



DATE: July 1, 2009

TO: Chair Orrico, Members of the Planning Commission

FROM: Michael Paine, Environmental Planning Manager, DSD
Heidi Bedwell, Associate Planner, DSD
David Pyle, Senior Planner, DSD

SUBJECT: Shoreline Master Program (SMP) Update—Bellevue File # 07-122342 AC

INRODUCTION

At the July 8 study session, staff from the legal department will be present to answer questions regarding the Shoreline Management Act with particular focus on the impact of the Anacortes case on the regulation of critical areas in shoreline areas. (See Attachment 2 for detailed discussion.) This analysis will be further supplemented by presenting a more thorough treatment of the critical areas code than that previously provided to the Commission in January. Staff will follow with further discussion of site specific environment designations by presenting a revised vision for Bellefield Office Park Option #2 and a summary of past discussions for alternative designations. The reaction of some affected property owners is provided below with a more complete summary of the discussions coming at the July 8 study session.

SHORELINE LEGAL ISSUES

See Attachment #2 from Legal Department

REVIEW OF CRITICAL AREAS CODE

What are critical areas?

Critical areas are features in the landscape that provide beneficial functions that are difficult, if not impossible, to replicate. In many cases, these same features can pose risks to life, property and infrastructure. Functions refer to processes, roles and services that individual critical areas perform. For example, wetlands provide flood control, ground water recharge, water filtration, and habitat creation. The City of Bellevue regulates six types of critical areas: streams and riparian areas; wetlands; habitats for species of local importance; geologic hazard areas; flood hazard areas; and shorelines. The rules are found in the Land Use Code at 20.25H and 20.25E.

When do the regulations apply?

Generally if a property owner has critical areas or critical area buffers on their site the regulations apply. In some cases, for example for wetlands and steep slopes, certain minimum thresholds must be met before a site is regulated under critical areas.

Overall architecture of the code

Broadly speaking, the critical areas code consists of three key components: (1) a set of prescriptive standards governing development on sites with critical areas (these includes buffers and setbacks); (2) a range of allowed or specified uses subject to performance standards (included are construction and maintenance of municipal infrastructure, driveways, vegetation management, stabilization and flood protection, expansion of single-family residences and reasonable use exceptions); and, (3) a flexible process to modify some standards—for example, buffers— in limited circumstances.

While buffers are a key component of any regulatory system designed to protect critical area functions, other components are generally included. Bellevue's code includes (1) a classification or rating system; (2) a buffer network; (3) standards for management of buffers including delineation and vegetative targets; (4) standards for buffer flexibility; (5) performance standards for streambank and shoreline protection; (6) general use restrictions; (7) performance standards for linear development like roads, bridges, trails and underground utilities; (8) mitigation standards; (9) performance standards for marking buffers and informing property owners; (10) management incentives (11) enforcement standards; and, (12) monitoring and adaptive management provisions.

The generalized permitting path below shows the three pathways a project might take depending on the use and degree of compliance with standards. It is important to understand that the flexible option in the bottom box is not available in every instance but rather is available only on those sites where the buffer is degraded, or the applicant is putting forth a proposal for a unique, site-specific solution the outcome of which will be a better result than otherwise would be obtained using the existing regulations.

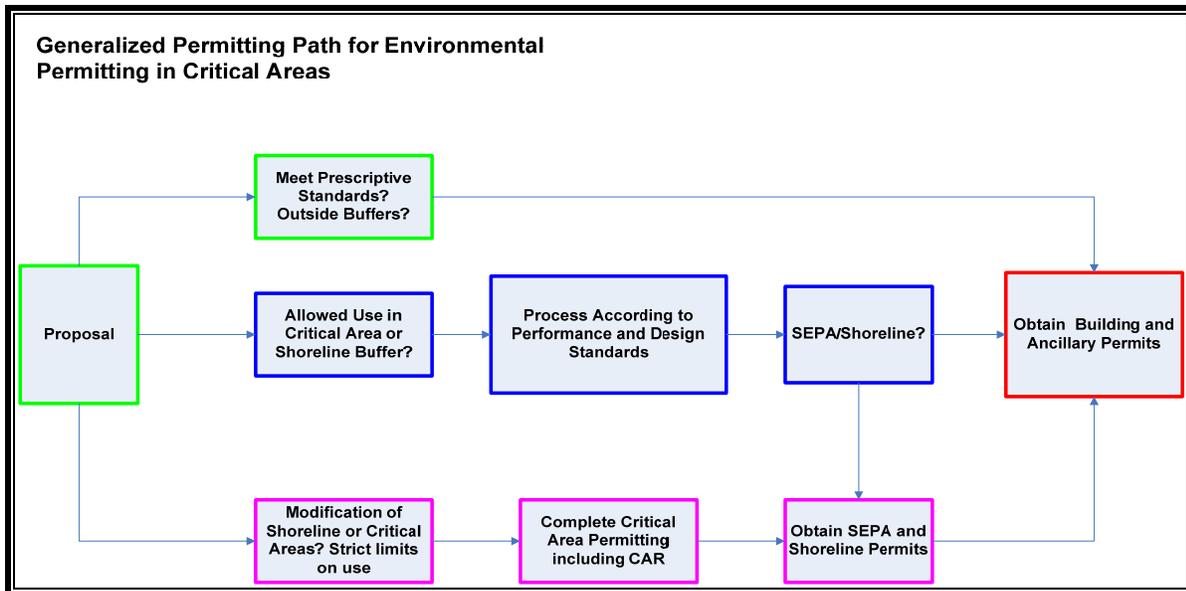


Figure 1: Generalized architecture of critical areas code

Existing Buffers and Setbacks

The provision of buffers and setbacks is the most common technique for protecting most critical areas and their associated functions from the impact of adjacent land uses. As a result, buffers figure widely in protecting critical area functions in Bellevue’s Critical Areas Code. Buffers are fixed or variable vegetated zones located between natural resources such as streams, wetlands or shorelines and adjacent development or human caused alteration. These vegetated areas protect aquatic resources from nonpoint source pollution and provide bank stabilization and aquatic and wildlife habitat. In ideal circumstances, buffers are sized to provide functions considered critical to protecting aquatic and riparian species and to moderate the impacts of land use in the watershed.

Bellevue’s buffers are sized based on best available science assembled during the critical areas update process and range from 225 feet for highly rated wetlands to 25 feet for small, intermittent streams (see attachment 1). In recognition of the legacy of existing development, buffers are reduced in size on developed sites. Additionally the Commission and Council recognized the degree of development by adopting buffers which are drawn around the footprint of existing primary structures with the result that existing structures in critical areas may be rebuilt in their existing footprints without triggering additional requirements.

Unfortunately there is no agreement in the scientific literature as to the optimum buffer widths for each critical area that are protective of each function or sufficient to accommodate all functions. There is, however, universal agreement in the literature that buffers of some width are protective of functions and values. Likewise there is no suggestion that buffers beyond several

site potential tree heights (SPTH) are needed to protect most functions. Moreover, for most functions, the cumulative effectiveness of buffers apparently diminishes with distance.

It is also important to understand that while aquatic systems have similar needs despite their varied location in the watershed, in urban areas some functions are only partially provided by vegetated buffers due to the character of the urbanization that has occurred. For example, given the numerous channelized sources of runoff in urban watersheds, buffers will usually not provide full flow attenuation and sediment filtration benefits. Even where an intact buffer of substantial size exists, the buffer may not reduce flows or filter fine sediment because it is generally bypassed. Furthermore, an aquatic buffer may not provide the desired functions if it is fragmented along its length or if it is not wide enough.

Consequently, protection of aquatic buffers is not sufficient to ensure that the critical areas will not be degraded by upland development. The changes associated with hydrology and upland biology must also be addressed and impacts minimized if the integrity of the aquatic ecosystem is to be ensured. That said buffers can be remarkably successful in treating urban pollutants and providing significant habitat on individual lots if care is taken not to bypass them. The recent focus on low impact development techniques to treat urban storm water means the water quality benefits of urban buffers may increase.

Shoreline Critical Areas

Commission members expressed an interest in being reminded about those items that were shoreline related and addressed in the Critical Areas update. Relevant policies and regulations were amended through the Critical Areas update process. These included: moorage standards, shoreline stabilization (i.e. bulkheads), buffers, and setbacks.

The standards for new or substantially rebuilt moorage were updated with an eye to compliance with the State guidelines and to align more closely with other regulatory agencies such as the Army Corps of Engineers and the Washington State Department of Fish and Wildlife. Adoption of these standards recognized the need to create a smooth permitting path for property owners when multiple regulatory agencies were involved. These standards control the size, length, amount of overwater coverage, location of piers, and construction specifications for residential and commercial piers. Most of the standards are aimed at making a pier more fish and habitat friendly. The rules also contained required mitigation measures for new or expanded moorage facilities.

Figure 2: Example of New Pier Standards

It is important to understand that the introduction of these standards, or any comprehensive set of standards, rendered many existing piers out of compliance to those standards. While this does not affect property owners per say, it does have an impact when routine repairs exceed a certain threshold.

Significant repairs to existing moorage can trigger partial compliance to the standards outlined in the figure above. Repairs that trigger partial compliance include replacing more than 50 percent of the decking and the above-water substructure (e.g. stringers). A range of options for compliance include reduction of pier width in the first 30 feet; fully grating the affected portion of the facility; removing piles from the first 18 feet; or enhancing the shoreline buffer to meet the required planting requirement. Minor repairs, tightly defined as those repairs below that threshold, may proceed without significant restriction.

Shoreline Stabilization

The shoreline stabilization standards were also updated with special attention to the State's guidelines for these shoreline modifications. Key provisions include the requirement that new or enlarged shoreline stabilization measures are permitted only to protect existing primary structures, public facilities or public use structures, and an allowed land area of 25 feet. The

selection of the appropriate stabilization method is encouraged by requiring an applicant to prove that soft stabilization measures are not technically feasible.

Only minor repair is permitted outright. Major repair is treated like a new shoreline stabilization measure and is subject to the no technically feasible standard. The purpose behind this new approach, beyond compliance with the guidelines, is to ensure that legacy protection built in another time and without regard to its environmental impact is not perpetuated through the ages without careful consideration. The Commission and Council recognized that property owners need to maintain existing facilities; however, when maintenance is deferred to such a point that the structure needs complete replacement it made sense to insist that alternate methods of stabilization be considered, or even whether or not stabilization is necessary.

Shoreline Buffers

The other key change involved the establishment of a 25-foot buffer on the shoreline instead of a 25-foot structure setback. With minor exceptions, buffers on the shoreline are nondisturbance areas, which, in ideal circumstances, maintain functions critical to shoreline ecology and lessen impacts on the aquatic zone of upland development. This generally entails preservation of existing vegetation while limiting development within the buffer. On developed sites (sites with an existing primary structure), a 25-foot structure setback is added to the buffer for a total of 50 feet (as discussed above, the buffer and setback are drawn around the footprint of existing primary structures). On undeveloped sites—sites without a primary residence—this buffer is expanded to 50 feet with no additional structure setback. The establishment of a buffer rather than a setback recognizes the importance of the shoreline interface and key habitat functions that such an area can provide. It does not mean, however, that water enjoyment cannot occur there; recreation and enjoyment is a key component of the SMP; it simply means that there must be a balance between private recreational use and natural function, something that did not exist before when the area was deemed a structure setback. The rules allow for access through the buffer as well as location of nonstructural improvements within the 25 foot structure setback.

Table 1: Comparison of shoreline buffer standards between old (1987) and new (2006) code

Code Requirement	Buffer	Structure Setback
1987 Code	0	25'
Developed Sites (2006 Update)	25'	25'
Vacant Sites (2006 Update)	50'	0

Implications for the Future Shoreline Update

The state Shoreline Master Program Guidelines, commonly referred to as the “Guidelines” provide parameters, standards and review criteria for local master programs, including the integration of critical areas protection within the shoreline area. These Guidelines are adopted state rules, Chapter 173-26 WAC, that must be considered in a local jurisdiction’s implementation of the Shoreline Act.

The state Guidelines specifically address critical areas by calling for their management in a manner that provides protection to critical areas within the shoreline area that is at least “equal to that provided by the local government’s critical area regulations for comparable areas other than shorelines. Ecology’s role in assuring this comparable level of protection is clearly outlined in the Guidelines. When approved by Ecology, a local government’s SMP becomes regulations for protection of critical areas in the shorelines of the state in the jurisdiction of the adopting government. Once adopted, such regulations are not subject to the procedural and substantive requirements of GMA (see RCW 36.70A.480(3) (b)).

Therefore, it is staff’s intention to duplicate our current critical area regulations in the SMP subject to the following required principles outlined in the state Guidelines: (1) the use of most current, accurate, and complete scientific and technical information as described in WAC 173-26-201 (2); (2) the integration of the full spectrum of planning and regulatory measures; (3) protection of existing ecological functions and ecosystem-wide processes and restoration of degraded functions and processes; and, (4) promotion of human uses and values, such as public access and aesthetic values, compatible with maintaining protection of ecological function.

This process could allow for minor modification of the current regulations to accommodate information garnered from almost three years of application.

PROPOSED ENVIRONMENT DESIGNATIONS AND POTENTIAL OPTIONS

As suggested previously to the Planning Commission, staff believe there is a good fit between some environments from the Ecology list and conditions on the Bellevue shoreline. Those from the standard Ecology classification include: *aquatic, urban conservancy, and shoreline residential*. These three apply to the vast majority of Bellevue’s privately and publically owned shoreline and wetlands within shoreline jurisdiction. We have further refined these classifications to introduce an *urban conservancy—open space* designation (note the change from *urban conservancy—low intensity*) which we believe, when taken together with *urban conservancy*, fully describes the range of possible uses (with one exception) that might occur in the City’s Parks, while providing necessary protection for the range of ecological functions found there. As we suggested previously, *urban conservancy—open space* will be reserved for less intensive recreational uses like Mercer Slough Nature Park and parts of Newcastle Beach Park, while *urban conservancy* could be employed where public access, shoreline use and recreation take priority. (For a fuller understanding of the purpose and uses allowed in these environments, see Attachment 1.)

Also previously introduced is the concept of splitting the *marina* designation into two separate environments—*marina and marina-civic*—to reflect differences in intensity, use, and focus, the idea being to reflect the greater value publically owned marinas place on compatibility of uses

and ensuring public access for boaters and non-boaters alike. (For more detail see the discussion of marinas below.)

SITE SPECIFIC DESIGNATIONS

Bellefield Office Park

Of those sites where the identified ecological characteristics are not well matched with the existing or designated land use, we previously noted that Bellefield Office Park is the most problematic because the proposed environment designation supported by our inventory and analysis—*urban conservancy*—does not appear compatible with the existing office use on the site. General office is considered non-water oriented use and is not typically permitted in *urban conservancy*. Applying this designation without modification would make the development nonconforming as to use.

In our prior meeting, staff presented three conservation alternatives for this site, ranging from an existing status quo option (Option #1) to long-term restoration option (Option #3). The Commission focused on enhancing the existing site (Option #2) as representing the best balance between the property owner's existing entitlement and the new environment of shoreline planning under the new state Guidelines.

Revised Option #2: Maintain Existing Development but Enhance Existing Site Area

As discussed previously, this scenario would result in the use and development on the site remaining into the foreseeable future but as a conditional use in the *urban conservancy*. Such an approach would have the effect of maintaining the existing entitlement but under more stringent guidelines, particularly for site maintenance and restoration. It could also support increased public access and more robust site restoration since building repair over a certain threshold is tied to enhancing the ecological characteristics of the site. The vision, as outline in Figure #3, results in restoration of the shoreline and potential consolidation of structures away from the shoreline. In our May 27 meeting, the Commission agreed that Option #2 represents the best balance of conservation and property rights, and is most reconcilable with comprehensive plan taken as a whole.

To further amplify this option, staff suggests that we develop specific shoreline and wetland development standards with the object of making modest vegetative improvements on the site over time tied to building repair and renovation over a certain threshold. In other words, building repair beyond modest maintenance would be tied to compliance with a suite of site development standards aimed at offsetting impacts by increasing ecological function and potentially public access on the site. The more significant the building repair, the more extensive the site restoration. (As noted above, we adopted a similar approach in the existing shoreline critical area to encourage more ecologically friendly development of piers and bulkheads and

with repair and maintenance of commercial moorage.) With agreement from the property owner, increased public access might also be tied to threshold standards for improvement.



Figure 3: Option 2 showing modest enhancement over time

Table 2: Comparison of functional improvement based on scale of repair or reconstruction

Type of repair	Minor	Major	Reconstruction
Degree of compliance	no compliance	proportional compliance	conditional use permit
Environmental Functional status	maintain existing	enhance existing	restore function to ensure net benefit

This overall approach has as its aim modest vegetative improvements abutting Mercer Slough and associated wetlands. However, it could be enhanced over the long term by a site specific development code that permits movement of buildings in one part of the site to less sensitive areas elsewhere, perhaps abutting the planned Sound Transit right-of-way, based on the presumption that such a move could improve functions on the site, especially abutting Mercer Slough. Increased public access to the newly vacated and restored area might also be part of the plan.

Given the overdevelopment of the site based on existing rules, there is little opportunity to increase development intensity on the site (FAR); however, there is the possibility of increasing height and thus consolidating intensity in fewer, but taller buildings. The actual feasibility of such consolidation is unknown given the underlying soils and wetland conditions on and around the site. Such an option would only be possible based on a comprehensive visual study in conjunction with a shoreline conditional use permit and a variance for height. (We met with Ecology to discuss this and they were adamant about these restrictions.) Since the incentive to move will likely not come from additional development intensity, some motivation might be

provided by a rezone to allow a range of other uses, including residential, water enjoyment activities and mixed use, which gives the owners a potentially wider response to changing economic and land use conditions. Staff would like to hear from the Commission about other incentives that might further this vision.

Communication with property owner

Staff has had a conversation with Brian Woidneck, asset manager of Archon Group, L.P., and described the potential changes under consideration. We have likewise provided him with extensive documentation. While naturally concerned about any change that might affect his operations, he seemed willing to entertain Option #2 provided the impact was limited to vegetation restoration and management. He said he would do his best to attend one of the upcoming meetings.

THE SISTERS OF SAINT JOSEPH PEACE

The Sisters of Saint Joseph Peace property is a unique underdeveloped site along the shoreline of Lake Washington. During the process of analyzing the shoreline for appropriate environmental designations, this site was identified as having a high potential and opportunity for restoration due to the site's size, condition, and current level of development. At our last meeting, staff showed the Commission three conservation options differing only in the size of the recommended conservation zone.



Figure 4: St. Joseph's with 200' conservation overlay

Table 3: Conservation Options for St. Joseph’s site

Option #1:	Preserve Future Restoration Options	Urban Conservancy 200’ above ordinary high water
Option #2:	Reduced Restoration Option	Urban Conservancy first 100’ above ordinary high water and <i>shoreline residential</i> on remaining 100’
Option #3:	Limited Restoration Option	50 feet of the shoreline area are designated <i>urban conservancy</i> and the remaining 150 are left in <i>shoreline residential</i>

Staff Recommendation

In staff’s view, Option #2 provides an appropriate balance between future conservation benefit (mostly in the ability to restore the shoreline to a more ecologically friendly state) while at the same time limiting the impact on the property owner’s development potential.

Communication with property owner

Staff met with representatives of the congregation to discuss the update process and potential implications of the environment designations currently being discussed with the planning commission. The Sisters explained their near term intentions of continuing the current activities on the site including a retreat facility set in a natural environment. The mission of the Peace & Spirituality Center at St. Mary-on-the-Lake is to “offer a place of peace, prayer, beauty and hospitality to all who seek renewal of spirit.” It was obvious during our visit that the Sisters are proud stewards of the natural environment on their property.

Staff discussed the options being explored pertaining to the uses allowed within the environment designations and the potential for some or a portion of the property within the 200 foot jurisdiction to be designated as urban conservancy. There was interest in the Urban Conservancy designation on at least a portion of the property. Based on the uses and level of intensity currently on the site, there does not appear to be a conflict in both the existing and intended uses on the property. Naturally the Sisters were interested in understanding further how the designation might limit future uses; however, they understood that this planning effort pertained only to a portion of their site and did not affect the site’s overall development potential. It was explained that much of the area within the shoreline jurisdiction has limited development

potential because of the presence of other critical areas including steep slopes. In general, the approach to designate either a portion of the jurisdiction containing critical areas or the entire 200 foot as urban conservancy appears to be in keeping with the congregation's mission and intended use of the property.

A letter was sent to the Sisters after the meeting summarizing our discussion and inviting the Sisters to either attend a Planning Commission meeting or provide comment in writing which further articulates their perspectives on the proposed designations.

MEYDENBAUER BAY SOUTH SHORE CONDOS

During the process of analyzing the shoreline for appropriate environmental designations, this site was identified as having relatively high potential and opportunity for restoration due to the undeveloped condition (no bulkhead, no docks) of the shoreline and unique site characteristics including the presence of lake-fringe wetland and the mouth of Meydenbauer Creek. As a consequence, staff completed an analysis of the redevelopment potential of the Meydenbauer Condos under current code requirements.

Option #1: Recognize and Preserve Future Restoration Opportunity

In this scenario, the use and development on the site would remain into the foreseeable future but a portion of the shoreline area (the first 50 feet above ordinary high water) would be designated *urban conservancy* in recognition of the high habitat value as well as wetland and buffer restoration potential for this reach of shoreline. The size of area reserved as *urban conservancy* guarantees adequate space to restore this reach of shoreline without having an impact on future development activity. This split designation concept constrains the ability to build a private pier on the shoreline within the *urban conservancy* designated area by making dock construction a conditional use (as opposed to an allowed activity in the *shoreline residential* designation). Staff recommends this designation given its superior conservation value and negligible impact on development potential. Due to the condition of the Meydenbauer Bay/Meydenbauer Creek confluence, staff feels dock construction would be difficult and the maintenance requirements high (dredging).

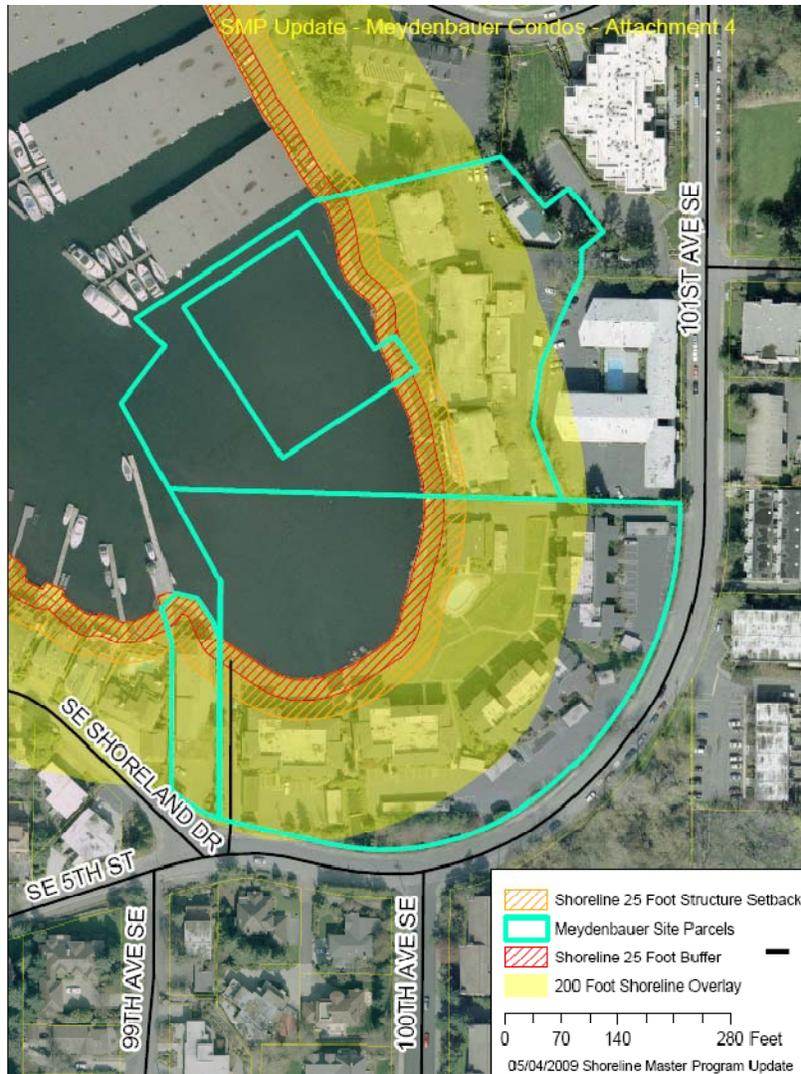


Figure 5: Shoreline overlay with shoreline buffer and structure setback

Option #2: Keep Shoreline Residential

This approach focuses on the existing multi-family uses and their proximity to the shoreline while recognizing that existing critical area buffers will protect the same area proposed as *urban conservancy* in Option #1 above. While this option is slightly less protective and does not give priority to the restoration potential of the shoreline, the net effect is virtually the same due to critical areas regulations. Assuming a willing property owner, nothing about this designation would prohibit restoration over time. A dock would be allowed under the Shoreline Residential designation but would face many permitting obstacles.

Communication with Property Owner

Staff has communicated with the home owners associations (HOAs) of the Bayshore Condominiums and the 101 Meydenbauer Condominiums. Background information has been provided to the HOAs and meetings have been scheduled for the first week in July. Staff will provide an update of communication with these groups during the July 8, 2009 meeting.

MARINA AREAS

Currently there are two marinas, one public and one private, one yacht club, one community club marina, and one public boat launch in the City of Bellevue, all located on Lake Washington. With the exception of their extensive club facilities, the clubs provide similar wet moorage and will be considered as marinas in this discussion.

Of the four marinas, only one, Newport Yacht Basin, has a fueling station and includes extensive landward facilities designed to store, service, maintain and repair boats on land, as operated by Seattle Boat Newport. Similarly, the Meydenbauer Yacht Club, is unique in that it is the only facility that has a sewage pumpout although it is operated as a private facility. Generally, the City's marinas do not include a major sales use, although a significant sales operation does exist within the general area of the Newport Yacht Basin and sales occur through the Seattle Boat Newport facilities, a community bulletin board, and officially through the advertised services of the Eastside Marine Brokerage. The three remaining marinas—the City-owned Meydenbauer Marina, the Meydenbauer Yacht Club, and the Newport Shores Club—possess limited shore-side facilities and do not offer maintenance, used, or new boat sales on their premises.

Looking to the future of the marinas, Seattle Boat Newport (private) has indicated its intent to redevelop the old Mercer Marine property with dry boat storage combined with an expanded new boat sales and administrative facility and rebuilt maintenance operation (currently under appeal after staff review). In addition, future configurations for the City-owned Marina at Meydenbauer Bay are being studied as part of the Meydenbauer Bay Park and Land Use Plan (currently in the planning/EIS process).

Future plans for the City-owned Marina at Meydenbauer Bay are being developed as part of the Meydenbauer Bay Park and Land Use Plan process. Alternatives under consideration by the Meydenbauer steering committee envision ranges of a reworked marina complex with extensive public access, limited transient day-moorage, nonmotorized boat rental and other facilities that suggest an emphasis that combines private moorage with enhanced opportunities for public access and water enjoyment. This focus, combined with limited adjacent upland ownership, suggests a different kind of marina operation where certain uses like maintenance and boat sales are restricted by design. At the same time, limited commercial uses, gathering facilities, and other activities designed to offer an enticing experience for visitors might be encouraged. While

the development of the park master plan is ongoing, it is anticipated that City-owned facilities, including Meydenbauer and SE 40th Street boat launch, might benefit from a distinct designation that would recognize their public focus and unique characteristics; hence the proposed designation Marina-Civic. A proposed draft marina use table is included as below and outlines what current restrictions on uses exist and what future uses might be allowed as a result of the update process.

Table 3: Comparison of Draft Marina Environment Designations with Existing Regulations

Uses	Existing (C)	Marina	Marina-Civic
Residential	P	P	P(s)
Residential Liveaboard		P ¹	P ²
Eating and Drinking Establishments	P	P(s)	P (s) ³
Marine retail (including boat sales)	P	P	
Miscellaneous retail	S	P(s)	P(s)
Motorized boat rental		P	
Nonmotorized boat rental		P	P
Boat repair and maintenance	P	P	
Dry stacked storage	P	P	P/C
Cradle and trailer storage	P	P	
Transient Overnight Moorage		P	
Transient Day moorage			P
Public Boat Launch	P		P
Sailing schools	P	P	P
Yacht clubs	P	P	
Person Propelled Vessel storage		P	P
Fuel Dock	S	P	P ⁴
Accessory Parking	P ⁵	P ⁶	P ⁷
Ferry landing	P	P/C	P/C
Educational and Interpretive Facilities			P ⁸
Public Access Required	No	Yes	Yes ⁹

(C) Current Marina and associated marina uses are permitted under current code only through conditional use permit

S Subordinate use to a permitted use; C Shoreline conditional use required

¹ Permitted based upon an approved residence plan and green marina sanitation standards
² Permitted based upon an approved residence plan and green marina sanitation standards
³ Permitted as subordinate use and as approved via Parks Master Plan
⁴ Permitted as approved via Parks Master Plan
⁵ Permitted only in support of existing marina use
⁶ Permitted only in support of existing marina use
⁷ Permitted only in support of existing marina use and as approved via Parks Master Plan
⁸ Permitted only in support of existing marina use and as approved via Parks Master Plan
⁹ Civic-marinas have special focus on providing public access to shoreline

Current Marina Policies and Regulations

As identified above, marinas within the City are not currently recognized through a formal designation or zone. In fact, all of the marinas located within the City, both public and private, are located within residentially zoned districts and require shoreline conditional permits for their establishment and associated redevelopment. LUC 20.10.440. Marinas and their associated uses are currently governed by LUC 20.25E. Under these rules, marinas may include a myriad of associated uses, all water dependent, and may be limited in many regards through the conditional use process.

Proposed Marina Policies and Regulations

Staff is proposing to formally recognize the marina uses as a part of the Bellevue shoreline through the designation of a specific marina environment in Bellevue's updated Shoreline Master Program. As part of this proposal, staff will be working to identify the types of uses that may be included in a marina facility. We have prepared a draft use table that identifies specific marina components as uses, if the use is currently allowed, if it is proposed to be allowed as part of the update, and if allowed how it is permitted (i.e. conditional use, what type of criteria are required). This table is included above. We will also be drafting general marina policies that will help guide what types of facilities and uses are appropriate in the marina environment and that make general statements as to the vision of the marina environment for the future of the shoreline.

Staff Recommendation

Staff believes the inclusion of a marina environment designation is appropriate. Staff also believe the distinction between two marina types—*marina* and *marina-civic*—is reasonable given the difference in underlying purpose and design. Noting their special emphasis on public access and water enjoyment, public marinas (*marina-civic*) can provide a special experience for the non-boater or small boater that may be lacking in private marinas do to design and limits on access. That said, the need for separate environments is not mandatory; policy direction and development standards could be used to create use distinctions as needed.

In addition to differences represented by different shoreline environments for marinas, it is important to understand that existing marina uses are heavily constrained by the requirement to obtain a conditional use approval for major revitalizations or significant additions to use. Even small changes are subject to administrative review based on the underlying conditional use approval. Some marina owners have suggested that, for existing marinas at least, this approach be replaced with a list of permitted uses and a set of performance standards. New marinas would continue to require shoreline conditional use review.

In summary, we feel that this approach to existing marina uses makes sense given the priority that the Shoreline Management Act gives to water dependent uses. So long as marina operations are not expanded outside their historic use area, it makes sense to govern their operation through the ongoing application of performance and design standards and not through the more cumbersome conditional use process that is invoked at all levels of repair, replacement, and redevelopment.

Communication with Property Owners

Staff has communicated with representatives from all of the four marinas. Meetings have already been held with some and others are scheduled for the first week in July. Staff will provide an update of communication with these groups during the July 8, 2009 meeting.

CONCLUSION

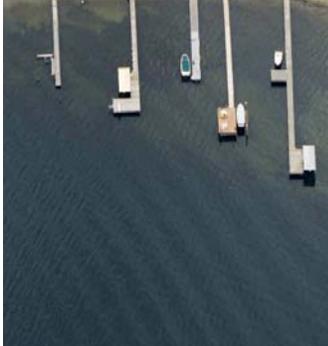
Again, remembering that we hope to provide the Commission with a format in which they can have a robust discussion, we encourage the Planning Commission to explore all of the potential options discussed above. Based on the detailed analysis presented here, and the feedback you will hear from property owners at the meeting, staff requests that the Commission provide direction on their preferred conservation outcome for the following sites: Bellefield, Saint Joseph's, and Meydenbauer Bay Condos.

We believe the Commission accepted the proposed marina distinction and provided direction on pursuing future review based on performance standards at the last meeting but if that was not the case, we would like clear direction on that issue as well.

While staff generally believes that the recommendations made in this memo are supportable under the SMA, it is worth noting that final review and approval rests ultimately with Ecology. Further discussion with Ecology on these approaches will be necessary as we develop a regulatory framework to implement direction received from the Planning Commission.

Attachment 1

Environment Designation	Sample Images	Designation response to SMA Policy		
		Ecological Function and Quality	Preferred Use	Public Access
Urban Conservancy		Primary purpose is to protect ecology while providing for recreation and non-consumptive uses, such as farming.	Priority given to ecological restoration and water oriented recreation with some existing other uses allowed	Public access required for public lands and enhanced with park projects and programs.
Urban Conservancy—Open Space		Primary purpose is to protect ecology while providing for low intensity and generally passive recreational use. Primary focus habitat protection	Priority given to habitat preservation, ecological restoration, and low intensity recreation involving small numbers of people at any given time.	Public access required for public lands and enhanced with park projects and programs
Shoreline Residential		Requirements to ensure that new development, shoreline stabilization and docks do not diminish ecological functions over time	Primarily single family residences, which are an SMA preferred use.	Not applicable to this environment designation
Marina Civic		Strong focus on ecological sensitive marina design and operations.	Priority given to water oriented recreation and access.	Public access a particular focus with special emphasis on providing the non-boating public access to the water and water-related activities

<p>Marina</p>		<p>Requirements to ensure marina development, expansion and operations do not diminish ecological functions over time.</p>	<p>Priority given to boating use with special attention to providing the full range of facilities to enhance boating experience.</p>	<p>Focus on providing limited public access in new marinas.</p>
<p>Aquatic</p>		<p>Primary purpose is protect, restore, and manage the unique characteristics and resources of the areas waterward of ordinary high-water mark.</p>	<p>Priority is ecological preservation and restoration while providing a limited ability to locate over-water structures for water dependent uses and public access.</p>	<p>Public access is encouraged.</p>



DATE: June 30, 2009

TO: Chair Orrico; Members of the Bellevue Planning Commission

FROM: Mary Kate Berens, Deputy City Attorney

RE: Shoreline Update – Shoreline Management Act Framework and *Anacortes* Decision

Introduction

The Planning Commission is currently working on developing its recommendation to the City Council regarding the City of Bellevue's Shoreline Master Program (SMP) update. At a recent meeting on this subject, members of the Commission requested some additional information about the Shoreline Management Act framework and the Washington State Supreme Court's decision in *Futurewise v. Western Washington Growth Management Hearings Board*, 164 Wn.2d 242 (2008) (frequently referred to as the *Anacortes* decision). This memorandum provides that additional information.

Background:

The City of Bellevue is required to update its current SMP to be consistent with the required elements of the Department of Ecology shoreline master program guidelines (WAC ch. 173-26) by December 1, 2009. RCW 90.58.080. The scope of Bellevue's update includes identifying shoreline environments, updating use charts, and updating and streamlining the City's shoreline chapter in the Land Use Code (LUC). In 2006 the City adopted its critical areas ordinance, which included amendments to regulations applicable to docks and bulkheads and shoreline setbacks and buffers. Although the current SMP update is not anticipated to impact the substance of those regulations in any significant way, the standards will be incorporated into the SMP sent to Ecology for approval as part of the 2009 update process. Concerns were raised about the City's approach to shoreline critical areas in light of the court's decision in *Futurewise v. Western Washington Growth Management Hearings Board*, including questioning whether the decision dictates a different approach to shoreline critical areas.¹

¹ On June 10, 2009 the Court issued its Mandate and Order Denying Motion for Reconsideration, essentially confirming the July 2008 final decision.

Discussion:

Shoreline Management Act Regulatory Framework:

The Shoreline Management Act (SMA) was originally adopted in 1971, and primarily enunciated the state's overarching policies with respect to a coordinated system of planning and management of the state's "fragile" shoreline resources. See RCW 90.58.020 included in excerpts from the SMA attached as Attachment A. The SMA establishes cooperative management of the state's shorelines, with local jurisdictions having primary authority over planning and permitting, and the state acting in a "supportive and review capacity" with specific duties outlined by statute. RCW 90.58.050. The Department of Ecology is tasked with developing regulatory guidelines (adopted as WAC chapter 173.26) and local jurisdictions must ensure that their local shoreline master programs (SMPs) comply with the mandatory provisions of those guidelines according to a compliance schedule adopted by the legislature. See RCW 90.58.060, 90.58.080.

The guidelines development by Ecology and incorporated into local SMPs must contain:

- An economic development element for the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;
- A public access element making provision for public access to publicly owned areas;
- A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;
- A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;
- A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;
- A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;
- An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;
- An element that gives consideration to the statewide interest in the prevention and minimization of flood damages; and
- Any other element deemed appropriate or necessary to effectuate the policy of this chapter.

RCW 90.58.100 (see Attachment A for full text). The Shoreline Management Act also includes requirements for public participation and notice, both in the development of Ecology's guidelines, in the local jurisdiction's development of its SMP, and in Ecology's approval of local SMPs.

According to WAC chapter 173-26, local jurisdictions must include certain minimum requirements with respect to critical areas within shorelines. WAC 173-26-221 includes elaborate detail regarding critical areas and standards and principles of protecting those areas within local SMPs. Of particular note is the requirement that:

shoreline master programs must provide for management of critical areas designated as such pursuant to RCW 36.70A.170 (1)(d) and required to be protected pursuant to RCW 36.70A.060(2) that are located within the shorelines of the state with policies and regulations that:

(i) Are consistent with the specific provisions of this subsection (2) critical areas and subsection (3) of this section flood hazard reduction, and these guidelines; and

(ii) Provide a level of protection to critical areas within the shoreline area that is at least equal to that provided by the local government's critical area regulations adopted pursuant to the Growth Management Act for comparable areas other than shorelines.

WAC 173-26-221(2)(a)(portion)(emphasis added).

Anacortes Decision:

Since its publication in July, 2008 the Washington State Supreme Court's decision in *Futurewise v. Western Washington Growth Management Hearings Board* has been the subject of several practical and scholarly writings. See, e.g. Phil Olbrechts, *The Most Significant Land Use Case of 2008, Maybe, Although We're Not Sure Because No One Knows What it Means*, MRSC's Planning Advisor, December 2008, at <http://www.mrsc.org/focus/pladvisor/pla1208.aspx>; Michelle DeLappe, *The Legality of Washington Shoreline Development Moratoria in the Wake of Biggers v. City of Bainbridge Island*, 84 Wash. L. Rev. 67 (2009)(describing on-going uncertainty about overlap of SMA and GMA, noting that 4-1-4 decision in *Anacortes* did little to resolve issues). The decision became final on June 10, 2009 when the court issued an order denying the various motions for reconsideration that had been pending since its original publication. Attached as Attachment B is the Department of Ecology's summary of the history of the case and its impact in light of the June 10th order.

Briefly, the *Anacortes* case came before the court as an appeal of a Western Washington Growth Management Hearings Board (GMHB) decision in a challenge to the City of Anacortes' critical areas ordinance. In front of the GMHB, challengers asserted that the ordinance lacked sufficient protections for marine shoreline areas. The City argued that as a result of the Legislature's adoption of ESHB 1933, protections for shoreline critical areas were included in Anacortes' SMP, which had been approved in 2000. See *Evergreen Islands v. Anacortes*, WWGMHB Case No. 05-2-0016, Final Decision and Order, December 27, 2005, at 21-31. The Departments of Ecology and Community, Trade and Economic Development (CTED) intervened and argued that ESHB 1933 should be interpreted to allow for GMA critical areas regulations to control within shoreline jurisdiction until such time as the next required shorelines update meeting the requirements of WAC 173-26 was approved by Ecology. Critical areas

ordinances adopted in compliance with the best available science requirements of GMA did not need Ecology approval, and would apply until the next required SMP update under the state agencies' interpretation. *Id.* The GMHB did not adopt any interpretation, but rather ruled that Anacortes' critical areas ordinance was effectively an amendment to its SMP, which must be approved by Ecology. Until Ecology acted on that amendment to the SMP, the Board found that it did not have jurisdiction over the portion of the critical areas ordinance applicable within the shoreline.

Two opinions were written by the State Supreme Court – each supported by 4 justices. One decision, in which a fifth justice joined as to the result only, resulted in reinstating the decision of the Western Washington GMHB “upholding Anacortes” *Anacortes*, 164 Wn.2d at 248. The prevailing opinion, however, did not agree with the reasoning of the GMHB (which, recall, indicated that the Anacortes ordinance was in fact an amendment to the SMP, which must be approved by Ecology), but rather agreed with the City of Anacortes, finding that the effect of ESHB 1933 was to transfer from GMA critical areas ordinances to approved SMPs authority for regulating critical areas within shorelines as of the date of approval of an *existing* SMP, not the date of the next required update. Because the fifth vote concurred only in the result, it is difficult to determine what rule, if any, can be gleaned from the decision.²

As noted above, the *Anacortes* case was decided by one justice's vote, in a concurrence “in the result only” with no written decision. In light of this unique vote, it is difficult to describe how the *Anacortes* case would be applied, if at all, to a different set of facts. It is important to note that its focus is how the Growth Management Act (GMA) and the SMA deal with the potential for overlap with respect to critical areas (as defined by GMA) that are within SMA jurisdiction. The Planning Commission's current work, however, is not precisely that question. Rather, the Planning Commission is now developing its recommendations on the City's required SMP update. As dictated by the shoreline guidelines, the scope of Bellevue's current SMP update includes regulations protective of critical areas within the shoreline, and when that SMP is sent to Ecology for adoption, all of Bellevue's proposed regulations will be subject to Ecology's review for consistency with the shoreline guidelines, WAC chapter 173-26. Nothing about the *Anacortes* case indicates that the City needs to modify its current SMP update process or timeline. Furthermore, the *Anacortes* case does not dictate the substantive features of shoreline regulations, rather, the City is bound by the shoreline guidelines in determining the appropriate regulations for protection of shoreline critical areas.

Conclusion

I plan on attending the Commission's meeting on July 8th to answer questions about the above.

cc: Michael Paine, Environmental Planning Manager
Heidi Bedwell, Assistant Planner
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² The dissenting opinion, joined by 4 justices, essentially adopted the argument of the state agencies, finding that critical areas within shorelines were to be regulated by GMA-based critical areas ordinances until such time as an SMP update complying with the shoreline guidelines of WAC 173-26 was approved. *Anacortes*, 164 Wn.2d at 249-250.

Attachment A

Shoreline Management Act Excerpts

RCW 90.58.020 Legislative findings — State policy enunciated — Use preference.

The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the 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;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In the implementation of this policy 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. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of

the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

90.58.100

Programs as constituting use regulations — Duties when preparing programs and amendments thereto — Program contents.

(1) The master programs provided for in this chapter, when adopted or approved by the department shall constitute use regulations for the various shorelines of the state. In preparing the master programs, and any amendments thereto, the department and local governments shall to the extent feasible:

(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate, modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.

(2) The master programs shall include, when appropriate, the following:

(a) An economic development element for the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;

(b) A public access element making provision for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;

(h) An element that gives consideration to the statewide interest in the prevention and minimization of flood damages; and

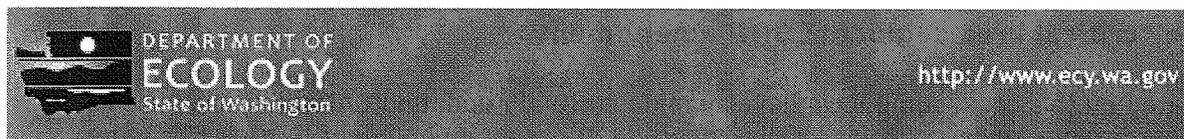
(i) Any other element deemed appropriate or necessary to effectuate the policy of this chapter.

(3) The master programs shall include such map or maps, descriptive text, diagrams and charts, or other descriptive material as are necessary to provide for ease of understanding.

(4) Master programs will reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and will give appropriate special consideration to same.

(5) Each 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 a program will not create unnecessary hardships or thwart the policy enumerated in 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. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW [90.58.140](#)(3).

(6) Each master program shall contain standards governing the protection of single family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.



[Ecology home](#) > [SEA Program home](#) > [Shoreline Management Home](#) > [Futurewise v. Anacortes Decision](#)

Updated Ecology/Commerce Guidance on Futurewise et al v. Western Washington Growth Management Hearings Board and City of Anacortes et al addressing shorelines and critical areas

Updated June 29, 2009

Local governments are considering what actions to take regarding application of their Critical Areas Ordinances (CAOs) within shoreline jurisdiction following the recent Washington State Supreme Court decision in the "Anacortes" case. The Departments of Ecology and Commerce (formerly CTED) have reviewed the Court's decision and offer the following guidance. As explained below, because of the nature of this split decision, we do not believe that the decision creates a requirement for already-adopted CAOs to be retroactively submitted to Ecology as proposed SMP amendments. Additional guidance is provided below.

Court Action

On June 10, 2009 the Washington State Supreme Court issued its final ruling in *Futurewise et al v. Western Washington Growth Management Hearings Board et al.*, 164 Wash.2d 242, 189 P.3d 161. This case addressed protection of critical areas that are within the jurisdiction of the Shoreline Management Act. This is commonly referred to as the "Anacortes case" because that city's critical areas ordinance (CAO) is the topic of the decision.

When the court issued its final ruling, formally known as a "mandate," it also denied the Motion for Reconsideration filed August 20, 2008 by the Departments of Ecology and Community, Trade and Economic Development (soon to become Department of Commerce). The agencies had requested that the Court reconsider its July 31, 2008 decision to clarify the outcome.

In the Anacortes case, the Supreme Court issued a 4-1-4 decision. The Court issued two opinions -- a "lead" opinion and a dissenting opinion, each supported by four justices. The ninth (and deciding) justice concurred with the lead opinion with the stipulation that her signature supported "result only." This deciding vote was unaccompanied by an opinion.

Due to the nature of this split decision it is not clear whether the Board decision applies beyond the City of Anacortes. It takes a majority of justices (in this case, five votes) for a Court opinion to establish a legal precedent that is binding on subsequent cases. Here, there is no majority Court opinion beyond reinstatement of the 2005 Board decision, and neither of the Court opinions endorsed the Board's reasoning in the Anacortes decision. In addition, other recent Supreme Court decisions have stated that Growth Boards decisions resolve disputes related to specific local government actions under the Growth Management Act, but do not establish policy.

Implications of Court action

With these factors in mind, our interpretation is that the Court's holding is limited to the narrow "result" of the case: the Court reinstated the 2005 Western Washington Growth Management Hearings Board (Board) decision regarding the City of Anacortes CAO. (See [chronology of case](#).)

In the absence of additional clarification, Ecology and Commerce do not believe that the decision creates a requirement for local governments with CAOs adopted prior to the decision to seek Ecology approval (other than the City of Anacortes). It is our perspective that:

- Existing CAOs are presumptively valid and remain applicable in shoreline jurisdiction
- The decision does not create a retroactive requirement for Ecology approval of CAOs adopted prior to the decision as shoreline master program (SMP) amendments before the CAOs can apply within shoreline areas.

Guidance on stand-alone "critical area segment" SMP amendments

To resolve uncertainties created by this case, some local governments currently updating CAOs may decide that their best path forward is to request Ecology review of their locally-adopted CAO as an amendment to their SMP. The Shoreline Management Act provides for "critical area segment" amendments to SMPs, provided they meet "applicable shoreline guidelines."

However, our SMP Guidelines do not specifically identify procedures for submitting a "stand-alone" Critical Area Segment amendment, that is, a limited amendment not submitted as part of a comprehensive SMP update. We are developing specific guidance on submittal requirements for stand-alone Critical Area Segment amendments. We will post the guidance on this web site when it is available.

Potential clarification

Unfortunately, there will likely continue to be significant confusion related to the Anacortes decision. Clarification may come from additional court decisions or legislative action. We will post any updated guidance or clarifications on this web site.

Links

- [Supreme Court mandate \(pdf\)](#)
- [Supreme Court July 31, 2009 opinion \(lead opinion\)](#) Click on "Court Decisions" at top of page and search for:
 - **803960MAJ** - Supreme Court of the State of Washington Opinion Information Sheet Docket Number: 80396-0 Title of Case: Futurewise v. W. Wash. Growth Mgmt. Hearings Bd.
File Date: 07/31/2008 Oral Argument Date: 11/29/2007
- [Western Washington Growth Management Hearings Board Final Decision and Order \(pdf\)](#) (Case 05-2-0016. See especially pages 21 – 31)
- [Chronology of the Anacortes case](#)

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