I. SUMMARY:

The Port of Bellingham has proposed an alternative recommendation for the Waterfront District that includes a new "Recreational" shoreline designation, specific buffer and setback widths, the ability to allow adaptive re-use of historic structures that are retained within the shoreline jurisdiction as well as allowance of construction staging and environmental remediation uses.

The City's administration supports this alternate recommendation.

The major differences between the 2009 draft SMP and the Port's alternative proposal for the Waterfront District are as follows:

The SMP specifies two sub-areas within the Waterfront District; Water-Oriented Uses and Shoreline Mixed Uses.

Within the Shoreline Mixed Use sub-area non-water-oriented uses are allowed provided that they are simultaneously established with a water-oriented use.

The Port's proposal includes a third sub-area designated "Recreational" which does not allow non-water-oriented uses.

The SMP states that the maximum buffers and setbacks specified in Section 22.11.30 F shall apply and that these maximums may be reduced down to (but not below) the specified minimums as conditioned upon approval of a Waterfront District Master Plan. (The legislative public process for the Master Plan would be the arena in which those buffers and setbacks are determined.)

The Port's proposal includes specific buffer and setback distances as opposed to the range specified in the SMP. The Port's buffer and setback distances are the same as the 'minimums' in the SMP with the following exceptions:

- A 50-foot buffer within the Recreational shoreline sub-area. (SMP min = 25-feet)
- A 100-foot setback for water-enjoyment uses in the Recreational sub-area. (SMP min = 50-feet)

The Port's Recreational shoreline sub-area allows for limited structures within the setbacks such as public art, open and/or covered seating, restrooms and small concession stands.

The SMP does not allow these types of structures within setback areas.
Furthermore, the Recreational shoreline does not permit non-water-oriented uses. (For example, offices, residential, non-water-oriented retail.)

Finally, the Port’s proposal also allows for adaptive re-use of retained historic structures for any type of use.

The SMP allows temporary non-water-oriented uses within the two existing warehouses at the Bellingham Shipping Terminal subject to approval of a Shoreline Conditional Use Permit.

Within the Draft SMP the Waterfront District management policies and development regulations can be found in Section 22.03.30 F and the development regulations matrix (the table for allowed uses, buffer and setback requirements, etc.) can be found in Section 22.11.30 F. and are also included in ATTACHMENT 1 of this staff report.

ATTACHMENT 2 is a comparative analysis schematic that shows the difference between buffer and setback distances for each of the shoreline designations within the Draft SMP and within the Port’s alternative proposal.

In addition, the June 22, 2009 letter from Mr. Sitkin specifies an area of “continuing concern” regarding roads and utilities within shorelands. Revisions to these sections were not offered as part of the subject letter or alternative proposal.

However, sections 22.08.10 B.4 and 22.09.170 provide flexibility in the location of roads and utilities. Staff has not provided any revisions at this time.

III. NEXT STEPS

An additional work-session has been scheduled for October 5 regarding Lake Whatcom.

A final public hearing would be scheduled that would incorporate the revisions from both of these work-sessions. There would be a vote on an Ordinance adopting the document locally.

That version of the 2009 SMP would then be forwarded to the Department of Ecology for their review.

The 2009 SMP would not be implemented until the Department of Ecology issues their final approval.

The existing 1989 Shoreline Master Program will remain in effect until the Department of Ecology issues their final approval.

Once approved by the Department of Ecology, the City’s 1989 SMP would be repealed and the new SMP (Bellingham Municipal Code; Title 22) would be codified upon adoption of a new ordinance that would be brought back to City Council for approval at that time.

IV. CITY COUNCIL ROLE

The City Council’s role is to consider final public comments, direct staff to prepare any final revisions, and make one of the following motions:
1. Move to direct staff to include the Port’s proposed alternative for the Waterfront District in the Final SMP that will be forwarded to the Department of Ecology.

2. Move to direct staff to retain the language in the 2009 Draft SMP established for the Waterfront District. (Planning Commission recommendations)

3. Move to direct staff to include alternatives as directed by the City Council.

V. STAFF RECOMMENDATION:

Move to direct staff to include the Port’s proposed alternative for the Waterfront District in the Final SMP that will be forwarded to the Department of Ecology.

Staff report prepared by: [Signature]

Approved for submittal by: [Signature]

Steven Sundin, Planner

Tim Stewart, Planning Director
F. **NEW-WHATCOM WATERFRONT DISTRICT**

The City and Port of Bellingham are currently involved in a master planning effort for the New Whatcom Waterfront District Special Development Area (NWSDA). The intent of the New Whatcom Waterfront District shoreline designation is to implement ‘Special Area Planning’ and to facilitate the current New Whatcom Waterfront District master planning, incorporate public input and comply with the State of Washington Shoreline Management Act (RCW 90.58) and the Shoreline Guidelines (WAC 173-26). The Shoreline Guidelines describe ‘Special Area Planning’ as a regulatory tool which allows local governments to address shoreline management issues on complicated sites where a range of issues must be addressed. See Shoreline Guidelines, WAC 173-26-201(3)(d)(ix).

1. **Purpose** – To plan for, protect and implement restoration of the shoreline ecological function, reserve areas for water-dependent and water-related uses, maximize public access to the shoreline and accommodate shoreline mixed uses and non-water-oriented uses where appropriate.

2. **Management Policies** (Adapted from special meeting on March 7, 2006 where 2-08-06 version of New Whatcom Waterfront District Implementation strategies and WFG Guiding Principals for City Center sub-area were approved by City Council/Port Commission.)

   a. The City should coordinate with state, federal and local agencies, organizations, and institutions, including the Lummi Nation and Nooksack Tribe, to improve the ecological function of the shorelines.

   b. Opportunities for cooperative projects and joint funding for shoreline restoration, habitat enhancement, environmental remediation and public access improvements should be identified.

   c. Where feasible, hardened shoreline along the Whatcom Waterway, ASB lagoon and other shores should be removed or reduced, and the shoreline should be rehabilitated and enhanced for improved habitat and public access.

   d. Sites identified in the Waterfront Futures Group “Opportunities and Ideas for Habitat Restoration and Water Access on Urban Bellingham Bay” and other plans and studies should be evaluated for designation as public access and shoreline restoration sites in the New Whatcom Waterfront District Development Plan and City of Bellingham Shoreline Master Program.

   e. Appropriate locations for water-dependent and water-related uses should be identified and reserved. Appropriate design features and transitional areas to buffer uses which produce noise, glare or odors from other adjacent uses should be developed and implemented, where appropriate.
f. Appropriate sites for water-related uses and ancillary activities to support commercial fishing, recreational boating and maritime industries, including boat building and repair to preserve the nautical history of our community should be identified and reserved.

g. The New Whatcom Waterfront District site should be redeveloped with a mix of uses including jobs, housing, retail development, services, educational and cultural facilities and water-dependant industrial uses.

h. Pocket beaches at the head of the Whatcom Waterway and the I & J Waterway, the foot of Cornwall Avenue and the foot of C and G Streets, and adjacent to the historic GP log pond should be reserved for preservation and restoration / enhancement as habitat and public access points.

i. An interconnected system of waterfront access and view points, public parks, open spaces, pedestrian walkways and bicycle routes which will be the backbone of the New Whatcom Waterfront District Special Development Area should be developed.

j. The majority of the water's edge should be accessible via non-vehicular means of transportation, including pedestrian walkways, bicycle trails, motorized and non-motorized boat access, and transient moorage, and should be connected to a network of parks, trails and transit connections.

k. Public access to areas used for water-dependent industry or government agency uses or into critical areas where it would conflict with public health or safety, habitat protection or national security should be restricted, limited or controlled through appropriate design.

l. Parking should be located under buildings, within parking structures located away from or opposite the shoreline from the development unless associated with a water-dependent use or no other feasible alternative exists. Subject to the New Whatcom Waterfront District Master Plan design and phasing, surface parking may be developed as an interim use on areas planned for future redevelopment, enabling its evolution over time into a denser environment.

m. Streets should be aligned to facilitate circulation and accommodate future land uses, and building heights should be limited to preserve water views from street ends and other key public view points.

n. Bio-swales, rain gardens and other appropriate Low Impact Development (LID) techniques should be implemented to manage stormwater.

o. The Port and the City should work cooperatively to implement processes to ensure building permit predictability, consistency, and expediency within the New Whatcom Waterfront District Special Development Area.

p. Shoreline permits granted for development proposals within the New Whatcom Waterfront District Special Development Area should include
subject to the applicable requirements in BMC 22.06.40 (Conditional Use Permits).

4.5 Development regulations for the New-Whatcom Waterfront District Water-Oriented Uses sub-area:

a. Development shall result in no net loss of shoreline ecological functions.

b. Development shall comply with all applicable requirements in BMC 22.04, 22.08 and 22.09 and the applicable submittal requirements within the Critical Areas Ordinance, APPENDIX C. (OLCR)

c. For development within critical areas or their buffers that occur in shoreline jurisdiction, the applicable provisions of this program shall apply. (OLCR)

d. For shorelines where critical areas other than Fish and Wildlife Habitat Conservation Areas are present, the most protective buffer set forth in this program shall apply. (OLCR)

e. Setbacks, Buffers and Height - Development shall be in accordance with the table in BMC 22.11.30.F and d. e f., below, and as specified in subsection 7, below.

f. Water-oriented uses shall not exceed a height of 35 feet except that, when a water-oriented use greater than 35 feet in height but not more than 50 feet in height is proposed, a view analysis shall be conducted in order to prevent obstruction of identified public view corridors. Heights greater than 50 feet shall be subject to the requirements for a variance in BMC 22.06.30.

g. Non-water-oriented accessory uses as specified in 4.a.vi., above, shall not exceed the height of the permitted use.

h. Development shall provide public access subject to the public access requirements and criteria in BMC 22.08.7090.

i. Stand-alone water-enjoyment uses shall be designed to be oriented towards the shoreline such that the general public has the opportunity to enjoy the aesthetics of a shoreline location and have physical and/or visual access to the shoreline.

6. Regulations within the New-Whatcom Waterfront District Mixed Use sub-area are as follows:

a. Development shall result in no net loss of shoreline ecological functions.

b. Development shall comply with all applicable requirements in BMC 22.04, 22.08 and 22.09 and the applicable submittal requirements within the Critical Areas Ordinance, APPENDIX C. (OLCR)

c. For development within critical areas or their buffers that occur in shoreline jurisdiction, the appropriate provisions of this program shall apply. (OLCR)
d. For shorelines where critical areas other than Fish and Wildlife Habitat Conservation Areas are present, the most protective buffer set forth in this program shall apply. (OLCR)

e.e. Setbacks, Buffers and Height - Development shall be in accordance with the table in BMC 22.11.30.F and d.-f., below and as specified in subsection 7, below. (STAFF)

d.f. The maximum setbacks and buffers within the New-Whatcom Waterfront District mixed-use sub-area may be reduced down to the minimum setbacks and buffers (both as specified in BMC 22.11.30 F) as conditioned upon the adoption of the when established in the completed and adopted New-Whatcom Waterfront District Master Plan and Development Agreement for the entire New-Whatcom Waterfront District Special Development Area, and subject to the following criteria:

1) Completion and adoption of the New-Whatcom Master Plan and Development Agreement is not justification for reducing the maximum buffers and setbacks as specified above.  
2) The rationale for reductions of buffers and setbacks from the maximum down to the minimum as specified in 6. d., above, shall be demonstrated and considered during development of the New-Whatcom Master Plan and Development Agreement. 
3) There shall be no net loss of existing shoreline ecological function as a result of the reduction. 
4) The reduction shall not impact or compromise any ongoing or planned provisions for public-access amenities, habitat restoration and/or enhancement and contaminated-sediment remediation. 
5) Reduction beyond the minimums specified in BMC 22.11.30.F shall be subject to the requirements in BMC 22.06.30, Variances.

6)1) In the absence of a New-Whatcom Master Plan and Development Agreement, the maximum setbacks and buffers as specified in BMC 22.11.30.F shall apply. (This entire subsection revised per the 9-15-2008 WS)

e.g. The total height of a shoreline mixed-use structure (one that includes water-oriented uses and non-water-oriented uses) shall not exceed 3 stories. One bonus story may be granted if all required parking for the subject non-water-oriented uses (with the exception of loading / unloading areas) is provided within the footprint of the subject structure and/or within a shared parking facility such as a surface lot or parking structure. In either case (3 or 4 stories) the height shall comply with the height requirements specified in 5.d., above.
f.h. Non-water-oriented uses within a shoreline mixed-use structure, as specified in 4.b.ii, above, shall be established or developed concurrently with a water-oriented use and shall provide public access and habitat restoration between the subject development and the adjacent shoreline subject to the requirements in g. – j., below.

g.i. When a shoreline mixed-use development is proposed, public access, when required, shall be provided between the subject development and the adjacent shoreline concurrently and shall be consistent with an adopted master plan and/or public access plan. In cases where said public access cannot be provided due to seasonal constraints, including fish windows, the timing with other planned/ongoing soil remediation or implementation of a habitat restoration project, said public access shall be secured with a financial surety totaling 150% of the cost of the required access or some other acceptable surety as may be specified by the Planning Department Director or within the New-Whatcom Waterfront District Development Agreement, upon adoption.

h.j. In the absence of a master plan or public access plan as specified in g., above, required public access shall be designed and configured on a site-by-site basis consistent with BMC 22.08.7090. Said plan shall be reviewed and approved by the Planning, Environmental Resources and the Parks and Recreation Departments.

i.k. When a shoreline mixed-use development is proposed, habitat restoration, as required in f., above, shall be provided per an approved habitat restoration plan. In absence of said habitat restoration plan, the subject development shall incorporate a minimum of three objectives from the Restoration Plan (Section 4, APPENDIX B C). In both cases, said restoration plan shall be consistent with BMC 22.09.160 and shall be reviewed and approved by the Environmental Resources Division and the Planning Department.

j.l. Said required habitat restoration shall be completed prior to occupancy of the subject uses. In cases where the required habitat restoration cannot be provided due to seasonal constraints, including fish windows, or the timing with other planned/ongoing soil remediation or implementation of public access projects, said habitat restoration shall be secured with a financial surety totaling 150% of the required restoration project or some other acceptable surety as may be specified by the Planning Department Director or within the New-Whatcom Waterfront District Development Agreement, upon adoption.

k.m. Non-water-oriented uses shall not occupy the portion of the ground floor of a mixed-use structure that fronts on or is adjacent to the shoreline. (Only parking in the rear of the ground floor of a shoreline mixed-use structure is permitted.)

l.n. In no case may residential uses within a shoreline mixed-use structure occupy the ground floor.
5.7. A buffer shall not be required where there is an existing pier, wharf, sheet pile or other vertical (90-degree) structure in-water or at the OHWM. The required buffer shall not apply until such time that said feature(s) is removed permanently. Replacement of said structure(s) for a permitted use would not trigger the 50-foot buffer requirement. (STAFF)

6.8. Allowed uses/activities within a required buffer area are as follows:

a. Those portions of water-oriented uses that require direct access to the water (piers and gangways, boat launches, loading / unloading areas, view overlooks / platforms etc.); and

b. Those uses and activities as specified in BMC 22.08.10.B.422.08.10.B.4 (STAFF)
### WATERFRONT DISTRICT Development Regulation Matrix

<table>
<thead>
<tr>
<th>Use</th>
<th>Permitted</th>
<th>Setback (from OHWM)</th>
<th>Buffer (from OHWM)</th>
<th>Height 1</th>
<th>Pub Acc Required</th>
<th>Hab Restoration Required 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Water-Dependent</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td>Y</td>
<td>0'</td>
<td>none</td>
<td>N/A</td>
<td>subj to 22.08.90</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>0'</td>
<td>none</td>
<td>&lt; or = to 35' outright &gt;35' or =50'; view analysis &gt;50' = variance</td>
<td>subj to 22.08.90</td>
<td>N</td>
</tr>
<tr>
<td><strong>Water-Related</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td>Y</td>
<td>0'</td>
<td>none</td>
<td>N/A</td>
<td>subj to 22.08.90</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>50'</td>
<td>none</td>
<td>&lt;35' outright &gt;35' or =50'; view analysis &gt;50' = variance</td>
<td>subj to 22.08.90</td>
<td>N</td>
</tr>
<tr>
<td><strong>Water-enjoyment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td>Y</td>
<td>0'</td>
<td>none</td>
<td>N/A</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>50'</td>
<td>none</td>
<td>&lt;35' outright &gt;35' or =50'; view analysis &gt;50' = variance</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>public use over/in-water N-W-O</td>
<td>CUP</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Only if is accessory to and supports a WD / WR / WE use</td>
<td>per the associated use</td>
<td>per the associated use</td>
<td>per the associated use</td>
<td>per the associated use</td>
<td>per the associated use</td>
<td></td>
</tr>
</tbody>
</table>


1 Height: as defined in 22.10 and as specified in Section 22.03.30 F, subsections 5 and 6.

2 Each project is meant to mitigate its anticipated impacts per 22.08.20. A subsequent analysis can include or result in required (and additional) restoration.

### WATERFRONT DISTRICT SHORELINE MIXED USES, MARINE SHORELINE MAP 1, REACHES 5-7, CHAPTER 22.110.10

<table>
<thead>
<tr>
<th>Use</th>
<th>Permitted</th>
<th>Setback (min-max) 1</th>
<th>Buffer (min-max) 1 &amp; 2</th>
<th>Height 3</th>
<th>Pub Acc Required</th>
<th>Hab Restoration Required 4</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Water-Dependent</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td>Y</td>
<td>0'</td>
<td>25' - 50'; that portion necessary for the WD use may encroach the req'd buffer</td>
<td>N/A</td>
<td>Subject to WDM, upon adoption and 22.08.90</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>0'</td>
<td>25' - 50'; that portion necessary for the WD use may encroach the req'd buffer</td>
<td>&lt; or = to 35' outright &gt;35' or =50'; view analysis &gt;50' = variance</td>
<td>Subject to WDM, upon adoption and 22.08.90</td>
<td>N</td>
</tr>
<tr>
<td><strong>Water-Related</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td>Y</td>
<td>25' - 100'</td>
<td>25' - 50'</td>
<td>N/A</td>
<td>Subject to WDM, upon adoption and 22.08.90</td>
<td>N</td>
</tr>
<tr>
<td>Water:Enjoyment</td>
<td>on land (park, plaza)</td>
<td>Y</td>
<td>25'</td>
<td>N/A</td>
<td>Subject to WDMP, upon adoption and 22.08.90</td>
<td>N</td>
</tr>
<tr>
<td>Water:Enjoyment</td>
<td>in a structure (e.g. aquarium, museum, restaurant)</td>
<td>Y</td>
<td>50' - 200'</td>
<td>25' - 50'</td>
<td>&lt; or = to 35' outright; &gt;35' or =50'; view analysis; &gt;50' = variance</td>
<td>Subject to WDMP, upon adoption and 22.08.90</td>
</tr>
<tr>
<td>N-W-O</td>
<td>shoreline mixed use structure</td>
<td>Y - if develop'd concurrently with a WD / WR / WE use</td>
<td>50' - 150'</td>
<td>25' - 50'</td>
<td>&lt; or = to 35' outright; &gt;35' or =50'; view analysis; &gt;50' = variance</td>
<td>Subject to WDMP, upon adoption and 22.08.90</td>
</tr>
<tr>
<td>N-W-O</td>
<td>shoreline mixed use structure</td>
<td>Y - if develop'd concurrently with a WD / WR / WE use</td>
<td>50' - 150'</td>
<td>25' - 50'</td>
<td>NOTE: total height not to exceed 3 stories except, one bonus story granted IF all parking for N-W-O uses are w/in bldg footprint or w/in shared structure AND still subject to the 35' outright; 35' to 50' = view analysis; &gt;50' = variance requirements.</td>
<td>Subject to WDMP, upon adoption and 22.08.90</td>
</tr>
</tbody>
</table>

WDMP: Waterfront District Master Plan

1 For shorelines within the New Whatcom shoreline designation, the maximum setbacks and buffers shall apply for any development. The maximum setbacks and buffers may be reduced up to but not less than the minimums specified above via the Waterfront District Master Plan.

2 Except where there is an existing pier, wharf, sheet pile or other vertical in-water structure - the required buffer does not apply. Replacement of said structures for a permitted use would not require compliance with the buffer requirement.

3 For Shoreline mixed use buildings, total height shall not exceed three stories, except one bonus story granted IF all parking for N-W-O uses for the development are within building footprint or within a shared facility (including shared surface pkg) AND still subject to the 35' outright; 35' to 50' = view analysis; >50' = variance requirements.

4 Habitat restoration is outright required for developments where a non-water-oriented use is proposed within a shoreline substantial development. Any project is meant to mitigate its anticipated impacts per 22.08.20. A subsequent analysis can include or result in required (and additional) restoration.
June 22, 2009

VIA HAND DELIVERY

Tim Stewart
Steve Sundin
City of Bellingham
Planning & Community Development Department
210 Lottie Street
Bellingham, WA 98225

Re: Shoreline Program Update; Revisions for Waterfront District

Dear Tim,

Thank you for the time and effort in working with the Port of Bellingham staff to come up with a modification to the draft Shoreline Master Program ("SMP") that would accommodate the recent planning assumptions and framework reviewed and accepted by the City Council and Port of Bellingham Commission. We understand that these revisions have generally met with your approval, and will be supported by your office. The proposal, if adopted by the City Council, would establish a detailed SMP for the Waterfront District in advance of the Master Plan being developed, finalized and approved by the Port Commission and the City Council. The proposed regulations are flexible enough to allow completion and adoption of a Master Plan consistent with any of the various alternatives contained in the Draft EIS and SDEIS for the Waterfront District.

The attached material consists of a new shoreline map for the Waterfront District area. As part of this new map and revised regulations, a new shoreline subarea "Recreational Shoreline" would be created. This will be addressed in more detail below. In addition, we have prepared cross sections to locations identified on the shoreline map that establish the maximum height and minimum setback/buffer requirements for uses allowed in those particular locations. These are not representative of a specific design proposal but of a hypothetical development built to the maximum height and allowed setback at a particular location. The attached cross sections show an example of a soft bank treatment and a hardened edge treatment in the Mixed Use subarea. The context is critical in that mixed use development will not occur without an agreed upon Master Plan and Development Agreement between the City and the Port. The Master Plan will further define road and park location and shoreline setbacks.
Also attached is a revised regulatory table that sets forth the regulatory framework for the shoreline designations within the Waterfront District, as well as a revised regulatory text for the Waterfront District for inclusion in the draft SMP. These revisions follow the existing City format. The table has the Recreation Shoreline subarea added. You will note that in the Recreational Shoreline, non-water oriented uses, such as residential uses, are not allowed; non-water oriented uses are functionally set back two hundred feet (200') from the ordinary high water mark in this area. This was designed to address the comments of the Planning Commission to ensure a larger setback in some areas where the parks were anticipated.

The creation of the new Recreational Shoreline subarea and related use restrictions and setbacks thereto results in the elimination of the problematic provisions related to maximum/minimum setback provisions with allowable reductions based on vague criteria.

The new Recreational Shoreline subarea maps proposed to be included in the draft SMP have been developed to depict the anticipated future park locations within the jurisdiction of the Shoreline Management Act ("SMA") without reference to a road grid. This designation would provide for and allow interim uses within this area prior to the conversion to active and/or passive recreational uses and related water-enjoyment uses. Prior to conversion to a recreational use, these lands within the recreational shoreline designation would be designated for uses consistent with their present uses as an industrial site and clean up related activities, and as such mud management and similar activities would be allowed. The development regulations and narrative on the cross sections for this area clearly allow interim industrial uses in this Recreational Shoreline subarea.

Removal of overwater structures, bank restoration and habitat enhancement will be timed and coordinated with cleanup activities in state-listed cleanup sites and coordinated property redevelopment. There are areas along the shoreline within the Waterfront District that will retain hardened shorelines and overwater structures for interim or long-term use. In these areas, a much smaller setback is warranted. Other areas will be restored to soft banks with more extensive habitat and larger shoreline setbacks.

One area of continuing concern for the City and the Port has been how to address roads and utilities within the shorelands areas of the jurisdiction of the SMA. These issues appear to be resolved, with some minor clarification to the existing language of the draft SMP. We understand that the City Council has agreed to remove a new phrase on page 110 in the introduction to the road, railways and utilities section proposed by the Planning Commission that was excluded from the regulatory and policy sections. The policy that generally prohibits roads parallel to the ordinary high water mark (page 110, number 4) addresses the concerns raised. Per our discussions, we have added a provision to clarify that existing roads located within shoreline jurisdiction may be upgraded and realigned within the shoreline jurisdiction.

Paved or hardened pathways are logical corridors for underground utilities, and can provide for both efficient utility planning without impacting shoreline ecological functions and valuable public amenities for public access such as bathrooms, drinking fountains, and services for water enjoyment and water related uses. The policies and regulations for utilities should be revised for this purpose, provided such utility corridors do not result in a net loss of shoreline ecological function. For instance, on page 112, numbers 7 and 11 refer to the crossing of a shoreline. In both of these regulatory provisions, if
applied to the shorelands (areas upland of the Ordinary High Water Mark), the location of utilities in already disturbed areas within shoreline jurisdiction would prohibit even underground utilities. The issue is that the definition of shorelines includes both the upland portion of the shorelands, as well as the inter-tidal and aquatic land which are areas waterward of the Ordinary High Water Mark. It is our understanding that the intent of these sections is to limit impacts to shoreline habitat waterward of the Ordinary High Water Mark, not to upland areas, i.e. shorelands. Similarly, the policy found on page 110, number 4 and page 111, number 8 raises a similar definitional concern. This can be remedied by simple changes in these cited sections, or by crafting particular policies for the section applicable to the Waterfront District, with clarity that conflicting policies or regulations elsewhere do not apply.

This proposed approach for regulating roads, utilities and other infrastructure within shoreline jurisdiction is based on a careful review of the DOE guidelines to ensure that it is consistent with the intent of the SMA and Ecology’s guidance for shoreline management. This approach creates the regulatory conditions which support a range of mixed-use activities within the shoreline and the long-term restoration of ecological functions in a highly impacted industrial waterfront.

You have requested that the Port include general language addressing the adaptive reuse of structures within the shoreline. We have included the preservation or adaptive reuse of historic structures as being a permitted use within the Waterfront District. In addition, per your request, the text in the cross sections now provides that height, setback and use restrictions do not apply to the adaptive reuse of historic buildings (see note 5 on Figure 2).

Thank you again for your efforts and cooperation.

Sincerely,

CHMELIK SITKIN & DAVIS P.S.

[Signature]

Jonathan K. Sitkin

JKS/ams
Encl.
cc: Client

P: PORT MELLONPLANNING & DEVELOPMENT/Shoreline Update 2009 - SMA-DMG3draft to City for City review 030709.pdf
F. NEW WHATCOM (THE WATERFRONT DISTRICT)

The City and Port of Bellingham are currently involved in a master planning effort for the New Whatcom Special Development Area (NWSDA), which has been renamed “The Waterfront District”. For continuity, the term “New Whatcom” has been retained in the Bellingham Shoreline Master Program and refers to the area currently known as “The Waterfront District.”

The intent of the New Whatcom shoreline designation is to implement ‘Special Area Planning’ and to facilitate the current New Whatcom master planning, incorporate public input and comply with the State of Washington Shoreline Management Act (RCW 90.58) and the Shoreline Guidelines (WAC 173-26). The Shoreline Guidelines describe ‘Special Area Planning’ as a regulatory tool which allows local governments to address shoreline management issues on complicated sites where a range of issues must be addressed. See Shoreline Guidelines, WAC 173-26-201(3)(d)(ix).

1. Purpose – To plan for, protect and implement restoration of the shoreline ecological function, reserve areas for water-dependent and water-related uses, maximize public access to the shoreline and accommodate shoreline mixed uses and non-water-oriented uses where appropriate.

2. Management Policies (Adapted from special meeting on March 7, 2006 where 2-08-06 version of the New Whatcom Implementation strategies and WFG Guiding Principals for City Center sub-area were approved by City Council / Port Commission on March 7, 2006.)

   a. The City should coordinate with state, federal and local agencies, organizations, and institutions, including the Lummi Nation and Nooksack Tribe, to improve the ecological function of the shorelines.

   b. Opportunities for cooperative projects and joint funding for shoreline restoration, habitat enhancement, environmental remediation and public access improvements should be identified.

   c. Where feasible, at such time as it is no longer needed for public access or water-dependent uses, hardened shoreline along the Whatcom Waterway, ASB lagoon and other shores should be removed or reduced, and the shoreline should be rehabilitated and enhanced for improved habitat and public access.

   d. Sites identified in the Waterfront Futures Group “Opportunities and Ideas for Habitat Restoration and Water Access on Urban Bellingham Bay” and other plans and studies should be evaluated for designation as public access and shoreline restoration sites in the New Whatcom Development Plan and City of Bellingham Shoreline Master Program.

   e. Appropriate locations for water-dependent and water-related uses
should be identified and reserved. Appropriate design features and transitional areas to buffer uses which produce noise, glare or odors from other adjacent uses should be developed and implemented, where appropriate.

f. Appropriate sites for water-related uses and ancillary activities to support commercial fishing, recreational boating and maritime industries, including boat building and repair to preserve the nautical history of our community should be identified and reserved.

g. The New Whatcom site should be redeveloped with a mix of uses including jobs, housing, retail development, services, educational and cultural facilities and water-dependant industrial uses.

h. Pocket beaches at the head of the Whatcom Waterway and the I & J Waterway, the foot of Cornwall Avenue and the foot of C and G Streets, and adjacent to the historic GP log pond should be reserved for preservation and restoration / enhancement as habitat and public access points.

i. An interconnected system of waterfront access and view points, public parks, open spaces, pedestrian walkways and bicycle routes which will be the backbone of the New Whatcom Special Development Area should be developed.

j. The majority of the water’s edge should be accessible via non-vehicular means of transportation, including pedestrian walkways, bicycle trails, motorized and non-motorized boat access, and transient moorage, and should be connected to a network of parks, trails and transit connections.

k. Public access to areas used for water-dependent industry or government agency uses or into critical areas where it would conflict with public health or safety, habitat protection or national security should be restricted, limited or controlled through appropriate design.

l. Parking should be located under buildings, within parking structures located away from or opposite the shoreline from the development unless associated with a water-dependent use or no other feasible alternative exists. Subject to the New Whatcom Master Plan design and phasing, surface parking may be developed as an interim use on areas planned for future redevelopment, enabling its evolution over time into a denser environment.

m. Streets should be aligned to facilitate circulation and accommodate future land uses. Existing roads located within shoreline jurisdiction may be retained, upgraded or realigned. Realignment may occur within shoreline jurisdiction provided that such realignment does not cause a net loss in existing shoreline
ecological function.

m-b. Building heights should be limited to preserve water views from street ends and other key public view points.

n-o. Bio-swales, rain gardens and other appropriate Low Impact Development (LID) techniques should be implemented to manage stormwater.

o-p. The Port and the City should work cooperatively to implement processes to ensure building permit predictability, consistency, and expediency within the New Whatcom Special Development Area.

p-q. Shoreline permits granted for development proposals within the New Whatcom Special Development Area should include adequate expiration timelines and phasing schedules in order to be consistent with the objectives in o., above.

3. Reaches designated New Whatcom

   a. Marine 5 – 7 (Marine Shoreline Reaches 1-8 map as shown in BMC 22.11.10) and are comprised of two-three sub-areas:

      i. New Whatcom Water-oriented uses Shoreline; and
      ii. New Whatcom shoreline Mixed use Shoreline
      iii. New Whatcom Recreational Shoreline

4. Uses: See the Development Regulation Matrix; New Whatcom in BMC 22.11.30.F.

   a. Permitted uses within the New Whatcom Water-Oriented Uses Shoreline sub-areas:

      i. Water-dependent uses;
      ii. Water-related uses;
      iii. Water-enjoyment uses;
      iv. Restoration and enhancement;
      v. Uses and activities specified in BMC 22.08.10.B.3; and
      vi. Non-water-oriented accessory uses that directly support a permitted use.
      vii. Preservation or adaptive reuse of historic structures.

   b. Permitted uses within the New Whatcom Shoreline Mixed Use Shoreline sub-areas:

      i. Those uses specified in 4.a. i - vi, above; and
      ii. Non-water-oriented uses including residential uses within a shoreline mixed-use structure subject to the requirements in BMC 22.03.30.F.6.

   c. Permitted uses within the New Whatcom Recreational Shoreline sub-area:
i. Those uses specified in 4.a. i - vii, above; and
ii. Interim construction staging and environmental remediation uses.

d. Conditional uses within all of the New Whatcom shoreline:
   i. Public water-enjoyment uses over or in-water;
   ii. Change from an existing non-water-oriented use to a different non-water-oriented use; and
   iii. Temporary stand-alone non-water-oriented uses may operate within the two existing warehouses and/or land area within the shoreline jurisdiction at the Bellingham Shipping Terminal and within existing structures only between the historic GP log pond and Roeder Avenue subject to the applicable requirements in BMC 22.06.40 (Conditional Use Permits).

5. Development regulations for the New Whatcom Water-Oriented Uses Shoreline sub-area:
   a. Development shall result in no net loss of shoreline ecological functions.
   b. Development shall comply with all applicable requirements in BMC 22.04, 22.08 and 22.09 and the applicable submittal requirements within the Critical Areas Ordinance, APPENDIX C.
   c. Setbacks, Buffers and Height - Development shall be in accordance with the table in BMC 22.11.30.F and d. e. below, and as specified in subsection-78, below.
   d. Water-oriented uses shall not exceed a height of 35 feet except that, when a water-oriented use greater than 35 feet in height but not more than 50 feet in height is proposed, a view analysis shall be conducted in order to prevent obstruction of identified public view corridors. Heights greater than 50 feet shall be subject to the requirements for a variance in BMC 22.06.30.
   e. Non-water-oriented accessory uses as specified in 4.a.vi., above, shall not exceed the height of the permitted use.
f. Development shall provide public access subject to the public access requirements and criteria in BMC 22.08.70.

g. Stand-alone water-enjoyment uses shall be designed to be oriented towards the shoreline such that the general public has the opportunity to enjoy the aesthetics of a shoreline location and have physical and/or visual access to the shoreline.

6. Regulations within the New Whatcom Mixed Use sub-area are as follows:

a. Development shall result in no net loss of shoreline ecological functions.

b. Development shall comply with all applicable requirements in BMC 22.04, 22.08 and 22.09 and the applicable submittal requirements within the Critical Areas Ordinance, APPENDIX C.

c. Setbacks, Buffers and Height - Development shall be in accordance with the table in BMC 22.11.30.F and d. f., below and as specified in subsection 78, below.

d. The maximum setbacks and buffers within the New Whatcom mixed-use sub-area may be reduced down to the minimum setbacks and buffers (both as specified in BMC 22.11.30.F) when established in the completed and adopted New Whatcom Master Plan and Development Agreement for the entire New Whatcom Special Development Area and subject to the following criteria:

1) Completion and adoption of the New Whatcom Master Plan and Development Agreement is not justification for reducing the maximum buffers and setbacks as specified above.

2) The rationale for reductions of buffers and setbacks from the maximum down to the minimum as specified in 6. d., above, shall be demonstrated and considered during development of the New Whatcom Master Plan and Development Agreement.

3) There shall be no net loss of existing shoreline ecological function as a result of the reduction.

4) The reduction shall not impact or compromise any ongoing or planned provisions for public access amenities, habitat restoration and/or enhancement and contaminated sediment remediation.

5) Reduction beyond the minimums specified in BMC 22.11.30.F shall be subject to the requirements in BMC 22.06.30, Variances.
6) In the absence of a New Whatcom Master Plan and
Development Agreement, the maximum setbacks and
buffers as specified in BMC 22.11.30.F shall apply.

e. The total height of a shoreline mixed-use structure (one that
includes water-oriented uses and non-water-oriented uses) shall
not exceed 3 stories. One bonus story may be granted if all
required parking for the subject non-water-oriented uses (with
the exception of loading/unloading areas) is provided within the
footprint of the subject structure and/or within a shared parking
facility such as a surface lot or parking structure. In either case (3
or 4 stories) the height shall comply with the height requirements
specified in 5.d., above.

f. Non-water-oriented uses within a shoreline mixed-use
structure, as specified in 4.b.ii, above, shall be established or
developed concurrently with a water-oriented use and shall
provide public access and habitat restoration between the
subject development and the adjacent shoreline subject to the
requirements in g.—j. e.—h., below.

g. When a shoreline mixed-use development is proposed, public
access, when required, shall be provided between the subject
development and the adjacent shoreline concurrently and shall
be consistent with an adopted master plan and/or public access
plan. In cases where said public access cannot be provided due
to seasonal constraints, including fish windows, the timing with
other planned/ongoing soil remediation or implementation of
a habitat restoration project, said public access shall be secured
with a financial surety totaling 150% of the cost of the required
access or some other acceptable surety as may be specified by
the Planning Department Director or within the New Whatcom
Development Agreement, upon adoption.

h. In the absence of a master plan or public access plan as
specified in ge., above, required public access shall be designed
and configured on a site-by-site basis consistent with BMC
22.08.70. Said plan shall be reviewed and approved by the
Planning, Environmental Resources and the Parks and
Recreation Departments.

i. When a shoreline mixed-use development is proposed, habitat
restoration, as required in fd., above, shall be provided per an
approved habitat restoration plan. In absence of said habitat
restoration plan, the subject development shall incorporate a
minimum of three objectives from the Restoration Plan
(Section 4, APPENDIX C). In both cases, said restoration plan
shall be consistent with BMC 22.09.160. and shall be reviewed
and approved by the Environmental Resources Division and
the Planning Department.

j.h. Said required habitat restoration shall be completed prior to occupancy of the subject uses. In cases where the required habitat restoration cannot be provided due to seasonal constraints, including fish windows, or the timing with other planned / ongoing soil remediation or implementation of public access projects, said habitat restoration shall be secured with a financial surety totaling 150% of the required restoration project or some other acceptable surety as may be specified by the Planning Department Director or within the New Whatcom Development Agreement, upon adoption.

k.i. Non-water-oriented uses shall not occupy the portion of the ground floor of a mixed-use structure that fronts on or is adjacent to the shoreline. (Only parking in the rear of the ground floor of a shoreline mixed-use structure is permitted.)

l.j. In no case may residential uses within a shoreline mixed-use structure occupy the ground floor.

7. Development regulations for the New Whatcom Recreational Shoreline sub-area:

a. Development shall result in no net loss of shoreline ecological functions.

b. Development shall comply with all applicable requirements in BMC 22.04, 22.08 and 22.09.

c. Setbacks, Buffers and Height - Development shall be in accordance with the table in BMC 22.11.30.F below, and as specified in subsection 8, below.

d. Water-oriented uses shall not exceed a height of 25 feet. Heights greater than 25 feet shall be subject to the requirements for a variance in BMC 22.06.30.

e. Non-water-oriented accessory uses as specified in 4.a.vi., above, shall not exceed the height of the permitted use.
f. Development shall provide public access subject to the public access requirements and criteria in BMC 22.08.70.

g. Stand-alone water-enjoyment uses shall be designed to be oriented towards the shoreline such that the general public has the opportunity to enjoy the aesthetics of a shoreline location and have physical and/or visual access to the shoreline.

——Interim construction staging and environmental remediation uses shall be discontinued at the time the property is converted to park use.

8. A buffer shall not be required where there is an existing pier, wharf, sheet pile or other vertical (90-degree) structure in-water or at the OHWM. The required buffer shall not apply until such time that said feature(s) is removed permanently. Replacement of said structure(s) for a permitted use would not trigger the ——50-foot buffer requirement.

89.—Allowed uses/activities within a required buffer area are as follows:

a. Those portions of water-oriented uses that require direct access to the water (piers and gangways, boat launches, loading / unloading areas, view overlooks / platforms etc.); and

b. Those uses and activities as specified in BMC 22.08.10.B.3.
### Development Regulations for the New Whatcom Shoreline Designation (5/07/09 Revision)

<table>
<thead>
<tr>
<th>New Whatcom Water Oriented Shoreline (Blue)</th>
<th>Use</th>
<th>Permitted</th>
<th>Setback (from OHWM)</th>
<th>Buffer * (from OHWM)</th>
<th>Height</th>
<th>Pub Acc Required</th>
<th>Hab Restoration*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water-Dependent</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td></td>
<td>Y</td>
<td>0'</td>
<td>none</td>
<td>N/A</td>
<td>None for marine industrial. Other uses subject to 22.08.70</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td></td>
<td>Y</td>
<td>0'</td>
<td>none</td>
<td>&lt;or = to 35' outright 35'-50' view analysis &gt;50' variance</td>
<td>None for marine industrial. Other uses subject to 22.08.70</td>
<td>N</td>
</tr>
<tr>
<td>Water-Related</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td></td>
<td>Y</td>
<td>0'</td>
<td>none</td>
<td>N/A</td>
<td>None for marine industrial. Other uses subject to 22.08.70</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td></td>
<td>Y</td>
<td>0'</td>
<td>none</td>
<td>&lt;or = to 35' outright 35'-50' view analysis &gt;50' variance</td>
<td>None for marine industrial. Other uses subject to 22.08.70</td>
<td>N</td>
</tr>
<tr>
<td>Water-enjoyment</td>
<td></td>
<td>Y</td>
<td>50'</td>
<td>none</td>
<td>N/A</td>
<td>N-W-O &amp; N</td>
<td>N</td>
</tr>
<tr>
<td>on land</td>
<td></td>
<td>Y</td>
<td>0'</td>
<td>none</td>
<td>N/A</td>
<td>N-W-O &amp; N</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td></td>
<td>Y</td>
<td>50'</td>
<td>none</td>
<td>&lt;or = 35' outright 35'-50' view analysis &gt;50' variance</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Water Enjoyment use over/in water</td>
<td>CUP</td>
<td></td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>N-W-O Non-water-Oriented structures</td>
<td></td>
<td></td>
<td>Per associated use</td>
<td>Per associated use</td>
<td>Per associated use</td>
<td>Per associated use</td>
<td>Per associated use</td>
</tr>
</tbody>
</table>


* Each project is meant to mitigate it's anticipated impacts per 22.08.100.
New Whatcom Mixed Use Shoreline (Orange)

<table>
<thead>
<tr>
<th>Use</th>
<th>Permitted</th>
<th>Setback (from OHWM)</th>
<th>Buffer * (from OHWM)</th>
<th>Height</th>
<th>Pub Acc Required</th>
<th>Hab Restoration **</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water-Dependent</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td>Y</td>
<td>0'</td>
<td>25' that portion necessary for the WD use may encroach</td>
<td>N/A</td>
<td>None for marine industrial. Other uses subject to 22.08.70.</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>0'</td>
<td>25' that portion necessary for the WD use may encroach</td>
<td>&lt; or = 35' outright 35'-50' view analysis &gt;50' variance</td>
<td>None for marine industrial. Other uses subject to 22.08.70.</td>
<td>N</td>
</tr>
<tr>
<td>Water-Related</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td>Y</td>
<td>25'</td>
<td>25' that portion necessary for the WR use may encroach</td>
<td>N/A</td>
<td>Subject to 22.08.70</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>50'</td>
<td>25' that portion necessary for the WR use may encroach</td>
<td>&lt; or = 35' outright 35'-50' view analysis &gt;50' variance</td>
<td>Subject to 22.08.70</td>
<td>N</td>
</tr>
<tr>
<td>Water-Enjoyment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land (park, plaza)</td>
<td>Y</td>
<td>25'</td>
<td>25' that portion necessary for the WR use may encroach</td>
<td>N/A</td>
<td>Subject to 22.08.70</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>50'</td>
<td>25' that portion necessary for the WR use may encroach</td>
<td>&lt; or = 35' outright 35'-50' view analysis &gt;50' variance</td>
<td>Subject to 22.08.70</td>
<td>N</td>
</tr>
<tr>
<td>(aquarium, museum)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water Enjoyment use over/in water</td>
<td>CUP</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>Subject to NWDP or public access plan or subject to 22.08.70</td>
<td>Yes per an approved plan or min of 3 objectives from REST PLAN and consistent with 22.09.160</td>
</tr>
<tr>
<td>N-W-O</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>shoreline mixed use structure</td>
<td>Y - if devele'd concurrently with a water-oriented use</td>
<td>50'</td>
<td>25' that portion necessary for the WD use may encroach</td>
<td>&lt; or = 35' outright 35'-50' view analysis &gt;50' variance</td>
<td>Subject to NWDP or public access plan or subject to 22.08.70</td>
<td>Yes per an approved plan or min of 3 objectives from REST PLAN and consistent with 22.09.160</td>
</tr>
</tbody>
</table>


* Except where there is an existing pier, wharf, sheet pile or other vertical in-water structure - the 25' buffer does not apply.

(Replacement of said structures for a permitted use would not trigger the 25-foot buffer requirement.)

** Habitat restoration is required for developments where a non-water-oriented use is proposed within a shoreline mixed use structure. Each project is meant to mitigate it's anticipated impacts per 22.08.100.
<table>
<thead>
<tr>
<th>Use</th>
<th>Permitted</th>
<th>Setback (from OHWM)</th>
<th>Buffer * (from OHWM)</th>
<th>Height</th>
<th>Pub Acc Required</th>
<th>Hab Restoration* **</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water-Dependent</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td>Y</td>
<td>0'</td>
<td>50' that portion</td>
<td>N/A</td>
<td>None for marine industrial. Other uses subject to 22.08.70.</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>0'</td>
<td>50' that portion</td>
<td>35'</td>
<td>None for marine industrial. Other uses subject to 22.08.70.</td>
<td>N</td>
</tr>
<tr>
<td>Water-Related</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land</td>
<td>Y</td>
<td>25'</td>
<td>50' that portion</td>
<td>N/A</td>
<td>Subject to 22.08.70</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>50'</td>
<td>50' that portion</td>
<td>35'</td>
<td>Subject to 22.08.70</td>
<td>N</td>
</tr>
<tr>
<td>Water-Enjoyment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on land (park, plaza)</td>
<td>Y</td>
<td>25'</td>
<td>50'</td>
<td>N/A</td>
<td>Subject to 22.08.70</td>
<td>Yes, per 22.09.160</td>
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<tr>
<td>in a structure</td>
<td>Y</td>
<td>100' ***</td>
<td>50'</td>
<td>35'</td>
<td>Subject to 22.08.70</td>
<td>Yes, per 22.09.160</td>
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<td>Water Enjoyment use</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>over/in water</td>
<td>CUP</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>N-W-O mixed use structure</td>
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<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

* Except where there is an existing pier, wharf, sheet pile or other vertical in-water structure - the 25' buffer does not apply.
(Replacement of said structures for a permitted use would not trigger the 25-foot buffer requirement.)
** Habitat restoration is outright required for developments where a non-water-oriented use is proposed within a shoreline mixed use structure. Each project is meant to mitigate it's anticipated impacts per 22.08.100.
*** Public art, play structures, open or covered seating, restrooms and concessions are allowed within Recreational Shoreline setback.
Figure 1
Shoreline Environment
1. Existing roads within Shoreline Jurisdiction may be retained, upgraded or realigned.
2. Existing piers, wharves, sheet pile or other vertical in-water structures may be retained for public access or water-oriented use.
3. Structures within shoreline jurisdiction could be 35' in height outright (50' with view analysis).
4. No setback for water dependent uses or structures. Setbacks for mixed-use buildings will vary and be further defined in The Waterfront District Sub-Area Plan and Development Regulations.
5. Height, setbacks and use restrictions do not apply to adaptive reuse of historic structures.
6. Nearshore habitat includes sloping intertidal and shallow subtidal marine habitats, utilizing soft bank techniques. Substrate may consist of sand/mud/cobble depending on slopes and wave energy; higher energy areas may include gravel or rocky shore habitats. Habitat suitable for colonization by eel grass and/or macroalgae. Habitat provides important forage and refuge functions for juvenile salmonids and other fisheries resources.

**Figure 2**

Section A - Mixed Use Shoreline Environment with Existing Hard Bank

Source: CollinsWoerman/Anchor Environmental

OHWM - Ordinary High Water Mark
MHHW - Mean High Water Mark
MLLW - Mean Low Water Mark
ROW - Right of Way

The Waterfront District
5. A public park includes a combination of trees, plants & shrubs with grassy areas; hard surfaced walkways & bikeways with street furniture.
6. Nearshore habitat includes sloping intertidal and shallow subtidal marine habitats, utilizing soft bank techniques. Substrate may consist of sand/mud/cobble depending on slopes and wave energy; higher energy areas may include gravel or rocky shore habitats. Habitat suitable for colonization by eel grass and/or macroalgae. Habitat provides important forage and refuge functions for juvenile salmonids and other fisheries resources.
7. Fringe habitat includes sloping fringe habitat in high intertidal and adjacent areas. Substrate characterized by rocky shore conditions, suitable for colonization of native salt-tolerant vegetation.
Notes
1. A public park includes a combination of trees, plants & shrubs with grassy areas; hard surfaced walkways & bikeways with street furniture; public restrooms, covered seating & concession structures nor more than 25' tall may be located within parks.
2. Interim uses within the Shoreline Jurisdiction may include construction staging, environmental remediation, habitat restoration or other water-oriented-uses.
3. Nearshore habitat includes sloping intertidal and shallow subtidal marine habitats utilizing soft bank techniques. Slopes generally flatter than in terraced habitat. Substrate may consist of sand/mud/cobble depending on slopes and wave energy; higher energy areas may include gravel or rocky shore habitats. Suitable for colonization by eel grass and/or macroalgae. Habitat provides important forage and refuge functions for juvenile salmonids and other fisheries resources.
4. Beach habitat includes gradually sloping fringe habitat in high intertidal and adjacent areas. Substrate may include some rocky shore conditions in high energy areas. Softened shorelines may be integrated with public access functions where appropriate. Beach areas generally suitable for colonization by salt marsh and native salt-tolerant vegetation.

Figure 4
Section C - Recreational Shoreline Environment

Source: CollinsWoerman/Anchor Environmental
Notes
1. Structures within the shoreline jurisdiction could be 35' in height outright (60' with view analysis).
2. The shoreline jurisdiction extends both landward and seaward of the OHWM.
3. A public park includes a combination of trees, plants & shrubs with grassy areas; hard surfaced walkways & bikeways with street furniture.
4. Setbacks will be further defined in The Waterfront District Sub-Area Plan and Development Regulations.
5. Nearshore habitat includes maximizing use of rocky slopes rather than vertical bulkheads preserves and enhances forage and refuge habitat functions in intertidal and shallow subtidal areas. Substrate selection will depend on wave energy and slope conditions; with higher energy shallow-water areas dominated by gravel or rocky shore habitats. Substrate may include sand and cobble in lower-energy, deeper-water areas. Habitat suitable for colonization by macroalgae.
6. Fringe habitat includes sloping fringe habitat in high intertidal and adjacent areas. Substrate characterized by rocky shore conditions, suitable for high-energy storm conditions. Suitable for colonization for native salt-tolerant vegetation.
7. Existing roads within Shoreline Jurisdiction may be retained, upgraded or realigned.

Figure 5
Section D - Mixed Use Shoreline Environment with Existing Roadway

Source: CollinsWoerman/Anchor Environmental

The Waterfront District
Notes:
1. Given the extent of the Cornwall Beach Area, it is likely buildings would be setback beyond the shoreline jurisdiction.
2. A public park includes a combination of trees, plants & shrubs with grassy areas; hard surfaced walkways & bikeways with street furniture; public restrooms, covered seating & concessions no more than 25' tall may be located within the park.
3. Interim uses within the Shoreline Jurisdiction may include construction staging, environmental remediation, habitat restoration or other water-oriented uses.
4. Nearshore habitat includes maximizing use of rocky slopes rather than vertical bulkheads preserves and enhances forage and refuge habitat functions in intertidal and shallow subtidal areas. Substrate selection will depend on wave energy and slope conditions; with higher energy shallow-water areas dominated by gravel or rocky shore habitats. Substrate may include sand and cobble in lower-energy, deeper-water areas. Habitat suitable for colonization by macroalgae.
5. Fringe habitat includes sloping fringe habitat in high intertidal and adjacent areas. Substrate characterized by rocky shore conditions, suitable for high-energy storm conditions. Suitable for colonization for native salt-tolerant vegetation.

Source: CollinsWoerman/Anchor Environmental

Figure 6
Section E - Recreational Shoreline Environment
Notes
1. Marina Breakwater Park includes a combination of plants, shrubs & grasses with hard surfaced walkway & park furniture (i.e., picnic tables and benches).
2. External breakwater shoreline to include large rock and cobble in the wave impact zone to provide storm protection for marina. Lower elevations may include gently sloping intertidal and shallow subtidal marine habitat constructed using soft bank techniques. Substrate may consist of sand/mud/cobble depending on slopes and wave energy; some bench areas may include gravel or rocky shore habitats. Suitable for colonization by eel grass and/or macroalgae. Habitat provides important forage and refuge functions for juvenile salmonids and other fisheries resources.
3. Internal breakwater shoreline includes opportunities for nearshore habitat, beach habitat and sloping fringe habitat that includes gravel or rocky shore habitats. Suitable for colonization by eel grass and/or macroalgae. Habitat provides important forage and refuge functions for juvenile salmonids and other fisheries resources.

Figure 7
Section F- Recreational Shoreline Environment

Source: CollinsWoerman/Anchor Environmental

The Waterfront District