City of Bellingham

CITY COUNCIL AGENDA BILL

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<td>Final review of City Council directed revisions to certain sections of the Draft Shoreline Master Program involving the Waterfront District and Lake Whatcom.</td>
<td>10-19-09</td>
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<tr>
<td>- Staff Report</td>
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<td>- Attachment 1: Proposed Revisions</td>
<td>Steve Sundin, PCDD</td>
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<td>- Attachment 2: Revised map and matrix table</td>
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<td>- June 2009 Draft SMP made available on June 30th, 2009 and can be found on <a href="http://www.cob.org">www.cob.org</a></td>
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<td>10-12-09</td>
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<tr>
<td>Alan Marriner, Asst. City Atty</td>
<td>See below</td>
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<td>Steve Sundin, Planner</td>
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SUMMARY STATEMENT:
Since the public hearing held on July 27th, 2009, work sessions with the City Council were held on September 14th, September 21st, and October 8th, 2009 on certain sections of the 2009 Draft SMP pertaining to the Waterfront District and Lake Whatcom.

The City Council directed Staff to make certain revisions to the existing Draft SMP. These revisions are in Attachments 1 and 2 and if directed, staff would implement these revisions into the Final Draft SMP that is scheduled for a final public hearing on November 23rd, 2009.

An adopting ordinance for the 2009 SMP would also be presented to the City Council for their approval at the November 23rd hearing so that the document can be forwarded to the Department of Ecology for their review and final approval.

Previous Council Action: Three public hearings and eight work-sessions over the last two years.

FISCAL IMPACT:
Total Fiscal Impact:
None.

Source of Funds:

RECOMMENDED ACTION:

- Information only; no action required
- Move to adopt ordinance or resolution
- Other
- Provide direction to staff
- Move to approve appointment
- Award Bid to lowest bidder

COMMITTEE RECOMMENDATION / ACTION:

COUNCIL ACTION:
CITY COUNCIL STAFF REPORT

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<th>Agenda Topic:</th>
<th>Final review of City Council directed revisions to certain sections of the Shoreline Master Program (SMP) pertaining to the Waterfront District and Lake Whatcom.</th>
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<tr>
<td>For:</td>
<td>October 19, 2009 report back to the City Council</td>
</tr>
<tr>
<td>Staff Contact:</td>
<td>Steve Sundin, Planner, 778-8359 or, <a href="mailto:ssundin@cob.org">ssundin@cob.org</a></td>
</tr>
</tbody>
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I. SUMMARY:

A public hearing on the 2009 Draft SMP was held on July 27, 2009. Certain issues were raised on the draft regulations and policies pertaining to the Waterfront District and Lake Whatcom.

Three subsequent work sessions were held on September 14th, September 21st and October 5. The purpose of these work sessions was to review, consider and provide direction to City Staff on potential revisions to the sections of concern.

Attachments 1 and 2 contain the revisions that were directed by the City Council.

II. REVISIONS:

Attachment 1 contains two sets of revisions.

The first portion of Attachment 1 addresses development within the Waterfront District. These revisions are the result of City Council direction received at the September 21st work session. This work session included review and consideration of the September 17th memo from Terry Borneman and Jack Weiss. The memo has been included in Attachment 1 and the proposed revisions are included under each issue raised.

A new Waterfront District matrix table and shoreline designation map are included as Attachment 2.

The second portion of Attachment 1 includes revisions pertaining to Lake Whatcom. The proposed revisions that City Council reviewed at the October 5th work session are included in Attachment 1 and new language is proposed under those issues that staff was directed “REVISE.”

Language that is new because of City Council direction is shown in bold.

In both portions the “ACCEPT   REJECT   REVISE” method is used. The City Council should review these revisions and choose one of these three options.

Attachment 2 includes a revised shoreline designation map with the new Recreational sub-area and a corresponding matrix table specifying permitted uses, buffer and setback widths and height.

This work session is limited to 10-15 minutes so the discussion must be focused on those items that result in a choice to “REVISE.”

III. NEXT STEPS

Staff would make the revisions to these sections as directed by the City Council and provide them for review one final time before including them in the final draft SMP. The final draft SMP as well as the adopting ordinance will be considered at a final public hearing on November 23, 2009.

2009 Draft SMP – 10/19/2009 Final Work-Session
IV. STAFF RECOMMENDATION:

Direct staff to prepare the final Draft SMP for the November 23rd, 2009 public hearing.

Staff report prepared by: Tim Stewart, Planning Director

Approved for submittal by:

Steven Sundin, Planner
ATTACHMENT 1

WATERFRONT DISTRICT REVISIONS

Memo: September 17, 2009

To: City Council
    Mayor Pike
    Tim Stewart
    Steve Sundin

From: Terry Bornemann and Jack Weiss

RE: Shoreline Management Program recommendations

Based on the discussion at the Council meeting of September 14 and incorporating the proposal by Councilmember Bornemann, we would like to offer the following for Council consideration as direction to staff for issues pertaining to the Waterfront District component of the SMP:

General --

1. Provide specific definitions or sunsets (or alter language) for terms used throughout the SMP that refer to “temporary” (eg. Port, F.4.d.iii) or “at such time” (Port, F.2.c) or “adequate” (Port, F.2.q) that support the SMP goals of no net loss of ecological functions, public access, and economic development.

   TEMPORARY: This is used in the Draft SMP on page 41 – Section 22.03.30 F.4.c.ii. in terms of a shoreline conditional use permit. “Stand alone non-water-oriented temporary uses may operate within the existing warehouses or land area … at the Bellingham Shipping Terminal.

   Shoreline conditional use permits are allowed to include – as a condition – a specified time limit that a specified use can operate in a certain location.

   STAFF RECOMMENDS RETAINING LANGUAGE AS IS WITHIN THE DRAFT SMP.

   ACCEPT  REJECT  REVISE

   AT SUCH TIME: This phrase is used in the Alternative Recommendation put forward by the Port of Bellingham.

   “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 shoreline should be removed or reduced, and the shoreline should be rehabilitated and enhanced for improved public access.

   The policy language in the Draft SMP on page 39 – Section 22.03.30 F.2.c. states:

   “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.”

   CITY COUNCIL SHOULD DIRECT STAFF TO RETAIN ONE OF THE VERSIONS ABOVE OR MAKE A SPECIFIC RECOMMENDATION TO REVISE.

   ACCEPT  REJECT  REVISE
ADEQUATE: This is used throughout the Draft SMP – especially in sections where the CAO has been integrated into the SMP. Sufficient, ample and satisfactory are other terms that could be used although adequate is common terminology within environmental regulations.

STAFF RECOMMENDS RETAINING LANGUAGE AS IS WITHIN THE DRAFT SMP.

ACCEPT    REJECT    REVISE

2. Specify the term "Waterfront District" instead of "New Whatcom" for consistency in our terminology as we move forward. Use the definition section to clarify the distinctions such as the older term, "New Whatcom Special Development Area" (NWSDA).

STAFF WILL INCLUDE THESE REVISIONS AND CLARIFICATIONS IN THE DEFINITIONS SECTION OF THE FINAL DRAFT SMP.

ACCEPT    REJECT    REVISE

3. Specify the term "master plan" instead of "development plan" as the latter is not part of our conventional terminology or regulatory process.

STAFF WILL INCLUDE THESE REVISIONS AND CLARIFICATIONS IN THE DEFINITIONS SECTION OF THE FINAL DRAFT SMP.

ACCEPT    REJECT    REVISE

4. Retain language recommended by Legal to all three shoreline designations that state: "For development within critical areas or their buffers that occur in shoreline jurisdiction, the appropriate provisions of this program shall apply" and "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."

STAFF WILL RETAIN LANGUAGE RECOMMENDED BY LEGAL.

ACCEPT    REJECT    REVISE

5. Provide language that will create a 25-50 foot buffer in Mixed-Use Shoreline and a 50-foot buffer in Recreational Shoreline for existing pier, wharf, sheet pile or other vertical (90-degree) structures in-water or at the OHWM unless specified in the master plan for a smaller or no buffer.

THE STAFF WILL APPLY THE REQUIRED BUFFER AREA ONLY ALONG SHORELINES WHERE THERE ARE NO VERTICAL FEATURES LOCATED AT THE OHWM OR IN-WATER SUCH AS SHEET PILINGS, BULKHEADS OR WHARVES.

ACCEPT    REJECT    REVISE

6. Amend Port proposal F.2.m to read: "Streets should be designed and located away from the water whenever feasible. All impacts from roadways must be fully mitigated. 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 or upgrades may occur within shoreline jurisdiction provided that such realignment or upgrade does not cause a net loss in existing shoreline ecological function."

The existing language is below and can also be found on page 40 of the Draft SMP; Section 22.03.30 F.2.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."

In addition, there is existing language addressing impacts from and configuration of roadways in shorelines which can be found in Section 22.09.170.B on pages 137-8 of the Draft SMP.
THE STAFF WILL KEEP THE EXISTING LANGUAGE IN THE MANAGEMENT POLICIES SPECIFIC TO THE WATERFRONT DISTRICT.

ACCEPT         REJECT         REVISE

7. Amend Section 22.08.90.A.5 Public Access to read: "The City and Port of Bellingham Property owners should implement a variety of techniques including acquisition, leases, easements and design and development innovations to achieve public access goals and to provide diverse public access opportunities."

STAFF WILL INCLUDE THIS REVISION IN FINAL DRAFT SMP.

ACCEPT         REJECT         REVISE

8. Amend Section 22.09.20.B.15 Boating Facilities to read: "Parking ratios for marinas shall be a minimum of .5 parking spaces for each new moorage slip unless a lower ratio can be demonstrated to supply anticipated demand. Parking areas for boat launch/boat trailer parking shall be determined by the Port of Bellingham negotiated with the property owner."

STAFF PROPOSES THE FOLLOWING REVISION TO THIS SUB-SECTION:

Parking ratios for marinas shall be a minimum of .5 parking spaces for each new moorage slip unless a lower ratio can be demonstrated to supply anticipated demand. Parking areas for vehicles and boat trailers for boat launch/ramps boat trailer parking shall be determined by the Port of Bellingham shall be based upon an analysis of demonstrable need submitted by the applicant and determined by the Director.

ACCEPT         REJECT         REVISE

9. Create a definition of "marina" that would be applicable to government- or privately-owned marina developments.

STAFF PROPOSES THE FOLLOWING DEFINITION FOR MARINA:

Marina – system of piers, floats, buoys that provides private or public wet moorage for motorized vessels for which a fee is charged and can also include launching facilities.

NOTE: Marinas fall under the Use Regulations specified in Section 22.09.20 on page 112 of the Draft SMP.

ACCEPT         REJECT         REVISE

Water-Oriented Shoreline –

1. Adopt Port regulatory and matrix table language as proposed except for the following:

2. Restore buffer mitigation and height footnotes, as appropriate, to original staff-generated matrix table 22.110.30 F.

STAFF RECOMMENDATION IS TO RETAIN MATRIX TABLE LANGUAGE IN THE DRAFT SMP FOR THE WATER-OrientED SHORELINE SUB-AREA AS IT IS THE SAME AS THAT PROPOSED BY THE PORT AND IT INCLUDES THE HEIGHT AND MITIGATION FOOTNOTES.

ACCEPT         REJECT         REVISE

Mixed-use Shoreline –

1. Retain staff regulatory and matrix table language as proposed except for the following amendments:

ACCEPT         REJECT         REVISE
2. To correct a probable typo in the Port proposal, F.4.b.i should be written and included "Those uses specified in 4.a. i-vi vii, above;" to reflect the language: "Preservation or adaptive reuse of historic structures."

**STAFF PROPOSES THE FOLLOWING ADDITION TO SECTION 22.03.30 F.4.b ON PAGE 41 OF THE DRAFT SMP:**

ii. Any water-oriented or non-water-oriented use that includes preservation and / or adaptive reuse of historic structures.

**ACCEPT** **REJECT** **REVISE**

3. Reinstate staff and Port deleted language in F.6.d 1-6 outlining conditions of minimum and maximum buffers and setbacks as linked to the passage of a subarea master plan.

**STAFF PROPOSES THE FOLLOWING REVISIONS TO SECTION 22.03.30 F.6.f ON PAGE 43 OF THE DRAFT SMP:**

The maximum setbacks and buffers within the New Whidbey Waterfront District shoreline 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 a Comprehensive Plan amendment for a when established in the completed and adopted New Whidbey Waterfront District Master Plan and Development Agreement for the entire New Whidbey Waterfront District Special Development Area or, upon the adoption of a master plan for a portion of land area within the Waterfront District, And subject to the following criteria:

If a master plan – as specified above – is not adopted the maximum setbacks and buffers within table 22.03.10 F for the mixed-use sub-area shall apply.

**ACCEPT** **REJECT** **REVISE**

**NOTE:** As discussed at the September 21st work session, the six criteria that were deleted in 22.03.30.F.6.f. still remain as requirements in other sections of the Draft SMP.

Examples include demonstration of no net loss of existing shoreline ecological function, variances are required for anything below the 'minimum' buffers and setbacks and finally, the rationale for reducing setbacks and buffers will be demonstrated through the Planning Commission and City Council legislative public process of the master planning effort.

Recreational Shoreline –

1. Adopt Port regulatory and matrix table language as proposed except for the following (number 2, below):

THE REGULATORY MATRIX AND SHORELINE DESIGNATION MAP FOR THE NEW RECREATIONAL SHORELINE SUB-AREA ARE INCLUDED IN ATTACHMENT 2.

**ACCEPT** **REJECT** **REVISE**

2. Specify that the “Interim construction staging and environmental remediation uses” in the Recreational Shoreline designation shall be the result of a Conditional Use Permit with specific timelines for this use and only if staging and remediation alternatives and locations are not available.

Section 22.09.40.B.2 on page 118 of the Draft SMP requires dredging of contaminated sediment to comply with the conditional use permit criteria. The act of dredging also includes a review and analysis of where contaminated sediments are stored / staged for export / dewatered / etc. The conditional use permit criteria can be found in Section 22.09.50 on page 66 of the Draft SMP.

**STAFF RECOMMENDS RETAINING LANGUAGE ALREADY WITHIN THE DRAFT SMP.**

**ACCEPT** **REJECT** **REVISE**
3. Reconcile height limits by reducing the 35-foot limits in the matrix table to match the 25-foot limits in the regulatory language.

THE REGULATORY MATRIX AND SHORELINE DESIGNATION MAP FOR THE NEW RECREATIONAL SHORELINE SUB-AREA ARE INCLUDED IN ATTACHMENT 2.

ACCEPT REJECT REVISE

4. Amend matrix table language for water-dependent land and structure use to read: None for marine industrial—Other uses Subject to 22.08.70 90

STAFF WILL INCLUDE THIS REVISION IN FINAL DRAFT SMP.

ACCEPT REJECT REVISE

Further direction may be necessary based on discussions with staff on these issues:

1. F.6.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.

STAFF ACKNOWLEDGES THAT THE RULE AS WRITTEN IS COMPLICATED AND SHOULD BE REVISED BASED UPON A 35-foot HEIGHT LIMIT- NOT A STORY LIMIT.

STAFF RECOMMENDS THE FOLLOWING REVISION IN THE TEXT AND WITHIN THE MATRIX TABLE:

F.6.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 35 feet. Additional height up to 50-feet 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) AND the additional height shall be subject to a view analysis that shall demonstrates that there will be no impacts to public views does.

Building height greater than 50-feet shall be subject to a variance. In either case (3 or 4 stories) the height shall comply with the height requirements specified in 5.d., above.

ACCEPT REJECT REVISE

2. Discussion on how preferable Council is to prohibit all surface parking within the 200 foot “shoreland” designation within Mixed-Use, Urban Conservancy, Natural and Recreational Shorelines with exceptions for loading, emergency, accessible parking, and conditional uses.

STAFF ADVISED CITY COUNCIL THAT THERE IS EXISTING LANGUAGE IN SECTION 22.09.130 ON PAGES 128 & 129 OF THE DRAFT SMP THAT ADDRESSES WHERE PARKING MUST BE LOCATED AND HOW IT MUST BE CONFIGURED IN RELATION TO SHORELINES.

HERE ARE TWO EXAMPLES FROM SUBSECTION 22.09.130.B:

3. Required parking (per BMC 20.12) for a permitted use on shorelines shall not be permitted between the development and the adjacent shoreline with the exception of parking that is required for water-dependent uses.

4. Parking for boating facilities including areas for loading and unloading and required ADA parking may be provided within existing buildings or provided within shoreline jurisdiction but not within a required buffer and shall be subject to the requirements in 9., below.
3. Discussion on whether the proposed "pocket beaches" are adequately designated and protected.

STAFF DESCRIBED TO CITY COUNCIL THAT POCKET BEACHES ARE SUBJECT TO THE REGULATIONS OF THE SHORELINE DESIGNATION THAT THEY ARE LOCATED WITHIN. THERE IS ALWAYS A REQUIREMENT TO DEMONSTRATE NO NET LOSS OF EXISTING SHORELINE ECOLOGICAL FUNCTION.

STAFF RECOMMENDS NO CHANGE

4. Remove "restrooms and concessions" from footnote "***" in the matrix table.

STAFF WILL REMOVE THESE FROM THE FOOTNOTE IN THE MATRIX TABLE IN THE FINAL DRAFT SMP.

LAKE WHATCOM REVISIONS:

REVISION 1: 22.02.20 SHORELINE GOALS

I. WATER QUALITY
   All development actions taken Citywide affect water quality. This Program should implement policies and regulations that improve water quality of our shorelines.

   1. Goal

      a. All development along the shorelines of the City should include measures to protect and/or improve water quality.

   2. Objectives

      The 2005-2009 Lake Whatcom Work Plan should be implemented. This represents the second five-year work plan developed for the management of Lake Whatcom as a drinking water reservoir. Both plans were developed from a list of goals and policies adopted by the Joint Councils and Commissioners in a 1992 Joint Resolution. In addition, the plans are based on priorities established by the Joint Councils and Commissioners in 2004.

      g. As of 2009, the TMDL Response Plan is the most current and up to date scientific information available to protect and improve the water quality of Lake Whatcom. This response plan includes elements of the 2010-2014 Work Plan established by the Inter-jurisdictional Coordinating Team (ICT) as well as the Recommended Management Action for Protection and Restoration of the Lake Whatcom Reservoir, prepared by the Lake Whatcom Reservoir Technical Review Task Force in May 2009. This plan should be implemented either through future code revisions or in the development of future watershed protection programs.
REVISION 2: 22.03.30 SHORELINE ENVIRONMENT DESIGNATIONS

C. SHORELINE RESIDENTIAL – MANAGEMENT POLICIES

3. As of 2009, the TMDL Response Plan is the most current and up to date scientific information available to protect and improve the water quality of Lake Whatcom. This response plan includes elements of the 2010-2014 Work Plan established by the Inter-jurisdictional Coordinating Team (ICT) as well as the Recommended Management Action for Protection and Restoration of the Lake Whatcom Reservoir, prepared by the Lake Whatcom Reservoir Technical Review Task Force in May 2009. This plan should be implemented either through future code revisions or in the development of future watershed protection programs.

The complete text of this excerpt can be found on page 29: Section 22.03.30 C.

ACCEPTED – 10/5/2009 WS

The Interjurisdictional Coordinating Team (ICT) manages the work plan that details all of the current and planned activities / programs that help implement the LWMP. The ICT has updated its recommendations for the 2005-2009 2010 – 2014 Lake Whatcom Work Plan. Each program area from above has a task, an action and a finished work product.

The work plan can be viewed at http://lakewhatcom.wsu.edu or on the City's website: http://www.cob.org/pw/fw/index.htm

The complete text of this excerpt can be found on page 30: Section 22.03.30 C. at the end of number 5.

ACCEPTED – 10/5/2009 WS

REVISION 3: RESTORATION PLAN – APPENDIX B

Include references to the ongoing development of the TMDL Response Plan in the following sections:

Section 4: Restoration Priority Goals and Objectives: page 4

Section 5: Restoration Implementation Strategies and Opportunities: page 16 – insert at top of the list

Table 1: Restoration Goals and Objectives: This is a matrix that includes the following items: Goal / Objective / Restored Natural Process / Ecologic Function / Potential Metrics (measurements) Table 1 begins on page 8 – insert at top of list

Table 2: Restoration Opportunities and Objectives: This is a matrix that includes the following items: Restoration Opportunity / Restoration Objective / Restoration Activity / Monitoring Activity Table 2 begins on page 24 – insert at top of list.

ACCEPTED – 10/5/2009 WS

REVISION 4: BUFFER WIDTHS

Section 22.03.30.C.10.c refers to the table in 22.11.30.C for setbacks, buffers and height in the shoreline residential designation.

Currently, the buffer requirement is 50-feet as measured from the elevation of the OHWM (elevation 314-feet above sea level)

The complete text of this excerpt can be found on page 32: Section 22.03.30 C.10.
REVISED BUFFER WIDTH:

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<td>Per BMC 20.00</td>
<td>Y</td>
<td>5'</td>
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REVISION 5: 22.05.40 NONCONFORMITY

E. Enlargement or Expansion of a Single-family residence. A single family residence may be enlarged or expanded subject to approval of a conditional use permit.

Expansion of a non-conforming single family residence shall be subject to approval of a Type II administrative conditional use permit provided the following conditions can be met (in addition to those in Section 22.06.50.C.):

1. There is no further encroachment into the required buffer beyond the furthest extent of the foundation of the existing structure but not including foundations for patios, decks, pier abutments and other appurtenances.

2. The expansion is compliant with all other BMC requirements.

The complete text of this section can be found on page 60: Section 22.05.40.E

ACCEPTED – 10/5/2009 WS

REVISION 6: 22.05.20 EXEMPTIONS REVISED FOR THE 10/19/2009 WORK SESSION

A. Exempt Developments

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit:

n. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under Chapter 43.21C RCW when conducted by or under the supervision of the Whatcom County Noxious Weed Control Board.

This exemption shall not apply to other individuals or groups that intend to remove or control noxious weeds as defined above within the shorelines of Lake Whatcom.

o. Watershed restoration projects as defined herein. The Department of Ecology shall review the projects for consistency with the shoreline Master Program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving a complete application form from the applicant. No fee may be charged for accepting and processing applications for watershed restoration projects as used in this section. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or part of the plan and consists of one or more of the following activities:

i. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
ii. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control erosive forces of flowing water; or

iii. A project primarily designated to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structures, other than a bridge or culvert or in-stream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark.

Watershed restoration plan means a plan (such as the Restoration Plan in APPENDIX B), developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, recreation, or enhancement of the natural resources character, and ecology of a stream, stream segment, drainage area or watershed for which agency and public review has been conducted pursuant to Chapter 43.21C RCW, the State Environmental Policy Act (SEPA). The Restoration Plan in APPENDIX B is a qualifying plan under this definition of which one of more of its elements could be implemented as an exempt activity.

ACCEPT REJECT REVISE

REVISION 7: 22.08.10 ALLOWED ACTIVITIES IN SHORELINE BUFFERS

REVISED FOR 10/19/2009 WORK SESSION

B. Regulations

4. The following specific activities may be permitted as part of an authorized use and subject to submittal of a critical area report within a shoreline, or a critical area within shorelines and/or their required buffers when they comply with the applicable policies and regulations in Chapters of this chapter and BMC 22.03, 22.04, 22.08 and 22.09:

i. Establishment of a Native Vegetation Protection Area and/or an engineered stormwater management mechanism(s) if required per BMC 16.80 or, as a voluntary action for development or redevelopment within the shorelines of Lake Whatcom provided that:
   i. Existing native trees and shrubs are not removed or, they may be relocated on site.
   ii. Structural engineered stormwater mechanisms shall be setback a minimum of 25-feet from an existing bulkhead or from the OHWM or as otherwise required by BMC 15.42, whichever is greatest.
   iii. All activity is compliant with the performance standards and seasonal restrictions in BMC 15.42 and BMC 15.80

The complete text of this excerpt can be found on page 77: Section 22.08.10.B.4.i.

ACCEPT REJECT REVISE

REVISION 8: 22.08.100 SHORELINE NATIVE VEGETATION MANAGEMENT

B. Regulations

1. For development on all shorelines, including within a required buffer area, the following shall apply:
a. Removal of or alteration to any native vegetation within the shoreline jurisdiction including within critical areas is strictly prohibited unless such activity is required for a permitted use or is determined to be a hazard tree as specified below.

b. Proposed removal of native vegetation for a permitted use shall be reviewed per the mitigation sequencing specified in BMC 22.08.2019 of this Title.

c. The following standards shall apply for removal and replacement of existing native vegetation to all shoreline designations except as specified in iv and v, below:

i. Removal of native trees greater than 6 inches diameter at breast height (dbh) shall be replaced at a 3:1 ratio with native species and shall be re-established within any required buffer on the project site, except as specified in iv, below.

ii. Required buffer areas for riparian, marine and Lake Padden shorelines shall be installed with additional native vegetation that yields a total density mix of 2 native trees, 10 shrubs and groundcover where none is present per every 100 square feet. (EXCEPT for as specified in iv. and v., below.) New native vegetation to be installed within required buffers shall include species types that are capable of achieving the objectives specified in the 2004 SCI Functional Analysis per the subject reach.

iii. For development that includes expansion of more than 10% of an overall existing development footprint, including single-family residences, the requirements in i and ii, above, shall apply to every 100 square feet of additional footprint above the aforementioned 10% and shall be installed within any required buffer. (EXCEPT within the Urban Maritime shoreline designation and New Whatcom the Waterfront District 'water-oriented use' sub-areas.)

iv. Required buffer areas for Lake Whatcom shall include the same densities as specified in ii and iii, above, however, required trees are not required to be planted in buffer areas. New shrubs and groundcover shall be installed within buffer areas, within close proximity to or adjacent to the shoreline and may be clustered or combined with other existing vegetation.

v. There are no required buffers for those Urban Maritime and New Whatcom 'water-oriented use' sub-areas and hence no required native vegetation management standards apply.

d. For development or redevelopment, as defined in BMC 16.80, that occurs within the shoreline residential designation, native vegetation shall be installed in required buffer areas as required in subsection 3, below and BMC 16.80.

2. Within a critical area report as specified within Chapter 22.06 BMC 16.55.240 and the additional requirements within BMC 16.55.480.C.1. (Fish and Wildlife Habitat Conservation Areas) (OLCR) a Native Vegetation Management Plan for the project site including the associated buffer shall include the following information except as provided in 3, below:

a. The preddevelopment quantity, species type, distribution, approximate height of native vegetation, diameter at breast height (dbh) for trees only, successional stage of overall vegetative cover, potential native vegetation types, soil type / characteristics, a reference site and any existing hazard trees on the entire site. Said information shall be indicated and represented on a site plan drawn to scale and shall be reflected on an accompanying species and count matrix.

b. Identification of native vegetation to be removed and protected as a result of the proposed site plan.

c. Identification of any non-native or noxious vegetation.
d. Identification of the following; new trees to be installed and that specify installation size of a minimum height of 12 inches – 18 inches and minimum of ¾ inch caliper in size; shrubs shall be of at least four different varieties or those recommended by said professional that will accompany the potential native vegetation types; ground cover and a minimum of 4 inches of wood chip mulch distributed over the entire planting area.

e. Methodology for removal of any noxious or non-native vegetation, necessary soil amendments, installation and maintenance as described above.

f. Preparation of a financial surety (an assignment of funds or surety bond) that accounts for 150% of the cost of a five-year maintenance and monitoring plan that ensures a survival rate of 100% for trees and 85% for all other vegetation. The five-year maintenance and monitoring period shall commence at the time the required native vegetation has been installed, inspected and verified by a representative from the Planning and Community Development Department.

g. 'Volunteer' native vegetation is allowed to be counted towards the survival rate percentage requirement as specified in f., above.

3. For Native Vegetation Protection Areas that are required for development or redevelopment within the shorelines of Lake Whatcom as required by BMC 16.80 the critical area report shall contain the information specified in BMC 16.80.080 E.2.

The complete text of this excerpt can be found on page 103: Section 22.08.100.B.
harmful substances from entering the water such as gasoline, two-stroke engine fuel, paint and wood conditioner and other boat related substances.

B. Regulations

1. Stormwater management facilities shall be developed in such a manner that there is no net loss of ecological function.

2. At a minimum, all phases of development shall be consistent with the requirements within BMC 15.42, as amended.

3. When permitted to be located within shorelines, critical areas or their required buffers, stormwater management facilities shall also be subject to the applicable requirements in BMC Chapter 22.08.10, BMC 16.65, BMC 16.80 and BMC 15.42. (OLCR)

4. All phases of development shall provide an 'enhanced' level of stormwater management per the latest version of the Department of Ecology Stormwater Manual for Western Washington.

5. Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.

6. Stormwater management facilities that are proposed within a required buffer of a Shoreline Residential designation shall not include any surface structures (except for catch basin covers or cleanouts) or require engineered shoreline stabilization.

LOTS & DOCKS:

✓ 4 vacant properties – Prospect Way (south of Bloedel Donovan Park) – up to 4 docks would be allowed if properties developed separately.

✓ 2 appear to have redevelopment potential where an existing house could be moved or demolished and two new homes could be developed at 416 & 726 North Shore Drive. Each has an existing dock. Two additional docks would be permitted.

✓ 1 lot has subdivision potential of 4 lots at 1210 North Shore Drive. If subdivided one joint use dock would be permitted. It could be possible to condition any short plan to allow one joint use dock as was done at 1300 and 1302 Northshore Drive.

✓ 1 vacant property at 2130 North Shore Drive. One dock would be permitted.

SUMMARY: 5 vacant single family lots and 8 total units from subdivision or redevelopment could result in approximately 8 new single family docks.

Docks / floats / piers / pilings are not phosphorous generating sources and by definition they are not impervious surfaces.

Prohibition of new docks or replacing / repairing existing docks would not prohibit those same property owners from launching boats elsewhere on Lake Whatcom or beaching boats upon their own private shoreline areas.

The Draft SMP as written intends to regulate these single family docks by prohibiting treated wood and by minimizing the water-surface area coverage to reduce shading.

STAFF RECOMMENDS RETAINING EXISTING LANGUAGE IN DRAFT SMP THAT ALLOWS SINGLE FAMILY RESIDENCES ON LAKE WHATCOM TO DEVELOP NEW OR REPLACE EXISTING LAWFULLY CONSTRUCTED DOCKS / FLOATS.
Legend:

- WATERFRONT DISTRICT (WD) - WATER ORIENTED USES
- WATERFRONT DISTRICT (WD) - SHORELINE MIXED USE
- WATERFRONT DISTRICT (WD) - RECREATIONAL USES
- URBAN MARITIME (UM) - WATER ORIENTED USES
- URBAN MARITIME (UM) - SHORELINE MIXED USE
- URBAN MARITIME (UM) - RECREATIONAL USES
- URBAN CONSERVANCY (UC)
- NATURAL (NAT)
- POCKET ESTUARY
- WATERFRONT ACCESS
- PROPOSED WATERFRONT ACCESS
- POCKET Estuary

Change from Urban Conservancy to Urban Maritime Designation at the Northeast corner of the Squalicum Waterway.

Change from Waterfront District to Urban Conservancy Designation generally located at the South end of the Cornwall Fill.

Bellingham Bay
<table>
<thead>
<tr>
<th>Use</th>
<th>Permitted</th>
<th>Setback (min-max)$^1$ (from OHWM)</th>
<th>Buffer (min-max)$^{1, 2}$ (from OHWM)</th>
<th>Height$^3$</th>
<th>Pub Acc Required</th>
<th>Hab Restoration Required$^4$</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 necessary for the WD use may encroach the req'd buffer</td>
<td>N/A</td>
<td>Subject to 22.03.30 F.6.f and 22.08.100</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>0'</td>
<td>50'; that portion necessary for the WD use may encroach the req'd buffer</td>
<td>25-feet</td>
<td>Subject to 22.03.30 F.6.f and 22.08.100</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>50'</td>
<td>N/A</td>
<td>Subject to 22.03.30 F.6.f and 22.08.100</td>
<td>N</td>
</tr>
<tr>
<td>in a structure</td>
<td>Y</td>
<td>50'</td>
<td>50'</td>
<td>25-feet</td>
<td>Subject to 22.03.30 F.6.f and 22.08.100</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 22.03.30 F.6.f and 22.08.100</td>
<td>N</td>
</tr>
<tr>
<td>in a structure (e.g. aquarium, museum, restaurant)</td>
<td>Y</td>
<td>100'</td>
<td>50'</td>
<td>25-feet</td>
<td>Subject to 22.03.30 F.6.f and 22.08.100</td>
<td>N</td>
</tr>
<tr>
<td>Non-water-oriented</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>that either support or are accessory to a permitted use</td>
<td>Y</td>
<td>Same as permitted use</td>
<td>50'</td>
<td>25-feet</td>
<td>Subject to 22.03.30 F.6.f and 22.08.100</td>
<td>N/A</td>
</tr>
<tr>
<td>Non-Water-Oriented uses that adaptively reuse or preserve a historic structure</td>
<td>Y</td>
<td>Same as permitted use</td>
<td>50'</td>
<td>25-feet</td>
<td>Subject to 22.03.30 F.6.f and 22.08.100</td>
<td>N/A</td>
</tr>
</tbody>
</table>

*** This matrix would also be inserted into the Urban Maritime table to account for the small portion of Recreational shoreline that is within the Urban Maritime shoreline designation at the head of the I & J Waterway.