCH. Given local budget constraints and the exploratory nature of this early stage, jurisdictions were not asked to provide any funding, but rather to proceed together cautiously, through "in-kind" support of elected representatives and staff, to develop a mission, goals, organizational structure, work program, and a two-year budget.

The City of Lake Stevens representation on the Committee was provided by Mayor Little, who also serves on the SCT Steering Committee, with support from Ms. Ableman.

Status: The Inter-Jurisdictional Housing Committee has developed a mission and goals for the future program. (See attached final draft Attachment 3.) The Committee has also begun working on the next aspects of the program. However, with local resources remaining constrained, the Committee determined that it could take several more months to finalize a proposal. Therefore, a decision was made to formalize the previous actions taken by jurisdictions to participate in the Committee by asking the legislative bodies to sign a Memorandum of Understanding (MOU). A cover letter from the Committee's leadership (Attachment 1) and a draft MOU (Attachment 2) have been prepared to formally recognize each jurisdiction's or agency's continuing commitment of in-kind support to develop a program proposal. It does not commit the jurisdiction or agency to provide funding or to participate in the future housing program; that decision would be considered later, after the work program and budget are more defined.

Each jurisdiction's representative on the Committee has been asked to obtain his/her legislative body's approval for executing the MOU. Once an executed MOU is in place, the Committee intends to move forward on developing a longer-term proposal, with budgeting information, for each jurisdiction/agency to consider. Inter-jurisdictional Housing Committee will continue developing a proposal for a housing program

APPLICABLE CITY POLICIES:
Cities and Counties are required under the Growth Management Act to address housing for all segments of the population. The newly adopted County-wide Planning Polices also require that jurisdictions consider participation in an inter-jurisdictional effort.

BUDGET IMPACT:
No budget impact at this time. Staff is providing minimal support to the start up effort. Please note that the Housing Authority of Snohomish County (HASCO) has offered to provide some interim staffing resources that the Committee is supportive.

EFFECTIVE DATES OF ORDINANCES:
NA. The MOU will be effective until it is withdrawn or replaced by an Interlocal Agreement.

ATTACHMENTS:

Attachment 1 – Letter to Agencies regarding MOU
Attachment 2 – Memorandum of Understanding
Attachment 3 – Draft Program Mission and Goals

Snohomish County Inter-jurisdictional Housing Committee

May 5, 2011

RE: 2011 Memorandum of Understanding for Inter-jurisdictional Housing Committee Participation

Dear Inter-jurisdictional Housing Committee Participants

The Feasibility Study commissioned by Snohomish County Tomorrow in 2008 recommended creating an organizational structure to oversee the governance of a new inter-jurisdictional housing program. Last year, the County Council and the majority of cities' elected bodies within Snohomish County voted individually to have their Snohomish County Tomorrow representative or other designees move cautiously forward on a committee to prepare a proposal for implementing an inter-jurisdictional housing program. Some progress has been made. In order to continue developing the program's structure and work plans (without any direct local financial contribution or obligation), we think it is prudent to have a Memorandum of Understating (MOU) in place among the participating jurisdictions.. No direct local financial contribution or obligation is required for this phase. Jurisdictions may consider later—once the program is fully defined — whether or how they want to commit.

The next step for 2011 is for each agency to approve the attached Memorandum of Understanding (MOU), which will allow a cooperative effort to define the next steps needed for the Inter-jurisdictional Housing program. This will include defining:

1. Organization: operation and roles
2. Work Programs for 2011 and 2012-2013
3. Responsibilities: budget and staffing needs and financial contribution towards shared staffing costs starting in 2012 or 2013.
4. Interlocal Agreement for 2012 or 2013 and beyond

The MOU provides a basis from which to work out specifics during 2011 with the intent that the structure could be fully functional with a staff person in 2012. Due to the economic climate, securing budgetary support in 2012 may or may not be feasible. In 2011, agencies are only asked to provide in-kind staffing in support of this effort.

The second step will be development of an Interlocal Agreement (ILA) during 2011 so that it can be considered and potentially signed in place for the start of 2012 or 2013.

Please contact the Co-Chair Rebecca Ableman, (425) 377-3229, if you have concerns or need additional information to consider signing the MOU for 2011.

Please return the signed MOU to:

Rebecca Ableman
Planning & Community Development Director
City of Lake Stevens
PO Box 257
Lake Stevens, WA 98258

Thank you for forwarding this for your Council's or Board's consideration.

Sincerely,
Inter-jurisdictional Housing Committee Co-Chairs

Jennifer Gregerson
City of Mukilteo
Councilmember

Rebecca Ableman
City of Lake Stevens
Planning & Community Development Director

Attached: MOU

cc: Snohomish County and all Cities within Snohomish County

Snohomish County Inter-jurisdictional Housing Committee

Memorandum of Understanding

This Memorandum of Understanding ("MOU") is being executed by the undersigned this ___ day of _____ , 2011 by and between the City/County/Entity of the City of Lake Stevens, organized under the laws of the State of Washington and the other signatories of this MOU for the purposes of articulating a shared intention to continue and expand an inter-jurisdictional partnership to educate staff and electeds, to share staffing resources, to seek strategies to implement housing policies, and to help address affordable housing needs in Snohomish County.

1. RECITALS

Section 1.1. Whereas, the Snohomish County Council and several communities within the county support the formation of an inter-jurisdictional group to consider the housing needs within the county as a whole and within the urban growth areas.

Section 1.2. Whereas, after over a year of exploring options for jurisdictions to participate in a partnership, it was determined that a model similar to ARCH on the eastside of King County would be the most appropriate partnership model.

Section 1.3. Whereas, the elected officials of the respective jurisdictions believe it would be beneficial to join together, on a voluntary basis, to address the issue of affordability and housing supply, as cities are not responsible for creating housing, but can work cooperatively to help the private, non-profit and public sectors that have traditionally been responsible for production of housing throughout Snohomish County.

Section 1.4. Whereas, the signers of this Memorandum of Understanding (MOU) plan for local housing in their jurisdictions within Snohomish County and they find it in their mutual interest to address affordable housing issues on a countywide and regional basis and to cooperatively work, where possible, to increase the supply of affordable housing, without committing financial resources at this time, but with an expectation of some staff or in-kind resources being provided.

Section 1.5. Whereas, in order to further the goals of the program, other non-profit housing groups/entities may become a part of this MOU to assist with the program development.

Section 1.6 Whereas, the communities and entities that have expressed an initial interest in developing this new concept of cooperation in addressing affordable housing issues are:

- Edmonds
- Everett
- Lake Stevens
- Lynnwood
- Marysville
- Mill Creek

- Mountlake Terrace
- Mukilteo
- Snohomish
- Woodway
- Snohomish County

Section 1.7. Whereas, the jurisdictions have an interest in working together to increase the amount of affordable housing units, thus the signers of this MOU desire to develop an interlocal agreement for consideration.

Now, therefore, the undersigned agree to the following:

2. AGREEMENT
The parties agree to the following terms of this Memorandum of Understanding.

2.1. Purpose. The purpose of this Memorandum of Understanding is to acknowledge the commitment on the part of each of the respective parties to cooperate during 2011 and possibly a subsequent period to:

2.1.1 Identify and **create a governance structure** for the long-term cooperative effort related to affordable housing.

2.1.2. Develop a **work plan and yearly program efforts** that considers short-term, mid-term and long-term needs related to affordable housing.

2.1.3. Develop and submit for consideration an **Interlocal Agreement (ILA) for 2012 and 2013 budget years** that funds staffing and administrative expenses to carryout this cooperative effort related to affordable housing. However, nothing in this agreement commits any jurisdiction or entity to enter into an ILA or funding obligations at any time in the future. The parties also understand that there may be interim measures necessary to implement all or portions of the program and that no future obligations to sign an interlocal agreement are implied as part of this MOU.

2.2. Membership under this MOU.

2.2.1 **Initial Members**. Those entities and others that sign this MOU by November 30, 2011 are the initial members.

2.2.2 **New Members**. The process for other entities to participate is open. An additional entity may join upon signature of this MOU while the MOU and specified actions are active.

2.3. Governance. The governance will be provided by elected Co-Chairs that are chosen at the first official meeting after the MOU takes affect. All jurisdictions may participate in meetings without having signed the MOU. Once the majority of the

jurisdictions have signed the MOU, then those that have not signed will not have a vote on decision action items on the agenda. All other items will be accepted by consensus of those attending, where possible.

2.4. Future Agreement(s). The parties, by executing this Memorandum of Understanding, are committing to develop an Interlocal Agreement (ILA) for the purposes of continuing to cooperatively participate in an inter-jurisdictional affordable housing effort for future consideration. The ILA will identify the respective rights, obligations and duties of any party that is a signatory to the ILA. No obligations to enter into an ILA are implied as established in 2.1.3 of this MOU.

2.5. Amendment(s). This Memorandum of Understanding may be amended at any time in writing, by mutual agreement of the parties.

2.6. Termination. This Memorandum of Understanding for any respective signatory may be terminated by any party by withdrawing from the MOU before an ILA is signed, by notifying in writing to the Co-Chairs at least sixty (60) days in advance of such termination, based upon their respective governing bodies' approval of termination.

This MOU will be considered terminated in full, if either one of the following two actions occur:

A. All signatories to the MOU terminate their cooperation.
B. An Interlocal agreement is signed by enough jurisdictions and thereby replaces this MOU on a permanent basis.

2.7. Severability. The invalidity of any clause, sentence, paragraph, subdivision, section or portion thereof shall not affect the validity of the remaining provisions of this MOU.

2.8. Counterparts. This MOU may be signed in counterparts, and if so signed, shall be deemed to be one integrated MOU.

2.9. Effective Date. The effective date shall be the date following the signatures of the first five jurisdictions.

DATED this ___day of _____, 2011 (when the fifth jurisdiction signed the agreement).

WHEREFORE, the parties hereto have executed this agreement on the dates set forth below.

Signatories:

DATED this ___day of _____, 2011.

_____:
City of Lake Stevens

By: _____
Vern Little
Its: Mayor
Title

March 30, 2011
IHP Committee

DRAFT # 3

Interjurisdictional Housing Program
Mission and Goals

Mission:
To help increase the supply of attainable* and sustainable* housing near jobs, transit, and services through an interjurisdictional approach

Goals:

1. Create a venue for interjurisdictional cooperation and education to meet housing needs.
2. Provide housing information to assist local elected officials
3. Provide technical assistance among members to develop and implement local housing policies, programs, and regulations
4. Advocate for housing issues and resources, consistent with participating jurisdictions' objectives
5. Attract additional public resources, private resources, and not-for profit investment into attainable housing (by coordinating, leveraging, or contributing local resources, as appropriate)
6. Facilitate retention of existing sustainable housing.
7. Administer any specific housing programs as approved by the membership.
8. Facilitate the building of attainable housing (without being the builder)

* "Attainable housing" refers to housing that is safe and affordable to low- or moderate- income households

* "Sustainable housing" refers to housing that meets economic, environmental, and social needs of the community. This includes housing that is energy-efficient, safe, and of appropriate materials and construction to assure the housing's longevity

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LAKE STEVENS CITY COUNCIL

STAFF REPORT

Council Agenda Date: 13 June 2011

Subject: Authorization of Department of Corrections For Work Project Services

Contact Person/ Department:	Mick Monken Public Works	**Budget Impact:**	$12,000 estimated

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Approve the Department of Corrections Class IV Work Service Agreement

SUMMARY/BACKGROUND: Over the past few years, the City has been using the services of Washington State Department of Corrections (DOC) to perform vegetation and liter cleanup work in street right-of-ways, storm facilities, and parks. This has consisted of low skill level tasks. The annual cost for this has ranged between $5,200 and $10,000.

Priority service that the DOC has been performing has been storm pond maintenance. This has been performed to meet requirements of the City's National Pollutant Discharge Elimination System (NPDES) permit. With the recent annexation this service area has significantly increased. Another significant service area has been weeding parks and landscaped public areas.

This is a very cost effective service. The DOC crew size consists of a minimum 8 workers and a Correctional Officer. The cost to the City per crew member is approximately $4.5 per hour which includes an hourly rate, workers compensation, and overhead. Overhead consists of a vehicle, personal safety equipment, and a Correction Officer. While crew size has varied between 8 to 10 workers, the typical daily cost has been in the range of $350 to $450 or approximately $45 per day per worker.

Funding for this program is paid from repairs and maintenance in the street, surface water, and park fund. The $12,000 estimated for 2011 is based on the past year expenditures and projected work. The approval of this action allows the City to have a working agreement with the DOC but does not have a set expenditure contractual limit. This allows the City to use the DOE for non-planned activities, such as an emergency, without having to amend the agreement.

APPLICABLE CITY POLICIES: Requirement of the City NPDES permit.

BUDGET IMPACT: $12,000 estimated limit divided between Street, Surface Water, and Parks funds. Budget can be increased based on project specific tasks.

ATTACHMENTS:

► Exhibit A: Copy of DOC Service Agreement

EXHIBIT A

WASHINGTON STATE
DEPARTMENT OF CORRECTIONS

CLASS IV WORK PROJECT DESCRIPTION

Contract Number: CDCI 4591

Employer: CITY OF LAKE STEVENS
Contact: **Scott Wicken** Telephone: **425-508-3444**

Work Project Description: DOC will provide offender work crews who will do general labor for the contractor. Each work crew shall consist of approximately 8 Minimum Custody offenders supervised by a first aid qualified Correctional Officer.

Project Period: July 1, 2011 through June 30, 2012.

Projected Number of Offender Work Crew Hours: Dependent upon work needing to be done. Crews work a 10 hour day from departure of facility and return.

Special Payment Terms:

A. Inmate crew wages of $1.10 per hour.
B. Workers compensation of $0.3151 per hour worked per offender.
C. All tools will be provided by employer
D. Vehicle operating costs charged at the prevailing rate.

Current Washington mileage is
$ 0.51 per mile.

Personal Protective Equipment: Hard hats, goggles, hearing & eye protection & work boots will be provided by DOC.

Equipment/Tools: On July 1, 2011 tools will be supplied solely by the contractor in order to extend the contract further.

Safety Training: Employer will provide job and safety training in compliance with all applicable laws or regulations such as, but not limited to WISHA.

Additional Terms: Crews may be held in for facility need at any time. Crews may be held in or redirected in the event of a natural disaster; i.e. fire, earthquake, or flood. Crews may also be recalled early due to institutional safety and security.

EMPLOYER	**DEPARTMENT OF CORRECTIONS**
Signature	Superintendent
Title	MCC Institution
Date	5-17-11 Date

LAKE STEVENS CITY COUNCIL

STAFF REPORT

Agenda Date: June 13, 2011

Subject: Lake Stevens Shoreline Master Program Update – Public Hearing (LS2009-11)

Contact Person/Department: Karen Watkins **Budget Impact:** Grant

RECOMMENDATION(S)/ACTION REQUESTED OF PLANNING COMMISSION: Hold a Second Reading and Public Hearing on Ordinance No. 856.

SUMMARY: Ordinance No. 856 includes adoption of the Shoreline Master Program (SMP) and Associated Documents, and code amendments and comprehensive plan amendments related to the SMP. The City held a First Reading and Public Hearing on Ordinance No. 856 on May 23, 2011. Public testimony was received. In addition, the Council held two workshops on May 31 to provide staff with questions for invited guests to answer on the workshop on June 6, 2011. The June 6 workshop was a panel discussion with Joe Burcar from the Washington Department of Ecology, Jamie Bails of the Washington Department of Fish and Wildlife, John Owen from Makers Architecture, Dan Nickel from The Watershed Company, and City Staff.

The State provided the City with a $60,000 grant to complete the work. This grant has been spent, so any changes made to the proposed SMP or associated documents that require consultant assistance will require additional funding from Council.

DISCUSSION: This staff report includes the following topics identified as issues for discussion by the Council and information requested.

Public Comments

The Responsiveness Summary (***Attachment A***) has been updated with the comments from three additional letters (***Attachment B***) submitted since the May 23 Public Hearing. City responses are also included.

Shoreline Master Program State Guidelines and SMP Handbook

The State updated their SMP Guidelines (Chapter 173-26) on February 11, 2011. The Shoreline Master Program (SMP) Guidelines are state standards which local governments must follow in drafting their shoreline master programs. The Guidelines translate the broad policies of the Shoreline Management Act (RCW 90.58.020) into standards for regulation of shoreline uses. The state legislature directed Ecology in 1995 to update the guidelines, which had not been revised since 1972 and did not account for advancements in science and shoreline management practices nor the recent passage of Washington's Growth Management Act. The Guidelines are located at http://www.ecy.wa.gov/programs/sea/sma/guidelines/index.html. [Please let staff know if you would like a hard copy printed for you.]

Attachment C includes the specific SMP Guidelines for Shoreline Modifications (bulkheads and docks) and protection of ecological function (no net loss). As stated by Joe Burcar, Ecology, and as you can see from the guidelines, there are very specific principles (policies) and standards (regulations) that must be met for bulkheads; however, very general guidance on docks and other over-water structures.

The SMP Handbook, created by Ecology, is:

- Designed to assist local government planners in meeting requirements of the Shoreline Management Act (RCW 90.58) and Shoreline Master Program Guidelines (WAC 173-26, Part III).
- Builds on existing guidance materials and the collective experience of Ecology and our local government partners.
- Benefits from a vast body of scientific knowledge acquired since the first SMPs were adopted in the 1970s.

Given Ecology's limited staffing, Handbook Chapters and other sections are being developed and published according to the needs of local government planners. The Handbook is located at http://www.ecy.wa.gov/programs/sea/shorelines/smp/handbook/index.html.

Attachment D is one chapter from the handbook still in draft form, but provided to the City by Ecology. This chapter covers piers, docks and other structures.

Shoreline Inventory and Analysis Report

A draft Inventory and Analysis Report was submitted to Ecology for review on February 26, 2010. It was approved by Ecology and serves as the basis for the SMP regulations. ***Attachment E*** is the list of data sources used in preparing the Inventory and Analysis.

The following information is from Ecology's SMP Handbook and found in WAC 173-26-201:

> The inventory and characterization of a jurisdiction's shorelines are the foundation for the Shoreline Master Program (SMP) and the first step in the update process. The SMP Guidelines require a scientific approach to developing the inventory and characterization. The inventory includes existing data, information and descriptions of watershed and shoreline attributes that pertain to existing and emerging problems and issues in a jurisdiction. It describes existing shoreline conditions and development patterns, including attributes of a healthy ecosystem. The inventory is necessary to conduct the characterization.
>
> The characterization is the description of the ecosystem wide and shoreline processes, shoreline functions, and opportunities for restoration, public access and shoreline use. The characterization identifies the current shoreline conditions, is a key product for developing the SMP, and is the baseline for measuring no net loss of shoreline ecological functions.
>
> Developing the inventory and characterization helps to identify solutions to shoreline issues and directs the development of shoreline designations, policies and development standards. These are intertwined, iterative tasks that occur early in the SMP update process. An initial scoping task that identifies relevant inventory data and information is critical to this iterative process.
>
> The inventory and characterization lead to an understanding of the relationship between shoreline processes and functions and the built environment. Together, they:
>
> - Identify ecosystem wide processes and shoreline functions.
> - Set a baseline for evaluating cumulative impacts of the draft SMP and determining no net loss of shoreline ecological functions.
> - Identify potential sites for protection, restoration and public access.

- Guide development of the shoreline management strategy that will lead to policies, regulations and environment designations that achieve no net loss of shoreline ecological functions.

No Net Loss of Ecological Function

At the past few workshops, some Councilmembers stated they would like to better understand about No Net Loss. The Inventory and Analysis Report provided the baseline for the exiting ecological function of the shorelines in the Lake Stevens UGA. It included the area of over-water structures, modified shorelines, native vegetation, and existing development. This information was looked at both qualitatively (e.g., native vegetation) and quantitatively (e.g., dock dimensions).

The following is a description of No Net Loss from Ecology's SMP Handbook and found in WAC 173-26-186:

> **What does no net loss mean?**
>
> Over time, the existing condition of shoreline ecological functions should remain the same as the SMP is implemented. Simply stated, the no net loss standard is designed to halt the introduction of new impacts to shoreline ecological functions resulting from new development. Both protection and restoration are needed to achieve no net loss. Restoration activities also may result in improvements to shoreline ecological functions over time.
>
> Local governments must achieve this standard through both the SMP planning process and by appropriately regulating individual developments as they are proposed in the future. No net loss should be achieved over time by establishing environment designations, implementing SMP policies and regulations that protect the shoreline, and restoring sections of the shoreline. Based on past practice, current science tells us that most, if not all, shoreline development produces some impact to ecological functions. However, the recognition that future development will occur is basic to the no net loss standard. The challenge is in maintaining shoreline ecological functions while allowing appropriate new development, ensuring adequate land for preferred shoreline uses and public access. With due diligence, local governments can properly locate and design development projects and require conditions to avoid or minimize impacts.
>
> No net loss incorporates the following concepts:
>
> - The existing condition of shoreline ecological functions should not deteriorate due to permitted development. The existing condition or baseline is documented in the shoreline inventory and characterization. Shoreline functions may improve through shoreline restoration.
> - New adverse impacts to the shoreline environment that result from planned development should be avoided. When this is not possible, impacts should be minimized through mitigation sequencing.
> - Mitigation for development projects alone cannot prevent all cumulative adverse impacts to the shoreline environment, so restoration is also needed.

In order to better understand No Net Loss, staff has compiled the following tables from the SMP documents, which provide information on the existing conditions, likely development, effect of SMP provisions, net effects, and how no net loss is achieved:

- Inventory & Analysis Report, Table 2 Summary of Inventory by Assessment Unit (***Attachment F***)
- Inventory & Analysis Report, Table 3 Function Summary of Lake Stevens Residential (***Attachment G***)
- Cumulative Impacts Analysis, Table 5 General Cumulative Impacts Assessment (***Attachment H***)
- No Net Loss Report (***Attachment I***)

Nonconforming Uses, Structures and Activities

At the request of Council, staff has prepared a table comparing nonconforming regulations in the Lake Stevens Municipal Code, Lake Stevens Critical Areas Regulations, Proposed SMP, and Snohomish

County's Proposed SMP. The table is included in ***Attachment J***. All four are almost identical except for the reconstruction after a fire, accident or natural disaster:

LSMC	Yes, with a building permit
CAR	Yes, but must conform to CAR
LS SMP	Yes, damage up to 100% of replacement cost with application w/i 6 months; complete w/i 2 years
SnoCo SMP	Yes, damage up to 75% of replacement cost with application w/i 6 months; complete w/i 2 years
WAC	Yes, damage up to 75% of replacement cost with application w/i 6 months; complete w/i 2 years

Additional Information

Staff is preparing a permit/decision matrix as directed by Council that should be available for the third public hearing.

APPLICABLE CITY POLICIES: The State requires all cities to update their Shoreline Master Programs (SMP) on a specific schedule. The City's current SMP was adopted in 1974. The Comprehensive Plan includes shoreline goals and policies in Chapter 10 – Critical Areas Element. The Lake Stevens Municipal Code includes shoreline regulations in Chapter 14.92 (Shoreline Management) and Section 14.16C.100 (Shoreline Permits).

BUDGET IMPACT: The City received a two year, $60,000 Shoreline Master Program Update grant from the Washington Department of Ecology for consultants. The grant has been spent, so any changes to the SMP or associated documents requiring consultant assistance will require additional funding from the City Council.

EFFECTIVE DATES OF ORDINANCE: Ordinance No. 856 (Adoption of SMP documents, code amendments related to the SMP and Comprehensive Plan amendments) will become effective after approval by the Washington Department of Ecology, which could take four to six months or longer.

ATTACHMENTS:

Attachment A – Responsiveness Summary dated June 13, 2011
Attachment B – Three Additional Public Comments
Attachment C – Excerpts from SMP Guidelines for Shoreline Modifications and Ecological Functions
Attachment D – SMP Handbook Chapter on Piers, Docks and Other Structures
Attachment E – Data Sources for Inventory and Analysis Report
Attachment F – Inventory & Analysis Report, Table 2 Summary of Inventory by Assessment Unit
Attachment G – Inventory & Analysis Report, Table 3 Function Summary of Lake Stevens Residential
Attachment H – Cumulative Impacts Analysis, Table 5 General Cumulative Impacts Assessment
Attachment I – No Net Loss Report
Attachment J – Comparison of Nonconforming Uses/Structures/Activities

ATTACHMENT A

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

(Questions have been taken from written and verbal testimony. Entire documents are listed at the bottom and attached to Summary)

#	Person/Group	Where	Issue (from Public Testimony)	City Response
A1	Urban Concepts LLC	Letter for Planning Commission Public Hearing 5/4/11	One of the overarching guidelines prescribed by the state is that each jurisdiction needs to define, for itself, "no net loss of ecological function". This language should be carefully considered with reflection on the way the city wants to utilize and preserve its shoreline areas.	Shoreline Citizen Advisory Committee (CAC) was established to set the parameters for the Lake Stevens SMP under the SMP guidelines and State law. The CAC met six times to guide staff and consultants through the draft stage of the SMP as well as three public open houses were held.
A2	Urban Concepts LLC	Letter for PC PH 5/4/11	We also ask that the city consider whether or not it has been adequately shown that the existing land and shoreline use pattern is negatively affecting the fisheries, aquatic life and wildlife around Lake Stevens.	Studies of similar shorelines have shown certain shoreline modifications (e.g. piers and bulkheads) and uses (e.g. parking), to be detrimental to shoreline ecological functions, including aquatic and terrestrial species. Lake Stevens is an urbanized lake with little existing native vegetation and natural shorelines. The long-term vision is for a healthy lake into the future, so minimizing additional degradation is important.
A3	Urban Concepts LLC	Letter for PC PH 5/4/11	In the case of the SMP updates, the word "should" has been defined to mean "required". Traditionally, words such as "should" and "may" were discretionary in nature. "Shall", "will", "required" were reserved for obligatory items. When the Council is reading through these proposed amendments, it is important to note that things you might have previously considered to be "optional" are now hard and fast requirements. We would recommend revisiting the language on many of the requirements to evaluate whether or not it is the intention of the City to require such a high standard in every case.	The WAC clearly defines 'should' and 'shall' and the policies and regulations in this SMP have been written based on those definitions.
A4	Urban Concepts LLC	Letter for PC PH 5/4/11	**4.C3.c.21**.: Neither of the cities of Renton or Redmond's plans include the requirement for a "grated" surface on decking materials for docks and piers. They allow for alternative materials that will provide a minimum of 50% light passage. Consider allowing other options rather than a narrowly defined construction standard. The use of the term "grated surface" leads most people to believe that the materials that must be used is some form of metal grating. This is not the intention of the state guidelines. The intention is to allow light penetration to the waters below, without limiting construction material choice in such a narrowly defined way. Broad allowance of material types, as long as they can be shown that they do not adversely affect water quality, aquatic plants and animals over the long	The Lake Stevens SMP documents use a requirement of 60 percent light penetration. Staff has proposed new language to allow for other options that meet the same light penetration requirement rather than limiting it to grating by replacing the "grating" requirement and simply using "Decking shall allow for a minimum of 60 percent ambient light transmission." The use of "ambient" would be important in this context, as many materials, including etched glass or Plexiglas, may not transmit the full amount of light available.

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

(Questions have been taken from written and verbal testimony. Entire documents are listed at the bottom and attached to Summary)

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			term, meets the intentions of the state guidelines.	
A5	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C. 3.c.21.:** The city of Redmond does not require dock widths to be reduced for the first 30' as is proposed in Lake Stevens. Redmond's plan has been accepted and approved by the DOE. Instead, Redmond identifies a maximum "water surface coverage" ranging from 20-25% of the water area as defined by specified "water lot boundaries". Consider an alternative such as this. Redmond allows piers and docks up to 6 feet in width. Floats can be up to 10' in width. There are no "grating" or "planting" provisions required by Redmond (or the DOE) in order to obtain the 6 foot width.	Every jurisdiction must determine the best way to reach No Net Loss for their shorelines. Based on discussions with CAC and public open houses, the 4-ft wide docks with grating in the first 30 feet was selected as one part of the analysis.
A6	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C. 3.c.21:** The requirement to plant trees a minimum of 15 feet in height is onerous, at best. This is an extremely expensive tree to obtain. It is unduly difficult to move and place a tree of that size, and it can be argued that the impact to the shoreline caused in the digging of an adequately sized hole, using large equipment to locate the tree is disproportionate to the benefits of such a large specimen. Consider requiring evergreens approximately 5-6 feet in height at the time of planting.	This incentive was removed from the SMP in the Final Draft Document posted for review during the Local Adoption Process.
A7	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C.3.c.3.:** We would like to suggest that language be added to this section relating to repair, maintenance or replacement of existing features that might not comply with the dimensional standards of this updated master program. In a case where a property owner proposed to replace a section of a seven foot wide dock, it could be found that this section would apply and that a formal variance process might be required. The city's intention is not clearly stated with the proposed language.	This section is only for new private docks, so the word "new" is proposed to be added before "private dock."
A8	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C. 3.c.7.:** It appears that the intention of this language is to require that fingers and ells be located a minimum of 30 feet waterward of the OHWM. The second sentence in this section clearly states that. The first sentence does not add any value to that requirement and only serves to raise questions and inserts	The first sentence will be removed and 'floats' is proposed to be added to the second sentence, so it reads: "All floats, ells, and fingers must be at least 30 feet waterward of the OHWM."

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

(Questions have been taken from written and verbal testimony. Entire documents are listed at the bottom and attached to Summary)

#	Person/Group	Where	Issue (from Public Testimony)	City Response
			ambiguity into the regulation. Are handrails on piers allowed within 30 feet of the OHWM? Does the first sentence restrict construction to only piers and ramps landward or waterward of the OHWM? We respectfully recommend eliminating this first sentence.	
A9	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C.3.c.12.:** Is it the intention of the city to require that applicants be required to provide a lighting report or study to show how the proposed lighting meets the maximum requirement of "no more than 1 footcandle measured 10 feet from the source"? Other jurisdictions have received approval from the DOE without including such a specific standard.	Applicants do not have to provide a lighting report. The applicant is required to show that the type of light to be used will meet the requirements. Footcandle specifications are included in the material provided when purchasing a new light.
A10	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C. 3.c.18.:** In order for a property owner to construct a new private dock, the language proposed requires them to "demonstrate a need for moorage". What evidence must a property owner provide to meet this standard?	Because the WAC clearly states that "a dock associated with a single family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft" (WAC 173-26-231(3)(b)), the property owner must show that the dock is needed to moor a watercraft. The applicant should be able to show that they currently own a watercraft or are intending to purchase a watercraft.
A11	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C. 3.c.22.:** Consider adding language that allows existing private pier or dock to be "replaced up to 100% of the size (square footage **and dimension**) of the existing pier or dock".	Recommended change is proposed to the SMP document with specific requirement added of a maximum of 6 foot width within the first 30 feet.
A12	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C. 3.c.23.:** Consider allowing the expansion of a non-conforming pier or dock subject to a Shoreline Conditional Use Permit. There might be cases where an applicant can modify a non-conforming dock in a manner that reduces its impact and might warrant allowing an expansion. These situations can be reviewed on a case-by-case basis and will receive a thorough environmental review.	Because this is expanding a nonconforming use, the applicant has to go through a shoreline variance process. Through the shoreline variance process, the applicant would have the opportunity to show how the expansion reduces its impact.
A13	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C. 3.c.28.:** This section would require any property that currently includes two or more legal piers or docks greater than 6 feet in width to entirely remove one if ANY pier support piles need to be replaced. This seems like an extremely inflexible standard, for existing legal shoreline uses.	This is correct, one dock would need to be removed if one of the docks needed to be repaired, because it would be considered a nonconforming use and is consistent with the vision, goals and policies for the lake.
A14	Urban Concepts LLC	Letter for PC PH 5/4/11	Helipads are specifically allowed in the Single Family Residential shoreline environments in Renton. Renton has generous provisions for "existing non water-dependent uses"	Helipads have been discussed by the CAC and at public open houses. Each jurisdiction determines the uses allowed in each environment designation and zone.

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
			including the ability to retain and expand under certain terms and criteria.	
A15	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C2 Bulkheads** Consider allowing an applicant to provide a biological inventory to support a new bulkhead, even if the geotechnical criteria cannot be met. If an applicant can prove, through scientific evidence, that a proposed bulkhead will not adversely affect fisheries, aquatic life and wildlife, then it should be considered for approval. Fundamentally, the state guideline merely requires no net loss of function and values. If this can be shown by a property owner then the project should be allowed to go forward.	The WAC clearly states that "Structural shoreline modifications are only allowed to protect a primary structure or legally existing shoreline use." (WAC 173-26-231). If the geotechnical criteria cannot be met, then there should be no need for a new bulkhead.
A16	Urban Concepts LLC	Letter for PC PH 5/4/11	**4C2 Bulkheads** As we have stated before, one of the fundamental parameters of this shoreline amendment process, as outlined by the state, is to maintain No Net Loss to the shoreline environment. With this being the focus, it is hard to understand why the city would not elect to allow existing bulkheads to be replaced by a new bulkhead built directly adjacent to the existing one. This work, appropriately constructed, is unlikely to result in any net loss of function to the shoreline ecosystem. Consider allowing such replacements to occur on this basis.	The WAC clearly states: "Replacement walls or bulkheads 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." (WAC 173-26-231(3)(a)(iii))
A17	Urban Concepts LLC	Letter for PC PH 5/4/11	**5.c.8.b.1:** The definition of "should" within this proposed ordinance means "shall"; therefore, this section prohibits all residential development within critical areas without benefit of any kind of reasonable use process. This provision could result in the city facing situations of takings of private property rights. Consider alternative language and/or the inclusion of a reasonable use allowance.	This is a policy and not a regulation. Ecology's comments on the SMP reasonable use exception was that it was not consistent with the SMP Guidelines and should require a Shoreline Variance.
A18	Urban Concepts LLC	Letter for PC PH 5/4/11	Redmond has a 35' residential setback from lakes and 60% lot coverage allowance. Consider allowing a reduced building setback in situations where an applicant is willing to make shoreline improvements that provide a net increase and/or mitigates its impact upon function and value to fisheries, aquatic	No changes are proposed to existing setbacks from the lake or lot coverage of 40 percent per residential lot is consistent with citywide regulations and therefore supports the unique "landscape" of the community and the comprehensive protection approach.

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
			life and wildlife.	
A19	Urban Concepts LLC	Letter for PC PH 5/4/11	5.c.8.c.2: This would prohibit a property owner from having a patio within 60 feet of the OHWM. Specifically, it would prohibit an existing homeowner from converting an existing lawn or graveled patio to concrete if it is within 60 feet of the OHWM. Consider language that allows for some kind of mitigation in exchange for work within the 60 foot.	See incentive in SMP section 5.c.8.c.2.c & d and 3 to add native vegetation for increased impervious surface or to add a deck on the lake.
A20	Urban Concepts LLC	Letter for PC PH 5/4/11	What percentage of existing homes on Lake Stevens are currently located a minimum of 60 feet from the OHWM? How many non-conforming uses are created by this setback requirement?	No changes are proposed to the existing critical area buffer or building setback from the lake. They are remaining consistent with current critical areas regulations. Table 6 in the Cumulative Impacts Analysis shows average setbacks for the north shoreline at 98 feet, east shoreline at 103 feet and west shoreline at 64 feet. For our analysis, we looked at three 50-lot sample areas. Within these samples, 54 out of 150 parcels have structures less than 60 feet from OHWM, i.e. 36%.
A21	Urban Concepts LLC	Letter for PC PH 5/4/11	The city of Renton has building setbacks ranging from 25-45 depending upon the lot depth. And a vegetated buffer of 10-20 also depending upon the depth of the lot. They also make provisions to allow a property to make improvements to the site that will reduce the setback to a minimum of 25 feet. Buffer width averaging is also allowed. Consider adding provisions such as these.	See Response A19 above.
A22	Urban Concepts LLC	Letter for PC PH 5/4/11	**Nonconforming Uses (Chap 7G)** It is clear from the City's Inventory Analysis and Cumulative Impacts Analysis that over 80% of the existing shoreline along Lake Stevens is currently developed. This is an important factor to consider when updating the Master Program and increasing the standards to which development must comply. Consider an analysis of the existing land and shoreline uses to determine what percentage of existing shoreline development will become "Non-conforming" under the proposed plans. With such a significant percentage of properties that may be affected by the nonconforming standards, it is our recommendation that greater attention be given to this particular section.	The SMP is using State nonconforming regulations from Washington Administrative Code 173-27-080 to be consistent with the Shoreline Management Act.

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
			Neither Renton nor Redmond include "legally permitted/conforming" language in their updates. This kind of language creates all kinds of difficulties in determining a process or clear standard to "prove" something was legally permitted. The existing language requires that if an existing nonconforming is use is "moved any distance", it must meet all the current SMP provisions.	
A23	Urban Concepts LLC	Letter for PC PH 5/4/11	**Nonconforming Uses (Chap 7G)** In the case of a dock/pier, for example, if in the normal maintenance and repair of that structure, you need to install a new pile directly adjacent to an existing pile in order to replace it, it could be interpreted to require that the entire dock/pier now come into full SMP compliance.	See 4.C.3.c.25-29 which allows for repair of existing docks.
A24	Urban Concepts LLC	Letter for PC PH 5/4/11	**Public Access 3B** Public access has not been required by either the city of Renton or the city of Redmond for projects creating fewer than 10 new residential units. This differs from the city's proposal to require some form of public access for any project creating three or more residential units (7.b.1.a)	This subsection is policy for these types of units. Regulations are located in 7.c.1 and is for greater than 4 lots, which is consistent with WAC 173-26-221(4)(d) in the Shoreline Management Act.
A25	Urban Concepts LLC	Letter for PC PH 5/4/11	**Public Access 3B** The regulations allowing mitigation payments in lieu of public access do not define an amount or how that will be determined and by whom. It is my understanding that the only legal mechanism for governments to collect mitigation fee payments is when they have a capital facilities plan that specifically identifies a project and cost for which the mitigation fee is to be collected and assigned. Does the city have a capital facilities plan for public access to shoreline environments? (7.c.3.)	While the City does not currently have a capital facilities plan for public access to shoreline environments, the City would like to keep the flexibility of the fee-in-lieu option. That way, if a capital facilities plan is adopted in the future, applicants would be able to take advantage of this option.
A26	Urban Concepts LLC	Letter for PC PH 5/4/11	**Public Access 3B** The language contained within regulation number (7.c.4.) is vague and extremely subjective. There is no standard to which this regulation can be applied. "Shoreliine substantial development…shall minimize impact to public views	We will remove this as a regulation and add it as a policy.

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
			of shoreline waterbodies from public land or substantial numbers of residences." What constitutes "minimized" impact? How many is a "substantial number" of residences? "Shall minimize" is obligatory language that cannot be quantified.	
A27	Urban Concepts LLC	Letter for PC PH 5/4/11	**Public Access 3B** Do public access sites have to be connected to public streets or rights-of-way via public easement or via public rights-of-way? (7.c.6.) Can the lands associated with these public access areas still be used in the determination of lot/unit yield within a development? The city should consider allowing the areas set aside for public access to be used in a lot size averaging calculation. This would encourage developers to set aside the best and most useful areas for public access without "losing" lot yields in the process.	Yes, an easement or right-of-way would have to be recorded. The connection would need to meet the requirements of the Engineering Design and Development Standards and the Subdivision code (Chapter 14.18 LSMC). The Lake Stevens Municipal Code allows these easements to be included in determination of lot/unit yield or lot size averaging.
A28	Urban Concepts LLC	Letter for PC PH 5/4/11	**Public Access 3B** There is no definition of the "minimum width of public access easements. This needs to be clearly defined. (7.c.9.)	Access requirements are covered in the Engineering Design and Development Standards. For public access it requires at a minimum to meet Americans With Disability (ADA) Act requirements of 5 feet width. No change was made to SMP.
B1	Futurewise, People for Puget Sound & Pilchuck Audubon Society	Letter for Planning Commission Public Hearing 5/4/11	Lakes and ponds are designated as a fish and wildlife habitat area under "waters of the state," and classified using the WAC 222 water typing system (which is not limited to only streams). Please note that "waters of the state" are not defined in WAC 222, so the reference and how it is used needs to be described differently. Also the listing for waters planted with game fish references a WAC that does not exist.	Yes, you are correct and the City will propose updates to the references in state regulations.
B2	Futurewise, et.al.	Letter for PC PH 5/4/11	Streams are classified according to WAC 222 in one standard, but then there are details for each stream type that do not match WAC 222. Presumably the details in the SMP are to replace those of the WAC, but this is not stated. We recommend this be clarified.	Yes, the City will propose clarification.
B3	Futurewise, et.al.	Letter for PC PH 5/4/11	A clear statement that existing native vegetation within the buffer must be protected needs to be included, and is described more in our guidance document. While indirect statements might be construed to accomplish this, it needs to be stated in an	See Response to B9

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
			explicitly clear manner. This can be done for individual critical area buffer requirements, or as a general statement for all buffers.	
B4	Futurewise, et.al.	Letter for PC PH 5/4/11	Almost all activities are allowed in fish and wildlife conservation areas, since they include "activities listed in this SMP." As our guidance document describes, development in a buffer should be limited to uses and activities that are water-dependent and water-related - but not water–enjoyment and non-water-oriented. Specifically, this means those needing a location in or near the water; including some, but not all recreation; and including physical public access to water, but not just walking paths or viewpoints (which don't need to be immediately on the water).	See Response to B9.
B5	Futurewise, et.al.	Letter for PC PH 5/4/11	There are no buffers for Type 4 wetlands, thus all activities can take place immediately adjacent to them. In addition, the wetland standards allow substantial impacts and elimination of these wetlands. This plans for a loss of ecological functions provided by wetlands. We recommend a 50 foot buffer for Type 4 wetlands.	Buffers are being added in response to Ecology's comments.
B6	Futurewise, et.al.	Letter for PC PH 5/4/11	Buffers can be reduced based on intervening development. We have observed many cases around the Puget Sound where there is water-front development, but substantial habitat vegetation exists landward of it. These areas still need protection. The standard needs clarification that wildlife habitat functions provided by remaining vegetation shall not be eliminated. Rather, such reductions need to be contingent on absence of intact vegetation.	The proposed standard set forth meet the Washington Department of Ecology's expectations for regulatory protection as shown by their comments on review of the SMP in the SMP Checklist dated May 7, 2011.
B7	Futurewise, et.al.	Letter for PC PH 5/4/11	Appendix section 3E regarding mitigation only discusses dedication of land or easement as avoidance, but it also seems to be used for compensation. Dedication of land does not compensate for impacts – it only potentially prevents future undefined impacts on certain areas, which should have been required anyway. Compensation for the impacts of the development still needs to be required to ensure no-net-loss of	See Response to B6.

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
			functions. In addition, there is no requirement that intact vegetation be present in the dedicated area – thus the dedication is treated as mitigation when no mitigation for impacts is actually happening.	
B8	Futurewise, et.al.	Letter for PC PH 5/4/11	The absence of intact vegetation needs to be addressed more broadly in the buffer system. As our guidance document describes, meeting a buffer that is degraded does not prevent impacts. New development that is adjacent to a degraded buffer needs to enhance that buffer so it is capable of actually performing buffering functions.	See Response to B6.
B9	Futurewise, et.al.	Letter for PC PH 5/4/11	As described in our guidance document, almost all development has impacts – especially development using small buffers. Thus there needs to be explicit compensatory mitigation requirements in the regulations. Mitigation 2G seems to be a good start, but it needs a more explicit statement at the beginning that "compensatory mitigation shall be provided for all projects, except for restoration projects, and similar projects that the administrator determines will have no impacts to ecological functions."	Amendments will be proposed based on and to meet the expectations of Ecology's review comments in the SMP Checklist dated May 7, 2011.
B10	Futurewise, et.al.	Letter for PC PH 5/4/11	To provide specifics for compensatory mitigation in the context of buffers, we recommend that a minimum revegetation standard be added. This can take different forms. The City of Kirkland required all new development (including expansions) to plant a 10-foot buffer width on 75% of the shoreline frontage. The City of Issaquah draft SMP provides a detailed method of enhancement triggered by different stages/intensities of new development. Another method that could supplement the incentives (meaning in addition to them) would be a 1 sq. ft. enhancement requirement each sq. ft. of new development, caping the enhancement at the size of the buffer. This kind of provision ensures that impacts will be compensated for so new development can be accounted for correctly in the cumulative impacts analysis.	See Response B9.

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
B11	Futurewise, et.al.	Letter for PC PH 5/4/11	While we may have missed it, we could find no description of the scientific basis for the use of the proposed buffer system. The SMA requires the use of current, up-to-date science, similar to the best available science requirement in the Growth Management Act. We recommend justifying the buffer system in the context of buffer science, and recommend using the scientific citations provided in our guidance document. We also recommend providing a policy basis for not using a science-based buffer system, as described in our guidance document.	As guided by Ecology, we are proposing requirements consistent with Ecology's "Wetlands & CAO Updates: Guidance for Small Cities, Western Washington Version" dated January 2010.
B12	Futurewise, et.al.	Letter for PC PH 5/4/11	In reviewing the Cumulative Impacts Analysis, it appears that it does a good job of describing the protection measures, but it is vague in describing the impacts allowed by the gaps in the SMP, and by the special allowances in the SMP. The effective result is a "Cumulative Protection Analysis," but not a "Cumulative Impact Analysis." We recommend supplementing the CIA with a more careful assessment of the impacts that the SMP will allow.	Changes in Land Use per environment designation are detailed in Tables 1 and 2 of the Cumulative Impacts Analysis (CIA), likely development and the corresponding affect on functions is qualitatively discussed in Table 5, and a quantitative assessment impacts from specific shoreline modifications and uses is provided in Section 6.
B13	Futurewise, et.al.	Letter for PC PH 5/4/11	Some of the requirements in the Shoreline Master Program Guides require certain actions. For example, WAC 173-26-186(8)(b) provides that the "shoreline master program shall include policies and regulations designed to achieve no net loss of those ecological functions" within shoreline areas. So the policies implementing this requirement must be shall policies. However, the policies all use should. We recommend that policies implementing mandatory requirements use shall to meet these requirements.	The word should is used in the Policies because a policy is a directive, not a requirement.
C1	Kristin Kelly, Futurewise, People for Puget Sound & Pilchuck Audubon Society	Planning Commission Public Hearing 5/4/11	Policy uses 'should' not 'shall' throughout the document and that needs to be changed to 'shall'.	See Response A3.

ATTACHMENT A

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
C2	K. Kelly	PC 5/4/11	Small Buffers options should be based on Buffer Science. (Submitted "Recommendations on Shoreline Buffer Options that Work with Buffer Science")	As guided by Ecology, we are proposing requirements consistent with Ecology's "Wetlands & CAO Updates: Guidance for Small Cities, Western Washington Version" dated January 2010.
D1	Brad Nysether	Planning Commission Public Hearing 5/4/11	Did not see anything addressing existing structures. If a new homeowner buys a property with existing non-conforming structure are they responsible for restoration and is there a process, a way for new property owners to know that.	Restoration or native vegetation plantings would only be required if the property owner was going to redevelop, expand, or repair beyond a certain threshold. If a homeowner buys a property with existing nonconforming structures, but does not intend to redevelop, expand, or significantly repair the structure, then the restoration requirements of this SMP would not apply.
D2	B. Nysether	PC 5/4/11	I know this is supposed to improve the shoreline but found it contradictory that the goals and policies are to improve economic activity in shoreline, public access; private use by clustering. Somewhat one sided, like planting trees within 20ft to get more dock space but what about the people whose properties already have numerous large trees on it or natural vegetation on it.	The Shoreline Management Act emphasizes accommodation of appropriate uses that require a shoreline location, protection of shoreline environmental resources, and protection of the public's right to access and use the shorelines. The regulation that allows wider docks by planting trees has been removed from the SMP.
D3	B. Nysether	PC 5/4/11	Haven't seen anything about real public education, like what boat wakes do, how people walking on shoreline effect it, it's all about the property owner.	Chapter 3 Section B.12.b.7 does address public education in terms of water quality. Public education is very important, however, because this SMP primarily deals with regulating land uses on shorelands, public education is not really in the scope of the SMP. This type of public education and outreach will be provided by the City as implementation of the SMP approved by Ecology.
D4	B. Nysether	PC 5/4/11	Read about short docks and long docks, now docks can be a maximum of 200ft, I had a dock of 110ft long and I thought that was long. I could see that being a potential boating danger, driving around at night and hitting the dock. Doesn't a dock that long have to be lighted?	The first limit to dock length is to extend to attain 5.5 feet water depth. The second limit is 200 feet in length. Currently, some docks are up to 150 feet or a little longer. However, the SMP is in place for many years, so in the future, if deposits of sand continue in some areas of the lake, some people may need to increase the length of their dock to reach the 5.5. feet in depth. A regulation could be added to City land use code in the future requiring docks to be lighted if they reach a certain length if this becomes a safety concern, but it may not need to be in the SMP.
D5	B. Nysether	PC 5/4/11	Want to know how the new rules for floating docks and inflatable will be enforced are there going to be police driving around issuing tickets.	We will be educating the public on the final regulations approved by Ecology and adopted by the City Council. The City works with residents on any issues not meeting code before starting a code enforcement process. If something does not meet new rules, the property owner is contacted and asked to meet the requirements. Often, a property owner isn't

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
				knowledgeable about the regulations.
D6	B. Nysether	PC 5/4/11	It sounds like listening to this tonight based on the information here this document is still not complete so how can you rule on something that is not completed.	The document is complete except for a final decision on whether 8 foot wide docks will be allowed by Ecology and Fish & Wildlife and a few subsections of Appendix B. So the documents in front of the Planning Commission could have a few minor changes based on final discussions with Ecology.
E1	Angela Larsh, Urban Concepts LLC for Rich Mietzner	Planning Commission Public Hearing 5/4/11	Is it necessary to take these huge steps in dock widths and materials and setbacks and all these things in order to maintain the existing conditions? (Submitted four sections of code from other SMPs: 2 sections from Lake Sammamish on Setbacks; and 2 sections from Redmond on Docks and Shoreline Modifications)	Ecology requires dimensional criteria to be clearly described in the SMP. Specifically, Ecology looks for dock dimensions (especially in the nearshore area) and building setbacks. This applies to new development, but also those lots which are already developed with structures and/or shoreline modifications.
E2	Angela Larsh	PC 5/4/11	There is also some semantic issues that happen when putting these documents together, for example when I read grating is required. When I hear the word grating I picture a metal grate. There are lots of things that can meet that, we ask that don't narrow technology don't restrain people to one kind of material. There are lots of things that can be thought of, as long as the function can be met, the goal is for light to meet the water.	See response to A4.
E3	Angela Larsh	PC 5/4/11	Bulkheads, the replacement of bulkheads - If someone already has a bulkhead and they want to simply replace that by putting a new one behind it, I have a really hard time seeing that there is a real net loss impact by doing that. I think there maybe some short term construction mitigation that needs to be done but in the long run there is not a lot of impact overall by replacing that feature.	Existing bulkheads can be replaced if they are needed to protect primary structures from erosion caused by currents or waves and a nonstructural measure is not feasible. Following the mitigation sequencing laid out in Chapter 3 Section B.4, the property owner must first avoid (so if it isn't necessary, then not allowed), then minimize (if it is necessary, make it the minimum size necessary).
E4	Angela Larsh	PC 5/4/11	…new regulations for setbacks, so 114 of those 183 parcels counted did not conform. In my world to create a new regulation that has the majority of properties that already don't comply with it is problematic, that is asking for trouble. All those properties owners are now nonconforming and their properties are being restricted in a very meaningful way.	No change to regulations for current critical area buffers or building setbacks to the lake are proposed, so there will be no new properties becoming nonconforming in regards to setbacks.

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F1	Rich Mietzner, Resident	Planning Commission Public Hearing 5/4/11	60 ft from the water and 20ft from the road leaves you with 20ft, the language is flawed and it effects too much real estate, we must correct it before it moves on. If we are going to create legislative then it needs to work for the majority of the people, we need to put the time in to make it work.	No change to regulations for current critical area buffers or building setbacks to the lake or setbacks from road rights-of-way is proposed, so there will be no new properties becoming nonconforming in regards to setbacks or roads.
F2	R. Mietzner	PC 5/4/11	Small item that keep resurfacing is the first 30ft, it's just nineteen houses. It seems simple to me, we looked at other municipalities and they didn't drop the first 30ft down to 4ft… If you have kids running up and down a dock this is to narrow. If other municipalities recently got it approved by DOE, then we can't allow the Makers guy tell us it that DOE won't let it happen. It must be changed it's a safety issue, all the people in the Advisory Board meeting raised their hands and said this needs to be changed and the document has not been updated.	Ecology has continued to point out that as the lake is a critical area, we must first try to avoid, then minimize and then mitigate impacts to the lake. The four foot width for new docks is minimization. The allowance for existing docks to go to six feet and the requirement for grating in all docks in the first 30 feet is mitigation for the overwater structure. Please see Ecology's comments to the City(attached). The Army Corps of Engineers General Permit #3 (attached) covers new and modified overwater structures and pilings in Lk. WA, Lk Sammamish, Sammamish River and Lake Union. It clearly states 4 ft width on docks as well as grating of 60% open area. The Corps permit is required in these areas like the JARPA is required for over and in-water work in Lake Stevens.
F3	R. Mietzner	PC 5/4/11	Bulkheads – If 80% is already bulkheads, then if the goal of DOE is no net less then we need something more than what is in here. No one changes 50% of their bulkhead over 5 years, if it needs to be repaired then it needs to be done. If the bulkhead is already there and it is damaged then they should be able to replace it.	Existing bulkheads can be replaced if they are needed to protect primary structures from erosion caused by currents or waves and a nonstructural measure is not feasible. Following the mitigation sequencing laid out in Chapter 3 Section B.4, the property owner must first avoid (so if it isn't necessary, then don't know allowed), then minimize (if it is necessary, make it the minimum size necessary).
G1	Douglas Bell, Resident	Planning Commission Public Hearing 5/4/11	Testimony follows submitted materials related to helicopters. Also providing testimony for neighbors Burgoyne, Powell, Kosche, Martin, Molenkamp, and Barnet. Opposed to sections authorizing helicopters landings, takeoffs and storage on docks, piers or other over-water structures…Want prohibition of helicopters utilizing over-water structures…inherently dangerous to public health and safety.	Staff talked with Kris Kern, Federal Aviation Administration (FAA) Inspector, FAA Seattle Flight Standards District Office regarding the use of helicopters on a lake and landing on a private dock. If the helicopter is approaching and departing the dock over water, there are no safety concerns. It would be considered to be flown in a safe manner and is a safe use of a helicopter. In addition, both the helicopter and the pilot are licensed by the FAA.

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
G2	D. Bell	PC 5/4/11	FAA has some regulatory authority, but that is not totally preemptive of the city's SMP and zoning jurisdiction.	City could ban helicopters from the lake if there was a rational justification for prohibiting the use. However, float planes are allowed on the lake as a water-dependent use, which require more area for takeoffs and landings, are on the lake for a longer period, and have a higher potential for conflict with other lake uses than a helicopter. So the City may need to make some type of distinction between a float plane and a helicopter use in terms of safety concerns. Float planes and helicopters have a short period of noise, but do not have more noise impacts than jet skis and motor boats and are used less on the lake than boats and jet skis.
G3	D. Bell	PC 5/4/11	The dock is not a principal use, it is a structure with an accessory use to the lakefront lot's residential principal use. There is absolutely nothing in the nature of a dock-based helicopter pad that evenly remotely relates to boat moorage at a dock. Moreover, an operating, dock-based helicopter does in fact hinder and obstruct ("impede") the water-dependent use of the dock, e.g., boat moorage, fishing and swimming.	The WAC clearly states that "a dock associated with a single family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft" (WAC 173-26-231(3)(b). If the dock is built in support of watercraft and meets the dimensional standards, the SMP neither prohibits nor encourages other uses of the dock.
G4	D. Bell	PC 5/4/11	If private ownership of property is the determining factor regarding the scope of the city's SMP and land use ordinances, then there is no need to process either document any further if one may do what he or she wishes merely based upon private property title.	The FAA regulates aircraft. The City of Lake Stevens does not currently have regulations related to aircraft in the municipal code. The City has regulations, including the SMP that regulate certain issues related to land use and environmental protection.
G5	D. Bell	PC 5/4/11	In conclusion, we respectfully request the Planning Commission condition any approval of both the Draft SMP and Draft Ordinance No. 856 with the express prohibition of helicopter use for any purpose on all existing and future over-water structures.	Planning Commission could consider the request.
H1	Bill Barnet, Resident	Planning Commission Public Hearing 5/4/11	Does anything in the plans address older and newer cabanas and boathouse that are being converted in living space/residences and apartments, with bedrooms and kitchens.	No new boathouses or cabanas are allowed within City jurisdiction on Lake Stevens.
I1	Rose Granda, Resident	Planning Commission Public	Think it interesting that the City can manipulate its idea of proper use of the lake and the shoreline sometimes to its own benefit. Whether its restrictions on the property owner on how	Lake Stevens is a water of the state including the shorelines, and as so is protected for all of Washington's residents. Therefore, the State has the jurisdiction to protect the water and shoreline as necessary. The Shoreline Master Program is mandated by the State of

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		Hearing 5/4/11	they want to rebuild or maintain structures. Now there is going to be more regulations, money in permits and fees for people trying to improve their homes. If the City had more of a conscience and the best interest of the wetlands and wildlife then they would be spending more time taking care, improving and maintaining their own lake front property.	Washington in the Shoreline Management Act in Revised Code of Washington (RCW 90.58.020) and the Shoreline Master Program Guidelines in the Washington Administrative Code (Chapter 173-26 WAC). The City is following the SMP guidelines in preparing the SMP for Lake Stevens shorelines. The City will need to follow all the regulations in the updated SMP for city property the same as all other property owners.
I2	R. Granda	PC 5/4/11	Now you want all these young people to take tests to drive boats and jet skis, there is nothing about staying away from the shoreline. You want more money and more certification but it is hypocritical.	Washington's boater education law is a statewide law enforced by the state. The City of Lake Stevens does not require additional certification.
J1	Fred Schmidt, Resident	Planning Commission Public Hearing 5/4/11	I live next to a helicopter I don't care, we don't know if it is coming or going. Banning helicopters has no validity.	No response necessary.
K1	Cory Burke, Resident	Planning Commission Public Hearing 5/4/11	My apologies for not knowing all the details of this, but who is supposed to pay for all these new materials and restoration? If it is for the public's benefit then why do I have to pay for all of it?	Project applicants and property owners who are developing their property are expected to pay for improvements to their property as part of the development permit process.
K2	C. Burke	PC 5/4/11	Setbacks – I recently rebuilt our home, because of the setbacks we couldn't build the single large storey home that we wanted so we had to build a tall narrow two storey home. Lots should be looked at and topography should be looked at, each lot should be looked at not just given the 60ft set back. The nature of the intent of a 60ft set back should be looked at.	The SMP states: "Where the City's Shoreline Administrator finds that an existing site does not provide sufficient area to locate the residence entirely landward of this setback, the City's Shoreline Administrator may allow the residence to be located closer to the OHWM, provided all other provisions of this SMP are met and impacts are mitigated." (Chapter 5 Section 8.c.2.a.i)
L1	Rosanne Cowles, Resident	Planning Commission Public Hearing 5/4/11	Does anyone here know what Agenda 21 is? (Submitted article titled, "Assault On Property Rights)	The Shoreline Master Program is mandated by the State of Washington in the Shoreline Management Act in Revised Code of Washington (RCW 90.58.020) and the Shoreline Master Program Guidelines in the Washington Administrative Code (Chapter 173-26 WAC).

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M1	Tom Matlock, Resident	Planning Commission Public Hearing 5/4/11	The 200ft length for a dock is not how long the dock is going to be, it's going to be an average of two docks one to the left and one to the right. So we still need to take out that 200ft language…	The regulation on the length of the two docks on either side is the one in the current SMP. The new SMP restricts dock length to that to reach 5.5 foot depth, but in no way can it go over 200 feet in length. Current docks reach 150 feet and over in areas of the lake where it is shallow. In the future, as these areas continue to collect sediment, the docks may need to be extended. The SMP update will regulate use of the lake for years to come.
M2	T. Matlock	PC 5/4/11	I drove around the lake today and looked at jet ski lifts, and there around three kinds of jet ski lifts and I think one of those is going to be a problem. Those are the self standing on a lever or a wheel by its self, those are going to become a non-conforming use will they not Miss Watkins? If you can wade out to a jet ski lift that is not attached to a dock, it's just in the middle of your clomp of water. Because there is something in the SMP's that states you cannot drive anything into the lake bed except for a pier, boat or a dock.	Jet ski lifts have been discussed at both the Citizen Advisory Committee and public open houses. The Planning Commission could consider amendments to address the concerns in their recommendation to Council.
M3	T. Matlock	PC 5/4/11	Then an unlimited number of the pull up ramp jet ski lifts, if you have a long dock and a lot of friends do we really want 15-20? On a process that even though I was on the Committee I didn't really understand this, we went from no pull up ramps to unlimited. So I think we need to take a look at that again before some people get rich parking jet skis at their dock.	Jet ski lifts have been discussed at both the Citizen Advisory Committee and public open houses. The Planning Commission could consider amendments to address the concerns in their recommendation to Council.
M4	T. Matlock	PC 5/4/11	The helicopter thing just came out of the air so to speak so maybe we should take another look at that.	Planning Commission could consider your request.
N1	Gigi Burke, Resident	Planning Commission PH 5/4/11	I think some of the most valuable and best research and points that have been made tonight by Angela Larsh with Urban Concepts. I believe you have received her document and I strongly hope you take those points into consideration and that we take a closer look at this before we make those decisions.	Thank you for your comments. The City is looking at all the comments. It is noted that all waterbodies have different requirements and therefore different regulations to meet No Net Loss.
O1	Darrell Moore	Planning Commission Public Hearing	I guess my concerns are that all these rules that you are proposing, or that is being proposed….They want to protect it and take care of it but when you put all these cookie cutter rules on it and we have high bank, low bank, short docks long docks,	Throughout the SMP we have incorporated flexibility by allowing the Shoreline Administrator to have some discretion, to ensure that unique characteristics around the lake are taken into account.

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		5/4/11	but now we are going to have all the same rules for everything.	
O2	D. Moore	PC 5/4/11	This needs to be looked at a lot more, things like the language 'shall' and 'should' are we trying to be deceptive?	The SMP Guidelines from the state provide a definition for the terms shall, should and may as used in the SMPs.
P1	Rich Mietzner, Resident	Planning Commission Public Hearing 5/4/11	I am landing a helicopter on the dock, if you to operate a heli pad heli port that is for multiple aircraft and that is not my intention.	No response needed.
Q1	D. Molenkamp, Resident	Planning Commission Public Hearing 5/4/11	On the issue of helicopters… This is not an airport that we live on here, there is a public danger with operating helicopters and they are a nuisance and are certainly not water dependent, they are a danger to the public.	See Responses to G1 and G2.
R1	Douglas Bell, Resident	Planning Commission 5/18/11	Comments regarding helicopters, a non-water dependent use, landing on a private dock. Concerned with safety of residents.	No response needed
S1	Angela Larsh, Urban Concepts LLC	Planning Commission Public Hearing 5/18/11	(Submitted map identifying parcels on lake not meeting 60 ft setback.) If your existing setback is 60ft and more than 60% of the properties subject to that are not meeting that then it needs to be re-evaluated. Maybe it should be something less than that since most people are already not complying with that. If this is an existing condition and the point is to have no net loss then why would make a requirement that all these people already don't meet. They are not meeting it now, then there is no loss to the function or value to the lake if you keep letting people do what they are doing now, so why don't you change the rule to reflect the existing condition.	See Response A20

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S2	Angela Larsh	PC 5/18/11	With regard to helicopters I personally like to see it remain silent, it seems that this is a small handful of operators. No one seems to be objecting to operators that you have, to regulate a problem that you don't already have makes the issue muddy. No one has an issue right now, no one is abusing their rights so why try to regulate something that's not a problem.	See Response G3
S2	Angela Larsh	PC 5/18/11	I do disagree respectfully with Mr. Bell, that I do not think it is fair to say that somehow a floatplane is without risk and helicopters are. That doesn't make any sense to me, anything that flies away has some risk, they all have risk. To regulate one and not the other based on risk doesn't make sense. I think restrictions on hours are reasonable, early morning hours, late at night, I think that's reasonable, I think people would comply with that.	No response needed
T1	Gigi Burke, Resident	Planning Commission Public Hearing 5/18/11	We rebuilt a very old run down house last year and my house would not be there right now if these regulations had been in effect then… There is a lot of old house that are run down, my dad's house, that need to be remodeled and rebuilt, lot of old house on the lake that are old and need to be re built. I would hate to see this not happening, by softening the language that exactly what that does it takes each individual residence on piece-by-piece basis and helps the people to be able to do what they need to do… I think our fear is to see these restrictions in place where people can't do anything.	The 60 foot setback from the lake, which is a critical area (Fish & Wildlife Conservation Area) has been in effect in Lake Stevens since 2007 when the Critical Areas Regulations were updated. Your house was built with the 60 foot setback requirement from the lake in place. Additionally, the SMP update has a number of requirements that provide flexibility/incentives and non-conforming provisions to existing development.
T2	G. Burke	PC 5/18/11	Back to the helicopter issue, I have several letters of support that I will be bringing to the Council. I understand the safety issues, but we don't see the helicopters as being any unsafe than float planes. Whether existing helicopters are grandfathered in or not, I don't think any of us want unsafe environment for our children or our families and we don't see that as being unsafe at all.	No response needed

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U1	Tom Matlack	Planning Commission Public Hearing 5/18/11	So what has been the setback from the lake for five or six those years? So, we are in 2011 right now, so you (Gigi Burke) re did a house under the same setbacks that we are talking about for SMP.	See Response T1
V1	Snohomish County Public Works	Planning Commission Public Hearing 5/18/11	Public Works has reviewed your draft document and, at this time, offers no comments. Thank you for the opportunity to comment.	No response needed
W1	Ted & Linda Boysen, Residents	Planning Commission Public Hearing 5/18/11	Letter about concerns raised over helicopter usage on Lake Stevens. Know current helicopter pilot and he is a safe pilot. Want to continue to allow helicopters, float planes, boating, rowing, fishing and other lake activities.	No response needed
X1	James & Judith Gottschalk	Planning Commission Public Hearing 5/18/11	Letter about concerns raised over helicopter usage on Lake Stevens. Knows current helicopter pilot and has been a float plane pilot himself. Believes helicopters and float planes are a great part of community. Current pilot is a safe pilot. Looks forward to seeing helicopters, sea-planes, boating and other activity on the lake.	No response needed.
Y1	Gigi & Cory Burke, Residents	City Council Public Hearing 5/23/11	Letter to support allowing residents to own helicopters and park them on lake front property on Lake Stevens.	No response needed.
Z1	Jeremy Clites, Resident	City Council Public Hearing	Email in support of Mr. Richard Meitner's use of helicopter on his dock. Commenter lives next door.	No response needed.

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		5/23/11		
AA1	Robert M. Wade	City Council Public Hearing 5/23/11	Letter in support of storage and operation of a private helicopter owned and operated by Rich Mietzner.	No response needed.
AB1	Ray Granda & Family, Residents	City Council Public Hearing 5/23/11	Letter supporting helicopter use on the lake. Commenter is employed in aviation industry for over 25 years. Helicopters are on e of the safest ways to travel. Richard Mietzner is a professional and experienced pilot.	No response needed.
AB2	R. Granda & Family	CC PH 5/23/11	Letter voices caution to limit the rights of other families on the lake. Saddened to see local government increasingly strangulate the property rights of this community by over regulations and costs.	The SMP update is mandated by the State of Washington. Lake Stevens and the shoreline 200 feet landward of the ordinary high water mark is a "water of the state" and under state jurisdiction for the benefit of state residents. Ecology provided the City with SMP Guidelines and an SMP Checklist of what requirements are necessary in the SMP. The overall purpose of the SMP is to meet No Net Loss of Ecological Functions for what exists now. The proposed SMP regulations will do this for future health of the lake.
AC1	The Lee Family, Residents	City Council Public Hearing 5/23/11	Letter supporting helicopters on the lake and current pilot as safe.	No response needed.
AD1	Leif Holmes, Resident	City Council Public Hearing 5/23/11	Letter supporting helicopter use on the lake.	No response needed.
AE1	Earl & Amanda Rotherick, Residents	City Council Public Hearing 5/23/11	Letter supporting the use of a helicopter by Rich and Rhonda Mietzner on the lake.	No response needed.

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AF1	Michael White, Pacific West Financial Group	City Council Public Hearing 5/23/11	Letter stating Rich Mietzner's professional focus on safety.	No response needed.
AG1	Kathy Nysether, Resident	City Council Public Hearing 5/23/11	Letter from a former helicopter instructor supporting continued use of helicopter by Rich Mietzner.	No response needed.
AH1	The Lee Family, Residents	City Council Public Hearing 5/23/11	Same letter but with signatures.	See Response AC1
AI1	Jon & JoAnn Youngquist, Residents	City Council Public Hearing 5/23/11	Letter stating aviation has been a frequent and important part of the lake for nearly half-a-century. Restricting its activity at this point in history seems like a needless exercise of power and an imposition on those who use the lake for this purpose. The background noise generated by ski boats, jet skis, other personal water craft, and aircraft are part of the culture of the lake.	No response needed.
AJ1	Bill Tsoukalas, Boys & Girls Club	City Council Public Hearing 5/23/11	Letter regarding continued allowance of helicopter take offs and landings from the lake and in support of continued use by Mr. Rich Mietzner.	No response needed.
AK1	Angela Evans, Resident	City Council Public Hearing 5/23/11	Letter from a near neighbor or current helicopter pilot stating it is not noisy or a nuisance.	No response needed.

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AL1	Douglas Bell, Resident	City Council Public Hearing 5/23/11	Read and submitted testimony from Mr. Bell and on behalf of six additional lakefront residents (Burgoyne, Powell, Kosche, Martin, Molenkamp & Barnet families). Comments from both verbal and written testimony. The fourteen of us are strongly opposed to draft Ordinance 856, Section. 2 that adopts the SMP but only add to those provisions that deal with helicopters and Section 5 that amends Title14 a section of the Lake Stevens Municipal Code that also specifically addresses helicopters. We want the prohibition of helicopters. We want the prohibition of helicopters so that they may not utilize overwater structures to conform to that prohibition that was in your November 2010 draft SMP. We want that reimposed and want it restated in Ordinance 856 particularly Title 14.	No response needed.
AL2	D. Bell	CCPH 5/23/11	Now there have been concerns expressed by others that our request will adversely affect one helicopters use of overwater structure that is not our intent. Our lay understanding of nonconforming use regulations of the City and as explained to us by staff is that a use, land use, helicopter use, established prior to the effective date of the new more restrictive ordinance will not impact that existing use. In other words what is may continue for that residence.	The existing helicopter use is not necessarily grandfathered in. If it is determined by the City to exclude helicopters from the lake, it will depend on the reason for the exclusion, whether the existing helicopter can continue the use.
AL3	D. Bell	CCPH 5/23/11	Helicopters in a residential neighborhood are both very noisy and extremely dangerous. Helicopters are a non-water dependent use.	Helicopters without floats are a non water-dependent use. Helicopters do have a high decibel level (~105 dB) for a short time in one place. Other uses of the lake include personal watercrafts which idle at ~74-85 dB, are at 91-100 dB at 5,000 RPM and 100-105 dB at full throttle. Piloting helicopters requires a federal license and the equipment requires a federal license.
AL4	D. Bell	CCPH 5/23/11	Your draft ordinance states that, the definition in the draft SMP is redundant in that regard as well.	Not sure which definition commenter is referring to, but both “nonconforming development” and “nonwater-oritented uses” are defined in Chapter 6 of the SMP.
AL5	D. Bell	CCPH 5/23/11	Now many if not most existing overwater structures abut or very near adjacent upland shoreline and submerged property lines and in some instances other docks. The placement of helicopter landing pads on docks or other overwater structures may vary	See Response G1

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			but in many instances the helicopter landing area will not be reasonably safe distance from people or adjacent homes.	
AL6	D. Bell	CCPH 5/23/11	Just because the helicopter pad is on a structure over a body of water provides no justification for this unwarranted exposure to harm and injury to occupants of contiguous and adjacent properties. This is not only poor shoreline management and land use planning, but more importantly inherently dangerous to public health and safety. Pilot errors and equipment malfunctions do happen.	See Response G2
Al7	D. Bell	CCPH 5/23/11	We brought up very early on the initial failure of the Draft SMP to address helicopters. The November, 2010 Draft SMP rightly corrected this oversight by then stating: "Over-water structures used for landing helicopters are not considered water-dependent and are therefore prohibited."…However, the present Draft SMP merely provides that all over-water structures "…conform to…federal requirements…" and also "Non-water-dependent uses may use a dock for a water-dependent use as long as they do not impede the water-dependent use." Far worse yet, Draft Ordinance No. 856, sec. 4 expressly authorizes a helicopter to use any exiting dock or pier. Why this radical reversal from the prior and proper treatment of non-water-dependent helicopters…and the outright authorization for non-water-dependent helicopter usage…?	In the early SMP documents, helicopter use of a dock was not addressed. When it came up from a resident, the Shoreline Citizen Advisory Committee discussed it and proposed language. At the next public open house, residents who are pilots on the lake discussed the proposed language prohibiting helicopters and asked that it be changed. The language currently proposed is the new language written after the public open house and based on public comments. The Planning Commission discussed the issue at the SMP public hearings, but decided not to make any proposed changes. They discussed their preference that the SMP to be silent on helicopters.
AL8	D. Bell	CCPH 5/23/11	FAA role—The FAA's regulatory authority is not preemptive of the city's SMP and zoning jurisdiction. To establish a private-use heliport, one has to comply with FAA regulations. The FAA further requires one "must" also "comply with any local law" or "ordinance." Ordinance No. 856 can be that "any local law" if the City Council has the will to exercise self-determination.	See Response G2
AL9	D. Bell	CCPH 5/23/11	Contact the FAA—The immediate threats we wish our families protected against are not preventable by contacting the FAA after the fact of suffering harm and injury. The FAA's assertion	See Response G1

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			that because helicopter approaches and departures are over water there are no safety concerns completely ignores the facts present here of close human proximity to the areas of operation.	
AL10	D. Bell	CCPH 5/23/11	Helicopters as an accessory use to boat moorage at a dock—An accessory use is a use that is customarily associated with and incidental to the principal use of property or structure. There is absolutely nothing in the nature of a dock-based helicopter pad that even remotely relates to boat moorage at a dock, or even a dock. Helicopters are not water-dependent use. Moreover, an operating, dock-based, non-water-dependent helicopter does in fact hinder and obstruct the water-dependent use of the dock, e.g., boat moorage, fishing and swimming, i.e., "impede(s).	See Response G3
AL11	D. Bell	CCPH 5/23/11	Float planes—Unlike helicopters, float planes are a water-dependent use and share time and space on the lake with other water-dependent uses. Water-dependent uses of all character may have conflict in any limited space. Float planes will be regulated as both watercraft and are as aircraft. The potential for conflict between such water-dependent uses on the lake are no rationale to allow helicopters the unmerited benefit of water-dependent status so they may then conflict with shoreline residential uses.	See Response G2
AL12	D. Bell	CCPH 5/23/11	Helicopters and private property—If private ownership of property means those helicopters that can no longer use docks may utilize private backyards and driveways for land and takeoff under current city ordinances, then we suggest the City Council undertake subsequent regulatory action forthwith to similarly protect all citizens as we propose it do now for shoreline citizens. Strict regulation is needed, not merely for time-of-day usage, but most critically, the proximity issue.	See Response G4
AL13	D. Bell	CCPH 5/23/11	City staff advises the City Attorney opines a "rational justification" is first required to regulate the aspects of helicopter use we request and distinguish helicopter from float plane treatment. We suggest ample rationale has been provided and exists in-chief by virtue that helicopters are not water-	See Response G2

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			dependent and their over-water structure use proximity to persons and property pose unacceptable public safety risks.	
AL14	D. Bell	CCPH 5/23/11	We respectfully request the City Council to not adopt either Draft Ordinance No. 856 or the SMP without the addition of express prohibitions on helicopter use for any purpose on all over-water structures. At the very least, we seek City Council action to revise the last sentence of proposed LSMC sec. 14.44.070(a) to read: "Helicopters are not a water-dependent use, and are prohibited from using over-water structures."	Council could consider your request.
AM1	Angela Larsh, Urban Concepts LLC	City Council Public Hearing 5/23/11	It is important to recognize that under the current shoreline management program that we have right now that there is a very clear division between how critical area regulations apply and how shoreline regulations apply. So under the current rules, there is a House bill out of the State, House Bill 1653 that specifically limits the implication or the application of critical area regulations to properties within shoreline jurisdictions. Okay, so right now as it stands you either are subject to shorelines or you're subject to critical areas regulations, but not both. Under the amendment process that the State is requiring the City to go through, those things become one. They blend the critical area requirements with the shoreline management master program. And that is a big change and is an important one to understand.	Ms. Larsh's comments are correct on a separation between SMP and Critical Areas Regulations. Therefore, the City decided to place the critical areas regulations for shoreline jurisdiction into the SMP as Appendix B. Therefore, properties in shoreline jurisdiction will need to meet the requirements of the SMP including the critical areas regulations for shoreline jurisdiction within Appendix B and not Title 14 Land Use Code.
AM2	A Larsh, Urban Concepts	CCPH 5/23/11	Using the City's current critical areas regulations which will become applicable to shoreline properties once this amendment is accepted. Properties that currently do not comply with that 60 foot setback buffer or whatever you want to call it. The critical area regulations will prohibit you from replacing your structure or any other improvement that does not comply with the 60 foot buffer if it is destroyed by human activity or natural causes. Okay that is your code Section 14.88.330. That is important to	As explained in Response AM1, the current CAR in Chapter 14.88 LSMC are being replaced for critical areas within shoreline jurisdiction by Appendix B of the SMP. In addition, Chapter 7, Section G of the SMP clearly states that "if a nonconforming development is damaged to the extent of one hundred 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…" Thus, if a house burned down, you could rebuild it on the current foundation. In regards to the 60 foot buffer/setback on the lake, please see Response A20. [*NOTE: the*

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			understand because last week at Planning Commission I submitted some aerial photographs that were highlighted all the properties in the City, along the lake, that do not comply with the 60 foot setback currently. It is more than 60% of the properties.	*SMP does not change existing setback requirements.*] In addition, staff knows of at least one parcel that is marked on the map submitted as less than 60 feet that is definitely farther than 60 feet from the lake because a building permit was approved and the house has been built completely outside the 60 foot buffer/setback.
AM3	A Larsh, Urban Concepts	CCPH 5/23/11	The bulkhead language does not allow for existing structures to be replaced and I have a problem with that for several reasons. When you back what we talked about lots of jurisdictions and what they've got going on. Every jurisdiction in the State is being held to same standard, that's the state guidelines. The state is required to treat every jurisdiction equitable and consistently just like any other regulatory body. It was good for Whatcom County or City of Redmond or Sammamish or Bellevue if those people can build docks six feet wide or don't have to be grated and those regulations were found to be in conformance with the State guidelines then Lake Stevens should be held to the same standard. You shouldn't be held to higher standard than any other jurisdiction.	The City of Redmond and Whatcom County were early adopters, and therefore the SMP Guidelines were not in place when they began their SMP process. Also, Ecology has expressed they are trying to be more consistent with their comments. Ecology recently completed the official review of the City of Sammamish's SMP and provided comments in line with the comments provided to Lake Stevens to date, including the size of docks within the first 30 feet. Ecology's comments can be viewed at http://www.ecy.wa.gov/programs/sea/shorelines/smp/mycomments/sammamish.html.
AM4	A Larsh, Urban Concepts	CCPH 5/23/11	Now that being said, Lake Stevens is a special case to some degree, it is an urban lake, is different than say Puget Sound or Lake Washington where you have a marine environment or you are dealing with anadromous fish and those areas structures are held to a much higher standard they already have to get Army Corps permits, you do not need Army Corps permit to build a dock on Lake Stevens, it's not required they don't have jurisdiction. You need permits from Fish and Wildlife. You need permits from the State. So this four foot grated thing comes from Army Corps of Engineers, they don't apply here. So why are we using those rules that don't' apply to the development that occurs on the lake.	See Response F2
AM5	A Larsh, Urban Concepts	CCPH 5/23/11	One more thing helicopters – I do have to say something about helicopters. Rich Meitzner has been using his helicopter and I think he is a responsible citizen he only wants to.	No response necessary

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AN1	Tom Matlack, Resident	City Council Public Hearing 5/23/11	It was a very long process. I would have to thank the committee members, Planning Commission, and especially the planning staff and now you guys 'cause it is now in your lap. We all ran into this bewildering area of jurisdictions …but I think the Planning Commission has heard much of the same testimony and I would like you to please accept the recommendations that were in the staff report tonight.	Mr. Matlack was a member of the Shoreline Citizen Advisory Committee and has therefore been involved in preparation of the SMP from the beginning. No response necessary.
AO1	Ted Boysen, Resident	City Council Public Hearing 5/23/11	I respectfully disagree with Mr. Bell and I agree with the last lady that spoke. Ladies and gentleman we have to be very careful that we don't pit neighbor against neighbor here on Lake Stevens. Lake Stevens is a big lake, is a preferred recreational lake and there is plenty of room on Lake Stevens for fishing boats, for water-ski boats, for wakeboard boats, for sailboats, for float boats, float planes, and for helicopters and many other activities.	No response necessary
AO2	T. Boysen	CCPH 5/23/11	…we have to be careful that we keep our rights here and there is plenty of room for everybody to have fun and to exercise our rights and I love seeing float planes. I love seeing helicopters and I love seeing boats on Lake Stevens.	No response necessary
AP1	Bruce Morton, Resident	City Council Public Hearing 5/23/11	I want to focus on a very specific regulation that's in the proposed SMP that has to do with the boat lift canopies, that's in Chapter 4, Subsection C, Paragraph 30, Subparagraph d and e found on Page 63 of the SMP. Most of the regulations in the SMP have some sort of foundation and science studies based on helping the ecological function of the lake but this particular regulation having to do with boat lift canopies having to be made of fabric material versus solid material. I don't think the fish care whether the shade comes from fabric or a solid roof. So I don't think there is any rational basis for this. … I would like to submit this as an amendment to strike the first sentence of that Subsection d and the whole sentence of Subsection e which would essentially allow any type of material to be used on boat	Fabric is required because boat lift canopies are not intended to be permanent overwater structures. If solid materials are allowed, the boatlift canopy becomes a more permanent structure instead of an accessory use to the boatlift. A solid canopy would begin to look more like a boat house, which is not allowed by the SMP.

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			lift canopies.	
AP2	B. Morton	CCPH 5/23/11	In conversations that I have had on previous public meetings that has been brought up that well that the solid boat lift canopies can be flimsy which is kind of a ridiculous argument because I think that fabric is more flimsy than solid wood or that the design or structure of it may be flimsy.	See Response AP1
AP3	B. Morton	CCPH 5/23/11	Other complaints or thoughts about why this regulation is being proposed is that the construction materials for solid roof can fall into the lake and thereby pollute the lake.	See Response AP1
AP4	B. Morton	CCPH 5/23/11	… I like helicopters on the lake.	No response necessary
AQ1	Gigi Burke, Resident	City Council Public Hearing 5/23/11	…this is going to be a change that takes place that's going to last for the next 20 years that's a long time and it scares me and many other homeowners very much.	The SMP is a long-term document, however, it is to be updated every seven years with the Comprehensive Plan. It can also be updated more often.
AQ2	G. Burke	CCPH 5/23/11	My husband and I, we built the house here on the lake within the last couple of years and we could not have built the house that we built under these regulations. We have a bulkhead and we would like to able to maintain that bulkhead and there is no way we will be able to do that under these regulations.	See Response T1
AQ3	G. Burke	CCPH 5/23/11	I personally feel that some of the remarks that Ms. Larsh has made about the other lakes around the area in Whatcom, in Redmond have taken the regulations and eased the language to allow things to be handled on a local basis on a more case by case basis and I just really hope as a constituent that you take these things into consideration…	See Response AM3
AQ4	G. Burke	CCPH 5/23/11	… the hard costs are going to be put back on the homeowners and it is not just rebuilding our docks or maintaining our bulkheads.	The bulkhead and dock are privately owned and maintained and are located within State shoreline jurisdiction and are therefore required to meet shoreline regulations in the SMP in addition to state permitting agency regulations, which mirror the state WAC.

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AQ5	G. Burke	CCPH 5/23/11	Well the statement that was made today that scares me the most that I didn't even think of is if my house burnt down I wouldn't be able to rebuild it at all.	See Response AM2
AQ6	G. Burke	CCPH 5/23/11	One last thing and this is just on behalf and Rich and Rhonda unsolicited letters were written in support of having helicopters on Lake Stevens and I just wanted to submit them on their behalf.	No response necessary
AR1	Jennifer Soler, Resident	City Council Public Hearing 5/23/11	I bought a home on the lake we were lucky [*unable to transcribe*] probably one of the smallest pieces of property on the lake and we are so excited to live the lake life but I am really concerned now because it looks like I am not going to be able to do anything to my piece of property.	Unable to respond as details of property is unknown
AR2	J. Soler	CCPH 5/23/11	So I am really concerned that I can't even build a little gravel level flat for a BBQ and I am concerned that I cannot replace my bulkhead and meet the shoreline management. It is the restrictive language, the "shall" and the "should" that basically mean that I'll have to hire some researchers and do mitigation and pay for all of that just to replace my bulkhead. I don't know, to me that doesn't fall under a reasonable use. When you buy a piece of property and a home, don't you have a reasonable use of that piece of property?	The State regulations do not allow for a "reasonable use" provision directly in shoreline areas, which is allowed under the City's critical areas regulations outside shoreline jurisdiction. The SMP however, includes a Shoreline Variance process where a specific property owner can ask for something that is not specifically allowed by the SMP.
AR3	J. Soler	CCPH 5/23/11	…but I would really encourage you to take a look at the nature of how restrictive the language is and think if it was your small piece of property that you were so excited to live on think how you would feel if it burnt down and that was it and that is all I have to say.	See Response AM2
AS1	Paul Olliges, Resident	City Council Public Hearing 5/23/11	So what you are saying here is some of the regulations you are going to force me to spend a lot of money just to maintain my property.	If you have a dock or property within shoreline jurisdiction, you will be required to meet shoreline regulations in the SMP.

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AS2	P. Olliges	CCPH 5/23/11	I've got a bulkhead. I've got an 8 foot dock that was on the property when I bought it. The dock is in need of repair what you're going to tell me is if I am going to have to come in and modify the dock to 4 feet at the 30 foot section that's a burden on me that no one else is going to pay for except my family.	If your dock is already larger than four feet wide in the first 30 feet, you may keep six feet width in the first 30 feet. It is only new docks that require the four feet width in the first 30 feet.
AS3	P. Olliges	CCPH 5/23/11	I have a structure within the 60 feet of the property that is being used today and it needs to be repaired and you're not going to let me repair it. So please read through and understand the impact that you are putting on the people on the lake.	Maintenance of existing structures is allowed if it is legally existing use/structure. For remodels or enlargements, a property owner can request a Shoreline Variance.
AT1	Jim McCord, Resident	City Council Public Hearing 5/23/11	The comments made by Ms. Larsh and that she submitted to you folks in writing are very important to me and I hope you take a clear look at what they say and how they affect the people that live on the lake. Not everybody's properties conforms to the guidelines. Everybody is a little bit different.	The SMP includes Nonconforming Regulations for properties that were legally constructed or a legal use, but do not conform to new regulations. These are located in Chapter 7, Section G. The Shoreline Variance allows a property owner to request a use or structure due to specific lot requirements.
AT2	J. McCord	CCPH 5/23/11	And one other comments that I have to make I also scuba dive a lot and the concerns about lake coverage docks and such just confuses me. Every time I go scuba diving when the suns out you see more fish hiding underneath the docks and in the shade and that you guys are trying to encourage the fish habitat but yet you are limited the dock structures. If you ever dive that's where the bass are that's where the fry are they are sitting underneath the docks.	According to Fish and Wildlife and the City's consultants, scientific studies show bass and other predatory fish like to hid in the shade under docks where Coho salmon fry (a State Priority Species), Kokanee or other fish cannot see them easily. We are required to manage the lake environment to protect the critical fish habitat.
AU1	Patricia Perry, Resident	City Council Public Hearing 5/23/11	… I recall that this lake would have a reputation of for having more restrictions than is necessary or required by the state or by our government that would make us less desirable for future homeowners to purchase our homes when we go to sell them. That would then lower value of our homes but that would also make us not be able to use our property the way we had hoped we would be able to use, just because there is a possible perception that there might be problems that are not really factual…	See Response AB2

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AU2	P. Perry	CCPH 5/23/11	I hope that you all will have time to go over or whoever does these investigations will check thoroughly and make sure that their facts are actually accurate and not just taken as facts and make [*not transcribable*] our properties less useful.	The City hired The Watershed Company and Makers Architecture which have successfully completed other SMPs. They have followed the SMP Guidelines and well-known scientific review processes to assist the City in the SMP process.
AV1	Bill Tackitt, Resident	City Council Public Hearing 5/23/11	The State DOE is a state agency that is trying to force local governments to impose standards that place the cost of their improvements on the backs of the private property owners. The State of Washington is in its great wisdom is telling the people of Lake Stevens we know what you people need and you should do it the way we say.	See Response I1
AV2	B. Tackitt	CCPH 5/23/11	Property owners should be allowed to replace, repair and maintain their existing property improvements including docks, floats and bulkheads. Can we as a City government help property owners accomplish this in an environmentally improvement. The answer is yes. We can provide that locally. DOE does not give you a set of demands only suggestions because if they did they spend the rest of their entire budget in the court of law.	See Response I1
AV3	B. Tackitt	CCPH 5/23/11	So they give you a set of suggestions and they try to impose their will on local government and say you must do it their way. We all know that those are negotiated points and then we can negotiate each and every one of them. And there should not be a rule that we feel that they were granted to someone else that we shouldn't be entitled to the same privilege.	See Response I1
AV4	B. Tackitt	CCPH 5/23/11	We need to put this program a through and very precise study. Perhaps we need to bring in more expertise, outside expertise.	The City has been working on the SMP updated for almost two years. A Citizen Advisory Committee was created by the City Council. The State gave the City a small grant to hire consultants who are experienced in writing SMPs. The consultants completed an Inventory and Analysis Report of the shorelines within the Lake Stevens Urban Growth Area, based on existing data and documents and actual reconnaissance of the lake environment, which was reviewed and approved by Ecology. This report set the background conditions for the SMP, which was drafted by consultants and City staff with review by the public at three public open houses. Once the SMP was drafted, the consultants ran a Cumulative Impacts Analysis to determine impacts from the proposed regulations. Next, the consultants

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				completed the No Net Loss report based on the cumulative impacts to determine if the SMP would ensure No Net Loss of shoreline functions. The City has coordinated with Ecology and Fish and Wildlife to ensure the proposed SMP will meet SMP Guidelines are required by State law. The SMP is in the final step, the Local Adoption Process. As part of this step, staff met with the Planning Commission and City Council to discuss the proposed SMP at six meetings each. In addition, the Planning Commission to date has held two public hearings and made a recommendation to the Council.
AV5	B. Tackitt	CCPH 5/23/11	And now someone is going to tell me that when my house burns down Bill you can't build that house there anymore.	See Response AM2
AW1	Cory Burke, Resident	City Council Public Hearing 5/23/11	The big issues I have if we need to do certain things to the shoreline to make this a more healthy lake for everybody I am for it. I just don't want to pay for it all myself. I'll pay my share which I think I do through taxes. But if new materials on docks is twice as much as what I have existing I don't really think it's my responsibility to pay that burden entirely on my own if it's benefiting the lake for the public.	The dock is privately owned and maintained and is located within shoreline jurisdiction and must therefore meet the regulations within the SMP.
AW2	C. Burke	CCPH 5/23/11	Most of my house is within that 60 foot buffer. The house has been there for 60 years. If something happens to it what I am suppose to do.	See Response AM2
AW3	C. Burke	CCPH 5/23/11	Our dock does not conform now. I am not opposed to making some changes and stuff, but I guess what I am looking for from you guys is a give and take system and what I am hearing the state trying to put on you is you have to do it this way.	The dock is privately owned and maintained and is located within shoreline jurisdiction and must therefore meet the regulations within the SMP.
AX1	Urban Concepts LLC	Letter for City Council After 5/23/11 Public Hearing	…when the DOE accepts a local government's amendments to their shoreline program they must make a finding that they conform to the adopted State Guidelines. Specifically, since Redmond's plan was approved without the requirement for grated surfacing or any light penetration requirements on new or replacement docks and piers, it had to be found to be in conformance with the State Guidelines.	City staff spoke with both the Ecology reviewer of the Redmond SMP and Redmond staff. The Ecology reviewer gave the following explanation: "*Redmond does allow six foot width. Their SMP was one of the earlier ones through the process, and if it was under review now, we would be looking more closely at defining pier/dock walkway width better. Most folks recreate on the platforms at the end of a pier/dock. There is more flexibility for platform sizing because they are usually in deeper water.*" Redmond staff said it took 10 years to complete their SMP because they were an early

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			The DOE must provide a consistent application of the Guidelines, just as any regulatory body must. If the DOE is going to require something more restrictive of Lake Stevens then I believe they must explain how Redmond's regulation provides for No Net Loss, while Lake Stevens' does not. Or why the condition in Redmond is substantially different than Lake Stevens and therefore can not be compared.	adopter and the SMP Guidelines had not been completed by Ecology. Redmond adopted a first version in 2000. After the SMP Guidelines were adopted in 2003, Redmond revised their SMP and readopted in 2004. Then the City of Everett had discussions with Ecology and SMP requirements changed again. During this same time, the Army Corps of Engineers adopted the Regional General Permit (RGP) #3 for Lake Sammamish and other waterways. They changed their documents to be consistent and then the RGP was modified again. Ms. Beam said each time additional regulations, guidelines or permits were adopted or changed, they tried to update their proposed SMP and Ecology tried to keep up with the reviews. At Redmond, a critical areas study and mitigation plan is required for all in-water structures on the lake. The dock width of 6 feet in the SMP and the requirement in the RGP for 4 foot width in the first 30 feet, created an inconsistency between the two documents. The RGP also requires docks to be no larger than 480 square feet in total area. However, applicants have to get permits from other agencies, so if they are more restrictive than Redmond's SMP, the applicant has to meet the more restrictive requirements. In addition, any in-water structure requires mitigation in the form of protection of existing vegetation and installation of native aquatic plants under and around the structure. In addition, some type of the following mitigation is also required for dock design with grating or light penetration or such and addition of native vegetation on shore. In other words, Redmond is still subject to the RGP dock standards.
AX2	Urban Concepts LLC	Letter for CC After 5/23/11 PH	Another example where "softer" language has been approved by the DOE is in Anacortes. Their approved shoreline program allows for replacement bulkheads landward of the existing bulkhead provided they can prove it meets the No Net Loss provisions. Whatcom County has approved language that is nearly identical to Anacortes'. Again, if such a policy and regulation were found to implement the State Guidelines in Anacortes and Whatcom County, then they should also be considered as possible language for Lake Stevens.	Ecology has commented that SMP section 4C2 Shoreline Stabilization (Including Bulkheads) is in compliance with the WAC and SMP Guidelines. Staff reviewed the proposed SMP with Anacortes' adopted SMP and finds little difference. In a Council Workshop on June 6, 2011, Ecology told the Lake Stevens City Council that the bulkhead requirements in the SMP Guidelines were very specific, so little variation will occur between different jurisdictions. Anacortes requires the property owner to show they meet No Net Loss. In Lake Stevens, you would also be required to show how the project meets No Net Loss in a critical areas study for any shoreline substantial permit, conditional use permit or variance. The Shoreline Administrator may decide a study is not required based on the project description (e.g., dock repair with a value less than $10,000).

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AX3	Urban Concepts LLC	Letter for CC After 5/23/11 PH	Several other jurisdictions are nearing completion of the amendment process. I have spoken with the Planning Director at the city of Sammamish, regarding their local planning efforts. The regulations they adopted locally are substantially different than those proposed in Lake Stevens. Sammamish has carefully constructed their document to ensure the maximum amount of private property rights are maintained, while meeting the No Net Loss provision and State Guidelines. Unfortunately, the DOE has required significant changes to the locally adopted regulation. Currently, the City is planning to pursue the alternative approval process (appeal) allowed under the State guidelines. It is my understanding that Sammamish might welcome and participate in coordination of local jurisdictions as we all navigate this State mandated process.	Staff talked to Ecology about Sammamish's SMP and has reviewed the latest City Council staff report on the SMP dated June 1, 2011. The Sammamish staff report states the following from the Planning Director: "*Under WAC 173-26-120, Sammamish can accept Ecology's required and recommended changes, or consider alternative language. If an alternative is adopted, it needs to be sent back to Ecology for review and approval. Staff recommends that the city take advantage of this opportunity under state guidelines, and recommends that the Council consider alternatives in selected areas (such as the top five areas above) and adopt the rest of Ecology's changes where acceptable*." (The five issues are setbacks, mitigation sequencing, vegetation enhancement area, docks, and partial exemptions and non-conforming.) In addition, Lake Stevens staff spoke with the Ecology reviewer for the Sammamish SMP and they said they are working through the recommendations with the City of Sammamish, but that it will take a long time. Neither the Sammamish staff report nor Ecology stated that an appeal of Ecology's review was expected.
AX4	Urban Concepts LLC	Letter for CC After 5/23/11 PH	…if a property owner has a gravel patio within 60 feet of the OHWM and wants to pave it over, the proposed regulations would not allow that to occur. Also, if a property owner has an existing house that is within 60 feet of the OHWM and they would like to add on to the side of their home, but not encroach further into the "setback", this also would not be allowed. Staff has suggested that these owners could pursue a variance…Unfortunately, a quick review of the variance approval criteria shows that such applications are very unlikely to be approved.	SMP section 5.8.c.2 Residential Development – Setbacks in (a) clearly states "Uncovered patios or decks that are no higher than 2 feet above grade may extend a maximum of 10 feet into the building setback, up to within 50 feet of OHWM." In addition, (d) allows a waterfront deck or patio covering less than 25% of shoreline frontage and 400 sq.ft. or less if there is no bulkhead or bulkhead is removed. It does require retaining or planting native vegetation. The patio or deck would count toward total impervious surface calculations of 40% impervious. However, Section (c) allows up to 50% impervious surface by planting native vegetation. If a house is within 60 feet of OHWM it may be expanded if they meet the side setback, impervious surface, height, and other code requirements. THIS IS THE SAME AS EXISTING REGULATIONS. SMP section 7.G.3 allows for "… *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.*" This is consistent with the Shoreline Management Act.
AX5	Urban Concepts LLC	Letter for CC After	When one considers that over 60% of the properties along Lake Stevens would have existing development that would not meet	The Inventory and Analysis Report completed as part of the SMP Update shows approximately 36%, not 60% of the existing homes are within the 60 foot lake buffer (See

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		5/23/11 PH	the proposed 60 foot setback, these are incredibly difficult standards to meet… The cases where a variance provides a solution are those properties where no development could take place with out one. For those who have existing improvements that they want to upgrade or expand, a variance is very unlikely to be approved.	Response A20). One house shown on the submitted map in the setback is clearly not in the setback as they requested and received a permit for a home remodel and the site plans clearly state the entire residence is outside the 60 foot setback (See Response AM20). The permit required would be a conditional use permit if the applicant does not want to build closer to the OHWM than current nonconforming residence rather than a variance (See Response AX4)
AX6	Urban Concepts LLC	Letter for CC After 5/23/11 PH	Further, as you can see from the criteria for approval, a variance application requires the applicant to prepare substantial technical analysis in support of the request. The requirement for cumulative impact analysis would be very costly to obtain. This is not a reasonable solution for most property owners affected by the proposed language…It is also important to note that shoreline variances must be approved by the State Department of Ecology, not simply the local jurisdiction.	Requiring a critical areas study is a common requirement for development within or near a critical area or buffer whether in a shoreline or not as the applicant needs to show the proposed development would not impact the critical area or if it does have impacts that they are mitigated. See Response AX4 which requires a conditional use permit rather than a variance. It is correct that shoreline conditional use permit or variance require approval by Ecology after a decision by the Hearing Examiner.
AX7	Urban Concepts LLC	Letter for CC After 5/23/11 PH	Under current regulatory status, HB 1653 limits the applicability of Critical Area Regulations on properties subject to shoreline jurisdiction. Specifically, HB 1653 states "until the department of ecology approves a master program or segment of a master program… The above section essentially limits the applicability of the CAR on properties within shoreline jurisdiction <u>until the updated shoreline program is accepted by the DOE</u>. This provision allows for properties that would be precluded from redevelopment or modification due to the applicability of the CAR to go forward with those development plans, subject to compliance with No Net Loss provisions, <u>until the amendments to SMP are complete</u>…Upon completion of the SMP update, the existing provisions of LSMC 14.88.330 will then apply to all properties within shoreline jurisdiction.	The City's current Critical Areas Regulations were adopted in 2008 and based on Best Available Science. The City worked closely with Ecology to include appropriate sections of the existing CAR in the SMP. Ecology has reviewed Appendix B – Critical Areas Regulations for Shoreline Jurisdiction and determines it is adequate and with the SMP regulations will result in No Net Loss of Ecological Functions. The SMP critical areas regulations for shoreline jurisdiction in Appendix B will supersede the current CAR in Chapter 14.88 LSMC, including section 14.88.330. SMP section 7.G clearly states nonconforming development damaged to 100% of replacement cost may be reconstructed to configuration existing immediately prior to the time it was damaged.
AX8	Urban Concepts LLC	Letter for CC After 5/23/11 PH	Uses that do not comply with the setback/buffering provisions of CAR are non-conforming. They would be subject to these standards and would not be allowed to be replaced in the prior footprint if "destroyed by human activities or a natural occurrence". The non-conforming provisions contained within	Once the SMP is adopted, the critical areas regulations for shoreline jurisdiction in Appendix B do supersede the CAR in Chapter 14.88 LSMC for critical areas located in shoreline jurisdiction. The CAR will continue to regulate all other critical areas within the City.

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			the proposed SMP would not supersede this section. They are in conflict. This should be corrected.	SMP section 7.G Nonconforming Uses specifically states: "*Nonconforming development shall be defined and regulated according to the provisions of WAC 173-27-080; excepting that <u>if a nonconforming development is damaged to the extent of one hundred 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</u>. In order for this replacement to occur, application must be made for permits within six months of the date the damage occurred, and all restoration must be completed within two years of permit issuance*."
AX9	Urban Concepts LLC	Letter for CC After 5/23/11 PH	I have spoken with the Department of Ecology, Washington State Department of Fish and Wildlife, Army Corps of Engineers, and even the US Department of Fish and Wildlife. What I have found is that this 4' wide/grated surface standard is the highest regulatory standard currently in use. It originates with the Army Corps of Engineers and is their standard for docks and piers in MARINE waterways. It is important to note that Lake Stevens is a freshwater environment; not a marine waterway. Agencies with jurisdiction in this case would be the city of Lake Stevens, DOE and WSFW. WSFW does not require the narrow 4' wide/grated surface standard.	City staff and consultants have continually discussed dock dimensions with Ecology and Fish & Wildlife. After a meeting with them on May 6, Ecology provided the following clarification based Shoreline Management Act perspective. ***"(1) New pier/dock structures**: I don't see how Ecology can support 6-foot width for new docks with grating or 4-feet without grating. Based on the information within the City's supporting analysis, the SMP is supposed to work to reduce overwater structure. I did not hear WDFW report that overwater structure is not relevant fish habitat in Lake Stevens, in fact I understood WDFW to report that nearshore areas (within 30-feet of beach) provide important habitat for both kokanee and Coho life history stages. Therefore, the SMP-Guidelines should require that new structures be designed to **first avoid impacts** to shoreline ecological functions, for which I did not hear a justification for increasing the width of new docks at our meeting last Friday.* ***(2) Replacement pier/dock structures:** I did hear WDFW suggest that they would have a hard time justifying a 4-foot (wide) graded walkway for replacement of a much larger existing pier/dock structure. Recognizing the fact that many existing pier/dock structures are wider than 6-feet, I believe Ecology could justify WDFW suggestion to allow replacement structures to be 6-feet wide if they are fully grated within the first 30-feet (waterward of the OHWM). Ecology's justification would be based again on Mitigation Sequencing principles related to **minimizing impacts** for replacement of existing pier/dock structures. On Lake Washington, pier/dock replacement structures are not allowed to exceed 4-feet in width within this same nearshore area, even if the existing structure is much*

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				wider. I did mention that Ecology and the Army Corps of Engineers have been more flexible with pier/dock replacement standards. This flexibility is intended to allow property owners replacing existing structures the ability to preserve the same overall square footage of their existing dock, but is dependent on their agreement to a 4-foot wide walkway (within 30' of OHWM), while allowing for larger structures then would normally be allowed in the deeper water outside of the nearshore areas. Otherwise only 30-50% of the total area of an existing pier/dock structure can be repaired in-kind (within existing footprint), before having to consider the proposal a "replacement". In order to satisfy the no net loss standard, cumulative repair activities need to be also stay below the "replacement" standard. ***(3) Incentives can only be considered after Avoidance, Minimization**: Finally, I want to be clear that the SMP-Guidelines require that Shoreline Modification (bulkheads, Piers, Dredging) standards need to provide for* Mitigation Sequencing *(i.e.* Avoidance, *then* Minimization, *and then* Mitigation*) for which Ecology could not support an incentive that could not be clearly shown to be consistent with this sequence. As previously referenced, it is not clear why a new Pier/Dock would need to be wider then 4-feet to support moorage of a residential boat on an inland lake? Further, there does not appear to be clear evidence that additional overwater structure (within nearshore areas) will <u>not</u> impact fish habitat. In fact, the City's supporting analysis suggests that overwater coverage is partially responsible for degradation of existing ecological functions and recommends that the SMP work to reduce overwater coverage. Therefore, I don't see how Ecology could support any incentive that might result in increased impacts, especially if the impact could potentially be avoided or minimized and still allow the intended use.*" City Staff is still working with Ecology and Fish & Wildlife to refine the dock dimensions to meet all three agency's requirements.
AX10	Urban Concepts LLC	Letter for CC After 5/23/11 PH	I question what the scientific basis is for such a high standard in a freshwater environment such as Lake Stevens? How is this standard the only possible option to maintain the existing function and values of Lake Stevens when it is arguably	The Cumulative Impacts Analysis and No Net Loss Report are based on the Inventory and Analysis Report completed by the consultants. As required by the SMP Update Process, this report was completed first and sent to Ecology for their review. Once the review is complete, the SMP policies and regulations were written based on the Inventory and

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			operating at a low-moderate quality at this time? It appears that this higher standard is being forced upon the City in an effort to exceed No Net Loss, which is the standard that the State has prescribed. Why are requirements that are meant to respond to the needs of Endangered, marine species being applied to a freshwater environment that does not contain such Endangered species? It seems appropriate to analyze the existing condition and species within Lake Stevens and develop a recommendation that is responsive to those conditions rather than choosing the most stringent standard and applying it out of simplicity.	Analysis Report, Shoreline Citizen Advisory Committee, and three public open houses. Then the Cumulative Impacts Analysis and No Net Loss Report were written based on the SMP regulations. Changes to the SMP could require changes to the Critical Areas Analysis and No Net Loss Report. The Cumulative Impacts Analysis clearly shows that we are just barely meeting No Net Loss. Ecology is using the 4 foot width standard with grating for all new docks on all waterbodies. However, discussions are taking place between City staff, Ecology and Fish & Wildlife to see if this standard can be modified for Lake Stevens due to only one priority species (Coho) and no protected species. With or without specific fish species, Lake Stevens is an identified critical area, Fish and Wildlife Habitat Conservation Area, which requires protection. The No Net Loss requirement means we cannot increase current overwater coverage, among other things, without increasing native vegetation. The proposed SMP does not require the addition of native vegetation, so the determination of overwater coverage can only be reduced by requiring additional light penetration through the structures using grating or other methods.
AX11	Urban Concepts LLC	Letter for CC After 5/23/11 PH	My review of the Cumulative Impact Analysis revealed that there is essentially no empirical evidence to outline and quantify the current baseline condition of the lake. This document contains broad language like water quality is low or moderate, with very little analysis as to how this conclusion was reached, to what standard it is being compared or what data was evaluated to come to that conclusion. How can a plan be developed to ensure No Net Loss when the baseline condition is so vague as to provide no guidance about what is to be maintained? The “Existing Conditions” section relating to Lake Stevens are two very simple paragraphs. It refers the reader onto Section 4.3 but those tables merely restate the vague assertions of quality and function. It appears the primary function of the CIA is to outline how the proposed language within the update will provide for higher function and value; rather than to quantify the existing condition to which new development must be compared in order to	The Cumulative Impacts Analysis uses both qualitative and quantitative measure to evaluate potential impacts to the baseline condition. While some areas, such as pier/dock overwater cover, is a measurable feature that we can quantify, other factors, such as overall lake water quality or amount/type of vegetative cover, are discussed in more qualitative detail. The basis for these discussions comes from the Shoreline Inventory and Characterization Report which evaluated ecological functions per State requirements.

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			effectively demonstrate No Net Loss of function.	
AX12	Urban Concepts LLC	Letter for CC After 5/23/11 PH	The Shoreline Restoration Plan relies heavily on existing public projects that provide research and inventory of the shoreline condition, but is extremely limited on public sector projects to actually construct enhancements. The vast majority of the shoreline enhancement outlined within the plan to construct shoreline restoration measures will occur at private property owner expense. This seems to be placing an undue burden for shoreline restoration on those people owning property on the lake, without a like contribution from those that use the lake and its public facilities.	It appears the primary function of the CIA is to outline how the proposed language within the update will provide for higher function and value; rather than to quantify the existing condition to which new development must be compared in order to effectively demonstrate No Net Loss of function.
AX13	Urban Concepts LLC	Letter for CC After 5/23/11 PH	The restoration plan outlines several strategies to achieve restoration goals, but the actual shoreline program is silent with regard to most of these items. Options for achieving the restoration goals outlined in the plan include development incentives, tax relief/fee system, shore stewards education and stewardship certification process. However, the SMP does not seem to include proposals that would incorporate these strategies for restoration.	All but six properties on Lake Stevens are privately owned, allowing for little public restoration as these six parcels are parks and access to the shoreline is the main activity. Restoration is not a direct requirement for private development, although the SMP could have required shoreline restoration on private property for shoreline development. Instead, the SMP gives development incentives such as shoreline deck/patio or increased impervious surface for planting of native vegetation. Once the SMP is adopted by the City and approved by Ecology, the City could look at tax relive/fee system, shore stewards education and stewardship certification process. These would be looked at as part of the Implementation Stage of the SMP.
AX14	Urban Concepts LLC	Letter for CC After 5/23/11 PH	I would like to recommend that the City consider coordinating with other jurisdictions that contain urban shoreline lake environments. These communities are unique in that they have a shoreline lake that has a history and pattern of development that is residential/recreational in nature. These environments are typically heavily developed and broadly used by the community. Many of these lakes have limited hydraulic connection beyond the lake itself. They differ from marine shoreline environments and those lakes that are directly connected to the marine ecosystem, such as Lake Washington. Some jurisdictions with a similar circumstance to Lake Stevens include: city of Sammamish, city of Redmond, Snohomish County, city of	The City has been coordinating with other jurisdiction throughout the SMP Update process by attending Ecology's Quarterly SMP Meetings with other jurisdictions in the SMP process. In addition, the consultants have assisted over 20 different jurisdictions with their SMPs. City staff have talked with staff from Snohomish County, Redmond, and Sammamish and reviewed numerous SMPs adopted, drafted and in process. The SMP Guidelines have specific regulations that all jurisdictions need to follow (e.g., bulkheads) and other regulations that are more resource specific (e.g., docks). However, there is more consistency in regards to protecting the first 30 feet waterward of the OHWM due to biological studies of fish. In addition, each resource is different, which is why the first document in the SMP Process

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			Bellingham, Whatcom County and Pierce County.	is an Inventory and Analysis Report completed by each jurisdiction and reviewed by Ecology. This serves as the basis for each SMP.
AX15	Urban Concepts LLC	Letter for CC After 5/23/11 PH	I would also like to note, for Council consideration, that the City has recently submitted an application for a new dock within Lake Stevens. This Shoreline Substantial Development Permit application (file number LS2011-6) is vested to the existing shoreline management master program. My review of the file found that this new dock, proposed by the City, does not comply with the proposed standards for new public docks contained within this SMP update.	Until the SMP is adopted by Council and approved by Ecology, it does not supersede the current SMP adopted in 1974. Under WAC 173-26-120, *"(8) A master program or amendment thereto takes effect when and in such form as it is approved or adopted by rule by the department except when appealed to the shorelines board…"* Therefore, applicants will need to meet the requirements of the current SMP and land use code until the Council adopts the SMP and it is approved by Ecology.
AY1	Kevin St. John, Resident	Email for City Council 6/13/11 Public Hearing	Why is it acceptable, given the impact to the property owner in terms of property value, issues with obtaining mortgages, and additional permit challenges, to have an SMP which when adopted will instantly make 60% of the shoreline properties with non-conforming because of homes and structures within buffers and setbacks?	The 60 foot setback from the lake, which is a critical area (Fish & Wildlife Conservation Area) has been in effect in Lake Stevens since 2007 when the Critical Areas Regulations were updated. No change in setback is proposed in the SMP; therefore, the SMP will not increase the number of nonconforming shoreline properties based on the 60 foot setback.
AY2	K. St. John	Email for CC 6/13/11 PH	**Is there a reason we should think that the CAR will not also regulate shoreline in addition to the SMP?** Under current regulatory status, House Bill 1653 limits the applicability of Critical Area Regulations on properties subject to shoreline jurisdiction only until a SMP is approved by the DOE. However after an SMP is approved, the existing provisions of LSMC 14.88.330 will then apply to all properties within shoreline jurisdiction. *HB1653 states that "until the DOC approves a master program or segment of a master program as provided in (b) of this subsections, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local governments development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified…..* This provision seems to very clearly allow for properties that would be precluded from redevelopment or modifications due to the applicability of the CAR to go forward with those development plans,	Yes, Ecology explains why critical areas ordinances are often incorporated into local shoreline program updates in their Frequently Asked Questions on their SMP website: "*A recent state Supreme Court decision (Futurewise v. Anacortes) decided that the shoreline master program solely regulates the shorelines and critical areas covered by the program, once Ecology approves it…Rather than repeat the work local governments have already done developing their critical areas ordinances under the state Growth Management Act (GMA), relevant portions of existing critical areas ordinances may be placed in updated shoreline master programs under the Shoreline Management Act.*" The SMP critical areas regulations for shoreline jurisdiction in Appendix B will supersede the current CAR in Chapter 14.88 LSMC, including section 14.88.330. SMP section 7.G clearly states nonconforming development damaged to 100% of replacement cost may be reconstructed to configuration existing immediately prior to the time it was damaged.

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			subject to compliance with No Net Loss provisions, until the approval of the SMP is complete.	
AY3	K. St. John	Email for CC 6/13/11 PH	If the CAR indeed will regulate shoreline properties in addition to the SMP then will section 14.88.330 Nonconforming Activities apply?	No, see Response AY2 above.
AY4	K. St. John	Email for CC 6/13/11 PH	**If the CAR applies to shoreline property, it would appear that docks, bulkheads and all other structures including homes would be precluded from being rebuilt if they were destroyed. Is this not correct? See sub section c of the CAR below.** Sub section (c) of this regulation states: *If a nonconforming use or activity is destroyed by human activities or a natural occurrence, it shall not be resumed except in conformity with the provision of this chapter.*	No, see Response AY2 above
AY5	K. St. John	Email for CC 6/13/11 PH	**How can the proposed SMP ensure No Net Loss when the lake's baseline condition outlined in the Cumulative Impact Analysis is entirely vague and provides almost no empirical evidence relying instead on broad language like "water quality is low, etc.?** Lake Stevens is a highly urbanized, residential and recreational environment. The effects of development are long established. Quantifiable evaluation of the function and value is <u>essential to meaningful No Net Loss</u>.	The baseline condition is in the Inventory and Analysis Report, which is the first document completed in the SMP Update Process and is reviewed by Ecology. See Response AX11.
AY6	K. St. John	Email for CC 6/13/11 PH	Under the proposed SMP the set back for a private home is at the very minimum the 60-foot buffer PLUS an additional 10-building setback for a <u>true minimum setback of 70 feet</u>. Is that correct?	No, the critical area buffer for all development on the lake is 50 feet with a building setback of 10 feet for a total of 60 feet for minimum setback. This is the same as the current setback on the lake.
AY7	K. St. John	Email for CC 6/13/11 PH	Water levels on Lake Stevens are artificial controlled and have risen in the last several years, is the DOE suggesting that Lake Stevens <u>artificial changes</u> to the water level alter the OHWM in contradiction to Washington State Law which permits only natural changes to affect the OHWM?	The lake level is controlled artificially using the weir structure per the City's Hydraulics Approval Permit with the Department of Fish and Wildlife for one reason…to hold an adequate amount of water back in the lake in spring and summer, so that water flows sufficiently through the outflow channel into Catherine Creek in the fall during the dry months for the fish to migrate up into the lake and to spawn in the channel. Due to circumstances beyond the City's control (heavy rains in the spring, groundwater table

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				saturation, dry spells in the summer, etc.), the lake level often fluctuates higher than the targeted ordinary high water mark of the lake with no stop logs in place at all and also often drops well below the targeted low water mark (210.5 feet above sea level) with all of the stop logs in place. It is important for lakefront residents to understand why the lake level is regulated, which is not for recreational purposes or for the benefit of residents along the shoreline, but for sufficient water flows through the outflow channel during salmon spawning. It should be noted that fluctuations in lake level are often beyond the control of the City through artificial means. The City has no authority to control the outflow of the lake other than that authorized by the Washington Department of Fish and Game, Hydraulics Approval Permit.
AY8	K. St. John	Email for CC 6/13/11 PH	**Why is it acceptable to property owners and the City of Lake Stevens to have shoreline buffers that in many cases will be far greater than the often sited 60-foot buffer?** As currently proposed, the SMP imposes a 60-foot building setback from ordinary high water mark (OHWM) for residential properties OR the setback average of your two adjoining neighbors, WHICHEVER IS GREATER. See SMP 5(c)(8)(c)(1), Table 7. Per the City's Cumulative Impacts Analysis, the average setbacks for existing residences is 64 feet on the western shoreline of Lake Stevens, 103 feet on the eastern shoreline, and 98 feet on the northern shoreline. See Cumulative Impact Analysis, at pg. 24. In other words, instead of having a 60-foot setback, the City is well aware that the average setback will be much greater once you average the setback of your two adjoining neighbors. It may very well be the case that residential property owners prefer a setback based upon their two adjoining neighbors to ensure that a neighbors' remodel does not take away a portion of their views of the water. At the same time, basing your rights upon those of your neighbor is problematic. For example, what if you want to subsequently remodel your kitchen by adding a few hundred square feet on the waterward side of your house? If your existing setback is based upon averaging your neighbors' you might not be allowed to do so, even though you may have a 100-foot setback, and the SMP	During the early writing of the SMP regulations, the Shoreline Citizen Advisory Committee discussed the setback averaging and decided to keep it to protect views on the skinny lots around Lake Stevens. If a remodel could not meet the average setback of your neighbors, a variance to the averaged setback can be requested. If legal nonconforming structure, then a variance process includes a public process in front of the Hearing Examiner giving your neighbors the ability to state whether they feel the remodel would impact their property. For new development, SMP section 5.8.C.2.a the Shoreline Administrator may allow the residence to be closer if it meets all other provisions of the SMP and any impacts are mitigated.

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			implies that a 60-foot setback is sufficient to protect the ecological functions of Lake Stevens.	
AY9	K. St. John	Email for CC 6/13/11 PH	In fact does not SMC5(b) footnote 8 clearly state that for some properties a 200 foot buffer may be required?	No, SMP section 5.b footnote 8 states: *"8. Residences are allowed in shoreline jurisdiction only if it is not feasible, as determined by the Shoreline Administrator, to locate the building on the portion of the property outside shoreline jurisdiction."* The only section where it talks about the potential for a setback of 200 feet is under Residential Properties on Rivers and Streams (SMP section 5.C.8.c.12) related to garages and pavement for motorized vehicles, which is not relevant on the lake: *"12. For the purposes of maintaining visual access to the waterfront, the following standards apply to accessory uses, structures, and appurtenances for new and existing residences.* *b. Garages and pavements for motorized vehicles (drives and parking areas) shall be set back at least 200 feet from the OHWM. If the Shoreline Administrator determines that the property is not sufficiently deep (measured perpendicularly from the shoreline) to allow construction of garages or parking areas outside of shoreline jurisdiction then (s)he may allow such elements to be built closer to the water, provided that the garage or parking area is set back from the water as far as physically possible."*
AY10	K. St. John	Email for CC 6/13/11 PH	**Why is the 60-foot setback buffer even required when the city was already determined in its critical areas ordinance (CAO) that a 50-foot setback is sufficient to protect the existing ecological functions of Lake Stevens? What is the justification for significantly increasing the setback in the SMP?** SMP 3(B)(1)(c)(7), SMP 3(B)(3) and other provisions in the SMP make it clear that compliance with both the SMP and the CAO is required in shoreline jurisdiction (i.e. because Lake Stevens is also designated under the CAO as a "fish and wildlife habitat conservation area" which independently requires a 50-foot setback from OHWM).	The current CAR also requires the 10 foot building setback for a total of 60 foot setback from the lake. We are not proposing any changes to the current lake setback. The proposed SMP has the exact setback as is currently in place. ***"14.88.285 Building Setbacks.*** *Unless otherwise provided, buildings and other structures shall be set back a distance of 10 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required."*
AY11	K. St. John	Email for CC 6/13/11 PH	What are the ecological functions that exist on our already highly developed urban shorelines and which if any of those functions will benefit from a larger setback?	These are described in the Inventory and Analysis Report pages 12-37, which can be found on the City of Lake Stevens website at http://www.ci.lake-stevens.wa.us/documents/FinalDraftLakeStevensInventoryAnalysisReport2_26_10_000.pdf.

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
AY12	K. St. John	Email for CC 6/13/11 PH	What recent and empirically verified evidence is there of protected salmon living in Lake Stevens?	Several existing environmental documents have been relied on that indicate the presence of Coho Salmon including the City's adopted Best Available Science Report (March 2008); WSDOT Fish Passage Inventory (June 2008), SMP Inventory and Analysis Report and the Grade Road PBD Master Plan. Additionally, it has been anecdotally reported to the City that Coho have been caught in the Lake in the recent past. These all provide indication that there is a likelihood of Coho in and around Lake Stevens.
AY13	K. St. John	Email for CC 6/13/11 PH	Is it correct that as proposed in the SMP makes everything waterward of the OHWM a designated as the aquatic environment, and thus due to erosion and shoreline retreat many existing residential bulkheads are essentially the OHWM, even though they may have originally be constructed above the OHWM (outside the aquatic environment)?	The OHWM needs to be determined on-site, with a case by case assessment. It depends on the specific circumstances, location of the bulkhead and designation of the OHWM, but in most normal cases, where part of the bulkhead is in the water (but the whole thing is not submerged or on dry land) everything waterward of the bulkhead would be considered the aquatic environment. It is true that due to erosion or shoreline retreat the OHWM can move, which is why it needs to be determined by a professional.
AY14	K. St. John	Email for CC 6/13/11 PH	**If the bulkhead is now the OHWM and thus inside the aquatic environment, does not the SMP make any bulkhead proposed in the aquatic environment a conditional use which will then require both the approval of the City AND Ecology?** Conditional use permits impose a higher burden on property owners for approval, and Ecology is not inclined to approve them.	SMP section 4.2.c.12 regarding replacement and repair of shoreline stabilization structures states: "*Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structures 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... When a bulkhead has deteriorated such that an OHWM 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 OHWM.* " The exception to bulkheads existing prior to 1992 allows a bulkhead to remain in the Aquatic designation; however, the exception does not exempt the project from a conditional use permit. The Shoreline Administrator can determine whether a conditional use permit is required if a structure is partially in the Aquatic designation.
AY15	K. St. John	Email for CC 6/13/11 PH	According to WAC 173-26-186 enhancement and/or restoration is encouraged, but not required. The required removal of bulkheads and not allowing replacements goes beyond no net loss and become restoration at a substantial cost and loss of value to the property owner, why should we impose that huge burden on private property owners?	Ecology has commented that SMP section 4C2 Shoreline Stabilization (Including Bulkheads) is in compliance with the WAC and SMP Guidelines. In a Council Workshop on June 6, 2011, Ecology told the Lake Stevens City Council that the bulkhead requirements in the SMP Guidelines are very specific, so little variation will occur between different jurisdictions.
AY16	K. St. John	Email for CC 6/13/11 PH	**Why is grating decking being mandated when the Shoreline Inventory, Cumulative Impacts Analysis, and Restoration Plan do not report that invasive species even exist in Lake**	The lake does have bass that like to hide under the docks in the shade. If there is less shade, then the fry can see the bass and not swim under the dock.

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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			Stevens? A gradual shift to grated decking is usually preferred by Ecology in lakes that have invasive species, which feed under the docks on juvenile salmon. Absent the finding of invasive species, there should be not need to impose rules regarding deck grating.	In addition, with the requirement by the State to meet No Net Loss of ecological functions, the City must show that over the long-term no new shading occurs from over-water structures. Therefore, the only way to allow for new docks is to replace the decking to allow for 60% light penetration, which decreases over-water structure. Over time, the No Net Loss Report shows that increasing light penetration on existing docks will allow for approximately 19 new docks, which will also have higher light penetration, thus creating No Net Loss from over-water structures.
AY17	K. St. John	Email for CC 6/13/11 PH	**How can we ensure that the SMP encompasses a fair proportionality principle and provides for other potential methods of mitigation other than vegetation, which cuts people off from their own shorelines?** As currently written, the SMP appears to be mandating enhancement and restoration of shoreline vegetation. While it may be appropriate to require that new development with adverse impacts mitigate for the impact by planting vegetation along the shoreline, any such mitigation must be proportional to the impact of your development. Thus, if I you remodel your kitchen by 100 square feet on the waterward side of your residence, the City should not be allowed to make you replant hundreds of square feet of vegetation on the shoreline. The excessive planting presumably is not proportional to the impact of the development.	The only place in the proposed SMP where shoreline vegetation is required is in SMP section 4.C.2.c.11 for shoreline stabilization projects. It mentions vegetation conservation and restoring the shoreline to pre-project conditions or conditions set by the Shoreline Administrator if required for mitigation of the impact from the shoreline stabilization. As per SMP section 4.C.2.c.9, the applicant provides the necessary environmental information and analysis including proposed mitigation measures to result in No Net Loss. The applicant would hire their own environmental consultant to complete a Critical Areas Study with the proposed ratios. The mitigation may not be vegetation, but could be other types of mitigation. The City would review the proposed mitigation. There are a few incentives (i.e., to increase the impervious surface area up to 50% or to add a small waterfront deck or patio) in the proposed SMP that do require the planting of native vegetation at specific rates. However, these are not required unless the applicant chooses to take the incentive.
AY18	K. St. John	Email for CC 6/13/11 PH	**Why should we apply the first step of mitigation sequencing, avoidance, to uses that are expressly preferred under the SMA, such as single-family residences and their appurtenant structures, including protective bulkheads?** Many sections of the SMP require the project applicant to comply with mitigation sequencing, specifically to first to try avoiding any adverse environmental impact altogether, and then if not possible, minimize, repair, reduce, and mitigate the impacts in that order of preference. See, e.g., SMP 3(B)(4). Mitigation sequencing is indeed one of the governing principles of Ecology's Guidelines. See WAC 173-26-201(2)(e)). However, it makes little sense to apply it to uses that are expressly preferred under the SMA, such as single-family residences and their appurtenant structures, including protective bulkheads. In other words, if under the SMA a single-family residence is a preferred	The terms "avoid, minimize, mitigate" as related to environmental resources, including critical areas, is the main tenet of environmental protection. First avoid them; if not possible, then try to minimize the impact; and third, mitigate any impacts that can't be avoided. This sequencing is used in the National Environmental Policy Act, State Environmental Policy Act, Critical Areas Regulations and Shoreline Management Act and would likely take a change in federal and state legislation. It is the sequencing used whether or not a use is permissible if it is in a critical area or buffer.

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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			use, a local jurisdiction should not be able to say that, under mitigation sequencing you need to "avoid" any impact by not constructing one. Instead, you should be able to skip directly to mitigating any impact of your development.	
AY19	K. St. John	Email for CC 6/13/11 PH	**Is there any reason we can not clarify that the policies as separate from the regulations, are not substantive in nature, and will not be applied as substantive review criteria to a specific project?** Ordinarily, development regulations are drafted for consistency with comprehensive plan policies. In turn, compliance with the development regulations themselves is deemed to be per se compliance with the comprehensive plan policies. However, as indicated in the SMP, its policies are intended to be "inclusive" (i.e. they are written to be incredibly broad). The WACs recognize that because the SMA's policies are broad they "harbor potential for conflict." As currently drafted, a sole member of the City Staff with an anti-development agenda, could read anything he or she wants into the overly broad policies, and use them to deny an otherwise approvable project.	As described in the SMP Guidelines (WAC 173-26-191(a): "*The results of shoreline planning are summarized in* *shoreline master program policies that establish broad shoreline management directives. The policies are the basis for regulations that govern use and development along the shoreline.*" Policies set the framework and goals for meeting the requirements of the Shoreline Management Act. The regulations are the procedures to define how the policies will be met. As mentioned, it is similar to the Comprehensive Plan setting the overall vision, goals and policies for planning with the development regulations providing details to guide development that will meet the vision. The reference to "inclusive" is in SMP section 3.A, the Introduction to the General Provisions: "*General policies and regulations are applicable to all uses and activities (regardless of shoreline environment designation) that may occur along the City's shorelines. This chapter is divided into twelve different topic headings and is arranged alphabetically. Each topic begins with a discussion of background SMP issues and considerations, followed by general policy statements and regulations. The intent of these provisions is to be <u>inclusive</u>, making them applicable over a wide range of environments as well as particular uses and activities*." Inclusive here means these policies and regulations are for all shoreline modifications, activities and uses and instead of repeating them in Chapters 4 and 5, they are placed in General Provisions. The reference to "harbor potential for conflict" is from WAC 173-26-176 General policy goals of the act and guidelines for shorelines of the state: "*(2) 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*

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				and human conduct. …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's policy of achieving both shoreline utilization and protection is reflected in the provision that "permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public's use of the water." In summary, both the policies and the regulations should be met before a project is approved in the shoreline. There is some leeway where the Shoreline Administrator can make a determination if an applicant can show there is a different way to meet the policies rather than strictly using a regulation. This allows for new methods or measures for development to be used in the future that may not be currently known.
AY20	K. St. John	Email for CC 6/13/11 PH	**Is it the intent of the City Council to allow the public to come onto the shoreline resident's private property as required in the proposed SMP?** The proposed SMP requires that any subdivision of more than 4 lots, will require providing public access to the shoreline (yes, literally allowing the public to come onto a shoreline resident's private property). See SMP 3(B)(7)(c)(1).	Protecting public access to the State's shorelines is one of three major policies of the Shoreline Management Act (SMA). The SMP regulates modifications, activities and uses on "shorelines of the state" which are greater than 20 acres. Thus, the State has jurisdiction over all shorelines identified in the SMP (i.e., Lake Stevens and portions of Catherine Creek and Little Pilchuck Creek). So by requiring public access for subdivisions of more than 4 lots is a requirement of the Shoreline Master Program. However, public access could be physical (path to a dock or waterfront deck) or visual (viewing platform, view from an overpass or between buildings). So providing public access for a subdivision does not mean direct access to the shoreline is required, but it could be as simple as designing the houses with a view corridor from the sidewalk with a bench for the public to sit and look at the lake.
AY21	K. St. John	Email for CC 6/13/11 PH	Why is that tolerable for the city to have a dock that as noted by the independent planner Urban Concepts, has a vested dock application that will fail to comply with the proposed SMP?	See Response AX15
AZ1	Tom Matlack, Resident & Citizen Advisory Committee	Letter for City Council 6/13/11 Public Hearing	I have been following the city's Shoreline Master Plan for many months now. Recently, here in the homestretch of the SMP process, it has become fashionable to sideswipe and ambush the original draft as recommended by the Lake Stevens planning commission. In effect, the complainants are advising the city staff and council to rewrite the original SMP document.	Comments are correct in that the proposed SMP was prepared over 18 months using the SMP Guidelines, State shoreline regulations, consultation with Ecology and Fish and Wildlife, discussions with the Shoreline Citizen Advisory Committee, and three public open houses. Currently, the proposal meets most of the requirements of the SMP Guidelines. City staff is continuing to consult with Ecology and Fish and Wildlife on a few issues.

ATTACHMENT A

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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#	Person/Group	Where	Issue (from Public Testimony)	City Response
			Operating under the constraints of the SMA, as imposed, interpreted, and approved by Department of Ecology and WDFW, the original SMP, as drafted by staff, consultants, and the citizens advisory committee, DID FIND MIDDLE GROUND. Your Lake Stevens Planning Commission approved and recommended that Shoreline Master Plan with whatever flexibility and compromise they could find under the state guidelines of inventory, land use, projected impacts, and no net loss. Lake Stevens City Councilmembers, please approve the Shoreline Master Plan as recommended by your planning commission	Any major changes to the proposed SMP could require additional changes to the Cumulative Impacts Analysis and No Net Loss Report, which will require additional funding and time. In addition, this will require continued consultation with state agencies.

ATTACHMENTS WILL BE INCLUDED AT A LATER DATE

A – Letter dated April 8, 2011 to City of Lake Stevens City Council from Urban Concepts, LLC.
B – Letter dated May 4, 2011 to City of Lake Stevens Planning Commission from Futurewise, People for Puget Sound & Pilchuck Audubon Society
C – Public Testimony and Submittal by Kristin Kelly, Futurewise/Pilchuck Audubon Society/People for Puget Sound at the May 4, 2011 Planning Commission Public Hearing
D – Public Testimony by Brad Nyscther, Resident at the May 4, 2011 Planning Commission Public Hearing
E – Public Testimony and Submittal by Angela Larsh, Urban Concepts LLC for Rich Mietzner at the May 4, 2011 Planning Commission Public Hearing
F – Public Testimony by Rich Mietzner, Resident at the May 4, 2011 Planning Commission Public Hearing; Ecology comments on docks and Army Corps of Engineers Permit #3
G – Public Testimony and Submittal by Douglas Bell, Resident at the May 4, 2011 Planning Commission Public Hearing
H – Public Testimony by Bill Barnet, Resident at the May 4, 2011 Planning Commission Public Hearing
I – Public Testimony by Rose Granda, Resident at the May 4, 2011 Planning Commission Public Hearing
J – Public Testimony by Fred Schmitz, Resident at the May 4, 2011 Planning Commission Public Hearing
K – Public Testimony by Cory Burke, Resident at the May 4, 2011 Planning Commission Public Hearing
L – Public Testimony and Submittal by Rosanne Cowles, Resident at the May 4, 2011 Planning Commission Public Hearing
M – Public Testimony by Tom Matlack, Resident at the May 4, 2011 Planning Commission Public Hearing
N – Public Testimony by Gigi Burke, Resident at the May 4, 2011 Planning Commission Public Hearing
O – Public Testimony by Darrell Moore, Resident at the May 4, 2011 Planning Commission Public Hearing
P – Public Testimony by Rich Mietzner, Resident at the May 4, 2011 Planning Commission Public Hearing
Q – Public Testimony by D. Molenkamp, Resident at the May 4, 2011 Planning Commission Public Hearing
R – Public Testimony by Douglas Bell, Resident at the May 18, 2011 Planning Commission Public Hearing
S – Public Testimony by Angela Larsh, Urban Concepts LLC, at the May 18, 2011 Planning Commission Public Hearing

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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T – Public Testimony by Gigi Burke, Resident at the May 18, 2011 Planning Commission Public Hearing
U – Public Testimony by Tom Matlack, Resident at the May 18, 2011 Planning Commission Public Hearing
V – Written Testimony from Snohomish County Public Works submitted at the May 18, 2011 Planning Commission Public Hearing
W – Written Testimony from Ted & Linda Boysen submitted at the May 18, 2011 Planning Commission Public Hearing
X – Written Testimony from James W & Judith Gottschalk submitted at the May 18, 2011 Planning Commission Public Hearing
Y – Written Testimony from Gigi and Cory Burke, Resident submitted at the May 23, 2011 City Council Public Hearing
Z – Written Testimony from Jeremy Clites, Resident submitted at the May 23, 2011 City Council Public Hearing
AA – Written Testimony from Robert M. Wade submitted at the May 23, 2011 City Council Public Hearing
AB – Written Testimony from Ray Granda & Family, Residents submitted at the May 23, 2011 City Council Public Hearing
AC – Written Testimony from The Lee Family, Residents submitted at the May 23, 2011 City Council Public Hearing
AD – Written Testimony from Leif Holmes, Resident submitted at the May 23, 2011 City Council Public Hearing
AE – Written Testimony from Earl & Amanda Rotherick, Residents submitted at the May 23, 2011 City Council Public Hearing
AF – Written Testimony from Michael White, Pacific West Financial Group submitted at the May 23, 2011 City Council Public Hearing
AG – Written Testimony from Kathy Nysether, Resident submitted at the May 23, 2011 City Council Public Hearing
AH – Written Testimony from The Lee Family, Residents submitted at the May 23, 2011 City Council Public Hearing
AI – Written Testimony from Jon & JoAnn Youngquist, Residents submitted at the May 23, 2011 City Council Public Hearing
AJ – Written Testimony from Bill Tsoukalas, Boys & Girls Club submitted at the May 23, 2011 City Council Public Hearing
AK – Written Testimony from Angela Evans, Residents submitted at the May 23, 2011 City Council Public Hearing
AL – Verbal Testimony and Submittal from Douglas Bell, Resident submitted at the May 23, 2011 City Council Public Hearing
AM – Verbal Testimony from Angela Larsh, Urban Concepts LLC submitted at the May 23, 2011 City Council Public Hearing
AN – Verbal Testimony from Tom Matlack, Resident submitted at the May 23, 2011 City Council Public Hearing
AO – Verbal Testimony from Ted Boysen, Resident submitted at the May 23, 2011 City Council Public Hearing
AP – Verbal Testimony from Bruce Morton, Resident submitted at the May 23, 2011 City Council Public Hearing
AQ – Verbal Testimony and Submittals from Gigi Burke, Resident submitted at the May 23, 2011 City Council Public Hearing
AR – Verbal Testimony from Jennifer Soler, Resident submitted at the May 23, 2011 City Council Public Hearing
AS – Verbal Testimony from Paul Olliges submitted at the May 23, 2011 City Council Public Hearing
AT – Verbal Testimony from Tim McCord submitted at the May 23, 2011 City Council Public Hearing
AU – Verbal Testimony from Patricia Perry submitted at the May 23, 2011 City Council Public Hearing
AV – Verbal Testimony from Bill Tackitt, Resident submitted at the May 23, 2011 City Council Public Hearing
AW – Verbal Testimony from Cory Burke, Resident submitted at the May 23, 2011 City Council Public Hearing
AX – Written Testimony from Angela Larsh, Urban Concepts LLC, after the May 23, 2011 City Council Public Hearing
AY – Written Testimony from Kevin St. John, Resident, for the June 13, 2011 City Council Public Hearing
AZ – Written Testimony from Tome Matlack, Resident and Shoreline Citizen Advisory Committee Member, for the June 13, 2011 City Council Public Hearing

ATTACHMENT A

Lake Stevens 2011 Shoreline Master Program Update - Responsiveness Summary

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ATTACHMENT B

urban CONCEPTS

May 27, 2011

City of Lake Stevens
City Council
1812 Main Street
Lake Stevens, WA 98258

RE: Shoreline Management Master Program Update Comments

Dear Council Members,

Thank you for the opportunity to provide these written comments relating to your current deliberations over the proposed language for the updated Shoreline Management Master Program. I have carefully reviewed the proposed language, related Lake Stevens Municipal Codes, the State Shoreline Planning Guidelines and other jurisdictions approved and proposed amendment language. Additionally, I have spoken with many other technical and regulatory experts that are involved in shoreline research, policy preparation and permitting.

Staff is stuck between a rock and a hard place.
The City Planning staff is truly stuck between a rock and hard place in this case. I certainly appreciate the difficult task they have before them as they try to navigate the State Guidelines while trying to incorporate the public comments and local vision. It is challenging to say the least. Further, other jurisdictions of interest, such as Washington State Department of Fish and Wildlife and the Army Corps of Engineers have, at times, conflicting and competing regulations relating to use of the shoreline areas.

Relavance of the approval of Redmond's plan.
There are several reasons why I continually highlight the shoreline planning efforts of other jurisdictions. First, is the fact that there are some good ideas to be found in other community planning efforts. It's interesting and beneficial to see how the guidelines can be implemented in varying ways.

Secondly, and most importantly, when the DOE accepts a local government's amendments to their shoreline program they must make a finding that they conform with the adopted State Guidelines. Specifically, since Redmond's plan was approved without the requirement for grated surfacing or any light penetration requirements on new or replacement docks and piers, it had to be found to be in conformance with the State Guidelines.

The DOE must provide a consistent application of the Guidelines, just as any regulatory body must. If the DOE is going to require something more restrictive of Lake Stevens then I believe they must explain how Redmond's regulation provides for No Net Loss, while Lake Stevens' does not. Or why the condition in Redmond is substantially different than Lake Stevens and therefore can not be compared.

Another example where "softer" language has been approved by the DOE is in Anacortes. Their approved shoreline program allows for replacement bulkheads landward of the existing bulkhead provided they can prove it meets the No Net Loss provisions. Whatcom County has approved language that is nearly identical to Anacortes'. Again, if such a policy and regulation were found to implement the State Guidelines in Anacortes and Whatcom County, then they should also be considered as possible language for Lake Stevens.

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The following Western Washington jurisdictions have approved plans:
City of Anacortes, city of Auburn, city of Coupeville, town of Darrington, city of Des Moines, city of Kent, city of Marysville, city of Monroe, city of Orting, city of Port Townsend, city of Redmond, city of Sultan, Whatcom County and city of Woodinville.

Several other jurisdictions are nearing completion of the amendment process. I have spoken with the Planning Director at the city of Sammamish, regarding their local planning efforts. The regulations they adopted locally are substantially different than those proposed in Lake Stevens. Sammamish has carefully constructed their document to ensure the maximum amount of private property rights are maintained, while meeting the No Net Loss provision and State Guidelines. Unfortunately, the DOE has required significant changes to the locally adopted regulation. Currently, the City is planning to pursue the alternative approval process (appeal) allowed under the State guidelines. It is my understanding that Sammamish might welcome and participate in coordination of local jurisdictions as we all navigate this State mandated process.

Variance as a "Solution"

Over the course of this local adoption process, I have repeatedly pointed out sections of proposed code that will create problems for property owners that have existing improvements that will not comply with the proposed standards. Staff responds by pointing to the Shoreline Variance process as the route for property owners in such circumstances.

For example, if a property owner has a gravel patio within 60 feet of the OHWM and wants to pave it over, the proposed regulations would not allow that to occur. Also, if a property owner has an existing house that is within 60 feet of the OHWM and they would like to add on to the side of their home, but not encroach further into the "setback", this also would not be allowed. Staff has suggested that these owners could pursue a variance.

Unfortunately, a quick review of the variance approval criteria shows that such applications are very unlikely to be approved. In order to receive approval of a variance, the applicant must demonstrate ALL of the following:

"That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

That the hardship described…is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size or natural features and the application of the master program, and not for example, from deed restrictions or the applicants own actions;

That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline management master program and will not cause adverse impacts to the shoreline environment;

That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

That the variance requested is the minimum necessary to afford relief; and

That the public interest will suffer no substantial detrimental effect."

Further, the SMP requires variance requests to be analyzed to show that "in the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like

actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment."

When one considers that over 60% of the properties along Lake Stevens would have existing development that would not meet the proposed 60 foot setback, these are incredibly difficult standards to meet. In my nearly 20 year career representing property owners in land use matters, I have only recommended and applied for a handful of variance requests. That is because they are rarely approvable. The cases where a variance provides a solution are those properties where no development could take place with out one. For those who have existing improvements that they want to upgrade or expand, a variance is very unlikely to be approved.

Further, as you can see from the criteria for approval, a variance application requires the applicant to prepare substantial technical analysis in support of the request. The requirement for cumulative impact analysis would be very costly to obtain. This is not a reasonable solution for most property owners affected by the proposed language.

It is also important to note that shoreline variances must be approved by the State Department of Ecology, not simply the local jurisdiction.

Effect of Amendments to Tie Shoreline Program to Critical Area Regulations

Under current regulatory status, HB 1653 limits the applicability of Critical Area Regulations on properties subject to shoreline jurisdiction. Specifically, HB 1653 states "until the department of ecology approves a master program or segment of a master program as provided in (b) of this subsection, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local government's development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified if: (A) The redevelopment or modification is consistent with the local government's master program; and (B) the local government determines that the proposed redevelopment or modification will result in not net loss of shoreline ecological functions."

The above section essentially limits the applicability of the CAR on properties within shoreline jurisdiction until the updated shoreline program is accepted by the DOE. This provision allows for properties that would be precluded from redevelopment or modification due to the applicability of the CAR to go forward with those development plans, subject to compliance with No Net Loss provisions, until the amendments to SMP are complete.

Upon completion of the SMP update, the existing provisions of LSMC 14.88.330 will then apply to all properties within shoreline jurisdiction. This language is included below:

"14.88.330 Nonconforming Activities.

A regulated activity that was approved prior to the passage of this chapter and to which significant economic resources have been committed pursuant to such approval but which is not in conformity with the provisions of this chapter may be continued subject to the following:

(a) No such activity shall be expanded, modified, or substituted in any way that increases the extent of its nonconformity without a permit issued pursuant to the provisions of this chapter;

(b) Except for cases of discontinuance as part of normal agricultural practices, if a nonconforming activity is discontinued for 180 days, any resumption of the activity shall conform to this chapter;

(c) If a nonconforming use or activity is destroyed by human activities or a natural occurrence, it shall not be resumed except in conformity with the provisions of this chapter; *(Emphasis added)*

(d) Activities or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming activities. (Ord. 773, Sec. 2, 2008; Ord. 741, Sec. 2, 2007)"

Uses that do not comply with the setback/buffering provisions of CAR are non-conforming. They would be subject to these standards and would not be allowed to be replaced in the prior footprint if "destroyed by human activities or a natural occurrence". The non-conforming provisions contained within the proposed SMP would not supersede this section. They are in conflict. This should be corrected.

This tie of CAR and SMP that will become complete upon adoption of the update, will also add further criteria of approval for shoreline variance applications, making it even more unlikely that variances can be approved for existing owners and their planned improvements/modifications of their property.

Standards of Regulatory applicability

I have spent a great deal of time and effort trying to get to the source of the requirement for the 4 foot wide dock/pier, grated surface within the first 30 feet of the OHWM standard. I have spoken with the Department of Ecology, Washington State Department of Fish and Wildlife, Army Corps of Engineers, and even the US Department of Fish and Wildlife.

What I have found is that this 4' wide/grated surface standard is the highest regulatory standard currently in use. It originates with the Army Corps of Engineers and is their standard for docks and piers in MARINE waterways. It is important to note that Lake Stevens is a freshwater environment; not a marine waterway.

Further, if a property owner wanted to build a dock in Lake Stevens and they planned to place the piles directly into the substrate, not pour a concrete footing or pile, the dock is not, in fact, regulated by the ACOE and so their standard for a 4' wide/grated surface would not apply. ACOE only has jurisdiction over fill activities within the zone between the OHWM and the water surface around Lake Stevens.

Agencies with jurisdiction in this case would be the city of Lake Stevens, DOE and WSFW. WSFW does not require the narrow 4' wide/grated surface standard. This extremely high standard is being proposed to apply in a new way to environments that the originator had not intended.

I question what the scientific basis is for such a high standard in a freshwater environment such as Lake Stevens? How is this standard the only possible option to maintain the existing function and values of Lake Stevens when it is arguably operating at a low-moderate quality at this time? It appears that this higher standard is being forced upon the City in an effort to exceed No Net Loss, which is the standard that the State has prescribed. Why are requirements that are meant to respond to the needs of Endangered, marine species being applied to a freshwater environment that does not contain such Endangered species? It seems appropriate to analyze the existing condition and species within Lake Stevens and develop a recommendation that is responsive to those conditions rather than choosing the most stringent standard and applying it out of simplicity.

Comment on the Cumulative Impact Analysis.

My review of the Cumulative Impact Analysis revealed that there is essentially no empirical evidence to outline and quantify the current baseline condition of the lake. This document contains broad language like water quality is low or moderate, with very little analysis as to how this conclusion was reached, to what standard it is being compared or what data was evaluated to come to that conclusion. How can a plan be developed to ensure No Net Loss when the baseline condition is so vague as to provide no guidance about what is to be maintained? The "Existing Conditions" section relating to Lake Stevens are two very simple paragraphs. It refers the reader onto Section 4.3 but those tables merely restate the vague assertions of quality and function.

It appears the primary function of the CIA is to outline how the proposed language within the update will provide for higher function and value; rather than to quantify the existing condition to which new development must be compared in order to effectively demonstrate No Net Loss of function.

Comment on the Shoreline Restoration Plan.

The Shoreline Restoration Plan relies heavily on existing public projects that provide research and inventory of the shoreline condition, but is extremely limited on public sector projects to actually construct enhancements. The vast majority of the shoreline enhancement outlined within the plan to construct shoreline restoration measures will occur at private property owner expense. This seems to be placing an undue burden for shoreline restoration on those people owning property on the lake, without a like contribution from those that use the lake and its public facilities.

The restoration plan outlines several strategies to achieve restoration goals, but the actual shoreline program is silent with regard to most of these items. Options for achieving the restoration goals outlined in the plan include development incentives, tax relief/fee system, shore stewards education and stewardship certification process. However, the SMP does not seem to include proposals that would incorporate these strategies for restoration.

Coordinate with other Jurisdictions with Urban Lakes

I would like to recommend that the City consider coordinating with other jurisdictions that contain urban shoreline lake environments. These communities are unique in that they have a shoreline lake that has a history and pattern of development that is residential/recreational in nature. These environments are typically heavily developed and broadly used by the community. Many of these lakes have limited hydraulic connection beyond the lake itself. They differ from marine shoreline environments and those lakes that are directly connected to the marine ecosystem, such as Lake Washington. Some jurisdictions with a similar circumstance to Lake Stevens include: city of Sammamish, city of Redmond, Snohomish County, city of Bellingham, Whatcom County and Pierce County

City's vested dock application that does not comply with proposed regulations.

I would also like to note, for Council consideration, that the City has recently submitted an application for a new dock within Lake Stevens. This Shoreline Substantial Development Permit application (file number LS2011-6) is vested to the existing shoreline management master program. My review of the file found that this new dock, proposed by the City, does not comply with the proposed standards for new public docks contained within this SMP update.

This proposal seems to be a poor example for the citizens living along the lake, but also creates a problem for the City in that its newly constructed dock is going to be non-conforming immediately upon adoption of this amendment. If the proposed regulations don't allow for the City to construct a conforming dock that meets public needs, then why would you adopt them as proposed?

For all of the reasons I have outlined in these comments, we respectfully request that the Council reconsider substantial segments of this proposed amendment. This document will not serve the best interest of the citizens of Lake Stevens. Thank you for your time and thoughtful consideration.

Sincerely,

Angela Larsh,
Principal Planner

Cc: Rich Mietzner

City of Sammamish Shoreline Master Program Update

DEPARTMENT OF ECOLOGY
State of Washington

David Radabaugh
Shorelands and Environmental Assistance Program

Washington State Shoreline Management Act

- Shoreline protection act passed by citizen initiative
- Legislature passed shoreline management act (SMA) in 1971
- Validated by voters in 1972

Major policy provisions – RCW 90.58.020

- **Encourage water-dependent uses:** "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines...”

- **Protect shoreline natural resources**, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life..."

- **Promote public access:** “the public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally

Shoreline jurisdiction

Freshwater:

Lakes greater than 20 acres in area and streams with a mean annual flow of greater than 20 cubic feet per second.

Continues 200 feet landward of ordinary high water mark in all directions and includes associated wetlands.

Shoreline jurisdiction in Sammamish includes Lake Sammamish, Pine Lake and Beaver Lake.

Highlights of the Shoreline Management Act

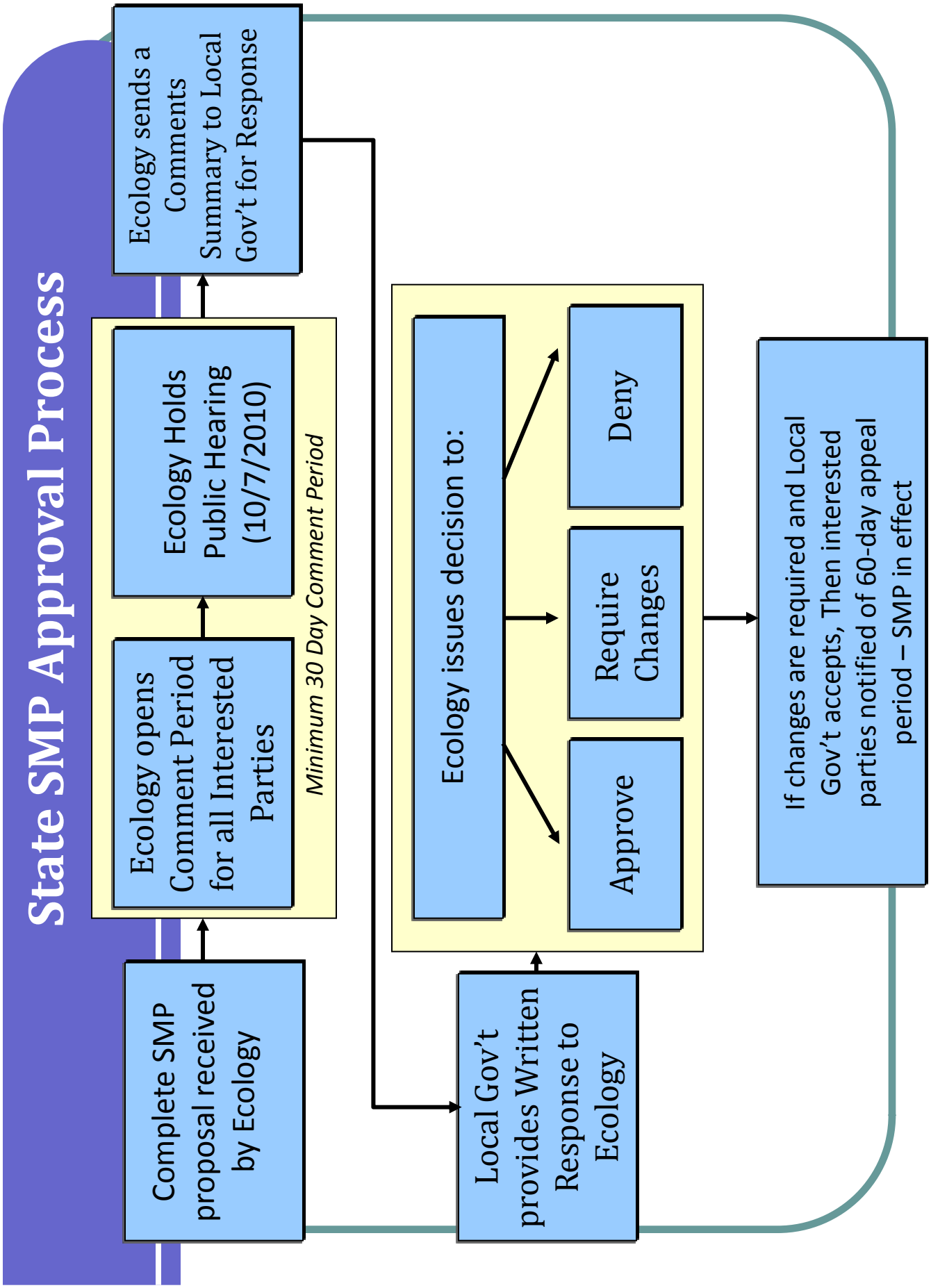
- Establishes shared local/state shoreline management (RCW 90.58 & WAC 173-26).
- Requires counties & cities to adopt a shoreline master program, including periodic review/update (RCW 90.58.).
- Ecology's role consists of master program review for compliance with the SMP-Guidelines (RCW 90.58 &WAC 173-26).
- Local government initiates the master program update and administers the approved SMP (RCW 90.58 & WAC 173-26).
- The SMP must be based on relevant scientific or technical information available.

Shoreline Master Programs should:

- Comprehensive yet transparent - clear & easy to administer
- Compatible with other laws that apply in shoreline areas
- Protect shoreline resources while respecting property rights
- Accommodate anticipated [SMA-Appropriate] future uses
- Provide a bridge from past to future shoreline uses
- Balance public & private interests specific to shoreline areas

Steps in the SMP process

1. **Public Participation:** Public meetings, Shoreline Advisory Panel, Planning Commission, City Councils
2. **Inventorying/Analysis:** characterize shoreline conditions, identify opportunities for *protection, restoration, public access* and *use*
3. Develop shoreline **environment designations** – local characteristics
4. Develop shoreline **goals, policies & regulations** – local goals/plans
5. Prepare a **restoration plan** – prioritizing restoration opportunities
6. Consider **cumulative impacts** of future shoreline uses
7. **Local adoption** of the draft SMP
8. Submit the SMP to Ecology formal review and approval


State SMP Approval Process
Complete SMP proposal received by Ecology
Ecology opens Comment Period for all Interested Parties
Ecology Holds Public Hearing (10/7/2010)
Ecology sends a Comments Summary to Local Gov't for Response
Minimum 30 Day Comment Period
Local Gov't provides Written Response to Ecology
Ecology issues decision to:
Approve
Require Changes
Deny
If changes are required and Local Gov't accepts, Then interested parties notified of 60-day appeal period – SMP in effect

Guidelines

- **WAC 173-26 - Sets <u>requirements</u> for Shoreline Master Program updates**
- **Complicated History**

  1995 – Legislature directed Ecology to update Guidelines

  2000 - Ecology put forward Guidelines

  2001 - Appealed and invalidated

  2002 – Formal Negotiation & Settlement Agreement
  - Guidelines
  - Update Schedule
  - Funding

  2003 - Current Guidelines went into effect

Guidelines – Parties to the Settlement

Department of Ecology ● Aggregates and Concrete Association ● Association of Washington Business ● Adams County ● Associated General Contractors of Washington ● Basta Marine ● Inc. ● Building Industry Association of Washington ● Doug Camenzind ● Chelan County ● Columbia County ● Ferry County ● Franklin County ● City of Hoquiam ● Independent Business Association of Washington ● Island County ● Jefferson County ● Mason County ● National Association of Industrial and Office Properties ● National Federation of Independent Business ● Northwest Marine Trade Association ● City of Ocean Shores ● Pacific County ● Pend Oreille County ● Rose Ranch ● Skagit County ● City of South Bend ● Stevens County ● Thurston County ● United Property Owners of Washington ● Wahkiakum County ● Washington Association of Realtors ● Washington Cattleman's Association Washington Contract Loggers Association

Guidelines – Parties to the Settlement (Continued)

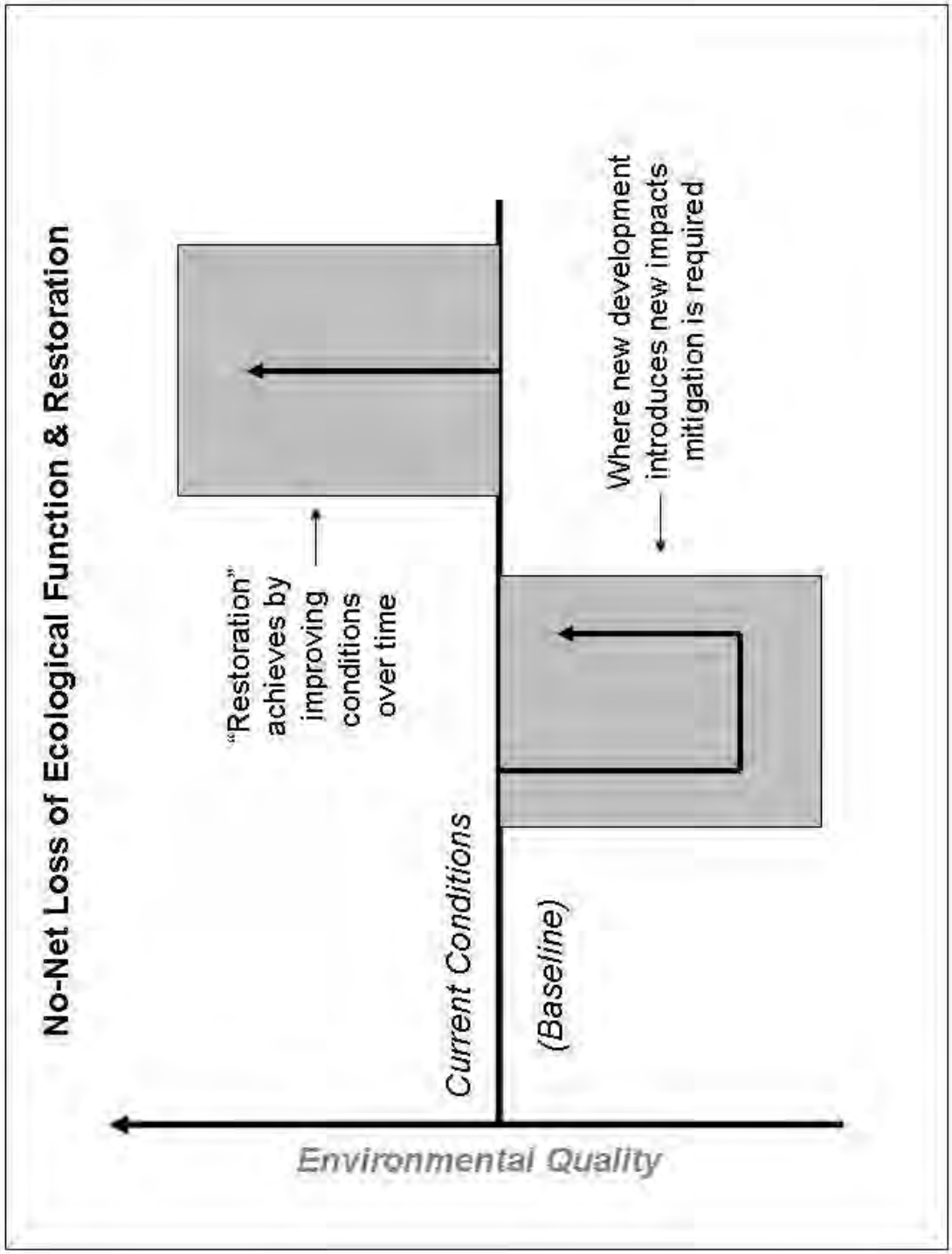
Washington State Farm Bureau ● Washington State Grange ● Whitman County ● Washington Environmental Council ● 1000 Friends of Washington ● Citizens for Sensible Development ● Citizens Growth Management Coalition ● Clark County Natural Resources Council ● Friends of Grays Harbor ● Friends of the San Juans ● Hood Canal Environmental Council ● Kettle Range Conservation Group ● Kittitas Audubon Society ● People for Puget Sound ● Save a Valuable Environment ● Washington Conservation Voters - Island County Chapter ● Washington Public Interest Research Group ● Wildlife Forever of Grays Harbor ● Chris Brown ● Fred Ellis ● Benella Caminiti ● League of Women Voters of Washington ● Black Hills Audubon Society ● and National Audubon Society ● Grant County

Key Concept: *"no net loss"*

- **Master programs shall contain policies and regulations that assure at minimum, *no net loss* of ecological functions necessary to sustain shoreline natural resources** (WAC 173-26-201(2)(c)). See also WAC 173-26-186.

- **Starting point is conditions as they exist today**

- **Recognizes new development will occur. Directs us to:**
  - **Anticipate new impacts**
  - **Avoid those impacts when possible**
  - **Minimize the impacts as much as possible**
  - **Mitigate (offset) remaining impacts.**


No-Net Loss of Ecological Function & Restoration
"Restoration" achieves by improving conditions over time
Current Conditions
(Baseline)
Where new development introduces new impacts mitigation is required
Environmental Quality

Major Features of the Sammamish SMP

Shoreline Vegetation and Setback Provisions

- Forty-five foot setback.
- Additional 5 foot building setback.
- Additions of up to 200 square feet in setback allowed so long as they are no closer to the water as the existing house.
- Additions of up to 1,000 square feet in setback allowed so long as they are on the opposite side of the existing house from the water.
- Twenty-five percent of setback can be active use area.

Shoreline Vegetation and Setback Provisions

<u>Lake Sammamish</u>

- Various incentives can allow the setback to be reduced to as little as 15 feet.

<u>Pine Lake and Beaver Lake</u>

- Retain 80 percent of the significant trees on the lot.

Piers and Docks

The Sammamish SMP would allow:

- A maximum overwater area of 600 square feet for single family piers.
- Dock width may be up to one-half of the lot width.
- No light penetration requirements.
- No mitigation required.

Public Access – Sammamish SMP

Sammamish has prepared a public access plan. The Sammamish SMP relies on the following public access:

- Lake Sammamish – Lake Sammamish Trail and future Sammamish Landing Park.
- Pine Lake – Pine Lake Park.
- Beaver Lake – Beaver Lake Park, Beaver Lake Preserve, and Washington Department of Natural Resources boat launch.

The Sammamish SMP does not require public access in new subdivisions.

Shoreline Designations

A shoreline master program identifies shoreline environments. The Sammamish SMP contains two shoreline environments:

- Shoreline residential
- Urban Conservancy

Both Shoreline residential and urban conservancy allow for single family residential development.

The Beaver Lake Preserve is designated Urban Conservancy.

Incorporation of Critical Area Protections

The Sammamish SMP incorporated critical area protections from the City's Critical Area Ordinance.

The incorporation included a sunset clause that eliminated :

- Development Standards for wetlands
- Mitigation ratios for wetlands
- Development Standards for streams
- Development Standards for lakes and ponds

Shoreline Stabilization

- The State Shoreline Guidelines stress the need for minimizing the need for shoreline stabilization and minimizing the impacts of shoreline stabilization.
- The Sammamish SMP allows new or expanded shoreline stabilization when a geotechnical assessment shows a prescribed need.
- The Sammamish SMP also has a stated preference for soft shoreline stabilization measures and provides incentives such a setback reduction for removal of bulkheads.

Nonconforming Structures

- The Sammamish SMP allows for reconstruction, replacement, or expansion of Nonconforming structures.
- The SMP also allows for rebuilding of nonconforming structures that are damaged by fire, explosion, or other casualty and/or natural disaster.
- Ecology supports standards that allow for reconstruction of structures damaged by natural disaster.
- Ecology supports maintenance of nonconforming structures.

Ecology Review Issues

Ecology's Review So Far

- Ecology review is a team effort – planners, scientists, policy leads, state attorney general's office.
- We have not completed our review. What we present tonight may change.
- We want to hear from the public before we complete our review.
- The Director of the Department of Ecology makes the final determination.
- We want to give you an idea of what we have found so far in our review.
- Your comments on Ecology's review are welcome

Ecology's Review So Far

Very impressed with the careful work of Sammamish staff, volunteers, engaged citizenry, and the city council.

Overall the plan has many commendable features that are appropriate for largely developed water bodies like Lake Sammamish and Lake Washington. The SMP:

- Works within the existing pattern of development
- Plans for redevelopment
- Tree retention standards for Pine and Beaver Lakes
- Well organized plan

We have areas where we are concerned that the plan may not meet the standards in the state guidelines:

ATTACHMENT B

SMP Element	Initial Impressions	Area of Concern
Standard Setback	Compliant	
Repair, rebuilding of non-conforming structures	Compliant	
Public Access	Clarification	Adequacy of Public Access Plan
Stabilization	Clarifications	More closely follow required language in guidelines
Setback Reductions	Concerns	Mitigation priorities
Vegetation Conservation	Concerns	Vegetation removal allowed with new development Inadequate mitigation
New Dock and Pier Standards	Concerns	Dimensions Mitigation
Designations (zoning)	Concern	Natural Designation on preserve
Critical Area Protections	Concerns	Sunset Clause
Expansion of existing structures in setbacks	Concerns	Unclear mitigation below 200 sq ft

Vegetation Conservation

- The Sammamish SMP setback standards allow new development to remove significant amounts of vegetation in areas immediately adjacent to the shoreline. Mitigation may not be required.

- Retaining existing vegetation is important for avoiding and minimizing new impacts. Enhancing vegetation is important for offsetting new impacts.

- The question we need to answer: Do the Sammamish SMP setback and vegetation standards achieve no net loss of ecological function?

- Ecology's review so far has a concern that the standards do not achieve no net loss of ecological function.

Piers and Docks

- Do the Sammamish Pier and Dock standards achieve no net loss of ecological function?
- The Sammamish standards allow much larger new piers and docks than other established standards – concern they do not minimize the impacts.
- The standards do not contain mitigation to offset the impacts
- Ecology is concerned that the pier and dock standards will not achieve no net loss of ecological function.

Additional Concerns of Ecology

- Beaver Lake Preserve is designated Urban Conservancy rather than Natural. Beaver Lake Preserve is largely undisturbed. Is Urban Conservancy the appropriate designation? Should the Beaver Lake Preserve shoreline be designated Natural?

- Because of the sunset provision, the incorporated CAO does not provide adequate protection of critical areas in shoreline jurisdiction.

- Expansion of nonconforming structures should be limited and carefully considered. Expansion of nonconforming structures must fully mitigate its impacts.

Public Comment

- We welcome your comments on the content of the proposed SMP and Ecology's review.
- The public comment period continues through October 29, 2010.
- Send written comment to the address on the back of the agenda.

Ecology Shorelands Website:

http://www.ecy.wa.gov/programs/sea/shorelines/index.html

David Radabaugh

Dept. of Ecology Shorelands Program

425-649-4260

email: david.radabaugh@ecy.wa.gov

Twenty One Questions for City Council / DOE Regarding the Shoreline Management Program

1. **Why is it acceptable, given the impact to the property owner in terms of property value, issues with obtaining mortgages, and additional permit challenges, to have an SMP which when adopted will instantly make 60% of the shoreline properties with non-conforming because of homes and structures within buffers and setbacks?**

2. **Is there a reason we should think that the CAR will not also regulate shoreline in addition to the SMP?**
   Under current regulatory status, House Bill 1653 limits the applicability of Critical Area Regulations on properties subject to shoreline jurisdiction only until a SMP is approved by the DOE. However after an SMP is approved, the existing provisions of LSMC 14.88.330 will then apply to all properties within shoreline jurisdiction.

   HB1653 states that "until the DOC approves a master program or segment of a master program as provided in (b) of this subsections, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local governments development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified……

   This provision seems to very clearly allow for properties that would be precluded from redevelopment or modifications due to the applicability of the CAR to go forward with those development plans, subject to compliance with No Net Loss provisions, until the approval of the SMP is complete.

3. **If the CAR indeed will regulate shoreline properties in addition to the SMP then will section 14.88.330 Nonconforming Activities apply?**

4. **If the CAR applies to shoreline property, it would appear that docks, bulkheads and all other structures including homes would be precluded from being rebuilt if they were destroyed. Is this not correct? See sub section c of the CAR below.**
   Sub section (c) of this regulation states: *If a nonconforming use or activity is destroyed by human activities or a natural occurrence, it shall not be resumed except in conformity with the provision of this chapter.*

5. **How can the proposed SMP ensure No Net Loss when the lake's baseline condition outlined in the Cumulative Impact Analysis is entirely vague and provides almost no empirical evidence relying instead on broad language like "water quality is low, etc.?**
   Lake Stevens is a highly urbanized, residential and recreational environment. The effects of development are long established. Quantifiable evaluation of the function and value is essential to meaningful No Net Loss.

6. **Under the proposed SMP the set back for a private home is at the very minimum the 60-foot buffer PLUS an additional 10-building setback for a <u>true minimum setback of 70 feet</u>. Is that correct?**

7. **Water levels on Lake Stevens are artificial controlled and have risen in the last several years, is the DOE suggesting that Lake Stevens <u>artificial changes</u> to the water level alter the OHWM in contradiction to Washington State Law which permits only natural changes to affect the OHWM?**

8. **Why is it acceptable to property owners and the City of Lake Stevens to have shoreline buffers that in many cases will be far greater than the often sited 60-foot buffer?**
   As currently proposed, the SMP imposes a 60-foot building setback from ordinary high water mark (OHWM) for residential properties OR the setback average of your two adjoining neighbors, WHICHEVER IS GREATER. See SMP 5(c)(8)(c)(1), Table 7. Per the City's Cumulative Impacts Analysis, the average setbacks for existing residences is 64 feet on the western shoreline of Lake Stevens, 103 feet on the eastern shoreline, and 98 feet on the northern shoreline. See Cumulative Impact Analysis, at pg. 24. In other words, instead of having a 60-foot setback, the City is well aware that the average setback will be much greater once you average the setback of your two adjoining neighbors.

   It may very well be the case that residential property owners prefer a setback based upon their two adjoining neighbors to ensure that a neighbors' remodel does not take away a portion of their views of the water. At the same time, basing your rights upon those of your neighbor is problematic. For example, what if you want to subsequently remodel your kitchen by adding a few hundred square feet on the waterward side of your house? If your existing setback is based upon averaging your neighbors' you might not be allowed to do so, even though you may have a 100-foot setback, and the SMP implies that a 60-foot setback is sufficient to protect the ecological functions of Lake Stevens.

9. **In fact does not SMC5(b) footnote 8 clearly state that for some properties a 200 foot buffer may be required?**

10. **Why is the 60-foot setback buffer even required when the city was already determined in its critical areas ordinance (CAO) that a 50-foot setback is sufficient to protect the existing ecological functions of Lake Stevens? What is the justification for significantly increasing the setback in the SMP?**
    SMP 3(B)(1)(c)(7), SMP 3(B)(3) and other provisions in the SMP make it clear that compliance with both the SMP and the CAO is required in shoreline jurisdiction (i.e. because Lake Stevens is also designated under the CAO as a "fish and wildlife habitat conservation area" which independently requires a 50-foot setback from OHWM).

11. **What are the ecological functions that exist on our already highly developed urban shorelines and which if any of those functions will benefit from a larger setback?**

12. **What <u>recent and empirically verified evidence</u> is there of protected salmon living in Lake Stevens?**

13. **Is it correct that as proposed in the SMP makes everything waterward of the OHWM a designated as the aquatic environment, and thus due to erosion and shoreline retreat many existing residential bulkheads are essentially the OHWM, even though they may have originally bee constructed above the OHWM (outside the aquatic environment)?**

14. **If the bulkhead is now the OHWM and thus inside the aquatic environment, does not the SMP make any bulkhead proposed in the aquatic environment a conditional use which will then require both the approval of the City AND Ecology?**
    Conditional use permits impose a higher burden on property owners for approval, and Ecology is not inclined to approve them.

15. **According to WAC 173-26-186 enhancement and/or restoration is <u>encouraged, but not required</u>. The required removal of bulkheads and not allowing replacements goes beyond no net loss and become restoration at a substantial cost and loss of value to the property owner, why should we impose that huge burden on private property owners?**

16. **Why is grating decking being mandated when the Shoreline Inventory, Cumulative Impacts Analysis, and Restoration Plan do not report that invasive species even exist in Lake Stevens?**
    A gradual shift to grated decking is usually preferred by Ecology in lakes that have invasive species, which feed under the docks on juvenile salmon. Absent the finding of invasive species, there should be not need to impose rules regarding deck grating.

17. **How can we ensure that the SMP encompasses a fair proportionality principle and provides for other potential methods of mitigation other than vegetation, which cuts people off from their own shorelines?**
    As currently written, the SMP appears to be mandating enhancement and restoration of shoreline vegetation. While it may be appropriate to require that new development with adverse impacts mitigate for the impact by planting vegetation along the shoreline, any such mitigation must be proportional to the impact of your development. Thus, if I you remodel your kitchen by 100 square feet on the waterward side of your residence, the City should not be allowed to make you replant hundreds of square feet of vegetation on the shoreline. The excessive planting presumably is not proportional to the impact of the development.

18. **Why should we apply the first step of mitigation sequencing, avoidance, to uses that are expressly preferred under the SMA, such as single-family residences and their appurtenant structures, including protective bulkheads?**
    Many sections of the SMP require the project applicant to comply with mitigation sequencing, specifically to first to try avoiding any adverse environmental impact altogether, and then if not possible, minimize, repair, reduce, and mitigate the impacts in

that order of preference. See, e.g., SMP 3(B)(4). Mitigation sequencing is indeed one of the governing principles of Ecology's Guidelines. See WAC 173-26-201(2)(e)). However, it makes little sense to apply it to uses that are expressly preferred under the SMA, such as single-family residences and their appurtenant structures, including protective bulkheads. In other words, if under the SMA a single-family residence is a preferred use, a local jurisdiction should not be able to say that, under mitigation sequencing you need to "avoid" any impact by not constructing one. Instead, you should be able to skip directly to mitigating any impact of your development.

19. **Is there any reason we can not clarify that the policies as separate from the regulations, are not substantive in nature, and will not be applied as substantive review criteria to a specific project?**
Ordinarily, development regulations are drafted for consistency with comprehensive plan policies. In turn, compliance with the development regulations themselves is deemed to be per se compliance with the comprehensive plan policies. However, as indicated in the SMP, its policies are intended to be "inclusive" (i.e. they are written to be incredibly broad). The WACs recognize that because the SMA's policies are broad they "harbor potential for conflict."

As currently drafted, a sole member of the City Staff with an anti-development agenda, could read anything he or she wants into the overly broad policies, and use them to deny an otherwise approvable project.

20. **Is it the intent of the City Council to allow the public to come onto the shoreline resident's private property as required in the proposed SMP?**
The proposed SMP requires that any subdivision of more than 4 lots, will require providing public access to the shoreline (yes, literally allowing the public to come onto a shoreline resident's private property). See SMP 3(B)(7)(c)(1).

21. **Why is that tolerable for the city to have a dock that as noted by the independent planner Urban Concepts, has a vested dock application that will fail to comply with the proposed SMP?**

ATTACHMENT B

Letter for Public Record
June 13, 2011; City of Lake Stevens City Council Meeting

THE OTHER SHORELINE MASTER PLAN

I have been following the city's Shoreline Master Plan for many months now. Recently, here in the homestretch of the SMP process, it has become fashionable to sideswipe and ambush the original draft as recommended by the Lake Stevens planning commission. In effect, the complainants are advising the city staff and council to rewrite the original SMP document.

Well, I hate to be left out, so I'd like to propose a rewrite of the original document too. Here are my suggested revisions:

1. **Setbacks: all setbacks are really supposed to be buffers. Let's take out lawns, patios, BBQ pits, pavers, and walkways, and replant with red osier dogwood, cottonwoods, and willows. Ahhh, much better.**

2. **Bulkheads: science and common sense say soft shorelines are better habitat for critters. Let's rip out all armored bulkheads and terrace in sand, gravel, and native plants with big over-hanging trees...ideal for hammocks!**

3. **Docks/over water structures: sorry, the lake belongs to the state. Docks and such gotta go, or, at least, remember play fair in kindergarten, i.e.....S-h-a-r-I-n-g?**

4. **The Lakeside Walkway: lots of people in Lake Stevens talk about a walkway around the lake. Now is the time to plan for it! Gotta increase public access! Keep your bulkhead, dock, and lawn in exchange for a pedestrian/bike right-of-way along the state's jurisdiction shoreline. Win-win situation!**

5. **ADA Docks...great idea! But remember, when that ADA friend comes over, you gotta have ADA ramps, doors, and bathrooms for him too. No biggy! Let's retro-fit all the lake front homes for ADA, including those stupid, grated, dock decks.**

Okay, obviously I jest. The suggestions above are not in the intent of the Shoreline Management Act. But neither are some of the recent complaints, so I hope the illustration is clear. Operating under the constraints of the SMA, as imposed, interpreted, and approved by Department of Ecology and WDFW, the original SMP, as drafted by staff, consultants, and the citizens advisory committee, DID FIND MIDDLE GROUND. Your Lake Stevens Planning Commission approved and recommended that Shoreline Master Plan with whatever flexibility and compromise they could find under the state guidelines of inventory, land use, projected impacts, and no net loss.

Lake Stevens City Councilmembers, please approve the Shoreline Master Plan as recommended by your planning commission.

Thanks,

Thomas Matlack
2504 112th Dr. NE
Lake Stevens, WA 98258
425-334-7713

SMP GUIDELINES FOR SPECIFIC ISSUES

WAC 173-26-231 Shoreline modifications.

(1) ***Applicability***.

Local governments are encouraged to prepare master program provisions that distinguish between shoreline modifications and shoreline uses. Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) required for a cargo terminal (industrial use) or dredging (shoreline modification) to
allow for a marina (boating facility use).

The provisions in this section apply to all shoreline modifications within shoreline jurisdiction.

(2) ***General principles applicable to all shoreline modifications***. Master programs shall implement the following principles:

(a) Allow structural shoreline modifications only where they are demonstrated to be necessary to support or protect an allowed
primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

(b) Reduce the adverse effects of shoreline modifications and, as much as possible, limit shoreline modifications in number
and extent.

(c) Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

(d) Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions.

This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

(e) Where applicable, base provisions on scientific and technical information and a comprehensive analysis of drift cells
for marine waters or reach conditions for river and stream systems. Contact the department for available drift cell

characterizations.
(f) Plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.
(g) Avoid and reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201 (2)(e).

(3) ***Provisions for specific shoreline modifications***.
(a) **Shoreline stabilization.**
(i) **Applicability.** Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.
Nonstructural methods include building setbacks, relocation of the structure to be protected, groundwater management, planning and regulatory measures to avoid the need for structural
stabilization.
(ii) **Principles.** Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the natural resource and ecology of the shoreline. Human use of the shoreline has typically led to hardening of the shoreline for various reasons including reduction of erosion or providing useful space at the shore or providing access to docks and piers. The impacts of hardening any one property may be minimal but cumulatively the impact of this shoreline modification is significant.
Shoreline hardening typically results in adverse impacts to shoreline ecological functions such as:
! Beach starvation. Sediment supply to nearby beaches is cut off, leading to "starvation" of the beaches for the gravel, sand, and other fine-grained materials that typically constitute a beach.
! Habitat degradation. Vegetation that shades the upper beach or bank is eliminated, thus degrading the value of the shoreline for many ecological functions, including spawning habitat for salmonids and forage fish.
! Sediment impoundment. As a result of shoreline hardening, the sources of sediment on beaches (eroding "feeder" bluffs) are progressively lost and longshore transport is diminished. This leads to lowering of down-drift beaches, the narrowing of the high tide beach, and the coarsening of beach sediment. As beaches become more coarse, less prey for juvenile

fish is produced. Sediment starvation may lead to accelerated erosion in down-drift areas.
! Exacerbation of erosion. The hard face of shoreline armoring, particularly concrete bulkheads, reflects wave energy back onto the beach, exacerbating erosion.
! Groundwater impacts. Erosion control structures often raise the water table on the landward side, which leads to higher
pore pressures in the beach itself. In some cases, this may lead to accelerated erosion of sand-sized material from the beach.
! Hydraulic impacts. Shoreline armoring generally increases the reflectivity of the shoreline and redirects wave energy back onto the beach. This leads to scouring and lowering of the beach, to coarsening of the beach, and to ultimate failure
of the structure.
! Loss of shoreline vegetation. Vegetation provides important "softer" erosion control functions. Vegetation is also critical in maintaining ecological functions.
! Loss of large woody debris. Changed hydraulic regimes and the loss of the high tide beach, along with the prevention of
natural erosion of vegetated shorelines, lead to the loss of beached organic material. This material can increase biological diversity, can serve as a stabilizing influence on natural shorelines, and is habitat for many aquatic-based organisms, which are, in turn, important prey for larger organisms.
! Restriction of channel movement and creation of side channels. Hardened shorelines along rivers slow the movement of channels, which, in turn, prevents the input of larger woody debris, gravels for spawning, and the creation of side channels important for juvenile salmon rearing, and can result in increased floods and scour.
Additionally, hard structures, especially vertical walls, often create conditions that lead to failure of the structure. In time, the substrate of the beach coarsens and scours down to bedrock or a hard clay. The footings of bulkheads are exposed, leading to undermining and failure. This process is exacerbated when the original cause of the erosion and "need" for the bulkhead was from upland water drainage problems. Failed bulkheads and walls adversely impact beach aesthetics, may be a safety or navigational hazard, and may adversely impact shoreline
ecological functions.
"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as

biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include:

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

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

Structural shoreline stabilization often results in vegetation removal and damage to near-shore habitat and shoreline corridors. Therefore, master program shoreline stabilization provisions shall also be consistent with WAC 173-26-221(5), vegetation conservation, and where applicable, WAC 173-26-221(2), critical areas.

In order to implement RCW 90.58.100(6) and avoid or mitigate adverse impacts to shoreline ecological functions where shoreline alterations are necessary to protect single-family residences and principal appurtenant structures in danger from active shoreline erosion, master programs should include standards setting forth the circumstances under which alteration of the shoreline is permitted, and for the design and type of protective measures and devices.

(iii) **Standards.** In order to avoid the individual and cumulative net loss of ecological functions attributable to shoreline stabilization, master programs shall implement the above principles and apply the following standards:

(A) New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics. 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. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.
(B) New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:
(I) To protect existing primary structures:
! 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 tidal action, currents, or waves. 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.
! The erosion control structure will not result in a net loss of shoreline ecological functions.
(II) In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:
! The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
! 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.
! 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 tidal action,
currents, and waves.
! The erosion control structure will not result in a net loss of shoreline ecological functions.
(III) In support of water-dependent development when all of the conditions below apply:
! The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
! Nonstructural measures, planting vegetation, or

installing on-site drainage improvements, are not feasible or not
sufficient.
! The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
! The erosion control structure will not result in a net loss of shoreline ecological functions.
(IV) To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to
chapter 70.105D RCW when all of the conditions below apply:
! Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not
sufficient.
! The erosion control structure will not result in a net loss of shoreline ecological functions.
(C) 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, tidal action, or waves.
! The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.
! Replacement walls or bulkheads 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.
! Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure.
! Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.
! For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a
new structure to perform a shoreline stabilization function of an
existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.
(D) Geotechnical reports pursuant to this section that address 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. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.
(E) When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions.
! 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.
! 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.
! Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional
mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.
(F) For erosion or mass wasting due to upland conditions, see WAC 173-26-221 (2)(c)(ii).

(b) **Piers and docks.** New piers and docks shall be allowed only for water-dependent uses or public access. As used here, a

dock associated with a single-family residence is a waterdependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this section. Pier and dock construction shall be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on overwater 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.

New pier or dock construction, excluding docks accessory to single-family residences, should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future waterdependent uses.

Where new piers or docks are allowed, master programs should contain provisions to require new residential development of two or more dwellings to provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence.

Piers and docks, including those accessory to single-family residences, shall be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions, critical areas resources such as eelgrass beds and fish habitats and processes such as currents and littoral drift. See WAC 173-26-221 (2)(c)(iii) and (iv). Master programs should require that structures be made of materials that have been approved by applicable state agencies.

(c) **Protection of ecological functions of the shorelines.**
This chapter implements the act's policy on protection of shoreline natural resources through protection and restoration of
ecological functions necessary to sustain these natural resources. The concept of ecological functions recognizes that any ecological system is composed of a wide variety of interacting physical, chemical and biological components, that are interdependent in varying degrees and scales, and that produce the landscape and habitats as they exist at any time. Ecological functions are the work performed or role played individually or collectively within ecosystems by these components.
As established in WAC 173-26-186(8), these guidelines are designed to assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources and to
plan for restoration of ecological functions where they have been
impaired. Managing shorelines for protection of their natural resources depends on sustaining the functions provided by:
! Ecosystem-wide processes such as those associated with the flow and movement of water, sediment and organic materials; the presence and movement of fish and wildlife and the maintenance of water quality.
! Individual components and localized processes such as those associated with shoreline vegetation, soils, water movement
through the soil and across the land surface and the composition and configuration of the beds and banks of water bodies.
The loss or degradation of the functions associated with ecosystem-wide processes, individual components and localized processes can significantly impact shoreline natural resources and may also adversely impact human health and safety. Shoreline master programs shall address ecological functions associated with applicable ecosystem-wide processes, individual components and localized processes identified in the ecological systems analysis described in WAC 173-26-201 (3)(d)(i).
Nearly all shoreline areas, even substantially developed or degraded areas, retain important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecosystems are interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater, marine, and terrestrial shoreline ecosystems, and

many wildlife species associated with the shoreline depend on the
health of both terrestrial and aquatic environments. Therefore, the policies for protecting and restoring ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered.

Master programs shall contain policies and regulations that assure, at minimum, no net loss of ecological functions necessary
to sustain shoreline natural resources. To achieve this standard while accommodating appropriate and necessary shoreline uses and development, master programs should establish and apply:

! Environment designations with appropriate use and development standards; and
! Provisions to address the impacts of specific common shoreline uses, development activities and modification actions; and
! Provisions for the protection of critical areas within the shoreline; and
! Provisions for mitigation measures and methods to address unanticipated impacts.

When based on the inventory and analysis requirements and completed consistent with the specific provisions of these guidelines, the master program should ensure that development will be protective of ecological functions necessary to sustain existing shoreline natural resources and meet the standard. The concept of "net" as used herein, recognizes that any development has potential or actual, short-term or long-term impacts and that
through application of appropriate development standards and employment of mitigation measures in accordance with the mitigation sequence, those impacts will be addressed in a manner necessary to assure that the end result will not diminish the shoreline resources and values as they currently exist. Where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions.

Master programs shall also include policies that promote restoration of ecological functions, as provided in WAC 173-26-201 (2)(f), where such functions are found to have been impaired based on analysis described in WAC 173-26-201 (3)(d)(i). It is intended that local government, through the master program, along

with other regulatory and nonregulatory programs, contribute to restoration by planning for and fostering restoration and that such restoration occur through a combination of public and private programs and actions. Local government should identify restoration opportunities through the shoreline inventory process
and authorize, coordinate and facilitate appropriate publicly and
privately initiated restoration projects within their master programs. The goal of this effort is master programs which include planning elements that, when implemented, serve to improve the overall condition of habitat and resources within the
shoreline area of each city and county.

Shoreline Master Program Updates

Piers, docks and other structures

Introduction

Piers, docks and other overwater and in-water structures are significant components of our shorelines. They play a major role in commerce at ports and provide recreational opportunities at parks. Piers, docks and swimming floats are common at single family and multi- family residences on the shoreline, particularly on lakes and marine bays. While these structures are important for commerce and recreation, they also can have impacts on the shoreline ecology, aesthetics and navigation.

Figure 1: Piers, docks, and boat launches come in various shapes and sizes to provide access to the water. Photos: Upper left, Washington Coastal Atlas; upper right, Hugh Shipman; bottom, City of Kirkland.

Shoreline Master Programs should include policies and regulations regarding piers, docks and other overwater and in-water structures. SMPs will not be adequate if they only refer to and rely on state and federal agency documents, such as the Army Corps of Engineers Regional General Permits.

The shoreline inventory and characterization should inform where overwater structures such as piers and docks may be allowed. Portions of the shoreline may not be appropriate for these overwater structures due to impacts to shoreline ecological functions, navigation and aesthetics. In some areas, water levels are low, so moorage facilities need to be very long to reach adequate depth for boats. In other areas, wave and wind action will damage or destroy moorage facilities.

This guidance focuses on the overwater structures discussed below. Marinas are not covered here and will be discussed in a separate section of the Handbook in the future. The SMP Guidelines address "boating facilities" including marinas, but exclude "docks serving four or fewer single family residences" from "boating facilities." SMPs should define how many moorage facilities constitute a marina.

Floating homes, also known as houseboats, are residences built on floats. The SMP Guidelines prohibit new overwater residences including floating homes [WAC 173-26-241(3)(j)] but allow improvements associated with life safety matters and property rights. Floating homes are not addressed here.

Descriptions of overwater structures

A common understanding of these overwater and in-water structures will be helpful. Here are Ecology's descriptions of these structures. We will often refer to "moorage facilities" or "piers and docks" in this document as a general term that covers most or all of these structures.

- Piers and docks adjoin the shoreline, extend over the water, and serve as a landing or moorage place for commercial, industrial and pleasure watercraft.
    - Piers are built on fixed platforms and sit above the water.
    - Docks are anchored to the land, substrate or the pier with pilings or anchors and float on the water.

- Gangways are walkways that connect the pier to the dock. Gangways are often used in areas where the water level changes due to tides or seasonal variations.

- Ells are extensions of piers, often in a U-shape or L shape, that provide additional watercraft moorage.

- Recreational floats are platforms that float on the water's surface. They are anchored off-shore and are used for swimming and fishing. Some floats have components such as slides and trampolines.

- Boat houses basically serve as garages for boats. They have walls and a roof, and are situated on the water or just above the water's edge.

Figure 2: A boat house on Whidbey Island shelters the boat from the weather. Photo by Betty Renkor.

- Mooring buoys typically include an anchoring system with an anchor and anchor line, a float marking its location, and a fitting for a vessel's mooring chain or hawser. Washington laws establish two categories for mooring buoys -- commercial and recreational (RCW 79.105.430). Commercial buoys are typically used for temporary moorage of a vessel that is awaiting transit or loading or offloading. Recreational buoys are used as semi-permanent moorage for recreational vessels.

- Mooring piles or pilings are fixed poles or groups of poles set in the substrate and extending above the water line.

- Lifts or boat lifts raise watercraft out of the water for launching or storing. They may be attached to the substrate, a pier or dock, bulkhead or float or be located upland.

- Canopies are covers that protect watercraft from the sun and rain.

- Boat or launch ramps are solid or relatively solid surfaces that bridge land and water and are used for moving watercraft into and out of the water.

- Railways are rails attached to the substrate used for launching and retrieving watercraft, usually with a cradle and winch system.

- Others such as jet ski floats and boat dry docks provide storage of watercraft out of the water. Some floats serve as helicopter pads, while others are used for docking seaplanes.

SMP Guidelines

The SMP Guidelines [WAC 173-26-231] address shoreline modifications including piers and docks, shoreline stabilization, breakwaters and others. SMPs shall implement the following principles for all shoreline modifications:

- Allow structural shoreline modifications only where necessary to support or protect an allowed primary structure or legally existing shoreline use.

WAC 173-26-231(3)(b): …Pier and dock construction shall be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water 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…

Figure 3: The 300-foot pier at Kayak Point County Park in Snohomish County provides opportunities for fishing and crabbing. Photo by Hugh Shipman.

- Reduce adverse effects of and limit shoreline modifications in number and extent.
- Allow only modifications appropriate to the type of shoreline and environmental conditions for which they are proposed.
- Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions.
- Base SMP provisions on scientific and technical information and a comprehensive analysis of drift cells or reach conditions.
- Plan to enhance impaired ecological functions while accommodating permitted uses.

WAC 173-26-231(3)(b) direct that new piers and docks be allowed only for water-dependent uses or public access. A pier or dock associated with a single-family residence that provides access to watercraft is a water-dependent use.

Applicants must demonstrate that a specific need exists for new pier or dock construction to support water-dependent uses, except for those that are accessory to single-family residences.

- For residential development, SMPs should require two or more dwellings provide joint use or community dock facilities when feasible, rather than allow individual docks for each residence. Joint use docks will have reduced impacts to the shoreline environment

and navigation compared with individual docks and result in shared costs for the owners.

- For port districts, commercial or public entities with water-dependent uses, a needs analysis or master plan that projects future needs for pier or dock space and is approved by the local government and consistent with the SMP Guidelines may satisfy the demonstration requirement.

All piers and docks must be built to avoid, or if that is not possible, minimize and mitigate impacts to ecological processes and functions and critical areas resources. This requirement also would apply to other overwater structures described above.

Impacts of overwater structures

About 5,500 piers and docks exist in the marine waters of Washington State (DNR, 2009). Overwater structures such as piers and docks, boat houses and others can have adverse impacts on the environment, navigation and aesthetics. This section provides a brief review of impacts that should be considered as you determine whether and where to allow these structures on your shoreline.

Environmental impacts

Overwater structures can have impacts on various factors that control habitats. These include light, wave energy, substrates and water quality. Except as noted, the impacts summarized in this section and the recommendations are from *Overwater Structures: Marine Issues* (Nightingale and Simenstad, 2001) and *Over-Water Structures: Freshwater Issues* (Carrasquero, 2001).

- Changes to light affect the behavior of salmon. Salmon fry have been seen avoiding travel under docks and piers during daylight hours. As they move away from the shore, they become subject to attack by larger predators that typically stay in deeper waters. The amount of light also affects salmon feeding – with less light, they eat less.

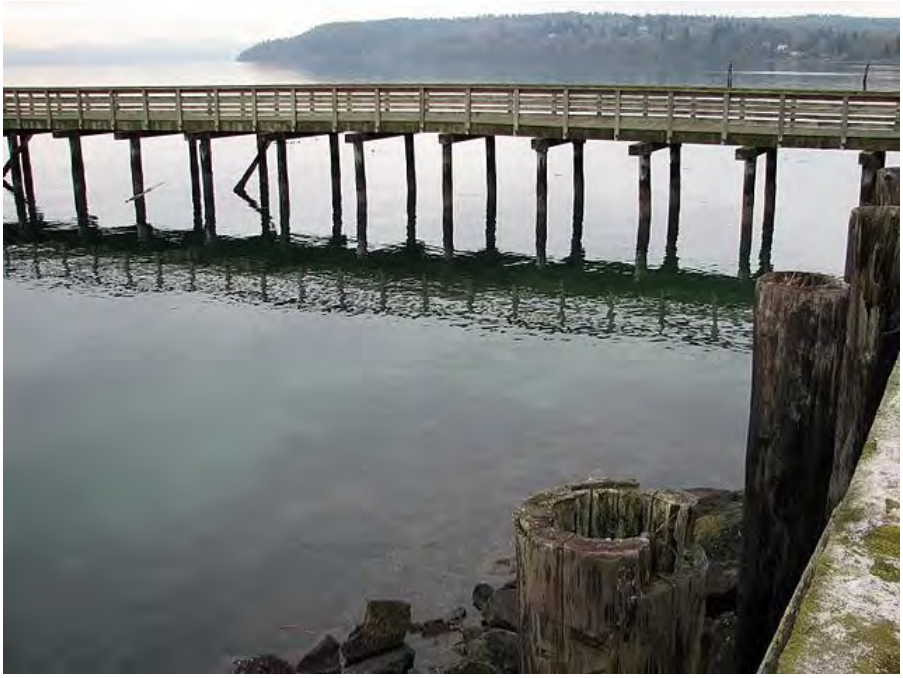


Figure 4: A pier in Tramp Harbor, Vashon Island, casts a shadow on the water. Photo by Hugh Shipman.

- With less light, there are fewer small species that salmon eat. Food is less available.

- Reductions in light affect the growth of sea grasses such as eelgrass, which provides a rich feeding area for marine birds and fish, and offers shelter to species such as Dungeness crab, salmon and herring.

- Changes to the substrate result from pile driving and the presence of piles. Pile driving rearranges the distribution of sediments, resulting in changes to the substrate bathymetry of the water body. Pilings take up space, reducing habitat; cast shade, affecting light; catch floating debris, affecting light and habitat. Pilings also develop into a pile community, resulting in shell hash on the substrate that affects habitat.

- Invasive species have been found to settle out on floats and supporting structures.

- The movement of sediment along marine shorelines (littoral drift) is affected by placement of overwater structures. Changes in sediment movement limit the availability of substrate for spawning forage fish and the sand available to down-drift beaches.

- Pile driving will have temporary impacts on water quality by increasing turbidity.

- Habitat is lost and habitat fragmentation occurs when vegetation is removed for construction of overwater structures, and the staircases, trails and walkways that are used to get to them. Loss of plant species and disruptions of the ecosystem can lead to a loss in animal diversity. (*Protection of Marine Riparian Functions in Puget Sound, Washington,* J. Brennan et al, 2009.*)*

Recommendations to reduce impacts

- Increase pier height and decrease pier and dock width.
- Use a north-south pier-dock orientation.
- Place piers and docks in deep water to avoid impacts to eelgrass.
- Avoid prop scour by placing docks at depths that are at least 4-5 feet above MLLW. (MLLW is effectively 0 tide.)
- Use glass inserts, grating and reflective panels on piers and docks.
- Use artificial lighting under piers in daylight hours.
- Avoid artificial light at night.
- Chain and anchor float attachments to land to allow movement of the float with tide and wind conditions. This movement has been found to avoid light limitation stressors to eelgrass.
- Remove docks and floats during the off-season.
- Decrease number of pilings.
- Use light reflective piling materials.

Figure 5: Glass blocks at the Clinton ferry terminal allow light to pass through to the water below. Glass blocks must be kept clean to be effective. Photo by Barbara Nightingale.

Some additional recommendations from Ecology:

- Check with watercraft associations for information on needed water depths and storage.
- Require bathymetry information from the applicant if you don't already have it.
- Use the inventory and characterization to help determine appropriate regulations for moorage facilities.

The following habitat stewardship measures from the Washington Department of Natural Resources are applied on a site-specific basis as appropriate to DNR lease holders. The full list of stewardship measures is included at the end of this chapter. DNR's web page, *Preventing Impacts to Important Aquatic Habitats*, has additional recommendations.

- Wood treated with toxic compounds should not be used for decking, pilings or other in-water components.
- Tires should not be used on moorage facilities, even for fenders.
- Foam material should be encapsulated so it cannot break up and be released into water.
- New covered moorage and boat houses should not be allowed.
- Docks, piers and floats should be 8 meters from native aquatic vegetation or the distance that the structure will cast shade, whichever is greater.
- New or reconfigured structures should be sited to avoid impacts to forage fish habitat.
- Floating or suspended watercraft lifts should be more than 9 feet waterward of the OHWM.
- Skirting is prohibited on overwater structures.

- New activities and structures should avoid existing native vegetation attached to or rooted in the substrate.

Recommendations to reduce impacts are also available in the following two technical guidance documents developed by several state agencies and posted on the Washington Department of Fish and Wildlife website:

- *Land Use Planning for Salmon, Steelhead and Trout*
- *Protecting Nearshore Habitat and Functions in Puget Sound*

Figure 6: The City of Raymond's community pier includes grating to allow light to reach the water. Photo by Barbara Nightingale.

Impacts on navigation

Moorage facilities can affect travel on the water by large vessels and small personal watercraft such as canoes, kayaks and small fishing boats. Moorage facilities can make it difficult for vessels and watercraft to move through an area.

In some areas, the number and density of moorage facilities makes it difficult for boaters to get into their own slip. Long piers and docks force small boats out into deeper and sometimes more turbulent waters. Long piers and docks can also interfere with activities on the water such as boat racing, sailboarding, and fishing.

There's been a trend toward bigger and longer power and sailboats by recreational boat owners. Bigger boats often require bigger piers and docks, so the boat owners request shoreline permits, sometimes variances, to increase the length of the pier or dock to either accommodate the length of the boat or reach deeper water depth to accommodate the boat draft.

SMPs should set parameters for the length and location of piers and docks and other moorage facilities. A navigational safety study may be required if proposed lengths exceed the standards.

Keep in mind the shoreline ecological functions and shoreline conditions when setting standards for length and location of moorage facilities. In areas with habitat such as eelgrass, locating structures in deeper water would reduce impacts to the eelgrass. But longer facilities could interfere with navigation. It may be impossible to reconcile these conflicts.

Moorage facilities should not interfere with legal public access to the shoreline or use of the shoreline. According to the Public Trust Doctrine, a legal principle from English Common Law and supported by courts in the U.S., the waters of the state are a public resource owned by and

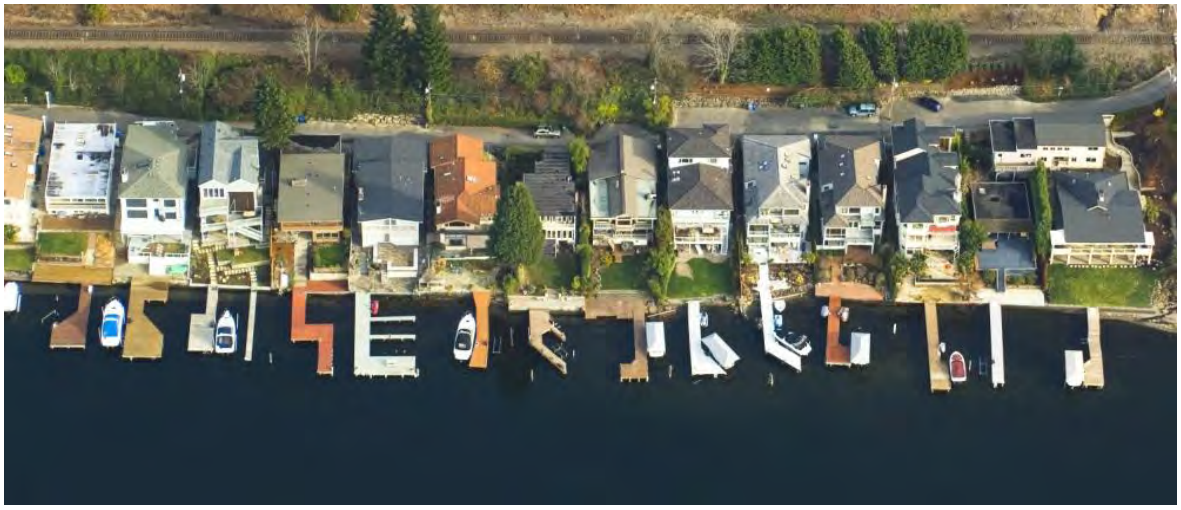


Figure 7: The density of docks, like these in Lake Washington, can make navigation difficult for local boat owners. Washington Coastal Atlas photo.

available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation, and similar uses. Private ownership of the underlying land does not invalidate this trust.

Consider the following when developing policies and regulations:

- Overwater structures can be safety hazards. Moorage facilities should be marked with reflectors to reduce hazards for nighttime water users.
- Moorage facilities should be spaced and oriented to minimize hazards and obstructions to navigation and other water-oriented activities such as fishing, swimming and pleasure boating, as well as adjacent land owners.
- The length, width and height of piers and docks should be no greater than that required for safety and practicality for the primary use.
- The fetch -- distance from shoreline to the opposite shoreline – will be a factor in determining the length of piers and docks. In small embayments, room for navigation is limited. Piers and docks should not interfere with navigation.
- If space is not adequate, moorage facilities should be prohibited.

Impacts on aesthetics

Piers and docks, boat lifts, boat canopies and boat houses as well as watercraft can affect views from public spaces as well as private property. People vary in their sense of aesthetics – some are satisfied with a shoreline full of piers, boats, masts and boat canopies, while others prefer a shoreline unencumbered with the same. It is important to get a sense of your community's preferences during the SMP update process.

Figure 8: Piers on Horseshoe Bay in Pierce County extend out to reach the water during low tides. Washington Coastal Atlas photo.

A few questions to consider:

- If a shoreline lacks piers and docks now, what aesthetic impacts would future ones have? You can conduct a visual impact analysis using NOAA's CanVis software available at http://www.csc.noaa.gov/digitalcoast/tools/canvis/.

- Is the local community concerned about aesthetics? If so, should boat houses that can block views be prohibited? Should the number of piers and docks and other moorage facilities be limited? Should the SMP require moorage facilities to be compatible with local physical and visual character?

- Piers in some shallow marine areas provide access to watercraft for limited time periods due to the tides. When the tide is out, the piers are standing above the mudflats, and boats are sometimes "stranded" on the mud. Or, piers are very long so that the end of the pier is always in the water. Are these areas appropriate for piers and docks?

Impacts from multiple moorage facilities

The issues of impacts to navigation, the environment and aesthetics sometimes come in one permit application. A proposed project may include a long pier-dock, a float or a floating boat lift, and a mooring buoy. The dock must be long in order to reach adequate water depth or to provide the docking area beyond a patch of eelgrass. Such a long dock might provide reduced impacts to the eelgrass, but could have impacts on other aquatic habitat, interfere with navigation or have aesthetic impacts. For example, one proposal included a 100-foot dock, a floating boat lift more than 400 feet offshore and a mooring buoy.

How should the SMP address these proposals? Some options:

- Limit the length of piers and docks. Boats that need adequate water depth or located away from eelgrass areas can be moored to buoys.
- Allow private docks only if there are no other alternatives, such as marinas within a reasonable distance, shared facilities with neighbors, or mooring buoys.
- Limit the amount and types of mooring facilities that are allowed for each residence. If a mooring buoy is needed for adequate water depth, a long dock may not be necessary.
- Limit the total square footage of the overwater structures.
- Require floats to be removed during the off-season or during fish migration periods.
- Require removal of all or part of bulkheads as mitigation for moorage facilities.
- Make sure you address the preferences for shorelines of statewide significance in RCW 90.58.020.

Non-SMA regulations and permit conditions

Various federal and state agency regulations and permit conditions are relevant to construction of piers and docks and other structures. Local governments should not rely exclusively on these and adopt them by reference in their SMPs. They may not address local shoreline conditions as reflected in the inventory and characterization or may not be consistent with the Shoreline Management Act. Also, federal agencies cannot deny permits for overwater structures.

However, these regulations will be in force as other agencies review permits for piers and docks, so we're including a summary of them here.

U.S. Army Corps of Engineers

The Army Corps of Engineers (Corps) Seattle District has developed Regional General Permits (RGPs) for specific geographic areas and proposed uses or activities. RGPs are "issued on a regional (limited geographic scope) basis for a category of activities when those activities are substantially similar in nature and cause only minimal individual and cumulative impacts on the aquatic environment."

Five RGPs are particularly related to shoreline management in Washington state – RGPs 1, 3, 4, 5 and 6. These apply to watercraft lifts, overwater structures such as piers and docks, moorage pilings, and fills and stabilization. The Corps lists the RGP descriptions as follows and includes links to the full text of the RGPs on its website at http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=mainpage_RGPs.

- RGP 1 - Watercraft lifts in Washington State.

- RGP 3 - Construction of new or modification of existing residential overwater structures and installation of moorage piling in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, including the Lake Washington Ship Canal.

- RGP 4 - Piers, ramps, floats, piling, minor fills and bank stabilization in the Pend Oreille River and Lake Chelan.

- RGP 5 - Maintenance, modification and construction of residential overwater structures in the Mid-Columbia and Lower Okanogan Rivers within the State of Washington.

- RGP 6 - Maintenance, modification, and construction of residential overwater structures in inland marine waters within the State of Washington.

For each of the RGPs, the Corps has conducted and completed consultation with other federal agencies on provisions of the Endangered Species Act (ESA) Section 7 and Essential Fish Habitat (EFH) provisions and with Ecology on water quality certification, if applicable. Projects that comply with terms and conditions of the RGP are likely to receive Corps approval faster than projects that do not comply with the RGP. Projects that do not comply with the terms and conditions of the RGPs would require ESA and EFH consultation, a process that could take a year or more.

Some local governments are including the Corps' RGP standards, or the standards with some variations, in their SMPs. The City of Kirkland included the Corps' RGP 3 standards for maximum area, length, width, height, minimum water depth, decking materials, and pilings in the SMP, with one exception. Kirkland allows a moorage depth of 10 feet, while the Corps' moorage depth is 9 feet. Therefore, a pier proposed to reach water depths of 10 feet would be consistent with the City's SMP, but would not be consistent with RGP3 and would require the full ESA consultation process.

Washington Department of Fish and Wildlife

The Washington Department of Fish and Wildlife requires Hydraulic Permit Approval (HPA) permits for construction or repair of piers and docks and boat launches, pile driving, and other activities that "will use, divert, obstruct, or change the natural flow or bed of state waters" (Chapter 77.55 RCW). Projects may be approved with conditions to prevent damage to fish habitat. Information about the HPA is available at http://wdfw.wa.gov/licensing/environmental.html.

WDFW's web page on Habitat Restoration and Protection provides links to documents on conserving fish and wildlife, priority habitats and species and other topics.

Washington Department of Natural Resources

The Washington Department of Natural Resources (DNR) is developing an aquatic lands habitat conservation plan (HCP) for all 2.6 million acres of state-owned aquatic lands. The HCP will include avoidance and minimization measures for overwater structures including piers, docks, wharves, boat launches and ramps, boat houses and sheds, floating homes, mooring buoys, nearshore buildings, rafts, floats, marinas, shipyards and terminals. Programmatic measures include protection of freshwater and marine aquatic vegetation; forage fish spawning habitat; and landscape priorities.

DNR expects to begin implementing the HCP mitigation measures as part of its aquatic lands leasing program in 2012. More information is available at the DNR website at http://www.dnr.wa.gov/ResearchScience/Topics/AquaticHCP/Pages/aqr_aquatics_hcp.aspx

Addressing moorage facilities in the SMP

Piers, docks, floats, mooring buoys and the other structures discussed in this document must be addressed in the SMP. Local governments cannot rely on regulations enacted by federal and state agencies. The SMP should state the shoreline environment designations where these structures can be built and establish policies and regulations for construction, repair and maintenance, and redevelopment.

SMP language should be clear and precise. If a permit is appealed, the Shorelines Hearings Boards and the courts will review the SMP to determine whether the proposal is consistent with it. For example, some SMP regulations require applicants to show that existing facilities or alternative moorages are not adequate, or not feasible, as part of their application for a new dock. SMPs should be clear about what is “adequate” or “feasible.” What would applicants need to provide to show this? Can you establish criteria such as distance from the project site to available moorage, drive time to available moorage, or a time period when a marina bertha is available (6 months, or 9 months)?

This section offers some things to think about and examples of policies and regulations from approved SMPs. SMPs approved by Ecology can be found at Ecology’s website at http://www.ecy.wa.gov/programs/sea/shorelines/smp/status.html.

Inventory and characterization

Use your inventory and characterization to help determine where moorage facilities should be located. They are not appropriate everywhere. Consider environmental impacts, ecological functions, navigation, and aesthetics. For example, small coves with limited maneuverability and pristine shorelines perhaps should be off-limits to moorage facilities. Or, the SMP may permit piers and docks in some areas, but prohibit boat houses due to environmental and aesthetic impacts.

Examples

Whatcom County SMP
23.100.09.A 4. Docks, piers and mooring buoys, including those accessory to single family residences, should avoid locations where they will adversely impact shoreline ecological functions or processes, including currents and littoral drift.

23.100.09. C. 8. Natural (shoreline environment): Moorage is prohibited, except public access, interpretive or nature observation facilities that are compatible with the area's physical and visual character may be conditionally permitted subject to policies and regulations of this Program. Covered and floatplane moorage are prohibited.

Douglas County Regional SMP
5.10 Regulations. 23. Moorage facilities shall avoid locations that will adversely impact shoreline ecological functions or processes.

Town of Coupeville SMP
16.30.360.D.9.b.i. Ensure that piers and docks are:

(a) Compatible with the shoreline area where they are located. Consideration should be given to shoreline characteristics, tidal action, aesthetics, ecological functions, and adjacent land and water uses.
(b) Discouraged at locations where critical physical limitations exist, such as shallow, sloping bottoms; areas of frequent high wind, wave, or current exposure; high littoral drift areas; or slide prone and/or feeder bluffs.

16.30.360.D.9.d.i. Piers and docks shall be permitted in the Historic Urban and Urban Aquatic environments for port and commercial water dependent uses and public access uses only subject to the policies and regulations of this master program.

City of Kirkland SMP
Policy SA-8.1: Locate new boating facilities and allow expansion of existing facilities at sites with suitable environmental conditions, shoreline configuration, and access.

City of Redmond SMP
20D.150.70-030(2). Restricted locations. In-water structures shall be located away from critical habitat areas and public access facilities as follows:

a. In-water structures shall not be located in salmon and steelhead spawning areas or freshwater clam beds.
b. Marinas, boat ramps, float plane facilities and community boat docks shall be located a minimum of 100 feet from critical wildlife nesting areas, natural lake beaches, and Category I and II wetlands. Greater buffers may be required pursuant to RCDG 20D.140.20-050, Alteration of Fish and Wildlife Habitat Conservation Areas.
c. Marinas, motorized boat ramps, floatplane facilities, and private docks or piers shall be located a minimum of 100 feet from a public swimming beach.
d. Marinas and boat ramps are prohibited on Bear and Evans Creeks. Marinas are prohibited on the Sammamish River.

e. Floats are allowed on Lake Sammamish only.

Town of Darrington SMP
Boating Facilities – Regulations - 8. Docks and piers shall not be allowed in the Darrington shoreline jurisdiction and are prohibited uses along the Sauk River.

Definitions

Prepare definitions. The SMP Guidelines do not have definitions for moorage facilities, so you are free to write your own. Be careful to make sure that definitions are consistent with each other. It will be helpful to define "normal maintenance and repair" and "reconstruction." If more than 50 percent of the structure needs to be replaced, is that maintenance and repair, or is it reconstruction? What regulations would apply?

Examples

Douglas County Regional SMP
Chapter 8. 70. "Dock" means all platform structures or anchored devices in or floating upon water bodies to provide moorage for pleasure craft or landing for water-dependent recreation including but not limited to floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps. (Note: The definition also includes private, public, joint use and community docks.)

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

83.80.13. Boat Lift: Lifts for motorized boats, kayaks, canoes and jet skis. Includes floating lifts that are designed to not contact the substrate of the Lake; ground-based lifts that are designed to be in contact with or supported by the substrate of the Lake; and suspended lifts that are designed to be affixed to the existing overwater structure with no parts contacting the substrate.

83.270.6. 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.a, except the City may administratively approve an alternative design described in subsection b. below.

Size, location and other specifics

Develop specific regulations regarding size, location, materials and other specifications. Consider whether all uses that are occurring on or near the water need to be there and should be allowed. Could overwater trampolines interfere with navigation? Would boat houses affect shoreline aesthetics? Some SMPs prohibit private docks if public docks or private moorage is available.

Your SMP should address the following uses:

a. Piers and docks: location, length, width, minimum water depth, maximum surface area, height of pier, decking materials, location of ells and fingers, gangways and pilings.
    i. Can ells and fingers reduce the need for long piers and docks?
    ii. If eelgrass is present, piers and docks may need to be longer so that boats are moored away from eelgrass.
    iii. How far apart should piers and docks be from other piers and docks to assure that watercraft have adequate room to maneuver? How far should pier and dock combinations be from property lines?
b. Boat houses: Location, length, width, height, maximum surface area, materials.
c. Recreational floats: Location, moored to substrate or land, accessories such as diving boards and trampolines.
d. Watercraft lifts and canopies: Location, materials, moored to substrate or land.
e. Boat launches/ramps: Location, materials, maximum water depth for end of ramp.
f. Mooring piles and buoys: Location, setbacks from piers or other piles or buoys, moored to substrate or land. Should mooring piles be required in place of piers and docks?
g. Railways: Location, maximum length, materials, attachment to substrate.

Examples

Whatcom County SMP

23.100.09.B.7.b. Docks with or without a float shall be the minimum size required to provide for moorage. Single family docks and floats shall not exceed 40 feet in length measured perpendicularly from the OHWM nor exceed 3 feet in height above the extreme high water level. Shared moorage may extend to 80 feet in length if demonstrated to be necessary to provide adequate moorage. In the case of pile docks at marine or river locations, the height shall be limited to that which may be reasonably necessary to accommodate landing and moorage of watercraft. Commercial docks shall be the minimum length necessary to serve the type of vessel served.

23.100.09.B.8. In order to minimize impacts on nearshore areas and avoid reduction in ambient light level:
a. The width of piers, docks and floats shall be the minimum necessary and shall not exceed 4 feet in width, except where specific information on use patterns justifies a greater width. Marine floats shall not exceed 8 feet in width nor 40 feet in length and freshwater floats shall not exceed 6 feet in width and 20 feet in length unless authorized by a variance. Exceptionally large vessels or vessels that require a relatively deep draft may be required to use a buoy, other alternative mooring scheme, or to moor in a marina. Materials that will allow light to pass through the deck may be required where width exceeds 4 feet.
b. Dock surfaces designed to allow maximum light penetration shall be used on walkways or gangplanks in nearshore areas.

c. Piers, docks and floats shall be located along a north/south orientation to the maximum extent feasible.

City of Kirkland SMP
83.270.4. Maximum Area: surface coverage, including all attached float decking, ramps, ells and fingers
480 sq. ft. for single property owner
700 sq. ft. for joint-use facility used by 2 residential property owners
1000 sq. ft. for joint-use facility used by 3 or more residential property owners

These area limitations shall include platform lifts.
Where a pier cannot reasonably be constructed under the area limitation above to obtain a moorage depth of 10 ft. measured below ordinary high water, an additional 4 sq. ft. of area may be added for each additional foot of pier length needed to reach 10 ft. of water depth at the landward end of the pier, provided that all other area dimensions, such as maximum width and length, have been minimized.

Douglas County SMP
5.10.13. Commercial covered moorage may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be necessary over water, including demonstration that adequate upland sites are not feasible. All other covered moorage is prohibited.

5.10.17. No pier, dock, or watercraft or houseboat moored thereto shall be used for a residence. Boaters may not reside in their vessels for other than short term recreational use, not exceeding 14 days in any sixty day period.

Joint use piers and docks

The SMP Guidelines state that master programs should include provisions to require new residential development of two or more dwellings to provide joint use or community dock facilities. The purpose of joint use docks is to reduce the proliferation of piers and docks. A joint use dock should be shared by shoreline property owners, not a shoreline owner and an upland owner. When will the SMP require joint use docks? When can applicants opt out of this requirement?

Examples

City of Kirkland SMP
83.270.1.b. In the following circumstances, a joint use pier shall be required:
1) On lots subdivided to create one or more additional lots with waterfront access rights.
2) New residential development of two or more dwelling units with waterfront access rights.

Whatcom County SMP
23.100.09.B.3. Shared moorage shall be required in accordance with the following to prevent the proliferation of moorage facilities:

a. Shared moorage shall be provided for all new residential developments of more than two (2) dwelling units. New subdivisions shall contain a restriction on the face of the plat prohibiting individual docks. A site for shared moorage should 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 or other legal instrument that, at minimum, addresses the following:
(1) Apportionment of construction and maintenance expenses;
(2) Easements and liability agreements; and
(3) Use restrictions.
b. On marine shorelines a dock or pier may be approved only if it is not feasible to provide mooring buoys with an adequate landing area or a dock sized to accommodate tenders.
c. Where a multifamily residential development, camping club or subdivision development provides shared moorage, space for the number of waterfront lots or dwelling units may be provided with an additional provision for sites without water frontage up to a ratio of 1.25 moorage spaces per total lots or units.
d. Prior to issuing a permit for shared moorage, a proponent shall file with the Whatcom County Auditor a legally enforceable joint use agreement that at minimum, addresses the following:
(1) Apportionment of construction and maintenance expenses;
(2) Easements and liability agreements; and
(3) Use restrictions

Environmental impacts

Develop policies and regulations that will reduce the impacts of moorage facilities on the shoreline environment. Treated wood should be prohibited in the water. Piles should be spaced to allow drift and wave patterns to continue. Grated decking will allow light to reach the water.

Examples

Whatcom County SMP
23.100.09.B 6. Piers and docks shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions of a pier or dock, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. Piers and docks in lakes providing a public water supply shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete or steel.

23.100.09.B 10. C. 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.

23.100.09.B 20. Storage of fuel, oils, and other toxic materials is prohibited on docks and piers except portable containers when provided with secondary containment.

Town of Coupeville SMP
16.30.360.D.9.c.iii. All docks shall have stops to keep floats off the tidelands at low tide.

Douglas County SMP
5.10 Regulations 7.d. Moorage shall be designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in the original moorage design shall not be grounds for approval of dredging.

5.10 Regulations 24. Applicants for moorage facilities shall provide habitat surveys, critical area studies, and mitigation plans as required by Section 4.1, Ecological Protection and Critical Areas. A slope bathymetry map may be required when deemed beneficial by the Administrator for the review of the project proposal.

City of Redmond SMP
20D.150.70-040(2). Proposals for in-water structures shall mitigate adverse impacts to fisheries, aquatic and wildlife resources, shoreline and native aquatic vegetation, and impacts to other natural shoreline systems. Mitigation may include, but is not limited to, joint use of existing structures, open decking on piers, replacement of non-native vegetation, installation of in-water habitat features, or restoration of shallow water habitat. All proposals for in-water structures, except for single-family residential docks and piers, shall, at a minimum, meet the requirements of RCDG 20D.140.20-060, Riparian Stream Corridor Performance Standards and RCDG 20D.140.30-040, Wetland Performance/Design Standards.

Town of Darrington SMP
Boating Facilities – Regulations - 2. Boat launch ramps shall be located on stable shorelines where water depths are adequate to eliminate or minimize the need for channel maintenance activities.

Commercial and industrial facilities

Policies and regulations should address commercial and industrial facilities if they are present or expected to be developed.

Examples

Douglas County SMP
5.10 Regulations 1.3 Commercial covered moorage may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be necessary over water, including demonstration that adequate upland sites are not feasible. All other covered moorage is prohibited.

Whatcom County SMP
23.100.09.B .4. Commercial docks shall be permitted only for water-dependent uses, and only if the applicant/proponent demonstrates that existing facilities in the vicinity, including marinas and shared moorage, are not adequate or feasible for the proposed water-dependent use.

Navigation and safety

SMP regulations for navigation and safety should address the public's right of navigation and public access, lighting, reflectors, visibility, hazardous structures, spacing and orientation.

Examples

City of Redmond SMP
20.150.70-050(11). Lighting for piers and docks shall be the minimum necessary to locate the dock at night, shall be designed to minimize glare, and shall incorporate cut-off shields or otherwise shall be directed downward toward the dock. Piers, docks and floats that are not lighted shall incorporate reflectors for nighttime visibility.

20.150.70.040(7). In-water structures shall not interfere with the public's right of navigation. Where in-water structures are located adjacent to public piers, public beaches, or other public openspace, such structures shall provide or enhance public access commensurate with the scale of the project's impacts to public access.

Whatcom County SMP
23.100.09.A. 5. Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating, as well as private riparian rights of adjacent land owners.

23.100.09.B.11. Moorage buoys shall be placed at a distance specified by the Washington Department of Fish and Wildlife, the Washington Department of Natural Resources, and the U.S. Coast Guard to balance the goals of avoiding nearshore habitat and minimizing obstruction to navigation. Anchors and other design features shall meet Washington Department of Fish and Wildlife standards.

City of Marysville SMP
Chapter 5, B. 3 –Piers and Docks. C. Regulations 5. The length of piers and docks shall be limited in constricted water bodies to assure navigability and protect public use. The City may design or require reconfiguration of pier and dock proposals where necessary to protect navigation, public use, or ecological functions.

Regulations 6. All piers and docks shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe docks and piers shall be removed or repaired promptly by the owner. Where any such structure constitutes a hazard to the public, the City may, following notice to the owner, abate the structure if the owner fails to do so

within ninety days and may impose a lien on the related shoreline property in an amount equal to the cost of the abatement.

Cumulative impacts analysis

The cumulative impacts analysis must address the draft environment designations, policies and regulations regarding moorage facilities. How will you achieve no net loss of shoreline ecological functions? (See Chapter 4, No Net Loss.) Will your shoreline reach a "tipping point" where additional moorage facilities should be prohibited?

Examples

City of Redmond SMP
20D.150.70-040(1). Proposals for in-water structures shall provide a pre-construction habitat evaluation, including an evaluation of salmon and steelhead habitat, freshwater clam habitat, and critical wildlife habitat, and a post-construction monitoring plan. They shall also include an evaluation of shoreline ecological functions and demonstrate how the project achieves no net loss of shoreline ecological functions.

Other issues

Other regulatory issues covered in SMPs include moorage for float planes and maximum time limits for boat occupancy.

Examples

Whatcom County SMP
23.100.09.B.5 Private moorage for float planes may be permitted as a conditional use where construction will not adversely affect shoreline functions or processes, including wildlife use. Ecological restoration may be required to compensate for the greater intensity of activity associated with the use.

Douglas County SMP
5.10 Regulations 5. Private moorage for float planes may be permitted accessory to existing or concurrently proposed moorage where construction would not adversely affect shoreline functions or processes, including wildlife use. Ecological restoration may be required to compensate for the greater intensity of activity associated with the use. An analysis of potential life and navigation safety impacts shall be required in addition to the inclusion of necessary avoidance or mitigation measures by a qualified professional.

5.10 Regulations 17. No pier, dock, or watercraft or houseboat moored thereto shall be used for a residence. Boaters may not reside in their vessels for other than short term recreational use, not exceeding 14 days in any sixty day period.

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Washington Department of Natural Resources 2009 Overwater Structures Project.

Reducing environmental impacts of overwater structures

Recommendations from Washington Department of Natural Resources

The Department of Natural Resources may apply some of the following habitat stewardship measures on a site-specific basis to its lease holders.

1. No creosote, chromate copper arsenate, or pentachlorophenol treated wood, or other comparably toxic compounds should be used as part of the decking, pilings, or other components of any in-water structures such as docks, piers, rafts, and floats. Treated wood should only be used for above water structural framing and should not be used as decking, pilings or for any other uses.

2. During maintenance, existing treated wood should be replaced with alternative materials such as untreated wood, steel, concrete, or recycled plastic, or encased in a manner that prevents metals, hydrocarbons and other toxins from leaching out.

3. Tires are prohibited as part of above and below water structures or where tires could potentially come in contact with the water (e.g., floatation, fenders, hinges). Existing tires used for floatation should be replaced with inert or encapsulated materials such as plastic or encased foam, during maintenance or repair of the structure.

4. All foam material whether used for floatation or for any other purpose must be encapsulated within a shell that prevents breakup or loss of the foam material into the water and is not readily subject to damage by ultraviolet radiation or abrasion. During maintenance, existing un-encapsulated foam material must be removed or replaced.

5. To prevent scouring of the substrate, power-assisted pressure washing or cleaning of equipment, machinery, or structures in water less than 2 meters (7 feet) deep should be prohibited. In addition, equipment that contains or is covered with petroleum based products should not be pressure washed in or over the water.

6. New covered moorage and boat houses are not allowed. Where existing covered moorage, covered watercraft lifts and boathouses are impacting or occur within important habitats for protected species and their prey, the structures should either be removed by the end of the life of the structure or moved out of the nearshore and littoral areas. In areas not identified as predicted habitat for protected species or their prey, the structures should be replaced or renovated with structures that maximize light transmission. Where covered moorage and covered watercraft lifts are allowed to continue, the replacement structures should be 100 percent translucent or transparent roofing materials that are rated by the manufacturer as having 90 percent or better light transmittance. No side walls or barrier curtains should be allowed.

7. Artificial night lighting should be minimized by focusing the light on the dock surface, and using shades that minimize illumination of the surrounding environment.

8. Species work windows must be used for the timing of any in-water construction, operation or maintenance activities, and to protect protected species and forage fish during sensitive life history phases (e.g., reproduction, migration). In air construction, operation, or maintenance activities may require species work windows to address terrestrial species that use the aquatic environment or where activities occur in proximity to nesting or foraging habitat.

9. New or expanded uses or structures should not be authorized in important habitats for protected species. Important habitats are areas which support key ecological or habitat functions, processes, or elements vital to protected species. These areas include the presence of aquatic vegetation, forage fish spawning or known or predicted habitat for protected species whose state populations are extremely vulnerable, or have small home ranges.

10. All new activities and structures should avoid existing, native aquatic vegetation attached to or rooted in the substrate.

11. New and expanded docks, piers, rafts, and floats should be at least a specified buffer distance from existing native aquatic vegetation attached to or rooted in substrate. The buffer distance for structures docks, piers, wharves, rafts and floats not associated with motorized watercraft suggested is either 8 meters (25 feet) from the edge of the structure or the maximum distance shade will be cast by the structure, whichever is larger. For docks, piers, rafts and floats associated with motorized watercraft, the horizontal buffer distance for structures associated with watercraft suggested is 8 meters (25 feet) from the outside of the vessel whenever there is a vertical buffer of 2 meters (7 feet) of water above the vegetative canopy at the lowest low water within the diameter of the turning circle. When the vertical buffer is less than 2 meters (7 feet) within the diameter of the turning circle, the horizontal buffer distance suggested will be either 8 meters (25 feet) from the outside of the vessel, the maximum distance shade will be cast by the structure, or the diameter of the turning circle, whichever is greater. For this measure the turning circle is defined as 3.5 times the length of the longest vessel to use the structure.

12. Existing docks, piers, rafts and floats that are not located at the appropriate buffer distance from existing native aquatic vegetation attached to or rooted in substrate should be moved, or renovated so that they allow at least 30 percent of ambient light to reach the vegetative canopy. The value of 30 percent was chosen because it is the minimum light value required by vegetation. Timeframes for relocation and renovation should be based on the expected lifespan of the materials used in the structure. Ambient light is measured as the amount of light between the wavelengths of 400 to 700 nanometers, the photosynthetically active range.

13. New or reconfigured structures must be sited to avoid impacts to documented forage fish habitat. In addition, construction and operational activities associated with the authorization must be conducted in a manner that does not affect spawning behavior; disturb spawning substrate or sediment sources that support spawning; or reduce the amount or availability of aquatic vegetation used for spawning. Promote practices which maintain and establish nearshore riparian shading in upper intertidal spawning areas. In areas of documented and/or surveyed eulachon, sand lance and surf smelt spawning beds, new piers should have spans of 12 meters (40 feet) from the shoreline (extreme high water to ordinary high water) waterward to the placement of the first piling to avoid placing pilings in forage fish spawning areas. The distance of 12 meters (40 feet) is based on engineering limitations.

14. In areas that have not been documented as spawning sites, but with characteristics that would support forage fish spawning, existing uses, and proponents of new uses should be required to conduct surveys to determine if the site is used for spawning. Surveys should be conducted by consultants or staff trained and certified in forage fish spawning survey protocols. Surveys should be conducted over a two year period throughout the assumed local spawning season. Implementation of forage fish protections if no spawning is detected in two consecutive survey years should be lifted. If the proponent is unwilling to bear the time and expense of such a survey, the project must be designed and operated under the presumption that forage fish spawning does occur at the site.

15. Existing uses that are located in or adjacent to documented forage fish spawning areas, or spawning areas determined by survey, should be required to develop and carry out a plan to minimize impacts resulting from the use or structure. The specifics of the plan and the timeframe for implementation should be determined and documented in the agreement authorizing use of the site by qualified staff based on site-specific factors. The plan should include the following: Work windows for all in-water construction or operational work excluding vessel movement. Proponents should have the option of conducting forage fish spawning surveys to establish site specific work windows within the generalized windows. For work to proceed, the survey must result in no occurrence of viable forage fish eggs. Surveys must be conducted daily during the proposed work period and before work can proceed. Surveys must be conducted by consultants or staff trained and certified in forage fish spawning survey protocols. If the proponent is unwilling to bear the time and expense of such a survey, all in- water work must occur within the generalized work windows. Detailed descriptions of the anticipated affects and how each affect will be minimized are required.

16. For sites adjacent to sand lance and surf smelt spawning areas, all in-water work that has the potential to increase suspended sediments in the spawning area during the spawning period, should require a buffer of at least 0.6 meters (2 feet) vertical separation from the tidal elevation of the spawning bed or a buffer of 55 meters (180) feet horizontal distance from the lower edge of the surf smelt/sand lance spawning habitat zone. In-water work should occur during an outgoing tide when the water line is below the lower edge of a surf smelt/sand lance spawning habitat zone (1.5 to 1.8 meters or 5 to 6 feet MLLW).

17. New structures and facilities should be designed and located so no new bulkheading or armoring of the shoreline is necessary.

18. Enclosed structures, such as boat houses and covered moorage, should be removed where they impact important habitats for protected species.

19. Floating or suspended watercraft lifts should be located greater than 2.7 meters (9 feet) waterward from ordinary high water. For covered watercraft lifts, the lowest edge of the canopy should be at least 2.5 meters (8 feet) above the ordinary high water elevation with the canopy oriented in a north-south direction to the maximum extent practicable. While joint use watercraft lifts are encouraged, only one canopy should be authorized for each lift.

20. To prevent prop scour, boat mooring areas for new docks, piers, mooring buoys, rafts and floats should be located where the water will be deeper than 2 meters (7 feet) at the lowest low water, or where it can be shown that prop scour will not adversely impact aquatic vegetation or increase suspended sediment loads.

21. Floating structures and boats should not rest on the substrate. Specific requirements include:
    a. New overwater structures should be located in water sufficiently deep to prevent the structure from grounding at the lowest low water, or stoppers must be installed to prevent grounding, keeping the bottom of the structure at least 1.5 feet (0.5 meters) above the level of the substrate.
    b. Floats, rafts and mooring buoys should use embedded anchors and midline floats to prevent dragging of anchors or lines.
    c. Boat anchorage systems must be deployed in a manner that prevents dragging of the vessel or line. Midline floats or other technologies which prevent the line from dragging and scouring must be used on anchor lines.
    d. Watercraft lifts may not be ground based or ground out at any time. Lifts which ground should be removed.

22. Grounding of boats and the need for dredging must be avoided through the use of naturally deep water. The specific measures which will apply to all authorizations include:
    a. Locating slips for deeper draft boats in deeper water, or mooring deeper draft boats offshore.
    b. Extending piers and docks into naturally deep water.
    c. Situating mooring buoys in water deep enough that vessels do not ground at lowest low water.
    d. Orienting new construction or expansions of complex facilities so that entrances align with natural channels.

23. The portions of piers, elevated docks, and gangways that are over the nearshore/littoral area should have unobstructed grating over at least 50 percent of the surface area. Floating docks 1.5 meters (5 feet) or greater in width, should have unobstructed grating over at least 50 percent of the surface. Floating docks less than 1.5 meters (5 feet) in width should have unobstructed grating over at least 30 percent of the surface. All grating material should have at least 60 percent functional open space. Grating requirements could also be met if the combination of grated surface area and grating open space are equal to or better than the above standards.

24. New or renovated ramps and launches should be an elevated design of sufficient height off the substrate within the nearshore area to minimize the obstruction of currents, alteration of sediment transport, and eliminate the accumulation of drift logs and debris under the ramps or be level with the beach slope within the nearshore area. In instances where the substrate is suitable for forage fish spawning, the structure should also span the spawning area.

25. Gangways should incorporate 100 percent grating with 60 percent functional open space.

26. Skirting should be prohibited. When existing structures undergo maintenance or repair the replaced portions must meet these standards.

DATA SOURCES FOR CITY OF LAKE STEVENS INVENTORY AND ANALYSIS REPORT

Preliminary List of Information Sources by Topic

Multi-Topic General Reference Materials/GIS Sources

Snohomish County GIS, 2009

Snohomish Basin Salmon Recovery Forum (WRIA 7). 2001. Snohomish River Basin Chinook Salmon Near Term Action Agenda. December 2001.
http://www.co.snohomish.wa.us/documents/Departments/Public_Works/surfacewatermanagement/aquatichabitat/salmon/snohomish/near_term_actions/fulldoc.pdf

Snohomish River Basin Salmonid Recovery Technical Committee (WRIA 7). 2002. Snohomish River Basin Salmonid Habitat Conditions Review. September 2002.
http://www.co.snohomish.wa.us/documents/Departments/Public_Works/surfacewatermanagement/aquatichabitat/salmon/snohomish/hab_conditions/FullDoc.pdf

Snohomish Basin Salmon Recovery Forum (WRIA 7). 2005. Snohomish River Basin Salmon Conversation Plan Final. June 2005.
http://www1.co.snohomish.wa.us/Departments/Public_Works/Divisions/SWM/Work_Areas/Habitat/Salmon/Snohomish/Snohomish_Basin_Salmon_Conservation_Plan.htm

Critical Areas

Wetlands

Washington Department of Fish and Wildlife. 2009. Priority Habitats and Species database search results prepared for The Watershed Company, 30 September 2009.

Geologically Hazardous Areas

Snohomish County GIS, 2009

Fish and Wildlife Habitat/Priority Species

Snohomish County Surface Water Management Division. 2009. 2008 State of the Lake Update: Lake Stevens. June 2009.
http://www.co.snohomish.wa.us/documents/Departments/Public_Works/surfacewatermanagement/lake/stevensupdate.pdf

Snohomish County Surface Water Management Division. 2002. Salmonid Habitat Limiting Factors Analysis, Snohomish River Watershed – WRIA 7. December 2002.
http://www1.co.snohomish.wa.us/Departments/Public_Works/Divisions/SWM/Library/Publications/Aquatic_Habitat/Salmon/SalmonidHabitatLimitingFactorsAnalysis.htm

Washington Department of Fish and Wildlife. 2009. Priority Habitats and Species database search results prepared for The Watershed Company, 30 September 2009.

City of Lake Stevens - Inventory and Characterization Data Sources

Washington Department of Fisheries, Washington Department of Wildlife, and Western Washington Treaty Indian Tribes. 1993. 1992 Washington State salmon and steelhead stock inventory. March 1993. Olympia, WA. 212 p.

Williams, R.W., R.M. Laramie, and J.J. Ames. 1975. A Catalog of Washington Streams and Salmon Utilization, Vol. 1, Puget Sound Region. Washington Department of Fisheries.

Land Use

City of Lake Stevens CAD.

City of Lake Stevens. 2008. City of Lake Stevens Comprehensive Plan.
City of Lake Stevens. 2008. Zoning Map

Stormwater/Wastewater Utilities
City of Lake Stevens. 2008. City of Lake Stevens Comprehensive Plan.
Snohomish County Surface Water Management Division GIS, 2009.

Floodplains and Channel Migration Zones
Federal Emergency Management Agency (FEMA). 1999. Flood Insurance Rate Map (FIRM).
Snohomish County, Washington and Incorporated Areas, panels 739, 740 & 1055 of 1575.

Historical or Archaeological Sites
Washington Department of Archaeology & Historic Preservation.
http://www.dahp.wa.gov/pages/wisaardIntro.htm

Transportation
City of Lake Stevens. 2008. City of Lake Stevens Comprehensive Plan.
City of Lake Stevens. Six Year Capital Improvement Program. 2009 - 2014.
Snohomish County GIS, 2009

Impervious Surfaces
Snohomish County GIS, 2009
U.S. Geological Survey

Shoreline Modifications
Washington Department of Natural Resources. GIS overwater cover data.
Snohomish County Surface Water Management Division GIS, 2009.
City of Lake Stevens - Inventory and Characterization Data Sources

Parks/Existing and Potential Public Access Sites
City of Lake Stevens. 2008. City of Lake Stevens Comprehensive Plan.
Snohomish County GIS, 2009.

Opportunity Areas
Snohomish Basin Salmon Recovery Forum (WRIA 7). 2005. Snohomish River Basin Salmon Conversation Plan Final. June 2005.
http://www1.co.snohomish.wa.us/Departments/Public_Works/Divisions/SWM/Work_Areas/Habitat/Salmon/Snohomish/Snohomish_Basin_Salmon_Conservation_Plan.htm

Inventory & Analysis Report; Table 2. Summary of Inventory by Assessment Unit.

Inventory Element	Shoreline Assessment Unit					
	Lake Stevens			Catherine Creek		Little Pilchuck Creek
	Residential – City Limits	Residential – UGA	Wetland Complexes – Stevens Creek and Stitch Lake	City Limits	UGA	UGA
Assessment Unit Dimensions	• 29,818 linear feet of shoreline frontage • 144.5 acres	• 7,557 linear feet of shoreline frontage • 39.3 acres	• 94.5 acres	• 3,212 linear feet of shoreline frontage • 30.4 acres	• 2,165 linear feet of shoreline frontage • 19.9 acres	• 3,353 linear feet of shoreline frontage • 33.6 acres
Zoning	• Waterfront Residential - 84% • Suburban Residential - 6% • Public / Semi-Public - 5% • No Zone - 2% • Urban Residential - 1% • Mixed Use - 1% • Local Business - 1% • Central Business District - 1% • High Urban Residential - <1%	• Residential 9,600 – 100%	• Suburban Residential - 88% • No Zone - 5% • Multi-Family Residential - 4% • Waterfront Residential - 2%	• Urban Residential - 71% • Public / Semi-Public - 13% • Light Industrial – 9% • Suburban Residential - 3% • No Zone - 3%	• Residential 20,000 - 98% • No Zone - 1% • Suburban Residential - 1%	• Residential 20,000 - 59% • Heavy Industrial - 25% • Business Park - 6% • Residential 9,600 - 5% • Public / Semi-Public - 3% • No Zone - 2% • General Industrial - <1%
Comprehensive Plan	• Waterfront Residential - 83% • Med Density Residential - 8% • Public / Semi-Public - 5% • Downtown / Local Commerce - 1% • No Land Use - 1% • Mixed Use - 1% • High Density Residential - 1% • Urban Low Density Residential (4 DU/Acre) - <1%	• Urban Low Density Residential (4 DU/Acre) - 85% • No Land Use - 15% • Waterfront Residential - <1%	• High Density Residential - 58% • Med Density Residential - 35% • Urban Low Density Residential (4 DU/Acre) - 5% • Waterfront Residential - 2% • No Land Use - <1%	• Med Density Residential - 75% • Public / Semi-Public - 14% • Light Industrial - 9% • Urban Low Density Residential (4 DU/Acre) - 2% • No Land Use - 1%	• Urban Low Density Residential (4 DU/Acre) - 99% • Med Density Residential - 1% • No Land Use - <1%	• Urban Low Density Residential (4 DU/Acre) - 47% • Urban Industrial - 33% • Public/Institutional Use - 18% • General Industrial - 3% • No Land Use - <1%
Impervious Surface	37%	28%	4%	24%	9%	8%
Terrestrial Vegetation	• Developed, Low Intensity - 78% • North Pacific Maritime Mesic-Wet Douglas-fir-Western Hemlock Forest - 13% • North Pacific Shrub Swamp - 3% • Unconsolidated Shore - 2% • North Pacific Lowland Riparian Forest and Shrubland - 2% • Harvested forest-grass regeneration - 1% • Developed, High Intensity - 1% • Temperate Pacific Freshwater Emergent Marsh - <1% • North Pacific Maritime Dry-	• North Pacific Maritime Mesic-Wet Douglas-fir-Western Hemlock Forest - 59% • North Pacific Maritime Dry-Mesic Douglas-fir-Western Hemlock Forest - 24% • Developed, High Intensity - 11% • Unconsolidated Shore - 4% • Harvested forest-grass regeneration - 3% • Developed, Low Intensity - <1% • North Pacific Shrub Swamp - <1% • North Pacific Lowland Riparian Forest and Shrubland - <1%	• North Pacific Shrub Swamp - 31% • North Pacific Lowland Riparian Forest and Shrubland - 29% • North Pacific Maritime Mesic-Wet Douglas-fir-Western Hemlock Forest - 18% • Developed, Low Intensity - 7% • Open Water - 7% • North Pacific Maritime Dry-Mesic Douglas-fir-Western Hemlock Forest - 4% • Temperate Pacific Freshwater Emergent Marsh - 3% • Harvested forest-shrub	• Developed, Low Intensity - 66% • North Pacific Maritime Dry-Mesic Douglas-fir-Western Hemlock Forest - 18% • North Pacific Maritime Mesic-Wet Douglas-fir-Western Hemlock Forest - 12% • North Pacific Lowland Riparian Forest and Shrubland - 2% • Harvested forest-shrub regeneration - 1% • Harvested forest-grass regeneration - <1% • Temperate Pacific Freshwater Emergent Marsh - <1% • North Pacific Dry Douglas-fir-	• North Pacific Lowland Riparian Forest and Shrubland - 54% • Developed, Low Intensity - 20% • Harvested forest-shrub regeneration - 16% • Harvested forest-grass regeneration - 5% • North Pacific Shrub Swamp - 3% • Pasture/Hay - 1% • North Pacific Dry Douglas-fir-(Madrone) Forest - <1% • Temperate Pacific Freshwater Emergent Marsh - <1%	• North Pacific Lowland Riparian Forest and Shrubland - 46% • Developed, Low Intensity - 18% • North Pacific Maritime Mesic-Wet Douglas-fir-Western Hemlock Forest - 11% • Harvested forest-shrub regeneration - 10% • North Pacific Dry Douglas-fir-(Madrone) Forest - 4% • Harvested forest-grass regeneration - 4% • North Pacific Maritime Dry-Mesic Douglas-fir-Western Hemlock Forest - 3% • Pasture/Hay - 3% • North Pacific Shrub Swamp -

Inventory Element	Shoreline Assessment Unit					
	Lake Stevens			Catherine Creek		Little Pilchuck Creek
	Residential – City Limits	Residential – UGA	Wetland Complexes – Stevens Creek and Stitch Lake	City Limits	UGA	UGA
	Mesic Douglas-fir-Western Hemlock Forest - <1%	• Temperate Pacific Freshwater Emergent Marsh - <1%	regeneration - 1% • Pasture/Hay - <1% • Harvested forest-grass regeneration - <1%	(Madrone) Forest - <1%		2%
Aquatic Vegetation	• Eurasian Watermilfoil - 42 acres • Thin-leaf pondweed/Grassy pondweed - 38 acres • Common elodea/Thin-leaf pondweed/Grassy pondweed/Naiad - 27 acres • Thin-leaf pondweed/Grassy pondweed/Brittlewort – 18 acres	• Thin-leaf pondweed/Grassy pondweed - 15 acres • Common elodea/Thin-leaf pondweed/Grassy pondweed/Naiad - 6 acres • Eurasian Watermilfoil - 4 acres	NA	NA	NA	NA
Overwater Cover	430,072 SF (9.9 acres) 14 SF/linear foot of shoreline	100,170 SF (2.3 acres) 13 SF/linear foot of shoreline	NA	NA	NA	NA
Shoreline Armoring	• Bulkhead - 62% • Revetment - 20% • Not Armored - 17% • Fill - 1% • Boat Ramp - 0.3%	• Bulkhead - 47% • Not Armored - 29% • Revetment - 22% • Fill - 1%	NA	NA	NA	NA
Public Access	• Wyatt Park • Lundeen County Park • Swim Beach • North Cove Park	• Sunset Park	No formal physical access, visual access from private properties and roadways	• Lake Stevens School District Property (Catherine Creek Park)	No formal physical access, visual access from roadway	• Centennial Trail
Critical Areas	• Floodplain – 18% • Priority Habitats: bald eagle buffer - 26% • Priority Species – coho salmon • Steep slopes – 11 % • Wetlands – 23%	• Floodplain – 30% • Priority Habitats: wetlands - 9% • Priority Species – coho salmon • Wetlands – 35%	• Priority Habitats: bald eagle buffer - 3%, wetlands - 54% • Priority Species – coho salmon, great blue heron colony • Wetlands – 100%	• Floodplains – 38 % • Priority Habitats: wetlands - 29%, riparian zones -17% • Priority Species – coho salmon, bull trout, steelhead, resident coast cutthroat • Wetlands – 3%	• Floodplains – 57 % • Priority Habitats: riparian zones - 64% • Priority Species – coho salmon, bull trout, steelhead, resident coast cutthroat • Wetlands – 5%	• Floodplains – 46 % • Priority Habitats: riparian zones - 52% • Priority Species – coho salmon, bull trout, steelhead, resident coast cutthroat • Wetlands – 8%
Impaired Waters (303d/305b)	• Invasive exotic species • Total phosphorus	• Invasive exotic species • Total phosphorus	None	None	• Fecal coliform • pH • Temperature	• Bioassessment • Dissolved oxygen • Fecal coliform • pH

Inventory & Analysis Report; Table 3. Function Summary of Lake Stevens Residential – City Limits and UGA

Lake Stevens Residential – City Limits and UGA	
Shoreline Processes and Functions within Assessment Unit	**Alterations and Assessment of Functions**
Hydrologic	
Storing water and sediment	LOW-MODERATE: The lake of course provides excellent water and sediment storage functions. However, the uplands surrounding the lake within Shoreline jurisdiction have low water and sediment storage functions. Impervious surfaces and compact managed lawns interfere with infiltration of precipitation and rapidly send water "downstream." Wetlands and other natural water and sediment storage features are generally lacking (see Table 4 for summary of the Lake Stevens Wetland Complexes – Stevens Creek and Stitch Lake assessment unit).
Attenuating wave energy	MODERATE: Bulkheading and other shoreline modifications have replaced native vegetation and natural woody debris as the features attenuating wave energy. Shoreline erosion is therefore not known to be a serious problem on the lake.
Removing excess nutrients and toxic compounds	LOW: The lake is surrounded by intensively landscaped lakefront homes. The upland shoreline areas are more often a source of nutrients and toxic compounds, via lawn treatment runoff (pesticides, fertilizers, herbicides), pet wastes, road and construction site runoff (hydrocarbons, metals, sediment), and septic systems. The lake is on Ecology's 303d list for total phosphorus (Category 2). An aeration system (the world's largest at the time) installed in 1994 cycles oxygen into the deeper layers of the lake, which would otherwise be depleted of oxygen and thereby initiating a chemical reaction that releases the phosphorus bound to sediments. However, iron in the system appears to be the new limiting factor affecting the capacity of the sediments to bind phosphorus. Phosphorus levels in deep water are now rising with the continued inputs of phosphorus (Snohomish County SWM 2009).
Recruitment of LWD and other organic material	LOW: Dense residential development and other upland modifications restrict the ability of the lake to recruit LWD and organic material.
Vegetation	
Temperature regulation	LOW: Lack of dense shoreline vegetation nearly eliminates potential for some shading of the shallow-water nearshore area. Vegetation is less effective at shading west- and south-facing shoreline areas due to afternoon sun from the southwest.
Water quality improvement	LOW: Residential areas surround the lake and are dominated by lawn and landscaping rather than dense buffers of native lakeside vegetation. These residential landscapes are sources of water quality contaminants

Lake Stevens Residential – City Limits and UGA	
Shoreline Processes and Functions within Assessment Unit	**Alterations and Assessment of Functions**
	such as fertilizers, herbicides and pesticides. In addition to the typical residential landscaping pollutants, runoff from surrounding urban areas carries hydrocarbons, metals, sediments, and other pollutants to the lake from roads, parking lots, and other developed areas. The increasing community of aquatic macrophytes may help reduce the rate of increase of in-lake phosphorus that feeds algal blooms (SCSWM 2009).
Attenuating wave energy	LOW: In its pre-development condition, the lake was ringed with emergent wetlands and mature mixed-forest communities. Those communities are now almost entirely absent around the lakeshore, so vegetation does not provide any significant wave attenuation function. As mentioned above, bulkheading and other shoreline modifications have replaced native vegetation and natural woody debris as the features in place to reduce the effects of wave energy on uplands. The increasingly dense aquatic vegetation communities in the nearshore areas may, however, be moderating some of the wave energy.
Sediment removal and bank stabilization	LOW: Under natural conditions, there would be an ongoing, underlying rate of shoreline erosion, which would contribute to maintaining substrate conditions. This rate would be partially determined and moderated by the presence of shoreline vegetation whose root systems would tend to hold bank material in place. Instead, the lake shore now has little shoreline vegetation and a large proportion of it is armored. While this “stabilizes” the banks, it limits natural recruitment of lakebed materials.
LWD and organic matter recruitment	LOW: Again, the loss of natural, forested shoreline vegetation and its replacement primarily with lawn and other types of landscaping has nearly eliminated LWD and organic matter recruitment potential along the lake shore. Any trees or LWD that enter the lake are likely to be quickly removed out of concern for safety or to reduce the risk of property damage. The vegetated portion of Lundeen Park is a notable exception.
Habitat	
Physical space and conditions for life history	LOW: Under natural conditions, the lake bottom would gradually rise in a shallow wedge such that incoming waves would roll up the bottom and onto the shore, losing energy. This reduced energy environment would be more hospitable to emergent vegetation, which further attenuates wave energy and provides a refuge for small fish and amphibians. Shallow nearshore areas in lakes typically provide rearing, foraging and migration habitat for fish. Shoreline armoring, however, generally reduces this low-energy shallow-water environment, creating a deeper, more turbulent nearshore area that is less hospitable to small fish and amphibians, as well as to emergent vegetation. The deeper water may also allow larger fish predators to prey on small fish. The absence of dense shoreline vegetation is a limiting factor in terrestrial species’ (birds, mammals, amphibians) use of the shoreline, since cover, food, nesting sites, travel corridors, etc. are limited or largely absent.

Lake Stevens Residential – City Limits and UGA	
Shoreline Processes and Functions within Assessment Unit	**Alterations and Assessment of Functions**
Food production and delivery	LOW: Food production from the uplands is limited by the lack of native seed- and fruit-bearing vegetation. This may be made up for, in part, by fruit trees and other non-native vegetation in yards which supplies some food for wildlife. Not only does native upland vegetation provide food directly for terrestrial wildlife, but it is a source of insects and other organic matter that drop into the water to provide food for fish and other aquatic life. The historical emergent wetland areas that are now reduced or absent also provided productive foraging areas for small mammals, wading birds and waterfowl.
Summary	Accounting for the existing hydrologic, vegetative, and habitat conditions within the shoreline surrounding Lake Stevens (not including the associated wetlands of Stevens Creek and Stitch Lake), the overall shoreline ecological function is considered LOW.

Cumulative Impact Analysis; Table 5. General Cumulative Impacts Assessment.

Shoreline Segment	Existing Conditions	Likely Development / Functions or Processes Potentially Impacted	Effect of SMP Provisions	Effect of Other Development and Restoration Activities / Programs	Net Effect
High Intensity					
Lake Stevens	The High Intensity area along Lake Stevens consists of one parcel with approximately 195 feet of shoreline. The parcel is developed with a commercial office building (currently vacant) and associated paved parking area and pier.	**Future Development:** It is likely that the High Intensity area along the Lake Stevens shoreline could redevelop with commercial uses. **Functions/Processes Impacted:** Water Quantity: No changes to water quantity are expected, as the site is nearly 100 percent impervious. Stormwater management requirements will be necessary to help alleviate water quantity impacts. Water Quality: Future redevelopment would likely provide improvements to water quality by improving shoreline vegetation and surface water management. Vegetation and Habitat: Given the cleared and very developed nature of the parcel, future degradation of shoreline vegetation is not anticipated. Future redevelopment should include enhancement of shoreline vegetation.	SMP policies for the "High Intensity" environment (SMP **Section 2.C.2.c)** include: • "In regulating uses in the "High-Intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses." • "Developments in the "High-Intensity" environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses." • "Existing public access ways should not be blocked or diminished." • "Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers. These objectives may be implemented either through this SMP or other City ordinances." • "In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, shoreline restoration and/or public access, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas should be encouraged." SMP development regulations include, for Commercial uses (SMP **Section 5.C.4.c**): • "Commercial development shall be designed to avoid or minimize ecological impacts, to protect human health and safety, and to avoid significant adverse impacts to surrounding uses and the shoreline's visual qualities, such as views to the waterfront and the natural appearance of the shoreline." • "All commercial loading and service areas shall be located or screened to minimize adverse impacts to the shoreline environment." • "Commercial development and accessory uses must conform to the setback and height standards established in Section B "Development Standards Matrix" in this	Any in- or over-water proposals would require review not only by the City of Lake Stevens, but also by the Washington Department of Fish and Wildlife (WDFW). A project that includes in-water fill would require review and permitting from the U.S. Army Corps of Engineers (Corps), and the Washington Department of Ecology. Each of these agencies is charged with regulating and/or protecting shorelines and the waters of Lake Stevens, and would impose certain design or mitigation requirements on applicants. Restoration opportunities available at the site include enhancement of native shoreline vegetation for both terrestrial and aquatic habitat, removal of small amount of shoreline armoring, reduction in surface water runoff and improvement in infiltration capacity.	Unmitigated new development in this area has the potential to further degrade the baseline condition. Strict implementation of the SMP will be needed to minimize impacts, and is expected to result in the long-term improvement in ecological function.

Shoreline Segment	Existing Conditions	Likely Development / Functions or Processes Potentially Impacted	Effect of SMP Provisions	Effect of Other Development and Restoration Activities / Programs	Net Effect
			Chapter." • "Low Impact Development (LID) techniques shall be incorporated where appropriate." Commercial development shall be setback 60-feet from the Lake Stevens shoreline (SMP **Section 5.B**). For Industrial uses (SMP **Section 5.C.5.2**): • "The amount of impervious surface shall be the minimum necessary to provide for the intended use. The remaining land area shall be landscaped with native plants according to Chapter 3 Section B.11.c.5." • "Water-dependent industry shall be located and designed to minimize the need for initial and/or continual dredging, filling, spoil disposal, and other harbor and channel maintenance activities." • "Storage and disposal of industrial wastes is prohibited within shoreline jurisdiction; PROVIDED, that wastewater treatment systems may be allowed in shoreline jurisdiction if alternate, inland areas have been adequately proven infeasible." • "Display and other exterior lighting shall be designed, shielded, and operated to avoid illuminating the water surface." • "All industrial loading and service areas shall be located or screened to minimize adverse impacts to the shoreline environment (including visual impacts) and public access facilities." • "Low Impact Development (LID) techniques shall be incorporated where appropriate. Industrial development shall be setback 60-feet from the Lake Stevens shoreline (SMP **Section 5.B**).		
Catherine Creek	One parcel along Catherine Creek makes up the High Intensity environment. The parcel is owned by the City of Lake Stevens and is primarily undeveloped, with the exception of a paved parking area associated with the Hartford Industrial Park.	**Future Development:** It is likely that the High Intensity area along Catherine Creek could, over time, develop into commercial or light industrial uses. **Functions/Processes Impacted:** Water Quantity: Slight changes to water quantity related to surface runoff may increase with more commercial/industrial development. However, all future development would adhere to stormwater management requirements.	Same policies and regulations as above for High Intensity – Lake Stevens. Further, the commercial and industrial building setback in these areas is 160 feet. The accessory parking setback is 70 feet. (SMP **Section 5.B**).	Same State and Federal implications as outlined above for High Intensity – Lake Stevens. As identified in the Shoreline Restoration Plan (Appendix B of the SMP), several opportunities for improvements to shoreline ecological function exist: • Enhancing large woody debris (LWD) recruitment; promoting natural LWD recruitment; • Promoting pool, riffle and gravel bar development;	New development has the potential to degrade the baseline condition in these areas. This may include loss of vegetation and increase in impervious surfaces. Strict adherence to the SMP and critical areas regulations are necessary to ensure no net loss of functions in this area.

Shoreline Segment	Existing Conditions	Likely Development / Functions or Processes Potentially Impacted	Effect of SMP Provisions	Effect of Other Development and Restoration Activities / Programs	Net Effect
		Water Quality: Future development of commercial/industrial uses may impact water quality increasing the likely application of chemicals, fertilizers and pesticides. Vegetation and Habitat: Preservation and enhancement of vegetation in this and other areas will ensure protection of existing functions.		• Evaluating and enhancing hydrologic conditions; • Following Planning and Community Development Department design guidelines in Catherine Creek Park; • Restoring degraded wetlands; and • Restoring and enhancing riparian vegetation. These actions address the ecological functions assessed in the Restoration Plan, as well as the continuation of ongoing studies, projects and other efforts on the Catherine Creek shoreline.	
Little Pilchuck Creek	This area is largely undeveloped.	**Future Development:** It is likely that undeveloped areas along Little Pilchuck Creek could, over time, develop into commercial or light industrial uses. **Functions/Processes Impacted:** Water Quantity: Slight changes to water quantity related to surface runoff may increase with more commercial/industrial development. However, all future development would adhere to stormwater management requirements. Water Quality: Future development of commercial/industrial uses may impact water quality increasing the likely application of chemicals, fertilizers and pesticides. Vegetation and Habitat: Preservation and enhancement of vegetation in this and other areas will ensure protection of existing functions.	Same policies and regulations as above for High Intensity – Lake Stevens. Further, the commercial and industrial building setback in these areas is 160 feet. The accessory parking setback is 70 feet. (SMP **Section 5.B**).	Same State and Federal implications as outlined above for High Intensity – Lake Stevens. As identified in the Shoreline Restoration Plan (Appendix B of the SMP), several opportunities for improvements to shoreline ecological function exist: • Evaluating and enhancing hydrologic conditions; • Restoring degraded wetlands; • Restoring riparian vegetation; • Enhancing habitat with LWD; promoting natural LWD recruitment; and • Implement projects to fill data gaps identified in the 2002 Snohomish River Basin Salmonid Habitat Conditions Review. These actions address the ecological functions assessed in the Restoration Plan, as well as the continuation of ongoing studies, projects and other efforts on the Little Pilchuck Creek shoreline.	New development has the potential to degrade the baseline condition in these areas. This may include loss of vegetation and increase in impervious surfaces. Strict adherence to the SMP and critical areas regulations are necessary to ensure no net loss of functions in this area.
Shoreline Residential					
Lake Stevens	The residential areas along Lake Stevens are dominated by single-family residences. Most waterfront property is developed. Nearly half of all residential parcels are bisected by roads running parallel to the shoreline. Approximately three-quarters of the shoreline is armored.	**Future Development:** Currently only a few lots on Lake Stevens are undeveloped. Otherwise, no new development is expected along the shoreline. **Functions/Processes Impacted:** Water Quantity: Slight changes to water quantity related to surface runoff may increase with more residential development. However, all future development would adhere to stormwater management requirements.	SMP policies for the "Shoreline Residential" environment (SMP **Section 2.C.4**) include: • "Allow development only in those areas where impacts and hazards to or caused by the proposed development can be effectively mitigated and where the environment is capable of supporting the proposed use in a manner that protects ecological functions." • "Commercial development should be limited to water-oriented uses and not conflict with the residential character of lands in the "Shoreline Residential" environment.	Any in- or over-water proposals would require review not only by the City of Lake Stevens, but also by the Washington Department of Fish and Wildlife (WDFW). A project that includes in-water fill would require review and permitting from the U.S. Army Corps of Engineers (Corps), and the Washington Department of Ecology. Each of these agencies is charged with regulating and/or protecting shorelines and the waters of Lake Stevens, and would impose certain design or mitigation requirements on applicants. As identified in the Shoreline Restoration Plan	Limited new and redevelopment pressure as little waterfront property is undeveloped. New and redevelopment has the potential to degrade the baseline condition. Strict implementation of the SMP and the critical areas regulations should minimize impacts. If mitigation for

Shoreline Segment	Existing Conditions	Likely Development / Functions or Processes Potentially Impacted	Effect of SMP Provisions	Effect of Other Development and Restoration Activities / Programs	Net Effect
	Nearly all properties have either single- or joint-use pier access.	Water Quality: Future development of residential uses may impact water quality increasing the likely application of chemicals, fertilizers and pesticides. Slight improvements in water quality may occur upon development or redevelopment in areas devoid of shoreline vegetation through revegetation standards. Vegetation and Habitat: Preservation and enhancement of vegetation in this and other areas will ensure protection of existing functions. Improvements to vegetation coverage may also occur through implementation of development regulations which require shoreline planting areas.	• "Water-oriented recreational uses should be allowed." • "New residential development should be supported by adequate land area and services." • "Land division and development should be permitted only 1) when adequate setbacks or buffers are provided to protect ecological functions and 2) where there is adequate access, water, sewage disposal, and utilities systems, and public services available and 3) where the environment can support the proposed use in a manner which protects or restores the ecological functions." • "Development standards for setbacks or buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time." • "Multi-family development and subdivisions of land into more than four parcels should provide community access for residents of that development." • "New residential development should be located and designed so that future shoreline stabilization is not needed." Additional policies in the Residential Development uses section (SMP **Section 5.8.b**) include: • "No net loss of ecological functions must be assured with specific standards for setback of structures sufficient to avoid problems with future soil stabilization, buffers, density, shoreline stabilization, and on-site sewage disposal" • "The overall density of development, lot coverage, and height of structures should be appropriate to the physical capabilities of the site and consistent with the comprehensive plan." • "Adequate provisions should be made for protection of groundwater supplies, erosion control, stormwater drainage systems, aquatic and wildlife habitat, ecosystem-wide processes, and open space." • "Sewage disposal facilities, as well as water supply facilities, shall be provided in accordance with appropriate state and local health regulations." • "New residences should be designed and	(Appendix B of the SMP), several opportunities for improvements to shoreline ecological function exist. These include: • Evaluating habitat conditions and current/potential fish use in the lake; • Restoring degraded wetlands; • Restoring shoreline vegetation; • Enhancing shorelines with LWD; promoting natural LWD recruitment; • Improving floodplain connectivity; • Monitoring and improving water quality in the lake; • Following Planning and Community Development Department design guidelines in North Cove, Lundeen, Sunset, and Wyatt Parks; and • Implementing projects to fill data gaps identified in the 2002 Snohomish River Basin Salmonid Habitat Conditions Review. These actions address the ecological functions assessed in the Restoration Plan, as well as the continuation of ongoing studies, projects and other efforts on the Lake Stevens shoreline	potential setback reductions includes removal of substantial shoreline hardening and/or supplementation of native shoreline plantings, ecological function in developed residential areas could improve in the long term. Given the above potential impacts and mitigation measures, no net loss of ecological functions is expected.

Shoreline Segment	Existing Conditions	Likely Development / Functions or Processes Potentially Impacted	Effect of SMP Provisions	Effect of Other Development and Restoration Activities / Programs	Net Effect
			located so that shoreline armoring will not be necessary to protect the structure." A detailed discussion of effects of SMP provisions related to residential setbacks is presented in Section 5.1. The regulations in SMP **Section 5.C.8.c.1** provide for a protective setback of 60 feet in areas along the Lake Steven shoreline and allowances for reductions of the 60-foot setback that could occur only when paired with mitigation elements for restoration and enhancement of functions. Further, vegetation conservation regulations include, "For new development on previously undeveloped lots, any existing native vegetation shall be retained along the shoreline to 20 feet from the OHWM. If little or no native vegetation exists on the previously undeveloped lot, native vegetation shall be planted along the shoreline to 20 feet from the OHWM." (SMP **Section 5.C.8.c.3**) A detailed discussion of effects of SMP provisions related to residential overwater structures is presented in Section 5.2. The regulations in SMP **Section 4.C.3** contain strict dimensional and materials standards. A detailed discussion of effects of SMP provisions related to new and replacement shoreline stabilization is presented in Section 5.3. The regulations contained within SMP **Section 4.C.2** will considerably reduce the potential for new hard shoreline stabilization, and will likely result over time in conversions of existing hard structural stabilization to soft structural stabilization.		
Catherine Creek	The residential areas along Catherine Creek are primarily built-out, with a majority of the housing built within the last few decades.	**Future Development:** Currently only a few residential lots on Catherine Creek are undeveloped. Otherwise, no new development is expected along the shoreline. **Functions/Processes Impacted:** Water Quantity: Slight changes to water quantity related to surface runoff may increase with more residential development. However, all future development would adhere to stormwater management requirements. Water Quality: Future development of residential uses may impact water quality	Same policies and regulations as above for Shoreline Residential – Lake Stevens. Further, the residential setback in these areas is 160 feet (SMP **Section 5.B**).	Same State and Federal implications as outlined above for Shoreline Residential – Lake Stevens. As identified in the Shoreline Restoration Plan (Appendix B of the SMP), several opportunities for improvements to shoreline ecological function exist: • Enhancing LWD recruitment; promoting natural LWD recruitment; • Promoting pool, riffle and gravel bar development; • Evaluating and enhancing hydrologic conditions; • Following Planning and Community Development Department design guidelines in Catherine Creek Park; • Restoring degraded wetlands; and	Limited new and redevelopment pressure, critical areas regulations, and SMP provisions ensure that any development in the Shoreline Residential jurisdiction would not result in net loss of ecological function.

Shoreline Segment	Existing Conditions	Likely Development / Functions or Processes Potentially Impacted	Effect of SMP Provisions	Effect of Other Development and Restoration Activities / Programs	Net Effect
		increasing the likely application of chemicals, fertilizers and pesticides. Slight improvements in water quality may occur upon development or redevelopment in areas devoid of shoreline vegetation through revegetation standards. Vegetation and Habitat: Preservation and enhancement of vegetation in this and other areas will ensure protection of existing functions. Improvements to vegetation coverage may also occur through implementation of development regulations which require shoreline planting areas.		• Restoring and enhancing riparian vegetation. These actions address the ecological functions assessed in the Restoration Plan, as well as the continuation of ongoing studies, projects and other efforts on the Catherine Creek shoreline.	
Little Pilchuck Creek	Residential designated areas along Little Pilchuck Creek are largely undeveloped.	**Future Development:** The area is largely under developed and has the potential to be developed at a higher intensity. There are approximately six residential parcels within this area. **Functions/Processes Impacted:** Water Quantity: Slight changes to water quantity related to surface runoff may increase with more residential development. However, all future development would adhere to stormwater management requirements. Water Quality: Future development of residential uses may impact water quality increasing the likely application of chemicals, fertilizers and pesticides. Slight improvements in water quality may occur upon development or redevelopment in areas devoid of shoreline vegetation through revegetation standards. Vegetation and Habitat: Preservation and enhancement of vegetation in this and other areas will ensure protection of existing functions. Improvements to vegetation coverage may also occur through implementation of development regulations which require shoreline planting areas.	Same policies and regulations as above for Shoreline Residential – Lake Stevens. Further, the residential setback in these areas is 160 feet (SMP **Section 5.B**).	Same State and Federal implications as outlined above for Shoreline Residential – Lake Stevens. As identified in the Shoreline Restoration Plan (Appendix B of the SMP), several opportunities for improvements to shoreline ecological function exist: • Evaluating and enhancing hydrologic conditions; • Restoring degraded wetlands; • Restoring riparian vegetation; • Enhancing habitat with LWD; promoting natural LWD recruitment; and • Implement projects to fill data gaps identified in the 2002 Snohomish River Basin Salmonid Habitat Conditions Review. These actions address the ecological functions assessed in the Restoration Plan, as well as the continuation of ongoing studies, projects and other efforts on the Little Pilchuck Creek shoreline.	Limited new and redevelopment pressure, critical areas regulations, and SMP provisions ensure that any development in the Shoreline Residential jurisdiction would not result in net loss of ecological function.
Urban Conservancy					
Lake Stevens	The Urban Conservancy designation along the Lake Stevens shoreline includes County-owned Wyatt Park and Sunset Park, and City-owned	**Future Development:** There is little likelihood of future changes through these shoreline areas with the exception of the expansion and redevelopment of North Cove Park. **Functions/Processes Impacted:**	SMP policies for the "Urban Conservancy" environment (SMP **Section 2.C.3.c**) include: • "Water-oriented recreational uses should be given priority over nonwater oriented uses. Water-dependent recreational uses should be given highest priority."	Any in- or over-water proposals would require review not only by the City of Lake Stevens, but also by the Washington Department of Fish and Wildlife (WDFW). A project that includes in-water fill would require review and permitting from the U.S. Army Corps of Engineers (Corps), and the Washington Department of Ecology.	SMP provisions, including setbacks and Restoration Plan implementation, ensure that environmental conditions in this environment will not be

Shoreline Segment	Existing Conditions	Likely Development / Functions or Processes Potentially Impacted	Effect of SMP Provisions	Effect of Other Development and Restoration Activities / Programs	Net Effect
	Lundeen Park, Swim Beach, and North Cove Park. Existing conditions include the following: **Wyatt Park:** Facilities include a public boat launch, a dock (for boats), a fishing pier, a lifeguard-monitored swimming area, restrooms, picnic tables, and 80 parking spaces. **Sunset Park:** Facilities include a public dock, picnic tables, and six parking spaces **Lundeen Park:** Facilities include a public pier, 500 feet of shoreline, a swimming area, sports courts and 98 parking spaces. **Swim Beach:** Facilities include 560 square feet of useable beach, a 600 square foot municipal swimming dock, a portable restroom, and 10 parking spaces. **North Cove Park:** The park has a 250 foot municipal boardwalk/pier (interpretation, fishing & picnicking, but no public boat access), picnic tables, and two horseshoe pits. Also a small dock for Police Department boats. .	Water Quantity: With little to no expansion of impervious surface coverage planned, no significant change to water quantity is expected. All future development would adhere to stormwater management requirements. Water Quality: Future development of residential uses may impact water quality by decreasing vegetative cover and increasing the likely application of chemicals, fertilizers and pesticides. Vegetation and Habitat: Future redevelopment and/or restoration activities at the various parks are likely to result in improved vegetation and habitat conditions through the addition of native plantings.	• "Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated." • "Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "Urban Conservancy" designation to ensure that new development does not further degrade the shoreline and is consistent with an overall goal to improve ecological functions and habitat." • "Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant ecological impacts to the shoreline are avoided or mitigated." Development regulations within the Urban Conservancy environment state, "Nonwater-oriented structures, such as restrooms, recreation halls and gymnasiums, recreational buildings and fields, access roads, and parking areas, shall be set back from the OHWM at least 70 feet unless it can be shown that there is no feasible alternative." (SMP **Section 5.7.c.4**)	Each of these agencies is charged with regulating and/or protecting shorelines and the waters of Lake Stevens, and would impose certain design or mitigation requirements on applicants. As identified in the Shoreline Restoration Plan (Appendix B of the SMP), several opportunities for improvements to shoreline ecological function exist. These include: • Evaluating habitat conditions and current/potential fish use in the lake; • Restoring degraded wetlands; • Restoring shoreline vegetation; • Enhancing shorelines with LWD; promoting natural LWD recruitment; • Improving floodplain connectivity; • Monitoring and improving water quality in the lake; • Following Planning and Community Development Department design guidelines in North Cove, Lundeen County, Sunset, and Wyatt Parks; and • Implementing projects to fill data gaps identified in the 2002 Snohomish River Basin Salmonid Habitat Conditions Review. These actions address the ecological functions assessed in the Restoration Plan, as well as the continuation of ongoing studies, projects and other efforts on the Lake Stevens shoreline.	degraded relative to existing baseline over the long term. It will be critical to evaluate projects on a site-specific and project-specific basis, however, and utilize the available impact minimization and protective provisions of the SMP. Given strict adherence to the SMP policies and regulations, no net loss of ecological functions is expected as no detrimental or un-mitigated alterations to the existing conditions are likely to occur along the Urban Conservancy designated shorelines.

Shoreline Segment	Existing Conditions	Likely Development / Functions or Processes Potentially Impacted	Effect of SMP Provisions	Effect of Other Development and Restoration Activities / Programs	Net Effect
Catherine Creek	The Urban Conservancy designation along the Catherine Creek shoreline includes Catherine Creek Park. The park is an 8-acre community park that is maintained primarily as a "natural" park with a network of trails (2 miles), access to Catherine Creek, picnic facilities, and a disc golf course.	**Future Development:** There is little likelihood of future changes through this shoreline area. **Functions/Processes Impacted:** Water Quantity: With little to no expansion of impervious surface coverage planned, no significant change to water quantity is expected. All future development would adhere to stormwater management requirements. Water Quality: Future development of recreational uses may impact water quality by decreasing vegetative cover and increasing the likely application of chemicals, fertilizers and pesticides. Vegetation and Habitat: Future redevelopment and/or restoration activities are likely to result in improved vegetation and habitat conditions.	SMP policies same as above for Urban Conservancy – Lake Stevens.	Same State and Federal implications as outlined above for Urban Conservancy – Lake Stevens. As identified in the Shoreline Restoration Plan (Appendix B of the SMP), several opportunities for improvements to shoreline ecological function exist: • Enhancing LWD recruitment; promoting natural LWD recruitment; • Promoting pool, riffle and gravel bar development; • Evaluating and enhancing hydrologic conditions; • Following Planning and Community Development Department design guidelines in Catherine Creek Park; • Restoring degraded wetlands; and • Restoring and enhancing riparian vegetation. These actions address the ecological functions assessed in the Restoration Plan, as well as the continuation of ongoing studies, projects and other efforts on the Catherine Creek shoreline.	Net effect same as above for Urban Conservancy – Lake Stevens.
Little Pilchuck Creek	The Urban Conservancy designation along the Little Pilchuck Creek shoreline includes the Centennial Trail. The 17-mile recreational trail runs form Snohomish to Arlington.	**Future Development:** There is little likelihood of future changes through this shoreline area. **Functions/Processes Impacted:** Water Quantity: With little to no expansion of impervious surface coverage planned, no significant change to water quantity is expected. All future development would adhere to stormwater management requirements. Water Quality: Future development of residential uses may impact water quality by decreasing vegetative cover and increasing the likely application of chemicals, fertilizers and pesticides. Vegetation and Habitat: Future redevelopment and/or restoration activities are likely to result in improved vegetation and habitat conditions.	SMP policies same as above for Urban Conservancy – Lake Stevens.	Same State and Federal implications as outlined above for Urban Conservancy – Lake Stevens. As identified in the Shoreline Restoration Plan (Appendix B of the SMP), several opportunities for improvements to shoreline ecological function exist: • Evaluating and enhancing hydrologic conditions; • Restoring degraded wetlands; • Restoring riparian vegetation; • Enhancing habitat with LWD; promoting natural LWD recruitment; and • Implement projects to fill data gaps identified in the 2002 Snohomish River Basin Salmonid Habitat Conditions Review. These actions address the ecological functions assessed in the Restoration Plan, as well as the continuation of ongoing studies, projects and other efforts on the Little Pilchuck Creek shoreline.	Net effect same as above for Urban Conservancy – Lake Stevens.
Natural					

Shoreline Segment	Existing Conditions	Likely Development / Functions or Processes Potentially Impacted	Effect of SMP Provisions	Effect of Other Development and Restoration Activities / Programs	Net Effect
Lake Stevens	The Stevens Creek and Stitch Lake wetland complexes are primarily in a naturally forested state, with an abundance of ponded areas that included both emergent and aquatic vegetation.	**Future Development:** No future development is anticipated. The only anticipated activity would be restoration. **Functions/Processes Impacted:** No adverse impacts to function/processes are anticipated in the future. Habitat enhancement may occur at some point in the future. No adverse impacts to function/processes associated with the wetland complexes are anticipated in the future.	SMP policies for the "Natural" environment (SMP **Section 5.7**) include: • "Any use that would substantially degrade the ecological functions or natural character of the designated wetland area should be prohibited." • "Uses that are consumptive of physical, visual, and biological resources should be prohibited." Development regulations within the Natural environment state that, "[t]he ecological resources in the Natural-Wetlands environment should be protected through the provisions in the Critical Areas section of this SMP." (SMP **Section 2.C.1.c.6**)	While areas designated as Natural shoreline environments typically have properly functioning shoreline conditions that provide a variety of ecological functions, portions of these shoreline areas may also be in need of improvements. While no specific restoration opportunities are identified in the Shoreline Restoration Plan, preservation of the wetland areas in their present state, through the City's SMP and critical areas regulations, should ensure adequate protection.	No net loss of ecological functions is expected as no detrimental alterations to the existing conditions in this environment are likely to occur.

City of Lake Stevens
Grant No. G1000027

No Net Loss Report Summary

City of Lake Stevens
Shoreline Master Program Update
4-19-11

Background:

This No Net Loss (NNL) Summary provides an overall review of how the City of Lake Stevens meets the NNL requirement per Washington Department of Ecology Guidelines and should be used in conjunction with the other supporting documents produced during the City's Shoreline Master Program (SMP) Update. This summary focuses on reporting how Ecological functions, as well as Public Access and Shoreline Use objectives have been met through the development of the SMP and will not be degraded or minimized over time as the SMP is implemented. Other products developed in support of the SMP include:

- Shoreline Analysis Report
- Cumulative Impacts Analysis
- Shoreline Restoration Plan

Lake Stevens is 1,014 acres, and is therefore included in a classification of unique shorelines known as Shorelines of Statewide Significance. The City's shoreline planning area has grown extensively due to multiple annexations around Lake Stevens, and eastward to also encompass the shorelines of Catherine Creek (downstream of Hartford Drive) and Little Pilchuck Creek. Careful consideration of the hydrologic associations of known wetlands around Lake Stevens also resulted in significant expansions of shoreline jurisdiction from what had previously been understood.

The Lake Stevens shoreline is highly developed, primarily with single-family residential uses (>90 percent) combined with local public parks. Only a small portion of shoreline is zoned for commercial use. The residential and recreational use of Lake Stevens has significantly altered the historical ecological functions supporting the shoreline. This includes the five public parks located at various locations around the lake. The result is a baseline condition of ecological functions that are highly degraded in the residential areas. Nearly 80 percent of the shoreline is armored and over 80 percent of the vegetation has been altered.

As provided in the table below and further supported in the Cumulative Impacts Analysis, future implementation of the City's proposed SMP is believed to result in no net loss of ecological functions. Potential restoration actions, as described in the Shoreline Restoration Plan, may help improve ecological functions in the future. As well, public access to the shoreline and shoreline uses are preserved, and where possible, enhanced.

FUNCTION/OBJECTIVE	LOSS OF FUNCTION OR OBJECTIVE	GAIN IN FUNCTION OR VALUE	NET IMPACT ON FUNCTION OR OBJECTIVE
Ecological			
Hydrologic Functions	**Lake Stevens** As most of the residential shoreline is already developed (approximately 80% of shoreline is armored and over 80% of vegetation has been altered), future new development is likely to have only a moderate affect on existing baseline hydrologic functions. These may include: • Degradation of water quality through the application of additional chemicals, fertilizers and pesticides. • Decrease in natural shorelines to attenuate wave energy as new and modified shoreline armoring is constructed.	**Lake Stevens** Vegetation standards for new shoreline developments and re-development of existing property has the potential to improve water quality by removing chemical, fertilizers and pesticides from surface water runoff. New armoring is only allowed when necessary to protect existing primary structures. When new, expanded or replaced armoring is proposed, soft armoring techniques must be explored first. The application of soft armoring techniques will likely be the most widely used form of shoreline armoring in the future due to the combined regulations of the City's SMP and WA State Department of Fish and Wildlife.	**Lake Stevens** Limited new development is expected in the future. While generally, new and redevelopment has the potential to degrade the baseline condition, strict implementation of the SMP and the critical areas regulations for jurisdictional wetlands should minimize impacts. Redevelopment of existing shoreline property will be the most prevalent shoreline development activity in future years. As such, mitigation for potential setback reductions, which includes removal of substantial shoreline hardening and/or supplementation of native shoreline plantings, should improve hydrologic functions in developed residential areas over the long term.
	Creeks Slight changes to water quantity related to surface runoff may increase with more commercial/industrial development. This may negatively impact stream habitat (loss of channel roughness) and the ability of the corridor to remove contaminants. Future development of commercial/industrial uses may impact water quality by increasing the likely application of chemicals, fertilizers and pesticides.	**Creeks** Future development would adhere to stormwater management requirements to mitigate loss of function (i.e. account for expanded impervious surfaces via detention and infiltration mechanisms).	**Creeks** New development has the potential to degrade the baseline condition in these areas. This may include loss of vegetation and increase in impervious surfaces. Strict adherence to the SMP and critical areas regulations (specifically stream buffers) are necessary to ensure no net loss of functions in this area.
Hyporheic Functions	**Lake Stevens** N/A	**Lake Stevens** N/A	**Lake Stevens** N/A
	Creeks Future development may increase impervious surface cover which in turn will reduce infiltration and the ability of hyporheic areas to remove excess nutrients and contaminants. However, the soils within these shoreline streams are largely fine-grained and not as conducive to hyporheic flow as a coarser substrate would be, thereby limiting the natural potential for hyporheic removal of excess nutrients and toxic compounds.	**Creeks** Very little loss or gain in hyporheic function is anticipated over time as the soils in the vicinity are not very conducive to hyporheic flow.	**Creeks** No significant change in function is expected as the soils in the vicinity are not very conducive to hyporheic flow.
Vegetative Functions	**Lake Stevens** As stated above, most of the residential shoreline is already developed. Therefore, future new development is likely to have only a moderate affect on existing baseline vegetative functions. For instance, on newly developed lots, the SMP will require vegetation to be retained along the shoreline within 20 feet from the OHWM. Redevelopment of existing residential uses, especially those that expand existing building footprints, has the potential to reduce vegetative cover. This, along with the potential increase in chemical, fertilizer, and pesticide applications associated with enhanced landscapes, could potentially lead to further water quality degradation. It should be noted that the City has a maximum impervious surface	**Lake Stevens** Increased vegetation coverage may occur through implementation of development regulations which require shoreline planting areas for new development and the potential enhancement of vegetation for redevelopments which involve setback reductions. Some pier replacement projects may also include revegetation standards. Enhancements to vegetative cover, specifically those adjacent to the shoreline, will have beneficial effects to water quality functions.	**Lake Stevens** Revegetation standards adjacent to shore are likely to provide net overall improvements to vegetative water quality functions and off-set potential negative impacts from new or expanded development footprints and loss of existing vegetation.

FUNCTION/OBJECTIVE	LOSS OF FUNCTION OR OBJECTIVE	GAIN IN FUNCTION OR VALUE	NET IMPACT ON FUNCTION OR OBJECTIVE
	requirement on single-family residential lots. Other vegetative functions, such as attenuation of wave energy, temperature regulation, and LWD recruitment, are not likely to have a significant change from the baseline condition.		
	Creeks Potential development or redevelopment within established 150-foot buffer zones has the potential to negatively affect vegetative functions. Most likely, these negative effects would include a potential reduction in the ability of vegetation to remove contaminants. Future development is unlikely to affect the riparian areas immediately adjacent to the streams and thus other vegetative functions, including streambank stability and flow attenuation, should not experience further degradation.	**Creeks** Enhancement of vegetative conditions (i.e. invasive removal, native replanting with trees and shrubs) along both stream corridors through implementation of the critical areas regulations, including mitigation for development impacts, may improve native vegetative cover in the immediate riparian area. This may have several beneficial effects, but in terms of vegetative functions, these actions may improve shading conditions (temperature regulation), stabilize streambanks, and provide recruitment of in-stream material (woody debris and food sources).	**Creeks** New development has the potential to degrade the baseline condition in these areas. This may include loss of vegetation and increase in impervious surfaces. Strict adherence to the SMP and critical areas regulations would ensure no net loss of functions in this area.
Habitat Functions	**Lake Stevens** Aquatic habitats may be affected over time by the continued degradation of water quality (loss of condition), the proliferation of invasive aquatic weeds such as milfoil (loss of space), and the continued degradation of nearshore environments through the presence of shoreline armoring. Terrestrial environments would mainly be affected through the loss of vegetation as described above under Vegetative Functions.	**Lake Stevens** Future planned restoration measures (e.g., Aquatic Plant Management Plan) to remove milfoil have the potential to vastly improve nearshore habitat conditions for aquatic species. Improvements to vegetative cover along shore as described above has the potential to improve both aquatic habitats (improved water quality – i.e. condition) and terrestrial habitats (improved space and food sources).	**Lake Stevens** Although continued degradation of aquatic and terrestrial habitats may occur through existing and ongoing uses, planned improvements to aquatic nearshore environments (milfoil removal) and required enhancements (revegetation and soft shoreline armoring) are likely to improve the overall habitat functions in Lake Stevens.
	Creeks As discussed above under Vegetative Functions, future development is unlikely to affect the riparian areas immediately adjacent to the streams but rather more likely to affect vegetated areas setback from the stream. Therefore, loss of physical habitat space and negative impacts to overall habitat conditions, including food production and delivery, would likely affect terrestrial species more than aquatics.	**Creeks** Enhancement of native vegetation as described under Vegetative Functions above, would likely improve habitat functions for both terrestrial and aquatic species by providing additional habitat niches (e.g. accumulated wood/snags, pools and off-channel areas) and food resources.	**Creeks** New development has the potential to degrade the baseline condition in these areas. This may include loss of vegetation and increase in impervious surfaces. Strict adherence to the SMP and critical areas regulations would ensure no net loss of functions in this area.
Public Access			
Recreation Opportunities	No loss of access is allowed in the SMP with additional access required on plats of more than four lots and new commercial or public development. Public access is not required along the creeks unless there is already a park because no other opportunities exist that would not create unavoidable safety and security problems.	City is undertaking a study that may add waterfront park improvements. There may be some improvements to an existing marina that will include water-enjoyment uses.	In the future, if there are any changes in the City's public access opportunities it will likely be an increase in the size and attractiveness of existing parks and public access.
Visual	SMP maintains current height and bulk limits	Building setbacks, limitations on floating elements (including inflatable structures) and incentives for more natural shoreline edge should reduce the "visual clutter" on the shoreline	No significant changes are expected but a general reduction of over water elements is expected.
Miscellaneous	Water enjoyment uses (e.g.: food concessions, etc.) are allowed in the	The City is considering a future downtown subarea plan that will likely result in greater intensity of	The City's planning efforts point to the Lake taking a more prominent

FUNCTION/OBJECTIVE	LOSS OF FUNCTION OR OBJECTIVE	GAIN IN FUNCTION OR VALUE	NET IMPACT ON FUNCTION OR OBJECTIVE
	parks with a 60' shoreline setback.	activities near (but not necessarily within) shoreline jurisdiction. Currently, two rowing clubs and many triathlons use Lake Stevens to hold competitions, some are national and international events. This will accentuate the downtown waterfront park's prominence as a destination.	recreational and civic role.
Shoreline Use			
Water-Dependent	There is very little opportunity for changes in water dependent uses. Non-water oriented uses are allowed on creeks, where there is a 160' setback and no navigability. Also, non-water oriented uses are allowed	New marinas are prohibited but provisions for existing marinas encourage the enhancement of boating activities.	While single family residential uses will continue to be the overwhelming use on the lake. Water oriented uses, if anything will increase. Preservation of ecological functions will be the primary focus on the City's creeks. In general, the objectives of RCW 90.58.020 will be more effectively addressed due to SMP regulations and other planning/community development activities.
Water-Related	Future use of a developed, but unused marina could add new water-related uses such as gas sales, small store, or restaurant. Future development of downtown may also include similar types of water-related uses.	Future development of the downtown subarea and an existing, unused commercial marina could enhance water-related uses.	Future development of the downtown subarea and an existing, unused commercial marina could enhance water-related uses.
Water-Enjoyment	Most of the City is within views of the lake and four public parks exist on the lake. Water-enjoyment is available on many roads surrounding the lake with views to the lake.	Lake activities occur throughout the year with more occurring in warmer months. Two rowing clubs use the lake. Public access points around the lake allow for public enjoyment. Additional development in the downtown and commercial properties could increase water-enjoyment uses. Many yearly events actively use the lake (e.g., Aquafest, triathlons, rowing competitions, etc.).	Water enjoyment uses will continue to be a strong emphasis for the City and should increase.

ATTACHMENT J

COMPARISON OF NONCONFORMING USES/STRUCTURES/ACTIVITIES

	LAKE STEVENS MUNICIPAL CODE (Chapter 14.32 Nonconforming Situations)	**LSMC – CRITICAL AREAS REGULAIONS** (14.88.330 Nonconforming Activities)	**PROPOSED LAKE STEVENS SMP** (Chapter 7, Section G Nonconforming Uses)	**SNOHOMISH COUNTY PROPOSED SMP** (30.67.4501 Non-Conforming Uses or Structures)
General Introduction			Nonconforming development shall be defined and regulated according to the provisions of WAC 173-27-080; • "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.	• The following requirements apply to legally nonconforming uses or structures to the shoreline regulations, but which do not conform to present regulations or standards of the SMP or policies of the SMA.
Continuance	**14.32.010 Continuation of Nonconforming Situations and Completion of Nonconforming Projects.** • Lawful nonconforming situations may be continued subject to the restrictions and qualifications of this chapter.	**14.88.330 Nonconforming Activities.** • Approved nonconforming activity may be continued.	• Uses/developments legally established & nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses.	• Continuance: Any legally established use or structure nonconforming to the shoreline regulations is permitted to remain in the form and location in which it existed on the effective date of the nonconformance.
Nonconforming Lots	**14.32.020 Nonconforming Lots.** • A lot not meeting the minimum lot area required for the zone in which it is located may be used the same as if it were conforming, except duplex not allowed.		• Undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark established by subdivision prior to the effective date of the act or the applicable master program but non conforming to lot size may be developed per other land use regulations & SMP	
Enlargement	**14.32.030 Extension or Enlargement of Nonconforming Situations.** • You cannot increase the nonconformity (e.g., increase total amount of space for a nonconforming use or increase dimensional restrictions such as setbacks, height, parking or density. • Nonconforming single-family residence can be enlarged or replaced if doesn't increase nonconformity	• Nonconforming activity can be expanded, modified, or substituted to increases extent of nonconformity with a permit issued pursuant to the provisions of this chapter.	• Nonconforming uses can't 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.	• Continuance: Any legally established use or structure nonconforming to the shoreline regulations is permitted to remain in the form and location in which it existed on the effective date of the nonconformance.
Repair, Maintenance & Reconstruction	**14.32.040 Repair, Maintenance and Reconstruction.** • Minor repairs/routine maintenance allowed. • Major renovation/repairs (work>25% value) allowed in accordance with required permits issued pursuant to this section. • Nonconforming house damaged by fire, accident or natural disaster may be reconstructed pursuant to a building permit.	• If nonconforming use or activity is destroyed by human activities or a natural occurrence, it shall not be resumed except in conformity with the provisions of this chapter.	• Nonconforming development damaged to 100% 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 with application within six months of the date the damage occurred and all restoration must be completed within two years of permit issuance. • Legal nonconforming structures 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.	• **Redevelopment or remodel.** SMP nonconforming uses or structures may not be enlarged or increased in any way, including expanded building footprint or increased height, increased use intensity, or altered in any way which increases their nonconformity. It may be moved or relocated on the same parcel provided that the degree of nonconformance with the SMP and the SMA is reduced and further provided that the move or relocation results in improved protection for shoreline ecological functions. • **Restoration and replacement.** If nonconforming structure is damaged < 75% of replacement cost it may be reconstructed to the extent it existed immediately prior to the time the structure was damaged or to smaller configuration or in different location which reduces the degree of nonconformity, so long as restoration is completed within one year of the date of damage.

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LAKE STEVENS CITY COUNCIL

STAFF REPORT

Agenda Date: June 13, 2011

Subject: Ordinance No. 855 - Lake Stevens Code Amendments Related to Shoreline Management Act – Public Hearing

Contact Person/Department: Karen Watkins **Budget Impact:** Grant

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RECOMMENDATION(S)/ACTION REQUESTED OF CITY COUNCIL: Hold a Second and Final Reading and public hearing on June 13, 2011 on Ordinance No. 855 for Code Amendments related to the Shoreline Management Act. These amendments are necessary whether or not the SMP is adopted. Staff made one addition to the ordinance. Council may adopt Ordinance No. 855 as presented including the proposed addition or adopt with amendments.

SUMMARY: As part of the Shoreline Master Program Update, staff realized the Land Use Code required updates due to recent updates to the Shoreline Management Act (Chapter 90.58 RCW). These amendments are not related to the Shoreline Master Plan Update and proposed documents or code amendments in Ordinance No. 856.

Ordinance No. 855 includes code amendments that are necessary with State law whether or not the SMP is adopted (***Attachment A***). The amendments are code corrections, updates based on changes to the Shoreline Management Act and the consolidation of definitions into Chapter 14.08 Definitions. These amendments are not required to be reviewed by Ecology and will become effective upon adoption by the Council. The ordinance has been reviewed as to form by the City Attorney.

Ordinance Revision. Staff has made one additional code amendment as shoreline permits are in both Type II and Type III reviews. The original Ordinance No. 855 had a code amendment in expiration of approval subsection for Type II, but did not have the same amendment for Type III. Therefore, the following ordinance section has been added in Ordinance No. 855:

> Section 15. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.360 to read as follows:
>
> **14.16B.360 Expiration of Approval.**
> Approval of the Type III application, except for preliminary plats, shall expire one year from the date approval was final, except for shoreline conditional use permits and shoreline variance permits expire two years from final approval, unless significant action proposed in the application has been physically commenced and remains in progress pursuant to Section 14.16A.250. Preliminary plats shall terminate five years after approval pursuant to Section 14.16A.250(e).

Public Comments. There was one public comments at the May 23 Public Hearing regarding the definitions of "shall" and "should". These two definitions are not included in Ordinance No. 855, but are proposed as an amendment to Ordinance No. 856 adopting the SMP and associated documents.

*The Planning Commission recommendation is to adopt Ordinance No. 855 (**Attachment B**).*

APPLICABLE CITY POLICIES: The Lake Stevens Municipal Code includes shoreline regulations in Chapter 14.92 (Shoreline Management) and Section 14.16C.100 (Shoreline Permits). Definitions are included in Chapter 14.08. The Process Code is in Chapters 14.16A, 14.16B, 14.16C, and 14.18.

BUDGET IMPACT: No budget impact from the code amendments as they are for code corrections and minor code amendments.

ATTACHMENTS:

Attachment A – Ordinance No. 855 for Code Amendments Related to Shoreline Management Act
Attachment B – Planning Commission Recommendation Letter dated May 18, 2011

CITY OF LAKE STEVENS
Lake Stevens, Washington
ORDINANCE NO. 855

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, AMENDING THE FOLLOWING CHAPTERS OF THE LAKE STEVENS MUNICIPAL CODE TO BE CONSISTENT WITH THE SHORELINE MANAGEMENT ACT, CHAPTER 90.58 RCW, AND SHORELINE MANAGEMENT PERMIT AND ENFORCEMENT PROCEDURES, CHAPTER 173-27 WAC: CHAPTER 14.08 LSMC "BASIC DEFINITIONS AND INTERPRETATIONS" BY AMENDING SECTION 14.08.010, CHAPTER 14.16A LSMC "ADMINISTRATION AND PROCEDURES" BY AMENDING SECTION 14.16A.210, CHAPTER 14.16B LSMC "TYPES OF LAND USE REVIEW" BY AMENDING SECTIONS 14.16B.105, .110, .205, .230, .240, .245, .315, .320, .355, .710, AND .720, CHAPTER 14.16C LSMC "LAND USE ACTIONS, PERMITS AND DETERMINATIONS – DECISION CRITERIA AND STANDARDS" BY AMENDING SECTION 14.16C.100, CHAPTER 14.18 LSMC "SUBDIVISIONS, BOUNDARY LINE ADJUSTMENTS AND BINDING SITE PLANS" BY AMENDING SECTION 14.18.120, CHAPTER 14.36 LSMC "ZONING DISTRICTS AND ZONING MAPS" BY AMENDING SECTIONS 14.36.060 AND .200, CHAPTER 14.88 LSMC "CRITICAL AREAS" BY AMENDING SECTION 14.88.100, AND CHAPTER 14.92 LSMC "SHORELINE MANAGEMENT" BY AMENDING SECTIONS 14.92.010, .020, .050, .060, .070, .100, .120, .130, .140, .150, AND .160.

WHEREAS, the City is required ensure compliance with the Shoreline Management Act, Ch. 9058 RCW, and shoreline permit requirements, Ch. 173-26 WAC; and

WHEREAS, the City is updating the Shoreline Master Program under a two year grant from the Washington State Department of Ecology; and

WHEREAS, the adoption of code amendments for sections relating to shoreline permits is necessary to retain consistency between the Lake Stevens Municipal Code and the Shoreline Management Act; and

WHEREAS, the proposed code amendments are not directly related to the Lake Stevens 2011Shoreline Master Program adoption; and

WHEREAS, on April 15, 2011, the City issued a State Environmental Policy Act (SEPA) Determination of Non-Significance for the adoption of the Shoreline Master Program and related code amendments and comprehensive plan amendments and published the notice in the Everett Herald; and

WHEREAS, in taking the actions set forth in this ordinance, the City has complied with the requirements of the State Environmental Policy Act, Ch. 43.21C RCW; and

WHEREAS, the City submitted the proposed code amendments to the Washington State Department of Commerce on April 5, 2011 for its 60-day review on and received documentation of completion of the procedural requirement on June __, 2011; and

WHEREAS, postcards noticing the availability of the SEPA DNS and comment and appeal periods and dates and times of the Planning Commission and City Council public hearings were mailed on April 12, 2011 to approximately 2,080 property owners; and

WHEREAS, the Lake Stevens Planning Commission, after review of the proposed code amendments, held duly noticed public hearings on May 4 and 18, 2011, and all public testimony was given full consideration; and

WHEREAS, on May 23 and June 13, 2011, the Lake Stevens City Council reviewed the Planning Commission's recommendation relating to the proposed code amendments and held a duly noticed public hearing, and all public testimony has been given full consideration.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Ch. 14.08 LSMC is hereby amended by amending the definition for "Shoreline Master Program" in LSMC 14.08.010 to read as follows:

> *Shoreline Master Program*. The City's comprehensive shoreline plan and((~~land~~)) supplemental land use ((~~plan and~~))regulations for shorelines adopted pursuant to Chapter 90.58 RCW.

Section 2. Ch. 14.08 LSMC is hereby amended by adding the following new definitions to LSMC 14.08.010 to read as follows:

> *Boathouse or Boat Shelter*. An over-water structure specifically designed or used for storage of boats with permanent walls and/or roofs.
>
> *Marina*. A system of piers, buoys, or floats to provide moorage for four or more boats.

Section 3. Ch. 14.08 and Ch. 14.88 LSMC are hereby amended by moving the following definitions from LSMC 14.88.100 to LSMC 14.08.010 in the new format and with revisions to read as follows:

> *Agriculture Land*. Land used for commercial production (as shown by record of any income) of horticultural, viticultural, floricultural, dairy, apiary, or animal products, or of vegetables, Christmas trees, berries, grain, hay, straw, turf, seed, or livestock, and that has long-term (six years or longer) commercial significance for agricultural production.
>
> *Alteration*. Any human-induced action which impacts the existing condition of a critical area. Alterations include but are not limited to grading; filling; dredging; draining; channelizing; cutting, pruning, limbing or topping, clearing, relocating or removing vegetation; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; paving, construction, application of gravel; modifying for surface water management purposes; or any other human activity that impacts the existing vegetation, hydrology, wildlife or wildlife habitat. Alteration does not include walking, passive recreation, fishing or other similar activities.

Aquifer Recharge Area. Geological formations with recharging areas having an effect on aquifers used for potable water where essential source of drinking water is vulnerable to contamination.

Best Management Practices (BMPs). The best available conservation practices or systems of practices and management measures that:

(a((~~1~~))) Control soil loss and protect water quality from degradation caused by nutrients, animal waste, toxins, and sediment; and

(b((~~2~~))) Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

Best Available Science. Current scientific information, which is used to designate, regulate, protect, or restore critical areas and which is derived from a valid scientific process as set forth in WAC 365-195-900 through 365-195-925 and Section 14.88.235.

Bog. A wetland with limited drainage and generally characterized by extensive peat deposits and acidic waters. Vegetation can include, but is not limited to, sedges, sphagnum moss, eriogonums, shrubs, and trees.

Buffer Areas, Wetlands. Areas that are contiguous to and protect a critical area and are required for the continued maintenance, functioning, and/or structural stability of a critical area.

Buffer Management. An activity proposed by a public agency, public utility, or private entity, and approved by the Planning and Community Development Director, within a buffer required by this title, that is proposed to:

(a((~~1~~))) Reduce or eliminate a verified public safety hazard;

(b((~~2~~))) Maintain or enhance wildlife habitat diversity; or

(c((~~3~~))) Maintain or enhance a fishery or other function of stream, wetland, or terrestrial ecosystems.

Classes, Wetland. The wetland taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978).

Compensation. The replacement, enhancement, or creation of an undevelopable critical area equivalent in functions, values and size to those being altered by or lost to development.

Creation, Wetland Mitigation. The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevation that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment results in a gain in wetland acres.

Critical Areas. Areas of the City that are subject to natural hazards or any landform feature that carries, holds, or purifies water and/or supports unique, fragile or valuable natural resources including fish, wildlife, and other organisms and their habitat. Critical areas include the following features: geologically hazardous areas, wetlands, streams,

frequently flooded hazard areas, fish and wildlife conservation areas, aquifer recharge areas, and groundwater discharge areas.

Critical Habitat. Habitat necessary for the survival of endangered, threatened, sensitive species as listed by the Federal Government or the State of Washington. Habitat for species listed on the candidate list, or monitored species as listed by the Federal Government or the State of Washington, may be considered critical habitat.

Degraded Wetland. A wetland in which the vegetation, soils, and/or hydrology have been adversely altered, resulting in lost or reduced functions and values.

Developable Area. Land outside of critical areas, their setback, and buffers.

Edge. The boundary of a wetland as delineated based on the criteria contained in this chapter.

Emergent Wetland. A wetland with at least 30 percent of its surface covered by erect, rooted, herbaceous vegetation at the uppermost vegetative strata.

Emergency. An action that must be undertaken immediately or within a time frame too short to allow full compliance with this chapter, in order to avoid an immediate threat to public health or safety, to prevent a imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation.

Enhancement, Wetland Mitigation. The manipulation of the physical, chemical or biological characteristics of a wetland site, in order to heighten, intensify or improve functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or habitat improvement. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying the site elevation or the proportion of open water to influence hydroperiods, or some combination of these activities. Enhancement results in a benefit to some wetland functions and can lead to a decline in other wetland functions but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

Erosion Hazard Areas. Lands or areas that, based on a combination of slope inclination and the characteristics of the underlying soils, are susceptible to varying degrees of risk of erosion.

Exotic Species. Plants or animals that are not native to the Puget Sound Lowlands region.

Extraordinary Hardship. Prevention of all reasonable economic use of the parcel due to strict application of this chapter and/or programs adopted to implement this chapter.

Fish and Wildlife Habitats (of Local Importance). A seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of relative density or species richness, breeding habitat, winter range,

and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs and wetlands.

Forested Wetland. Wetlands with at least 20 percent of the surface area covered by woody vegetation greater than 30 feet in height.

Forest Land. Land used for growing trees, not including Christmas trees, for commercial purposes (as shown by record of any income) that has long-term (six years or more) commercial significance.

Frequently Flooded Areas. Lands indicated on the most current FEMA map to be within the 100-year floodplain. These areas include, but are not limited to, streams, lakes, coastal areas, and wetlands.

Functions and Values. The beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, aesthetic value protection, and recreation. These roles are not listed in order of priority.

Geologically Hazardous Areas. Areas susceptible to erosion, sliding, seismic activity, or other geological events. They may pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential or industrial development.

Hydric Soil. Soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Washington State Wetlands Identification and Delineation Manual 1997, or as amended hereafter.

Landslide Hazard Areas. Areas that, due to a combination of slope inclination and relative soil permeability, are susceptible to varying degrees of risk of landsliding.

Land Uses, High Intensity. Uses which are associated with moderate or high levels of human disturbance or substantial impacts including, but not limited to, a zone classification allowing four or more dwelling units per acre, active recreation, and commercial and industrial land uses.

Land Uses, Low Intensity. Land uses which are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation and open space.

Mineral Resource Lands. Lands primarily devoted to the extraction of gravel, sand, other construction materials, or valuable metallic or mineral substances.

Mitigation *(Definition related to critical areas and shoreline permits only)*. An action or combination of actions which avoids, minimizes, or compensates for adverse impacts to critical areas or sensitive resources. Mitigation is considered in the following order of preference:

(a((~~1~~))) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b((~~2~~))) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(c((~~3~~))) Rectifying the impacts by repairing, rehabilitating, or restoring the affected environment;

(d((~~4~~))) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(e((~~5~~))) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;

(f((~~6~~))) Monitoring the impact and the compensation project and taking appropriate corrective measures.

Native Growth Protection Areas (NGPA). Areas where native vegetation is permanently preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering and protecting plants and animal habitat.

Native Vegetation. Plant species which are indigenous to the Puget Sound Lowlands region.

Natural Resource Lands. Agriculture, forest, and mineral resource lands as defined in ((~~this section~~))Chapter 14.88 LSMC.

Open Space. Areas of varied size which contain distinctive geologic, botanic, zoologic, historic, scenic or other critical area or natural resource land features.

Ordinary High Water Mark. A mark that has been found where the presence and action of waters are common and usual and maintained in an ordinary year long enough to mark a distinct character from that of the abutting upland.

Pesticide Management Plan. A guidance document for the prevention, evaluation, and mitigation for occurrences of pesticides or pesticide breakdown products in ground and surface waters.

Practicable Alternative. An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas. It may include an area not owned by the applicant which can reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.

Priority Habitats. Areas that support diverse, unique, and/or abundant communities of fish and wildlife, as determined by the Washington Department of Fish and Wildlife Map Products 2006.

Priority Species. Wildlife species of concern due to their population status and their sensitivity to habitat alteration.

Public Water System. A water system that serves two or more connections.

Re-establishment, Wetland Mitigation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Re-establishment results in a gain in wetland acres.

Regulated Wetlands. Wetlands, including their submerged aquatic beds, and those lands defined as wetlands under the 1989 Federal Clean Water Act, 33 USC Section 251, et seq., and rules promulgated pursuant thereto and shall be those areas that are inundated or saturated by surface 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. Regulated wetlands generally include swamps, bogs, and similar areas. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands. Regulated wetlands do not include those constructed wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention/retention 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.

Rehabilitation, Wetland Mitigation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic function of a degraded wetland. Activities could involve breaching a dike or reconnecting wetland to a floodplain or returning tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres

Repair or Maintenance Activities. An action to restore the character, size, or scope of a project only to the previously authorized condition.

Riparian Area. A transitional area between terrestrial and aquatic ecosystems and which is distinguished by gradients in biophysical conditions, ecological processes, and biota.

Riparian Habitat. An ecosystem that borders a stream which is occasionally flooded and periodically supports predominantly hydrophytes.

Riparian Zone. A transitional area between aquatic ecosystems (lakes, streams, and wetlands) and upland terrestrial habitats.

Scrub-Shrub Wetland. A wetland with at least 30 percent of its surface area covered with woody vegetation less than 20 feet in height.

Seismic Hazard Areas. Areas that, due to a combination of soil and groundwater conditions, are subject to severe risk of ground shaking, subsidence or liquefaction of soils during earthquakes.

Setbacks. Protective buffers which provide a margin of safety through protection of slope stability, attenuation of surface water flows, and landslide hazards reasonably necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters; or an area which is an integral part of a stream or wetland ecosystem and which provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland edge, habitat for wildlife and protection from

harmful intrusion necessary to protect the public from losses suffered when the functions and values of aquatic resources are degraded.

Sphagnum. Any of a large genus of mosses that grow only in wet acidic soils and whose remains become compacted with other plant debris to form peat.

Streams. Water contained within a channel, either perennial or intermittent, and classified according to a locally appropriate stream classification system based on WAC 222-16-030. Streams also include open natural watercourses modified by man. Streams do not include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse. Streams are further characterized as S, F, Np, or Ns.

Swamp. A wetland whose dominant vegetation is composed of woody plants and trees.

Unavoidable and Necessary Impacts. Impacts that remain after a person proposing to alter critical areas has demonstrated that no practicable alternative exists for the proposed project.

Water-dependent. A use for which the use of surface water would be essential in fulfilling the purpose of the proposed project.

Wetlands. 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, bogs, marshes, 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. However, wetlands include those artificial wetlands intentionally created to mitigate conversion of wetlands. See the ((~~Federal Manual for Identifying and Delineating Jurisdictional Wetlands~~))Washington State Wetlands Identification and Delineation Manual.

Wetland Mitigation Bank. A site where wetlands and buffers are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

Section 4. Ch. 14.08 and Ch. 14.92 LSMC are hereby amended by moving the following definitions from LSMC 14.92.010 to LSMC 14.08.010 in the new format and with revisions to read as follows:

Development (Definition related to shoreline permits only). A use consisting of the construction or exterior alteration of structures; dredging, drilling, dumping, filling, removal of sand, gravel or minerals, bulkheading, driving of pilings, placing of obstructions, or any project of a permanent or temporary nature which interferes with the

normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW ((~~overlying lands subject to this chapter~~))at any ((~~state~~))stage of water level.

Floodway. Those portions of the area 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 floodwater being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. 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.

Lake Stevens. Any lands or waters contained within the incorporated boundaries of the City.

Shoreline Master Program. The comprehensive shoreline plan for Lake Stevens and the use regulations together with maps, diagrams, charts or other descriptive material and text, developed in accordance with the policies enunciated in Section 2 of the Shoreline Management Act of 1971 (RCW 90.58.020).

Ordinary High Water Mark on Lake Stevens. The((~~that~~)) mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark shall be the line of mean high water. (RCW 90.58.030(2)(b) and (c))

Person. An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation or agency of the State or local governmental unit however designated. (RCW 90.58.030(1)(e))

Shorelands or *Shoreland Areas*. Lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology. (RCW 90.58.030(2)(d))

Shorelines. All of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them; except:

(a((~~1~~))) Shorelines of State-wide significance;

(b((~~2~~))) Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments;

(c((~~3~~))) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes. (RCW 90.58.030(2)(e))

Shorelines of Statewide Significance. In the Lake Stevens Area, those lakes, whether natural, artificial or a combination, with a surface acreage of 1,000 acres or more measured at the ordinary high water mark, and those natural rivers or segments thereof downstream of a point where the annual flow is measured at 1,000 cubic feet per second or more.

Shoreline Substantial Development. Any development of which the total cost or fair market value exceeds $5,718 (WSR 07-15-090)((~~2,500~~)), or any development which materially interferes with the normal public use of the water or shorelines of the State; except that the types of development defined in Section 14.16C.100(c) shall not be considered substantial developments for the purpose of this chapter. A dock is not considered substantial development if the fair market value of the dock does not exceed $10,000, but if subsequent construction having a fair market value exceeding $2,500 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.

Shorelines of the State. The total of all "shorelines and shorelines of Statewide significance" within the State.

Section 5. Ch. 14.16A LSMC is hereby amended by amending LSMC 14.16A.210 to read as follows:

14.16A.210 Types of Review.

(a) The purpose of this section is to provide an overview of the six levels of land use review. Land use and development decisions are classified into six processes based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of input sought, and the type of appeal opportunity.

(b) Classification of Permits and Decisions

(1) Type I Review - Administrative Decisions without Notice. A Type I process is an administrative review and decision by the appropriate department or division. Applications reviewed under the Type I process are minor administrative decisions and are exempt from certain administrative procedures, such as complete application review, noticing, and decision time frames. Appeals of Type I decisions are made to the Hearing Examiner, except shoreline permit appeals are made to the Shoreline Hearings Board. The permits and actions reviewed and decided as Type I are listed in the table in subsection (d) of this section.

(2) Type II Review - Administrative Decisions with Notice. A Type II process is an administrative review and decision with recommendation from staff, City departments or others and requiring public notice at the application and/or decision stages of the review. Appeals of Type II decisions are made to the Hearing Examiner, except shoreline permit appeals are made to the Shoreline Hearings Board. The permits and actions reviewed and decided as Type II are listed in the table in subsection (d) of this section.

(3) Type III Review - Quasi-Judicial Decisions - Hearing Examiner. This Type III process is a quasi-judicial review and decision by the Hearing Examiner. The Hearing Examiner makes a decision based on a staff report and, if required, the Design Review Board. A public meeting may be held prior to the Design Review Board recommendation. The Hearing Examiner considers public testimony received at an open

record public hearing. Public notification is provided at the application, public hearing, and decision stages of application review. Appeals of Hearing Examiner decisions are made to Snohomish County Superior Court, except shoreline permit appeals are made to the Shoreline Hearings Board. The permits and actions reviewed and decided as Type III are listed in the table in subsection (d) of this section.

(4) Type IV Review - Quasi-Judicial Decisions - City Council with Hearing Examiner Recommendation. A Type IV process is a quasi-judicial review and recommendation by the Hearing Examiner and a decision by the City Council. The Hearing Examiner considers the recommendation from the Design Review Board, if required, as well as public testimony received at an open record public hearing. The City Council makes a decision based on a recommendation from the Hearing Examiner during a closed record public meeting. Public notification is provided at the application, public hearing, and decision stages of application review. There is no opportunity for an administrative appeal. Appeals of City Council decisions are made to Snohomish County Superior Court. The permits and actions reviewed and decided as Type IV are listed in the table in subsection (d) of this section.

(5) Type V Review - Quasi-Judicial Decisions - City Council. A Type V process is a quasi-judicial review and decision by the City Council. Public notification is provided at the application, public hearing (if any), and decision stages of application review. There is no opportunity for an administrative appeal. Appeals of City Council decisions are made to Snohomish County Superior Court. The permits and actions reviewed and decided as Type V are listed in the table in subsection (d) of this section.

(6) Type VI Review - Legislative Decisions - City Council with Planning Commission Recommendation. A Type VI review is for legislative and/or nonproject decisions by the City Council under its authority to establish policies and regulations regarding future private and public development and management of public lands. The Planning Commission makes a recommendation to the City Council. The Planning Commission will conduct a public hearing to obtain public testimony on the proposed legislation. The City Council may elect to conduct an additional public hearing. The actions reviewed and decided as Type VI are listed in the table in subsection (d) of this section.

(c) Permits and Actions Not Listed. If a permit or land use action is not listed in Table 14.16A-I, the Planning Director shall make the determination as to the appropriate review procedure.

(d) Permit-Issuing Authority and Appeal Authority. The permit-issuing authority and appeal authority for permit applications and legislative actions are established in Table 14.16A-I. A detailed explanation for each review procedure is in Chapter 14.16B under each subsection for each review type.

Table 14.16A-I: Classification of Permits and Decisions

Type of Review	Land Use Actions and Permits	Recommend-ation By	Public Hearing Prior to Decision	Permit-Issuing Authority	Administrative Appeal Body & Hearing
TYPE I Administrative without Public Notice	• Administrative Design Review • Administrative Modifications • Boundary Line Adjustments • Change of Use • Code Interpretations	None	None	Department Director or designee	Hearing Examiner, except shoreline permits to State Shoreline Hearings Board & Open

	• Events • Grading Permit • Home Occupations • Master Sign Program • Reasonable Use Exceptions • Shoreline Exemptions • Signs • Temporary Uses				Record
TYPE II Administrative with Public Notice	• Administrative Conditional Use (formerly Special Use) • Binding Site Plans • SEPA Review (early OR when not combined with another permit or required for a Type I permit) • Shoreline Substantial Developments • Short Plats • Short Plat Alterations • Short Plat Vacations • Site Plan Reviews	None	None	Planning Director or designee	Hearing Examiner, except Shoreline permits to State Shoreline Hearings Board & Open Record
TYPE III Quasi-Judicial, Hearing Examiner	• Conditional Uses • Preliminary Plats • Shoreline Conditional Uses • Shoreline Variances • Variances	Design Review Board (if required)	Open Record	Hearing Examiner	Superior Court, except Shoreline permits to State Shoreline Hearings Board & Closed Record
TYPE IV Quasi-Judicial, City Council with Hearing Examiner Recommendation	• Essential Public Facilities • Planned Neighborhood Developments • Rezone – Site Specific Zoning Map Amendments • Secure Community Transition Facilities	Hearing Examiner with Open Record Hearing	Closed Record	City Council	None, appeal to Superior Court
TYPE V Quasi-Judicial, City Council	• Final Plats • Plat Alterations • Plat Vacations • Right-of-Way Vacations	Design Review Board (if required)	Open Record	City Council	None, appeal to Superior Court
TYPE VI Legislative, City Council with Planning Commission Recommendation	• Comprehensive Plan Amendments, Map & Text • Development Agreements • Land Use Code Amendments • Rezones – Area-Wide Zoning Map Amendments	Planning Commission with Open Record Hearing	Closed Record	City Council	Growth Management Hearings Board & Closed Record

(e) Associated Land Use Determinations. Associated land use determinations are decisions that need to be made as part of another land use action or permit review, as set forth in Table 14.16A-II. Each type of determination has a separate review process determined by the Planning Director or Public Works Director, except Design Review which is reviewed pursuant to Section 14.16C.050.

Table 14.16A-II: Associated Land Use Determinations

Associated Land Use Determinations
• EDDS Street Deviations
• Design Review
• Miscellaneous Administrative Determinations (e.g., application requirements, waiver allowed by code in parking or landscaping, etc.)
• Right-of-Way Improvement Exception
• Underground Utility Deviations

Section 6. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.105 to read as follows:

14.16B.105 Purpose.
A Type I review is an administrative review and decision by the appropriate department with no public notice requirements. These are applications which are categorically exempt from review under the State Environmental Policy Act (SEPA) or permits for which environmental review has been completed in connection with another application. Appeals of Type I decisions are made to the Hearing Examiner, except shoreline exemption appeals are made to the State Shoreline Hearings Board. Type I reviews are exempt from the procedures of Section 14.16A.230, Time Frames for Review. The purpose of this part is to provide the necessary steps for permit approvals requiring Type I review.

Section 7. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.110 to read as follows:

14.16B.110 Overview of Type I Review.
This section contains the procedures the City will use in processing Type I applications. The process begins with a complete application, followed by decision by the appropriate department. The administrative approval body is the department director. Appeals of the Director's decision on a Type I appeal are made to the Hearing Examiner, except shoreline exemption appeals are made to the State Shoreline Hearings Board. An appeal of the Hearing Examiner's appeal decision is made to the Snohomish County Superior Court.

Section 8. Ch. 14.146B LSMC is hereby amended by amending LSMC 14.16B.205 to read as follows:

14.16B.205 Purpose.
A Type II review is an administrative review and decision by the appropriate department. These are applications which are categorically exempt from review under the State Environmental Policy Act (SEPA) or permits for which environmental review has been completed in connection with another application. Public notification is provided at the application and decision stages of application review. Appeals of Type II decisions are

made to the Hearing Examiner, except shoreline permit appeals are made to the State Shoreline Hearings Board. Type II reviews are exempt from the procedures of Section 14.16A.230, Time Frames for Review. The purpose of this part is to provide the necessary steps for permit approvals requiring Type II review.

Section 9. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.230 to read as follows:

14.16B.230 Minimum Comment Period.

(a) The notice of application shall provide a minimum comment period of 14 days, except for shoreline permits pursuant to Section (e) below. All comments received on the notice of application must be received in the Permit Center by 4:00 p.m. on the last day of the comment period. Comments may be mailed, emailed, personally delivered or sent by facsimile. The Planning Director's decision on a Type II application shall not be issued prior to the expiration of the minimum comment period.

(b) Comments should be submitted to the Department of Planning and Community Services as early in the review of an application as possible and should be as specific as possible.

(c) If early SEPA review is requested, as described in Section 16.08.015, the Planning Director shall combine the notice of application and DNS comment periods. When a final DNS is issued, there is no additional comment period.

(d) The Planning Director may accept and respond to public comments at any time prior to making the Type II decision.

(e) Shoreline Substantial Development Permits. The minimum comment period on the notice of application for a shoreline substantial development permit shall be 30 days.

Section 10. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.240 to read as follows:

14.16B.240 Notice of Decision.

Within five days of a decision, the Planning Director shall mail or email notice of the decision and the SEPA determination, if any, to all parties of record, which shall include the applicant and each person who submitted comments during the public comment period or at any time prior to issuance of the decision. The notice of decision shall include a statement of any threshold determination made under SEPA (Chapter 43.21C RCW) and the procedures for administrative appeal, if any. For those project permits subject to SEPA, the notice of decision on the issued permit shall contain the requirements set forth in Section 14.16A.120, Environmental Review. For shoreline ((~~development~~))permits, the Planning Director shall notify the following persons in writing of its final approval or disapproval of a shoreline substantial development permit:

(a((~~1~~))) The applicant.

(b((~~2~~))) The Department of Ecology.

(c((~~3~~))) The Attorney General.

(d((~~4~~))) Any person who has submitted written comments on the application.

(e((~~5~~))) Any person who has written to the Director((~~Hearing Examiner~~)) requesting notification.

Section 11. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.245 to read as follows:

14.16B.245 Expiration of Approval.
Approval of the Type II application shall expire one year from the date approval was final, except for shoreline substantial development permits expire two years from final approval, unless significant action proposed in the application has been physically commenced and remains in progress pursuant to Section 14.16A.250.

Section 12. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.315 to read as follows:

14.16B.315 Notice of Application.
(a) Notice of application for Type III permits shall be provided within 14 days of the determination of completeness pursuant to Section 14.16A.230, Time Frames for Review. Notice shall be provided as indicated in subsection (b) of this section. If any open record pre-decision hearing is required for the requested project permit(s), the notice of application shall be provided at least 15 days prior to the open record hearing.
(b) Notice of Application Requirements of Type III Permits.

Type III Action or Permit	Mail	Post	Publish
All Type III Actions and Permits	X	X	X

(c) Mailed Notices and Postcard Notices. Mailings shall be completed pursuant to Section 14.16A.225 with the additional requirements stated below:
(1) Additional Notification Requirements for preliminary plats.
(i) Notice of the filing of a preliminary plat adjacent to or within one mile of the municipal boundaries of a City or town, or which contemplates the use of any City or town utilities, shall be given to the appropriate City or town authorities.
(ii) Notice of the filing of a preliminary plat of a proposed subdivision located in a City or town and adjoining the municipal boundaries thereof shall be given to the appropriate County officials.
(iii) Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a State highway or within two miles of the boundary of a State or municipal airport shall be given to the Secretary of Transportation.
(2) Additional Notification Requirements for Shoreline Permits: a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning the application as expeditiously as possible after issuance of the decision, may submit the comments or requests for decisions to the City within 30 days of the last date the notice is to be published pursuant to this section.
(d) Posted Notices. Posted notices shall be completed pursuant to Section 14.16A.225 with the additional requirements stated in subsection (d)(3) of this section:
(1) On-Site Posting. At least one public notice board shall be posted on the site on each public right-of-way fronting on the site.
(2) Public Posting. A public notice shall also be posted on the official notice board at City Hall.
(3) The following Type III applications are major land use actions: conditional uses, preliminary plats, and shoreline permits. In addition to the general notice

requirements, major land use actions shall comply with the extraordinary signage requirements in Section 14.16A.225(b)(3).

Section 13. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.320 to read as follows:

14.16B.320 Minimum Comment Period.

(a) The notice of application shall provide a minimum comment period of 14 days with the exception for shoreline permits pursuant to section (e) below. All comments received on the notice of application must be received in the Department of Planning and Community Development by 4:00 p.m. on the last day of the comment period. Comments may be mailed, emailed, personally delivered, or sent by facsimile. Staff recommendation on a Type III application shall not be issued prior to the expiration of the minimum comment period.

(b) Comments should be submitted to staff as early in the review of an application as possible and should be as specific as possible.

(c) If the early SEPA review is requested, as described in Section 16.08.015, the notice of application and DNS comment periods shall be combined. When a final DNS is issued, there is no additional comment period.

(d) Staff may accept and respond to public comments at any time prior to the closing of the public hearing record.

(e) Shoreline Permits. The minimum comment period on the notice of application for a shoreline conditional use permit or shoreline variance shall be 30 days.

Section 14. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.355 to read as follows:

14.16B.355 Notice of Final Decision.

Within five days of the conclusion of the appeal period or the resolution of a filed appeal, the Planning Director shall mail or email the notice of final decision and any changes to the SEPA threshold determination, if any, to all parties of record, which shall include the applicant and each person who participated in the public hearing or who submitted comments during the public comment period at any time prior to issuance of the decision. For shoreline permits, the Planning Director shall notify the following persons in writing of its final approval or disapproval of a shoreline conditional use permit or shoreline variance:

(a) The applicant.
(b) The Department of Ecology.
(c) The Attorney General.
(d) Any person who has submitted written comments on the application.
(e) Any person who has written to the Hearing Examiner requesting notification.

Section 15. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.360 to read as follows:

14.16B.360 Expiration of Approval.

Approval of the Type III application, except for preliminary plats, shall expire one year from the date approval was final, except for shoreline conditional use permits and shoreline variance permits expire two years from final approval, unless significant action proposed in the application has been physically commenced and remains in progress

pursuant to Section 14.16A.250. Preliminary plats shall terminate five years after approval pursuant to Section 14.16A.250(e).

Section 16. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.710 to read as follows:

14.16B.710 Appeal of Type I and II Administrative Decisions.
If a Type I or II decision has an administrative appeal available as set forth in Section 14.16B.115 or 14.16B.215, except for shoreline permits, the following procedures shall be followed:

(a) Appellant. The project applicant or any person who submitted written comments prior to the date the decision was issued may appeal the decision.

(b) Form of Appeal. A person appealing a Type I or II decision must submit a completed appeal form which sets forth:

(1) Facts demonstrating that the person is adversely affected by the decision;

(2) A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;

(3) The specific relief requested; and

(4) Any other information reasonably necessary to make a decision on the appeal.

(c) Time to Appeal. The written appeal and the appeal fee, if any, must be received by the Department of Planning and Community Development no later than 4:00 p.m. on the fourteenth day following the date of the notice of decision.

(d) Notice of Appeal. If a Type I or II decision is appealed, a hearing before the designated appeal body (as established in the table in Section 14.16B.115 or 14.16B.215) shall be set and notice of the hearing shall be mailed or emailed to the appellant, the applicant, and all parties of record by the applicable department director. Notice shall be mailed or emailed no less than 10 days prior to the appeal hearing, except that if the Type I or II decision has been consolidated with a recommendation on a Type III or IV application, any appeal of the Type I decision shall be consolidated with the Type III or IV public hearing. No separate notice of a Type I or II appeal needs to be provided if the public hearing has already been scheduled for the Type III or IV component of an application.

(e) Hearing Examiner.

(1) Public Hearing. The Hearing Examiner shall conduct an open record hearing on a Type I or II appeal. The appellant, the applicant, and the City shall be designated parties to the appeal. Each party may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony. Interested persons, groups, associations, or other entities who have not appealed may participate only if called by one of the parties to present information or to present testimony on a consolidated Type III or IV application; provided, that the Examiner may allow nonparties to present relevant testimony if allowed under the Examiner rules of procedure.

(2) Decision on Appeal.

(i) Within 14 days after the close of the record for the Type I or II appeal, the Hearing Examiner shall issue a written decision to grant, grant with modifications, or deny the appeal. The Hearing Examiner may grant the appeal or grant the appeal with modification if:

a. The appellant has carried the burden of proof; and

b. The Examiner finds that the Type I or II decision is not supported by a preponderance of the evidence.

(ii) The Hearing Examiner shall accord substantial weight to the decision of the applicable department director.

(iii) Reconsideration Period. Any person who participated in the hearing may file a written request with the Hearing Examiner for reconsideration within 10 business days of the date of the Hearing Examiner's decision. The request shall explicitly set forth alleged errors of procedure or fact. The Hearing Examiner shall act within 14 days after the filing of the request for an appeal by denying the request, issuing a revised decision, or calling for an additional public hearing.

(f) Appeal of Hearing Examiner Decision on Appeal. A Hearing Examiner decision on a Type I or II appeal may be appealed to the Snohomish County Superior Court by filing a land use petition which meets the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW 36.70C.040. Requirements for fully exhausting City administrative appeal opportunities must be fulfilled.

(g) Time Period to Complete Appeal Process. In all cases, except where the parties to an appeal have agreed to an extended time period, the administrative appeal process generally shall be completed within 90 days from the date the original administrative appeal period closed. The administrative appeal process shall be deemed complete on the date of issuance of the Hearing Examiner's decision or the City Council's decision on the appeal.

(h) Shoreline Permit Appeals. An appeal of a shoreline exemption or shoreline substantial development permit shall be to the State Shoreline Hearings Board and shall be filed within 21 days of the receipt of the City's decision by the Department of Ecology, as set forth in RCW 90.58.180.

Section 17. Ch. 14.16B LSMC is hereby amended by amending LSMC 14.16B.720 to read as follows:

14.16B.720 Appeal of Type III Hearing Examiner Decisions.

(a) Except for shoreline conditional use or shoreline variance, which is appealed to the Shoreline Hearings Board as per Section (b) below((~~14.16B.710(i)~~)), a Type III decision of the Hearing Examiner may be appealed to Snohomish County Superior Court by filing a land use petition which meets the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties, as set forth in State law and within the 21-day time period as set forth in RCW 36.70C.040. The appeal period shall commence upon the Hearing Examiner's final decision and not upon expiration of the reconsideration period.

(b) Shoreline Permit Appeals. An appeal of a shoreline conditional use permit or shoreline variance shall be to the State Shoreline Hearings Board and shall be filed within 21 days of the receipt of the City's decision by the Department of Ecology, as set forth in RCW 90.58.180.

Section 18. Ch. 14.16C LSMC is hereby amended by amending LSMC 14.16C.100 to read as follows:

14.16C.100 Shoreline Permits.

(a) This section describes 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 as consistent with Chapter 14.92.

(b) Permit Required. A substantial shoreline development permit is required for development that either materially interferes with the normal public use of the water or shorelines of the City or exceeds a total cost or fair market value of $5,718((~~000~~)), or $10,000 for docks, and is located within the shorelines of the City as defined in Section 14.92.010 and RCW 90.58.030. The current shoreline areas are described below:

(1) Shoreline Areas. The shoreline areas are designated in the Shoreline Master Program and are generally described as:

(i) Lake Stevens, its underlying land, associated wetlands, and a line 200 feet landward at the line of ordinary high water (elevation 27 feet above sea level) plus the area within the one percent numerical probability floodplain (100-year floodplain) as defined by the best available data.

(ii) Catherine Creek for approximately one mile south of Hartford Drive NE, the confluence with ((~~Stevens Creek (~~))the outflow from Lake Stevens((~~)~~)), where the mean annual flow is 20.0 cubic feet per second or more, and the territory between 200 feet on either side of the tops of the banks, plus associated wetlands and the area within the one percent probability floodplain (100-year floodplain) as defined by the best possible data.

(2) Adjacent Areas. Those parcels of land adjacent to the shoreline areas involving projects and developments that overlap into the shoreline areas.

(c) Exemptions. The following types of developments are exempt from the requirements of a shoreline substantial development permit but shall obtain a shoreline exemption under subsection (d)(1) of this section and comply with all other policies, plans, codes and regulations of the City and shall be consistent with the policy and intent of the Shoreline Management Act of 1971 and of this chapter and with the City's Shoreline Master Program:

(1) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements.

(2) Construction of the normal protective bulkhead common to single-family residences.

(3) Emergency construction necessary to protect property from damage from the elements.

(4) Construction or modification of navigational aids such as markers and anchor buoys.

(5) Construction 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 and which meets all requirements of the state agency or City government having jurisdiction, other than requirements imposed pursuant to Chapter 90.58 RCW and this title.

(6) 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 multiple-family residences, when the fair market value of the dock does not exceed $10,000, but if subsequent construction having a fair market value exceeding $2,500 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this section.

(7) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part

of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands.

(8) The marking of property lines or corners on State-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.

(9) 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.

(10) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

(i) The activity does not interfere with the normal public use of the surface waters;

(ii) 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;

(iii) 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;

(iv) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(v) The activity is not subject to the permit requirements of RCW 90.58.550.

(11) The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an 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 jointly with other State agencies under Chapter 43.21C RCW.

(d) Procedures.

(1) Applications for a shoreline exemption shall follow the procedures for a Type I review pursuant to Chapter 14.16B.

(2) Applications for a shoreline substantial development permit shall follow the procedures for a Type II review pursuant to Chapter 14.16B.

(3) Applications for a shoreline conditional use permit shall follow the procedures for a Type III review pursuant to Chapter 14.16B.

(4) Applications for a shoreline variance shall follow the procedures for a Type III review pursuant to Chapter 14.16B.

(5) Special Requirements. No final action or construction shall be taken until 21 days after notice of the final action taken by the City is filed with the Department of Ecology.

(e) Decision Criteria. All applications, including exemptions, shall comply with WAC 173-27-140.

(1) Shoreline Exemption. Types of developments outlined in subsection (c) of this section are exempt from the requirements of a shoreline substantial development permit but shall comply with all other policies, plans, codes and regulations of the City.

(2) Shoreline Substantial Development Permit. Shoreline substantial development permit applications shall be reviewed pursuant to WAC 173-27-150 and the following shoreline policies:

(i) A permit shall be granted only when the proposed development is consistent with the Lake Stevens Shoreline Master Program.

(ii) A permit shall be granted only when the proposed development is consistent with the policy of RCW 90.58.020.

(iii) Surface drilling for oil and gas is prohibited in the waters of Lake Stevens from on all lands within 1,000 feet landward from the ordinary high water mark.

(iv) A permit shall be denied if the proposed development is not consistent with the above enumerated policies.

(v) The granting of any shoreline development permit by the City shall be subject to the conditions imposed by the Shoreline Hearings Board.

(3) Shoreline Conditional Use Permit. Uses which are not classified or set forth in the Shoreline Master Program or use regulations may be allowed, provided the applicant can demonstrate that they meet the criteria outlined in WAC ((~~173-14-160~~))173-27-160.

(4) Shoreline Variance. Relief may be granted from specific provisions of the Shoreline Master Program or shoreline use regulations, provided the applicant can demonstrate that the variance will meet the criteria outlined in WAC ((~~173-14-170~~))173-27-170.

Section 19. Ch. 14.18 LSMC is hereby amended by amending LSMC 14.18.120 to read as follows:

14.18.120 Decision Criteria.

In order to approve a binding site plan, the Department must find that the newly created lots function and operate as one site and that the binding site plan and record of survey comply and are consistent with the following provisions as well as any other applicable regulations as determined by the Department:

(a) Requirements of this part;

(b) Requirements for noise control, Chapter 9.56;

(c) Requirements for public or private roads, right-of-way establishment and permits, access, and other applicable road and traffic requirements;

(d) Compliance with fire lane, emergency access, fire-rated construction, hydrants and fire flow, and other requirements of Chapter 14.84;

(e) Compliance with applicable construction code requirements, Chapter 14.80;

(f) Compliance with applicable use and development standard requirements of this title;

(g) Compliance with applicable shoreline management code requirements of Chapter ((~~14.64~~))14.92 and/or flood hazard area requirements of Chapter ((~~14.92~~))14.64;

(h) Compliance with environmental policies and procedures and critical areas regulations of Title 16 and Chapter 14.88;

(i) Compliance with applicable drainage requirements of Chapter 14.64;

(j) Compliance with applicable impact fee requirements;

(k) Provisions for adequate sewer service, water supply and refuse disposal; and

(l) Any other applicable provision of this title.

Section 20. Ch. 14.36 LSMC is hereby amended by amending LSMC 14.36.060 to read as follows:

14.36.060 Shoreline ((~~Management District~~))Environment Designation.

The shoreline ((~~management district~~))environment designation is hereby established as an "overlay" district, meaning that these districts are overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if and to the extent such use is also permitted in the applicable overlay district and a shoreline development permit has been granted, if necessary, pursuant to Chapter 14.92, where this district is further described.

Section 21. Ch. 14.36 LSMC is hereby amended by amending LSMC 14.36.200 to read as follows:

14.36.200 Compatibility of Zoning Districts with Land Use Plan Defined.

Table 14.36-I defines which zoning districts are compatible with which land use designations of the Land Use Plan of the Comprehensive Plan. Only those zones defined as compatible with a given land use designation may be applied to that land use designation when a rezone is considered.

Table 14.36-I: Land Use Designation/Zone Compatibility Matrix

Zone	Comprehensive Plan Land Use Designation*										
	LDR	MDR	HDR	WR	D/LC	SRC	MU	PBD	LI	GI	P/SP
Suburban Residential		X									
Waterfront Residential		X		X							
Urban Residential		X									
High Urban Residential		X									
Multi-Family Residential			X								
Neighborhood Commercial	X	X	X								
Local Business					X						
Central Business District					X						
Mixed Use							X				
Planned Business District								X			

Sub-Regional Commercial						X					
Light Industrial									X	X	
General Industrial										X	
Public/Semi-Public	X	X	X	X	X	X	X	X	X	X	X
Floodplain and Floodway District	X	X	X	X	X	X	X	X	X	X	X
Shoreline ((~~Management District~~))Environment Designation	X	X	X	X	X	X	X	X	X	X	X

LDR	=	Low Density Residential	MU	=	Mixed Use
MDR	=	Medium Density Residential	PBD	=	Planned Business District
HDR	=	High Density Residential	LI	=	Light Industrial
WR	=	Waterfront Residential	GI	=	General Industrial
D/LC	=	Downtown/Local Commercial	P/SP	=	Public/Semi-Public
SRC	=	Sub-Regional Commercial			

Section 22. Ch. 14.88 LSMC is hereby amended by amending LSMC 14.88.100 by deleting all definitions and amending the first paragraph to read follows:

14.88.100 Definitions.

((~~For the purposes of this chapter, t~~))The ((~~following~~))definitions related to critical areas are included in Chapter 14.08 LSMC.((~~shall apply:~~))

Section 23. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.010 by deleting all definitions and amending the first paragraph to read follows:

14.88.800 Classification.

Wetlands shall be classified as Category I, II, III, or IV using the Washington State Department of Ecology's Wetland Rating System for Western Washington, Publication No. 04-06-025, or as amended hereafter. Wetland delineations shall be determined ((~~by using the Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter~~))in accordance with WAC 173-22-035.

(a) Sources used to identify designated wetlands include, but are not limited to:

(1) United States Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory.

(2) Areas identified as hydric soils, soils with significant soil inclusions and wet spots with the United States Department of Agriculture/Soil Conservation Service Soil Survey for Snohomish County.

(3) Washington State Department of Natural Resources, Geographic Information System, Hydrography and Soils Survey Layers.

(4) City of Lake Stevens Critical Areas Inventory Maps.

(b) Category I Criteria.

(1) Wetlands that represent a unique or rare wetland type; or

(2) Are more sensitive to disturbance than most wetlands; or

(3) Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or

(4) Provide a high level of functions.

(5) Category I wetlands include:

(i) Estuarine wetlands which are larger than one acre in size.

(ii) Natural heritage wetlands as identified by the Natural Heritage Program of the Natural Resources.

(iii) Bogs.

(iv) Mature and old-growth forested wetlands over one acre in area.

(v) Wetlands that score 70 or more points out of 100 using the Western Washington Rating System.

(c) Category II Criteria.

(1) Category II wetlands are difficult though not impossible to replace and provide high levels of some functions.

(2) Category II wetlands include:

(i) Estuarine wetlands under one acre in area.

(ii) Wetlands that score between 51 and 69 points out of 100 on the Western Washington Rating System.

(d) Category III Criteria. Wetlands with a moderate level of functions and with rating system scores between 30 and 50 points out of 100.

(e) Category 4 Criteria. Wetlands with a low level of functions and with rating system scores less than 30 points out of 100.

Section 24. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.010 by deleting all definitions and amending the first paragraph to read follows:

14.88.810 Determination of Boundary.

(a) The Planning and Community Development Director, relying on a field investigation supplied by an applicant and applying the wetland definition provided in this chapter, shall determine the location of the wetland boundary. Qualified professional and technical scientists shall perform wetland delineations as part of a wetland identification report ((~~using the Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter~~))in accordance with WAC 173-22-035. Criteria to be included in a required wetland identification report may be found in Section 14.88.275, Mitigation/Enhancement Plan Requirements. The applicant is required to show the location of the wetland boundary on a scaled drawing as a part of the permit application.

(b) When the applicant has provided a delineation of the wetland boundary, the Planning and Community Development Director shall verify the accuracy of, and may render adjustments to, the boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Planning and Community Development

Director shall, at the applicant's expense, obtain expert services to render a final delineation.

(c) The Planning and Community Development Director, when requested by the applicant, may waive the delineation of boundary requirement for the applicant and, in lieu of delineation by the applicant, perform the delineation. The Planning and Community Development Director shall consult with qualified professional scientists and technical experts or other experts as needed to perform the delineation. The applicant will be charged for the costs incurred. Where the Planning and Community Development Director performs a wetland delineation at the request of the applicant, such delineation shall be considered a final determination.

Section 25. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.010 by deleting all definitions and amending the first paragraph to read follows:

14.92.010 Definitions.

Definitions contained in the Washington State Shoreline Management Act of 1971 shall apply to all terms and concepts used in this title; provided, that shoreline-related definitions contained in ((~~this~~)) Chapter 14.08 LSMC shall be applicable where not in conflict with the Washington State Shoreline Management Act of 1971.

Section 26. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.020 to read as follows:

14.92.020 Administration.

(a) Map. Shorelines of the State located within Lake Stevens shall be designated on an official map to be kept in City Hall.

(b) Administration. The Planning Director as the Shoreline Administrator, is vested with the duty of administering the rules and regulations relating to shoreline management and may prepare and require the use of such forms as are essential to such administration.

(c) Compliance with Other Laws. Nothing in this title shall be construed as excusing a developer from compliance with any other local, State, or Federal statute, ordinance or regulation applicable to a proposed development.

(d) Enforcement and Penalty. The Lake Stevens City Attorney shall bring such criminal injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the shorelines of the City located within the City in conflict with provisions, policy, or intent of this chapter or the Shoreline Management Act of 1971. Procedures for enforcement action and penalties shall be as specified in WAC 173-27-240 through 173-27-310.

((~~(e) Penalty. In addition to whatever civil liabilities may be incurred, any person found to have willfully engaged in activities on the shorelines of the State in violation of the provisions of this chapter or of the master program, rules or regulations adopted, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than $1,000 or by imprisonment for not more than 90 days, or by both such fine and imprisonment; provided, that the third and all subsequent violations in any five year period shall be a gross misdemeanor punishable by a fine of up to $5,000 or imprisonment of up to one year, or by both such a fine and imprisonment.~~))

Section 27. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.050 to read as follows:

14.92.050 Supplemental Application Requirements for a Shoreline Development Permit.

In addition to the application requirements of the specified submittal checklist, any person applying for a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance shall submit with their ((~~master permit~~))land use development application the following information:

(a) The name, ((~~and~~))address and phone number of the applicant, applicant's representative and property owner;

(b) The location and legal description of the proposed shoreline substantial development;

(c) Name of the shoreline (water body) associated with proposal;((~~The present use of the property.~~))

(d) A general description of the vicinity of the project (at least 400 feet) including adjacent uses, structures and improvements, intensity of development and physical characteristics((~~The general description of the property and the improvements~~));

(e) The present and intended use of the property and a((~~A~~)) description of the proposed shoreline substantial development project, including proposed use(s) and activities necessary to accomplish the project((~~and the intended use of the property~~)).

(f) A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, and including photos or text, as required. The following information will be provided on a site plan map:

(1) Land contours, using five foot contour intervals; if project includes grading, filling or other alteration of contours, then either:

(i) Show both existing and proposed contours on a single map, clearly indicating which is which, and include subsections (((~~e~~))f)(2) through (13((~~θ~~))) of this section; or

(ii) Provide two or more maps, one showing existing contours, including subsection (((~~e~~))f)(2) through (((~~5~~))6) of this section, and the others showing proposed contours, including subsections (((~~e~~))f)(((~~6~~))7) through (13((~~θ~~))) of this section;

(2) Dimensions, including height, ((~~S~~))size and location of ((~~exiting~~))existing and proposed structures and improvements, including but not limited to buildings, paved or gravel areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities((~~which will be retained~~));

(3) Ordinary high water mark((~~Existing utilities~~));

(4) Beach type: sand, mud, gravel, etc.((~~Ordinary highwater mark~~));

(5) ((~~Beach type: sand, mud, gravel, etc.;~~

~~(6) Size and location of proposed structures;~~

~~(7) Maximum height of proposed structures;~~

~~(8)~~))Width of setback, side yards;

(6) Delineate all critical areas including lakes, streams and wetland areas and their buffers and identify those to be altered or used as part of development;

(7) General indication of character of vegetation found on the site;

(8((~~9~~))) Proposed temporary and permanent fill areas (state quantity, source and composition((~~; state type, amount and treatment~~)) of fill);

(9) Proposed excavated or dredged areas (state quantity, composition and destination of material);

(10) A landscaping plan for the project, if applicable((~~Proposed utilities~~));

(11) Plans for mitigation on or off the site for impacts associated with project, if applicable;

(12) A depiction of impacts to views from existing residential uses and public areas, where applicable; and

(13) For variances, clearly show on plans where development could occur without approval of variance, the physical features and circumstances on the property that provide a basis for request and location of adjacent structures and uses.

((~~(f) Vicinity plan, indicating relation of site to adjacent lands. Show adjacent lands for at least 400 feet in all directions from the project site, and owner of record within 300 feet of project site;~~))

(g) Total value of all construction and finishing work for which the permit will be issued, including all permanent equipment to be installed on the premises;

(h) Approximate dates of construction initiation and completion;

(i) Short statement explaining why this project needs a shoreline location and how the proposed development is consistent with the policies of the Shoreline Management Act of 1971;

(j) Listing of any other permits for this project from State, Federal or local government agencies for which the applicant has applied or will apply;

(k) Any additional material or comments concerning the application which the applicant wishes to submit may be attached to the application on additional sheets; and

(l) Property owners of record within 300 feet of project site in electronic table format.

Section 28. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.060 to read as follows:

14.92.060 Fees.

The fees for each proposed shoreline exemption, shoreline substantial development, shoreline conditional use, or shoreline variance permit shall be set by resolution.

Section 29. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.070 to read as follows:

14.92.070 Processing Requirements.

(a) Shoreline substantial development permits shall be processed as a Type II review, and shoreline conditional use permits and shoreline variances shall be processed as a Type III review, pursuant to Chapters 14.16A and 14.16B, conforming to the requirements of RCW 90.58.140(4).

(b) Each permit issued shall include a provision that construction pursuant to the permit shall not begin and is not authorized until 21 days from date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within 21 days from date of filing have been terminated, except as provided in RCW 90.58.140(5)(a) and (b).

(c) The Washington Department of Ecology shall review the permit submitted by the City and approve, approve with conditions or disapprove permit within 30 days of the date of submittal by City. (WAC 173-27-200(1))

Section 30. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.100 to read as follows:

14.92.100 Duties of Hearing Examiner.

The Hearing Examiner shall consider the proposed substantial development based on information from: the application; written comments from interested persons; the advice of the various City departments; independent study of the Hearing Examiner; and views expressed by the public. The Hearing Examiner may request an applicant furnish information concerning a proposed substantial development in addition to information required in an application. The Hearing Examiner shall formulate findings of fact and a decision, based on the ((~~policies~~))decision criteria enumerated in Section 14.16C.100(e). The Hearing Examiner shall transmit its recommendations in writing, together with a statement setting forth the factors considered, and an analysis of the findings considered by him to be controlling, to the Shoreline Hearings Board within 14 days following the Hearing Examiner meeting.

Section 31. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.120 to read as follows:

14.92.120 Effective Date of Permit.

No person shall begin substantial development of any part of the shorelines of the state located within the City of Lake Stevens for at least 21 days pursuant to Section 14.92.070(b). ((~~until 30 days after being granted a shoreline development permit pursuant to the provisions of this chapter or until all review proceedings initiated within such 30-day period are terminated.~~))

Section 32. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.130 to read as follows:

14.92.130 Variances and Conditional Uses.

The City's shoreline master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances to insure that strict implementation of the shoreline master program will not create unnecessary hardships or thwart the policy enumerated in this chapter or in Section 2 of the Shoreline Management Act of 1971 (RCW 90.58.020). Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect.

Section 33. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.140 to read as follows:

14.92.140 Appeals.

Any person aggrieved by the granting, denying or rescinding of a s((~~S~~))horeline((~~Development~~)) permit may seek review by filing a request for review with the Shoreline Hearings Board, the Department of Ecology, and the Attorney General within ((~~30~~))21 days of receipt of the decision pursuant to WAC 461-08-340((~~final order~~)). The City may appeal to the Shorelines Hearing Board any rules, regulations, guidelines, designations, or master programs for shorelines of the state adopted or approved by the Department of Ecology within 30 days of the date of adoption or approval.

Section 34. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.150 to read as follows:

14.92.150 Modification or Rescission of Permit.
The Hearing Examiner shall retain continuing jurisdiction over permits which it issues. It may modify or rescind any shoreline development permit if it finds that a permittee has not complied with the conditions of a permit. The Hearing Examiner shall hold a public hearing and make findings of fact relating to a permit in question before it may take action to modify or rescind the permit.

Section 35. Ch. 14.92 LSMC is hereby amended by amending LSMC 14.92.160 to read as follows:

14.92.160 Permit Expiration and Extension.
Shoreline permits are valid for five years. A shoreline ((~~development~~))permit shall become void two years from the date of its issuance ((~~by Hearing Examiner~~))when substantial work on the authorized shoreline development has not been initiated within that time period. However, and consistent with RCW 90.58.143(2), the City 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 before the expiration or void date and notice of the proposed extension is given to parties of record on the shoreline permit and to the Department of Ecology.

Section 36. Severability. If any section, clause, phrase, or term of this ordinance is held for any reason to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, and the remaining portions shall be in full force and effect.

Section 37. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Lake Stevens this ___ day of _____, 2011.

_____
Vern Little, Mayor

ATTEST/AUTHENTICATION:

_____
Norma J. Scott, City Clerk/Admin Asst

APPROVED AS TO FORM:

_____
Grant K. Weed, City Attorney

First Reading:

Second Reading:
Final Reading:
Published:
Effective Date:

May 18, 2011

Council President Suzanne Quigley
Lake Stevens City Council
1812 Main Street
Lake Stevens, WA 98258

SUBJECT: PLANNING COMMISSION RECOMMENDATION
Shoreline Master Program (LS2009-11)

Dear Council President Quigley and Council Members:

The Lake Stevens Planning Commission held a public hearing on Wednesday, May 4, 2011 with continuation to May 18, to consider Ordinance No. 855 adopting code amendments related to the Shoreline Management Act and necessary for consistency whether or not the Shoreline Master Program is adopted; and Ordinance No. 856 adopting Shoreline Master Program documents, and code amendments and comprehensive plan amendments related to the SMP.

Commissioners in attendance were Chair Dan Ansbaugh (May 4 only), Vice Chair Linda Hoult, and Commissioners Gary Petershagen, Janice Huxford, Dean Franz (May 18 only) and Sammie Thurber (May 18 only).

May 4, 2011 Public Hearing – Twenty-five people attended. Planning and Community Development staff gave a PowerPoint presentation summarizing both ordinances and associated documents. Planning Commission opened public testimony and 15 people provided verbal testimony. A few people also provided written testimony. Planning Commission closed public testimony, and reopened it for additional testimony. It was then closed. Public testimony was transcribed and is included in the Council Public Hearing Packet as Exhibit B, Attachment 4. Specific questions and responses are included on the Responsiveness Survey in the Packet as Exhibit B, Attachment 5.

May 18, 2011 Continued Public Hearing – Nine people attended. The Planning Commission deliberated. The public testimony was reopened; four people spoke and staff read into the record three written comments. The additional public testimony is summarized below:

- Some residents have concern about the safety of helicopters landing on private dock; others have no problems with helicopters.
- One person would like to decrease setbacks/buffers from the lake; others state no problem with current setbacks.
- Two letters were submitted in support of the use of helicopters on the lake and landing on a private dock.
- One email from Snohomish County Public Works stated they had no comments.

This letter includes a summary of Planning Commissioner questions and additional public testimony from the May 18th Continued Public Hearing as well as Planning Commission recommendations on Ordinance No. 855 and Ordinance No. 856.

SUMMARY PLANNING COMMISSIONER QUESTIONS (May 18, 2011)

The following topics were discussed by the Planning Commission during deliberation:

- Jet Skis and other recreational equipment should be considered personal watercraft. Concern with the different types of lifts and platforms and how that increases overwater coverage.
- Helicopters and float plane use on the lake; potential for setting hours of use
- Future changes to Shoreline Master Program and/or Critical Areas Regulations
- Concern with prohibiting creativity in the SMP

PLANNING COMMISSION RECOMMENDATIONS

Staff asked the Planning Commission to make a recommendation on each SMP document separately and then make a recommendation on each ordinance. The motions are listed below:

MOTIONS for Shoreline Master Program document

1. *Commissioner Franz made a motion, seconded by Commissioner Petershagen, to recommend to Council the adoption of the April 27, 2011 Shoreline Master Program as presented by staff and with the following amendments based on public testimony and further discussions: the four changes proposed by staff in the May 18th PC Staff Report on page 7 relating to definitions of shall and should, changing "grating" to allow "decking with a minimum of 60 percent ambient light transmission", removing first sentence and revising second sentence under Fingers and Ells, and revising the language on replacement of docks. Motion carried unanimously (6-0-0-1).*

2. *Commissioner Franz made a motion, seconded by Commissioner Huxford, to recommend to the Council the following amendments: the three changes to Appendix B of the SMP proposed by staff in the May 18th PC Staff Report #2 relating to stormwater management facilities in Category II wetlands, removing first sentence referencing the WAC for a definition of waters of the state, and adding subsection regarding subject properties separated from a wetland by a pre-existing structure. Motion carried unanimously (6-0-0-1).*

3. *Commissioner Petershagen made a motion, seconded by Commissioner Franz, to recommend staff further define Personal Watercraft lifts and sleds and use the term instead of jet skis and clarify as it relates to accessory complements to docks and placed at least 30 feet from shore. Planning Commission is not recommending a limit on the number of personal watercraft lifts per dock. Motion carried unanimously (6-0-0-1).*

MOTION for Cumulative Impacts Analysis document

4. *Commissioner Myers made a motion, seconded by Commissioner Thurber, that the Cumulative Impacts Analysis was accepted by the Washington Department of Ecology as support that the Shoreline Master Program as presented can meet no net loss of ecological functions of areas under shoreline jurisdiction. No public testimony has been*

given on the document. The Planning Commission recommends to Council the adoption of the April 27, 2011 Cumulative Impacts Analysis as presented by staff.

MOTION for No Net Loss Report

5. *Commissioner Huxford made a motion, seconded by Commissioner Franz, to recommend to Council the adoption of the April 27, 2011 No Net Loss Report as presented by staff. Motion carried unanimously (6-0-0-1).*

MOTION for Restoration Plan

6. *Commissioner Thurber made a motion, seconded by Commissioner Huxford, that the Restoration Plan provides information on current and potential restoration projects to assist the City in meeting no net loss of ecological functions of areas under shoreline jurisdiction. No public testimony has been given on the document. The Planning Commission recommends to Council the adoption of the April 27, 2011 Restoration Plan as presented by staff. Motion carried unanimously (6-0-0-1).*

MOTION for Code Amendments Related to the SMP

7. *Commissioner Franz made a motion, seconded by Commissioner Thurber, to recommend to Council the adoption of the proposed code amendments related to the Shoreline Master Program as presented by staff and with the following amendment: addition of no net loss subsections to LSMC 14.16C(a) as proposed by staff in the May 18th PC Staff Report #2. Motion carried unanimously (6-0-0-1).*

MOTION for Comprehensive Plan Amendments

8. *Commissioner Myers made a motion, seconded by Commissioner Huxford, that the proposed Comprehensive Plan amendments to Chapter 10 Critical Areas Element meet all five factors for consideration of approval of amendments and meets all six of the decision criteria to grant approval of the amendments. No public testimony has been given on the amendments. I move that the Planning Commission recommend to Council the adoption of the Comprehensive Plan Amendments as presented by staff. Motion carried unanimously (6-0-0-1).*

MOTION for Ordinance No. 856 Adopting SMP documents

9. *Commissioner Huxford made a motion, seconded by Commissioner Myers, to recommend to Council the adoption of Ordinance No. 856 adopting the SMP documents with the amendments recommended in the previous motions for each separate SMP document and related code amendments and comprehensive plan amendments.*

MOTION for Ordinance No. 855 Adopting Code Amendments Related to SMA

10. *Commissioner Petershagen made a motion, seconded by Commissioner Franz, to recommend to Council the adoption Ordinance No. 855 adopting code amendments for consistency between Lake Stevens Municipal Code and State updates of the Shoreline Management Act. Motion carried unanimously (6-0-0-1).*

MOTION Regarding Helicopters

11. Commissioner Franz made a motion, seconded Commissioner Myers, to recommend to Council that SMP be silent on helicopters, but the Council look at creating regulations for helicopters now and in the future. Motion passed (5-1-0-1).

Respectfully submitted,

Lake Stevens Planning Commission

Linda Hoult, Vice Chair Sammie Thurber, Commissioner
Linda Hoult Sammie Thurber

CITY OF LAKE STEVENS
WORKSHOP MEETING MINUTES
Monday, June 6, 2011
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street N.E. Lake Stevens

CALL TO ORDER:	7:03 p.m. by Council President Suzanne Quigley
COUNCILMEMBERS PRESENT:	Kim Daughtry, Marcus Tageant, Kathy Holder, Neal Dooley, and Mayor Vern Little
COUNCILMEMBERS ABSENT:	Mark Somers and John Spencer
STAFF MEMBERS PRESENT:	City Administrator Jan Berg, Planning Director Becky Ableman, Public Works Director/City Engineer Mick Monken, City Attorney Paul McMurray, Police Chief Randy Celori, and Principal Planner Karen Watkins
OTHERS:	Joe Burcar, Department of Ecology; Jamie Bails, Fish & Wildlife; Dan Nickel, Watershed; and John Owen, Makers Architect

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Council discussed the Shoreline Master Program.

Adjourn. 8:54 p.m.

_____ _____
Suzanne Quigley, Council President Norma J. Scott, City Clerk/Admin. Asst.

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LAKE STEVENS CITY COUNCIL

STAFF REPORT

Council Agenda Date: June 13, 2011

Subject: Music On the Lake 2011

Contact Person/Department: Barb Lowe/Finance **Budget Impact:** N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:
Authorize the Mayor to sign performance agreements when received for the 2011 Music On the Lake concert series.

SUMMARY/BACKGROUND:
The Arts commission hires various acts to perform at their Music On the Lake concert series in North Cove Park. The concert series this year include six Thursday night performances beginning on July 7th and concluding on August 18th. Each performance costs $500 with the exception of "Navy Band Northwest" which will perform at no charge and the local Jazz school, which will perform for $1.00. Performers will be paid through the City's Arts Commission budget which currently has an available balance of $2,336. The following is a list of the performances, dates and the types of music they will perform:

1. July 7th "Navy Band Northwest" (Five Horn Band)
2. July 14th "Red Desert Ramblers" (bluegrass/country)
3. July 21rd "North End Jazz" (Jazz)
   July 28th – No Performance
4. Aug. 4th "Curtis Hammond Band" (Rock & Rock)
5. Aug. 11th "Alma Villegas y Azucar" (Latin/Salsa)
6. Aug. 18th "Mozo" (Folk)

APPLICABLE CITY POLICIES:
City Council authorizes the Mayor to sign performance contracts.

BUDGET IMPACT: The current budget includes expending the entire Arts Commission Budget. No amendment necessary. ($2,001 for the performances plus $100 for print costs)

ATTACHMENTS:

►
►

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LAKE STEVENS CITY COUNCIL

STAFF REPORT

Council Agenda Date: June 13, 2011

Subject: Request to Host a Wine Garden – Arts and Parks Foundation

Contact Person/Department: Barb Lowe/ Finance Director **Budget Impact:** N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Approve the Arts and Parks Foundation's request to host a Wine Garden in the North Cove Park during the 2011 Music on the Lake event. The Wine Garden will be open July 7th – July 21st and August 4th – August 18th from 6:00 pm – 8:30 pm.

SUMMARY/BACKGROUND: The Arts and Parks Foundation has submitted an application to host a Wine Garden in North Cove Park during Music on the Lake.

The Arts and Parks Foundation is proposing that the Wine Garden be located in North Cove Park during the Music on the Lake event from July 7th – August 18th with the exception of July 28th, during the hours of 6:00 pm – 8:30 pm. The proposal is that access to the Wine Garden will be restricted only to persons over the age of 21 years old. Access to the Wine Garden will be controlled, and patrons will be required to show valid government issued photo ID prior to entry.

The Arts and Parks Foundation will be making application to the Washington State Liquor Control Board for the required applicable license and permits, proof of which will have to be provided to the City in addition to a Certificate of Liability Insurance and endorsement, specifically addressing the Wine Garden and naming the City of Lake Stevens as an additional insured.

APPLICABLE CITY POLICIES:
Title 10.03.150 states, *the City Council may permit the sale and consumption of alcoholic beverages within a confined licensed area pursuant to an event permit issued by the City and a permit issued by the Washington State Liquor Control Board. Any application to the City Council for such a permit shall include a site plan identifying the specific areas to be licensed. In granting such a permit, the Council may apply restriction reasonably calculated to comply with the purpose of the Public/Semi-Public Zone as set forth in the Lake Stevens Land Use Ordinance.*

BUDGET IMPACT: N/A

ATTACHMENTS:

- Exhibit A:
- Exhibit B:
- Exhibit C:

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LAKE STEVENS CITY COUNCIL

STAFF REPORT

Council Agenda Date: 13 June 2011

Subject: Shadow Brook Pedestrian Bridge

Contact Person/Department: Mick Monken, Public Works

Budget Impact: $3,000 Est

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Authorize the Mayor to execute agreements with the homeowners in Shadow Brook for the City's removal of the pedestrian bridge connecting to Hartford Road to this plat

SUMMARY/BACKGROUND: There is an unsafe wooden pedestrian bridge that accesses into the Shadow Brook plat which is beyond repair. The City's Building Official has "Red Tagged" this structure as unsafe It is unclear whether the bridge is public or private ownership. The bridge accesses from private property onto a public roadway, Hartford Road. There are no signs on the bridge prohibiting the public use of this bridge. What is unclear is that on the private property there is a "pedestrian easement" that is not identified as public or private in the plat documents. Regardless, there is a public safety issue that needs to be addressed.

City staff had sought the opinion of the City's legal counsel on the ownership. Their determination was that it was simply unclear who owns the pedestrian bridge and who has legal obligation to maintain or remove it.

The City is faced with a public safety issue which needs prompt attention. The City has to make a decision on an action whether to continue seeking ownership determination or to remove the bridge now. It is estimated that the cost to make the legal ownership determination could easily exceed the cost for the remove and timing could take months. To replace the bridge is estimated in a range of $20,000 to $30,000. The bridge does not provide an essential link for the general public to a public facilities or public transit and there is an internal public sidewalk system that is accessible from this plat. Therefore, it is recommended that this bridge not be replaced.

Since it is possible that the bridge belongs to the homeowners in the Shadow Brook plat, the City would seek an agreement from each homeowner (total 10) in Shadow Brook prior to the bridge removal. This agreement would release the City from liability and the obligation of the replacement. In return the homeowner would not be faced with a potential abatement process and associated costs. For both, the risk exposure from a bridge failure would be removed.

APPLICABLE CITY POLICIES: NA

BUDGET IMPACT: Estimated $3,000 for staff time and City equipment for removal only. Funding would come out of existing operating budget.

ATTACHMENTS:

- Exhibit A: Bridge Removal Agreement
- Exhibit B: Site map
- Exhibit C: Section of Plat Map

EXHIBIT A

AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into on this __ day of _____, 2011, by and between _____ (hereinafter collectively referred the "Shadow Brook Plat Homeowners" or "Homeowners") and the City of Lake Stevens, a municipal corporation ("City").

RECITALS

1. In January 1993, the Shadow Brook Plat ("Plat") was established in the City of Lake Stevens and recorded with the Snohomish County Auditor in Volume 54, pages 215-217, under Auditor's File No. 9301285001.

2. As part of said Plat, a private pedestrian bridge ("Pedestrian Bridge" or "Bridge") was constructed and installed in the vicinity of the northeast corner of the Plat.

3. The purpose of the private Pedestrian Bridge was to cross over ____ Creek and to connect a pedestrian easement within the Plat to Hartford Drive (a public road).

4. A substantial portion of the Pedestrian Bridge is within public right-of-way along Hartford Drive.

5. The Pedestrian Bridge is failing, is in danger of total collapse, and represents an unsafe condition and a danger to the public.

6. The Pedestrian Bridge has been marked as unsafe by the City Building Official and steps have been taken to prevent use of the Bridge by pedestrians.

7. In the interest of public safety, the City and the Homeowners agree that the failing and unsafe Pedestrian Bridge should be removed as soon as possible.

8. The City is willing to remove the failing Pedestrian Bridge in the interest of the general public, in accordance with the terms and conditions of this Release Agreement.

NOW, THEREFORE, in consideration of the matters set forth in the foregoing recitals and the mutual covenants and other considerations contained herein, the City and Homeowners agree as follows:

1. Removal of the Pedestrian Bridge. In the interest of public safety, in order to avoid costs associated with going through an abatement process, and in consideration of the release of liability provided in this Agreement, the City agrees to remove the failing Pedestrian Bridge and dispose of it at no costs to the Homeowners. The City shall install a wooden barricade at the Hartford Drive Bridge access. The Homeowners shall be responsible for making any needed safety improvements to protect users of the pedestrian easement that connects to the Pedestrian Bridge within the Plat.

2. City will not replace the Pedestrian Bridge. It is understood and expressly agreed by the Homeowners that the City has no legal or other obligation to replace the Pedestrian Bridge and shall not replace the Pedestrian Bridge after it has been removed, and that any replacement of the Pedestrian Bridge shall be at the sole responsibility and costs of the Homeowners.

3. Indemnification and Release of Liability. In further consideration of the City removing the Pedestrian Bridge at no cost to the Homeowners, the Homeowners, representatives of Homeowners' estates, and their beneficiaries, heirs, children, grandchildren, successors and assigns do hereby indemnify, hold harmless and irrevocably and forever release, acquit and discharge the City and the City's elected officials, officers, directors, agents, attorneys, employees, successors and assigns, of and from all liabilities, claims, actions, suits, damages, penalties, costs, losses, expenses, interest, court costs, and attorney fees of any kind and nature whatsoever, known or unknown, arising out of, relating to, or resulting from use and removal of the Pedestrian Bridge, including but not limited to any claims related to the ownership of the Pedestrian Bridge, removal of the Pedestrian Bridge, claims to the remains and debris of the removed Pedestrian Bridge, installation of a replacement pedestrian bridge, and/or claims of damage to the existing bridge footings, bridge mounts, bridge approaches, and surrounding vegetation.

4. Severability. If any provision of the Agreement is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, such provision shall not affect the validity of the remaining provisions of this Agreement.

5. Complete Agreement. This Agreement is a fully integrated agreement. It contains the full and final expression of the parties relative to its subject matter and all the promises and covenants exchanged by the parties.

6. Heirs, Successors and Assigns. This Agreement shall bind the heirs, successors, representatives and assigns of each party.

7. **Amendment**. This Agreement may be amended only by a subsequent written document, signed by the parties hereto.

8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

9. **Venue.** The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of the State of Washington for Snohomish County.

10. **Counterparts**. This Agreement may be executed in one or more counterparts and may be transmitted by facsimile. Each identical counterpart shall be deemed an original, and all of the counterparts shall constitute one and the same instrument.

11. **Date**. For purposes of reference, this Agreement shall be deemed to be dated as of the date first written above.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY OF LAKE STEVENS **HOMEOWNERS**

By: _____ By: _____
Vern Little, Mayor

Approved as to form:

_____
Grant K. Weed, City Attorney

EXHIBIT B
Site Map

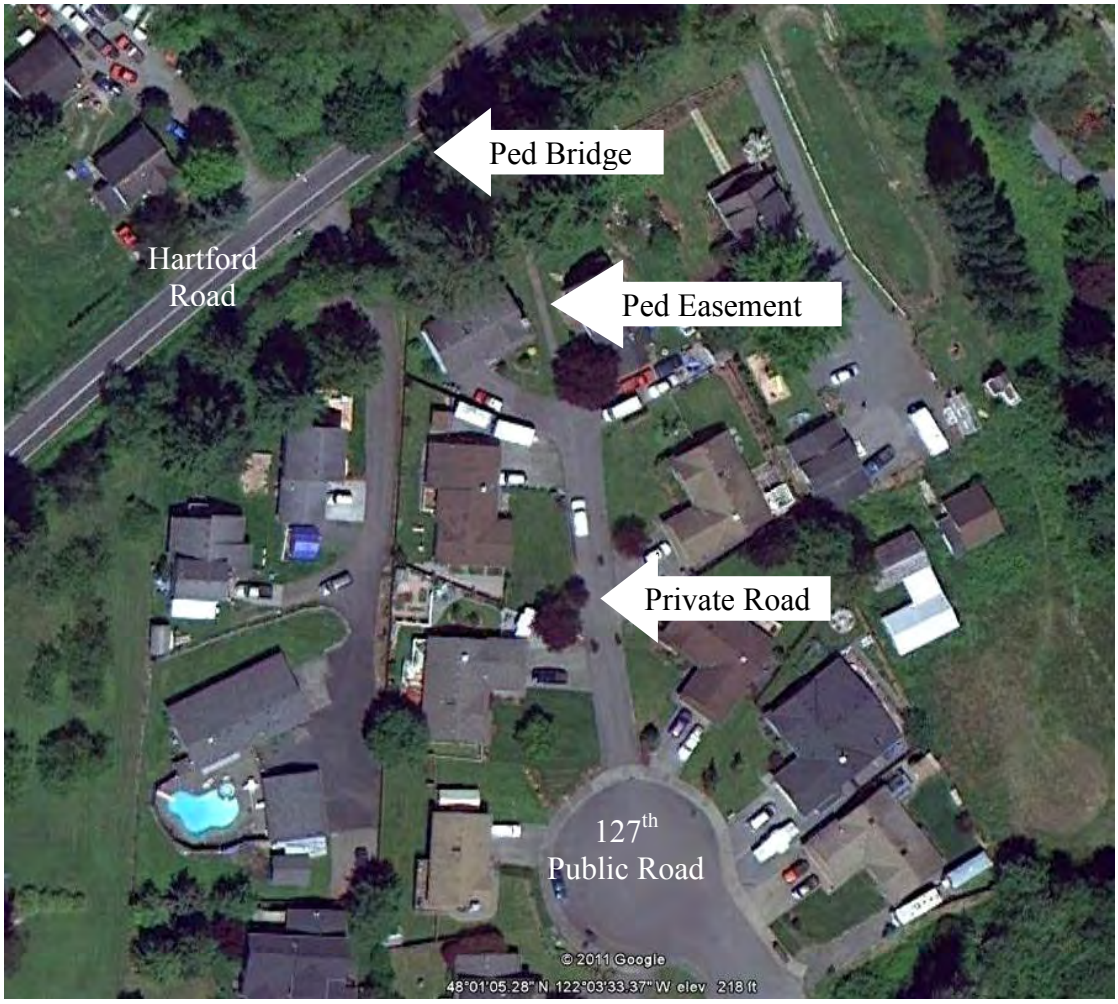

EXHIBIT C

Section of Shadow Brook Plat Map (1993)