



MEMORANDUM

DATE: November 8, 2011

TO: Chair Turner and Members of the Planning Commission

FROM: Carol Helland, Land Use Director 452-2724
Shoreline Update Team
Development Services Department

RE: Deliberations Regarding the Draft Shoreline Master Program Update –
Setback/Buffer Issue Consideration

Shoreline setbacks/buffers were identified as the topic for Issue-Based Review at the Planning Commission meeting scheduled for November 16 on the Shoreline Master Program (SMP) Update.

Action Requested from the Planning Commission

1. Direction on the shoreline setback/buffer issues to facilitate code drafting by staff to achieve Planning Commission objectives.
2. Direction on next steps.

Direction on the Shoreline Setback/Buffer Issue

To support the Planning Commission Issue-Based Review, staff has identified the documents where shoreline setbacks/buffers have been addressed to-date. These documents include references to relevant policies, prior study session materials, an index to public comments made regarding shoreline setbacks/buffers, and Ecology requirements. The following list contains relevant references to agenda materials and associated dates, to assist Planning Commission members in locating materials in the documents that they have at home.

- June 9, 2010 PC Meeting Agenda Memo
- June 9, 2010 PC Meeting Presentation
- June 9, 2010 PC Meeting Minutes
- July 14, 2010 PC Meeting Agenda Memo
- July 14, 2010 PC Meeting Minutes
- October 20, 2010 PC Meeting Agenda Memo
- October 20, 2010 PC Meeting Presentation
- October 20, 2010 PC Meeting Minutes
- May 5, 2011 Comprehensive Plan Amendment/Land Use Code Amendment/SEPA Analysis Staff Report

Copies of these documents are also provided on the Planning Commission website for the November 16 meeting, and can be accessed via the following link:

http://www.bellevuewa.gov/planning_commission_agendas_2011.htm . The full record of all prior materials presented to the Commission is available at:
<http://www.bellevuewa.gov/shoreline-master-plan.htm>

Staff has also prepared and included as Attachment A to this memorandum a matrix that compares setback/buffer approaches taken to SMP compliance by neighboring jurisdictions. Based on experience with the Issue-Based Review at the October 26 Planning Commission meeting, staff anticipates that the Planning Commission will discuss the topic of setbacks/buffers, formulate objectives for meeting the shoreline setback requirements of the SMP, and direct staff to draft code or describe programmatic alternatives for achieving those objectives.

Next Steps

At the October 26 meeting, the Planning Commission agreed preliminarily to the following list of issues that they felt should be subjected to the Issue-Based Review process.

- Vegetation Conservation
- Setbacks/buffers
- Stabilization
- Docks
- Nonconformities
- Public Access
- Lake Levels (Ordinary High Water Mark)
- Phantom Lake (Critical Areas)
- Document Length/Ease of Use/Cross Reference
- Mitigation Sequencing

In order to adequately prepare for future Planning Commission meetings, staff requests the Planning Commission to identify the next issue for discussion. We look forward to seeing you on November 16, and continuing to support the Planning Commission review of the SMP and development of a recommendation to the City Council.

Shoreline Master Program Update Jurisdiction Comparison- Shoreline Setbacks

	Redmond (Approved by DOE)	Sammamish (Approved by DOE)	Kirkland (Approved by DOE)	Renton (Approved by Council)	Mercer Island (Approved by Council)	Bellevue Public Hearing Draft	Bellevue Existing (2006)	
STANDARDS WITHIN THE SETBACK	Dimension buffer/setback	35-foot structure setback from OHWM.	50-foot structure setback from OHWM overlaid by 15-foot vegetation enhancement area.	30 to 60-foot structure setback measured from OHWM. Specific dimension based on 30% of the average parcel depth.	25 to 40-foot structure setback from OHWM overlaid with vegetation conservation buffer between 10 to 20 feet. The buffer and setback dimension is sized based on lot depth.	25-foot structure setback from OHWM for all structures.	50-foot structure setback from OHWM overlaid by a 25 foot vegetation conservation area. The structure setback is drawn around the footprint of existing primary structures. Structure setback can be reduced down to no less than 25 feet when specific requirements are met.	50-foot buffer from OHWM for all structures over 30 inches on <u>undeveloped sites</u> . 25-foot buffer from OHWM and an additional 25-foot setback from the edge of the buffer on <u>developed sites</u> .
	Maintenance of Existing structures and other improvements (Excluding bulkheads)	No specific reference to general maintenance activities. Structures which are nonconforming are subject to nonconforming provisions which prohibit the expansions or alteration of existing structures if the change increases the nonconformity.	No specific reference to maintenance activities however definitions include: "Maintenance" means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition or use.	Maintenance activities must minimize impacts to fish, wildlife, and their associated habitat and utilizes best management practices (BMPs). Allowance with BMP for maintaining existing vegetation	Existing landscaping and gardens may be maintained and replanted to match original conditions, noxious weeds can be removed. Nonconforming structures and sites are governed by city-wide nonconformity regulations.	Shoreline code is silent regarding maintenance of existing structures in the setback. Land use code nonconforming rules allow repair and maintenance of legally nonconforming structures so long as there is no expansion of the any existing nonconformity or creation of new nonconformity. Under the same provisions, repair of legally nonconforming decks is permitted.	Existing landscaping and improvements in vegetation conservation area may be maintained to existing conditions. Accessory structures <200 sf within the structure setback outside of the vegetation conservation area may be repaired/ rebuilt. Repair of accessory structures >200 sf are limited to 50% of the value of the structure. Repair of primary structures located in the structure setback outside of the vegetation conservation area are allowed and not subject to nonconformity. Primary and accessory structures located in vegetation conservation area may be maintained when value of repairs < 50% of the value of the structure under repair.	Repair and remodeling of legally nonconforming structures is limited to minor, nonstructural repairs, and repairs of mechanical systems within or supporting an accessory structure.

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STANDARDS WITHIN THE SETBACK	<p>Allowed Development and Activities</p> <p>No structures other than those required for waterfront access/docks are allowed within the 20-foot setback. Clearing or grading is prohibited within setbacks, except for the purpose of habitat restoration and enhancement or natural beach enhancement or protection, or the installation of residential docks, shoreline protective structures, or public access, where allowed.</p>	<p>Maximum 200-square foot accessory structure.</p> <p>Up to 25 percent of the vegetation enhancement area may be used as an active use area.</p> <p>Structures, decks and paved areas within the vegetation enhancement area may only be located within the limits of the active use area as specified within this program.</p>	<p>Walkways, garden sculptures, light fixtures, trellises, bioretention swales, rain gardens, or other similar bioretention systems, Infiltration systems, retaining walls and similar structures and bay windows, greenhouse windows, eaves, cornices, awnings, and canopies may extend up to 18 inches into the shoreline setback. Decks, patios may extend up to 10 feet into the shoreline setback but shall not be closer than 25 feet to the OHWM</p>	<p>Access to a private dock is allowed through establishment of up to a 6 foot wide path through the vegetation conservation buffer.</p> <p>Accessory structures associated with water dependent uses are allowed within the setback and buffer.</p> <p>Areas dedicated to water dependent uses are allowed in the setback and vegetation conservation area.</p>	<p>Maximum impervious surface limited to 10 percent of setback area; 30 percent impervious restriction between 25 and 50 feet from OHWM</p>	<p>Landscape improvements, hardscape surfaces, and accessory structures are allowed within shoreline structure setback outside of the vegetation conservation area - prescriptive requirements.</p> <p>Up to 40 percent of the vegetation conservation area may be converted to non-structural water-enjoyment recreational improvements when equivalent area is replanted with native vegetation.</p>	<p>Routine maintenance of legally-established landscaping and landscape features developed prior to August 1, 2006 is permitted. Existing legally-established structures may remain subject to the requirements on repair and maintenance outlined below.</p>
	<p>Redevelopment/ Expansion of existing structures</p> <p>Setback can be reduced to 20 feet if the setback area is revegetated with primarily native vegetation. Establishment of a tree canopy is encouraged. The applicant must record on the title documentation from the City of Redmond confirming that the structure has been built under the flexible setback option and as such, the structure is conforming and the area within the 20-foot lakefront setback is to remain planted primarily with native vegetation</p>	<p>Structures may be redeveloped or expanded when setback reduction measures are implemented.</p> <p>Setback cannot be less than 20 feet from OHWM.</p> <p>Planting must be installed and maintained.</p> <p>Developments or additions of less than 500 square feet, the landscaping requirement shall be proportional (1:1) to the area of disturbance or redevelopment.</p> <p>Changes to a structure that do not expand the footprint do not trigger landscaping or reduction measures.</p>	<p>Structures may be redeveloped and expanded and shoreline setback may be reduced to a minimum of 25 feet using a combination of the mitigation options.</p> <p>Redevelopment or expansion of existing structures the cost of which exceeds 50 percent of the replacement cost of all structures on the subject property are required to plant native vegetation in at least 75% of the nearshore riparian area located along or near the water's edge.</p> <p>Encroachment beyond 25 feet requires variance.</p>	<p>Expansions up to 500 square feet of structure footprint or 1000 square feet of impervious surface is allowed without additional requirements.</p> <p>Expansions of building footprint between 500 and 1000 square feet of structure footprint, and between 1,000 square feet to 1,500 square feet of impervious surface require vegetation enhancement mitigation.</p> <p>Building footprint expansions of more than 1000 square feet or expansions of impervious surface by more than 1500 square feet require full compliance with the vegetation management plan requirements applicable to new residential development.</p>	<p>No specific reference to redevelopment; expansion covered below under new development</p>	<p>Existing primary structures may be rebuilt in the existing footprint when located outside of the vegetation conservation area. They may expand into the shoreline structure setback when prescriptive standards are met and may expand within the vegetation conservation area only through use of a shoreline variance.</p> <p>Accessory structures allowed within the structure setback when prescriptive requirements are met.</p> <p>Redevelopment with a larger footprint or expansion of structures into the setback triggers compliance with landscaping standards that require re-vegetation of the vegetation conservation area.</p>	<p>Existing primary structures may be expanded up to 500 square feet into a shoreline critical area buffer or setback where expansion outside of the buffer or setback is not feasible and the expansion is to serve a function that is an essential component of a single-family residence. Such expansion is permitted only if it can be shown there is: (1) no feasible alternative; (2) the expansion is the minimum necessary; and, (3) mitigation is possible.</p>

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New Development	Same standards as applicable to redevelopment and expansion noted above.	New development generally comply with setbacks however provisions allow setback to be reduced same as for redevelopment or expansion.	Same standards as applicable to redevelopment and expansion noted above.	<p>New development must comply with required setback and buffer widths.</p> <p>A vegetation management plan is required with all new development or redevelopment of nonconforming uses.</p> <p>Acceptable vegetation management plans must demonstrate how existing native vegetation is being preserved and how sites lacking native vegetation will establish a dense native vegetation community within the defined buffer.</p> <p>Native vegetation established as part of a vegetation management plan must be preserved for the life of the development.</p> <p>Use of an off-site vegetation conservation area is allowed in-lieu of providing on-site vegetation when approved through the shoreline variance process.</p>	<p>New development over 500 square feet of additional gross floor area or impervious surface requires the following landscaping if located adjacent to OHWM:</p> <ul style="list-style-type: none"> o A 120-foot vegetation area shall be established and 25% shall contain vegetation coverage o The 5 feet nearest OHWM shall contain at least 25% native vegetation o A shoreline vegetation plan shall be submitted to the City that includes a variety of shrubs and trees, excluding non-native grasses o No noxious weeds may be planted 	<p>New primary structures are allowed when located outside of the required 50-foot structure setback or when a prescriptive reduction of the required setback is permitted in accordance with the setback reduction requirements.</p> <p>New accessory structures are allowed within the structure setback when prescriptive requirements are met. Accessory structures located within the structure setback may not exceed 200 square feet unless a setback reduction is granted.</p> <p>New development within the shoreline jurisdiction triggers compliance with landscaping standards that require re-vegetation of the vegetation conservation area.</p> <p>New structures are allowed within the vegetation conservation area only through approval of a shoreline variance.</p>	<p>New development can occur in the shoreline critical area buffer or setback by two means: (1) application of the "string" test with respect to surrounding development which allows the new structure to be located with respect to a line connecting the two adjoining primary structures so long as the adjusted shoreline critical area buffer is never less than 25 feet; and, (2) modification of a critical area buffer or setback using the critical areas report mechanism provided by LUC 20.25H.230. Buffer modification may under this section may occur only if the critical area buffer functions are degraded or the proposal provides unique design or protection of critical area functions not anticipated by the code requirements.</p>
Code References	http://www.codepublishing.com/WA/redmond.html	http://www.codepublishing.com/wa/sammamish/	http://kirklandcode.ecity.gov.net/CK_KZC_Search.html	http://rentonwa.gov/uploadedFiles/Business/EDNSP/planning/1465_Exhibit_D_REVISED_(August_2010).pdf	http://pubdocs.mercergov.org/meetings/cache/0/efomslydtizm0wbnobi1h4q1/33858910312011021842103.PDF	http://www.bellevuewa.gov/pdf/Land%20Use/Residential_Shoreline_Regulations_LUC_20.25E.065.pdf	http://www.codepublishing.com/wa/bellevue/LUC/BellevueLUC2025H.html http://www.codepublishing.com/wa/bellevue/?LUC