ATTACHMENT B – REQUIRED REVISIONS TO SUBMITTED CITY OF BELLINGHAM SHORELINE MASTER PROGRAM AMENDMENT

1. Page 1: Ch 22.01.30C – Purposes – The most recent language in the statute needs to be added to the end of the sentence so it reads, “… that is at least equal to that of the Critical Areas Ordinance and provides for no net loss of shoreline ecological functions”.

2. Page 9: Ch 22.02.20B(j) – Restoration and Conservation Clarification for this objective needs to be added to explain that restoration for shoreline resources may include areas outside of shoreline jurisdiction, such as small contributing tributaries or headwater wetlands. Revise the first sentence to read, “Comprehensive restoration planning should implement a framework of citywide restoration goals and priorities consistent with RCW 90.58.340, including for the non-SMA stream drainages and wetlands contributing to the shorelines of the state”.

3. Page 12: Ch 22.02.20D(f) – Public Access - The lower portion of Padden Creek e.g. prior Fairhaven Harbor development area adjacent to creek needs to be included in this objective as shown. “Public access should continue to be developed to the Whatcom, Squalicum, Padden and Chuckanut Creek corridors especially where connections can be made to other trail and transportation linkages and public open spaces”.

4. Page 19: Ch 22.03.10 – Shoreline Jurisdiction Since the SMP defines specific local shoreline jurisdiction, the clause “and this SMP” needs to be inserted after “RCW 90.58.030” in line 3. This clause needs clarification of the parties’ roles as follows, “The extent of shoreline jurisdiction on an individual lot, parcel or tract is to be determined by field investigations and a survey/engineered drawing and the resultant materials are the sole responsibility of the project applicant/owner. Said investigation/survey/engineered drawing shall be included in shoreline permit application submittals in order for the City to determine the extent of shoreline jurisdiction.

5. Page 19: D(1). Bellingham Bay is only a shoreline of statewide significance below the extreme low tide line. Insert “seaward of extreme low tide” after the word “significance”.

6. Page 22: Ch 22.03.30.A3(d-f) – Reaches designated Natural - For internal consistency with the required change to designate Squalicum Reaches 6 – 8 as Urban Conservancy, the following changes shall be made, “d. Squalicum Creek 6—8; e. Lake Padden 2 – 4; and ef. Lake Whatcom 1.”

7. Pages 25-26: Ch 22.03.30.B4(b-ii, c-iii and d-i) - Zoning References
These type of direct references to the city zoning code are not appropriate or practical from an administrative perspective. Legally, the particular cited zoning requirements become a part of the SMP which would then require Ecology to know what they were to be able to implement them. For items that are very specific and that the city wants to also have in the SMP, the zoning language needs to be inserted into the SMP or the specific referenced requirement needs to be incorporated as an appendix to the SMP. For references that are intended for educational purposes only, the zoning requirement may be linked in a general manner by using broad language such as, “4 b-ii Non-water oriented uses including residential uses where allowed by other city codes underlying zoning as specified in BMC Title 20”. From Ecology’s perspective, if non-water-oriented uses are allowed, it is irrelevant what the zoning is so the sentence may be shortened further to state, “4 b-ii Non-water oriented uses including residential uses”.

8. Page 24: Ch 22.03.30. B3(e) – Reaches designated Urban Conservancy – For internal consistency with the required change to designate Squalicum Reaches 6 – 8 as Urban Conservancy, the following changes shall be made, “Squalicum Creek 1 – 5 & 9 – 11:”.

9. Page 27: Ch 22.03.30.B5(f&h) – Regulations – Since the term “height” is defined in the definitions section, the words at the end of the sentence, “as defined” are superfluous and need to be deleted to avoid confusion.

10. Page 28: Ch 22.03.30.B5 (j) – Regulations – Since the term “ordinary high water mark” is not a set elevation and may vary considerably due to various factors such as wind exposure and wave run-up, the height of buildings over-water needs to be measured from a known surveyed elevation such as the Extreme High Tide Elevation (EHT). The following correction is needed to ensure consistent application. “Height for uses, when permitted, that are over or in-water shall not exceed 25 feet from the elevation of the Extreme High Tide Elevation (EHT) ordinary high water mark (OHWM).”

11. Page 28: Ch 22.03.30.B5(k) – Regulations – For clarification, the fifth line of this paragraph needs to read, “… minimum of three objectives specifically-approved by the City from the Restoration Plan…”

12. Page 31: Ch 22.03.30.C(8)(a) – Shoreline Residential – Unless the City intends to append BMC 16.80 to the SMP, the reference needs to be changed to a general one such as “and as consistent with other ordinances pertaining to Lake Whatcom Reservoir”.

13. Page 31: Ch 22.03.30.C(10)(c) – Shoreline Residential – The OHWM is a biologically-derived line by statute and cannot be replaced with a reservoir elevation. The paragraph needs to be revised as follows,
“Setbacks and Buffers - Development within shoreline reaches designated as Shoreline Residential shall be set back from the field-determined ordinary high water mark (approximately elevation 314.5 feet above mean sea level) of the shoreline in accordance with the table in BMC 22.11.30.C.”

14. Page 32: Ch 22.03.30.C(10)(i) – Shoreline Residential – For clarity, insert “in Ch 22.03.30.C(10)” after the words “specified above”.

15. Pages 33-34: Ch 22.03.30.D - Urban Maritime – Although non-water-oriented development may be allowed under certain limited circumstances, these non-water-oriented uses should not be allowed to replace water-oriented uses over time. Many small accessory uses may be appropriate to co-locate with the preferred water-oriented uses, however, these are the exceptions to the general rule. The language in this section needs further refinement to strike the correct balance of fostering reasonable and appropriate uses with allowing needed flexibility to design and configure successful shoreline business combinations. For instance, a bookstore coffee shop may work well with visitor needs of boaters using the water-dependent and water-related waterfront facilities, however, a mini-storage complex would be more appropriately located outside of shoreline jurisdiction. Both may be strictly non-water-oriented enterprises but the bookstore café enhances the water-enjoyment experience whereas the mini-storage complex merely displaces a valuable shoreline location and economic resource.

The following revisions are needed to clarify the intent of the non-water-oriented development provisions.

“c. Non-water-oriented uses should not be allowed unless they are a supportive use to a water-oriented use or are established simultaneous, planned and integrated with a water-oriented use. Non-water-oriented uses proposed within existing buildings should be allowed.

Non-water-oriented uses may be allowed in limited situations when they do not conflict with or limit opportunities for existing or future water-oriented uses; are parcels, lots or tracts where there is not direct access to the shoreline by virtue of an improved public right-of-way or significant property under different ownership at the effective date of this SMP; are allowed via a conditional use to be conducted on a temporary basis.

Existing non-water-oriented commercial and industrial uses are not required to should be encouraged to be relocated to non-waterfront property but should be if opportunities to do so become available or are feasible.

k. To make maximum use of the available shoreline resources and to accommodate future water-oriented uses, the redevelopment and renewal of substandard, degraded, or obsolete urban shoreline areas should be, where
feasible, encouraged redeveloped, renewed and shoreline ecological function should be restored where feasible.

16. Page 34: Ch 22.03.30.D3 - *Urban Maritime –Uses*

A minor correction needs to be added to this section as follows,

“3. Urban Maritime reaches are comprised of **two** three different sub-areas as follows:
   a. Urban Maritime water-oriented uses as shown in BMC 22.11, Marine Shoreline Reaches 1-8 map and Shoreline Reaches 9-21 map; and
   b. Urban Maritime shoreline mixed uses as shown in BMC 22.11, Marine Shoreline Reaches 1-8 map and Shoreline Reaches 9-21 map, and
   c. Urban Maritime Recreational Uses - as shown in BMC 22.11, Marine Shoreline Reaches 1-8 map – a portion of Marine Reach 4 i.e. head of I & J waterway”

17. Page 34: Ch 22.03.30.D4(b, iv) - *Urban Maritime –Permitted Uses Table*

Minor revisions need to be added to this section as follows

“iv. Non-water-oriented uses, including residences, may be permitted provided they are developed simultaneous, planned and integrated with any of the permitted uses from i – iii above;”

“v. Non-water-oriented uses, established in existing buildings may be permitted provided, residential units shall not be established on the ground floor.

18. Page 37: Ch 22.03.30.E4(a) – *Aquatic – Permitted Uses Table*

Revise “Water-dependent uses (conditional in freshwater stream shorelines); and”.
This sentence appears to conflict with the matrix in Ch 22.11 which allows w-d uses outright. This is corrected with the above “stream” clarification and with inserting an asterisk on the matrix for the Aquatic “permitted - Y” column and a footnote that states, “* conditional use for freshwater streams”. This same revision is needed for the Urban Conservancy designation at Ch 22.03.30B(4-d-iii).

19. Page 37: Ch 22.03.30.E5(a) – *Regulations –* This sentence is incomplete and needs to be revised as follows,

“For development and uses within critical areas or their buffers that occur in the shoreline jurisdiction, the applicable provisions of this program shall apply.”
20. Page 37: Ch 22.03.30.E5(b) – Regulations - For clarity, the sentence needs a minor revision as follows,
“b. When aquatic development occurs within shorelines of statewide significance, the policies in BMC 22.04 shall also apply.”

21. Page 38: Ch 22.03.30.E5(f) – Regulations - The use of state bottom lands by vessels for anchorage is not normally an area of activity (navigation) that can be legally addressed under the Shoreline Management Act. Many circumstances such as adverse weather, mechanical failures, etc may dictate that a vessel temporarily anchor until able to safely continue on its way. Permanent mooring buoys are an activity that may be addressed in a SMP by either the SDP and/or CUP permit requirement. In addition, long-term anchorage of barges, large vessels or other boats that are not being used as “vessels” and that interfere with the normal public use of water or shorelines of the state may be considered as substantial development that requires a shoreline permit. The paragraph needs to be revised as follows,

“Where the state owns aquatic areas /bedlands that are not managed by a local entity such as the City or Port of Bellingham, long-term or permanent mooring and anchorage shall be prohibited in those areas to minimize potential impacts on existing aquatic ecological function, navigation, view impacts, and other water-dependent uses. Vessels and floating structures that are anchored in the same general location long-term (greater than consecutive 30 days) may be considered substantial development requiring a shoreline permit and shall also require a shoreline conditional use permit. Such long-term or permanent anchorage shall also comply with State Dept of Natural Resource requirements.”

22. Page 39: Ch 22.03.30F (2g) – Waterfront District – Policies – Although the mix of uses listed is appropriate, “jobs” isn’t a use. The sentence needs to be revised and clarified as follows,

“The Waterfront District site should be redeveloped with a mix of uses including administrative, professional, institutional jobs, housing, retail and water-enjoyment development, services, educational and cultural facilities and water-dependant and water-related industrial uses.”

23. Page 40: Ch 22.03.30F (3) – Waterfront District – Reaches- Item (a) needs to be changed from “two” to “three” sub-areas. The old term “NWSDA” needs to be deleted.

24. Page 41-42: Ch 22.03.30F (4) (d-iii) & 5f– Waterfront District – Uses The following clarifications are needed,

“Temporary stand-alone non-water-oriented uses may operate or be staged 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 22.06.50 (Conditional Use Permits).”

“5f. 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; Provided, existing building
heights may be modified if the current maximum height is not exceeded.
Heights greater than 50 feet, or greater than the existing maximum height as
applied to existing buildings, shall be subject to the requirements for a variance
in BMC 22.06.30.” The following footnote needs to be added to the Regulation
Matrix for Waterfront District Water-Oriented Uses, “3- except as provided for
existing buildings at Ch 22.03.30F (5-f).”

25. Page 42-43: Ch 22.03.30F (6f) – Waterfront District – Regulations – Mixed Use

Due to the uncertainty inherent in referring to a yet-to-be-adopted Waterfront
District Master Plan and Development Agreement (WDMPDA) in the context of
potential reduced setbacks and buffers, Ecology requires that said draft
WDMPDA be reviewed by Ecology for consistency with this SMP. Said
consistency review (not a SMP amendment) shall be performed by Ecology’s
Bellingham Field Office prior to final adoption of the WDMPDA by the City.
The following clause shall be added to the end of the first sentence at the top of
page 39:

“The maximum setbacks and buffers within the 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 Waterfront
District Master Plan and Development Agreement (WDMPDA) for the
entire Waterfront District Special Development Area or, upon the adoption
of a master plan for a portion of land area within the Waterfront District;
Provided, said draft WDMPDA shall be reviewed by Ecology’s
Bellingham Field Office for consistency with SMA Policy and this SMP at
the time the WDMPDA is presented to the Bellingham Planning
Commission. Said consistency review (not a SMP amendment) shall be
performed within sixty (60) days of receipt by Ecology’s Bellingham Field
Office and also prior to final adoption of the WDMPDA by the City.”

26. Page 43: The citation at the top of the page is incorrect and needs to be changed
to “table 22.03.30F”.

27. Page 46: Ch 22.04.20 – Shorelines of Statewide Significance – Designation
A correction in the first sentence needs to be made to state,
“The waters of Bellingham Bay below the elevation of Mean Lower Extreme Low Tide (MLELT)...”

For internal consistency the following changes are needed, “The waters of Bellingham Bay below the elevation of Mean Lower Low Water (MLLW) including the waters of those pocket estuaries identified on Marine Shoreline Maps in BMC 22.110 AND those waters…”

29. Pages 47: Ch 22.04.30.A(1) – Shorelines of Statewide Significance – General Policies
The resources of Bellingham Bay need to be broadened to include more than salmon-related species such as mammals, birds, crab, shrimps, etc. The description needs the following minor revision,

“1. For Bellingham Bay the resources that are of statewide interest include but are not limited to:
   a. Anadromous fisheries, forage fish spawning areas, eelgrass and kelp beds, marine mammal, avian, and other marine biota habitat, and the city’s four estuarine systems including pocket estuaries;”

The Lake Whatcom Reservoir and non-fish species need to be included as follows,

“2. For Lake Whatcom the resources that are of statewide interest include but may not be limited to:
   b. Cutthroat and Kokanee fisheries, and wildlife;
   c. Public access via a public park and open space system; and
   d. Recreational boating, swimming and fishing.
   e. Regional water supply”

30. Page 49: Ch 22.05.10.E – Applicability
A minor correction needs to made to include policies, etc as follows,

“If development is exempt per the criteria in BMC 22.05.20, the provisions, development and performance standards within this Program shall apply.

31. Page 49: Ch 22.05.10.F – Applicability
In rare or unusual instances, it may be necessary and in the public interest to deny all or most uses of a specific property, therefore, the following revision is needed,

“This Program is to be administered with flexibility and attention to site-specific characteristics in the context of the watershed or other relevant ecosystem unit. It is not the intent of this Program to make a parcel of property unusable by denying its owner all reasonable economic use of the property except in extremely limited or extraordinary circumstances that are determined to be not in the public interest.”
32. Page 50: Ch 22.05.20.B (1a) – Applicability

The substantial development monetary threshold has been raised in the statute and has an automatic update feature coupled to the cost of living adjusted every five years by OFM. The following minor corrections are needed.

“Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand six hundred sixteen dollars ($5,000) ($6,416), as adjusted by the state Office of Fiscal Management every five years, if such development does not materially interfere with the normal public use of the water or shorelines of the state.”

33. Page 54: Ch 22.05.20.B (1p) – Applicability

Two minor corrections need to be made as follows,

“A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:

i. The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;

ii. The project received hydraulic project approval by the Department of Fish and Wildlife pursuant to Chapter 77.55 RCW; and

The Department of Ecology Director has determined that the project is consistent with this Program. The Department Director shall make such determination in a timely manner and provide it by letter to the project proponent.”

34. Page 55: Ch 22.05.20.B (2d) – Applicability - Statements of Exemption

This provision needs clarification as follows,

“In the case of development that is subject to the regulations of this Title but exempt from the shoreline substantial development permit requirements, any required a statement of exemption shall be obtained prior to issuance of the building and/or development permit. The Director Building Official shall attach and enforce conditions to the building and/or development permit as required by applicable regulations of this Program pursuant to RCW 90.58.140(1) provided that no statement of exemption is required for emergency development pursuant to WAC 173-14-040 (1) (d).”

35. Page 56: Ch 22.05.30.E – Applicability – Relationship to Other Regulations
This provision needs clarification as follows,

“The Act and this Program adopted pursuant thereto comprise the basic state and City law regulating use of shorelines in the City. In the event provisions of this Program conflict with other applicable City policies or regulations, generally the more protective of shoreline resources shall prevail except this Program shall regulate critical areas that occur within the shoreline jurisdiction and shall establish all permitted uses adjacent to and critical area buffers and setbacks from the ordinary high water mark of marine water, shoreline streams and wetlands, and Lake Whatcom and Lake Padden.

36. Page 58: Ch 22.05.40.D – Nonconformity – Change or Intensification of a Nonconforming Use
This provision needs revisions to allow additional flexibility and administrative clarity as follows,
“A nonconforming use may be changed to another nonconforming use or intensified, subject to approval of a shoreline conditional use permit; provided, a new nonconformance with the structural standards shall not be created or increased except by approval of a shoreline variance.”

37. Page 58: Ch 22.05.40.F – Nonconformity – Lots
This provision needs clarification as follows,
“1. All other applicable standards of BMC Title 18; Subdivision; are met; or a shoreline variance has been granted;
2. The lot was legally created and satisfied the lot size and width requirements applicable at the time of creation;
3. The lot cannot be combined with contiguous undeveloped lots to create a lot of required size;
4. No unsafe condition or circumstance contrary to the public interest is created by permitting development on the nonconforming lot; and”

38. Page 59: Ch 22.06.20.A&B – Shoreline Permit Submittal Requirements
The shoreline permit submittal requirements need to be appended to the SMP or a general reference should replace the current specific citation. For critical areas with shoreline jurisdiction, the submittal requirements listed in item B need to be appended as part of the SMP.

The following clarification needs to be inserted,
“Critical Areas. In addition to the general submittal requirements in Section A above, development proposals within shorelines or shorelands that are also designated as critical areas shall also satisfy the applicable application submittal requirements as specified
below and as described in Appendix E. Where two or more types of critical areas are present, the critical areas report must meet the report requirements for each relevant type of critical area.”

(This Appendix will include the requirements for submittals as opposed to putting it directly into the text of the SMP.)

39. Pages 60: Ch 22.06.30.D – Shoreline Substantial Developments – Approval of Activities
A minor revision is required as follows, “Limitation of access to the habitat area, including fencing and signage to deter unauthorized access;”

40. Pages 61-62: Ch 22.06.40 Variances – This section is required to match the WAC definition so the following revisions are needed,

A. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this Program. Variances may be granted only where there are extraordinary or unique circumstances relating to the physical character or configuration of property such that the strict implementation of this Program will impose an unnecessary hardships on the applicant or thwart the policies set forth in this Program and within RCW 90.58.020.

B. Variance permits for development that will be located landward of the ordinary high water mark (OHWM) and within a shoreline and/or critical area buffer as specified in this program may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable Master Program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the Master Program;

2. That the hardship described in A. above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant’s own actions;

3. That the design of the project is compatible with other authorized uses permitted activities in the area and with uses planned for the area under the comprehensive plan and this Program and will not cause adverse effects to adjacent properties or the shoreline environment;

4. That the requested variance does not constitute a grant of special privilege not enjoyed by the other properties in the area; and is the minimum necessary to afford relief; and
5. **And** That the variance requested is the minimum necessary to afford relief; and

6. The public interest will suffer no substantial detrimental effect.

C. The Department may impose additional conditions onto a variance approval as necessary to assure consistency with this Program and that the policies set forth in RCW 90.58.020 are not thwarted.

D. Prior to application for a variance, the applicant shall demonstrate that the mitigation sequencing specified in this Program has been used to design the project and avoid and/or minimize impacts to the extent feasible.

E. The applicant shall demonstrate that the proposal achieves a no net loss of ecological function.

F. Variance permits for development that will be located either waterward of the ordinary high water mark (OHWM), within the channel migration zone or frequently flooded area, where applicable, or within a critical area as described in this Program, or within wetlands as defined by RCW 90.58.030 may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in this Master Program precludes all reasonable use of the property not otherwise prohibited by the Master Program;

2. That the proposal is consistent with the criteria established in this section, Ch 22.06.40; and

3. That the public rights of navigation and use of the shorelines will not be adversely affected.

G. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of this Program and the Shoreline Management Act and shall not produce substantial adverse effects to the shoreline environment.

H. Requests for varying the use to which a shoreline area is to be put are prohibited and are not requests for variances, but rather requests for conditional uses.

I. Any variance granted by the City must be forwarded to the Department of Ecology for approval, approval with conditions, or denial as specified in WAC 173-27-200.

41. Pages 62-63: Ch 22.06.40 Conditional Uses – This section is required to match the WAC definition so the following revisions are needed,
A. The purpose of the Conditional Use provision is to provide more control and flexibility for implementing the regulations of the Master Program in a manner consistent with the policies of the Act. It is realized that many activities, if properly designed and controlled, can exist on the shorelines without detriment to the shoreline ecological function. In authorizing a conditional use, special conditions may be attached to the permit by the City or Department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this Program.

B. An applicant for a substantial development permit which also requires a conditional use permit shall submit applications for both permits simultaneously pursuant to BMC 21.10.

C. Prior to the granting of a conditional use permit, as specifically required by this Program or for uses which are not classified as such by this Program, the applicant shall demonstrate all of the following:

1. The provisions conditions spelled out in the Master Program have been met and the proposed use is consistent with the policies of the Act;
2. The proposed use will cause no significant, adverse impacts to the shoreline environment, ecological functions, or other uses;
3. The proposed use will not interfere with the lawful normal public use of the public shorelines;
4. That the proposed use and Design of the site and design of the project will be compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this Program the surroundings;
5. The proposed use will not be contrary to the purpose and intent of the environment designation in which it is located and the general intent of the Master Program; and
6. The proposed use(s) shall provide a long-term public benefit in terms of providing public access or implementing habitat restoration that is consistent with the goals of this Program; and

7. That the public interest shall suffer no substantial detrimental effect.

D. The Hearing Examiner or Department may require additional conditions as are necessary to insure proper compliance with the intent and purpose of the environment designation and Master Program or to insure protection of the surrounding environment and uses.

E. In the granting of conditional use permits, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the sum of the conditional uses and their impacts should also remain consistent with the
policies of RCW 90.58.020 and should not produce a significant adverse effect to the shoreline environment.

F. Any conditional use permit granted by the City must be forwarded to the Department of Ecology for its approval, or approval with conditions, or denial per WAC 173-27-200160.

42. Pages 63-64: Ch 22.06.70 APPEALS For clarity, revisions need to be included in this section as follows,

“A. Any person aggrieved by the granting, revising, denying, or rescinding of a permit…”

“C. The Department of Ecology or the attorney general may obtain review of any final decision granting or revising a permit, or granting or denying an application for a permit issued…”

43. Page 64: Ch 22.06.80 SEPA Compliance A reference to the substantive authority and mitigation basis in SEPA needs to be inserted in this section for clarity, as follows’

“D. The City’s substantive authority and basis for mitigation to condition or deny a proposal are set forth in WAC 197-11-660, and as established in other City codes.”

44. Page 68: Ch 22.07.10 Administration – The references to BMC 21.10 should be made more general as follows,

“A. The Planning and Community Development Department Director shall administer this Program in accordance with the permit procedures specified in BMC 21.10, RCW 90.58.140, 90.58.143, 90.58.210 and 90.58.220 and WAC 173-27, and related City codes, such as BMC 21.10.”

45. Page 72: Ch 22.08.10.B.4 SHORELINE BUFFERS - A minor clarification is needed in the first line, and flexibility added for public projects, as follows,

“The following specific activities may only be permitted as part of an authorized use…”

Insert “Public” at the beginning of items c, d, and g for roads, utilities, and stormwater conveyances, respectively.

46. Page 74: Ch 22.08.20.A –Mitigation Sequencing

The last sentence of the first paragraph needs clarification as follows,

“Applicants shall follow the mitigation sequential descending order of preference below:”

47. Page 74: Ch 22.08.20.A(3,4 & 6) –Mitigation Sequencing

Minor revisions to the following provisions are needed,
“3. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas and their associated buffers, by repairing, rehabilitating, or restoring the affected environment to as near as the equivalent or better than the conditions existing at the time of the initiation of the project;

4. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action or project;

6. Monitoring the hazard or other required mitigation and taking remedial action and appropriate corrective action to fully restore the intended ecological functions of the mitigation action, as proposed.”

48. Page 74: Ch 22.08.20.B – Mitigation Sequencing
Consistent with WAC 173-26-201(2e)(Fii), the following sentence needs to be inserted as follows,
“Mitigation for individual actions may include a combination of the above measures. In determining mitigation measures, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.”

Potential “Species of Local Importance” and “Habitats of Local Significance” appear to be omitted from the shoreline resources that are listed. The following needs to be inserted into item 2 as item c,
“c. Whenever activities are proposed within or adjacent to a designated habitat of local significance or that may likely adversely affect a designated species of local importance (each category designated by City Council per ordinance), such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the City.”

50. Page 77: Ch 22.08.30.B6 – Critical Areas – Regulations
A minor revision is needed for completeness and clarity as follows,
“Mitigation of alterations to critical areas and buffers shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.”

51. Page 78: Ch 22.08.40.A1 – Critical Saltwater Habitats – Policies
Additional areas may be included in this category over-time such as species and habitats of local significance. Line 1 needs to be revised to read,
“Development within critical saltwater habitats including, but not limited to, designated habitats of local significance, all kelp beds, eelgrass…”

52. Page 79: Ch 22.08.50.A1 – Critical Freshwater Habitats – Policies

In a similar manner to the above revision concerning critical saltwater habitats, the following revision is needed,

“The City should manage its critical freshwater habitats within shoreline jurisdiction including, but not limited to, those portions of streams, rivers, wetlands, and lakes, their associated channel migration zones, and floodplains, and designated habitats of local significance designated as such in order to achieve a no net loss of shoreline ecological function and in accordance with this Title.”

53. Page 81: Ch 22.08.60.C2 – Reducing Wetland Buffer Widths

A shoreline variance is required to reduce buffer widths to less than the minimum stated. The following clause needs to be added as follows,

“The Director shall have the authority to reduce the standard buffer widths, provided that all of the following apply and,Provided further, that proposed reductions to less than the minimum buffer stated herein shall require approval of a shoreline variance:”

54. Page 89: Ch 22.08.70.B1(g) – Flood Hazard Reduction - Regulations

Removal of shoreline gravel usually has serious environmental impacts, however, citizens, contractors and farmers have historically pursued excavating gravel from water bodies and their shorelines as an inexpensive means to obtain fill material for roads and other construction. Although removal of gravel, sand, and silt can be a legitimate means to manage flood dynamics and reduce hazards in very limited circumstances, this section needs to include the following statement to clearly define the situations when it is and isn’t allowed.

Removal of gravel, sediment and related materials from water bodies is prohibited except for fish and wildlife habitat restoration purposes or for flood management purposes. “Removal of gravel for flood management purposes shall only be allowed if all the following conditions can be met:”

55. Page 90 and 92: Ch 22.08.80.C(1a-b, 8b) Geologic Area Hazard Regulations

The placement of structures and related activities too close to erosion and landslide hazard areas that have not yet reached their natural angle of repose has long been demonstrated to be a serious and preventable problem. Allowing proposed subdivision roads in these unstable hazard areas is not appropriate.
Many of these slopes provide beneficial environmental functions for birds and other wildlife, as well as delivering beach, creek or nearshore sands, gravels, vegetation, and large woody material to form the foundation of shoreline habitat. Given the few geologic hazardous areas within the city’s shoreline jurisdiction, and the inherent limitations and assumptions of professional reports, the buffers in these special shoreline circumstances need to be more conservative as follows,

“a. Minimum Buffer. The minimum buffer shall be equal to the height of the slope or 50 feet, whichever is greater, as measured horizontally away from the top and also away from the toe of the slope.

b. Buffer Reduction. The buffer may be reduced (via shoreline variance if within a shoreline buffer) to a minimum of 10 feet when a qualified professional demonstrates to the Director’s satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and the natural shoreline resources and subject Critical Area.”

“8b. Access roads and utilities may be permitted via shoreline variance within the landslide hazard area and associated buffers if the City determines that no other feasible alternative exists.”

56. Page 97: Ch 22.08.100.B1(c-iii) – Shoreline Native Vegetation Management - Regulations

It appears that existing development is given up to 10% of its footprint for unmitigated expansion before vegetation requirements are applied. The 10% threshold needs to be stated as a cumulative amount over the life of the project in order to avoid abuse by repeated application over time. It is noted that residences are addressed in another section. The following minor revision is required,

“For development that includes expansion, during the life of the project, of more than 10% of an overall existing development footprint, except including single-family residences,…”

57. Page 97: Ch 22.08.100.B1(c-iv) – typo – Correct “New Whatcom” to read “Waterfront District”.

58. Page 100: Ch 22.08.110.A(1e) – Water Quality, Stormwater, and Non-Point Pollution

Due to the importance of eliminating phosphorus sources discharging to shoreline water bodies, especially Lake Whatcom, one of the most common and easily remedied items needs to be mentioned as follows,

“Drainage, to the maximum extent feasible, should be designed or retrofitted to include water-quality measures that filter out pollutants common to single-family residences such as phosphorus–leaching vegetative material in roof gutters, fertilizers and pesticides …”
59. Page 112: Ch 22.09.10 – Aquaculture Use Policies
   In order to allow water-dependent, native species enhancement and restoration projects, the following clarifications need to made as follows,

   “Aquaculture is the commercial farming or culturing of food fish, shellfish or other aquatic plants and animals in marine waters, estuaries, inlets, lakes, streams and other natural or artificial water bodies. Non-commercial projects and activities that involve the enhancement or restoration of native biota are addressed in Ch 22.09.160, Restoration and Conservation.”

60. Page 112-113: Ch 22.09.10B – Aquaculture Use Regulations
   Consistent with the revision in the above section, the following revisions are needed as follows,

   “6. Specifically, commercial net pens for finfish within the City and/or on or above state owned aquatic lands shall not be allowed are prohibited.
7. Harvest of wild stock free swimming fish, shellfish not artificially planted or maintained is a fishery, and/or harvest of wild stock geoducks on state owned aquatic lands is not considered aquaculture and does not require a SDP.”

61. Page 113: Ch 22.09.20 – Boating Facilities
   The distinction between what type of development is addressed by “Boating Facilities” and “Piers, Gangways, Floats & Pilings” needs to be clarified as follows,

   “Boating facilities are water-dependent or water-related uses which are a preferred use on shorelines. Bellingham Bay has a variety of boating facilities that are both privately owned commercial and industrial facilities and those that are available to the general public. Squalicum Harbor and Marina supply the majority of boating facilities within Bellingham Bay. Boating facilities are also located in the Fairhaven area including the Fairhaven Marine Industrial Park, shipyard and boat launch.

   Boating facilities can include uses such as marinas (for more than 9 motorized craft), shipping and ferry terminals, transient mooring facilities, boat-ramps, gatehouses, upland dry-stack storage, and boat construction and maintenance facilities. Shipping terminals, ferry terminals, boat construction and maintenance facilities, and similar activities must also meet the provisions for Industrial Development Ch 22.09.60 or Commercial Development Ch 22.09.30, as determined on a case-by-case basis. Small commercial facilities (nine vessels or less) shall also meet the provisions for Commercial Development. Small non-commercial facilities (nine vessels or less) shall meet the provisions of Piers, Gangways, Floats and Pilings CH 22.09.80 - .90.
NOTE: Regulations for PIERS, GANGWAYS, FLOATS AND PILINGS can be found in Sections 22.09.80 – .90.


In instances where water access is viable for commercial or recreational purposes, water-oriented commercial development needs to provide public access to the extent practicable. The policy needs to be revised as follows,

“Where necessary depth for commercial or recreational vessels is adjacent, water-oriented commercial development should maximize physical and/or visual public access opportunities to the shorelines.”

63. Page 117: Ch 22.09.30B(11) – Commercial Development - Regulations

In shoreline areas where commercial or recreational vessels are viable, non-water-oriented development should only be allowed under the most limited circumstances. This regulation needs to be revised as follows,

“Non-water-oriented commercial uses shall not be located on shorelines when adjacent to waters that have necessary depth for commercial or recreational vessels unless they meet at least one of the criteria below:

a. The commercial use is part of a shoreline mixed-use project that includes a water-dependent oriented use;

b. The proposed use is within the Waterfront District shoreline designation and specifically identified in BMC 22.03.30.F.4.a. and b; or

c. The commercial use is within the shoreline jurisdiction but physically separated from the shoreline by a significant, separate property, public right-of-way, railroad right-of-way, or existing conforming use.”

d. The proposal is located in Reach 10 or 12 having an Urban Conservancy shoreline designation.

64. Page 103-104: Ch 22.09.40B (2 & 7) – Dredging - Regulations - NOW LOCATED IN 22.08.140

Minor revisions are needed to clarify these regulations as follows,

“Dredging requires a shoreline conditional use except for maintenance dredging, dredging to implement a hazardous substance remedial action under RCW 90.58.355 or, for habitat purposes pursuant to #7 below. Dredging of contaminated materials shall be consistent with the conditional use criteria specified in BMC 22.06.50.C. 1 – 6. and shall be demonstrated by the applicant / owner to be in compliance with said criteria.”
"7. Dredging for the purposes of habitat enhancement, invasive species control and/or restoration when"

65. Page 120: Ch 22.09.50A – Industrial Development - Policies
Policy 5 has a typo in that “any” needs to be replaced with “all” in line 2.
Policy 7 needs to be clarified as follows,
“Water-dependent industrial development should not be located only on shorelines where commercial navigability is not adjacent to the proposed use.”
Navigability also includes areas accessible by recreational vessels which may have a fairly shallow draft.

66. Pages 121: Ch 22.09.50B – Industrial Development - Regulations
Consistent with the above policy revision, the regulations need to be revised as follows,
“6. Water-dependent industrial development shall not occur only on shorelines where commercial navigability is not adjacent to the proposed use.
9. Parking areas required for industrial development shall not be located between shorelines and development unless said parking is inherent to the use itself, and not accessory or employee parking.

11. Non-water-oriented industrial uses shall not be located on shorelines when adjacent to navigable waters unless they meet at least one of the criteria below:
   a. The use is part of a shoreline mixed-use project that includes a water-dependent oriented use;
   b. The use is within the shoreline jurisdiction but physically separated from the shoreline by a significant separate property, public right-of-way, or existing use; or”

67. Pages 121-122: Ch 22.09.60A – Piers, Floats, Pilings – Lakes - Regulations
Pier width needs to be limited to the narrowest practical over-water width to minimize nearshore shading impacts. The following revision is required,
“1. Piers shall not exceed a width of 5 four (4) feet.
2. Piers on Lake Whatcom shall not exceed the average length of 5 piers on either side located within an area having the same or similar bottom profile; provided, overall pier and float length shall not be greater than necessary to reach a water depth of 30 inches measured at elevation 311 ft MSL or an equivalent depth to provide a safe distance from the bottom for the intended vessel.
3. Piers are allowed one bump-out not greater than 8 feet x 10 feet in size and these dimensions are above and beyond the 5-foot pier width limit."
3. Piers on Lake Padden shall be of a length sufficient to provide safe depth for swimming, diving, or boat access; provided, overall pier and float length shall not be greater than necessary to reach a water depth for the intended purpose.

4. Floats including supports, decking and floatation device, shall not exceed dimensions of 8 feet x 16 feet (or the equivalent area) and shall be designed and installed with maximum of 60% of water surface coverage. Trex, Sundeck, Gator-Decking, Thru-flow panels or steel grating are examples of preferred materials for floats.”

68. Page 123: Ch 22.09.70A – Piers, Floats, Pilings – Marine - Regulations
   Item 5 is a regulation and the “should” needs to be replaced with a “shall”.
   Item 8 has a typo in the first line.

   B(2) – This sentence needs correcting as follows,
   “Floats shall be configured such that they are not located within zero feet to -10 feet MLLW within the subject unprotected water-areas specified above unless no other feasible alternative exists.”

69. Page 107: Ch 22.09.110 – Landfill - MOVED TO 22.08.170
   Landfill may occur in more locations than water bodies, therefore, the following revision is needed,
   “Landfill is the creation of dry upland area by the placement or deposition of sand, soil, gravel or contaminated other sediments into a water body, floodplain, or wetland.”
   Item 5 on pg 119 is a regulation and the “should” needs to be replaced with “shall”.

70. Page 126: Ch 22.09.90A(8) – Residential Development - Policies
   Clarification is needed concerning policy #8 since bonafide vessels are not regulated by the SMA as follows,
   “New over-water residences, including floating homes and houseboats, are not a preferred use and should not be permitted.”

71. Page 126: Ch 22.09.90B(9) – Residential Development - Regulations
   As described above, vessels operating as such are not regulated by the SMA. Definitions need revision also. The following revision is required as follows,
   “Over-water residences including floating homes and houseboats (not including live-aboard vessels such as houseboats, sailboats or yachts within approved port marina facilities) are prohibited regardless of shoreline designation.”

72. Page 127: Ch 22.09.100 – Restoration & Conservation
The array of restoration and conservation opportunities should be as broad and comprehensive as possible to allow future innovations and approaches. With the recent knowledge of marine nutrient recycling by spawning salmonids, it is apparent that the inclusion of the species themselves is a significant contributing factor to restoration and conservation efforts. This section needs the following revision,

“Restoration is the improvement or reestablishment of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to: amending soils, planting native vegetation, removing derelict shoreline structures, removing or treating toxic materials, enhancing or restoring native species, and re-sloping banks within near-shore or riparian areas.”

73. Page 129-130: Ch 22.09.110A – Roads, Railways and Utilities

Consistent with policy 1, “expansions” need to be included as “new” projects. Clarifications are required as follows,

“1. All new roadways, arterials, utilities and railways, (which by definition, including expansions of these systems), should be designed and located to minimize impacts to shoreline ecological function including riparian and near-shore areas, channel migration zones and the natural landscape.”

8. Utilities for the delivery of services and products such as but not limited to public sewer, water and storm mains and services, pipelines, power and transmission facilities should be located outside of shorelines (or placed underground), and critical areas and their associated buffers unless intended specifically for a permitted use.

9. Whenever feasible, utilities should be co-located within existing right-of-way corridors.

10. Utilities within shorelines should be under-grounded and their visual impact minimized to the extent feasible.

11. Installation of utilities including maintenance and expansion of existing utilities should improve the project area from its original condition via native vegetation management, screening and aesthetic improvements, or providing public access to the shoreline when practical.

12. All structures associated with railroads or railways should be constructed such that they do not compromise the public’s health, welfare, or ability to access the shoreline safely.

13. Circulation systems that have an interface with an established or proposed railway corridor should be coordinated such that the general public’s health, welfare, and safety is the highest priority.”

Legal precedent has been established that “prohibited” is the correct word in this instance, hence, the following required revision:

“Cell towers are a non-water-oriented use and shall not be located are prohibited within shorelines.”

75. Page 109-110: Ch 22.09.180B(2&3) – Signage – Regulations- MOVED INTO 22.08.200

A minor clarification is needed as follows:

“2. Signage shall not be permitted over water with the exception of attached, façade-flush signage on buildings that are presently located or permitted over-water.

3. Billboards shall not be permitted are prohibited within shorelines.”

76. Pages 134-151: Ch 22.10A Definitions

Several definitions need to be revised or inserted into the SMP to provide consistent and comprehensive guidance to allow correct interpretation of its provisions. They are as follows (these numbers represent relative location within definition section),

1. [a new #1] – “Accessory Development” means any development, structure or use customarily incidental to and subordinate to a primary use of a shoreline site and located on the same lot.

5. “Appurtenance” means development that is necessarily connected to the use and enjoyment of a single family residence and is located landward of the OHWM and/or the perimeter of a wetland. Appurtenances include a garage, deck, driveway, utilities, fences and grading which does not exceed 250 cubic yards (except to construct a conventional drainfield).

11. Boathouse – An overwater structure, including covered moorage of any kind, that is designed and used to store any type of vessel and/or related gear.

13. Boat lift – A structure designed and operated to raise a boat above the surface of the water.

30. The RCW definition for “development” needs to be inserted here, as follows:

Development – Also referred to as Substantial Development. Means a use consisting of the construction or exterior alteration of structures, dredging, drilling, dumping, filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level. This term may include activities related to subdivision and
short subdivisions; planned unit developments; clearing activity; fill and grade work; building or construction; and activities that are exempt from the substantial development permit process or that require a shoreline variance or conditional use.

45. Floating home – An over-water residence not designed, registered or used as a vessel, without an adequate navigation and propulsion system, and usually requiring land-based services to function properly.

64. Houseboat – A vessel designed, registered and operated to be a live-aboard with its own adequate means of propulsion, navigation and related vessel amenities.

66. Industrial Development – means facilities for processing, manufacturing, and storage of finished or semi-finished goods, including but not limited to ship building and major repair, commercial storage and repair of fishing gear, warehousing construction and material/equipment storage yards, and wholesale trade or storage.

69. Live Aboard - means any noncommercial habitation of a vessel when any one of the following applies:

a. Any person or succession of different persons resides on the vessel in a specific location, and/or in the same area on more than a total of thirty (30) days in any forty (40) day period or on more than a total of ninety (90) days in any three hundred sixty-five (365) day period. "In the same area" means within a radius of one mile of any location where the same vessel previously moored or anchored on state-owned aquatic lands. A vessel that is occupied and is moored or anchored in the same area, but not for the number of days described in this subsection, is considered used as a recreational or transient vessel; or

b. The operator of the facility where the vessel is moored, through the moorage agreement, billing statement, or facility rules, defines the use as a residential use or identifies the occupant of the vessel as a resident of the vessel or of the facility; or

c. The occupant or occupants identify the vessel or the facility where it is moored as their residence for voting, mail, tax, and similar purposes.

72. Marina - Typological error. The definition of Marina should be modified as follows:
Marina – System of piers, floats, buoys that provides private or public wet moorage for vessels for which a fee is charged and can also include launching facilities.
83. **Navigable Waters** – The following addition needs to be inserted into this definition as follows:

Navigable Waters – When used in context with commercial or industrial water-dependent and water-related uses, navigable waters means aquatic areas where draft is deep enough to accommodate the vessels that area inherent to the intended use. Navigable waters also include recreational accessible waters under the Public Trust Doctrine such as waters which can be accessed by recreational boats, including canoes and kayaks.

115. **Shorelands** – Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM) of SMA shorelines; all of the 100-year floodplain as measured from the edge of the associated floodway, except for Whatcom Creek east of I-5 i.e. Reach 4, 5 and a portion of 3, which includes only that floodplain portion within 200 feet of the floodway; and all wetlands and river deltas that are associated with the areas specified above and are subject to the provisions of RCW 90.58.

119 – **Shoreline Management Act (SMA) – RCW 90.58**

135. **Stream** - means those areas where surface waters produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the annual passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined channel swales. The channel or bed need not contain water year round. This definition includes drainage ditches or other artificial water courses where natural streams existed prior to human alteration.

136. **Story** – That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under-floor space is more than 6’ above grade, as defined in the building code adopted by the City, or more than 50% of the total perimeter or is more than 12’ above grade as defined at any point, such basement, cellar or unused under floor space shall be considered a story.

138.5 **Substantial Development** - means any development of which the total cost or fair market value exceeds six-thousand four hundred sixteen dollars ($6,416) or as amended by the state office of financial management, or any development which materially interferes with the normal public use of the water or shorelines of the State.

140. **Temporary** – means used or active for a limited and relatively short period of time. For purposes of this SMP, a temporary use is, in general, for not
longer than three or four years and said use shall not make permanent improvements that cannot be abandoned when vacating the structure at the end of the temporary period.

145. **Vessel** - means a floating structure that is designed primarily for navigation, is normally capable of self-propulsion and is used as a means of transportation, and meets all applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency.

77. **Shoreline Designation Maps – Squalicum Creek** - Ch 22.11.10 - To achieve consistency with WAC 173-26-211(5) (a) & (e) the Squalicum Creek Map shall be modified to designate Reaches 6 – 8 as Urban Conservancy. The existing and planned conditions of these reaches align with the purpose, management policies, and designation criteria of the Urban Conservancy environment designation. The previous Natural designation was inconsistent with the management policies of WAC 173-26-211 (5)(a). The switch from the Natural to Urban Conservancy designation does not reduce the environmental protections provided while also providing a clear policy path for existing and planned commercial and industrial uses.

78. **Marine Shoreline Map** – Ch 22.11.10: For internal consistency the shoreline environment designation map title shall be changed as follows, “22.110.10 Marine Shoreline Reaches 1 - 8”; “22.110.10 Marine Shoreline Reaches 9 - 21”

79. **Development Regulation Matrices** – Ch 22.11.30: To be consistent with WAC 173-26-211 (4) a height limit needs to be set for the industrial Urban Maritime developed areas of Marine 4 and 11 that allows some flexibility in modifying structures provided the current maximum built height isn’t significantly exceeded. The height of 60 ft needs to be inserted into the matrix at Ch 22.03.30D for water-oriented uses and a footnote included that states, “2 – except existing buildings may be modified provided their current maximum height is not exceeded”. Additionally, specific permit types are needed within each environment designation. To accommodate this requirement, the attached Use Matrices needs to be added. With the addition of this matrix, the ‘Use’ and ‘Permitted’ columns of the ‘Development Regulation Matrices’ shall be removed to avoid conflict from overlapping regulations.

80. **Development Regulation Matrices** – Ch 22.11.30 A & B: For internal consistency with the required change to designate Squalicum Reaches 6 – 8 as Urban Conservancy, the following rows in 22.110.30A shall be transferred to 22.110.30 B. – Urban Conservancy - Freshwater, “Squal 6 west ½; Squal 6 east ½; Squal 7; and Squal 8”.

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82. *Development Regulation Matrices* – Ch 22.110.30 F: For internal consistency with the SMP chapter titles, references to Ch 22.110.10 shall be changes as follows, “CHAPTER 22.110.10”.

83. The referenced Critical Area Ordinance provisions that will either be inserted into the SMP, as appropriately noted, or attached as an appendix need to reflect the most up-to-date version as revised since December 2009.