

**(DRAFT) AGENDA**  
**Regular Meeting - Bremerton Planning Commission**  
**(Subject to PC approval)**  
**September 21, 2010**  
**5:30 P.M.**  
**345 – 6<sup>th</sup> Street**  
**Meeting Chamber – First Floor**

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- I. CALL TO ORDER**
  - II. ROLL CALL (quorum present)**
  - III. APPROVAL OF THE AGENDA**
  - IV. APPROVAL OF MINUTES:**
    - o August 17, 2010 Regular meeting.
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**V. PUBLIC MEETING**

**A. Call to the Public:** Public comments on any item not on tonight's agenda

**B. Public Workshop:**

- 1. Capital Improvement Programs (“CIPs”) – Update (L. Sehmel).
  - 2. Shoreline Master Program (SMP) educational workshop - “Structure of the Shoreline Master Program: Provisions for shorelines of statewide significance, water oriented uses, and public access” (Parametrix & N. Floyd).
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**VI. BUSINESS MEETING**

**A. Chair Report:** Chairman Hoell

**B. Director Report:** JoAnn Vidinhar.

**C. Old Business:**

- 1. Directional signage in downtown.
- 2. Gorst Watershed Technical Advisory Committee Participant.

**D. New Business**

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**VII. ADJOURNMENT:** The next regular meeting of the Planning Commission is  
October 19, 2010

Planning Commission meeting packets are available on-line at

[www.ci.bremerton.wa.us](http://www.ci.bremerton.wa.us)

**Minutes for  
City of Bremerton Planning Commission  
Regular Meeting**

**August 17, 2010**

**I. Call to Order**

The meeting was called to order by **Chairman Hoell** at 5:30 p.m.

**II. Roll Call**

Those present were: Commissioner Cockburn, Commissioner Jose, Commissioner Mosiman, Commissioner Tift, and Chairman Hoell. Commissioners Kosusko and Streissguth were excused. Quorum certified.

Also present: JoAnn Vidinhar, Lindsey Sehmel, and Pam Bykonen (DCD staff).

**III. Approval of Agenda**

**Chairman Hoell** introduced the agenda. **A motion was made by Commissioner Jose and seconded by Commissioner Tift to approve the agenda as presented.** It was agreed by general consensus to approve the agenda as presented.

**IV. Approval of Minutes**

The minutes of the Regular Meeting held on July 20, 2010 were presented for approval by Chairman Hoell. It was noted that a typographical error appeared on page three, paragraph nine; *Commissioner* should read *Commissioners*. **A motion was made by Commissioner Jose and seconded by Commissioner Tift to approve the Regular Meeting Minutes of July 20, 2010 as amended.** Called for a vote: Commissioner Cockburn: Yes; Commissioner Jose: Yes; Commissioner Mosiman: Yes; Commissioner Tift: Yes; Chairman Hoell: Yes. The motion carried.

**V. Public Meeting**

**A. Call To The Public** (public comments on any item not on tonight's agenda).

**Chairman Hoell** asked if there were any comments from citizens. Seeing none, she closed this portion of the meeting.

**B. 1. Public Workshop – SKIA Sub-Area Plan Overview:** **Lindsey Sehmel, City Planner**, gave an overview of the South Kitsap Industrial Area (SKIA) Sub-Area Plan. Through a Request for Proposal and interview process, the City chose Blumen Consulting Group to provide consulting services to support this project. The City has received a \$400,000.00 grant to fund this project; matching funds of \$200,000.00 will be in the form of City employee and project partner labor hours. Lindsey had distributed a packet containing detailed information on the sub-area plan project, deliverables, cost

estimates, and timeline. She will be available at the September meeting to answer any questions the commissioners may have.

**2. Public Workshop – Gorst Watershed Planning Grant:** **Lindsey Sehmel** continued her presentation with an update on the Gorst Watershed Planning Grant. The City of Bremerton received a comprehensive watershed planning grant for sustainable development and restoration of the Gorst Creek watershed in the amount of \$660,000.00 with a non-federal match of \$220,000.00. Project partners such as Kitsap County, the Suquamish Tribe, local property owners, Sustainable Bremerton and others will be contributing some of their labor hours toward that non-federal match. The watershed area is 20% City of Bremerton UGA and 80% Kitsap County. The project's objectives are to create watershed characterization, a comprehensive watershed plan, land use plan, and development regulations. The City will be working with Eric Baker of Kitsap County on the land use plan and development regulations with results from the watershed characterization. A Planned Action EIS, a Stormwater Plan, a Capital Improvement Plan, and a Corrective Action Plan are also included in the project goals. Parametrix has been selected to work on this project and it's anticipated that a scope of work will be presented to City Council on September 15, 2010 for approval.

Lindsey asked for a Planning Commission member to participate on the Technical Advisory Committee and for all Planning Commission members to attend the public workshops.

**Commissioner Tift** asked if the Navy has been requested to participate; **Lindsey** said it was, as some of the property in the project is owned or used by the Navy as a landfill.

**3. Public Workshop – Shoreline Master Program – “Non-conformities”:** **JoAnn Vidinhar, DCD Assistant Director**, began the educational workshop with an overview of what makes a structure or use/business non-conforming. A non-conforming use or structure is one that, although it was allowed when it was built or begun, is no longer allowed most likely because of a change to the zoning code or an increase of street width. One example is an older commercial garage or warehouse that is in a residential neighborhood. A use can be “grandfathered” as long as the business is not discontinued or vacant for more than one year. Non-conformities are further categorized as *benign* or *detrimental* depending on the impact it may have on surrounding properties. The Department of Ecology's guidelines for non-conformities within the shoreline are similar to current zoning codes but include factors such as “no net loss” which will be covered at the September workshop.

JoAnn reviewed the nonconformities portion of the current zoning code (BMC 20.54) and discussed the likelihood of the Department of Ecology agreeing or disagreeing with how the code could affect nonconformities along the shoreline and nonconforming properties not along a shoreline but still within the boundaries of shoreline protection.

The Shoreline Master Program update is a three year process that began in 2009. Staff is preparing for the public outreach portion of the update and has implemented a “Key Communicator” system where citizens attend workshops and then disseminate the information to their neighborhoods and social groups. DCD has until mid-2011 to complete a draft of the Shoreline Master Program to be submitted to the Department of Ecology for their review and comments.

**Chairman Hoell** closed the Public Workshop.

**VI. Business Meeting**

**A. Chairman's Report: None.**

**B. Director's Report: None.**

**C. Old Business: None.**

**D. New Business: Commissioner Jose** asked Staff who was responsible for directional signage, especially in the downtown portion of the city. He had heard from people visiting Bremerton that more signage is needed to direct people to the downtown sites such as the new parks. **JoAnn** said she would refer this request to the City's Public Works Department and possibly the Parks Department and report back at the September meeting. **Commissioner Tift** commented that the City may have to coordinate with the Washington State Department of Transportation, depending on if any signage would be located along a designated highway.

**JoAnn** reported that Vincent Akhimie has started as the new City of Bremerton Director of Public Works. Mr. Akhimie came to Bremerton from Florida.

**VII. Adjournment**

Meeting was adjourned at 6:12 p.m. The next Regular Meeting is scheduled for September 21, 2010.

Respectfully submitted by:

\_\_\_\_\_  
Andrea Spencer, Executive Secretary

Approved by:

\_\_\_\_\_  
Lois Hoell, Chairman

**CITY OF BREMERTON, WASHINGTON  
PLANNING COMMISSION AGENDA ITEM**

<b>AGENDA TITLE:</b> Staff Briefing on the 2011 Capital Improvement Plans
<b>DEPARTMENT:</b> Department of Community Development
<b>PRESENTED BY:</b> Lindsey Sehmel, Long Range Planner

## **Memorandum**

### **SUMMARY**

The City adopted a new Comprehensive Plan in December 2004. Comprehensive Plan amendments are usually processed on an annual cycle. However, there are no amendments scheduled for 2010 due to staff reductions and the work load of the Department of Community Development.

The updated Capital Improvement Programs (CIP) for the 2011-2016 cycle (attached) will be adopted by City Council in their annual budget process starting in October.

This information is being provided for your knowledge of the updates, future city projects, and the implementation of adopted plans. It is anticipated that the adoption of the CIP will become an annual update to the Comprehensive Plan. By updating the Capital Facilities Appendix of the Comprehensive Plan on an annual basis with the CIP, the City of Bremerton is in a better position to receive funding grants for the projects.

Please note that the information being presented is a draft of the CIP for the budget cycle and the numbers may change as the adoption process is finalized through City Council.

Finance staff will be available to answer any questions that you may have regarding the annual budget process. We look forward to your input on the process of the annual adoption of the CIP.

## City of Bremerton

### 2011 - 2016 Capital Improvement Plan

DRAFT - Estimated Budget Summary

Fund	2011	2012	2013	2014	2015	2016	Total
General Fund - Fire		229,000	1,128,000	928,000	578,000	50,000	2,913,000
General Fund - General Facilities	65,000	160,000	80,000	70,000		45,000	420,000
General Fund - Non-Departmental	410,585	410,565	410,039	409,065	410,400	410,700	2,461,354
Arterial Streets	6,638,000	3,070,000	2,720,000	70,000	70,000	70,000	12,638,000
Streets	265,000	225,000	225,000	155,000	115,000	75,000	1,060,000
Parking Operating		20,000	90,000				110,000
BKAT	25,000	25,000	25,000	25,000	25,000	30,000	155,000
1% for Arts	10,000	10,000	10,000	10,000	10,000	10,000	60,000
Conference Center Operating			42,500				42,500
Park Plaza Construction	6,500,000						8,500,000
Park Facilities	1,445,000	815,000	550,000	320,000	373,900		3,503,900
Boardwalk/Evergreen Park	270,000	50,000	30,000	30,000	30,000	80,000	490,000
Water Utility	3,930,000	2,760,000	5,630,000	4,555,000	10,280,000	1,170,000	28,325,000
Gold Mnt. Golf	163,000	160,000	160,000	160,000	160,000		803,000
Waste Utility	4,935,000	6,805,000	10,170,000	16,674,000	12,800,000	5,950,000	57,334,000
Storm Utility	471,000	1,170,000	443,000	270,000	270,000		2,624,000
Equip Rent & Res	504,600	1,913,200	1,346,700	1,127,460	1,537,100	688,500	7,117,560
Information Tech	10,000	60,000		60,000		60,000	190,000
<b>Grand Total</b>	<b>\$25,642,185</b>	<b>\$17,882,765</b>	<b>\$23,060,239</b>	<b>\$24,863,525</b>	<b>\$26,659,400</b>	<b>\$8,639,200</b>	<b>\$128,747,314</b>

**City of Bremerton**  
**2011 - 2016 Capital Improvement Plan**  
*DRAFT - Project Listing*

Fund/Department	Project	2011	2012	2013	2014	2015	2016	Total
1% for Arts	Public Art Work	10,000	10,000	10,000	10,000	10,000	10,000	60,000
	Total	10,000	10,000	10,000	10,000	10,000	10,000	60,000
Arterial Street	Arsenal Way/ Patten Improvements		2,500,000	2,500,000				5,000,000
	Arterial Street Signage	20,000	20,000	20,000	20,000	20,000	20,000	120,000
	Bremerton HWY Safety Improvements	940,000						940,000
	City Sidewalk Improvements	50,000	50,000	50,000	50,000	50,000	50,000	300,000
	Downtown Traffic Circulation Study Implementation	75,000						75,000
	Lower Wheaton Way Alignment	1,305,000						1,305,000
	Pacific Avenue Improvements - 6th St to 11th St	2,900,000	500,000					3,400,000
	SR303 11th Street and Warren Avenue Intersection	1,298,000						1,298,000
	SR304 Landscaping	20,000						20,000
	SR304 Traffic Studies	30,000						30,000
	Wheaton Way at Magnuson Improvements			150,000				150,000
	Total	6,638,000	3,070,000	2,720,000	70,000	70,000	70,000	12,638,000
Boardwalk/Evergreen	Park Development & Remediation Monitoring	270,000						270,000
	Remediation Monitoring		50,000	30,000	30,000	30,000	80,000	220,000
	Total	270,000	50,000	30,000	30,000	30,000	80,000	490,000
BKAT	BKAT Production Equipment Upgrades	25,000		25,000	25,000	25,000	30,000	130,000
	Computer Replacement		25,000					25,000
	Total	25,000	25,000	25,000	25,000	25,000	30,000	155,000
Conference Center	Kitchen Upgrade			42,500				42,500
	Total			42,500				42,500
ER&R	Replacement of City Vehicles & Equipment	504,600	1,913,200	1,346,700	1,127,460	1,537,100	688,500	7,117,560
	Total	504,600	1,913,200	1,346,700	1,127,460	1,537,100	688,500	7,117,560
Fire	Architectural Study for Fire Station Improvements		40,000					40,000
	Boat Trailer		10,000					10,000
	Breathing Air Compressors		71,000					71,000
	Bunker Gear Dryers		19,000					19,000
	Controlled Intersection of Sylvan/Sheridan & Olympus			200,000				200,000

**City of Bremerton**  
**2011 - 2016 Capital Improvement Plan**  
*DRAFT - Project Listing*

<b>Fund/Department</b>	<b>Project</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total</b>
Fire Continued	Electronic Sign for Station #1		70,000				50,000	50,000
	Emergency Generator for Fire Station #1							70,000
	Fire Engine Replacement			550,000	550,000	550,000		1,650,000
	Life-Pak Cardiac Monitor Defibrillator			28,000	28,000	28,000		84,000
	Remodel Fire Station #2			350,000				350,000
	Remodel Fire Station #3				350,000			350,000
	Video Conferencing Equipment		19,000					19,000
	<b>Total</b>		<b>229,000</b>	<b>1,128,000</b>	<b>928,000</b>	<b>578,000</b>	<b>50,000</b>	<b>2,913,000</b>
General Facilities	Equip. Services, 100 Oyster Bay - Enclose Work Bay		70,000					70,000
	Fire Station #, 5005 Kitsap Way - Reroof	45,000						45,000
	Fire Station #2 5005 Kitsap Way Dormitory Addition				70,000			70,000
	Fire Station #3 3031 Olympus Drive Dormitory Addition		10,000	70,000				70,000
	Fire Station #3, 3031 Olympus Dr., Custom Cabinetry						15,000	15,000
	Library 5th St. Planter Lighting						30,000	30,000
	Library 5th St. Water Fixtures		80,000					80,000
	Police Station, 1025 Burwell - Annex Roof	20,000						20,000
	Police Station, 1025 Burwell - Covered Parking			10,000				10,000
	Police Station, 1025 Burwell - HVAC improvements		160,000	80,000	70,000		45,000	420,000
	<b>Total</b>	<b>65,000</b>	<b>160,000</b>	<b>80,000</b>	<b>70,000</b>		<b>45,000</b>	<b>420,000</b>
Gold Mountain Golf	Annual Replacement of Capital Equipment	130,000	100,000	100,000	100,000	100,000		530,000
	Cart Path Improvements		10,000		10,000			20,000
	Clubhouse Maintenance			10,000		10,000		20,000
	Point of Sale System Upgrade	33,000						33,000
	Replace Irrigation System on Cascade Course		50,000	40,000	50,000	40,000		180,000
	Road and Parking Lot Improvements			10,000		10,000		20,000
	<b>Total</b>	<b>163,000</b>	<b>160,000</b>	<b>160,000</b>	<b>160,000</b>	<b>160,000</b>		<b>803,000</b>
Information Tech	Network and Server Equipment	10,000	60,000		60,000		60,000	190,000
	<b>Total</b>	<b>10,000</b>	<b>60,000</b>		<b>60,000</b>		<b>60,000</b>	<b>190,000</b>
Non-Departmental	Debt Service On Government Center	410,585	410,565	410,039	409,065	410,400	410,700	2,461,354
	<b>Total</b>	<b>410,585</b>	<b>410,565</b>	<b>410,039</b>	<b>409,065</b>	<b>410,400</b>	<b>410,700</b>	<b>2,461,354</b>

**City of Bremerton**  
**2011 - 2016 Capital Improvement Plan**  
*DRAFT - Project Listing*

<b>Fund/Department</b>	<b>Project</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total</b>
Park Plaza Const	Downtown Revitalization Project							8,500,000
	Total	6,500,000						8,500,000
Parking Operations	Harborside Parking Security Camera System		20,000					20,000
	Parking Lot Lighting			75,000				75,000
	Parking Lot Signs			15,000				15,000
	Total		20,000	90,000				110,000
Parks Capital	Anderson Cove Waterfront Acquisition	450,000	200,000					650,000
	Aquatic Center Filtration & Chemical System Upgrades		325,000					325,000
	Aquatic Center Natatorium Lighting Improvements	65,000	30,000					95,000
	Kiwanis Park Redevelopment	800,000	185,000					985,000
	Lions Park - Dock and Boat Launch Planning Survey			75,000				75,000
	Lions Park Renovation	50,000						50,000
	Maintenance Facility Relocation					373,900		373,900
	Mataan Park Improvements	80,000						80,000
	Off-Leash Dog Park Project			25,000				25,000
	Pendergast Regional Park - Athletic Field Development				320,000			320,000
	Vehicle Equipment Additions		75,000					75,000
	Warren Avenue Playground Renovation			450,000				450,000
	Total	1,445,000	815,000	550,000	320,000	373,900		3,503,900
Storm Utility	Catch Basin Replacement	20,000	20,000	20,000	20,000	20,000		100,000
	City Culverts	25,000	334,000	25,000				384,000
	Collection Systems	16,000	16,000	148,000				180,000
	Eastpark Stormwater Outfall	88,000						88,000
	LID Projects	150,000	150,000		150,000			450,000
	Sheridan Conveyance	72,000	100,000					172,000
	Storm Drainage Replacement Program	100,000	550,000	100,000	100,000	100,000		950,000
	Total	471,000	1,170,000	443,000	270,000	270,000		2,624,000
Streets	Illuminated Street Signs	25,000	25,000	25,000	40,000			115,000
	Kitsap Way Lighting	125,000	125,000	125,000				375,000
	Phone System Upgrade	40,000			40,000	40,000		120,000
	Traffic Signal Equipment Replacement	75,000	75,000	75,000	75,000	75,000	75,000	450,000
	Total	265,000	225,000	225,000	155,000	115,000	75,000	1,060,000

**City of Bremerton**  
**2011 - 2016 Capital Improvement Plan**  
*DRAFT - Project Listing*

Fund/Department	Project	2011	2012	2013	2014	2015	2016	Total	
Waste Utility	Beach Sewers	1,255,000	1,200,000	200,000		25,000		2,680,000	
	Buildings				50,000		450,000	500,000	
	Force Mains	475,000	2,250,000	2,250,000				4,975,000	
	Gravity Sewers	1,570,000	350,000	860,000	350,000	475,000	1,375,000	4,980,000	
	Inverted Siphons			75,000	400,000			475,000	
	Land			50,000		500,000		550,000	
	Low Pressure Sewers	75,000	1,500,000	1,500,000				3,075,000	
	Miscellaneous Equipment	20,000	20,000	20,000	20,000	770,000	750,000	1,600,000	
	Outfalls	100,000	450,000			250,000	2,500,000	3,300,000	
	Pump Stations	1,200,000	710,000	650,000	875,000	700,000	125,000	4,260,000	
	Re-use						250,000	250,000	
	Treatment	240,000	125,000	125,000	407,000	330,000	500,000	1,727,000	
	ULID's	200,000	200,000	4,440,000	14,572,000	9,750,000		28,962,000	
	<b>Total</b>		<b>4,935,000</b>	<b>6,805,000</b>	<b>10,170,000</b>	<b>16,674,000</b>	<b>12,800,000</b>	<b>5,950,000</b>	<b>57,334,000</b>
	Water Utility	Buildings	1,240,000						1,240,000
Equipment		20,000	20,000	20,000	20,000	20,000		100,000	
Land					150,000			150,000	
Pump Stations		125,000	125,000	125,000	125,000	125,000		625,000	
Reservoir & Dam			545,000		2,850,000	7,250,000		10,645,000	
Roads & Bridges		110,000	20,000	20,000	20,000	20,000	20,000	210,000	
Ultraviolet Treatment Facility		1,100,000	50,000					1,150,000	
Water Appurtenances		390,000	615,000	290,000	290,000	1,290,000	1,150,000	4,025,000	
Water Sources - Wells & Surface Water		120,000	20,000	225,000	250,000	575,000		1,190,000	
Water Mains		825,000	1,365,000	4,950,000	850,000	1,000,000		8,990,000	
<b>Total</b>			<b>3,930,000</b>	<b>2,760,000</b>	<b>5,630,000</b>	<b>4,555,000</b>	<b>10,280,000</b>	<b>1,170,000</b>	<b>28,325,000</b>

**Grand Total \$25,642,185 \$17,882,765 \$23,060,239 \$24,863,525 \$26,659,400 \$8,639,200 \$128,747,314**

# TECHNICAL MEMORANDUM

**DATE:** September 14, 2010  
**TO:** City of Bremerton Staff, Planning Commission and Public  
**FROM:** David Sherrard, Parametrix  
**SUBJECT:** **Bremerton Shoreline Master Program  
Planning Commission Meeting September 19, 2010  
Regulatory Approach Options – Code Overview**

This Technical Memorandum addresses issues relating to Comprehensive Plan and Development Regulations format and general approach and includes:

1. Structure of the Shoreline Master Program (SMP)
2. Provisions for Shorelines of Statewide Significance (SSWS)
3. Water Oriented Use Priority (Water –dependent, etc.)
4. Public Access

More detailed discussion of each of these issues is provided below.

## **1. Relationship of the Shoreline Master Program to the Comprehensive Plan and Development Regulations**

***Shoreline Management Act (SMA) Guidelines:*** The 2003 Shoreline Guidelines in WAC 173-26-191(2)(d) allow:

- a) Adoption of a separate SMP as a stand alone document containing policies and regulations
- b) Adoption as a package of separate policies and regulations in various sections of the Comprehensive Plan and Development Code. The most significant requirement of this approach is the ability to clearly designate shoreline regulations and procedures from other non-shoreline provisions and clear provisions for assuring Ecology review and approval of all amendments.

Note: The Shoreline Management Act (RCW 90.58) and the 2003 Shoreline Guidelines (WAC 173-26) have multiple provisions that apply to this issue. Because of the length and detail of these provisions, a summary is provided in this subsection with the full text of relevant sections provided at the end of this memo.

***Existing Code*** Policies and regulations that govern the land under the jurisdiction of the state Shoreline Management Act (SMA) currently are found in several places:

- a) A separate Shoreline Master Program (SMP) last amended in 2003. This document is separate from the city's Comprehensive Plan document (although legally part of the Comprehensive Plan by Growth Management Act (GMA) definition).

- b) Comprehensive Plan Policies that have at least some application in the Shoreline
  - i) Comprehensive Plan Community Character/Land Use Element
  - ii) Comprehensive Plan Environment Element
  - iii) Comprehensive Plan Transportation Element, particularly relating to the waterfront
  - iv) Comprehensive Plan Economic Development Element
  - v) Downtown Subarea Plan
  - vi) Manette Subarea Plan

These policies are not technically part of the Shoreline Master Program and have not been approved by the State Department of Ecology. They are not likely to be considered part of the SMP but will need to be reviewed for consistency.

- c) Regulations found in the Land Use Code including
  - i) Chapter 20.16, Shoreline Development Permits which generally cover processing procedures and partially overlap Chapter 7 of the SMP, Administration and Enforcement
  - ii) Chapter 20.14, Critical Areas apply within SMA jurisdiction. Specific buffers for buffers and setbacks from the OHWM are provided, as well as requirements for buffer enhancement. Provisions for setbacks from geologic hazards are provided that affect shoreline bluffs. Provisions for wetlands also apply in shorelines. These will be discussed further at the October 19 meeting.
  - iii) Chapter 20.76 Downtown Waterfront substantially overlaps SMA jurisdiction
  - iv) Chapter 20.88 Marine Industrial (MI) also substantially overlaps SMA jurisdiction
- d) Regulations found in the Land Use Code in other Chapters governing a variety of uses and standards such as landscaping, parking, and Nonconforming Provision apply within the SMA jurisdiction

***Options:***

- a) Keep the existing system of a separate self-contained Shoreline Master Program (with minor procedural requirements in the Land Use Code).
- b) Provide the entire policy framework in the Comprehensive Plan and the entire set of regulations in the Development Code

***Recommendation:*** Option (b) is the recommended approach. There would be a separate chapter in the Comprehensive Plan that would contain all policies with all regulations in various portions of the Land Use Code

Option (a) is not recommended because of the many cases where shoreline jurisdiction cuts across properties and because of the desirability of integrating shoreline policies and regulations into an integrated vision and integrated set of regulations.

**2. Provisions for Shorelines of Statewide Significance**

***SMA Guidelines:*** Shorelines of Statewide Significance (SSWS) are defined in the statute (RCW 90.58.020 and 030).

- a) In Bremerton, SSWS include “Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;”
- b) Specific direction is provided in the statute (RCW 90.58.020) for implementing policies relating to SSWS, which include:
  - “(1) Recognize and protect the statewide interest over local interest;
  - (2) Preserve the natural character of the shoreline;
  - (3) Result in long term over short term benefit;
  - (4) Protect the resources and ecology of the shoreline;
  - (5) Increase public access to publicly owned areas of the shorelines;
  - (6) Increase recreational opportunities for the public in the shoreline;
  - (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.”
- c) RCW 90.58.090(5) requires Ecology to determine that the program elements relating to SSWS provide the optimum implementation of those policies.
- d) The Shoreline Guidelines in WAC 173-26-251(2) further provides that optimum implementation involves special emphasis on statewide objectives and consultation with state agencies.
- e) For shorelines of statewide significance master program provisions must consider incremental and cumulative impacts of permitted development and include provisions to insure no net loss of shoreline ecosystems and ecosystem-wide processes. (WAC 173-26-251(3)(d)(i)) [Emphasis added]

Note: Because of the length and detail of these provisions in Shoreline Management Act (RCW 90.58) and the 2003 Shoreline Guidelines (WAC 173-26), a summary is provided above with the full text of relevant sections provided at the end of this memo.

**Existing Code:** Chapter 4 of the Shoreline Master Program contains policies that largely restate the statutory priorities for Shorelines of Statewide Significance (SSWS) and indicate the preferred means of achieving the priorities. The connection between those policies and specific regulations is not spelled out. There is no difference in regulations in Chapters 5 and 6 for SSWS versus other classifications of shorelines.

**Options:** The following options may be considered:

- a) The SMP can employ a separate overlay of additional criteria for SSWS.
- b) Separate regulations can be developed for areas defined as SSWS that recognize and incorporate the additional criteria for those areas.
- c) Supplemental regulations and criteria can be applied on a project to project basis for those within the SSWS.

**Recommendation:**

- a) Provide general policies for SSWS in the Comprehensive Plan.

- b) Ensure that regulations for uses that occur in SSWS recognize and incorporate the additional criteria applicable to those areas. The code revision process will include determining format and content for the additional criteria.

### 3. Water Oriented Uses

**SMA Guidelines:** Preferred uses are addressed in a number of provisions:

- a) The statute in RCW 90.58.020 provides a preference for uses that are unique to or dependent upon use of the state's shoreline.
- b) The SMA Guidelines in WAC 173-26-020 and -201(2)(d) provides an explicit hierarchy of preference for uses that are particularly dependent on shoreline location or use in the following:
  - A water-dependent use is a use that “cannot exist in any other location and are dependent on the water by intrinsic nature of its operation”. Examples of water-dependent uses include shipyards and dry docks, ferry terminals, waterborne cargo terminals, marinas, log booming, and aquaculture.
  - Water-related uses are those not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a shoreline location. Examples include vessel parts and equipment manufacture, container shipping yards, seafood processing plants, marine salvage yards and similar uses.
  - Water enjoyment uses provide the opportunity for a significant number of people to enjoy the shoreline. They must be located, designed and operated to assure the public’s ability to enjoy the physical and aesthetic qualities of the shoreline and they must be open to the public with shoreline space devoted to public shoreline enjoyment. Examples include parks, fishing piers, museums, restaurants (depending on design), interpretive centers, and resorts (depending upon design)
  - Non-water-oriented uses have no functional relationship to the shoreline and are not designed to enhance the public’s enjoyment of the shoreline.
- c) WAC 173-26-201(2)(d) requires a SMP to reserve appropriate areas for water-dependent uses that are compatible with ecological protection and restoration objectives; unless the local government can demonstrate that adequate shoreline is reserved for future water-dependent and water-related uses;
- d) Non-water-oriented uses are allowed by WAC 173-26-201(3)(d)(ii) only if
  - The needs of existing and envisioned water-dependent uses are met, and
  - The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
  - Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
  - In areas designated for Commercial use, a property may be used for non-water-oriented uses if the site is physically separated from the shoreline by another property or public right of way.

- e) Single-family residences are identified as an appropriate shoreline use by the statute in RCW 90.58.020. Multi-family residential use is not a preferred use and is not water-dependent or water-oriented.

***Existing Code:***

- a) The existing SMP provides recognition of water-dependent uses in:
- The Urban Industrial Environment designates water-dependent uses as the primary focus, which is reflected in Chapter 5 policies and regulations for Industrial Development permit both water-dependent and water-related uses.
  - Table 3-1 Shoreline Use/Activity Matrix allows certain uses only if they are water-dependent.
  - The Urban Commercial Environment permits water-dependent and water-related uses outright and requires a CUP for water enjoyment uses, which is reflected in Chapter 5 policies and regulations for Commercial Development.
  - The Downtown Waterfront/Upland Environment permits water-dependent, water-related and water enjoyment uses outright and requires a CUP for water enjoyment uses.
  - The Downtown Waterfront/Marine Environment permits water-dependent and water-related uses outright and requires a CUP for water enjoyment uses.
  - Table 3-2 provides for no buffers for water-dependent uses, and reduced buffers for water-related and water-oriented uses as compared to non-water-oriented uses.
  - Chapter 5 policies and regulations for Marinas and Recreation allow only those accessory uses that are water-dependent or provide for public access.
- b) The existing SMP provides regulations for water-related uses that are generally the same as water-dependent uses except for over-water uses.
- c) For water-enjoyment uses, the existing SMP generally requires a CUP. The CUP criteria in Chapter 7 are general and focus on compatibility. The Downtown Waterfront/Marine Environment, however, has six additional specific criteria.
- d) Non- water dependent uses in the existing SMP are specifically addressed in only a few cases:
- The Urban Commercial Environment subjects non-water-dependent uses to a CUP requirement with three specific requirements in Chapter 5 designed to give priority to water-oriented uses.
  - The Downtown Waterfront/Upland Environment does not specifically address non-water-dependent uses, however they presumably are subject to the specific CUP requirements in Chapter 5 designed to give priority to water-oriented uses.
  - Table 3-2 provides for no buffers for water-dependent uses, and reduced buffers for water-related and water-oriented uses as compared to non-water-oriented uses in the Commercial Environment. Provisions are the same in the Downtown Waterfront.

***Options:*** The city has few options when it comes to meeting this standard:

- a) The SMP must include the preference hierarchy for water-dependent, water-related, water-enjoyment and non-water-oriented uses for all but single-family uses. This means

that multi-family development on the shoreline would not be allowed without a component of water-related or water enjoyment use or other “public benefit” such as ecological restoration or public access (which is required anyway).

- b) It is likely that water-dependent use potential in the city is limited by a range of market forces, except for moorage. As part of the SMP update, the area of Shoreline Urban Industrial Environment and the Upland Marine Industrial Zoning will be examined in terms of a reasonable range of uses available.
- c) All water-related uses must be located and developed in a manner compatible with ecological protection and restoration objectives. Practically speaking, this means they must be located in areas with the least impact on critical aquatic habitat. This will be further reviewed at the November 16 meeting, but generally can be addressed by:
  - i) Specific standards applied to specific shoreline reaches based on the inventory, and/or
  - ii) Specific criteria applied to individual development review.

***Recommendation:***

- a) Provide the appropriate criteria in the SMP consistent with the WAC in the SMP. These criteria are likely to result in an increase in mixed use projects on the shoreline and may be perceived as a conflict for areas that are currently primarily multi-family.
- b) Provide a reach-based overlay district system and the policy direction that future development will need as to whether water oriented uses are a priority, the type of conditions that should be placed on non-water-oriented uses and in some cases whether, ecological enhancement will be a priority. Ecological issues will be addressed at the November 16 meeting.

**4. Public Access**

***SMA Guidelines***

The 2003 Shoreline Guidelines have multiple provisions for public access. Because of the length and detail of these provisions, a summary is provided in this subsection with the full text of relevant sections provided at the end of this section.

- a) The most important provisions include WAC 173-26-221(4)(b), which provides the principle that local master programs shall promote and enhance the public’s right to access waters held in public trust by the state while protecting private property rights and public safety, protect the public’s opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water, and avoid restricting public use of the water, including navigation and space necessary for water-dependent use.
- b) WAC 173-26-221(4)(c) directs planning for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access.
- c) WAC 173-26-221(4)(d) provides a number of standards that seek to increase the amount and diversity of public access to the state’s shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.
- d) There also is a requirement to minimize the impacts to existing views from public property or a substantial numbers of residences through maximum height limits, setbacks, and view corridors.

- e) WAC 173-26-221(4)(d) also makes it clear that water-dependent uses and physical public access has priority over maintenance of views from adjacent properties.

There are also provisions in WAC 173-26-211(5)(d)(ii) for the “high-intensity” environment requiring visual and physical public access as well as in WAC 173-26-211(5)(d)(ii) Shoreline residential” environment.

The provisions for WAC 173-26-241(3)(d) Commercial development emphasize public access as one of the means (in addition to ecological access) by which non-water-oriented commercial uses can be prioritized higher and can be permissible in the shoreline.

### ***Existing Codes***

The existing SMP addresses public access in a wide variety of provisions. These are summarized below. Reference should be made to the specific sections for more detail.

- a) The Goal for public access in Chapter 2 is to improve public access to the public portions of the shoreline through appropriate acquisition and development.
- b) Public access appears in the intent statements for Shoreline Environments in Chapter 3 only for the Urban Commercial Environment.
- c) The major provisions are found in the Chapter 4 General Requirements for Public Access that provide for public access in all development except residential projects and subdivisions of fewer than 4 dwelling units or lots or a “minor project.” There is also a provision for payment in lieu of public access in cases where on-site access is not feasible. This provision, however, has not been used in the past due to legal defensibility concerns.
- d) A variety of design and operational standards are found in Chapter 4, as well as a summary of requirements in Table 4-1.
- e) The View Protection provisions of Chapter 4 provide general policy direction. The major implementing regulation is found in Table 3-2 which establishes view corridors, but also allows structures within such corridors as long as they do not impair existing water views from the nearest public street. These provisions have been problematic in application, especially to single family lots. Establishing the extent of view available and the extent to which structures may impair views is a complex issue. The requirement that signatures of affected property owners be obtained also is problematic. The relatively narrow view corridor between buildings provides a questionable public benefit in some cases.
- f) In the Downtown Waterfront Environment, public access or a fee in-lieu can be provided as an alternative to the view corridor.
- g) The Downtown Regional Center Subarea Plan provides that “Where possible, private development should accommodate physical connection to the waterfront, in particular through the public access to the planned waterfront boardwalk and downtown waterfront promenade.” The Bonus Amenity System also provides floor area bonuses for provision of the Public Boardwalk Connection between 5th and 6th Street.

### ***Options***

Two options are proposed for consideration:

- h) Retain the existing approach that basically looks to case-by-case establishment of public physical and visual access as part of review of new development. This approach alone is

- probably not consistent with the new Shoreline Guidelines mandate to prepare an access plan.
- i) Provide an integrated plan for a shoreline area public access system that identifies specific public needs and opportunities to provide public access as provided as an option in WAC 176-23-221(4)(c).

Both of these approaches is discussed in more detail below.

1. Case-by case establishment of physical public access as part of review of new development.

Advantages include:

- a) It is familiar and relatively easy to administer.
- b) Relatively slight changes would be needed in the existing SMP to address new requirements in the guidelines

Disadvantages include:

- a) Physical access opportunities would apply mostly to new commercial and downtown development rather than residential development.
    - i) Most of the residential shoreline of Bremerton is already developed. There will be few new single-family subdivisions and relatively little opportunity to add public access in existing single-family residential areas, except perhaps through purchase of existing lots.
    - ii) The amount of shoreline redevelopment over the next 10 to 20 years in Bremerton is likely to be concentrated in relatively few areas. Case-by case determination of public access provides less opportunity to fit properties developed at different times into an integrated system.
  - b) For each development the general public access criteria would need to be interpreted and applied, likely leading to uncertainty and inconsistent application.
2. Integrated Shoreline Plan. This may include establishment as part of future development proposals, as one element, with the addition of specific guidance on a reach basis, where appropriate.

Advantages include:

- a) The basis of the program would be identification, on a reach basis, of needs and opportunities recognizing that various parts of the city vary substantially.
- b) A variety of mechanisms for implementation could be selected depending on what is appropriate for a specific reach. These might include:
  - i) Public access that may be developed as part of private projects
  - ii) Existing public land and parks
  - iii) Currently planned projects
  - iv) Existing public streets
  - v) Existing and planned trail systems
  - vi) Strategic acquisitions by the City to fill gaps in the system, or enhance existing facilities where public access from development is not likely to fulfill the need

- c) Visual access also would be identified including addressing differences that influence visual access from adjacent public streets and private development including topography, existing development character and other factors. This is likely to result in specific view corridor provisions rather than the general provisions in the existing code.
- d) Such a plan could form the basis of collecting and spending “in-lieu” fees in areas where individual site public access may be determined to be undesirable or infeasible.

***Recommendation***

Develop an integrated plan for a shoreline area public access system that identifies specific public needs and opportunities to provide public access as provided as an option in WAC 176-23-221(4)(c).

This approach would identify both public and private actions

- Specify the type of public access expected of private development
- Identify where public acquisition should be pursued
- Address where public access should be physical or visual
- Identify tradeoffs between public access and shoreline ecological enhancement

This will also provide guidance for other public agencies, including for public aquatic lands administered by the Department of Natural Resources (DNR) and other agencies, and provide predictability for private development.

We anticipate that this will be addressed in relatively straightforward analysis in memo format with policies incorporated into an expanded version of SMP Table 4-1 organized on a reach basis.

***Expanded Revised Code of Washington (RCW) and Washington Administrative Code (WAC) References***

***1. Relationship of the Shoreline Master Program to the Comprehensive Plan and Development Regulations***

RCW 36.70A.480

- (1) For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the fourteen goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.
- (2) The shoreline master program shall be adopted pursuant to the procedures of chapter 90.58 RCW rather than the goals, policies, and procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations.
- 3) (a) The policies, goals, and provisions of chapter 90.58 RCW and applicable guidelines shall be the sole basis for determining compliance of a shoreline master program with this chapter except as the shoreline master program is required to comply with the internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105.

(30) "Shoreline master program" or "master program" means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

WAC 173-26-020(30) As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

## 2. *Shorelines of Statewide Significance*

- a) Relevant provisions of the definition of Shorelines of Statewide Significance (SSWS) include:

RCW 90.58.030(f) "Shorelines of statewide significance" means the following shorelines of the state:

- (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;
- (iv) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;
- (v) Those natural rivers or segments thereof as follows: (A) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more
- (vi) Those shorelands associated with (i), (ii), (iv), and (v) of this subsection (2)(f);

RCW 90.58.030(d) "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.

- b) The Shoreline Guidelines (WAC 173-26) provide the following direction:

- (1) *Applicability.* The following section applies to local governments preparing master programs that include shorelines of statewide significance as defined in RCW 90.58.030.
- (2) *Principles.* Chapter 90.58 RCW raises the status of shorelines of statewide significance in two ways. First, the Shoreline Management Act sets specific preferences for uses of shorelines of statewide significance. RCW 90.58.020 states:

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

*(1) Recognize and protect the statewide interest over local interest;*

*(2) Preserve the natural character of the shoreline;*

- (3) *Result in long term over short term benefit;*
- (4) *Protect the resources and ecology of the shoreline;*
- (5) *Increase public access to publicly owned areas of the shorelines;*
- (6) *Increase recreational opportunities for the public in the shoreline;*
- (7) *Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."*

Second, the Shoreline Management Act calls for a higher level of effort in implementing its objectives on shorelines of statewide significance. RCW 90.58.090(5) states:

*"The department shall approve those segments of the master program relating to shorelines of statewide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the statewide interest."*

Optimum implementation involves special emphasis on statewide objectives and consultation with state agencies. The state's interests may vary, depending upon the geographic region, type of shoreline, and local conditions. Optimum implementation may involve ensuring that other comprehensive planning policies and regulations support Shoreline Management Act objectives.

Because shoreline ecological resources are linked to other environments, implementation of ecological objectives requires effective management of whole ecosystems. Optimum implementation places a greater imperative on identifying, understanding, and managing ecosystem-wide processes and ecological functions that sustain resources of statewide importance.

- (3) *Master program provisions for shorelines of statewide significance.* Because shorelines of statewide significance are major resources from which all people of the state derive benefit, local governments that are preparing master program provisions for shorelines of statewide significance shall implement the following:
  - (a) Statewide interest. To recognize and protect statewide interest over local interest, consult with applicable state agencies, affected Indian tribes, and statewide interest groups and consider their recommendations in preparing shoreline master program provisions. Recognize and take into account state agencies' policies, programs, and recommendations in developing use regulations. For example, if an anadromous fish species is affected, the Washington state departments of fish and wildlife and ecology and the governor's salmon recovery office, as well as affected Indian tribes, should, at a minimum, be consulted.
  - (b) Preserving resources for future generations. Prepare master program provisions on the basis of preserving the shorelines for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of statewide significance should be severely limited. Where natural resources of statewide importance are being

diminished over time, master programs shall include provisions to contribute to the restoration of those resources.

- (c) Priority uses. Establish shoreline environment designation policies, boundaries, and use provisions that give preference to those uses described in RCW 90.58.020 (1) through (7). More specifically:

- (i) Identify the extent and importance of ecological resources of statewide importance and potential impacts to those resources, both inside and outside the local government's geographic jurisdiction.

- (ii) Preserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish beds and navigable harbors. Base projections on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies.

- (iii) Base public access and recreation requirements on demand projections that take into account the activities of state agencies and the interests of the citizens of the state to visit public shorelines with special scenic qualities or cultural or recreational opportunities.

- (d) Resources of statewide importance. Establish development standards that:

- (i) Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds, and unique environments. Standards shall consider incremental and cumulative impacts of permitted development and include provisions to insure no net loss of shoreline ecosystems and ecosystem-wide processes.

- (ii) Provide for the shoreline needs of water-oriented uses and other shoreline economic resources of statewide importance.

- (iii) Provide for the right of the public to use, access, and enjoy public shoreline resources of statewide importance.

- (e) Comprehensive plan consistency. Assure that other local comprehensive plan provisions are consistent with and support as a high priority the policies for shorelines of statewide significance. Specifically, shoreline master programs should include policies that incorporate the priorities and optimum implementation directives of chapter 90.58 RCW into comprehensive plan provisions and implementing development regulations.

### **3. *Use Preference***

- a) The statute in RCW 90.58.020 provides a preference for uses that are unique to or dependent upon use of the state's shoreline.

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of

pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW. [Emphasis added]

- b) The SMA Guidelines in WAC 173-26-020 and .201(2)(d) provides an explicit hierarchy of preference for uses that are particularly dependent on shoreline location or use in the following:
- A water dependent uses is a use that “cannot exist in any other location and are dependent on the water by intrinsic nature of its operation”. Examples of water-dependent uses include shipyards and dry docks, ferry terminals, waterborne cargo terminals, marinas, log booming, and aquaculture.
  - Water-related uses are those not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a shoreline location. Examples include vessel parts and equipment manufacture, container shipping yards, seafood processing plants, marine salvage yards and similar uses.
  - Water enjoyment uses provide the opportunity for a significant number of people to enjoy the shoreline. They must be located, designed and operated to assure the public’s ability to enjoy the physical and aesthetic qualities of the shoreline and they must be open to the public with shoreline space devoted to public shoreline enjoyment. Examples include parks, fishing piers, museums, restaurants (depending on design) interpretive centers and resorts (depending upon design)
  - Non-water-oriented uses have no functional relationship to the shoreline and are not designed to enhance the public’s enjoyment of the shoreline.
- c) WAC 173-26-201(2)(d) requires that a SMP:
- Reserve appropriate areas for water dependent uses that are compatible ecological protection and restoration objectives; unless the local government can demonstrate that adequate shoreline is reserved for future water dependent and water related uses;
  - Reserve areas for water-related and water-enjoyment uses that are compatible with water-dependent uses and ecological protection and restoration objectives;
  - Limit non-water oriented uses to those locations where either water-oriented uses are inappropriate or where non-water-dependent uses demonstrably contribute to the objectives of the Shoreline Management Act.
- d) WAC 13-26-211(5)(d) contains the following provisions:

- Master programs should require that public access and ecological restoration be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent commercial development unless such improvements are demonstrated to be infeasible or inappropriate. Where commercial use is proposed for location on land in public ownership, public access should be required.
  - In regulating uses in the "high-intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses.
  - Limit non-water-oriented uses to those locations where the above described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act. [Note – those objectives are public access or ecological restoration. See WAC 173-26-241(3)(d)].
- e) Non-water-oriented uses should not be allowed except as part of mixed use developments. Non-water-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-200
- If an analysis of water-dependent use needs as described in WAC 173-26-201(3)(d)(ii) demonstrates the needs of existing and envisioned water-dependent uses for the planning period are met, then provisions allowing for a mix of water-dependent and non-water-dependent uses may be established. If those shoreline areas also provide ecological functions, apply standards to assure no net loss of those functions. (WAC 173-26-211(5)(d)(iii)(A))
- f) WAC 173-26-241(3)(d) provides that master programs should prohibit non-water-oriented commercial uses on the shoreline unless they meet the following criteria:
- i) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
  - ii) Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
- In areas designated for commercial use, non-water-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.
- g) Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent water-oriented uses, especially water-dependent uses, from being restricted on shoreline areas because of impacts to nearby non-water-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development. (WAC 173-26-211(3)(b))
- h) Single-family residences are identified as an appropriate shoreline use by the statute in RCW 90.58.020. Multi-family residential use is not a preferred use and is not water-dependent or water oriented.

#### 4. *Public Access*

##### **WAC 173-26-221(4) Public access.**

- (a) **Applicability.** Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.
- (b) **Principles.** Local master programs shall:
  - (i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.
  - (ii) Protect the rights of navigation and space necessary for water-dependent uses.
  - (iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.
  - (iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.
- (c) **Planning process to address public access.** Local governments should plan for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access. Such a system can often be more effective and economical than applying uniform public access requirements to all development. This planning should be integrated with other relevant comprehensive plan elements, especially transportation and recreation.

The planning process shall also comply with all relevant constitutional and other legal limitations that protect private property rights.

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

At a minimum, the public access planning should result in public access requirements for shoreline permits, recommended projects, port master plans, and/or actions to be taken to develop public shoreline access to shorelines on public property. The planning should identify a variety of shoreline access opportunities and circulation for pedestrians (including disabled persons), bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

- (d) **Standards.** Shoreline master programs should implement the following standards:
  - (i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.
  - (ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part

- of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-221 (4)(c) demonstrates that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.
- (iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and non-water-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required except:
    - (A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-221 (4)(c).
    - (B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.

In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, local governments shall consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.
    - (C) For individual single-family residences not part of a development planned for more than four parcels.
  - (iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.
  - (v) Assure that public access improvements do not result in a net loss of shoreline ecological functions.

**WAC 173-26-211(5)(d) "High-intensity" environment. (ii) Management policies.**

- (A) In regulating uses in the "high-intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Non-water-oriented uses should not be allowed except as part of mixed use developments. Non-water-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-200 (3)(d).

If an analysis of water-dependent use needs as described in WAC 173-26-201 (3)(d)(ii) demonstrates the needs of existing and envisioned water-dependent uses for the planning period are met, then provisions allowing for a mix of water-dependent and non-water-dependent uses may be established. If those shoreline areas also provide ecological functions, apply standards to assure no net loss of those functions.

(D) Where feasible, visual and physical public access should be required as provided for in WAC 173-26-221 (4)(d).

**WAC 173-26-211(5)(d) "Shoreline residential" environment. (ii) Management policies.**

(B) Multifamily and multilot residential and recreational developments should provide public access and joint use for community recreational facilities.

**WAC 173-26-241(3)(d) Commercial development.**

Master programs should require that public access and ecological restoration be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent commercial development unless such improvements are demonstrated to be infeasible or inappropriate. Where commercial use is proposed for location on land in public ownership, public access should be required. Refer to WAC 173-26-221(4) for public access provisions.

Master programs should prohibit non-water-oriented commercial uses on the shoreline unless they meet the following criteria:

- (i) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
- (ii) Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

**WAC 173-26-241(3)(j) Residential development.**

New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter.