



DATE: November 14, 2012

TO: Chair Carlson and Members of the Planning Commission

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

RE: Planning Commission SMP Redraft

This agenda memo introduces new changes to the residential and stabilization sections of the previously released Planning Commission Shoreline Master Program Redraft (P.C. SMP Redraft) in response to Planning Commission direction and WSSA comments. The P.C. SMP Redraft was publicly released on July 6, 2012 and contained extensive changes made in response to Planning Commission review of the original May 2011 Draft SMP. Over the intervening months since release of the P.C. SMP Redraft in July 2012, the Planning Commission directed staff to make additional changes with particular focus on the residential sections. The Commission also tasked staff to meet with WSSA's attorney to review additional edits suggested by WSSA in order to focus future Planning Commission review on items that could not be resolved or that were outside the scope of prior Planning Commission direction.

In addition to transmitting the revised draft incorporating WSSA meeting edits, this memorandum describes how staff approached the revisions, and what is indicated by the highlighting and the bubble comments. The revised draft is included with this memorandum as Attachment A.

Approach to Revisions

As a result of meetings with WSSA representatives, a review approach was proposed and adhered to by both parties. The idea was that staff would categorize comments into one of the following three categories: (1) comment addressed in prior draft release; (2) comment within the scope of Planning Commission review and agreement reached in principle on necessary code amendment language; and, (3) comment issue remaining. This approach was described in the packet materials for the September 26 study session before the Planning Commission, and staff has continued to organize the revisions to reflect this categorization.

Staff is hopeful that the attached draft revisions address the majority of comments provided by WSSA. These are identified in the revised draft with highlights and with comment bubbles as described in greater detail below. In line with guidance provided by Pacific Builders Development v. Chelan County regarding incorporation by reference, staff also completed a thorough review of each cross reference contained in the P.C. SMP Redraft. At this point, the

only sections of the general land use code that are intended to be incorporated by reference into the SMP and reviewed by Ecology are:

- (1) Critical Areas Overlay (LUC 20.25H as it will be amended to comport with the Shoreline Overlay amendments);
- (2) Impervious Surface Area provisions (LUC 20.20.460);
- (3) Tree Preservation provisions (LUC 20.20.900); and
- (4) Definitions (Chapter 20.50 LUC).

The Citywide code continues to apply, but it has been made clear in each cross reference that sections other than those listed above are only provided for applicant informational purposes.

Approach to Highlighting

Two highlight colors were employed in the attached revised draft. Green indicates responses to previously provided Planning Commission direction received through September 26th. Yellow indicates responses to WSSA requested edits that were within the scope of direction previously provided by the Planning Commission. The track change format can be distracting; however, it continues to be seen as necessary to clearly indicate for the public where changes have been made and when. To provide an alternative review option, a clean version of the revised draft with highlighting has been posted to the SMP Update page of the City website at:

<http://www.bellevuewa.gov/shoreline-master-plan.htm> .

Approach to Bubble Comments

The comments in the right-hand margin of the second responsive redraft address each action item that was assigned to staff in WSSA's 9/13/12 *Summary of Meeting Outcomes* provided on September 21, 2012. (Please see Attachment B for staff response to summary matrix.)

Comments responsive to the action items contained in that matrix are identified by a comment bubble that says: **Oct 2012 WSSA Comment #**. Each of the entries related to a specific action item is keyed back to the comment numbers used in the WSSA matrix. Revisions intended to address consistency in cross-referencing are identified as: **Oct 2012 WSSA Comment (cross reference or incorporation by reference)**. It is staff's intention that this labeling will streamline the Planning Commission's review of the revised draft.

Staff has included revisions that address the vast majority of the WSSA comments; however, there are a handful of places where a requested edit was identified as outside the scope of the prior Planning Commission direction. In these instances, further revisions were not provided. In addition, many of these requested edits were not only outside the Commission's prior direction but they would also create a circumstance in which city-wide codes would be differentially applied to properties located within and outside the Shoreline Overlay. Such a result would create a new code construct, with implications beyond the shoreline overlay; to make such revisions is not properly within the province of the staff and requires Planning Commission consideration and direction.

Representatives of WSSA did review and comment on the revised draft (a copy of which is included as Attachment C). These comments were received in time for inclusion in the Planning Commission packet, but have not yet been reviewed by staff. It is the hope of the SMP Update

Team that staff will be allowed to respond to the WSSA comments at the meeting and that the Planning Commission will provide final direction on these outstanding issues at the November 14 meeting.

Anticipated Schedule

November 28: Final edits and policy direction for transmittal

December 12: Review of transmittal and agreement to transmit P.C. Draft SMP to City Council for review

Staff Contact Information

Questions or comments regarding the SMP Update may be directed to staff on the Shoreline Master Program Update Team via telephone or email as identified below. Comments may also be submitted electronically via the SMP Update email box at shorelines@bellevuewa.gov.

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Attachments

- A. Revised P.C. SMP Redraft with WSSA Meeting edits through November 2, 2012
- B. Staff Response to WSSA Summary of Meeting Outcomes
- C. WSSA Comments on Revised Draft

November 14, 2012 P.C. SMP Agenda

Memo

Attachment A

LUC 20.25E.065 – Strike Draft Version

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20.25E.065 Residential Shoreline Regulations

A. Purpose.

This section contains development requirements and standards that apply to all development of residential uses within the Shoreline Overlay District. This section is intended to provide a consolidated approach to regulation of shoreline residential development, uses and activities, ~~and contains requirements most commonly applied to residential development.~~ This section includes requirements for site planning requirements, general residential standards, residential dimensional requirements, ~~options for reducing residential setbacks, residential landscape standards,~~ vegetation conservation ~~tree preservation~~ requirements for residential uses, residential moorage requirements, and residential nonconforming provisions.

Comment [hb1]: Bellevue Specific Approach. Unique compilation of standards in standalone section to address citizen concern about clarity and usability of requirements.

Comment [c2]: Clarity Edit

Comment [H3]: Clarity Edit

Comment [c4]: Consistency Edit

Comment [c5]: Consistency Edit

B. General Requirements Applicable to all Residential Development.

1. Applicability. ~~This section contains development requirements and standards that apply specifically to all residential uses and development within the Shoreline Overlay District.~~ All residential use and development located in the Shoreline Overlay District shall comply with the requirements of this section LUC 20.25E.065 and all other applicable provisions of the Bellevue SMP. ~~Except to the extent expressly stated in this section and as stated in LUC 20.25E.010.C.1.c, Part 20.25E is applied as a supplement to the All~~ general development requirements and standards governing site development of property city-wide as set forth in Chapter 20.20 LUC (General Development Requirements) ~~apply, except to the extent expressly stated in this section and as stated in LUC 20.25E.010.C.1.e.~~ All other applicable City of Bellevue codes, ordinances, and development and engineering standards shall also continue to apply to development and uses in the Shoreline Overlay District. ~~However, Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.~~

Comment [c6]: WAC 173-27-030(6).

Comment [hb7]:
WAC: 173-26-241 Shoreline Uses
WAC: 173-26-221 General provisions
LUC 20.20. Incorporated into SMP and amended for clarity and consistency with state requirements.

Comment [H8]: Redundancy Deletion

2. Site Planning. ~~New r~~ Residential development shall comply with the following design criteria and development standards related to site planning within the Shoreline Overlay District:

Comment [c9]: Clarity Edit

Comment [cvh10]: Oct 2012 WSSA Comment 81

Comment [c11]: Clarity Edit

Comment [cvh12]: Oct 2012 WSSA Comment 83. New refers to expansions and teardown and rebuilds. WSSA requested edit not within scope of prior Planning Commission direction.

Comment [c13]: Modeled after LUC 20.25H.125.

Comment [hb14]:
WAC: 173-26-231(3)(a)(iii)(A)

Comment [CoB15]: Oct 2012 WSSA Comment 85. New refers to expansions and teardown and rebuilds. WSSA requested edit not within scope of prior Planning Commission direction.

- a. Shoreline Stabilization. ~~New~~ residential development ~~should shall~~ be located and designed to avoid the need for future new shoreline stabilization ~~to the extent feasible over the life of the development.~~ ~~New development on slopes exceeding 25 percent shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by geotechnical analysis.~~ ~~New residential development that would required shoreline stabilization which causes significant impacts to adjacent properties and shoreline areas should not be allowed.~~

- b. Site Sensitivity. ~~Development should be designed in a manner that directs land alteration to the least sensitive portions of the site outside of the~~

Comment [cvh16]: Clarity edit – could create inadvertent conflict with Shoreline Modification provisions of LUC 20.25E.080.

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~~shoreline setback, and shall be designed to limit clearing, grading, and alteration of topography and natural features~~

~~c. Context Sensitive Design. Design shall minimize topographic modification. Structures shall conform to the natural contour of the slope. Foundations shall be tiered to conform to the existing topography and step down the slope with earth retention incorporated into the structure where feasible. Standard prepared building pads, i.e., slab on grade, shall be avoided.~~

~~d. Topographic Modification. Changes in existing grade outside the building footprint shall be minimized. Excavation shall not exceed 10 feet. Fill shall not exceed five feet subject to the following provisions: all fill in excess of four feet shall be engineered; and engineered fill may be approved in exceptional circumstances to exceed five feet to a maximum of eight feet. Exceptional circumstances are: (1) instances where driveway access would exceed 15 percent slope if additional fill retained by the building foundation is not permitted; or (2) where the five foot fill maximum generally is observed but limited additional fill is necessary to accommodate localized variations in topography.~~

~~e. Garage and Driveway Orientation. Residential garages and driveways shall comply with the following applicable standards:~~

~~i. Uphill Slopes. Garages on sites sloping uphill should be placed below the main floor elevation where feasible to reduce required grading and to fit structures into existing topography.~~

~~ii. Downhill Slopes. Garages on sites sloping downhill from the street may require being located as close to the right-of-way as feasible and at or near street grade. Intrusion into the front setback, as provided in LUC 20.20.025.B (Garages/Carports on Slopes), may be required.~~

~~iii. Slopes Exceeding 25 Percent. On slopes exceeding 25 percent, driveways shall be designed to minimize disturbance and should provide the most direct connection between the building and the public or private street.~~

~~f. b. Parking and Driveways. New dDriveways and garages associated with residential uses development shall comply with the following applicable standards:~~

~~i. New rResidential parking shall not be permitted overwater and or within the shoreline setback.~~

~~ii. Minimum Necessary. Parking and driveways shall be the minimum size necessary to support the approved residential use or development.~~

~~iii. New pParking surfaces and driveway areas should be designed to incorporate Natural Drainage Practices and Low Impact Development practices where feasible. (For further information regarding city-wide~~

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Comment [cvh17]: Oct 2012 WSSA Comment 91

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~~requirements, refer to the City of Bellevue Storm and Surface Water Utility Code, Chapter 24.06 BCC, and the Storm and Surface Water Engineering Standards (2011), now or as hereafter amended.)~~

Comment [cvh18]: Oct 2012 WSSA Comment 92 (Cross referencing)

iv-iii. Construction, maintenance, and repair of parking surfaces and driveways shall prevent surface water runoff from contaminating water bodies by using best management practices. ~~(For further information regarding city-wide requirements, refer to as set forth in the City of Bellevue Storm and Surface Water Utility Code, Chapter 24.06 BCC, and the City's Storm and Surface Water Engineering Design Standards (2011); now or as hereafter amended.)~~

Comment [cvh19]: Oct 2012 WSSA Comment 93 (Cross referencing)

g-c. Accessory Utilities. To minimize disturbance in the ~~shoreline jurisdiction~~ Shoreline Overlay District, and to reduce the impact on shoreline ecological functions, utilities serving residential development shall be ~~co-located~~ consolidated when reasonable within existing or proposed roadway and driveway corridors that provide access to the development. ~~—except when the consolidation of the utilities within the roadway and driveway corridor is not reasonable when consolidation will not realize/achieve~~ the intended function of the utility, or the cost of avoiding disturbance is substantially disproportionate ~~as when~~ compared to the environmental impact of proposed disturbance. ~~If co-location is not possible, impacts related to new utility corridors and connections shall be mitigated in accordance with LUC 20.25E.060.D (Mitigation Sequencing).~~

Comment [cvh20]: Oct 2012 WSSA Comment 94

Comment [c21]: Clarity edit

Comment [c22]: Consistency Edit

h-d. Clearing and Grading.

Comment [c23]: Modeled on existing regulations- LUC 20.25E.080.B.7; 20.25E.080.G; 20.25E.080.K

i. All clearing, grading, excavating, and filling in the Shoreline Overlay District shall comply with the provisions of this paragraph B.2.d.h, ~~LUC 20.25H.180 (Areas of Special Flood Hazard).~~ ~~(For further information regarding city-wide requirements, refer to Chapter 24.06 BCC (Storm and Surface Water Utility Code), Chapter 23.76 BCC (Clearing and Grading Code), and the City's engineering and clearing and grading development standards, now or as hereafter amended.)~~

Comment [c24]: Redundancy deletion

ii. Minimum Necessary. Clearing, grading, excavation, and filling is permitted only in association with an approved residential use or development and shall be the minimum necessary to support the approved residential use or development. Filling to create dry land is prohibited.

Comment [cvh25]: Oct 2012 WSSA Comment 96 (Cross referencing)

Comment [cvh26]: Oct 2012 WSSA Comment 97. WSSA requested edit not within scope of prior Planning Commission direction.

~~i. Tree Retention Standards, outside of the Shoreline Vegetation Conservation Area. In areas other than the vegetation conservation area, the tree retention and replacement standards of LUC 20.20.900 shall apply. If a tree to be removed provides habitat associated with species of local importance, such as an eagle perch, a qualified wildlife biologist shall be consulted consistent with LUC 20.25H.150 (Habitat Associated with Species of Local Importance).~~

Comment [H27]: P.C. SMP Redraft Direction

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j.e. Critical Areas. Critical areas in the ~~shoreline jurisdiction~~ Shoreline Overlay District shall be regulated ~~in accordance with~~ pursuant to Part 20.25H LUC, Critical Areas Overlay District (as set forth in Ordinance No. [INSERT Critical Areas Conformance Ordinance Number and date] which is incorporated by this reference into the SMP). In the event of a conflict between Part 20.25H LUC and the Bellevue SMP, the provision providing the greatest protection to critical areas shall apply, consistent with LUC 20.25E.010.C.1.b.ii unless otherwise described in the applicable provision. If critical areas are located on the site, the requirements for the associated critical area buffer and buffer setback may impose a larger setback requirement than required under this section.

Comment [cvh28]: Oct 2012 WSSA Comment 100 (Incorporating by reference) Necessary conformance amendments will be drafted once final overlay language is agreed upon by the Planning Commission.

Comment [c29]: Consistency Edit

Comment [c30]: A general code amendment will be necessary to Part 20.25H Critical Areas Overlay District to delete provisions related to regulation of Shoreline Critical Areas.

Comment [c31]: Redundant to 20.25E.060.L to create stand-alone residential section. Could be cross referenced and deleted instead.

Comment [H32]: P.C. SMP Redraft Direction

k.f. Water Quality, Stormwater, Non-Point Source Pollution.

i. Purpose. The responsibility for water quality and control of stormwater and non-point source pollution is a city-wide obligation that is not borne entirely by property owners of land located within the Shoreline Overlay District. The purpose of this section is to prevent impacts to water quality and quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.

ii. Applicability. All shoreline residential development and uses shall comply with applicable provisions of this section. (For further information regarding city-wide requirements, refer to Chapter 24.06 BCC (Storm and Surface Water Utility Code), the ~~City of Bellevue Utilities' Department~~, Storm and Surface Water Engineering Design Standards (Jan. 2011 or as hereafter amended), Chapter 23.76 BCC (Clearing and Grading Code), and the Clearing and Grading Development Standards; now or as hereafter amended). The Director and the Director of Utilities may condition city approvals and permits to ensure consistency with the provisions of applicable land use, development, and utility codes and standards.

Comment [cvh33]: Oct 2012 WSSA Comment 103

Comment [c34]: Modeled after current SMP, intended to provide clarity for applicant.

iii. To avoid water quality degradation by malfunctioning or failing septic systems located within the shoreline jurisdiction Shoreline Overlay District, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards required by the state and local public health agencies. Property owners with septic systems must comply with Chapter 24.05.160 WAC - Operation and Maintenance; now or as hereafter amended.

Comment [cvh35]: Oct 2012 WSSA Comment 104 - reference not needed enforced by other city-wide provisions of Bellevue City Code

Comment [c36]: Intended to provide clarity for homeowners.

iii. Construction Materials. Use environmentally neutral materials not materials treated with known toxic preservatives and approved by the Environmental Protection Agency for use in aquatic environments.. Dock materials shall not be treated with pentachlorophenol, creosote, chromate copper arsenate (CCA) or comparably toxic compounds. If (ammoniacal copper zinc arsenate) (ACZA) materials are proposed,

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~~the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. Preservative and surface treatments are limited to products approved for use in aquatic environments and must be applied according to label directions. Construction hardware that comes into contact with water either directly or through precipitation and that discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion. Materials used for construction of moorage facilities shall conform to the provisions of LUC 20.25E.065.I.3.a. All structures that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality, aquatic plants, or animals. Materials used for decking or other structural components shall be approved by the Environmental Protection Agency for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in or above shoreline water bodies. Preservative and surface treatments are limited to products approved for use in aquatic environments, and must be applied according to label directions. Construction hardware that comes into contact with water either directly or through precipitation that causes discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion. Materials used for construction of moorage facilities shall conform to the provisions of paragraphs LUC 20.25E.065.H.3.a.~~

Comment [cvh37]: Oct 2012 WSSA Comment 105

Comment [c38]: Consistency amendment. Refer to 20.25E.060.L.5.

iv. The use of cold tar sealants that contain Polycyclic Aromatic Hydrocarbons is prohibited.

~~Shoreline Residential Subdivision and Short Subdivision Standards. In addition to requirements set forth in Part 20.45 LUC, Development of new subdivisions and short subdivisions on land within Shoreline Overlay District shall comply with Land Use Code Subdivision and Short Subdivision rules found in Part 20.45 LUC, ensure no net loss of ecological functions by complying with the following criteria:~~

~~i. Cluster lots to limit site disturbance and confine development of residences to the area outside the shoreline setback.~~

~~ii. Comply with the vegetation conservation requirements in paragraph C of this section.~~

~~iii. Comply with the public access standards as required by LUC 20.25E.060.H.~~

Comment [H39]: P.C. SMP July 25th Redraft Direction

Comment [dp40]: P.C. SMP July 25th Redraft Direction

Comment [cvh41]: Oct 2012 WSSA Comment 107 through 112 – platting provision apply without need for cross reference. Any necessary conformance amendments will be drafted once final overlay language is agreed upon by the Planning Commission.

Comment [c42]: Consistency Edit

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- iv. ~~Retain and maintain at least 30 percent of the existing diameter inches of significant trees on the site outside the vegetation conservation area, but within the shoreline jurisdiction.~~
- v. ~~Special Requirements for Subdivisions and short subdivisions of four lots or more:~~
- a. ~~The applicant receiving subdivision or short subdivision approval within the shoreline pursuant to this part shall dedicate the vegetation conservation area as a separate tract and delineate it on the final plat recorded with the King County Division of Records and Elections.~~
- b. ~~Prior to final plat approval, the applicant shall comply with the landscape development standards of section 20.25E.F.1.f and F.2.a.i requiring planting of 60 percent of the vegetation conservation area.~~
- c. ~~Shared moorage is required. The final subdivision or short subdivision shall contain a note requiring shared moorage meeting the requirements of 20.25E.065.H.4 and Chart 20.25E.065.H.4.~~
- d. ~~An area reserved for shared moorage shall be delineated on the face of the final plat and incorporated into that portion of the vegetation conservation area that may be developed with non-structural water enjoyment recreation as allowed by 20.25E.065.G.2.a.v.~~

Comment [c43]: Consistency Edit: city-wide standard kept in SMP to comply with vegetation conservation requirements in SMP Guidelines.

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Comment [c44]: Consistency Edit

C. ~~Shoreline Dimensional Requirements for Residential Uses in Shoreline Residential and Shoreline Residential Canal Environments.~~

1. Applicability. This paragraph C applies to all new residential uses and residential uses that are proposed for modification and located in the Shoreline Residential and Shoreline Residential Canal environments, Additionally, the general development requirements and standards governing site development of property city-wide, contained in Chapter 20.20 LUC apply, except to the extent expressly stated in this section I and as stated in LUC 20.25E.010.C.1.c.
- ~~except when located on Phantom Lake. Residential uses located on Phantom Lake are regulated pursuant to the substantive requirements contained in Part 20.25H LUC (Critical Areas Overlay District), although permits shall be issued under Part 20.25E LUC (Shoreline Overlay) if required by LUC 20.25E.150 through 20.25E.190.~~
2. Shoreline Dimensional Requirements for Residential Uses. Land Use Code Chart 20.25E.065.C sets forth shoreline dimensional requirements for residential uses located in the Shoreline Residential and Shoreline Residential Canal environments. (For further information regarding city-wide Additional requirements applicable to all residential land use districts, refer to are located in the Chart of Dimensional Requirements (LUC Chart 20.20.010; now or as hereafter amended). Each residential structure, development, or use in the shoreline shall comply with these requirements, except as otherwise provided in this section. If a number appears in a box, the dimensional requirement is

Comment [hb45]:
WAC: 173-26-241
P.C. Direction. Planning Commission direction to develop tailored regulations based on unique characteristics of different shoreline areas.

Comment [c46]: Clarity Edit

Comment [H47]: Consistency Edit

Comment [H48]: Redundancy Deletion

Comment [CoB49]: Oct 2012 WSSA Comment (cross referencing)

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subject to the ~~special limitation or~~ provision indicated in the corresponding Note. In the event of a conflict between the dimensional requirements of this section and the requirements of LUC Chart 20.20.010 when applied in the ~~shoreline jurisdiction~~ Shoreline Overlay District, the provisions of this section shall apply.

Comment [c50]: Clarity Edit

Chart 20.25E.065.C Shoreline Dimensional Requirements for Residential Uses

Shoreline Dimensional Requirements for Residential Uses				
	Shoreline Structure Setback	Maximum Lot Coverage by Structures (percent)	Maximum Building Height (1)	Maximum Impervious Surface (percent)
SHORELINE ENVIRONMENTS				
Shoreline Residential Canal (SRC)	25' (7)	35 (24)	35'	50 (466)
Shoreline Residential (SR)	25 50 (2) (3)	35/40 (2) (4)	35'	50/55/80 (4) (66)

Comment [cvh53]: Oct 20120 WSSA Comment 124a

Comment [dp52]: P.C. SMP July 25th Redraft Direction

Comment [cvh51]: Oct 20120 WSSA Comment 124a

Comment [dp54]: P.C. SMP July 25th Redraft Direction

Comment [dp55]: P.C. SMP July 25th Redraft Direction

Comment [dp56]: P.C. SMP July 25th Redraft Direction

Comment [dp57]: P.C. SMP July 25th Redraft Direction

Comment [dp58]: P.C. SMP July 25th Redraft Direction

Comment [dp59]: P.C. SMP July 25th Redraft Direction

Notes: Shoreline Dimensional Requirements for Residential Uses

(1) Maximum building height may only be modified through the Shoreline Variance process (Refer to LUC 20.25E.190).

~~(2) Requests to exceed the established building height within the shoreline jurisdiction Shoreline Overlay District through the Shoreline Variance process (LUC 20.25E.190) must demonstrate that the increase will not obstruct the view of a substantial number of residences.~~

Comment [H60]: Consistency Edit

~~(2) Phantom Lake and Lower Kelsey Creek are regulated pursuant to the substantive requirement contained in Part 20.25H LUC, Critical Area Overlay District.~~

Comment [dp61]: P.C. SMP July 25th Redraft Direction

~~(3) In the Shoreline Residential environment, the shoreline structure setback for residential uses consists of a 50 foot structure setback overlaid by a 25 foot vegetation conservation area, as measured from the ordinary high water mark. Refer to paragraph E of this section for specific performance standards and limitations applicable to the structure setback and the vegetation conservation area.~~

Comment [j62]: P.C. Direction. Planning Commission direction to develop tailored regulations based on the unique characteristics of different shoreline areas.

Comment [CoB63]: Oct 2012 WSSA Comment 121

~~(4)(2) The allowed maximum lot coverage by structures in the Shoreline Residential and Shoreline Residential Canal environments located in R-1, R-1.8, R-2.5, R-3.5, R-4 and R-10 through R-30 shall not exceed 35 percent the maximum lot coverage by structure established for the underlying land use district. (4)(2) The allowed maximum lot coverage by structures in the Shoreline Residential environment located in R-5 and R-7 shall not exceed 40 percent. (For further information regarding city-wide requirements applicable to all residential land use districts, refer to LUC Chart 20.20.010 Dimensional Requirements, Residential, now or as hereafter amended).~~

Comment [c64]: P.C. SMP Redraft Direction and Oct 2012 WSSA Comment 143

~~(5)(3) Building height in the shoreline jurisdiction Shoreline Overlay District is measured in accordance with the definition of height as defined in LUC 20.25E.280.~~

Comment [CoB65]: Oct 2012 WSSA Comment 124a (cross referencing)

Comment [c66]: Clarity Edit

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(4) The allowed amount of maximum impervious surface in the Shoreline Residential and Shoreline Residential Canal environments located in R-1, R-1.8, R-2.5, R-3.5 and R-4 shall not exceed 50 percent. The allowed maximum impervious surface established for the Shoreline Residential environment located in R-5 and R-7.5 shall not exceed 55 percent. The allowed maximum lot coverage by structures in the Shoreline Residential environment located in R-10, R-15, R-20 and R-30 shall not exceed 80 percent. (For further information regarding city-wide requirements applicable to all underlying residential land use districts, refer to LUC Chart 20.20.010 Dimensional Requirements, Residential now or as hereafter amended).

Comment [CoB67]: Oct 2012 WSSA
Comment 124 a (cross referencing)

~~(6)~~

~~(2)(c) In the Shoreline Residential Canal environment, the shoreline structure setback consists of a 25-foot structure setback overlaid by a vegetation conservation area, as measured from the ordinary high water mark. Refer to paragraph E of this section for specific performance standards and limitations applicable to the structure setback and the vegetation conservation area.~~

Comment [dp68]: P.C. SMP July 25th
Redraft Direction/Oct 2012 WSSA
Comment 118 and 143

D. Residential Impervious Surfaces

Comment [c69]: P.C. SMP Redraft
Direction

Impervious surfaces in the Shoreline Overlay District shall be regulated pursuant to LUC 20.20.460 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP, except that the impervious surface limits contained in LUC Chart 20.25E.065.C may only be modified through the shoreline variance process.

Comment [cvh70]: Oct 2012 WSSA
Comment (incorporation by reference)

Comment [cvh71]: Oct 2012 WSSA
Comment (incorporation by reference)

- ~~1. Existing Impervious Surfaces. Impervious surfaces in the shoreline jurisdiction that were legally established on or before [insert effective date of ordinance], and that exceed the limits contained in LUC Chart 20.25E.065.C, shall not be considered nonconforming. Proposals to increase impervious surface on a site shall conform to the limits of LUC Chart 20.25E.065.C. Where a site already exceeds the limits on impervious surfaces, new impervious surface shall not be approved unless an equal amount of existing impervious surface is removed such that the net amount of impervious surface does not increase. All new impervious surfaces shall comply with standards applicable to shoreline setbacks, landscape development, and the vegetation conservation area.~~
- ~~2. Modifications to Impervious Surface Limits. The impervious surface limits contained in LUC Chart 20.25E.065.C may be modified pursuant to approval of a shoreline variance the Special Shoreline Report process (refer to LUC 20.25E.160.E), provided the report demonstrates that the effective impervious surface on the site does not exceed the limit established.~~
- ~~3. Exceptions. The following structures and improvements are excepted from the calculation of maximum impervious surface. These exceptions do not apply to any other City of Bellevue ordinance, code, or engineering or development standards.~~

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- a. ~~Decks/Platforms. Decks and platforms constructed with gaps measuring one-eighth inch or greater between boards, provided the surface below the deck or platform is pervious;~~
 - b. ~~Rockeries/Retaining Walls. Rockeries and retaining walls constructed in compliance with applicable City of Bellevue ordinances, codes, and standards;~~
 - c. ~~Stabilization Measures. Legally established shoreline stabilization measures; and~~
 - d. ~~Landscape Features. Fences, arbors with lattice or open roof materials and similar structures, individual stepping stones placed in the ground, but not cemented or held together with an impervious material, and gravel mulch.~~
- E. ~~Innovative Techniques — Excluded from Calculation of Maximum Impervious Surface. Surfaces paved with pervious pavement or other innovative techniques designed to mimic the function of a pervious surface are excluded from the calculation of maximum impervious surface, provided the technique is designed by a professional engineer licensed by the State of Washington and the plans are approved by the Director. The Director may require a maintenance plan and long-term performance assurance device to ensure the continued function of the pervious pavement or other technique.~~

F.E. Residential Structure Setback for Shoreline Residential and Shoreline Residential Canal Environments.

- 3. ~~Applicability. This paragraph E applies to residential structure setbacks in the Shoreline Residential and Shoreline Residential Canal environments, except when located on Phantom Lake or Lower Kelsey Creek. Residential uses located on Phantom Lake or Lower Kelsey Creek are regulated pursuant to the substantive setback requirements contained in Part 20.25H LUC (Critical Areas Overlay District), although permits shall be issued under Part 20.25E LUC (Shoreline Overlay) if required by LUC 20.25E.150 through 20.25E.190.~~
- 1. ~~General Setback Requirements Applicable to all Residential Development Regulated Pursuant to paragraph E.1 of this section.~~
 - a. ~~The Shoreline Structure Setback shall be 25 feet.~~
 - a. Measurement of Shoreline Structure Setback. The shoreline structure setback shall be measured landward from the ordinary high water mark on a horizontal plane and to a point that results in the required dimension. On Lake Sammamish, the shoreline structure setback shall be measured landward from elevation 30.631-8 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific ordinary high water mark determination completed by a

Comment [c72]: P.C. SMP Redraft Direction

Comment [hb73]: P.C. Direction. Planning Commission direction given on June 9th and October 20th, 2010.

Comment [j74]: P.C. Direction. Planning Commission direction to develop tailored regulations based on the unique characteristics of different shoreline areas

Comment [j75]: Direction. Planning Commission direction to develop tailored regulations based on the unique characteristics of different shoreline areas

Comment [cvh76]: Oct 2012 WSSA Comment 136. No modification is suggested. This section applies to measurement of shoreline structure setbacks. There is no setback from areas of special flood hazard in the Critical Areas Ordinance. Also – the OHWM “adjustment” associated with the 100 year floodplain applies only to bulkheads which are not considered to be a structure under LUC 20.25E.280.

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qualified professional. On Lake Washington the shoreline structure setback shall be measured landward from elevation 25.1018.8 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific OHWM determination completed by a qualified professional. ~~Structure setbacks on Phantom Lake, the shoreline structure setback shall may be measured landward from elevation 260.7 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific OHWM determination completed by a qualified professional. Structure setbacks on Lower Kelsey Creek shall be established in conformance with Part 20.25H LUC (Critical Areas Overlay District)~~ If critical areas are located on the site, the requirements for the associated critical area buffer and buffer setback may impose a larger setback than required under this section.

Comment [CoB77]: P.C. SMP July 25th Redraft Direction

b.

c. Footprint Exception - Existing Residential Dwellings Structures. When a legally established residential dwelling structure existing on or before [insert date of ordinance adoption] encroaches into the structure setback established in LUC Chart 20.25E.065.C, the structure setback shall be modified to exclude the footprint of that portion of the primary structure located outside the vegetation conservation area within the setback.

Comment [hb78]:
P.C. Direction. Planning Commission direction to incorporate footprint exception from Critical Areas Overlay District provisions. June 9th and October 20th 2010.

2. Residential Structure Setback Allowances.

a. Expansion of the exterior footprint of an existing legally established structure within the 25 foot shoreline structure setback is allowed when:

- i. The modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the shoreline ~~or building structure~~ setback by ~~area~~ more than 200 square feet over that existing before [insert the effective date of ordinance the Program]; and
- ii. No portion of the modification, addition or replacement is located closer to the OHWM; and
- iii. Vegetation enhancement of an area proportional (1:1) to the setback ~~area~~ impacted is required through consolidated planting of native vegetation within the structure setback adjacent to the OHWM in accordance with the standards developed by the Director; and

Comment [dp79]: P.C. SMP Redraft Direction. Taken from City of Sammamish SMP.

Comment [cvh80]: Oct 2012 WSSA Comment 143

b. This allowance may only be used once for the life of the structure.

- ~~b. **Structure Height.** Structure height shall be 35 feet measured from average existing grade. Development shall comply with the requirements of this paragraph E. Additionally, the general development requirements and standards governing site development of property city wide, contained in Chapter 20.20 LUC apply, except to the extent expressly stated in this section and as stated in LUC 20.25E.010.C.1.c.~~
- ~~c. **Measurement of Shoreline Structure Setback.** The shoreline structure setback shall be measured landward from the ordinary high water mark on a horizontal plane and to a point that results in the required dimension. On Lake Sammamish, the shoreline structure setback may be measured landward from elevation 31.8 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site specific ordinary high water mark determination completed by a qualified professional.~~
- ~~d. **Footprint Exception - Existing Residential Dwellings.** When a legally established residential dwelling existing on or before [insert date of ordinance adoption] encroaches into the structure setback established in LUC Chart 20.25E.065.C, the structure setback shall be modified to exclude the footprint of that portion of the primary structure located outside the vegetation conservation area.~~
- ~~e. **Expansion into Shoreline Structure Setback Outside of the Vegetation Conservation Area.** Expansion of any existing residential primary structure into the shoreline structure setback outside of the vegetation conservation area shall be allowed only pursuant to paragraph E.4 of this section. Modifications of the prescriptive requirements of paragraph E.4 of this section are permitted only pursuant to LUC 20.25E.160.E (Special Shoreline Report process).~~
- ~~f. **Expansion into the Vegetation Conservation Area of the Shoreline Structure Setback.** Expansion of a residential dwelling into the vegetation conservation area requires a Shoreline Variance (refer to LUC 20.25E.190). For primary structures subject to a critical areas restriction, see LUC 25.25H.035.B for footprint exclusion provisions.~~
- ~~g.~~
- ~~h. **<Insert Graphic>**~~
- ~~i.~~
- ~~j. **Setback Requirements Specific to the Shoreline Residential Environment**~~
- ~~k. **New and Existing Development Allowed in the Shoreline Residential Environment.**~~
- ~~l. **New Development in the Shoreline Setback - No Setback Reduction Required.** The following development is allowed within the required 50 foot shoreline setback without a setback reduction and without compliance with the landscape standards set forth in~~

Comment [j81]: P.C. SMP Direction.
Planning Commission direction to develop tailored regulations based on the unique characteristics of different shoreline areas

Comment [hb82]:
P.C. Direction. Planning Commission direction to incorporate footprint exception from Critical Areas Overlay District provisions. June 9th and October 20th 2010.

- paragraph F this section, except when in conflict with the vegetation conservation area requirements of paragraph G.2 of this section (Vegetation Conservation Area). If a conflict occurs between the landscape standards and the vegetation conservation area standards, the vegetation conservation standards shall apply.
- m. Hardscape surfaces are allowed up to a maximum of 25 percent of the total setback area; provided that total impervious surfaces shall not exceed 1,000 square feet;
 - n. Retaining walls less than 30 inches (refer to LUC 20.20.025.D).
 - o. Minor Building Elements as described in LUC 20.20.025.C.
 - p. Fences located on the property boundary and perpendicular to the ordinary high water mark or parallel to the ordinary high water mark and located outside of the vegetation conservation area.
 - q. Landscape features such as fountains, statues, walkways, stairs, and walls.
 - r. Barbeques or fire pits.
 - s. Primary structures may be expanded up to and equaling 500 square feet over the lifetime of the structure. Expansions shall occur in a parallel direction from or behind the existing building line, and outside of the vegetation conservation area (refer to Figure X).
 - t.
 - u. ~~<Insert Figure X>~~
 - v.
 - w. Accessory structures are allowed in the structural setback when the total square feet of the structure(s) is equal to or less than 200 square feet and the accessory structure(s) is located outside of the vegetation conservation area. (Refer to Figure XX).
 - x.
 - y. ~~<Insert Figure XX>~~
 - z.
 - aa.
 - bb. New Development in the Shoreline Setback—Setback Reduction Required. The following development and improvements listed below are allowed within the 50-foot shoreline setback only when in compliance with the setback reduction provisions set forth in paragraph E.3 of this section, and outside of the vegetation conservation area.
 - cc. Expansion of primary structures greater than 500 square feet; and
 - dd. Accessory structures larger than 200 square feet.
 - ee. Existing Development—Maintenance. Maintenance and repair of existing legally established structures and improvements such as, residential fences, retaining walls and rockeries less than 30 inches in height and similar improvements of a minor nature, located within the shoreline structure setback is allowed, provided the maintenance or repair complies with paragraph G.2 of this section (Vegetation Conservation Area). Compliance with the landscape standards set forth in paragraph F of this section is not required for maintenance and repair of existing legally established structures and

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~~improvement. Nonconforming structures shall comply with the provisions of LUC 20.25E.065.J (Nonconforming Residential Development).~~

~~a. Reduction of Setbacks in the Shoreline Residential Environment.~~

- ~~i. Applicability. Setbacks as established in LUC Chart 20.25E.065.C for the Shoreline Residential environment may only be reduced as provided in paragraph E.3.b.iii of this section.~~
- ~~ii. Requirements to Reduce the Shoreline Setback. Reduction of Non-shoreline Setbacks. Before a shoreline setback may be reduced, the applicant shall demonstrate that non-shoreline setbacks have been modified to the maximum extent allowed in Chart 20.25E.065.E.3.b.ii; provided that the modification shall be the minimum necessary to allow avoidance of the shoreline setback and all other provisions of LUC 20.20.010 shall apply, including the applicable footnotes from the general dimensional chart. LUC Chart 20.25E.065.E.3.b.ii may not be modified using a shoreline special report.~~

Chart 20.25E.065.E.3.b.ii Maximum Reductions to Residential Setbacks

Comment [hb83]:
 LUC 20.25H. Incorporated into SMP for clarity and consistency.

Land Use District	R-1	R-1.8	R-2.5	R-3.5 R-4 R-5 R-7.5*	R-10 R-15 R-20	R-30
Front Yard (ft) (1)	25	20	10	10	10	10
Side Yard (ft)	5	5	5	5	5	5 (2)
2 Side Yards (ft)	15	10	10	10	10	10

Notes: Maximum Reductions to Residential Setbacks

- (1) ~~Any garage or other structure shall be set back the minimum necessary to allow on-site parking on any driveway without blocking a sidewalk. For proposals without garages, there shall be sufficient area on the site to allow for required on-site parking without blocking a sidewalk.~~
- (2) ~~A side yard setback in R-30 Districts increases to 20 feet on any side yard where the structure exceeds 30 feet above average finished grade.~~

- ~~iii. Setback Reduction Option Menu. The overall 50 foot shoreline setback in the Shoreline Residential environment may only be reduced to a minimum of 25 feet when setback reduction impacts are mitigated using a combination of the mitigation options provided in LUC Chart 20.25E.065.E.3.b.iii below to achieve an equal or greater protection of lake ecological functions.~~

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Chart 20.25E.065.E.3.b.iii – Setback Reduction Menu Options

	MENU OPTION (*)	RELATIVE SETBACK REDUCTION
1.	Presence of unmodified shoreline or installed soft shoreline stabilization located at or landward of the ordinary high water mark along at least 75 percent of the linear lake frontage of the subject property. This option can include the removal of existing hard shoreline stabilization and conversion to soft stabilization using the options for soft stabilization at LUC 20.25E.080.F.4 c. This option cannot be used in conjunction with any options below.	25 feet
2.	Presence of unmodified shoreline or installed soft shoreline stabilization located at or landward of the ordinary high water mark along at least 15 linear feet of the lake frontage of the subject property. This may include the removal of an existing hard shoreline stabilization and conversion to soft stabilization using the options for soft stabilization at LUC 20.25E.080.F.4 c. This option cannot be used in conjunction with Option 1 above (*)	10 feet
3.	Opening of previously piped on-site stream to allow improvement to habitat function for fish for a minimum of 25 feet from OHWM within the vegetation conservation areas. Opened streams must be provided with a native planted buffer at least 5 feet wide on both side of the stream. A qualified professional must design opened watercourses. (*)	10 feet
4.	Installation of soft structural shoreline stabilization measures waterward of the ordinary high water mark. These measures may include the use of gravels, cobbles, boulders, and logs, as well as vegetation. The material shall be sized and placed to remain stable and accommodate alteration from wind and boat-driven waves and shall be graded to a maximum slope of 1 vertical (v): 4 horizontal (h). (*)	10 feet
5.	Installation of pervious material for all pollution-generating surfaces such as driveways, parking or private roads that allows water to pass through at rates similar to pre-developed conditions. Area must be greater than 1000 square feet. (*)	10 feet

Comment [hb84]:
 P.C. Direction. Planning Commission direction to provide prescriptive approach to setback reduction. June 9th and October 20th 2010. **Modeled After.** Modeled after City of Kirkland adopted SMP.

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6.	Preserving or restoring at least 20 percent of the total lot area as native vegetation, located outside of the reduced setback and any critical areas and their associated buffers..(*)	10 feet
7.	Replacement of existing hard shoreline stabilization in accordance with LUC 20.25E.080.G.4.d.1 to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow water habitat. (*)	5 feet
8.	Increasing the depth of the vegetation conservation area by 5 feet. (*)	5 feet
9.	Limiting total site impervious coverage to at least 10% less than maximum allowed. (*)	5 feet
10.	Installation of pervious material for a minimum of 1000 square feet of new or replaced hardscape. (*)	5 feet

Note: Setback Reduction Menu Options

*Options 2-10 cannot be combined to total more than 20 feet. In no event shall the shoreline setback measure less than 25 feet from the ordinary high water mark.

- iv. ~~Special Shorelines Report. A Special Shoreline Report (LUC 20.25E.160.E) may be used to modify residential shoreline setbacks only when the applicant demonstrates that the development proposal objectives cannot be accommodated through a non-shoreline structure setback reduction or use of the menu option to reduce shoreline setbacks. The Special Shorelines Report shall also demonstrate that the proposal with the requested setback reduction leads to equivalent or better protection of shoreline ecological functions than would result from the application of the standard requirements. In no event shall the shoreline setback measure less than 25 feet from the ordinary high water mark. The Special Shorelines Report may not be used to modify the Menu Option set forth in LUC Chart 20.25E.065.E.3.b.iii.~~
- v. ~~Shoreline Variance. If the applicant demonstrates that the shoreline setback may not be reduced using the menu options described in paragraph E.3.b.iii of this section and LUC Chart 20.25E.065.E.3.b.iii, or the Special Shorelines Report process (LUC 20.25E.160.E), then the applicant may apply for a Shoreline Variance to process the proposed expansion (refer to LUC 20.25E.190).~~

- ~~vi. Additional Setback Reduction Requirements. When setback reductions are approved the applicant shall comply with the following applicable requirements:~~
- ~~(1) Prior to the issuance of a construction permit, applicants who request approval for a setback reduction shall execute a hold harmless agreement in a form approved by the City Attorney releasing the City from liability for any damage arising from the location of improvements within the shoreline setback.~~
 - ~~(2) Before final inspection or issuance of a certificate of occupancy, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.~~
 - ~~(3) Applicants who obtain approval to reduce the setback, must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, unless otherwise approved by the City, in a form acceptable to the City Attorney, and recorded with the with the King County Division of Records and Elections or its successor agency.~~
- ~~4. Setback Requirements Specific to the Shoreline Residential Canal Environment Regulated Pursuant to paragraph E.1 of this section~~
- ~~a. New and Existing Development Allowed in the Shoreline Residential Canal Environment.~~
- ~~i. New Development. The development and improvements listed below are allowed within the required 25-foot shoreline setback without compliance with landscape standard requirements set forth in paragraph F of this section, except when in conflict with the vegetation conservation requirements of paragraph G.2.b this section (Vegetation Conservation Area). If a conflict occurs between the landscape standards and the vegetation conservation standards, the vegetation conservation standards shall apply.~~
- ~~(1) Hardscape surfaces are allowed up to a maximum of 25 percent of the total setback area; provided that any impervious surface shall not exceed 1,000 square feet;~~
 - ~~(2) Retaining walls less than 30 inches (refer to LUC 20.20.025.D).~~
 - ~~(3) Minor Building Elements as described in LUC 20.20.025.C.~~
 - ~~(4) Fences located on the property boundary and perpendicular to the ordinary high water mark or parallel to the ordinary high water mark when located behind the canal bulkhead as needed for safety.~~
 - ~~(5) Landscape features such as fountains, statues, walkways, stairs, and walls.~~
 - ~~(6) Landscape vegetation.~~

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~~(7) Structural elements considered essential and associated with canal bulkheads.~~

~~(8) Barbeques or fire pits.~~

- ~~ii. Existing Development – Maintenance. Maintenance and repair of existing legally established structures and improvements such as, residential fences, retaining walls and rockeries less than 30 inches in height and similar improvements of a minor nature, located within the shoreline structure setback is allowed, provided the maintenance or repair complies with paragraph G.2 of this section (Vegetation Conservation Area). Compliance with the landscape standards set forth in paragraph F of this section is not required for maintenance and repair of existing legally established structures and improvements. Nonconforming structures shall comply with the provisions of LUC 20.25E.065.J (Nonconforming Development).~~

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~~b. Reduction of Shoreline Structure Setback - Shoreline Residential Canal Environment.~~

~~i. Limitations. Shoreline setbacks in the Shoreline Residential Canal environment may not be reduced except through a Shoreline Variance (LUC 20.25E.190).~~

~~ii. The additional requirements set forth in paragraph E.3.b.vi of this section apply when the shoreline setback is reduced using a Shoreline Variance.~~

G. Landscape Development.

~~1. When Required. Development meeting the criteria below shall comply with the landscape standards established in paragraph F.2 of this section within the shoreline vegetation conservation area:~~

~~a. Construction of a new primary structure on an undeveloped site within shoreline jurisdiction;~~

~~b. Reconstruction of a primary structure whose lot coverage is greater than the existing structure;~~

~~c. Expansion of an existing primary structure by more than 500 square feet laterally within the setback;~~

~~d. Expansion of an existing primary structure when the expansion is proposed waterward of the structures existing façade and located within the structure setback; or~~

~~e. Construction of an accessory structure greater than 200 square feet within the structure setback.~~

~~f. Development of a subdivision or short subdivision with more than four lots.~~

~~2. Landscape Standard Required. Development meeting the criteria in paragraph F.1 of this section, an applicant shall provide landscaping in compliance with following standards:~~

~~a. Development in the Shoreline Residential Environment :~~

~~i. For new or reconstructed primary structures described in paragraphs F.1 a and F.1 b of this section, the applicant shall plant landscaping in the amount of 60 percent required for the shoreline vegetation conservation area.~~

~~ii. For expansions of primary structures by more than 500 square feet laterally within the setback, construction of hardscape surfaces exceeding the limits in paragraphs E.3.a.i. of this section, or construction of an accessory structure greater than 200 square feet within the primary structure setback, the applicant shall plant landscaping in the amount equal to the area of expansion or the area of the proposed accessory structure. Landscaping shall be installed within the vegetation conservation area.~~

~~iii. For expansions of an existing primary structure into the setback waterward within the shoreline setback, the applicant shall plant landscaping in the amount equal to~~

Comment [hb85]: Modeled After.
Modeled after LUC 20.20.520 Landscape Development.

~~two times the area of expansion. Landscaping shall be installed in the vegetation conservation area.~~

- ~~b. Landscaping Required for Development in the Shoreline Residential Canal Environment. New or reconstructed primary structures described in paragraphs F.1.a and F.1.b of this section shall plant landscaping in the amount of 35 percent of the area of the required shoreline setback.~~
- ~~c. Previously Approved Landscaping and Mitigation. Landscaping in the vegetation conservation area that has been planted as required as part of a prior development approval or as mitigation for a prior approval, may not count towards compliance with the required landscape standard. When this condition exists, an equivalent area of landscaping shall be planted outside the vegetation conservation area. Refer to Figure XXX.~~

~~<Insert Figure XXX>~~

- ~~d. Stewardship Recognition. The Director shall accept existing native trees, shrubs, and groundcover (not associated with a previously approved mitigation action) towards meeting the requirements of paragraph F.2.a and F.2.b of this section, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation. The Director may require the applicant to plant trees, shrubs, and groundcover according to the requirements of this section to supplement the existing vegetation to provide a landscape area at least as effective as the required standard.~~
- ~~e. Consolidation of Landscaping. In order to provide the required benefit to shoreline ecological functions, landscaping installed under the requirements of paragraph F.2.a and F.2.b this section shall be consolidated in a single area unless approved through the alternative landscape option in paragraph F.2.g of this section.~~
- ~~f. Species Choice. Plant materials must be native and selected from the City of Bellevue Shoreline Handbook, now or hereafter amended; except the Director may approve the use of non native species that replicate the structural habitat and ecological functions provided by native species.~~
- ~~g. Alternative Landscape Option. The applicant may request a modification of the landscaping requirements set forth in paragraph F.2 of this section; provided that modification of the provisions shall not allow disturbance of a critical area or critical area buffer. The Director may administratively approve a modification of the landscaping requirements of paragraph F.2 of this section provided the following criteria have been met:
 - ~~i. Leads to equivalent or better protection of shoreline ecological functions than would result from the application of the standard requirements; and~~
 - ~~ii. The applicant demonstrates that the proposed alternative landscaping:
 - ~~(1) Incorporates increased retention of significant trees and naturally occurring undergrowth; or~~
 - ~~(2) Incorporates elements to protect or improve water quality; or~~~~~~

Comment [hb86]: P.C. Direction.
Planning Commission direction to provide provisions which recognize good stewardship practices.

Comment [hb87]: P.C. Direction.
Planning Commission direction to provide flexible plant species selection. September 22 and October 20, 2010.

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~~(3) Incorporates native species in a design that better buffers a critical area and critical area buffer from uses on the site.~~

H.F. Vegetation Conservation.

—Applicability. Vegetation conservation in the Shoreline Overlay District shall be regulated pursuant to the City-wide tree preservation standards in section LUC 20.20.900 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP. requirements of this section shall apply in the Shoreline Overlay District when a land-disturbing activity within the vegetation conservation area is proposed. Additional standards may apply for critical ~~areas~~; areas; refer to Part 20.25H LUC (Critical Areas Overlay District).

Comment [hb88]: WAC: 173-26-221(5) P.C. Direction. Planning Commission direction from meeting on September 22nd and October 20, 2010.

Comment [c89]: P.C. SMP Redraft Direction

Comment [dp90]: P.C. SMP July 25th Redraft Direction

Comment [cvh91]: Oct 2012 WSSA Comment 200 (incorporation by reference)

1. City wide tree preservation standards in section LUC 20.20.900 shall apply.

2. Vegetation Conservation Area Requirements.

a. Shoreline Residential Environment.

i. General. The shoreline vegetation conservation area shall be designated as the first 25 feet measured perpendicular from the ordinary high water mark.

ii. Prohibited Improvements. New development such as fences, swimming pools, sport courts, accessory structures, and other non water enjoyment uses are prohibited in the vegetation conservation area.

iii. Tree Retention and Native Vegetation Standards in the Shoreline Vegetation Conservation Area. Within the shoreline vegetation conservation area, all native vegetation as defined in the City of Bellevue Shoreline Handbook, now or hereafter amended, and existing trees shall be retained, except that hazard trees may be removed in accordance with paragraph G.2.c.iii of this section. Any removal of significant trees or native vegetation shall be in compliance with this section.

iv. Replanting Requirements in the Shoreline Vegetation Conservation Area. When vegetation removal is allowed, all significant trees removed within the vegetation conservation area shall be replaced in the conservation area at a ratio of 3:1 with a minimum size as defined in the City of Bellevue Shoreline Handbook, now or hereafter amended. Native vegetation other than trees shall be replaced at a 1:1 area of equivalent and appropriate native vegetation; except the Director may approve the use of non native species that replicate the structural habitat and ecological functions provided by native species.

v. Allowed Development in the Vegetation Conservation Area. Development is allowed within the vegetation conservation area when in compliance with the following performance standards:

(1) No greater than 40 percent of the vegetation conservation area may be developed with non structural water enjoyment recreation developments, such

~~as lawn, pervious hardscape patios, paths, and walkways and steps to provide water access.~~

~~(2) Improved areas must be consolidated and contiguous and located as far from the ordinary high water mark to the maximum extent feasible.~~

~~(3) Improvements shall be constructed and maintained in a manner that minimizes adverse impacts to shoreline ecological functions.~~

~~(4) When new non structural recreation developments are proposed, a property owner shall install an area of native or native compatible vegetation in an area of no less than 100 square feet, but at least as large as the area of the proposed improvement.~~

~~b. Shoreline Residential Canal environment.~~

~~i. General. The shoreline vegetation conservation area shall be designated as 35 percent of the area within the 25 foot shoreline setback landward of the ordinary high water mark.~~

~~ii. Tree retention. All significant trees within the shoreline setback of the shoreline canal environment shall be retained, except that hazard trees may be removed in accordance with paragraph G.2.c. iii of this section.~~

~~iii. Prohibited Improvements. New development such as, swimming pools, sport courts, accessory structures and non water enjoyment uses are prohibited in the vegetation conservation area~~

~~iv. Allowed Development Within the Vegetation Conservation Area. Development is prohibited within the shoreline canal environment vegetation conservation area. Development is allowed within the remaining 65 percent of the required setback as set forth in paragraph E.4.a.i of this section.~~

~~c. Vegetation Management Within the Vegetation Conservation Area~~

~~i. Existing Landscape Maintenance. Routine maintenance of existing legally established landscaping and landscape features located in the vegetation conservation area and developed prior to [insert effective date ordinance], may be continued in accordance with this paragraph G.2.c. For purposes of this section, "routine maintenance" includes mowing, pruning, weeding, planting annuals, perennials, fruits and vegetables, and other activities associated with maintaining a legally established ornamental or garden landscape and landscape features. Also, for purposes of this section, "landscape features" refers to fences, trellises, rockeries and retaining walls, pathways, arbors, patios, play areas and other similar improvements. To be considered routine maintenance, activities shall have been consistently carried out so that the ornamental species predominate over native or invasive species.~~

~~ii. Removal of Noxious Species. Noxious species may be removed from the vegetation conservation area consistent with King County's Noxious Weed Program's best management practices for removal of noxious weeds. Exposed areas shall be replanted with native or native compatible species as~~

~~necessary to control sediment runoff from areas of exposed soil. The preferred method to remove the following vegetation from the shoreline vegetation conservation area is with hand labor and hand operated equipment:~~

- ~~(1) Invasive and noxious weeds;~~
- ~~(2) English Ivy (*Hedera helix*);~~
- ~~(3) Himalayan blackberry (*Rubus discolor*, *R. procerus*); and~~
- ~~(4) Evergreen blackberry (*Rubus laciniatus*);~~

~~iii. Hazard Trees. A hazard tree is one posing a threat to public safety, or posing an imminent risk of damage to an existing structure or other permanent improvement. The removal of trees that are hazardous is allowed in accordance with the following requirements:~~

- ~~(1) The applicant submits a report on a form provided by the Director from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;~~
- ~~(2) Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be converted to wildlife snags and completely removed only where no other option removes the identified hazard;~~
- ~~(3) All vegetation cut (tree stems, branches, etc.) may be left in vegetated areas within the shoreline vegetation conservation area or, if present, critical area or buffer, unless removal is required to reduce the potential for creating a fire hazard or for disease or pest transmittal to other healthy vegetation.~~
- ~~(4) Hazard trees removed within the vegetation conservation area shall be replaced at a ratio of 3:1 with a minimum size as defined in the City of Bellevue Shoreline Handbook, now or hereafter amended. Native vegetation disturbed during removal of the hazard tree shall be replaced at a 1:1 area of equivalent and appropriate native vegetation; except the Director may approve the use of non-native species that replicate the structural habitat and ecological functions provided by native species.~~
- ~~(5) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods for removal that will minimize impacts; and~~
- ~~(6) Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner on whose property the tree is located prior to receiving the permits required under Chapter 23.76 BCC (Clearing and~~

Comment [hb92]: P.C. Direction.
Planning Commission direction to not require vegetation cut to be left in vegetation conservation area.

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~~Grading Code) provided, that the landowner makes reasonable efforts to notify the City, and within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this part.~~

- ~~iv. **Select Vegetation Pruning.** Pruning of existing trees and vegetation within the shoreline vegetation conservation area with hand labor and hand-operated equipment in accordance with this subsection is allowed without a shoreline permit or approval. A Clearing and Grading Permit, Chapter 23.76 BCC, and SEPA review, Chapter 22.02 BCC, may still be required. The pruning allowed by this section shall be performed in accordance with guidelines established by the Director for each of the following pruning techniques: canopy reduction; canopy cleaning; canopy thinning; canopy raising or lifting; structural pruning; and canopy restoration. In no event may a tree or vegetation which is an active nest site for a species of local importance be pruned pursuant to this subsection.~~

I.G. Shoreline Stabilization

[Shoreline stabilization measures in the Shoreline Overlay District are regulated pursuant Refer](#) to LUC 20.25E.080.

Comment [hb93]: WAC: 173-26-231(3)(a). **P.C. Direction.** Planning Commission direction from July 28th and September 8, 2010 meeting.

Comment [H94]: Clarity Edit

HI. Residential Moorage (Overwater Structures).

1. Applicability. Moorage facilities are allowed in the Shoreline Overlay District when in compliance with paragraph [H](#) of this section.
2. Definitions. The following definitions apply to paragraph [H](#) of this section in addition to the definitions contained in LUC 20.25E.280 and [Chapter 20.50 LUC \(as set forth in the Land Use Code on \[INSERT DATE of ordinance adoption\]\) which is incorporated by this reference into the SMP.](#)

Comment [hb95]: WAC: 173-26-231(3)(b). **P.C. Direction.** Planning Commission direction from July 28, 2010 meeting. **P.C. Direction.** Planning Commission direction to develop different regulations based on unique characteristics of Bellevue's lakes.

Comment [cvh96]: Oct 2012 WSSA
Comment (incorporation by reference)

[a.](#) **Boat.** A vessel built to travel on water that carries people or goods and is propelled by oars, outboard motor, inboard motor, or by wind.

[a-b.](#) **Boathouse.** A boat cover that includes at least one wall. Boathouses may be structurally integrated into or attached to the dock or boatlift or may be freestanding.

Comment [CoB97]: Oct 2012 WSSA
Comment 274a

[c.](#) **Boatlift.** A structure or mechanism designed to elevate and dry-store boats above the water. Boatlifts do not include floating boatlifts, which for the purpose of this section, are regulated as a boat. Boatlifts include cradle lifts, platform lifts, and hoist lifts.

[b-d.](#) **Open Sided Boat Moorage Cover.** A boat shelter with a permanent structural roof and open sides.

Comment [CoB98]: Oct 2012 WSSA
Comment 274b

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~~e. Boatlift, Attached. A suspended lift affixed to the structure of a dock with no parts contacting the substrate and located entirely above the established ordinary high water mark.~~

Comment [cvh99]: Oct 2012 WSSA
Comment 244a

~~d.e. Boatlift, Freestanding. A ground based lift supported by the substrate and affixed to the ground by ballast.~~

Comment [cvh100]: Oct 2012 WSSA
Comment 244a

~~e. Dock, F Shape. A dock configured in an F design and oriented to provide moorage in a configuration parallel to the shoreline.~~

~~f. Dock, h Shape. A dock configured in an h design and oriented to locate the stern of the watercraft towards open water to facilitate docking and launching of the watercraft with minimal impact on the near shore aquatic ecosystem.~~

~~g. Dock Segment. The walkway, moorage platform, or finger pier portion of a dock.~~

~~h. Moorage Platform. The portion of the dock that is located 30 feet waterward from the ordinary high water mark and located at a depth of 9 feet measured horizontally from the elevation of the established ordinary high water mark.~~

~~i. Repair. As used in this section, repair refers to maintenance to an existing dock designed to restore the dock to its original condition and configuration and ensure its continued function by preventing failure of any part. Repair may include replacement of up to or equal to 50 percent of the dock's piling. Replacement of more than 50 percent of the piling is deemed a new or replacement dock. Repair does not include expansion, reconfiguration, or relocation of a dock.~~

~~j. Walkway. The portion of the dock that is connected to the shoreline at the landward end and extends a distance of either 30 feet waterward or to a depth of 9 feet measured from ordinary high water mark whichever is greater, and provides access to the moorage platform.~~

~~f. Lift Canopy. A fabric skinned rigid framed boat cover structurally attached to a boatlift or watercraft lift roughly the equivalent in size of the boat or watercraft lift it is designed to protect.~~

Comment [CoB101]: Oct 2012 WSSA
Comment 274b and 296

~~g. Walkway. The portion of the dock that is connected to the shoreline at the landward end and provides access to moorage.~~

~~h. Reconfigure. Refers to the rearrangement elements of dock structure elements which result in new length and width dimensions even when the overall square footage remains unchanged from the original dock structure.~~

Comment [H102]: Consistency Edit

~~k.i. Watercraft. A small recreational vessel that the rider sits or stands on, rather than inside of, seats up to three riders, and is powered by an inboard jet propulsion system.~~

~~h.j. Watercraft Lift. A structure or mechanism that is designed to elevate and dry-store watercraft above the water. The term watercraft lift does not include~~

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floating watercraft lifts, which for the purpose of this section, are regulated as watercraft. Watercraft lifts include cradle lifts, platform lifts, and hoist lifts.

~~m. Watercraft Lift, Attached. A suspended lift affixed to the structure of a dock or pier with no parts contacting the substrate and located entirely above the established ordinary high water mark.~~

Comment [cvh103]: Oct 2012 WSSA Comment 244a

~~n.k. Watercraft Lift, Freestanding. A ground-based lift supported by the substrate and affixed to the ground by ballast.~~

Comment [cvh104]: Oct 2012 WSSA Comment 244a

3. General Requirements Applicable to all Residential Docks. The following standards apply to all development and repairs related to residential docks ~~and shall not be modified using a Shoreline Special Report.~~

a. Dock Materials. ~~Use e~~Environmentally neutral materials ~~approved by the Environmental Protection Agency for use in aquatic environments shall be used not. No~~ materials treated with known toxic preservatives ~~is allowed and approved by the Environmental Protection Agency for use in aquatic environments.~~ Dock materials shall not be treated with pentachlorophenol, creosote, chromate copper arsenate (CCA) or comparably toxic compounds. ~~If (ammoniacal copper zinc arsenate) (ACZA) materials are proposed, the applicant will meet all of the Best Management Practices, including a post treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers.~~ Preservative and surface treatments are limited to products approved for use in aquatic environments and must be applied according to label directions. Construction hardware that comes into contact with water either directly, or through precipitation ~~and that causes~~ discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion.

Comment [H105]: Clarity Edit

Comment [cvh106]: Oct 2012 WSSA Comment 251-252 – consistency edit with Comment 105

b. Dock Lighting. Dock lighting for the purpose of illuminating the dock surface for safety is allowed when the illuminating fixtures are limited to the minimum ~~elevation height~~ necessary above the dock surface, or screened to provide the intended function of walkway illumination, without allowing light emissions to spill outside of the dock surface.

~~e. Accidental Destruction - Timing of Construction. Pursuant to paragraph 4.4.e of this section, lawfully established structures destroyed by fire, explosion, or other unforeseen disaster beyond the control of the owner may be reconstructed in the same configuration; provided, that complete applications for all required permits are submitted within 2 years from the date of destruction, such reconstruction is commenced within one year from the date of destruction and diligently pursued.~~ Materials used for reconstruction shall comply with the requirements set forth in paragraph 3.a of this section.

Comment [dp107]: P.C. SMP July 25th Redraft Direction, Oct 2012 WSSA Comment 253

Areas of temporary ~~construction disturbance~~ resulting from the reconstruction shall be restored ~~to pre-construction conditions, pursuant to a mitigation plan approved by the Director under LUC 20.25E.060 D (Mitigation Sequencing).~~

Comment [cvh108]: Oct 2012 WSSA Comment 253

Comment [dp109]: P.C. SMP July 25th Redraft Direction

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~~d.c. Shoreline Special Report Limitation. A Shoreline Special Report, prepared pursuant to LUC 20.25E.160.E, may only be used to modify the requirements set forth in paragraph I.4 of this section, when the proposed modification will result in a net benefit to shoreline ecological functions.~~

Comment [c110]: Consistency Edit

4. General Requirements Applicable to New or ~~Replacement~~ **Reconfigured** Residential Docks.

Comment [H111]: P.C. SMP Redraft
Direction; Oct 2012 WSSA Comment 255

a. Paragraph ~~H.4~~ and LUC Chart 20.25E.065 ~~H.4~~ of this section contain general requirements that apply to all new and ~~replacement~~ **reconfigured** residential docks in addition to the general requirements set forth in paragraph ~~H.3~~ of this section. Each application for a new or ~~replacement~~ **reconfigured** residential dock shall comply with these requirements.

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Chart 20.25E.065.HI.4 New and Replacement Reconfigured Residential Dock Standards.

Comment [dp112]: P.C. SMP July 25th Redraft Direction

Comment [cvh113]: Oct 2012 WSSA Comment 257

Residence Location					
	Lake Washington	Lake Sammamish	Phantom Lake (1)	Residential Canal Environment (1)	<u>Alternative Standard or Limitation – When Allowed</u>
Number of docks allowed	One per residential lot				N/A
Dock Side Setback Requirements (2)	10'	10'	10'	10'	N/A
Maximum Dock Length	150'	150'	100'	<u>40' Platform may not extend greater than 10' from canal bulkhead</u>	<u>Shoreline Variance (3)</u>
Maximum Dock Size - sq. ft.	No Maximum um48 0 sq. ft. (3*)	No Maximum um48 0 sq. ft. (3*)	250 sq. ft. (3*)	100 sq. ft.	<u>State and Federal Approval (4)</u>
Dock Walkway Requirements:					
Maximum Walkway width (3)(4)(3*)	4' for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways	4' for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways	4'	<u>Walkway Prohibited</u> <u>N/A</u>	<u>State and Federal Approval (4)</u>
Maximum Walkway length	30' minimum or at least 9' water depth	30' minimum or at least 9'	Up to 100'	Prohibited	

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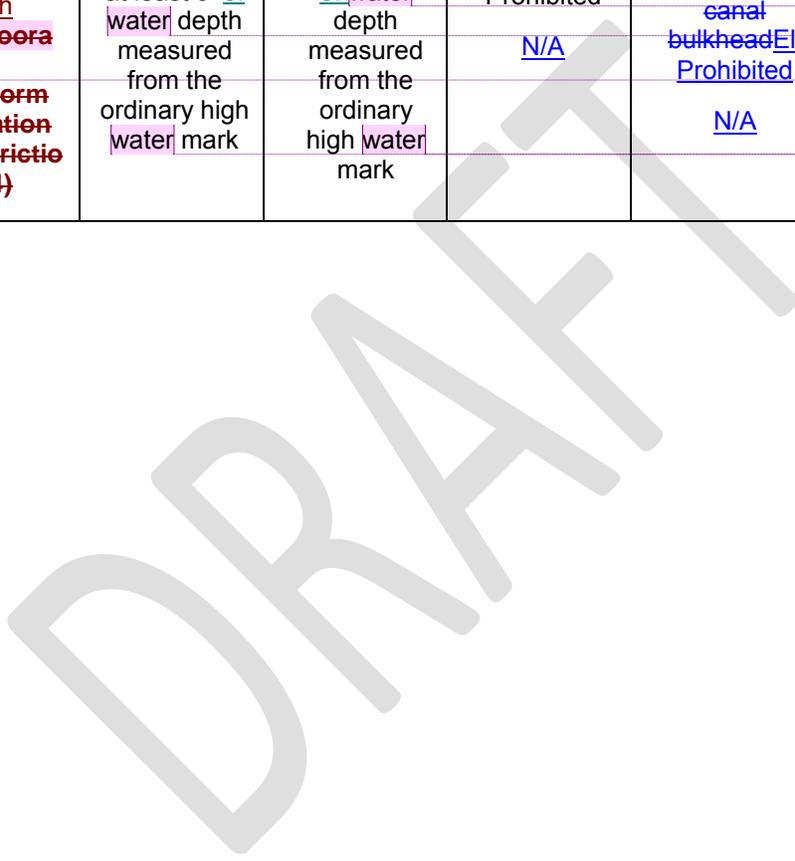
		measured from the ordinary high water mark	water depth measured from the ordinary high water mark			
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Moorage Platform Requirements(4)					
Minimum EII location restriction related to Water Depth Moorage Platform Location Restrictions (4)	30' waterward of OHWM minimum or at least 9' of water depth measured from the ordinary high water mark	30' waterward of OHWM minimum or at least 9' of water depth measured from the ordinary high water mark	EII Prohibited N/A	Platform may not extend greater than 10' from canal bulkhead EII Prohibited N/A	State and Federal Approval (4)

- Comment [cvh118]:** Oct 2012 WSSA Comment 258
- Comment [cvh115]:** Oct 2012 WSSA Comment 258
- Comment [dp119]:** P.C. SMP July 25th Redraft Direction
- Comment [dp116]:** P.C. SMP July 25th Redraft Direction
- Comment [dp114]:** P.C. SMP July 25th Redraft Direction
- Comment [dp117]:** P.C. SMP July 25th Redraft Direction
- Comment [dp120]:** P.C. SMP July 25th Redraft Direction



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	Residence Location				
	Lake Washington	Lake Sammamish	Phantom Lake (1)	Residential Canal Environment (1)	
Platform Maximum Size -- sq. ft. (New docks) (5)	350 sq. ft.	250 sq. ft.	Platform Prohibited on Phantom Lake	100 sq. ft.	
Platform Maximum Size -- sq. ft. (Existing, reconfiguring, or replacing docks) (6)	No greater than existing moorage platform or the amount allowed for new moorage platform		Platform Prohibited on Phantom Lake	No greater than existing moorage platform or the amount allowed for new moorage platform	
Platform Maximum Size -- sq. ft. Shared moorage and multi-family Development	100 sq. ft. for each additional unit above the maximum square footage allowed for a single dwelling unit up to a maximum of 1000 sq. ft. total				
	Piling Maximum Size:				
Walkway Piling	8"	8"	8"	N/A	
Platform Piling	12"	12"	Prohibited	12"	

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Piling Location	One set allowed to support the walkway within the first 30 feet measured from the ordinary high water mark. (7)	Not located more than 10' from the canal bulkhead (8)	
Mooring Pile	2 maximum per residential lot		Shoreline Variance (3)
Decking	Grated		Shoreline Variance (3)

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Notes: New and Reconfigured Replacement Residential Dock Standards

- (1) Floating docks may be approved on Phantom Lake and in the Shoreline Residential Canal environment when the use of fixed dock is not feasible.
- (2) No private dock or other structure waterward of the ordinary high water mark, including boatlifts, watercraft lifts, and other structures attached thereto, shall be closer than 10 feet to any adjacent property line projection, except where a mutual agreement of adjoining property owners is recorded with the King County Records and Election Division and the Bellevue City Clerk and submitted as part of the permit application for the use or activity.
- (3) ~~These standards or limitations may be modified through approval of a Variance to the Shoreline Master Program (20.25E.190 LUC). Unless a larger dimensions or alternative materials are authorized by the U.S. Army Corps of Engineers (pursuant to the approval authority provided under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act) or by Washington Department of Fish and Wildlife (pursuant to the approval authority under Hydraulic Project Approvals) through state and federal approval their respective permitting processes.~~
- (4) ~~These standards or limitations may be modified through approval of larger dimensions or alternative materials authorized by the U.S. Army Corps of Engineers (pursuant to the approval authority provided under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act) or by Washington Department of Fish and Wildlife (pursuant to the approval authority under Hydraulic Project Approvals) through their respective permitting processes.~~

Comment [dp121]: P.C. SMP July 25th Redraft Direction

Comment [cvh122]: Oct 2012 WSSA Comment 269a

Comment [c123]: P.C. SMP Redraft Direction

Comment [cvh124]: Oct 2012 WSSA Comment 269 new. WSSA requested edit not within scope of prior Planning Commission direction. Appeal to SHB just raised this issue and its impact on navigability, and remains on-going point of concern between property owners. Fashioned after accessory structures provisions of LUC 20.20.125 that allows structures to encroach into required setback with permission of adjacent property owner.

Comment [cvh125]: Oct 2012 WSSA Comment 248, 256 and 269b

Comment [CoB126]: Oct 2012 WSSA Comment 248, 256 and 269b

- ~~b. Walkway width may be increased to 6 feet; provided, the platform area is reduced at a ratio of 2:1 for the walkway length. Example: A homeowner desires to increase the width of an existing walkway from four feet to six feet, and the length of the walkway is 40 feet. The required reduction of the platform area equals the (area of the increased walkway) x (the length of the walkway) x (the ratio for walkway length). For this example, the calculation would be (6 feet — 4 feet) x 40 feet x 2 = 160 square feet.~~
- ~~c. When the walkway width is reduced to 3 feet, the size of the platform may be increased from the maximum allowed. The allowed increase in the platform area is equal to the amount of area reduced in the walkway. Example: If walkway is 40 feet long and 3 feet in width, the allowed increase in platform area is 40 square feet.~~
- ~~d. A platform may be located in water depth of less than 9 feet when using an h-dock configuration and applicant demonstrates boat propeller will be located in 9 feet or greater water depth but in no event shall the platform be closer than 30 feet measured from the ordinary high water mark.~~
- ~~e. Two finger pier platform extensions not exceeding two feet in width may be permitted without deduction from overall moorage platform size limitations when the platform is configured in h shape.~~
- ~~f. Spacing of piling used for dock construction on Lake Washington and Lake Sammamish located beyond 30 feet from the ordinary high water mark shall be the maximum feasible to minimize shading and avoid a "wall" effect that would block or~~

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~~baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.~~

~~g. Spacing of piling used for dock construction in the residential canal environment 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~~

~~h.~~

~~b.~~ ~~b.~~ New and **Reconfigured Replacement** Residential Docks - Limitations.

Comment [dp127]: P.C. SMP July 25th Redraft Direction and Oct 2012 WSSA Comment 273

~~i.~~

~~i.~~ Number of Docks Per Lot. Construction of one residential dock per upland residential waterfront lot or one-joint use dock for two or more adjacent waterfront lots is allowed in accordance with Chart 20.25E.065.H.4. ~~Expansion~~, **Expansion** of any legally-established existing residential dock is permitted; provided the expansion complies with the development standards contained paragraphs H.3 and H.4 of this section.

~~ii.~~

~~iii.~~ ~~ii.~~ Lot Dimensional Requirements. Residential docks are allowed only on:

(1) Lots created on or after [insert effective date of ordinance], and having water frontage meeting or exceeding the minimum lot width required in the underlying land use **district (for further information regarding the city-wide standard refer to ~~as established in LUC 20.20.010~~);** or

Comment [cvh128]: Oct 2012 WSSA Comment (cross reference)

(2) Lots created before [insert effective date of ordinance]; or

(3) Nonbuilding tracts platted for the purpose of providing common residential moorage for a group of contiguous properties; provided the minimum width of the nonbuilding tract is equal to or greater than 24 feet.

iii. Combining Frontage—Shared Docks. For the purposes of meeting the requirements of paragraph H.4.b.ii of this section, adjoining property owners may combine their water frontage by mutual agreement recorded with the King County Records and Elections Division, or its successor agency, and the Bellevue City Clerk. Only one shared residential dock is permitted pursuant to a combined frontage agreement, which may connect with the property landward of the ordinary high water mark at only one location.

iv. Boathouses. New boathouses are prohibited. Existing boathouses **below OHWM** are subject to the rules for nonconforming overwater accessory structures set forth in paragraph J.7 of this section.

Comment [cvh129]: Oct 2012 WSSA Comment 274a

v. Open-sided Boat Moorage **Covers**. One open-sided structural boat cover ~~may is be allowed per residential dock only through a special shoreline open~~ **where the proposal results in a net benefit to shoreline ecological functions.**

Comment [cd130]: Provision added in response to Planning Commission direction

Comment [dp131]: P.C. SMP July 25th Redraft Direction

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Open-sided boat covers shall be considered as part of the ~~dock moorage platform~~, and the total ~~cumulative~~ square footage of the open-sided ~~boat cover~~ and the ~~dock moorage platform~~ shall not exceed the allowed maximum ~~dock size platform size~~ in Chart 20.25E.065.H.4.

Comment [CoB132]: Consistency Edit

~~5. New, Expanded, and Replacement Residential Docks – Design Criteria. Design and siting of new or replacement residential moorage facilities shall address, at a minimum, the following design criteria:~~

~~Moorage Design. To protect the near shore environment, docks shall be designed and constructed to ensure boats and watercraft are moored to the moorage platform or that portion of the walkway that is greater than 30 feet from the ordinary high water mark.~~

~~New residential moorage facilities should be located as far as reasonably possible from an existing stream or public stormwater outfall.~~

~~Walkway Orientation. Walkways should be oriented perpendicular to the shoreline to limit overwater coverage in the near shore area and to allow access to deeper water.~~

~~New and Replacement Residential Docks – Performance Standards. In addition to the general requirements for residential docks contained in paragraphs 1.3 and 1.4 of this section, the following development and use specific performance standards shall be met:~~

~~Impact Avoidance. New or expanded residential moorage facilities shall be designed to avoid impact to existing habitat features, such as native vegetation, large and small woody debris, and emergent vegetation.~~

~~Skirting is prohibited.~~

~~Walkway Form. Walkways may be constructed in the form of ramps or bridges provided the railing height shall not exceed the minimum requirements of the building code.~~

~~Removal of Invasive Aquatic Weeds. Invasive aquatic weeds shall be removed with new dock construction or dock replacement as required by Chapter 17.10 RCW.~~

~~Mitigation Required. To mitigate the long term impacts related to new residential docks, applicants shall select and implement one of the mitigation measures described below.~~

~~Note: where the 60 percent landscaping area in the vegetation conservation area has been fully planted through separate development actions, applicants may select and implement only options 2-4.~~

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~~In the vegetation conservation area, plant vegetation in an amount, whichever is less, of: (1) 10 feet in depth by 60 percent of the length of the waterfront frontage, or (2) the total square footage of overwater coverage. Plantings shall consist of native shrubs and trees, emergent vegetation, or a combination of native vegetation and non-native compatible ornamental vegetation and shall be located in the vegetation conservation area designated in paragraph G of this section. Plantings shall be monitored for a period of five years consistent with a monitoring plan approved pursuant to LUC 20.25E.060.D (Mitigation Sequencing);~~

~~Augment beach by providing gravel or sand according to templates approved by the Director and plant emergent native vegetation along 60 percent of the waterfront frontage;~~

~~Replace a minimum of 15 linear feet of bulkhead with soft stabilization; or~~

~~Plant a landscaping area that measures 2 times the landscaping area otherwise required in section (1) above in an alternate location on the site within the shoreline jurisdiction. Planting shall consist of native shrubs and trees, emergent vegetation, or a combination of native vegetation and non-native compatible ornamental vegetation, and shall be monitored for a period of five years consistent with a monitoring plan approved pursuant to LUC 20.25E.060.D (Mitigation Sequencing).~~

~~Repair of Existing Residential Docks. Existing, legally established residential docks may be repaired or replaced in the existing configuration in compliance with the following limitations and standards:~~

~~Limitations. Repair or replacement of existing docks is restricted to the following actions undertaken within a three-year period:~~

~~Replacement (as repair) of up to and including 50 percent of existing dock piling; and~~

~~Repair of up to 100 percent of existing piling in the same location; and~~

~~Repair or replacement (as repair) of the dock substructure, stringers, or joists; and~~

~~Repair or replacement (as repair) of the dock surface.~~

~~Proposals for repair or replacement that exceed the limits established in paragraph 5.a of this section, or where the proposal includes a reconfiguration of the existing dock are considered a new dock and must comply with the general and new dock requirements set forth in paragraphs 1.3 and 1.4 of this section.~~

~~Dock Repair and Replacement Standards. Docks may be repaired or replaced when the following standards are met:~~

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~~Piling may be repaired by cutting, splicing, or capping the existing piling.~~

~~Any removal or replacement of a piling is not defined as repair, and is considered replacement that shall comply with the standards and limitations contained in Chart 20.25E.065A and paragraph 5.a.i of this section;~~

~~Grating of the dock surface to allow light transmission is required when the total area of the dock surface being repaired or replaced equals or exceeds 20 square feet. Replacement of surfaces less than 20 square feet may utilize in-kind materials; provided the replacement materials comply with paragraph 3.a. of this section.~~

~~Materials used for dock repairs shall meet the requirements established in paragraph 3.a of this section.~~

~~Reconfiguration and Replacement of Existing Residential Docks. Existing, legally-established residential docks may be reconfigured or replaced when in compliance with paragraphs I.3 and I.4 of this section.~~

~~Repair and Replacement of Existing Residential Docks. Existing, legally-established residential docks may be repaired or replaced in the existing configuration. Docks may be repaired or replaced when the following standards are met:~~

~~Grating of the dock surface to allow light transmission is required when the total area of the dock surface being repaired or replaced equals or exceeds 20 square feet. Replacement of surfaces less than 20 square feet may utilize in-kind materials; and~~

~~a. Materials used for dock repairs shall meet the requirements established in paragraph H.3.a and H.4 of this section unless otherwise approved by State or Federal Agencies pursuant to 20.25E.065.H.4 Note 3.~~

~~6. Boat and Watercraft Lifts. To ~~eliminate~~ reduce disturbance of the lake substrate, ~~attached~~ fixed boatlifts and watercraft lifts are preferred over freestanding lifts. Lifts are limited in the number allowed and location:~~

~~a. Number. The number of freestanding boat lifts per residential dock is limited to two. The number of freestanding watercraft lifts per dock is limited to four. The number of combined freestanding boat and watercraft lifts is limited to one freestanding boat lift and only two freestanding watercraft lifts per dock.~~

~~b. Location. Freestanding boat and watercraft lifts shall be located more on or adjacent to the moorage platform or that portion of the walkway that is greater than 30 feet waterward of OHWM or in at least 10 feet of water depth measured from the mean low watermark. ~~from the ordinary high water mark.~~~~

Comment [dp133]: P.C. SMP July 25th Redraft Direction

Comment [cvh134]: Oct 2012 WSSA Comment 278a

Comment [cvh135]: Oct 2012 WSSA Comment 293

Comment [cvh136]: Oct 2012 WSSA Comment 294. No modification in total number is included. WSSA requested edit not within scope of prior Planning Commission direction.

Comment [cvh137]: Oct 2012 WSSA Comment 295 – consistency edit with locational restrictions on EII structures. Consistency edit with Comment 244a as there is no longer any distinction between freestanding and attached lifts. WSSA requested edit to remove locational requirement not within scope of prior Planning Commission direction.

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c. Number of Lift Canopies Allowed. One light-transmitting fabric watercraft or boat lift canopy per dock is allowed unless otherwise additional lift canopies are approved by State or Federal Agencies pursuant to 20.25E.065.H.4 Note 43.

Comment [cd138]: Modified for clarity

Comment [cvh139]: Oct 2012 WSSA Comment – consistency edit with Comments 248, 256 and 269b

a.—

~~Boathouses. New boathouses are prohibited. Existing boathouses are subject to the rules for nonconforming overwater accessory structures set forth in paragraph J.76 of this section.~~

Comment [cd140]: Deleted in response to comments.

Comment [cvh141]: Oct 2012 WSSA Comment (not on list) – delete as duplicate of 20.25E.065.H.4.b.iv

J. Nonconforming Residential Development

1. Purpose. Existing residential development above the ordinary high water mark of the Shoreline Overlay District that was legally established prior to effective date of this ordinance is considered to be conforming to the Part 20.25E LUC. Some existing residential development would not be allowed pursuant to regulations in this Part 20.25E LUC that implement the current Bellevue SMP. The purpose of this section is to allow for continued enjoyment, maintenance and repair of existing boathouses and development located below the ordinary high water mark when ancillary to residential development that was lawful when constructed, and to allow for replacement of boathouses when residential development destroyed through no fault of the owner.

Comment [ch142]: Bellevue specific approach to replace application of WAC 173-27-080. Modeled after Bel-Red existing conditions requirements of LUC 20.25D.060, and modified to reflect Planning Commission direction regarding regulation of residential nonconforming uses on November 3, 2010.

Comment [cvh143]: Oct 2012 WSSA Comments 298 - 324

2. Applicability

a. This section applies to lawfully legally constructed boathouses and development located below the ordinary high water mark residential uses and development that existed as of [insert effective date].

a-b. ~~and~~ The nonconforming provisions of WAC 173-27-080 do not apply within the Bellevue Shoreline jurisdiction.

Comment [c144]: Oct 2012 Edit WSSA Comment 298. Consistency Edit. State default applies in absence of locally – adopted regulations, and would supersede if not explicit.

b-c. The nonconforming provisions of LUC 20.20.070 and 20.25E.040 do not apply to residential development located within the shoreline jurisdiction Shoreline Overlay District. The nonconforming provisions of LUC 20.20.560 apply only to applicable General Development Requirements of Chapter 20.20 LUC that are applicable city-wide and are not part of the SMP.

Comment [H145]: Consistency Edit.

e-d. Modifications to residential development located within a critical area or critical area buffer identified pursuant to LUC 25.25H.030 shall comply with the applicable requirements of Part 20.25H LUC (Critical Areas Overlay District) as set forth in Ordinance No. (INSERT critical areas conformance

Comment [cvh146]: Oct 2012 WSSA Comment 299 (cross reference)

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ordinance number and date), which is incorporated by reference into the SMP.

3. Documentation. As part of the application process and before undertaking work allowed by this section, the applicant shall submit documentation demonstrating that the nonconforming residential uses or development was legally established and maintained over time. Work undertaken pursuant to this section shall be supported by documentation showing that the residential development was permitted when constructed and has been maintained over time. Using the applicant-supplied documentation and the criteria in The Director shall determine based on paragraphs J.3.a and J.3.b of this section, the Director shall determine whether the documentation is adequate to support a determination that the development constitutes a lawfully established residential development to which this section applies. The Director may waive the documentation requirement for documentation when an existing residential use or development has been clearly established known.
4. Development Permitted when Constructed. Documentation that the residential development was permitted when constructed includes, but is not limited to, the following:
 5. i. Building, land use or other development permits; or
 6. ii. Land use or zoning codes or shoreline master programs in effect at the time when the residential development was constructed.
 7. b. Development Maintained Over Time. Documentation that the residential development has been maintained over time, and not destroyed or discontinued as described in this section includes, but is not limited to, the following:
 8. i. Dated title reports;
 9. ii. Dated appraisal documents; or
 10. iii. Dated photos.
 - 11.3. e. Appeal of Director Determination. The Director's determination of whether a residential development was lawfully established may be appealed pursuant to LUC 20.35.250, Appeal of Process II decisions.

Comment [cvh147]: Oct 2012 WSSA Comment (cross reference)

Comment [cd148]: Consistency Edit

Comment [cvh149]: Oct 2012 WSSA Comment 300

4. Regulations and Thresholds Applicable to all Nonconforming Boathouses Residential Development.
 - a. Ownership. The status of a nonconforming residential development is not affected by changes in ownership.
 - b. Continued Enjoyment. Nonconforming residential development may remain unless specifically limited by the terms of this section.

Comment [cvh150]: Oct 2012 WSSA Comment 308 through 313. WSSA requested comment to remove 50 percent threshold not within scope of prior Planning Commission direction.

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- c. Routine Maintenance and Repair. Routine maintenance and repair associated with a nonconforming residential development boathouse is allowed. "Routine maintenance" includes those usual acts to prevent decline, lapse, or cessation from a lawfully established condition. "Repair" includes in-kind restoration and modernization improvements to a state comparable to its original condition within a reasonable period after decay has occurred. Improvements to a nonconforming residential development boathouse that cost more than 50% of the replacement value of any individual structure undergoing improvement are not defined as maintenance and repair, and shall be considered a comply with development regulations applicable to new boathouse residential development, which is not permitted below OHWM.
- i. Three-Year Period. Improvements made within a three-year period will be viewed as a single action for the purposes of determining whether regulations applicable to new residential development shall apply.
 - ii. Value of Improvements. The value of improvements is determined by the Director based on the entire project and not individual permits.
- d. Exemptions from the Calculation of Replacement Value. The following improvements do not count toward the calculation of replacement value thresholds identified in paragraph 19.4.c:
- i. Alterations related to installation of improved fire prevention measures;
 - ii. Alterations related to removal of architectural barriers pursuant to the Americans with Disabilities Act, or the Washington State Building Code (Chapter 19.27 RCW), now or as hereafter amended;
 - iii. Alterations related to seismic retrofit of existing structures;
 - iv. Improvements to on-site stormwater management facilities in conformance with Chapter 24.06 BCC, now or as hereafter amended;
 - v. Alterations that meet LEED, Energy Star or other industry-recognized standard that results in improved mechanical system, water savings, or operational efficiency; and,
 - vi. Alterations that meet the definition of routine maintenance, including but not limited to, painting, caulking, washing and rewiring.
- e. Accidental Destruction. When a lawfully established residential development boathouse is damaged or destroyed by fire, explosion, natural disaster, or other unforeseen circumstances outside the control of the property owner, the development boathouse may be repaired or reconstructed subject only to the following limitations:

Comment [cvh151]: Oct 2012 WSSA
Comment 316

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- i. The ~~lawfully~~legally established ~~residential development~~boathouse shall be repaired or reconstructed within the footprint existing when the destruction occurred, unless the area of the structure footprint is moved to a less sensitive portion of the site, the movement reduces nonconformities to the ~~Bellevue SMP or identified critical areas, and shoreline vegetation or critical area functions are restored in the areas vacated;~~
- ii. ~~Complete permit applications for all required permits are submitted within 2 years from the date of destruction. The repair or reconstruction is initiated within one year of the date of destruction and construction is diligently pursued;~~
- iii. Under no circumstances may the reconstruction expand, enlarge, or otherwise increase a nonconformity, ~~unless expansions are permitted pursuant to the provisions of this Part 20.25E;~~ and,
- iv. Areas of temporary ~~construction~~ disturbance resulting from reconstruction shall be restored pursuant to a mitigation plan ~~approved by the Director under LUC 20.25E.060.D (Mitigation Requirements and Sequencing);~~

Comment [cvh152]: Oct 2012 WSSA Comment 316

Comment [dp153]: P.C. SMP July 25th Redraft Direction; Oct 2012 WSSA Comment 317

Comment [dp154]: P.C. SMP July 25th Redraft Direction

- f. ~~Loss of Nonconforming Residential Development Status. If a nonconforming residential development is abandoned for a period of 12 months with the intention of abandoning that development, any subsequent development shall thereafter conform to this Part 20.25E LUC. Discontinuance of a nonconforming residential development for a period of 12 months or greater constitutes prima facie evidence of an intention to abandon.~~

Comment [cvh155]: Oct 2012 WSSA Comment 318

- g. Permits. If not otherwise exempt pursuant to the terms of LUC 20.25E.170, a Shoreline Substantial Development Permit shall be obtained prior to undertaking any maintenance and repair, alteration, or replacement authorized by this section.

5. ~~Nonconforming Existing~~ Residential Development within the Shoreline Structure Setback.

Comment [cvh156]: Oct 2012 WSSA Comment 319 – clarity edit for consistency with Comment 298

~~Primary Residential and Accessory Structures. A lawfully~~legally constructed ~~primary residential or accessory structure that houses a residential use, and encroaches into the primary structure setback, is granted a footprint exception pursuant to the requirements of LUC 20.25E.065.E.21.c and is not considered to be nonconforming. , and t~~The maintenance and repair thresholds of paragraph 20.25E.065.14.4.c of this section do not apply. Expansions to this type of residential shoreline development are regulated pursuant to the requirements of LUC 20.25E.065.E.2.ad. Replacement of a ~~primary residential structure or~~

~~accessory structure~~ following accidental destruction is permitted pursuant to ~~the requirements of~~ paragraph ~~J.4.e~~ of this section.

~~a. Accessory Structures over 200 Square Feet. Maintenance and repair of a lawfully constructed accessory structures measuring over 200 square feet is permitted. Improvements to accessory structures measuring over 200 square feet that exceed the cost thresholds contained in paragraph J.4.c of this section are allowed only in conformance with LUC Chart 20.25E.065.E.3.b.iii (Setback Reduction Menu Options) or LUC 20.25E.160.E (Special Shoreline Report). Replacement of an accessory structure over 200 square feet following accidental destruction is permitted pursuant to paragraph J.4.e of this section.~~

~~6. Nonconforming Residential Development within the Vegetation Conservation Area~~

~~a. Primary Structures. Maintenance and repair of lawfully constructed primary structures, or portions of lawfully established primary structures, located in the vegetation conservation area is permitted. Improvements to a primary structure that exceed the cost thresholds contained in paragraph J.4.c of this section require removal of that portion of the primary structure located within the vegetation conservation area. When primary structure removal is required, restoration of the vegetation conservation area is required pursuant to a mitigation plan approved by the Director under LUC 20.25E.065.D (Mitigation Sequencing). When removal or relocation of the portion of the primary structure located within the vegetation conservation area is infeasible due to site constraints not created by the applicant, such as topography or the presence of critical areas, approval of a shoreline variance in compliance with LUC 20.25E.190 is required before the improvements can be undertaken.~~

~~b. Accessory Structures. Maintenance and repair of a lawfully constructed accessory structure located in the vegetation conservation area is permitted. Improvements to accessory structures that exceed the cost thresholds contained in paragraph J.4.c of this section shall be considered new development, which is not permitted in the vegetation conservation area. If relocation of the accessory structure outside the vegetation conservation area is infeasible because of site constraints not created by the applicant, such as topography or the presence of critical areas, approval for a shoreline variance in compliance with LUC 20.25E.0190 is required before the improvements can be undertaken.~~

Comment [H157]: P.C. SMP Redraft
Direction

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~~76. Nonconforming Overwater Accessory Structures. — Maintenance and repair of a lawfullylegally constructed overwater accessory structure is permitted. Improvements to overwater accessory structures that exceed the cost thresholds contained in paragraph J.4.c of this section shall be considered new development, which is not permitted below the ordinary high water mark.~~

Comment [cvh158]: Oct 2012 WSSA
Comment 324

~~867. Nonconforming Existing~~ Moorage and Shoreline Stabilization

Comment [cvh159]: Oct 2012 WSSA
Comment 324

- a. ~~Lawfully~~Legally constructed moorage may be repaired and maintained in accordance with LUC 20.25E.065.H (Residential Moorage).
- b. ~~Lawfully~~Legally constructed shoreline stabilization may be repaired and replaced in accordance with LUC 20.25E.080.F (Shoreline Stabilization).

DRAFT

November 14, 2012 P.C. SMP Agenda

Memo

Attachment A

LUC 20.25E.065 – Clean Version

20.25E.065 Residential Shoreline Regulations

A. Purpose.

This section contains development requirements and standards that apply to all development of residential uses within the Shoreline Overlay District. This section is intended to provide a consolidated approach to regulation of shoreline residential development, uses and activities.. This section includes site planning requirements, general residential standards, residential dimensional requirements, vegetation conservation requirements for residential uses, residential moorage requirements, and residential nonconforming provisions.

B. General Requirements Applicable to all Residential Development.

1. Applicability. All residential use and development located in the Shoreline Overlay District shall comply with the requirements of this section LUC 20.25E.065 and all other applicable provisions of the SMP. Except to the extent expressly stated in this section and as stated in LUC 20.25E.010.C.1.c, Part 20.25E is applied as a supplement to the general development requirements and standards governing site development of property city-wide as set forth in Chapter 20.20 LUC (General Development Requirements),. All other applicable City of Bellevue codes, ordinances, and development and engineering standards continue to apply to development and uses in the Shoreline Overlay District. However, Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.
2. Site Planning. New residential development shall comply with the following design criteria and development standards related to site planning within the Shoreline Overlay District:
 - a. Shoreline Stabilization. New residential development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible..
 - b. Parking and Driveways. New driveways and garages associated with residential development shall comply with the following applicable standards:
 - i. New residential parking shall not be permitted overwater or within the shoreline setback.
 - ii. New parking surfaces and driveway areas should be designed to incorporate Natural Drainage Practices and Low Impact Development practices where feasible. (For further information regarding city-wide requirements, refer to the Storm and Surface Water Utility Code, Chapter 24.06 BCC, and the Storm and Surface Water Engineering Standards (2011), now or as hereafter amended.)

- iii. Construction, maintenance, and repair of parking surfaces and driveways shall prevent surface water runoff from contaminating water bodies by using best management practices. (For further information regarding city-wide requirements, refer to the Bellevue Storm and Surface Water Utility Code, Chapter 24.06 BCC, and the Storm and Surface Water Engineering Design Standards (2011); now or as hereafter amended.)
- c. Accessory Utilities. To minimize disturbance in the Shoreline Overlay District, and to reduce the impact on shoreline ecological functions, utilities serving residential development shall be consolidated when reasonable within existing or proposed roadway and driveway corridors that provide access to the development. Consolidation of utilities within the roadway and driveway corridor is not reasonable when consolidation will not achieve the intended function of the utility, or the cost of avoiding disturbance is substantially disproportionate when compared to the environmental impact of proposed disturbance.
- d. Clearing and Grading.
 - i. All clearing, grading, excavating, and filling in the Shoreline Overlay District shall comply with the provisions of this paragraph B.2.d. (For further information regarding city-wide requirements, refer to Chapter 24.06 BCC (Storm and Surface Water Utility Code), Chapter 23.76 BCC (Clearing and Grading Code), and the City's engineering and clearing and grading development standards, now or as hereafter amended.)
 - ii. Minimum Necessary. Clearing, grading, excavation, and filling is permitted only in association with an approved residential use or development and shall be the minimum necessary to support the approved residential use or development. Filling to create dry land is prohibited.
- e. Critical Areas. Critical areas in the Shoreline Overlay District shall be regulated pursuant to Part 20.25H LUC, Critical Areas Overlay District (as set forth in Ordinance No. [INSERT Critical Areas Conformance Ordinance Number and date] which is incorporated by this reference into the SMP). In the event of a conflict between Part 20.25H LUC and the SMP, the provision providing the greatest protection to critical areas shall apply, consistent with LUC 20.25E.010.C.1.b.ii unless otherwise described in the applicable provision. If critical areas are located on the site, the requirements for the associated critical area buffer and buffer setback may impose a larger setback requirement than required under this section.
- f. Water Quality, Stormwater, Non-Point Source Pollution.
 - i. Purpose. The responsibility for water quality and control of stormwater and non-point source pollution is a city-wide obligation that is not borne entirely by property owners of land located within the Shoreline

Overlay District. The purpose of this section is to prevent impacts to water quality and quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities or recreational opportunities.

- ii. Applicability. All shoreline residential development and uses shall comply with applicable provisions of this section. (For further information regarding city-wide requirements, refer to Chapter 24.06 BCC (Storm and Surface Water Utility Code), the Storm and Surface Water Engineering Design Standards (2011), Chapter 23.76 BCC (Clearing and Grading Code), and the Clearing and Grading Development Standards; now or as hereafter amended).
- iii. Construction Materials. All structures that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality, aquatic plants, or animals. Materials used for decking or other structural components shall be approved by the Environmental Protection Agency for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in or above shoreline water bodies. Preservative and surface treatments are limited to products approved for use in aquatic environments, and must be applied according to label directions. Construction hardware that comes into contact with water either directly or through precipitation that causes discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion. Materials used for construction of moorage facilities shall conform to the provisions of paragraphs LUC 20.25E.065.H.3.a.
- iv. The use of cold tar sealants that contain Polycyclic Aromatic Hydrocarbons is prohibited.

9.

C. Dimensional Requirements for Shoreline Residential and Shoreline Residential Canal Environments.

1. Applicability. This paragraph C applies to all new residential uses and residential uses that are proposed for modification and located in the Shoreline Residential and Shoreline Residential Canal environments. Additionally, the general development requirements and standards governing site development of property city-wide, contained in Chapter 20.20 LUC apply.
2. Shoreline Dimensional Requirements for Residential Uses. Land Use Code Chart 20.25E.065.C sets forth shoreline dimensional requirements for residential

uses located in the Shoreline Residential and Shoreline Residential Canal environments. (For further information regarding city-wide requirements applicable to all residential land use districts, refer to the Chart of Dimensional Requirements LUC Chart 20.20.010; now or as hereafter amended). Each residential structure, development, or use in the shoreline shall comply with these requirements, except as otherwise provided in this section. If a number appears in a box, the dimensional requirement is subject to the provision indicated in the corresponding Note. In the event of a conflict between the dimensional requirements of this section and the requirements of LUC Chart 20.20.010 when applied in the Shoreline Overlay District, the provisions of this section shall apply.

Chart 20.25E.065.C Shoreline Dimensional Requirements for Residential Uses

Shoreline Dimensional Requirements for Residential Uses				
SHORELINE ENVIRONMENTS	Shoreline Structure Setback	Maximum Lot Coverage by Structures (percent)	Maximum Building Height (1)(3)	Maximum Impervious Surface (percent)
Shoreline Residential Canal (SRC)	25'	35 (2)	35'	50(4)
Shoreline Residential (SR)	25'	35/40 (2)	35'	50/55/80(4)

Notes: Shoreline Dimensional Requirements for Residential Uses

- (1) Maximum building height may only be modified through the Shoreline Variance process (Refer to LUC 20.25E.190).
- (2) The allowed maximum lot coverage by structures in the Shoreline Residential and Shoreline Residential Canal environments located in R-1, R-1.8, R-2.5, R-3.5, R-4 and R-10 through R-30 shall not exceed 35 percent. (4)(2) The allowed maximum lot coverage by structures in the Shoreline Residential environment located in R-5 and R-7 shall not exceed 40 percent. (For further information regarding city-wide requirements applicable to all residential land use districts, refer to LUC Chart 20.20.010 Dimensional Requirements, Residential; now or as hereafter amended).
- (3) Building height in the Shoreline Overlay District is measured in accordance with the definition of height as defined in LUC 20.25E.280.
- (4) The allowed amount of maximum impervious surface in the Shoreline Residential and Shoreline Residential Canal environments located in R-1, R-1.8, R-2.5, R-3.5 and R-4 shall not exceed 50 percent. The allowed maximum impervious surface established for the Shoreline Residential environment located in R-5 and R-7.5 shall not exceed 55 percent. The allowed maximum lot coverage by structures in the Shoreline Residential environment located in R-10, R-15, R-20 and R-30 shall not exceed 80 percent. (For further information

regarding city-wide requirements applicable to all residential land use districts, refer to LUC Chart 20.20.010 Dimensional Requirements, Residential now or as hereafter amended).

(5)

D. Residential Impervious Surfaces.

Impervious surfaces in the Shoreline Overlay District shall be regulated pursuant to LUC 20.20.460 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP, except that the impervious surface limits contained in LUC Chart 20.25E.065.C may only be modified through the shoreline variance process.

E. Residential Structure Setback for Shoreline Residential and Shoreline Residential Canal Environments.

1. General Setback Requirements Applicable to all Residential Development.

- a. The Shoreline Structure Setback shall be 25 feet.
- b. Measurement of Shoreline Structure Setback. On Lake Sammamish, the shoreline structure setback shall be measured landward from elevation 30.6 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific ordinary high water mark determination completed by a qualified professional. On Lake Washington the shoreline structuresetback shall be measured landward from elevation 18.8 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific OHWM determination completed by a qualified professional. On Phantom Lake, the shoreline structure setback shall be measured landward from elevation 260.7 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific OHWM determination completed by a qualified professional. If critical areas are located on the site, the requirements for the associated critical area buffer and buffer setback may impose a larger setback than required under this section.
- c. Footprint Exception - Existing Structures. When a legally established structure existing on or before [insert date of ordinance adoption] encroaches into the structure setback established in LUC Chart 20.25E.065.C, the structure setback shall be modified to exclude the footprint of that portion of the structure located within the setback.

2. Residential Structure Setback Allowances.

- a. Expansion of the exterior footprint of an existing legally established structure within the 25 foot shoreline structure setback is allowed when:

- i. The modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the shoreline structure setback by more than 200 square feet over that existing before [insert effective date of ordinance]; and
 - ii. No portion of the modification, addition or replacement is located closer to the OHWM; and
 - iii. Vegetation enhancement of an area proportional (1:1) to the setback impacted is required through consolidated planting of native vegetation within the structure setback adjacent to the OHWM in accordance with the standards developed by the Director; and
- b. This allowance may only be used once for the life of the structure.

F. Vegetation Conservation.

Applicability. **Vegetation conservation in the Shoreline Overlay District shall be regulated pursuant to the city-wide tree preservation standards in LUC 20.20.900 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP.** Additional standards may apply for critical areas; refer to Part 20.25H LUC (Critical Areas Overlay District).

G. Shoreline Stabilization

Shoreline stabilization measures in the Shoreline Overlay District are regulated pursuant to LUC 20.25E.080.

H. Residential Moorage (Overwater Structures).

1. Applicability. Moorage facilities are allowed in the Shoreline Overlay District when in compliance with paragraph H of this section.
2. Definitions. The following definitions apply to paragraph H of this section in addition to the definitions contained in LUC 20.25E.280 and **Chapter 20.50 LUC (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP.**
 - a. Boat. A vessel built to travel on water that carries people or goods and is propelled by oars, outboard motor, inboard motor, or by wind.
 - b. Boathouse. A boat cover that includes at least one wall. Boathouses may be structurally integrated into or attached to the dock or boatlift or may be freestanding.

- c. Boatlift. A structure or mechanism designed to elevate and dry-store boats above the water. Boatlifts do not include floating boatlifts, which for the purpose of this section, are regulated as a boat. Boatlifts include cradle lifts, platform lifts, and hoist lifts.
 - d. Open Sided Boat Moorage Cover. A boat shelter with a permanent structural roof and open sides.
 - e. .
 - f. Lift Canopy. A fabric skinned rigid framed boat cover structurally attached to a boatlift or watercraft lift roughly the equivalent in size of the boat or watercraft lift it is designed to protect.
 - g. Walkway. The portion of the dock that is connected to the shoreline at the landward end and provides access to moorage.
 - h. Reconfigure. Refers to the rearrangement elements of dock structure elements which result in new length and width dimensions even when the overall square footage remains unchanged from the original dock structure.
 - i. Watercraft. A small recreational vessel that the rider sits or stands on, rather than inside of, seats up to three riders, and is powered by an inboard jet propulsion system.
 - j. Watercraft Lift. A structure or mechanism that is designed to elevate and dry-store watercraft above the water. The term watercraft lift does not include floating watercraft lifts, which for the purpose of this section, are regulated as watercraft. Watercraft lifts include cradle lifts, platform lifts, and hoist lifts.
 - k.
3. General Requirements Applicable to all Residential Docks. The following standards apply to all development and repairs related to residential docks.
- a. Dock Materials. Environmentally neutral materials approved by the Environmental Protection Agency for use in aquatic environments shall be used. No materials treated with known toxic preservatives is allowed. Dock materials shall not be treated with pentachlorophenol, creosote, chromate copper arsenate (CCA) or comparably toxic compounds. Preservative and surface treatments are limited to products approved for use in aquatic environments and must be applied according to label directions. Construction hardware that comes into contact with water either directly, or through precipitation that causes discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion.
 - b. Dock Lighting. Dock lighting for the purpose of illuminating the dock surface for safety is allowed when the illuminating fixtures are limited to the minimum height necessary above the dock surface, or screened to provide the intended function of walkway illumination, without allowing light emissions to spill outside of the dock surface.

- c. Accidental Destruction - Timing of Construction. Pursuant to paragraph I.4.e of this section, legally-established structures destroyed by fire, explosion, or other unforeseen disaster beyond the control of the owner may be reconstructed in the same configuration; provided, that complete applications for all required permits are submitted within 2 years from the date of destruction. Materials used for reconstruction shall comply with the requirements set forth in paragraph 3.a of this section. Areas of temporary construction disturbance resulting from the reconstruction shall be restored to pre-construction conditions. .
4. General Requirements Applicable to New or Reconfigured Residential Docks.
- a. Paragraph H.4 and LUC Chart 20.25E.065.H.4 of this section contain general requirements that apply to all new and reconfigured residential docks in addition to the general requirements set forth in paragraph H.3 of this section. Each application for a new or reconfigured residential dock shall comply with these requirements.

Chart 20.25E.065.H.4 New and Reconfigured Residential Dock Standards.

Residence Location					
	Lake Washington	Lake Sammamish	Phantom Lake (1)	Residential Canal Environment (1)	Alternative Standard or Limitation – When Allowed
Number of docks allowed	One per residential lot				N/A
Dock Side Setback Requirements (2)	10'	10'	10'	10'	N/A
Maximum Dock Length	150'	150'	100'	Platform may not extend greater than 10' from canal bulkhead	Shoreline Variance (3)
Maximum Dock Size - sq. ft.	480 sq. ft.	480 sq. ft.	250 sq. ft.	100 sq. ft.	State and Federal Approval (4)

	Dock Walkway Requirements:				
Maximum Walkway width	4' for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways	4' for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways	4'	Walkway Prohibited N/A	State and Federal Approval (4)

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EII location restriction related to Water Depth	30' waterward of OHWM or at least 9' of water depth measured from the ordinary high water mark	30' waterward of OHWM or at least 9' of water depth measured from the ordinary high water mark	EII Prohibited N/A	EII Prohibited N/A	State and Federal Approval (4)
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Mooring Pile	2 maximum per residential lot	Shoreline Variance (3)
Decking	Grated	Shoreline Variance (3)

Notes: New and Reconfigured Residential Dock Standards

- (1) Floating docks may be approved on Phantom Lake and in the Shoreline Residential Canal environment when the use of fixed dock is not feasible.
- (2) No private dock or other structure waterward of the ordinary high water mark, including boatlifts, watercraft lifts, and other structures attached thereto, shall be closer than 10 feet to any adjacent property line projection, except where a mutual agreement of adjoining property owners is recorded with the King County Records and Election Division and the Bellevue City Clerk and submitted as part of the permit application for the use or activity.
- (3) These standards or limitations may be modified through approval of a Variance to the Shoreline Master Program (20.25E.190 LUC).
- (4) These standards or limitations may be modified through approval of larger dimensions or alternative materials authorized by the U.S. Army Corps of Engineers (pursuant to the approval authority provided under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act) or by Washington Department of Fish and Wildlife (pursuant to the approval authority under Hydraulic Project Approvals) through their respective permitting processes.

b. New and Reconfigured Residential Docks - Limitations.

- i. Number of Docks Per Lot. Construction of one residential dock per upland residential waterfront lot or one-joint use dock for two or more adjacent waterfront lots is allowed in accordance with Chart 20.25E.065.H.4. Expansion

of any legally-established existing residential dock is permitted; provided the expansion complies with the development standards contained paragraphs H.3 and H.4 of this section.

- ii. Lot Dimensional Requirements. Residential docks are allowed only on:
 - (1) Lots created on or after [insert effective date of ordinance], and having water frontage meeting or exceeding the minimum lot width required in the underlying land use district (for further information regarding the city-wide standard refer to LUC 20.20.010); or
 - (2) Lots created before [insert effective date of ordinance]; or
 - (3) Nonbuilding tracts platted for the purpose of providing common residential moorage for a group of contiguous properties; provided the minimum width of the nonbuilding tract is equal to or greater than 24 feet.
 - iii. Combining Frontage—Shared Docks. For the purposes of meeting the requirements of paragraph H.4.b.ii of this section, adjoining property owners may combine their water frontage by mutual agreement recorded with the King County Records and Elections Division, or its successor agency, and the Bellevue City Clerk. Only one shared residential dock is permitted pursuant to a combined frontage agreement, which may connect with the property landward of the ordinary high water mark at only one location.
 - iv. Boathouses. New boathouses are prohibited. Existing boathouses below OHWM are subject to the rules for nonconforming overwater accessory structures set forth in paragraph I.7 of this section.
 - v. Open-sided Boat Moorage Covers. One open-sided structural boat cover is allowed per residential dock. Open-sided boat covers shall be considered as part of the dock, and the total cumulative square footage of the open-sided boat cover and the dock shall not exceed the allowed maximum dock size in Chart 20.25E.065.H.4.
5. Repair and Replacement of Existing Residential Docks. Existing, legally-established residential docks may be repaired or replaced in the existing configuration. Docks may be repaired or replaced when the following standards are met:
- a. Materials used for dock repairs shall meet the requirements established in paragraph H.3.a and H.4 of this section unless otherwise approved by State or Federal Agencies pursuant to 20.25E.065.H.4 Note 3.
6. Boat and Watercraft Lifts. To reduce disturbance of the lake substrate, attached boatlifts and watercraft lifts are preferred over freestanding lifts. Lifts are limited in the number allowed and location:

- a. Number. The number of boat lifts per residential dock is limited to two. The number of watercraft lifts per dock is limited to four. The number of combined boat and watercraft lifts is limited to one freestanding boat lift and only two watercraft lifts per dock.
- b. Location. Boat and watercraft lifts shall be located more than 30 feet waterward of OHWM or in at least 10 feet of water depth measured from the mean low watermark
- c. Number of Lift Canopies Allowed. One light-transmitting fabric watercraft or boat lift canopy per dock is allowed unless additional lift canopies are approved by State or Federal Agencies pursuant to 20.25E.065.H.4 Note 4.

I. Nonconforming Residential Development

1. Purpose. Existing residential development above the ordinary high water mark of the Shoreline Overlay District that was legally established prior to effective date of this ordinance is considered to be conforming to the Part 20.25E LUC. The purpose of this section is to allow for continued enjoyment, maintenance and repair of existing boathouses located below the ordinary high water mark when ancillary to residential development that was lawful when constructed, and to allow for replacement of boathouses when destroyed through no fault of the owner.
2. Applicability
 - a. This section applies to legally constructed boathouses located below the ordinary high water mark that existed as of [insert effective date].
 - b. The nonconforming provisions of WAC 173-27-080 do not apply..
 - c. The nonconforming provisions of LUC 20.25E.040 do not apply to residential development located within the Shoreline Overlay District. The nonconforming provisions of LUC 20.20.560 apply only to General Development Requirements of Chapter 20.20 LUC that are applicable city-wide and are not part of the SMP.
 - d. Modifications to residential development located within a critical area or critical area buffer identified pursuant to LUC 25.25H.030 shall comply with the applicable requirements of Part 20.25H LUC Critical Areas Overlay District (as set forth in Ordinance No. (INSERT critical areas conformance ordinance number and date), which is incorporated by reference into the SMP.

3.

. Regulations and Thresholds Applicable to Nonconforming Boathouses.

- a. Ownership. The status of a nonconforming residential development is not affected by changes in ownership.
- b. Continued Enjoyment. Nonconforming residential development may remain unless specifically limited by the terms of this section.
- c. Routine Maintenance and Repair. Routine maintenance and repair associated with a nonconforming boathouse is allowed. "Routine maintenance" includes those usual acts to prevent decline, lapse, or cessation from a legally established condition. "Repair" includes in-kind restoration and modernization improvements to a state comparable to its original condition within a reasonable period after decay has occurred. Improvements to a nonconforming boathouse that cost more than 50% of the replacement value of an individual structure undergoing improvement are not defined as maintenance and repair, and shall be considered a new boathouse, which is not permitted below OHWM.
 - i. Three-Year Period. Improvements made within a three-year period will be viewed as a single action for the purposes of determining whether regulations applicable to new residential development shall apply.
 - ii. Value of Improvements. The value of improvements is determined by the Director based on the entire project and not individual permits.
- d. Exemptions from the Calculation of Replacement Value. The following improvements do not count toward the calculation of replacement value thresholds identified in paragraph I.4.c:
 - i. Alterations related to installation of improved fire prevention measures;
 - ii. Alterations related to removal of architectural barriers pursuant to the Americans with Disabilities Act, or the Washington State Building Code (Chapter 19.27 RCW), now or as hereafter amended;
 - iii. Alterations related to seismic retrofit of existing structures;
 - iv. Improvements to on-site stormwater management facilities in conformance with Chapter 24.06 BCC, now or as hereafter amended;
 - v. Alterations that meet LEED, Energy Star or other industry-recognized standard that results in improved mechanical system, water savings, or operational efficiency; and,

- vi. Alterations that meet the definition of routine maintenance, including but not limited to, painting, caulking, washing and rewiring.
 - e. Accidental Destruction. When a legally established boathouse is damaged or destroyed by fire, explosion, natural disaster, or other unforeseen circumstances, the boathouse may be repaired or reconstructed subject only to the following limitations:
 - i. The legally established boathouse shall be repaired or reconstructed within the footprint existing when the destruction occurred, unless the area of the structure footprint is moved to a less sensitive portion of the site, the movement reduces nonconformities to the SMP;
 - ii. Complete permit applications for all required permits are submitted within 2 years from the date of destruction and construction is diligently pursued;
 - iii. Under no circumstances may the reconstruction expand, enlarge, or otherwise increase a nonconformity; and,
 - iv. Areas of temporary construction disturbance resulting from reconstruction shall be restored pursuant to a mitigation plan.
 - f. g. Permits. If not otherwise exempt pursuant to the terms of LUC 20.25E.170, a Shoreline Substantial Development Permit shall be obtained prior to undertaking any maintenance and repair, alteration, or replacement authorized by this section.
5. Existing Residential Development within the Shoreline Structure Setback.

Residential and Accessory Structures. A legally constructed residential or accessory structure that encroaches into the structure setback, is granted a footprint exception pursuant to the requirements of LUC 20.25E.065.E.1.c and is not considered to be nonconforming. The maintenance and repair thresholds of paragraph 20.25E.065.I.4.c of this section do not apply. Expansions to this type of residential shoreline development are regulated pursuant to the requirements of LUC 20.25E.065.E.2.a. Replacement of a residential structure or accessory structure following accidental destruction is permitted pursuant to the requirements of paragraph I.4.e of this section.

6. Existing Moorage and Shoreline Stabilization

- a. Legally constructed moorage may be repaired and maintained in accordance with LUC 20.25E.065.H (Residential Moorage).
- b. Legally constructed shoreline stabilization may be repaired and replaced in accordance with LUC 20.25E.080.F (Shoreline Stabilization).

DRAFT

November 14, 2012 P.C. SMP Agenda

Memo

Attachment A

LUC 20.25E.080 – Strike Draft Version

20.25E.080 SHORELINE MODIFICATIONS

A. Applicability.

This section contains requirements and standards that apply to all shoreline modifications in the Shoreline Overlay District. These requirements and standards are in addition to the procedures, permit requirements, and standards set forth in other sections of the Bellevue SMP.

B. Breakwaters, Jetties, and Groins.

1. Prohibited Development.
 - a. Jetties and groins are prohibited within the Shoreline Overlay District and should be removed when the use for which they were constructed is discontinued or the purpose or function for which the jetty or groin was originally installed no longer exists.
 - b. Solid landfill or rockery breakwaters are prohibited in the Shoreline Overlay District.
2. Breakwaters – Limitations. Breakwaters are allowed only when there is a demonstrated need to protect existing recreation or non-residential moorage uses from damage caused by natural wave action.
3. Breakwaters – Performance Standards. Breakwaters, when allowed, require a Shoreline Conditional Use permit (refer to LUC 20.25E.180), and the following performance standards shall be met.
 - a. The applicant shall demonstrate that no technically feasible alternative exists (refer to LUC 20.25E.060.C).
 - b. Breakwaters shall be designed by a qualified professional using minimally invasive techniques to protect shoreline ecological functions and shall not preclude fish passage or adversely affect sediment migration.
 - c. As part of the application submittal, the qualified professional designing the breakwater must certify that the breakwater is the minimum necessary to accomplish its purpose.
 - d. The applicant shall demonstrate that the design will not result in a net loss of shoreline ecological functions.
 - e. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

Comment [mnp1]: Bellevue specific approach recognizing limited application of these features. Meets requirements at WAC 173-26-231 (3) (d)

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C. Clearing, Grading, and Fill in the Shoreline

1. Clearing, Grading, and Fill – Limitations. This paragraph C does not apply to residential development governed pursuant to LUC 20.25E.065.

- a. All clearing, grading, excavating, and filling in the Shoreline Overlay District shall comply with the provisions of this paragraph C ~~of this section~~, LUC 20.25H.180 (Areas of Special Flood Hazard), Chapters 24.06 (Storm and Surface Water Utility Code) and 23.76 (Clearing and Grading Code) BCC, and the City's engineering and clearing and grading development standards, now or as amended. Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.
- b. Minimum Necessary. Clearing, grading, excavation, and filling is permitted only in association with an approved use or development and shall be the minimum necessary to support the approved use or development. Filling to create dry land is prohibited.
- c. Filling and excavation, excluding dredging (see LUC 20.25E.080.D), below the ordinary high water mark is allowed only for the following activities, and when the applicant demonstrates the project will result in not net loss of ecological functions using appropriate technical studies:
 - i. Placement of beach or aquatic substrate when part of an approved ecological restoration activity;
 - ii. Replenishing sand on public and private community beaches;
 - iii. Alteration, maintenance, or repair of existing transportation facilities and utilities located within the Shoreline Overlay District, and no technically feasible alternative is available as set forth in LUC 25.25E.060.C.
 - iv. Constructing facilities for public water-dependant uses or public access; provided that the excavation or filling is limited to the minimum required to accommodate the use or facility, and no technically feasible alternative is available as set forth in LUC 25.25E.060.C;
 - v. Activities incidental to the repair of legally-established shoreline stabilization measures;
 - vi. Approved flood control projects;
 - vii. Components of an approved stream restoration project, including vegetation restoration; and
 - viii. Activities that are part of a remedial action plan approved by the Department of Ecology pursuant to Model Toxics Control Act (MTCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or otherwise authorized

Comment [mnp2]: Bellevue specific approach based on City codes and proposed policies

Comment [CoB3]: Clarity Edit

Comment [CoB4]: Charlie and WSSA Representatives – removal of applicability of this section as directed by the Planning Commission may have unintended consequences, because you will get an absolute prohibition against grading and filling below ordinance high water mark that may prevent beach augmentation, or other beneficial improvements, without first obtaining a variance. As a result, you may wish to reconsider this requested language.

Comment [CoB5]: Redundancy deletion

Comment [CoB6]: Clarity Edit

Comment [H7]: Clarity Edit

by the Washington State Department of Ecology, the United States Army Corps of Engineers, or other agency with jurisdiction.

2. **Filling and Excavation – Additional Analysis Required.** The applicant shall provide the following project analysis together with any submittal for a shoreline application that proposes filling or excavation activities.
 - a. The overall value to the public resulting from the excavation or fill as opposed to the value of the shoreline in its existing state and evaluation of alternatives to fill that would achieve some, if not all, objectives of the proposal;
 - b. The effects on shoreline ecological functions, including but not limited to, functions of the substrate of lakes and streams, effects on aquatic organisms, including the food web, effects on vegetation functions, effects on local currents, erosion, and deposition patterns, effects on surface and subsurface drainage, and the effects on floodwaters and the floodplain.
 - c. If the filling or excavation will require shoreline stabilization to protect materials placed or removed and whether such stabilization meets the policies and standards of the shoreline master program;
 - d. Whether the fill or excavation will alter the normal flow of floodwater, including the obstruction of flood control channels or swales; and
 - e. Whether public or tribal rights to the use and enjoyment of the shoreline and its resources are impacted.
3. **Filling and Excavation – Performance Standards.**
 - a. **Fill Material—Suitability.** Fill material shall not be detrimental to water quality or existing habitat, or create any other significant adverse impacts to the environment. Fill shall be properly stabilized and maintained during and following construction to prevent erosion.
 - b. **Stockpiling.** For development occurring outside the shoreline setback, dirt, rocks, and similar material shall not be stockpiled in the shoreline setback. For development occurring within the shoreline setback, stockpiling is allowed and shall be the minimum necessary to support the development and shall be located in an area that having the least impact to shoreline functions. If any stockpiling is required, best management practices shall be implemented to prevent discharge of sediments or pollutants into receiving waters. (Refer to Chapter 23.76 BCC (Clearing and Grading Code) and the City's clearing and grading development standards, now or as amended).
 - c. **Excess Material.** All excess material resulting from clearing, grading, excavation, and filling activities shall be removed from the shoreline site and disposed of in a manner that prevents any of the excess material from entering surface or ground waters in accordance with Chapters 24.06

Comment [mnp8]: Bellevue specific approach based on LUC 20.25E and WAC 173-26-231

(Storm and Surface Water Utility Code) and 23.76 (Clear and Grade Code) BCC, and applicable engineering and development standards.

D. Dredging and Dredge Material Disposal

1. Prohibited Activities.
 - a. Dredging for the sole purpose of obtaining fill or construction material is prohibited.
 - b. Dredging materials disposal is prohibited in the aquatic environment.
2. Dredging – Limitations. Dredging is allowed only for the following activities, and when the applicant demonstrates the project will result in not net loss of ecological functions using appropriate technical studies:
 - a. To maintain navigability; provided the dredging is limited to the extent of the previously approved dredging and/or existing authorized location, depth, and width;
 - b. To maintain an existing agricultural activity that supports an existing agricultural use within City Parks;
 - c. To remedy conditions endangering the public health, safety or welfare;
 - d. To carry out a habitat improvement project; and
 - e. Dredging performed pursuant to a remedial action plan approved under authority of the Model Toxics Control Act (MTCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or pursuant to other authorization by the Washington State Department of Ecology, U.S. Army Corps of Engineers, or other agency with jurisdiction.
3. Dredging and Disposal - Performance Standards. Proposals for dredging must comply with each of the following performance standards:
 - a. The proposal, including any necessary mitigation, will result in no net loss of shoreline ecological functions.
 - b. Dredging shall be limited to the minimum necessary and appropriately balance navigational or other needs with impacts to shoreline ecological functions. The minimum necessary proposal shall be determined based on an analysis of technically feasible alternatives and consider both short-term and long-term impacts associated with the action, including mitigation measures.
 - c. The dredging shall not cause long-term adverse impacts to water quality, aquatic habitat, or human health in adjacent areas.
 - d. The lateral spread of re-suspended sediment created by a dredging operation shall be contained within previously approved limits.
 - e. To prevent impairment of water quality any dredge spoil temporarily stored in an upland location must be set back an adequate distance from the water to prevent the discharge of pollutants to the receiving water, and the

Comment [mnp9]: Bellevue specific approach based on LUC 20.25E and WAC 173-26-231

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containment measure shall contain sufficient filtering to prevent discharge of sediments to the receiving water. Temporary disposal sites shall not be allowed except in areas designated by the City of Bellevue.

- f. A permanent dry land disposal site, or submerged disposal site outside of the City of Bellevue, has been approved.
- g. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation or restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

E. Non-Residential Moorage Facilities, Boat Ramps, and Launches.

- 1. Applicability. Non-residential moorage facilities, boat ramps and launches are allowed in the Shoreline Overlay District when in compliance with paragraph E of this section. [This paragraph E does not apply to residential development governed pursuant to LUC 20.25E.065.](#)
- 2. Definitions. The following definitions apply only to paragraph E of this section.
 - a. Facility Segment. The walkway, moorage platform, finger-pier, or cover portion of a dock.
 - b. Walkway. The portion of the dock that is connected to the shoreline at the landward end and provides access to the moorage platform.
- 3. General Requirements Applicable to all Non-residential Moorage Facilities, Boat Ramps and Launches.
 - a. New skirting, covered moorage, including boatlift canopies, is prohibited.
 - b. Minimum necessary. Maintenance and repair shall be the minimum necessary to restore the facility to its original design, function, and capacity.
 - c. Construction Materials. Use environmentally neutral materials not materials treated with known toxic preservatives and approved by the Environmental Protection Agency for use in aquatic environments. Dock materials shall not be treated with pentachlorophenol, creosote, chromate copper arsenate (CCA) or comparably toxic compounds. If (ammoniacal copper zinc arsenate) (ACZA) materials are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. Preservative and surface treatments are limited to products approved for use in aquatic environments and must be applied according to label directions. Construction hardware that comes into contact with water either directly or through precipitation and that discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion.
 - d. Modification of Standards. A Special Shorelines Report may be used to modify the standards of this section E when the modification results in a net

Comment [mnp10]: Bellevue specific approach based on existing code LUC 20.25E.080.N and Planning Commission direction provided on July 28, 2010. Incorporates public comment from property owners, builders and consultants.

Comment [CoB11]: Clarity Edit

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benefit to shoreline ecological functions. Refer to LUC 20.25E.160.E (Mitigation Sequencing).

4. **New and Expanded Non-Residential Moorage Facilities, Boat Ramps and Launches.**

- a. Permit Required. New and expanded non-residential moorage, boat ramps, and launches are permitted in the shoreline jurisdiction pursuant to the process in identified in LUC 20.25E.030 (Shoreline Use Charts).
- b. Moorage facilities shall be located in an area where impacts to shoreline ecological functions can be avoided or mitigated to achieve the standard of no net loss of ecological function. To ensure no net loss of ecological functions occurs, the Director may require a compensatory mitigation plan pursuant to LUC 20.25E.060.D (Mitigation Sequencing), when impacts related to new or expanded moorage facilities are identified and not addressed by the performance standards set forth in paragraph E.4.d of this section.
- c. New or Expanded Non-Residential Moorage Facilities - Design Criteria. Design and siting of new or expanded Non-residential moorage facilities shall address, at a minimum, the following criteria:
 - i. Facilities should be designed to avoid dredging to establish new moorage, and the need for maintenance dredging consistent with LUC 20.25H.080.D
 - ii. Facilities should be designed to avoid impacts to shoreline ecological functions through consideration of water depth, water circulation, sediment inputs and accumulation, and wave action.
 - iii. Facilities should be located to avoid impacts to shoreline ecological functions through avoidance of submerged aquatic vegetation, shoreline associated wetlands, or habitat associated with species of local importance.
 - iv. Facilities shall be designed to minimize overwater coverage and be the minimum size necessary to provide the desired moorage function when considering the beam and draft of the type of boat anticipated to be moored. Preference shall be given to designs that provide two berths per finger pier.
 - v. The ability of the site upland from the ordinary high water mark to accommodate the necessary support facilities.
 - vi. The use of mooring buoys to accommodate additional moorage.
 - vii. Transient Moorage. Transient moorage is allowed within a new or expanded non-residential moorage facility.
 - viii. Liveaboards. Liveaboards are allowed when distributed through the facility. Areas proposed for occupation by liveaboards should include

Comment [mnp12]: Bellevue specific approach following Planning Commission direction from July 23, 2010, public comment, and modeled after existing code LUC 20.25E.080.N, Kirkland SMP, internal city review, guidance from Department of Ecology, DNR, USACE and staff review of marinas region wide. Meets WAC 173-26-231 requirements for water-dependent use or public access, minimum necessary, need avoidance, minimization, and mitigation of impacts to ecological functions and critical resources.

- properly planned and designed utility connections and storage facilities for each liveaboard slip.
- ix. Stacked Boat Storage. Facilities should incorporate, to the maximum extent feasible, upland stacked boat storage unless:
- (1) No suitable upland locations exist for such facilities;
 - (2) The applicant demonstrates that water moorage would result in fewer impacts to shoreline ecological functions;
 - (3) The applicant demonstrates that water moorage would enhance public use of the shoreline; or
 - (4) The proposal is part of a non-residential moorage facility development in the Recreational Boating shoreline environment where the objective is enhanced public access and the location of an upland stacked storage facility would conflict with the objective of public use of the shoreline.
- x. Utilities and Services. Utility and service lines serving docks and piers should be located below the pier deck and out of the water.
- d. New and Expanded Non-Residential Moorage Facilities – Performance Standards. The following use-specific performance standards apply in addition to the general performance standards in paragraph E.3 of this section.
- i. **Location of Facilities in Meydenbauer Bay.** Non-residential moorage facilities shall not extend waterward beyond the point necessary to provide reasonable draft for the boats to be moored. In no event shall a non-residential moorage facility extend to a point that impedes public navigation.
- ii. **Existing covered non-residential moorage facilities in Meydenbauer Bay shall not expanded beyond their existing outer limits or the boundary described as:**
- All Azimuths being South; commencing at the E 1/4 Sec. corner of Sec. 31 T 25N, R 5E, W.M., whose "X" coordinate is 1,661,520.58 and whose "Y" coordinate is 225,661.29 of the Washington Coordinate System, North Zone, and running thence on an Az of 78°51'17" a distance of 963.76 feet to a point whose coordinate is "X" 1,660,575.00, "Y" 225,475.00 of said coordinate system; thence on an Az of 37°26'00" for a distance of 60 feet to a point being the true beginning of this description; thence on an Az of 316°19'15" a distance of 495.14 feet; thence on an Az of 2°21'10" a distance of 42.52 feet; thence on an Az of 312°06'17" a distance of 415.00 feet; thence on an Az of 37°24'19" a distance of 118.06 feet to an intersection with the northwesterly extension of the northwesterly line of Reserve "A" at the N. end of

Comment [mnp13]: Bellevue specific approach to preserve ease of navigation

Comment [mnp14]: Existing code requirement in LUC 20.25E.080.N.6 limiting extent of covered moorage in Meydenbauer Bay

Ronda Street between Blocks 29 and 38, Plat of Moorlands, as recorded in Vol. 4 of Plats, Page 103, records of King County, Washington, said point of intersection being the terminus of this line description.

- iii. **Setbacks for Facilities.** Moorage facilities constructed with an external dock perimeter where access to public waters is provided through a central point on the waterward end of the facility shall provide a minimum 10-foot setback from property line projections. Moorage facilities constructed with an open-sided design where access to moorage is taken directly from public waters shall provide a minimum of 50 feet of setback from property line projections.

<Insert Graphic>
- iv. **Dock and Pier Access.** Docks and piers shall be accessed from upland support areas through a ramp or gangway and walkway system with the first set of finger piers (ells) located at a depth of 9 feet or greater. Facilities for human-powered vessel launching and moorage may be located in depths of less than 9 feet.
- v. **The width and length of all structures shall be limited to what is reasonable for the intended use; provided that:**
 - (1) Walkways shall not exceed 8 feet in width;
 - (2) Ells shall not exceed 4 feet in width; and
 - (3) Ramps and gangways shall not exceed 6 feet in width.
- vi. **Docks, ramps, piers, and walkways shall be grated or surfaced with light penetrable materials. To the extent feasible, structures shall be designed to minimize overwater coverage and avoid shading of aquatic vegetation.**
- vii. Impacts to shoreline ecological functions shall be minimized through avoidance of submerged aquatic vegetation, shoreline associated wetlands, and nesting and spawning areas.
- viii. Impacts to adjoining residential uses shall be minimized through use of appropriate screening, and by locating high impact areas away from uses on adjacent properties.
- ix. Docks shall be designed with piers and other structures placed to facilitate, rather than to obstruct, water circulation. Basins shall be designed to prevent stagnant water that tends to collect debris or cause shoaling or flushing problems.
- x. Moorage facilities shall be designed to protect against wakes caused by vessel traffic without the need for a breakwater.

Comment [mnp15]: Bellevue specific approach

Comment [mnp16]: Bellevue specific approach meeting PC direction (July 28, 2010) and modeled on existing code LUC 20.25.E and Kirkland SMP

Comment [mnp17]: Meets Ecology mandated no net loss standard by minimizing impacts to ecological functions as required at WAC 173-26-231-(3) (b).

- xi. Lighting and Safety. Design shall include adequate safety features and be designed to facilitate emergency response, including, but not limited to the following:
 - (1) Design and locate facility security gates and walkways maximizing emergency access to the water and minimizing blockage of the view from the shore. Walkway access locations should be in close proximity to facility loading and short term parking areas;
 - (2) Design and locate lighting to illuminate walkways during the evening hours. Walkway lighting should be flush mounted to the dock surface or screened to avoid spillover light emissions;
 - (3) Locate flotation devices in designated areas at regular intervals throughout the non-residential moorage facility to ensure the safety of facility users;
 - (4) Include adequate fire safety apparatus, including dock surface markings and reflectors at intervals and location specified by the City's Fire Department; and
 - (5) Mark the facility with reflectors or other measures to prevent unnecessarily hazardous conditions for water surface users during the day or night.
- xii. Interference with Other Uses. Facilities shall not interfere with the public use and enjoyment of the water or create a hazard to navigation.
- xiii. Public access shall be provided in accordance with LUC 20.25E.060.I (Public Access).
- xiv. Facility Addressing—Waterward. Facilities shall include address signs that are visible from the water. All signage shall conform to the signage requirements contained in LUC 20.25E.060.J (Signage in the Shoreline).
- xv. Aircraft Moorage. Aircraft moorage is allowed as part of a non-residential moorage facility and shall be the minimum size necessary to accommodate the use. All identified and related impacts to shoreline ecological functions shall be mitigated through implementation of a mitigation plan pursuant to LUC 20.25E.060.D (Mitigation Sequencing).
- xvi. Waste Services. At the minimum, Facilities shall provide the following waste services:
 - (1) One marine pump-out facility for use by the general boating public. This facility must be clearly marked for public use; and
 - (2) Each moorage segment shall include a solid waste collection facility, including but not limited to, garbage, maintenance waste, recycling and garbage.

Comment [mnp18]: Bellevue specific approach meeting recommended regional water quality BMPs and modeled after Kirkland and Renton SMP

- xvii. Facilities shall develop a maintenance, repair, and operations plan that demonstrates compliance with the requirements of this SMP and other applicable codes in accordance with standards established by the Director.
- e. **New and Expanded Motorized Boat Ramps and Launches - Decision Criteria.** In determining whether to approve an application for a motorized boat launch, the City shall the following criteria:
- i. Adequacy of public streets to serve the facility based on traffic generated from using the facility;
 - ii. Impacts on adjacent uses, including noise, light, and glare are minimized; and,
 - iii. Ramp surfaces may be concrete, precast concrete, or other hard permanent substance. Loose materials, such as gravel or cinders, shall not be used.
- f. **Non-motorized Boat Ramps and Launches - Design Criteria.** Design and siting of non-motorized boat ramps and launches shall address, at a minimum, the following criteria:
- i. The preferred construction materials for ramps designed for non-motorized boats is gravel or other similar natural material; and
 - ii. Floats or platforms designed to launch non-motorized boats are allowed.
- g. **New and Expanded Boat Ramps and Launches – Performance Standards.** The following use-specific performance standards apply in addition to the general performance standards in paragraph E.3 of this section.
- i. The proposed size of the boat ramp or launch shall be the minimum necessary to safely launch the intended craft;
 - ii. Removal of native upland vegetation shall be minimized to the greatest extent feasible;
 - iii. Water currents and normal wave action shall be suitable for launch activity;
 - iv. Adequate on-shore parking and maneuvering areas shall be provided based on projected demand. Provisions shall be made to prevent spillover outside designated parking areas. Parking, access, and circulation must be consistent with LUC 20.25E.060.H (Accessory Parking, Loading Space and Maintenance Access);
 - v. Boat launches shall be located so that they do not significantly impact fish and wildlife habitats and shall not occur in areas with native emergent vegetation;
 - vi. Boat launches shall be located to provide access to a sufficient water depth to allow use by boats without maintenance dredging;

Comment [mnp19]: Bellevue specific approach incorporating Planning Commission direction.

Comment [mnp20]: Bellevue specific approach modeled on Renton SMP

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- vii. Ramps shall be designed to allow for ease of access to the water with minimal impact on the shoreline and water surface;
 - viii. Moorage associated with a boat launch or ramp shall meet the applicable performance standards for new or expanded non-residential moorage facilities in section F.4.d; and
 - ix. Mitigation is required for impacts related to the launch facility in accordance with LUC 20.25E.060.D (Mitigation Sequencing).
5. Repair and Maintenance Performance Standards Applicable to Non-Residential Moorage Facilities, Boat Ramps and Launches.
- a. Maintenance and repair as used in this section includes actions to repair a failed or degraded component of a facility with the intent of restoring the facility to its original design condition, function, and capacity. Expansion or reconfiguration of facility components do not constitute repairs and **are** will be processed as a new or expanded non-residential moorage facility, boat ramp, or **launch in accordance with the requirements of this section**.
 - b. Existing Non-Residential Moorage Facilities - Repair and Maintenance Performance Standards. Repairs of non-residential moorage facilities shall comply with the following:
 - i. Canopy or Facility Decking Repair. Replacement of more than 50 percent of the surface of any overwater segment of a non-residential moorage facility within a 5-year period requires the segment surface be replaced with light penetrable materials, such as grating or translucent surfaces. Accept that floating docks must use light-penetrable materials to the extent the **existing Bellevue specific approach based on LUC 20.25E and WAC 173-26-231** structure facilitates light transmission with the addition of the light-penetrating materials. Otherwise, floating docks may use materials similar to those used for original construction unless in conflict with other requirements of this section.
 - ii. Piling Repairs. Capping, collaring, or sleeving, of more than 50 percent of the piling of any overwater segment of a non-residential facility within a 5-year period requires the segment surface be replaced with light penetrable materials (grating or translucent surface).
 - iii. Facility Substructure Repair. Repair or replacement of more than 50 percent of the substructure (stringers, joists, or beams) of any overwater segment of a non-residential moorage facility within a 5-year period requires replacement with light penetrable materials (grating or translucent surface).
 - iv. Piling Repair. Replacement of more than 50 percent of the structural support piling of any overwater segment of a nonresidential moorage facility within a 5-year period requires compliance with new

Comment [mnp21]: Bellevue specific approach based on residential moorage approach

Comment [dp22]: Clarity Edit

Comment [CoB23]: Bellevue specific approach based on LUC 20.25E and WAC 173-26-231

nonresidential moorage facility standards (requires redesign and reconfiguration).

- v. ~~Moorage Adjustment. Minor moorage facility modifications are permitted as a repair to accommodate a change in vessel size and type when there is no net increase in the overall number of moorage slips. Allowed adjustments include a minor change in dock configuration and the addition or removal of piling as needed to adjust the moorage slip to accommodate a different vessel type or need for an adjusted dock space. No more than 100 square feet of dock surface or 6 piling may be added in a 3 year period as a moorage adjustment. To avoid major modification to a dock, up to two mooring piles per moorage slip may be added or removed as a minor repair to address a change in vessel type.~~

Comment [dp24]: Consistency Edit

- vi. ~~v.~~ Materials Used for Repairs. Repairs may be completed with materials similar to those used for original construction unless in conflict with paragraph E.3.c of this section.
- vii. ~~vi.~~ Alternative mitigation may be allowed in-lieu of use of light penetrable materials through the Special Shoreline Report Process, LUC 20.25E.160.E when the proposal with the requested alternative mitigation leads to an equivalent or better protection of shoreline ecological functions than would result from the application of the standard requirements for light penetrating materials.

- c. Existing Boat Ramps and Launches - Repair and Maintenance Performance Standards. Repair and maintenance of existing boat ramps and launches shall comply with the following:
- i. Repair of existing facilities shall be constructed with materials required for new facilities as described in paragraph E.3.c of this section.
 - ii. No expansion of improved areas is permitted as repair.
 - iii. Removal existing vegetation shall be prohibited; and
 - iv. Dredging is allowed only in accordance with LUC 20.25E.080.D (Dredging and Dredge Material Disposal).

F. Shoreline Stabilization

1. Applicability. Shoreline stabilization measures designed to protect existing primary structures, public facilities, or public use structures from shoreline erosion are allowed in the shoreline at or above ordinary high water mark only in compliance with paragraph F of this section. The requirements of paragraph F of this section may be modified through a Special Shoreline Report, pursuant to LUC 20.25E.160.E.

2. Definitions.

- a. **Public facilities or public use structures.** As used in this section, “public facilities” is a general term that encompasses public infrastructure and facilities. “Public use structures” is a general term that refers to structures designed to facilitate public use of the shoreline.
- b. **Shoreline Stabilization.** Nonstructural and structural measures designed to protect existing primary structures, public facilities, or public use structures from the effects of natural shoreline processes, such as wave action, flooding, or erosion. Shoreline stabilization may include vegetation, bioengineered measures combining vegetation with slope modification, angled riprap, revetments, and conventional vertical bulkheads.
- c. **Soft Shoreline Stabilization.** Soft shoreline stabilization combines a range of bioengineered actions, beach enhancement, anchor trees, large rocks, gravel placement, shoreline plantings, and similar measures that use natural materials engineered to provide shoreline stabilization while preserving or mimicking important shoreline ecological functions. Depending on site conditions, a blending of hard and soft methods that includes durable components in combination with softer methods and vegetative plantings may be necessary to provide the needed level of stabilization while providing an enhanced shoreline habitat.
- d. **Hard Shoreline Stabilization.** Hard shoreline stabilization employs rigid structures that armor the shoreline from the effects of water-caused erosion. Such structures typically include rip-rap revetments, gabions, concrete retaining walls, and similar measures that function to prevent wave-caused by a variety of methods ranging from rock revetments sloped at 3:1 or less to near-vertical rockeries and vertical rigid structures constructed of artificial materials like concrete.
- e. **Avoidance Measures.** Techniques used to minimize or prevent shoreline erosion that do not involve modification of the shoreline at the interface of land and water. Avoidance measures are applied through a site design approach, and include vegetation enhancement, upland drainage control, and protective walls or embankments placed outside of the shoreline setback or area of special flood hazard.
- f. ~~Minor Repair.~~ As used in paragraph F of this section, ~~minor repair refers to maintenance to an existing shoreline stabilization measure designed to~~

Comment [mnp25]: Modeled after definition in LUC 20.25H.055 (Critical Areas Overlay District)

Comment [mnp26]: Bellevue specific approach modeled after existing definition at LUC 20.25E.080.E.

Comment [mnp27]: Bellevue specific approach modeled after existing definition at LUC 20.25E.080.E and City of Seattle Green Shorelines

Comment [mnp28]: Bellevue Specific Approach based on existing definition at LUC 20.25E.080.E and Chapter 173-26-231 WAC

Comment [mnp29]: Bellevue specific approach modeled after Kirkland SMP and existing LUC 20.25E.080.E

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~~restore the stabilization measure to its original condition and configuration and to ensure its continued function by preventing failure of any part. Minor repair may include actions that extend the useful life of the stabilization measure such as planting vegetation, replacing rocks and logs, placement or repair of wall tiebacks, re-setting or replacement of rip rap rock courses, or limited replacement of wall panels. A repair that involves the cumulative reconstruction or replacement of more than 50 percent of the linear length of the stabilization measure over a three-year period is deemed a major repair.~~

~~g. Major Repair. As used in this part, major repair refers to a repair needed to restore a portion of an existing stabilization measure that has collapsed, eroded away, or otherwise demonstrated a loss of structural integrity sufficient to jeopardize its erosion protection function, or in which cumulative reconstruction or replacement involves more than 50 percent of the linear length of the stabilization measured over a three-year period. Major repair shall be treated as a new shoreline stabilization measure, subject to the provisions of paragraphs F.2, F.3, and F.4 of this section. Activities considered when determining the linear length affected by the repair include, but are not limited to, the replacement or re-setting of the bottom rock course, toe, or footing, the replacement or re-setting of the top or middle course of rocks, or the replacement of concrete wall panels or other significant repairs.~~

Comment [mnp30]: Bellevue specific approach modeled after Kirkland SMP and existing LUC 20.25E.080.E

3. Technically Feasible. The provisions of LUC 20.25E.060.C (Technical Feasibility – General Requirements) do not apply when determining if a new shoreline stabilization method is technically feasible, instead the provisions of paragraph F.3 of this section apply.

- a. The determination of whether a particular avoidance or stabilization measure is “technically feasible” shall be made by the Director as part of the decision on the underlying permit after consideration of a report prepared by a qualified professional addressing the following factors:
- i. Site conditions, including slope, beach configuration, nearshore depth, potential for flooding, and proximity of primary structure to ordinary high water mark;
 - ii. Consideration of wind direction, velocity and frequency, fetch, probable wave height, and frequency;
 - iii. The level of risk to the primary structure, public facility or public use structure presented by the rate of erosion over a three year period and the ability of the proposed measure to mitigate that risk;
 - iv. Whether the cost of avoiding disturbance of shoreline processes and functions is disproportionate as compared to the environmental impact

Comment [mnp31]: Based on existing LUC 20.25E.080.E. Meets requirements of WAC 173-26-231

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- of proposed disturbance, including any continued impacts on functions and values over time; and
- v. The ability of both permanent and temporary disturbance to be mitigated.

- b. Shoreline stabilization measures found to be technically feasible shall comply with the standards set forth in paragraph F.4 of this section.

4. New or Enlarged Shoreline Stabilization Measures.

- a. When Allowed. New or enlarged shoreline stabilization measures shall be permitted only to protect existing primary structures, public facilities, or public use structures. Shoreline stabilization measures shall be allowed only where avoidance measures are not technically feasible.

- b. Type of Shoreline Stabilization Measure Used. Where a new or enlarged shoreline stabilization measure is allowed, soft shoreline stabilization measures shall be used, unless the applicant demonstrates, in accordance with paragraph F.3 of this section, that soft shoreline stabilization measures are not technically feasible. Only after the Director determines that soft shoreline stabilization measures are not technically feasible, will hard shoreline stabilization measures be permitted. Provided, that developed sites with less than 10 feet between the primary structure and the ordinary high water mark are assumed to require some form of hard stabilization and applicants are not required to demonstrate technical feasibility. This provision does not apply to legally-established stabilization measures in the Shoreline Residential Canal environment. (See paragraph F.5.b.iv for repair options applicable in the Shoreline Residential Canal environment.)

- c. Options for Soft Stabilization. Plate XX [insert chart from Green Shorelines material] provides guidance on the range of shoreline stabilization measures that may be considered, based on the unique characteristics of the subject property and shoreline. Options for soft stabilization should be based on the practicality and viability of the measure when considering near shore and yard slope, average wave energy and direction, frequency of large erosion-causing events, and shall employ the following hierarchy of preference:

- i. Soft stabilization constructed of natural materials utilizing bioengineering techniques including slope contouring, beach nourishment, protective coconut fiber berms, fascines, live

Comment [mnp32]: Bellevue specific approach modeled after existing LUC 20.25E.080.E and Kirkland SMP; meets the requirements of WAC173-26-231

Comment [mnp33]: Bellevue specific approach following PC direction and public comment modeled after City of Seattle Green Shorelines, Renton SMP, and existing LUC 20.25E.080

Comment [CoB34]: This chart will be prepared when PC has concluded that the information would be useful to applicants.

- staking, and other vegetative stabilization to hold soil and gravel in place.
- ii. Soft stabilization as described in paragraph F.4.c.i of this section integrated with large boulders, large logs and other coarse woody debris, and partial use of rigid structures where required to protect existing rigid structures on abutting properties.
 - iii. Soft stabilization as described in paragraph F.4.c.ii of this section and incorporating limited use of rigid structures constructed of rock or artificial materials and located as an additional safety measure as far as technically feasible from ordinary high water mark while still ensuring the long-term safety and stability of the primary structure.
- d. Options for Hard **Stabilization**. New or enlarged hard stabilization measures require a demonstration that avoidance or soft stabilization measures are not technically feasible as described in paragraph F.3 of this section. Hard stabilization shall employ the following hierarchy of preference:
- i. Hard stabilization constructed of quarry rock, rip-rap or similar materials at a slope gradient not to exceed 3:1 and utilizing bioengineering techniques including slope contouring, beach nourishment, live staking, and other vegetative enhancement.
 - ii. Hard stabilization as described in paragraph i of this section, but where slope gradient and distance to the primary structure is such that a 3:1 slope cannot reasonably be achieved and where vegetative enhancement is confined to live staking and vegetative enhancement below ordinary high water or at the top of the wall. Such hard stabilization shall not exceed a slope gradient of 2:1.
 - iii. Hard stabilization utilizing rigid, near-vertical structures at a slope gradient not to exceed 1.5:1 constructed of quarry rock or artificial materials and utilized on developed sites where the distance between the primary structure and ordinary high water mark is 10 feet or less. Near-vertical stabilization shall be the minimum height necessary, and shall not exceed 48 inches in height as measured from the bottom of the footing.
- e. **Location**. When allowed, new shoreline stabilization measures shall be located at or behind the ordinary high water mark. Where a documented area of special flood hazard exists, stabilization measures shall be located at the upland edge of the area of special flood hazard, except that soft stabilization

Comment [mnp35]: Bellevue specific approach following PC direction and public comment . Modeled after Renton SMP and existing LUC 20.25E.080

Comment [mnp36]: Bellevue Specific Approach based on PC direction (July 28, 2010) and public comment and existing LUC 20.25E.080, City of Seattle Green Shorelines , and Kirkland and Renton SMP

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measures conforming to paragraph F.4.c of this section may be located in the area of special flood hazard. Where allowed, hard stabilization measures conforming to paragraph F.4.d.iii of this section may be located in the area of special flood hazard provided that their impact on the flood storage capacity of the floodplain is minimal. Stabilization measures are prohibited waterward of the ordinary high water mark, except that soft shoreline stabilization measures may be located waterward of the ordinary high water mark when they incorporate approved aquatic habitat improvement elements. In no event may a shoreline stabilization measure modify the lake bottom waterward of the ordinary high water mark, except for the purpose of gravel or beach augmentation, placement of anchored large woody debris, or other specified habitat enhancements.

~~f. New Hard Stabilization Prohibited with Use of Setback Reduction Menu. Where an applicant removes hard stabilization and replaces it with soft stabilization in compliance with the Options 1 and 2 of LUC Chart 20.25E.065.E.3.b.iii (Setback Reduction Menu Options) with the intention of moving closer to the Ordinary High Water Mark, future use of hard stabilization is prohibited.~~

Comment [mnp37]: Bellevue specific approach based on PC guidance for provision of an "option" menu (June 9, 2010)

~~g.f.~~ Mitigation and Restoration. Areas of new permanent disturbance and all areas of temporary disturbance associated with ~~major repair or~~ new shoreline stabilization measures shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

~~h.g.~~ Retention of Setback with New Soft Stabilization. Where an applicant replaces a legally-established existing hard shoreline stabilization measure with a soft shoreline stabilization measure or an avoidance measure, any applicable structure setback shall continue to be measured from the ordinary high water mark that existed with the hard shoreline stabilization measure. Such ordinary high water mark shall be located by a survey prior to removal of the hard shoreline stabilization measure. The applicant shall record a survey or other instrument clearly delineating the ordinary high water mark location as it existed prior to the removal of the hard shoreline stabilization measure with the King County Division of Records and Elections, or its successor agency.

Comment [mnp38]: Modeled after existing LUC 20.25E.080.E.5

~~i.h.~~ Expansion of Shoreline Jurisdiction from Shift in the Ordinary High Water Mark. If implementing a shoreline stabilization measure ~~required~~ allowed by

Comment [mnp39]: Bellevue specific approach modeled after Kirkland SMP in response to PC direction received on July 28, 2010) and public concern.

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the Bellevue SMP and intended to improve ecological functions results in shifting the ordinary high water mark landward of the pre-implementation location, and results in an expansion of the shoreline jurisdiction onto any property other than the subject property, then:

- i. The City shall notify the affected property owner in writing; and
- ii. The City may propose to grant relief from the applicable shoreline regulations resulting in expansion of the shoreline jurisdiction. The proposal to grant relief must be submitted to the Department of Ecology with the required shoreline permit under the procedures established at LUC 20.25E.160 and 20.25E.180. If approved, notice of the relief granted, in a form approved by the City Attorney, shall be recorded on title with the King County Division of Records and Elections, or its successor agency.

5. Repair **and Replacement** of Existing Shoreline Stabilization. This section applies to repair of existing legally established shoreline stabilization measures -

~~a. **Minor Repair.** Minor repair to existing shoreline stabilization measures shall meet the following performance standards:~~

- ~~i. Minor repair is allowed only to existing legally established stabilization measures;~~
- ~~ii. Minor repair is allowed to restore a stabilization measure to its original condition and configuration provided that damage and destruction is not so significant as to cause loss of structural integrity sufficient to jeopardize its erosion protection function. No significant expansion or alteration outside of the original design is allowed, except that minor changes designed to reduce impact on ecological functions are permitted; and,~~
- ~~iii. Minor repair may not result in the cumulative reconstruction or replacement of more than 50 percent of the linear length of the stabilization measure during a three-year period.~~

~~b. **Major Repair.** Major repair shall be treated as a new shoreline stabilization measure, subject to the provisions of paragraphs F.2 through F.4 above, except that legally established shoreline stabilization measures are presumed necessary to protect existing shoreline uses and may be repaired or replaced without having to demonstrate avoidance is not technically feasible. Major~~

Comment [mnp40]: Bellevue specific approach modeled after LUC 20.25E.080 and Kirkland SMP

Comment [mnp41]: Bellevue specific approach modeled after existing LUC 20.25E.080 and Kirkland SMP

repairs to existing shoreline stabilization measures shall be allowed when the proposed repair meets the following performance standards:

- i. Major repair is allowed only to existing legally established shoreline stabilization measures;
- ii. Major repair is allowed provided repair conforms to paragraph F.4.b of this section, and the preference hierarchies for either new soft or hard stabilization measures set forth in paragraphs F.4.c. and F.4.d. of this section;
- iii. Major repair of existing stabilization measures with soft stabilization measures is allowed in the area of major flood hazard subject to the preference hierarchy set forth in paragraph F.4.c of this section. Major repair of existing stabilization measures with hard stabilization measures must be located outside of the area of special flood hazard unless impacts are minimized by using option set forth in paragraph F.4.d.i. of this section or where the distance between the primary structure and ordinary high water mark is 10 feet or less; and,

Existing legally-established hard stabilization measures in the Shoreline Residential Canal designation may be repaired or replaced in their existing configuration with a comparable structure when the proposal meets the following applicable requirements:-

a. Comparable Size. Repairs and replacements shall not expand the lateral extent, add to the height or increase the width of an existing stabilization measure unless otherwise permitted by the terms of this paragraph. Refer to LUC 20.25E.080.F.4 for requirements applicable to enlarged shoreline stabilization measures.

b. Comparable Location. When existing shoreline hard stabilization is being replaced, it shall be located landward of the Ordinary High Water Mark except that replacement stabilization may encroach waterward of the ordinary high water mark provided 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. Soft shoreline stabilization measures that provide restoration of shoreline ecological

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functions may be permitted waterward of the ordinary high-water mark.

c. Comparable Design. Existing vertical concrete shoreline stabilization measures may not be replaced with a similar structure unless there is no technically feasible alternative. Except that existing legally-established hard stabilization measures located in the Shoreline Residential Canal environment may be repaired or replaced in their vertical concrete configuration, and the applicant shall not be required to demonstrate that there is no technical feasibility alternative. Nothing in this requirement prevents vertical concrete shoreline stabilization measures from being replaced with a soft or hard shoreline stabilization measures as described at 20.25E.080.4.c and d.

d. Limitation on Comparability. Repairs and replacements meeting the requirements of this paragraph are permitted so long as the materials, size, location and design of the stabilization measure does not result in a net loss of shoreline ecological function.

Comment [CoB42]: Charlie and WSSA Representatives. We looked back at the record and have concerns about defensibility of the absolute replacement allowance for vertical walls as the PC directed. I referred to Dr. Pauley's presentation as you suggested, but even he argued that vertical bulkheads should be replaced with battered bulkheads at a minimum. So, I softened this language to include a technical feasibility clause. The feasibility language will still allow vertical wall replacement when necessary.

6. Removal of Existing Shoreline Stabilization. Shoreline stabilization measures may be voluntarily removed in support of shoreline mitigation or restoration, ~~or an approved project to reduce setback requirements~~ when the proposal meets the following applicable requirements:

Comment [mnp43]: Bellevue specific approach aimed at voluntary stewardship efforts.

- a. The area impacted by removal is restored or replanted pursuant to an approved mitigation plan (refer to LUC 20.25E.060.D), designed, located, sized and constructed to ensure no net loss of ecological function;
- b. The impact on adjacent properties is minimized and existing stabilization structures are protected;
- c. The applicant records an agreement recognizing that the installation of future hard stabilization is prohibited; and,
- d. Short-term construction impacts are minimized through the use of appropriate best management practices to minimize impacts to water quality, appropriate timing restrictions, and stabilization of exposed soils following construction.

November 14, 2012 P.C. SMP Agenda

Memo

Attachment A

LUC 20.25E.080 – Clean Version

20.25E.080 SHORELINE MODIFICATIONS

A. Applicability.

This section contains requirements and standards that apply to all shoreline modifications in the Shoreline Overlay District. These requirements and standards are in addition to the procedures, permit requirements, and standards set forth in other sections of the Bellevue SMP.

B. Breakwaters, Jetties, and Groins.

1. Prohibited Development.
 - a. Jetties and groins are prohibited within the Shoreline Overlay District and should be removed when the use for which they were constructed is discontinued or the purpose or function for which the jetty or groin was originally installed no longer exists.
 - b. Solid landfill or rockery breakwaters are prohibited in the Shoreline Overlay District.
2. Breakwaters – Limitations. Breakwaters are allowed only when there is a demonstrated need to protect existing recreation or non-residential moorage uses from damage caused by natural wave action.
3. Breakwaters – Performance Standards. Breakwaters, when allowed, require a Shoreline Conditional Use permit (refer to LUC 20.25E.180), and the following performance standards shall be met.
 - a. The applicant shall demonstrate that no technically feasible alternative exists (refer to LUC 20.25E.060.C).
 - b. Breakwaters shall be designed by a qualified professional using minimally invasive techniques to protect shoreline ecological functions and shall not preclude fish passage or adversely affect sediment migration.
 - c. As part of the application submittal, the qualified professional designing the breakwater must certify that the breakwater is the minimum necessary to accomplish its purpose.
 - d. The applicant shall demonstrate that the design will not result in a net loss of shoreline ecological functions.
 - e. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

C. Clearing, Grading, and Fill in the Shoreline

1. Clearing, Grading, and Fill – Limitations. This paragraph C does not apply to residential development governed pursuant to LUC 20.25E.065.

- a. All clearing, grading, excavating, and filling in the Shoreline Overlay District shall comply with the provisions of this paragraph C, LUC 20.25H.180 (Areas of Special Flood Hazard), Chapters 24.06 (Storm and Surface Water Utility Code) and 23.76 (Clearing and Grading Code) BCC, and the City's engineering and clearing and grading development standards, now or as amended. Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.
- b. Minimum Necessary. Clearing, grading, excavation, and filling is permitted only in association with an approved use or development and shall be the minimum necessary to support the approved use or development. Filling to create dry land is prohibited.
- c. Filling and excavation, excluding dredging (see LUC 20.25E.080.D), below the ordinary high water mark is allowed only for the following activities, and when the applicant demonstrates the project will result in not net loss of ecological functions using appropriate technical studies:
 - i. Placement of beach or aquatic substrate when part of an approved ecological restoration activity;
 - ii. Replenishing sand on public and private community beaches;
 - iii. Alteration, maintenance, or repair of existing transportation facilities and utilities located within the Shoreline Overlay District, and no technically feasible alternative is available as set forth in LUC 25.25E.060.C.
 - iv. Constructing facilities for public water-dependant uses or public access; provided that the excavation or filling is limited to the minimum required to accommodate the use or facility, and no technically feasible alternative is available as set forth in LUC 25.25E.060.C;
 - v. Activities incidental to the repair of legally-established shoreline stabilization measures;
 - vi. Approved flood control projects;
 - vii. Components of an approved stream restoration project, including vegetation restoration; and
 - viii. Activities that are part of a remedial action plan approved by the Department of Ecology pursuant to Model Toxics Control Act (MTCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or otherwise authorized

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by the Washington State Department of Ecology, the United States Army Corps of Engineers, or other agency with jurisdiction.

2. Filling and Excavation – Additional Analysis Required. The applicant shall provide the following project analysis together with any submittal for a shoreline application that proposes filling or excavation activities.
 - a. The overall value to the public resulting from the excavation or fill as opposed to the value of the shoreline in its existing state and evaluation of alternatives to fill that would achieve some, if not all, objectives of the proposal;
 - b. The effects on shoreline ecological functions, including but not limited to, functions of the substrate of lakes and streams, effects on aquatic organisms, including the food web, effects on vegetation functions, effects on local currents, erosion, and deposition patterns, effects on surface and subsurface drainage, and the effects on floodwaters and the floodplain.
 - c. If the filling or excavation will require shoreline stabilization to protect materials placed or removed and whether such stabilization meets the polices and standards of the shoreline master program;
 - d. Whether the fill or excavation will alter the normal flow of floodwater, including the obstruction of flood control channels or swales; and
 - e. Whether public or tribal rights to the use and enjoyment of the shoreline and its resources are impacted.
3. Filling and Excavation – Performance Standards.
 - a. Fill Material—Suitability. Fill material shall not be detrimental to water quality or existing habitat, or create any other significant adverse impacts to the environment. Fill shall be properly stabilized and maintained during and following construction to prevent erosion.
 - b. Stockpiling. For development occurring outside the shoreline setback, dirt, rocks, and similar material shall not be stockpiled in the shoreline setback. For development occurring within the shoreline setback, stockpiling is allowed and shall be the minimum necessary to support the development and shall be located in an area that having the least impact to shoreline functions. If any stockpiling is required, best management practices shall be implemented to prevent discharge of sediments or pollutants into receiving waters. (Refer to Chapter 23.76 BCC (Clearing and Grading Code) and the City's clearing and grading development standards, now or as amended).
 - c. Excess Material. All excess material resulting from clearing, grading, excavation, and filling activities shall be removed from the shoreline site and disposed of in a manner that prevents any of the excess material from entering surface or ground waters in accordance with Chapters 24.06

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(Storm and Surface Water Utility Code) and 23.76 (Clear and Grade Code) BCC, and applicable engineering and development standards.

D. Dredging and Dredge Material Disposal

1. Prohibited Activities.
 - a. Dredging for the sole purpose of obtaining fill or construction material is prohibited.
 - b. Dredging materials disposal is prohibited in the aquatic environment.
2. Dredging – Limitations. Dredging is allowed only for the following activities, and when the applicant demonstrates the project will result in not net loss of ecological functions using appropriate technical studies:
 - a. To maintain navigability; provided the dredging is limited to the extent of the previously approved dredging and/or existing authorized location, depth, and width;
 - b. To maintain an existing agricultural activity that supports an existing agricultural use within City Parks;
 - c. To remedy conditions endangering the public health, safety or welfare;
 - d. To carry out a habitat improvement project; and
 - e. Dredging performed pursuant to a remedial action plan approved under authority of the Model Toxics Control Act (MTCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or pursuant to other authorization by the Washington State Department of Ecology, U.S. Army Corps of Engineers, or other agency with jurisdiction.
3. Dredging and Disposal - Performance Standards. Proposals for dredging must comply with each of the following performance standards:
 - a. The proposal, including any necessary mitigation, will result in no net loss of shoreline ecological functions.
 - b. Dredging shall be limited to the minimum necessary and appropriately balance navigational or other needs with impacts to shoreline ecological functions. The minimum necessary proposal shall be determined based on an analysis of technically feasible alternatives and consider both short-term and long-term impacts associated with the action, including mitigation measures.
 - c. The dredging shall not cause long-term adverse impacts to water quality, aquatic habitat, or human health in adjacent areas.
 - d. The lateral spread of re-suspended sediment created by a dredging operation shall be contained within previously approved limits.
 - e. To prevent impairment of water quality any dredge spoil temporarily stored in an upland location must be set back an adequate distance from the water to prevent the discharge of pollutants to the receiving water, and the

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containment measure shall contain sufficient filtering to prevent discharge of sediments to the receiving water. Temporary disposal sites shall not be allowed except in areas designated by the City of Bellevue.

- f. A permanent dry land disposal site, or submerged disposal site outside of the City of Bellevue, has been approved.
- g. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation or restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

E. Non-Residential Moorage Facilities, Boat Ramps, and Launches.

1. Applicability. Non-residential moorage facilities, boat ramps and launches are allowed in the Shoreline Overlay District when in compliance with paragraph E of this section. This paragraph E does not apply to residential development governed pursuant to LUC 20.25E.065.
2. Definitions. The following definitions apply only to paragraph E of this section.
 - a. Facility Segment. The walkway, moorage platform, finger-pier, or cover portion of a dock.
 - b. Walkway. The portion of the dock that is connected to the shoreline at the landward end and provides access to the moorage platform.
3. General Requirements Applicable to all Non-residential Moorage Facilities, Boat Ramps and Launches.
 - a. New skirting, covered moorage, including boatlift canopies, is prohibited.
 - b. Minimum necessary. Maintenance and repair shall be the minimum necessary to restore the facility to its original design, function, and capacity.
 - c. Construction Materials. Use environmentally neutral materials not materials treated with known toxic preservatives and approved by the Environmental Protection Agency for use in aquatic environments. Dock materials shall not be treated with pentachlorophenol, creosote, chromate copper arsenate (CCA) or comparably toxic compounds. If (ammoniacal copper zinc arsenate) (ACZA) materials are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. Preservative and surface treatments are limited to products approved for use in aquatic environments and must be applied according to label directions. Construction hardware that comes into contact with water either directly or through precipitation and that discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion.
 - d. Modification of Standards. A Special Shorelines Report may be used to modify the standards of this section E when the modification results in a net

benefit to shoreline ecological functions. Refer to LUC 20.25E.160.E (Mitigation Sequencing).

4. New and Expanded Non-Residential Moorage Facilities, Boat Ramps and Launches.
 - a. Permit Required. New and expanded non-residential moorage, boat ramps, and launches are permitted in the shoreline jurisdiction pursuant to the process in identified in LUC 20.25E.030 (Shoreline Use Charts).
 - b. Moorage facilities shall be located in an area where impacts to shoreline ecological functions can be avoided or mitigated to achieve the standard of no net loss of ecological function. To ensure no net loss of ecological functions occurs, the Director may require a compensatory mitigation plan pursuant to LUC 20.25E.060.D (Mitigation Sequencing), when impacts related to new or expanded moorage facilities are identified and not addressed by the performance standards set forth in paragraph E.4.d of this section.
 - c. New or Expanded Non-Residential Moorage Facilities - Design Criteria. Design and siting of new or expanded Non-residential moorage facilities shall address, at a minimum, the following criteria:
 - i. Facilities should be designed to avoid dredging to establish new moorage, and the need for maintenance dredging consistent with LUC 20.25H.080.D
 - ii. Facilities should be designed to avoid impacts to shoreline ecological functions through consideration of water depth, water circulation, sediment inputs and accumulation, and wave action.
 - iii. Facilities should be located to avoid impacts to shoreline ecological functions through avoidance of submerged aquatic vegetation, shoreline associated wetlands, or habitat associated with species of local importance.
 - iv. Facilities shall be designed to minimize overwater coverage and be the minimum size necessary to provide the desired moorage function when considering the beam and draft of the type of boat anticipated to be moored. Preference shall be given to designs that provide two berths per finger pier.
 - v. The ability of the site upland from the ordinary high water mark to accommodate the necessary support facilities.
 - vi. The use of mooring buoys to accommodate additional moorage.
 - vii. Transient Moorage. Transient moorage is allowed within a new or expanded non-residential moorage facility.
 - viii. Liveboards. Liveboards are allowed when distributed through the facility. Areas proposed for occupation by liveboards should include

properly planned and designed utility connections and storage facilities for each liveaboard slip.

- ix. Stacked Boat Storage. Facilities should incorporate, to the maximum extent feasible, upland stacked boat storage unless:
 - (1) No suitable upland locations exist for such facilities;
 - (2) The applicant demonstrates that water moorage would result in fewer impacts to shoreline ecological functions;
 - (3) The applicant demonstrates that water moorage would enhance public use of the shoreline; or
 - (4) The proposal is part of a non-residential moorage facility development in the Recreational Boating shoreline environment where the objective is enhanced public access and the location of an upland stacked storage facility would conflict with the objective of public use of the shoreline.
 - x. Utilities and Services. Utility and service lines serving docks and piers should be located below the pier deck and out of the water.
- d. New and Expanded Non-Residential Moorage Facilities – Performance Standards. The following use-specific performance standards apply in addition to the general performance standards in paragraph E.3 of this section.
- i. Location of Facilities in Meydenbauer Bay. Non-residential moorage facilities shall not extend waterward beyond the point necessary to provide reasonable draft for the boats to be moored. In no event shall a non-residential moorage facility extend to a point that impedes public navigation.
 - ii. Existing covered non-residential moorage facilities in Meydenbauer Bay shall not be expanded beyond their existing outer limits or the boundary described as:
 - All Azimuths being South; commencing at the E 1/4 Sec. corner of Sec. 31 T 25N, R 5E, W.M., whose “X” coordinate is 1,661,520.58 and whose “Y” coordinate is 225,661.29 of the Washington Coordinate System, North Zone, and running thence on an Az of 78°51’17” a distance of 963.76 feet to a point whose coordinate is “X” 1,660,575.00, “Y” 225,475.00 of said coordinate system; thence on an Az of 37°26’00” for a distance of 60 feet to a point being the true beginning of this description; thence on an Az of 316°19’15” a distance of 495.14 feet; thence on an Az of 2°21’10” a distance of 42.52 feet; thence on an Az of 312°06’17” a distance of 415.00 feet; thence on an Az of 37°24’19” a distance of 118.06 feet to an intersection with the northwesterly extension of the northwesterly line of Reserve “A” at the N. end of

Ronda Street between Blocks 29 and 38, Plat of Moorlands, as recorded in Vol. 4 of Plats, Page 103, records of King County, Washington, said point of intersection being the terminus of this line description.

- iii. Setbacks for Facilities. Moorage facilities constructed with an external dock perimeter where access to public waters is provided through a central point on the waterward end of the facility shall provide a minimum 10-foot setback from property line projections. Moorage facilities constructed with an open-sided design where access to moorage is taken directly from public waters shall provide a minimum of 50 feet of setback from property line projections.

<Insert Graphic>

- iv. Dock and Pier Access. Docks and piers shall be accessed from upland support areas through a ramp or gangway and walkway system with the first set of finger piers (ells) located at a depth of 9 feet or greater. Facilities for human-powered vessel launching and moorage may be located in depths of less than 9 feet.
- v. The width and length of all structures shall be limited to what is reasonable for the intended use; provided that:
 - (1) Walkways shall not exceed 8 feet in width;
 - (2) Ells shall not exceed 4 feet in width; and
 - (3) Ramps and gangways shall not exceed 6 feet in width.
- vi. Docks, ramps, piers, and walkways shall be grated or surfaced with light penetrable materials. To the extent feasible, structures shall be designed to minimize overwater coverage and avoid shading of aquatic vegetation.
- vii. Impacts to shoreline ecological functions shall be minimized through avoidance of submerged aquatic vegetation, shoreline associated wetlands, and nesting and spawning areas.
- viii. Impacts to adjoining residential uses shall be minimized through use of appropriate screening, and by locating high impact areas away from uses on adjacent properties.
- ix. Docks shall be designed with piers and other structures placed to facilitate, rather than to obstruct, water circulation. Basins shall be designed to prevent stagnant water that tends to collect debris or cause shoaling or flushing problems.
- x. Moorage facilities shall be designed to protect against wakes caused by vessel traffic without the need for a breakwater.

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- xi. Lighting and Safety. Design shall include adequate safety features and be designed to facilitate emergency response, including, but not limited to the following:
- (1) Design and locate facility security gates and walkways maximizing emergency access to the water and minimizing blockage of the view from the shore. Walkway access locations should be in close proximity to facility loading and short term parking areas;
 - (2) Design and locate lighting to illuminate walkways during the evening hours. Walkway lighting should be flush mounted to the dock surface or screened to avoid spillover light emissions;
 - (3) Locate flotation devices in designated areas at regular intervals throughout the non-residential moorage facility to ensure the safety of facility users;
 - (4) Include adequate fire safety apparatus, including dock surface markings and reflectors at intervals and location specified by the City's Fire Department; and
 - (5) Mark the facility with reflectors or other measures to prevent unnecessarily hazardous conditions for water surface users during the day or night.
- xii. Interference with Other Uses. Facilities shall not interfere with the public use and enjoyment of the water or create a hazard to navigation.
- xiii. Public access shall be provided in accordance with LUC 20.25E.060.I (Public Access).
- xiv. Facility Addressing—Waterward. Facilities shall include address signs that are visible from the water. All signage shall conform to the signage requirements contained in LUC 20.25E.060.J (Signage in the Shoreline).
- xv. Aircraft Moorage. Aircraft moorage is allowed as part of a non-residential moorage facility and shall be the minimum size necessary to accommodate the use. All identified and related impacts to shoreline ecological functions shall be mitigated through implementation of a mitigation plan pursuant to LUC 20.25E.060.D (Mitigation Sequencing).
- xvi. Waste Services. At the minimum, Facilities shall provide the following waste services:
- (1) One marine pump-out facility for use by the general boating public. This facility must be clearly marked for public use; and
 - (2) Each moorage segment shall include a solid waste collection facility, including but not limited to, garbage, maintenance waste, recycling and garbage.

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- xvii. Facilities shall develop a maintenance, repair, and operations plan that demonstrates compliance with the requirements of this SMP and other applicable codes in accordance with standards established by the Director.
- e. New and Expanded Motorized Boat Ramps and Launches - Decision Criteria. In determining whether to approve an application for a motorized boat launch, the City shall the following criteria:
 - i. Adequacy of public streets to serve the facility based on traffic generated from using the facility;
 - ii. Impacts on adjacent uses, including noise, light, and glare are minimized; and,
 - iii. Ramp surfaces may be concrete, precast concrete, or other hard permanent substance. Loose materials, such as gravel or cinders, shall not be used.
- f. Non-motorized Boat Ramps and Launches - Design Criteria. Design and siting of non-motorized boat ramps and launches shall address, at a minimum, the following criteria:
 - i. The preferred construction materials for ramps designed for non-motorized boats is gravel or other similar natural material; and
 - ii. Floats or platforms designed to launch non-motorized boats are allowed.
- g. New and Expanded Boat Ramps and Launches – Performance Standards. The following use-specific performance standards apply in addition to the general performance standards in paragraph E.3 of this section.
 - i. The proposed size of the boat ramp or launch shall be the minimum necessary to safely launch the intended craft;
 - ii. Removal of native upland vegetation shall be minimized to the greatest extent feasible;
 - iii. Water currents and normal wave action shall be suitable for launch activity;
 - iv. Adequate on-shore parking and maneuvering areas shall be provided based on projected demand. Provisions shall be made to prevent spillover outside designated parking areas. Parking, access, and circulation must be consistent with LUC 20.25E.060.H (Accessory Parking, Loading Space and Maintenance Access);
 - v. Boat launches shall be located so that they do not significantly impact fish and wildlife habitats and shall not occur in areas with native emergent vegetation;
 - vi. Boat launches shall be located to provide access to a sufficient water depth to allow use by boats without maintenance dredging;

- vii. Ramps shall be designed to allow for ease of access to the water with minimal impact on the shoreline and water surface;
 - viii. Moorage associated with a boat launch or ramp shall meet the applicable performance standards for new or expanded non-residential moorage facilities in section F.4.d; and
 - ix. Mitigation is required for impacts related to the launch facility in accordance with LUC 20.25E.060.D (Mitigation Sequencing).
5. Repair and Maintenance Performance Standards Applicable to Non-Residential Moorage Facilities, Boat Ramps and Launches.
- a. Maintenance and repair as used in this section includes actions to repair a failed or degraded component of a facility with the intent of restoring the facility to its original design condition, function, and capacity. Expansion or reconfiguration of facility components do not constitute repairs and will be processed as a new or expanded non-residential moorage facility, boat ramp, or launch in accordance with the requirements of this section.
 - b. Existing Non-Residential Moorage Facilities - Repair and Maintenance Performance Standards. Repairs of non-residential moorage facilities shall comply with the following:
 - i. Canopy or Facility Decking Repair. Replacement of more than 50 percent of the surface of any overwater segment of a non-residential moorage facility within a 5-year period requires the segment surface be replaced with light penetrable materials, such as grating or translucent surfaces. Except that floating docks must use light-penetrable materials to the extent the existing structure facilitates light transmission with the addition of the light-penetrating materials. Otherwise, floating docks may use materials similar to those used for original construction unless in conflict with other requirements of this section.
 - ii. Piling Repairs. Capping, collaring, or sleeving, of more than 50 percent of the piling of any overwater segment of a non-residential facility within a 5-year period requires the segment surface be replaced with light penetrable materials (grating or translucent surface).
 - iii. Facility Substructure Repair. Repair or replacement of more than 50 percent of the substructure (stringers, joists, or beams) of any overwater segment of a non-residential moorage facility within a 5-year period requires replacement with light penetrable materials (grating or translucent surface).
 - iv. Piling Repair. Replacement of more than 50 percent of the structural support piling of any overwater segment of a nonresidential moorage facility within a 5-year period requires compliance with new

nonresidential moorage facility standards (requires redesign and reconfiguration).

- v. Moorage Adjustment. Minor moorage facility modifications are permitted as a repair to accommodate a change in vessel size and type when there is no net increase in the overall number of moorage slips. Allowed adjustments include a minor change in dock configuration and the addition or removal of piling as needed to adjust the moorage slip to accommodate a different vessel type or need for an adjusted dock space. No more than 100 square feet of dock surface or 6 piling may be added in a 3 year period as a moorage adjustment. Materials Used for Repairs. Repairs may be completed with materials similar to those used for original construction unless in conflict with paragraph E.3.c of this section.
 - vi. Alternative mitigation may be allowed in-lieu of use of light penetrable materials through the Special Shoreline Report Process, LUC 20.25E.160.E when the proposal with the requested alternative mitigation leads to an equivalent or better protection of shoreline ecological functions than would result from the application of the standard requirements for light penetrating materials.
- c. Existing Boat Ramps and Launches - Repair and Maintenance Performance Standards. Repair and maintenance of existing boat ramps and launches shall comply with the following:
- i. Repair of existing facilities shall be constructed with materials required for new facilities as described in paragraph E.3.c of this section.
 - ii. No expansion of improved areas is permitted as repair.
 - iii. Removal existing vegetation shall be prohibited; and
 - iv. Dredging is allowed only in accordance with LUC 20.25E.080.D (Dredging and Dredge Material Disposal).

F. Shoreline Stabilization

1. Applicability. Shoreline stabilization measures designed to protect existing primary structures, public facilities, or public use structures from shoreline erosion are allowed in the shoreline at or above ordinary high water mark only in compliance with paragraph F of this section. The requirements of paragraph F of this section may be modified through a Special Shoreline Report, pursuant to LUC 20.25E.160.E.
2. Definitions.

- a. Public facilities or public use structures. As used in this section, “public facilities” is a general term that encompasses public infrastructure and facilities. “Public use structures” is a general term that refers to structures designed to facilitate public use of the shoreline.
 - b. Shoreline Stabilization. Nonstructural and structural measures designed to protect existing primary structures, public facilities, or public use structures from the effects of natural shoreline processes, such as wave action, flooding, or erosion. Shoreline stabilization may include vegetation, bioengineered measures combining vegetation with slope modification, angled riprap, revetments, and conventional vertical bulkheads.
 - c. Soft Shoreline Stabilization. Soft shoreline stabilization combines a range of bioengineered actions, beach enhancement, anchor trees, large rocks, gravel placement, shoreline plantings, and similar measures that use natural materials engineered to provide shoreline stabilization while preserving or mimicking important shoreline ecological functions. Depending on site conditions, a blending of hard and soft methods that includes durable components in combination with softer methods and vegetative plantings may be necessary to provide the needed level of stabilization while providing an enhanced shoreline habitat.
 - d. Hard Shoreline Stabilization. Hard shoreline stabilization employs rigid structures that armor the shoreline from the effects of water-caused erosion. Such structures typically include rip-rap revetments, gabions, concrete retaining walls, and similar measures that function to prevent wave-caused by a variety of methods ranging from rock revetments sloped at 3:1 or less to near-vertical rockeries and vertical rigid structures constructed of artificial materials like concrete.
 - e. Avoidance Measures. Techniques used to minimize or prevent shoreline erosion that do not involve modification of the shoreline at the interface of land and water. Avoidance measures are applied through a site design approach, and include vegetation enhancement, upland drainage control, and protective walls or embankments placed outside of the shoreline setback or area of special flood hazard.
3. Technically Feasible. The provisions of LUC 20.25E.060.C (Technical Feasibility – General Requirements) do not apply when determining if a new shoreline

stabilization method is technically feasible, instead the provisions of paragraph F.3 of this section apply.

- a. The determination of whether a particular avoidance or stabilization measure is “technically feasible” shall be made by the Director as part of the decision on the underlying permit after consideration of a report prepared by a qualified professional addressing the following factors:
 - i. Site conditions, including slope, beach configuration, nearshore depth, potential for flooding, and proximity of primary structure to ordinary high water mark;
 - ii. Consideration of wind direction, velocity and frequency, fetch, probable wave height, and frequency;
 - iii. The level of risk to the primary structure, public facility or public use structure presented by the rate of erosion over a three year period and the ability of the proposed measure to mitigate that risk;
 - iv. Whether the cost of avoiding disturbance of shoreline processes and functions is disproportionate as compared to the environmental impact of proposed disturbance, including any continued impacts on functions and values over time; and
 - v. The ability of both permanent and temporary disturbance to be mitigated.
 - b. Shoreline stabilization measures found to be technically feasible shall comply with the standards set forth in paragraph F.4 of this section.
4. New or Enlarged Shoreline Stabilization Measures.
- a. When Allowed. New or enlarged shoreline stabilization measures shall be permitted only to protect existing primary structures, public facilities, or public use structures. Shoreline stabilization measures shall be allowed only where avoidance measures are not technically feasible.
 - b. Type of Shoreline Stabilization Measure Used. Where a new or enlarged shoreline stabilization measure is allowed, soft shoreline stabilization measures shall be used, unless the applicant demonstrates, in accordance with paragraph F.3 of this section, that soft shoreline stabilization measures are not technically feasible. Only after the Director determines that soft shoreline stabilization measures are not technically feasible, will hard shoreline stabilization measures be permitted. Provided, that developed sites with less than 10 feet between the primary structure and the ordinary high water mark are assumed to require some form of hard stabilization and applicants are not required to demonstrate technical feasibility. This provision

does not apply to legally-established stabilization measures in the Shoreline Residential Canal environment.

- c. Options for Soft Stabilization. **Plate XX [insert chart from Green Shorelines material]** provides guidance on the range of shoreline stabilization measures that may be considered, based on the unique characteristics of the subject property and shoreline. Options for soft stabilization should be based on the practicality and viability of the measure when considering near shore and yard slope, average wave energy and direction, frequency of large erosion-causing events, and shall employ the following hierarchy of preference:
- i. Soft stabilization constructed of natural materials utilizing bioengineering techniques including slope contouring, beach nourishment, protective coconut fiber berms, fascines, live staking, and other vegetative stabilization to hold soil and gravel in place.
 - ii. Soft stabilization as described in paragraph F.4.c.i of this section integrated with large boulders, large logs and other coarse woody debris, and partial use of rigid structures where required to protect existing rigid structures on abutting properties.
 - iii. Soft stabilization as described in paragraph F.4.c.ii of this section and incorporating limited use of rigid structures constructed of rock or artificial materials and located as an additional safety measure as far as technically feasible from ordinary high water mark while still ensuring the long-term safety and stability of the primary structure.
- d. Options for Hard Stabilization. New or enlarged hard stabilization measures require a demonstration that avoidance or soft stabilization measures are not technically feasible as described in paragraph F.3 of this section. Hard stabilization shall employ the following hierarchy of preference:
- i. Hard stabilization constructed of quarry rock, rip-rap or similar materials at a slope gradient not to exceed 3:1 and utilizing bioengineering techniques including slope contouring, beach nourishment, live staking, and other vegetative enhancement.
 - ii. Hard stabilization as described in paragraph i of this section, but where slope gradient and distance to the primary structure is such that a 3:1 slope cannot reasonably be achieved and where vegetative enhancement is confined to live staking and vegetative

- enhancement below ordinary high water or at the top of the wall. Such hard stabilization shall not exceed a slope gradient of 2:1.
- iii. Hard stabilization utilizing rigid, near-vertical structures at a slope gradient not to exceed 1.5:1 constructed of quarry rock or artificial materials and utilized on developed sites where the distance between the primary structure and ordinary high water mark is 10 feet or less. Near-vertical stabilization shall be the minimum height necessary, and shall not exceed 48 inches in height as measured from the bottom of the footing.
- e. Location. When allowed, new shoreline stabilization measures shall be located at or behind the ordinary high water mark. Where a documented area of special flood hazard exists, stabilization measures shall be located at the upland edge of the area of special flood hazard, except that soft stabilization measures conforming to paragraph F.4.c of this section may be located in the area of special flood hazard. Where allowed, hard stabilization measures conforming to paragraph F.4.d.iii of this section may be located in the area of special flood hazard provided that their impact on the flood storage capacity of the floodplain is minimal. Stabilization measures are prohibited waterward of the ordinary high water mark, except that soft shoreline stabilization measures may be located waterward of the ordinary high water mark when they incorporate approved aquatic habitat improvement elements. In no event may a shoreline stabilization measure modify the lake bottom waterward of the ordinary high water mark, except for the purpose of gravel or beach augmentation, placement of anchored large woody debris, or other specified habitat enhancements.
- f. Mitigation and Restoration. Areas of new permanent disturbance and all areas of temporary disturbance associated with new shoreline stabilization measures shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).
- g. Retention of Setback with New Soft Stabilization. Where an applicant replaces a legally-established existing hard shoreline stabilization measure with a soft shoreline stabilization measure or an avoidance measure, any applicable structure setback shall continue to be measured from the ordinary high water mark that existed with the hard shoreline stabilization measure. Such ordinary high water mark shall be located by a survey prior to removal

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of the hard shoreline stabilization measure. The applicant shall record a survey or other instrument clearly delineating the ordinary high water mark location as it existed prior to the removal of the hard shoreline stabilization measure with the King County Division of Records and Elections, or its successor agency.

- h. Expansion of Shoreline Jurisdiction from Shift in the Ordinary High Water Mark. If implementing a shoreline stabilization measure allowed by the Bellevue SMP and intended to improve ecological functions results in shifting the ordinary high water mark landward of the pre-implementation location, and results in an expansion of the shoreline jurisdiction onto any property other than the subject property, then:
 - i. The City shall notify the affected property owner in writing; and
 - ii. The City may propose to grant relief from the applicable shoreline regulations resulting in expansion of the shoreline jurisdiction. The proposal to grant relief must be submitted to the Department of Ecology with the required shoreline permit under the procedures established at LUC 20.25E.160 and 20.25E.180. If approved, notice of the relief granted, in a form approved by the City Attorney, shall be recorded on title with the King County Division of Records and Elections, or its successor agency.
5. Repair and Replacement of Existing Shoreline Stabilization.

Existing legally-established stabilization measures may be repaired or replaced with a comparable structure when the proposal meets the following applicable requirements:

a. Comparable Size. Repairs and replacements shall not expand the lateral extent, add to the height or increase the width of an existing stabilization measure unless otherwise permitted by the terms of this paragraph. Refer to LUC 20.25E.080.F.4 for requirements applicable to enlarged shoreline stabilization measures.

b. Comparable Location. When existing shoreline hard stabilization is being replaced, it shall be located landward of the Ordinary High Water Mark except that replacement stabilization may encroach waterward of the ordinary high water mark provided 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. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

c. Comparable Design. Existing vertical concrete shoreline stabilization measures may not be replaced with a similar structure unless there is no technically feasible alternative. Except that existing legally-established hard stabilization measures located in the Shoreline Residential Canal environment may be repaired or replaced in their vertical concrete configuration, and the applicant shall not be required to demonstrate that there is no technical feasibility alternative. Nothing in this requirement prevents vertical concrete shoreline stabilization measures from being replaced with a soft or hard shoreline stabilization measures as described at 20.25E.080.4.c and d.

d. Limitation on Comparability. Repairs and replacements meeting the requirements of this paragraph are permitted so long as the materials, size, location and design of the stabilization measure does not result in a net less of shoreline ecological function.

6. Removal of Existing Shoreline Stabilization. Shoreline stabilization measures may be voluntarily removed in support of shoreline mitigation or restoration when the proposal meets the following applicable requirements:
 - a. The area impacted by removal is restored or replanted pursuant to an approved mitigation plan (refer to LUC 20.25E.060.D), designed, located, sized and constructed to ensure no net loss of ecological function;
 - b. The impact on adjacent properties is minimized and existing stabilization structures are protected;
 - c. The applicant records an agreement recognizing that the installation of future hard stabilization is prohibited; and,

- d. Short-term construction impacts are minimized through the use of appropriate best management practices to minimize impacts to water quality, appropriate timing restrictions, and stabilization of exposed soils following construction.

DRAFT

Comment Number	Subject	Status	Who will Follow-up	SMP Team Edit
81	Code references	To be done in next redraft	Carol will do in next draft	Completed
82	Site Planning Provisions	Unresolved - as to some provisions left in	Think Carol to take another stab	See comment response to #83-112
83	Site Planning Provisions	Unresolved Issue: whether expansions/teardowns are "new"	Unclear who to resolve - <i>any new development is regulated by this section (whether teardown or not)</i>	New refers to expansions and teardown and rebuilds. WSSA requested edit not within scope of prior Planning Commission direction.
84		Dropped Issue/Non-Issue		See WSSA comment
85	Shoreline Stabilization	Unresolved Issue: Apply to Vacant lots, not teardowns/expansions	Unclear who to resolve - <i>no, shouldn't this at a minimum apply to teardowns?</i>	New refers to expansions and teardown and rebuilds. WSSA requested edit not within scope of prior Planning Commission direction.
86-89		Agreement Reflected in 9/7 redraft		See WSSA comment
90	Parking& Driveways	Agreed keep 2.b.i.	NA	See WSSA comment
91	Parking& Driveways	Agreed delete 2.b.ii & refer to City Code	Carol will do in next draft - <i>cross reference issue</i>	Completed
92 & 93	Parking& Driveways	Issue: 2.b.iii & iv (Grading/BMPs)	Carol to come up w/ solution - <i>cross reference issue</i>	Completed-cross referencing
94	Accessory Utilites	Agreed: "shall be consolidated when reasonable"	Carol to add to next draft - <i>cross reference issue</i>	Completed
95		Agreement Reflected in 9/7 redraft		See WSSA comment
96-97	Clearing & Grading	Carol to re-ck if can refer to city code	Carol to come up w/ solution - <i>cross reference issue</i>	96-Completed-cross referencing 97-WSSA requested edit not within scope of prior Planning Commission direction
98-99		Agreement Reflected in 9/7 redraft		See WSSA comment

Comment Number	Subject	Status	Who will Follow-up	SMP Team Edit
100	CAO Modificaion	Plan: PC "Oks" SMP; CAO revise; PC to approve	Carol to come up w/ revision - <i>later, subsequent amendment package to be prepared after PC finalizes recommendation on LUC 20.25E.</i>	(Incorporating by reference)Necessary conformance amendments will be drafted once final overlay language is agreed upon by the Planning Commission.
101-102	Stormwater	Dropped Issue/Non-Issue		See WSSA comment
103	Stormwater-Code Ref's	To be done in next redraft	Carol will do in next draft - <i>cross reference issue</i>	Completed
104	Stormwater-Septic Sys's	Refer to City-Code	Carol to ck if can do - <i>cross reference issue</i>	Completed-reference not needed enforced by other city-wide provisions of Bellevue City Code
105	Materials	CH to "shore up" water quality & cross-ref Product	Carol to ck - <i>cross reference issue</i>	Completed
106	Materials	Dropped Issue/Non-Issue		See WSSA comment
107	Subdivisions: CAO	To be done in next redraft	Carol will do in next draft - <i>later, subsequent amendment package to be prepared after PC finalizes recommendation on LUC 20.25E.</i>	Platting provision apply without need for cross reference. Any necessary conformance amendments will be drafted once final overlay language is agreed upon by the Planning Commission.
108-111	Subdivisions	Agreement Reflected in 9/7 redraft		Platting provision apply without need for cross reference. Any necessary conformance amendments will be drafted once final overlay language is agreed upon by the Planning Commission.
112	Subdiv: Shared Moorage	Agreed: delete in next redraft	Carol will do in next draft - <i>PC Direction</i>	Completed
113	Dimensional Req's	Non-Issue: Redraft clarifies refer to City-code		See WSSA comment
114	" " "	Dropped Issue/Non-Issue		See WSSA comment

Comment Number	Subject	Status	Who will Follow-up	SMP Team Edit
115	Chart: Applicab. & Ph Lk	Agreement Reflected in 9/7 redraft		See WSSA comment
116-117	Chart	Dropped Issue/Non-Issue		See WSSA comment
118	Chart: Footnotes # 6&7	Agreed: footntotes # 6&7 to be deleted	Carol will do in next draft - <i>PC Direction</i>	Completed
119-120	Chart:setbacks	Agreement Reflected in 9/7 redraft		See WSSA comment
121	Chart: Footnote # 2	Agreed: delete in next redraft as to Ph Lk	Carol will do in next draft - <i>PC Direction</i>	Completed
122	Structure vs. Building	Agreed: to go w/"Structure" re: City-code - CK to come up w/ "qualiifiers"	Charlie to come up w/ "qualifiers"	See WSSA comment
123	Chart: Footnote # 1 (was #4/5 in CK comment)	Issue: Exisitng vs average grade	Charlie to re-ck, may be OK	See WSSA comment
New(124a)	Chart: Footnotes # 3&5	Issue: change to 35% & 50% (from Code) & state that: R-5 & Multi-Res - Are the exceptions.	Carol will do in next draft	Completed
124(nowb)	Impervious Surfaces	Dropped Issue/Non-Issue		See WSSA comment
125	Impervious Surfaces	Dropped Issue/Non-Issue		See WSSA comment
126-127	Impervious Surfaces	Agreement Reflected in 9/7 redraft		See WSSA comment
128	Impervious Surfaces	Dropped Issue/Non-Issue		See WSSA comment
129-134	Impervious Surfaces	Agreement Reflected in 9/7 redraft		See WSSA comment
135	Setback:Structure vs.Bldg	Unresolved	Charlie to review if OK w/ Structure vs. Building	See WSSA comment

Comment Number	Subject	Status	Who will Follow-up	SMP Team Edit
136	Setback: Flood Haz. Zones	Issue: E.1.a.-last sentnce Charlie: Flood haz. Has no buffer/buffer setback	Carol will review for solution	No modification is suggested. This section applies to measurement of shoreline structure setbacks. There is no setback from areas of special flood hazard in the Critical Areas Ordinance. Also – the OHWM “adjustment” associated with the 100 year floodplain applies only to bulkheads which are not considered to be a structure under LUC 20.25E.280.
137-139	Footprint Exception	Dropped Issue/Non-Issue		See WSSA comment
140-142	Setback Issues	Agreement Reflected in 9/7 redraft		See WSSA comment
143	Setback Allowances	Agreed: Don't move provison to Nonconforming - AND - 2.a.i.-line 3- Delete "or"- so says "shoreline bldg setback" not "shoreline OR bldg setback"	Carol will do in next draft	Completed
143-prt 2	Ref to par.#3	All OK - provided footnotes 6 & & are deleted	Carol will do in next draft	Completed
146-243	Setback Provisons	Agreement Reflected in 9/7 redraft (Except #160 (Maintencnace) will get fixed in Nonconforming)		See WSSA comment
Ref. to .080	Shoreline Stablization	Issue: redraft still confusing	Charlie to come up w/ solution	Requested edits were outside the scope of prior Planning Commission direction.
244a	Boat/waterlifts	Issue: Defintions not accurate as to contact w/ substrate	Carol to delete H.2.c.d.i.j	Completed
244b-245	Platform and Repair	Agreement Reflected in 9/7 redraft		See WSSA comment

Comment				
Number	Subject	Status	Who will Follow-up	SMP Team Edit
246-247		Dropped Issue/Non-Issue		See WSSA comment
248	Docks: Gen Requirments	Charlie provided clarifying language for here and footnote #3	Carol agreed & may slightly modify- re: word "namely" - <i>shoreline update team working on approach as described by Michael. Essentially keep just setbacks and describe process with other agencies.</i>	Completed
249	Docks: Gen Requirments	Agreement Reflected in 9/7 redraft		See WSSA comment
250-251	Materials	Agreed: Carol to cross-ref to Agencies	Carol will do in next draft - <i>cross reference issue</i>	Completed-consistency edit with Comment 105
252	Dock Lighting	Dropped Issue/Non-Issue		See WSSA comment
253	Accidental Destruction	Staff noted PC directed: 1) 2yr for permit (no 1 yr), 2) materials, 3) restore area WSSA noted PC also directed: 1) strike "outside control of owner", & 2) "mitigation" to be to "preconstruction conditions"	Carol will do in next draft - <i>PC Direction However, WSSA unsure fully noted change: "preconstruction conditions"</i>	Completed
254	Shoreline Special Report	Agreement Reflected in 9/7 redraft		See WSSA comment
255	"Reconfigured"	Agreed: "replacement" to reconfigured" still needs change at Chart (WAS changed at H.4.)	Carol will do in next draft	Completed

Comment				
Number	Subject	Status	Who will Follow-up	SMP Team Edit
256	Footnote #3	Issue: too vague. Charlie gave language	Carol agreed & may slightly modify- re: word "namely" - <i>shoreline update team working on approach as described by Michael. Essentially keep just setbacks and describe process with other agencies.</i>	Completed
257	"Reconfigured"	Agreed: "replacement" to reconfigured" still needs change at Chart	Carol will do in next draft	Completed
257-Prt2	Ph Lk dock dimensions	WSSA to get feedback from Ph LK, eps. as to 6 ft stability issue & length	WSSA	Requested edits were outside the scope of prior Planning Commission direction.
258	Min. Ell	Agreed: Change title (pg 27) to minium distance to Ell	Carol will do in next draft	Completed
		Other concerns: non-issue w/ new footnote #3 language		
259	Platform location	Non-issue w/ new footnote #3 language		See WSSA comment
260-266	Misc dock dimensions	Agreement Reflected in 9/7 redraft		See WSSA comment
267	Mooring Piles	Dropped Issue/Non-Issue		See WSSA comment
268	decking language	Other concerns, non-issue w/ new footnote #3 language		See WSSA comment
269a	"Reconfigured"	Agreed: "replacement" to reconfigured" still needs change at Chart	Carol will do in next draft	Completed

Comment Number	Subject	Status	Who will Follow-up	SMP Team Edit
New	Footnote#2-Lift Setback	Issue: WSSA requested delete "boatlifts,waterlifts" from 10 ft dock setback. WSSA to discuss internally & give feedback as to if can withdraw objection.	WSSA	WSSA requested edit not within scope of prior Planning Commission direction. Appeal to SHB just raised this issue and its impact on navigability, and remains on-going point of concern between property owners. Fashioned after accessory structures provisions of LUC 20.20.125 that allows structures to encroach into required setback with permission of adjacent property owner.
269b	Footnote #3	Issue: too vague. Charlie gave language	Carol agreed & may slightly modify- re: word "namely" - <i>shoreline update team working on approach as described by Michael. Essentially keep just setbacks and describe process with other agencies.</i>	Completed
270-272	Misc dock dimensions	Agreement Reflected in 9/7 redraft		See WSSA comment
273 a&b	"Reconfigured"	Agreed: "replacement" to reconfigured" still needs change at Footnotes & at provision bottom of pg 29 (footnotes page)	Carol will do in next draft	Completed
274 a	Boathouses	Agreed: new boathouses - add "prohited waterward of OHWM"	Carol will do in next draft	Completed
274 b	Open-sided moorage covers	WSSA to research	WSSA	Completed
275-286	Dock Requirements	Agreement Reflected in 9/7 redraft		See WSSA comment

Comment Number	Subject	Status	Who will Follow-up	SMP Team Edit
278 a&b	Grating	a) Agreed: Per PC, grating only required for reconfigured docks, not repair. b) Note: Klinge comment on 50% & piles is resolved (deleted) in this draft	Carol will do in next draft	Completed
288-292		Agreement Reflected in 9/7 redraft (or for # 290 - is resolved under #278a)		See WSSA comment
293-295	Boat/Watercraft Lifts	Agreed: Four lifts (any kind) will be allowed. OK w/ preference for attached lifts, (Note: staff may want to modify language as all lifts have contact w/ substrate - per industry experts) Agreed: to eliminate 6.b. "Location requirement".	Carol will do in next draft	293-completed 294-No modification in total number is included. WSSA requested edit not within scope of prior Planning Commission direction. 295-consistency edit with locational restrictions on Ell structures. Consistency edit with Comment 244a as there is no longer any distinction between freestanding and attached lifts. WSSA requested edit to remove locational requirement not within scope of prior Planning Commission direction.
296-297	Canopies	WSSA to Research	WSSA	Completed
298-324	NON-CONFORMING	Agreed: 9/7 draft confusing -- Carol to re-do. Agreed: Intent was to make boathouses nonconforming, not docks/bulkheads/Res. Accordingly, later par. - on Nonconforming Res. - to be moved/modified/deleted.	Carol to come up w/ solution	Completed however 308-313 WSSA requested comment to remove 50 percent threshold not within scope of prior Planning Commission direction.

Attachment C - WSSA Comments on Revised Draft

From: Charlie Klinge [mailto:klinge@GSKLegal.pro]

Sent: Monday, November 05, 2012 4:24 PM

To: Helland, Carol; wsrh93a@msn.com; askoog@kiddermathews.com; llyford@nwtzl.com; scotts@emailswa.com

Cc: Brennan, Mike; Paine, Michael; Bedwell, Heidi; Pyle, David; Drews, Catherine

Subject: RE: Bellevue SMP: WSSA Response on Issues

Please see attached tentative comments on behalf of WSSA.

More input to come on Nonconforming Development, but see this comment in my email of October 18:

Boathouses: Comment # 274a, (.065 pg.30 WSSA Meeting edits): WSSA accepts prohibition on new boathouses. The provision is confusing because it applies overwater restrictions to all boathouses even though the boathouse may not be overwater. RCW 90.58.620(3) (HB 5451) affords the City the authority but not the mandate to restrict redevelopment, expansion, or replacement of Boathouses *that are located in hazardous* areas including floodplains i.e. overwater structures. Boathouses on land should be covered by the conforming rules applicable for non-overwater development. RCW 90.58.620(3) does not alter the normal maintenance and repair exemption in 90.58.030(3)(e)(i). So, boathouse repairs should be allowed outright, and replacement may be the normal way to repair a boathouse. This point is recognized in WAC 173-27-040(2)(b): "Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment." WSSA wants to support the ability to repair and replace existing overwater boathouses because that will cause no new impact on shoreline ecological functions. WSSA has no position on other changes deemed expansion of boathouses.

Charlie Klinge

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From: CHelland@bellevuewa.gov [mailto:CHelland@bellevuewa.gov]

Sent: Friday, October 26, 2012 1:04 PM

To: Charlie Klinge; wsrh93a@msn.com; askoog@kiddermathews.com; llyford@nwtzl.com; scotts@emailswa.com

Cc: MBrennan@bellevuewa.gov; MPaine@bellevuewa.gov; HBedwell@bellevuewa.gov; DPyle@bellevuewa.gov;

CDrews@bellevuewa.gov

Subject: FW: Bellevue SMP: WSSA Response on Issues

Hello Charlie and WSSA Representatives – attached please find the second responsive re-draft to WSSA comments on the Shoreline Overlay draft amendments applicable to residential development. In addition to transmitting the revised

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draft, this email describes how staff approached the revisions, what is indicated by the highlighting and the bubble comments, and how staff has responded to the points raised in the below-attached email from October 18. It is my observation that we have narrowed the field of items that will need additional Planning Commission input. As you will recall, the next engagement date with the PC is scheduled for November 14. It is my hope that agreement can be reached between WSSA and staff on the following:

1. Revision language and
2. The short list of outstanding items that remain where additional feedback is necessary from the PC.

It would be helpful to have WSSA's feedback on these two items **by November 2nd**. This will allow specific issues to be identified for Planning Commission conversation in the packet materials that need to be finalized by November 5th for the November 14 study session packet.

Approach to Revisions – the agreed upon outcome of the review approach was that staff would categorize comments into one of three categories.

1. Comment addressed in a prior draft release (through July 5, 2012).
2. Comment within the scope of Planning Commission review and agreement reached in principle on necessary code amendment language.
3. Comment issue remaining.

This approach was described in the packet materials for the September 26 study session before the Planning Commission, and staff has continued to organize the revisions to reflect this categorization. I am pleased to say that I believe the attached draft revisions largely address all the issues falling within category 1 and 2 above. These are identified in the revised draft with highlights and with comment bubbles as described below. We also did a very thorough review of each cross-reference contained in the draft and followed the direction provided by Pacific Builders Development v. Chelan County as it related to incorporation by reference. At this point, the **ONLY** sections of the general land use code that are intended to be incorporated by reference into the SMP and reviewed by Ecology are:

1. Critical Areas Overlay (LUC 20.25H as it will be amended to comport with the Shoreline Overlay amendments)
2. Impervious Surface Area provisions (LUC 20.20.460)
3. Tree Preservation provisions (LUC 20.20.900)
4. Definitions

The City-wide code continues to apply, but it has been made clear in each cross reference that sections other than those listed above are only identified for applicant informational purposes.

Approach to Highlighting. Two colors were employed in the attached draft. Green indicates responses to previously provided Planning Commission direction received through September 26th. Yellow indicates responses to WSSA comments that are within the scope of direction previously provided by the Planning Commission. The track changes is quite distracting at this point, and you might want to view the document in final draft form with particular attention paid to the highlighted sections and comment bubble. The track changes continued to be seen as necessary, however, to clearly indicate for the public where changes had been made and when.

Approach to Bubble Comments. The bubble comments address each action item that was assigned to me in the 9/13/12 Summary of Meeting Outcomes that was sent by Anita on September 21, 2012. Comments responsive to the action items contained in that matrix are identify by a comment bubble that says: **Oct 2012 WSSA Comment XX**. Each of the entries related to a specific action item is keyed back to the comment numbers used by Anita in her matrix. Revisions intended to address consistency in cross-referencing are identified as: **Oct 2012 WSSA Comment (cross reference or incorporation by reference)**. We hope that this labeling helps to streamline your review of the revised draft. We have included revisions that address the vast majority of the WSSA comments; however, there are a couple of places where we have identified the request as outside the scope of the prior Planning Commission direction. In these instances, further revisions were not provided. Please note, that in addition to being outside the scope of the direction provided by the PC, most of the requested edits where further revisions were not provided would also create a circumstance that resulted in city-wide codes being applied differently to properties located within and outside the Shoreline Overlay. Such a result would create a new construct, with implications beyond the shoreline overlay, that requires PC consideration.

Attachment C - WSSA Comments on Revised Draft

[Response to points raised in Oct 18 email.](#) These responses are imbedded in the email below in [blue](#).

I hope this information is useful to you. We look forward to hearing what you think about this draft. Have a nice weekend. Carol

From: Charlie Klinge [<mailto:klinge@GSKLegal.pro>]

Sent: Thursday, October 18, 2012 4:30 PM

To: Helland, Carol; Paine, Michael; Brennan, Mike

Cc: Martin Nizlek (wsrh93a@msn.com); Anita Skoog (askoog@kiddermathews.com); Lyford, Laurie (llyford@nwtzl.com); Scott Sheffield (scotts@emailswa.com)

Subject: Bellevue SMP: WSSA Response on Issues

Hello Team:

This email is a follows up on behalf of WSSA regarding the matters we said we would look into.

I was working on this email today and then received the email from Michael Paine with a new approach to the dock chart—that email is below my signature line. It was clear to us that the Planning Commission direction was to have with certain limitations similar to what was in the Chart in the Redraft subject to the flexibility of making changes if approved by the Corps and WDFW. The new approach in the below email appears to eliminate all chart restrictions in favor of a vague standard and the option to get Corps and WDFW approval. That language came from the WAC does not make that language appropriate regulatory language so it will not be acceptable without an explanation of the meaning of that language, but if that was acceptable then it would replace what is proposed in the Chart. We do not think that this is what the PC supported and WSSA is not in favor of this approach.

Regarding other issues:

1. Shoreline Stabilization: We indicated that we would work on language to address residential regulations for repair and replacement. Please find attached a draft proposal.

Requested edits were outside the scope of prior Planning Commission direction.

2. Phantom Lake Dock Standards: Comment # 257 (Part 2) – Dock Dimension Standards Chart: WSSA's input is that Phantom Lake dock dimensions should be as follows: Dock size maximum 400 SF; walkway width maximum 6 feet (due to stability issues and no concerns needing a lesser width); dock length maximum 100 feet; and, no restriction on ell/platform.

Requested edits were outside the scope of prior Planning Commission direction.

3. Boatlifts/Watercraft Lifts Allowed in Setback: Between comment 269a & 269b re: prohibiting watercraft lifts in 10 foot setback (.065 Footnote #2 to Dock Standards Chart – pg.29): WSSA's input is to eliminate "boatlifts and watercraft lifts" from the 10 foot setback limitation.

Requested edits were outside the scope of prior Planning Commission direction.

4. Boathouses: Comment # 274a, (.065 pg.30 WSSA Meeting edits): WSSA accepts prohibition on new boathouses. The provision is confusing because it applies overwater restrictions to all boathouses even though the boathouse may not be overwater. RCW 90.58.620(3) (HB 5451) affords the City the authority but not the mandate to restrict redevelopment, expansion, or replacement of Boathouses *that are located in hazardous* areas including floodplains i.e. overwater structures. Boathouses on land should be covered by the conforming rules applicable for non-overwater development. RCW 90.58.620(3) does not alter the normal maintenance and repair exemption in 90.58.030(3)(e)(i). So, boathouse repairs should be allowed outright, and replacement may be the normal way to repair a boathouse. This point is recognized in WAC 173-27-040(2)(b): "Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or

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environment.” WSSA wants to support the ability to repair and replace existing overwater boathouses because that will cause no new impact on shoreline ecological functions. WSSA has no position on other changes deemed expansion of boathouses.

Draft revised to reflect WSSA comment. Refer to Comment [CoB 97 and CVH 129].

5. Open Sided Boat Moorage Covers: Comment #274b, (.065 pg. 30 WSSA Meeting edits), a better definition or description is needed, for example, Boat Shelter with Permanent Roof and Open Sides. I have seen other definitions that describe a "Boathouse" as a docking facility with a permanent roof with or without sides and "Canopy" as an open structure with a flexible fabric roof. WSSA's input is that a Boat Shelter with Permanent Roof and Open Sides should be subject to the same repair and replacement provision supported for Boathouses. Otherwise, the first sentence of the provision allowing such structures with a Special Shorelines Report is acceptable, but the second sentence should be deleted because it ties the size to the dock and a raised roof does not have the same impacts.

Draft revised to reflect WSSA comment. Refer to Comment [CoB 98 and CoB 101].

6. Boat/Waterlifts: Comments #293-295 (.065 Pg.32),

- a) Eliminate "to eliminate disturbance of the lake substrate" (due to fact all lifts DO have contact w/ substrate) – preference for "attached" is OK
- b) Simply limit number of lifts to 4, without preference to type.
- c) Regarding distance from OHWM, Corps regulates depth, so simply say "as approved by State/Fed agencies", and do not designate depth or distance from OHWM.
- d) Regarding canopies, WSSA believes that the Corps regulates canopies so there does no need for any City restriction.

Draft revised to reflect WSSA comment. Refer to Comment [CoB 135, CoB 136 and CoB 137].

Charlie Klinge

Charles A. Klinge
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Attachment C - WSSA Comments on Revised Draft

WSSA COMMENTS TO SHORELINE MASTER PROGRAM UPDATE TEAM (11/5/2012)

These Comments represent tentative comments subject to change after further input from WSSA members.

Generally, the proposed changes by Staff contain numerous positive improvements. WSSA appreciates the work done to make the SMP more acceptable. The disclaimer would be that WSSA is attempting to speak as an organization and individuals may have different views, and also that WSSA's non-objection may mean that WSSA finds the provision acceptable or it may mean that WSSA is compromising by not continuing a valid objection. Despite the disclaimer, the current draft contains many good changes that will not be commented on as the focus will remain on issues of concern.

The following comments are called out as Revision Language and Outstanding Item. Revision Language means that only a language change is needed to make the provision acceptable. Outstanding Item means that based on staff comments it is believed that the provision will require debate at the Planning Commission.

20.25E.065 Residential Shoreline Regulations

B. General Requirements

B.2. Site Planning

Revision Language: Amend as follows: “New residential development (including expansion or tear down of existing development) shall comply . . .”

Comment: “New” admittedly refers to any “expansion” as well as “tear downs,” but there is no clarity in using the term “new” without a qualification.

C. Shoreline Dimensional Requirements

Revision Language: Comment: C.1. references “uses” which is confusing. We think you meant “all new residential development and residential development that is proposed for modification”

Revision Language: C.2. was changed by adding “now or as hereafter amended” but that is redundant.

Comment: Reference to general city code is always to amended version. If this was incorporation, which it is not, then such a reference is ineffective under Shoreline law.

Revision Language: Chart: Add new Note (5) to Shoreline Residential (SR)/Shoreline Structure Setback box to read: “(5) Flood hazard critical area rules may require a larger structure setback for affected properties on Lake Sammamish and Phantom Lake.”

Comment: Clarification needed and important. Large number of properties do not get a 25 foot setback. Not only should citizens be informed, but Ecology and FEMA also need to be informed in reviewing SMP. This should only be a revision since it adds nothing of substance.

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D. Residential Impervious Surface

Revision Language/Outstanding Item: Not sure if this change is merely a revision or an outstanding item. Delete from the word “except” through the end as follows:

Impervious surfaces in the Shoreline Overlay District shall be are regulated pursuant to LUC 20.20.460 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP, ~~except that the impervious surface limits contained in LUC Chart 20.25E.065.C may only be modified through the shoreline variance process.~~

Comment: LUC 20.20.460 is comprehensive and addresses all necessary issues. The addition of the “except” language creates serious ambiguity that is unacceptable. WSSA initially suggested allowing a Special Shoreline Report as well as the Variance Option, but even that may not get to the core of this concern. What is it in 20.20.460 that would allow modifications that the “except” language is intending to prohibit? Provision 20.20.460 allows modification by using a critical areas report. Is that what the except language is intending to restrict? That seems inappropriate. Or, is there something else that the variance would apply to? Without effective clarification, the language should be deleted, which would default to normal rules.

E. Residential Structure Setback

Revision Language: Revise the definition of Structure at 20.25E.280 for greater clarification as follows:

Structure. A combination of materials constructed and erected permanently or temporarily on or under the ground or attached to something having a permanent location on, above, or below the surface of the ground or water. Not included in the definition of structure are vessels, shoreline stabilization, docks, residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height, ~~decks/patios/walkways/stairs less than 30 inches in height and associated railings, fire pits/barbeques not greater than 50 square feet combined total,~~ and similar improvements of a minor character.

Comment: Clarification needed consistent with staff explanation that setbacks do not apply to such improvements of a minor character.

H. Residential Moorage (Overwater Structures)

Outstanding Item—Chart Length of Docks: We are checking on this item due to addition of Variance restriction.

Outstanding Item—Chart Phantom Lake Dock Size, Walkway Width, and Ell Prohibition: The size should be a maximum of 400 SF. Walkway width should be a maximum of 6 feet to ensure stability of floating docks with no pilings. There is no basis to prohibit Ells if within the overall size limitation or approved by the State.

Comment: We are checking on this item re: confirming that State regulates though Hydraulic Project Approvals, thus making Alternative Standard effective. Phantom Lake is not a salmon bearing water body, so these restrictions are not based on any impact on shoreline ecological functions.

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Outstanding Item—Chart: Grating requirement altered only with variance. This concern is addressed below at 5.a

Outstanding Item—Chart: Minimum 10 foot setback should not be applied to boatlifts and watercraft lifts.

Comment: The primary purpose of the 10 foot setback is to ensure that boats brought in on that side of the dock will not cross the property line when moored. Boatlifts and watercraft lifts simply hold the boat at that location and create no additional intrusion. Requiring an extra 10 feet forces the docks closer to the middle of the property and on narrow 50 foot lots is highly restrictive.

Revision Language—Chart: Revise foot note (4) to read: “These standards or limitations may be modified through approval of larger dimensions or alternatives ~~materials~~ authorized”

Comment: The addition of “materials” is too limiting so a clarification is needed.

Revision Language: Revise 20.25E.065.H.4.b.v. Open-sided Boat Moorage Covers as follows: “One Open-sided ~~structural~~ Boat Moorage Cover may be allowed per residential dock.”

Comment: The reference to the defined term “Open-sided Boat Moorage Covers” should be used to avoid confusion. Otherwise, because the square foot limitation is adjustable though the Alternative Method, we are not objecting for that reason.

Outstanding Item-Repair and Replacement: Regarding 20.25E.065.H.5.a., the change is unworkable, as it appears that the Grating requirement for small repairs is added back in the revised provision. The old a. was deleted because repairing a small section of decking is not a reasonable time to require installation of grating, which requires new support infrastructure and avoidance of uneven surfaces. Old b. became the new a., but the reference inclusion of H.4. in the new a. is to the Chart, which includes the mandate for Grating as the decking material. The Chart makes that a variance only item, so the reference here to Note 3 and federal/state approval is inconsistent. Regardless, it would onerous to obtain federal approval to not install grated decking when repairing a small section of decking.

Outstanding Item-Boatlifts and Watercraft Lifts, Number: Regarding 20.25E.065.H.6.a., the change is unworkable. We thought this provision was going to be changed to read: “The combined number of boatlifts and watercraft lifts per dock is four.” The current provision is not workable in particular due to the inclusion of the third sentence: “The number of combined freestanding boat and watercraft lifts is limited to one freestanding boat lift and only two watercraft lifts per dock.” It is unclear whether “freestanding” was intended to be deleted as the others uses of that word were so deleted. But, the language of the third sentence would mean that if you have two boatlifts, then you can have no watercraft lifts, which seems to conflict with the second sentence.

Outstanding Item-Boatlifts and Watercraft Lifts, Location: Regarding 20.25E.065.H.6.b., the change is unworkable. The provision should read: “Boatlifts and watercraft lifts should be located 30 feet or more waterward of ordinary high water. However, if the water depth is 9 feet or more below ordinary high water at the 30 foot distance, then the lifts should be no closer to shore than needed to reach a water depth of 9 feet below ordinary high water.”

Comment: The provision as written is unworkable and confusing.

I.Nonconforming Residential Development

Outstanding Item: The changes are unworkable.

Comment: This provision was changed, but the changes are confusing and internally inconsistent. The purpose provision states that the “Section” is to regulate existing boathouses, but Part I is not so limited as it also addresses “Existing Residential Development within the Shoreline Structure Setback” and “Existing Moorage and Shoreline Stabilization.” More input to follow.

20.25E.080 Shoreline Modifications

Outstanding Item—C. Clearing and Grading: Staff comment CoB4 at C. Clearing, Grading, and Fill in the Shoreline states that this change may have “unintended consequences.” WSSA does not intend to take away potential avenues for property owners. The issue seems to be whether the clearing and grading requirements can be merged into .065, rather than having an entirely separate provision here also applicable to residential development especially when many of the provisions are not applicable to a residential site.

Revision Language: At C.1.c., the phrase “will result in *not* net loss” should be “will result in *no* net loss.”

Outstanding Item—F. Shoreline Stabilization, Applicability and F.4.a: We discussed the problem with the beginning language, but no change was made. The provision starts as follows: “Shoreline stabilization measures designed to protect existing primary structures, public facilities, or public use structures from shoreline erosion are allowed” The highlighted language adds an unnecessary qualification to the Applicability provision and hence the entire Part F. The same language is used at F.4.a. for New or Enlarged Shoreline Stabilization Measures. Shoreline stabilization for new development may be allowed too, with more restrictions, but potentially allowed. WAC 173-26-231(3)(a)(iii). Are these Bellevue provisions intending to prohibit shoreline stabilization for new private development in all instances? Similarly, the Repair and Replacement provision applies to all shoreline stabilization whether solely for primary structures or not, so the Applicability provision can be read to be too narrow. WSSA (Klinge Table) Comments 336, 338, 346.

Outstanding Item—F. Shoreline Stabilization, 5. Repair and Replacement of Existing Shoreline Stabilization: We previously provided language to address our concerns. The Staff proposed language is deficient for the following reasons:

- The provision is confusing and does not provide sufficient guidance about what is allowed.
- The Comparable Location is too restrictive and prevents improved replacement structures landward of the existing. The State regulation exception should be applied to all such situations and not just to the Shoreline Residential Canal Environment.
- There is no basis to prevent replacement of existing vertical bulkheads, since replacement causes no new impacts.

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- The provision on Limitation on Compatibility provides no guidance about what is comparable.

For these reasons, we have provided the following alternative language:

PROPOSED ALTERNATIVE F.5.

5. Repair and Replacement of Existing Shoreline Stabilization. This section applies to repair and replacement of existing legally-established shoreline stabilization measures. Existing legally-established hard stabilization measures may be repaired. Replacement means the construction of a new structure to perform shoreline stabilization functions of the previously existing structure which can no longer adequately serve its purpose. Existing legally-established shore stabilization structures or measures, including hard stabilization measures, may be replaced when the proposal meets the following requirements, which ensure that replacement structures are designed, located, sized, and constructed to assure no net loss of shoreline ecological functions:

- a. Lake Washington and Lake Sammamish. Replacement structures are allowed in all circumstances because there is a demonstrated need to protect residential properties and structures from erosion caused by waves due to boat traffic and wind driven storms.
- b. Phantom Lake. Replacement structures may be allowed if a qualified professional provides information that there is a demonstrated need to protect residential properties and structures from erosion.
- c. Comparable Design. The replacement structure should be comparable to the existing structure and may not constitute an addition or increase. The replacement structure may be an identical replacement. However, a replacement structure need not be exactly the same as the existing structure and can be constructed of different materials or methods, including different design features and modifications to size, consistent with the following requirements:
 1. Sloping Rock Revetments Preferred. Property owners are encouraged, but not required, to replace vertical walls with sloping rock revetments, which should be sloped at 3:1 or less unless special circumstances justify a greater slope. Sloping rock revetments must be located so that the top of the revetment is no further waterward than the top of the vertical wall. Sloping rock revetments shall be considered an acceptable replacement structure and not an addition or increase even though the size will be different than the vertical wall.
 2. Vertical Walls Not Preferred. Vertical walls are not an acceptable replacement structure for an existing non-vertical wall.
 3. No Addition or Increase. Replacement structures shall not add to, or increase, the length of the prior existing structure. Refer to LUC 20.25E.080.F.4 for requirements applicable to enlarged shoreline stabilization measures.
- d. Comparable Location. The replacement structure should be at the same location, subject to the follow qualifications:
 1. Where the existing structure is waterward of ordinary high water, replacement structures located at any point landward of the existing structure shall be considered an acceptable replacement structure.

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2. Sloping rock revetments replacing vertical walls must be located so that the top of the revetment is no further waterward than the top of the vertical wall.
3. An exception or clarification is for replacement structures where the residence was occupied prior to January 1, 1992. For that property, if overriding safety or environmental concerns are shown by a qualified professional, then the replacement structure may be constructed abutting the waterward side of the existing structure even though the existing structure is at or below ordinary high water. For example, a vertical or near vertical wall that is being replaced by construction of a vertical wall fronting the existing wall, then the new wall shall be constructed no further waterward of the existing wall than is necessary for construction of new footings. WAC 173-27-040(2)(c). As an alternative, a rock revetment may be constructed fronting the existing vertical wall as an allowed repair or replacement.
4. Soft shoreline stabilization measures used for replacement that provide restoration of shoreline ecological functions may be permitted waterward of ordinary high water.

e. Replacement With Soft Stabilization Allowed. Nothing in this provision precludes vertical concrete shoreline stabilization measures from being replaced with a soft or hard shoreline stabilization measures as described at 20.25E.080.4.c and d.

Outstanding Item—F. Shoreline Stabilization, 6. Removal of Existing Shoreline Stabilization:

Provision c. regarding title restrictions should be removed. The c. provision is counterproductive because property owners may resist title restrictions and thus potential removal projects will not occur.