

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

Transmittal of Planning Commission recommendation for adoption of policies and regulations necessary to update the Bellevue Shoreline Master Program.

STAFF CONTACT

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Development Services Department

POLICY ISSUES

City Council receipt of the Planning Commission recommendation for amendments to City of Bellevue shoreline policies and regulations is the first step in the Council process toward completion of the Bellevue Master Program Update. The Planning Commission presentation of their recommendation to Council is informational.

This Study Session provides an opportunity for the Council to be oriented to the Planning Commission process that has occurred to-date. No action or direction is being requested during this Study Session, but offers Councilmembers the time necessary to become familiar with the recommendation materials before direction on next steps is provided. An additional Study Session will be scheduled for June to request Council direction on options for moving the Shoreline Master Program Update forward to completion.

DIRECTION NEEDED FROM COUNCIL

- Action
- Discussion
- Information

BACKGROUND/ANALYSIS

The Planning Commission is recommending a package of policy and regulatory amendments to implement state Shoreline Management Act provisions, Department of Ecology regulations and other guidance applicable to the adoption of local shoreline master programs. The Planning Commission recommendation is described with specificity in the attached Transmittal document that is included as Attachment A.

Due to the substantial amount of technical information attached to the Planning Commission Transmittal, only the recommendation is reprinted in this Study Session packet. A link to the attachments associated with the recommendation and included in the Transmittal is provided at the end of this memorandum.

The full Planning Commission Transmittal (recommendation and associated attachments), was delivered to the Council in hard copy on May 10, 2013. Tonight's Study Session provides an opportunity for the City Council to be oriented to the Planning Commission process that has occurred to-date.

RECOMMENDATION

Receive the Planning Commission recommendation for amendments to City of Bellevue shoreline policies and regulations.

ATTACHMENTS

Attachment A: Transmittal of Planning Commission Recommendation on Shoreline Master Program Update

Attachments to Transmittal Available on Line at:

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

Attachment 1: Amendments to the Shoreline Element of the Comprehensive Plan (policies)

Attachment 2: Amendments to the Shorelines Overlay District, part 20.25E of the Land Use Code (regulations)

Attachment 3: City of Bellevue Shoreline Restoration Plan (guidance)

Attachment 4: Shoreline Environment Designation (maps)

Attachment 5: Shoreline Jurisdiction (maps)

Attachment 6: Shoreline Inventory and Analysis

Attachment 7: Final Environmental Services Commission communication to the Planning Commission dated September 18, 2012 with Attachment 1

Attachment 8: Parks & Community Services Board communications



Planning Commission

TRANSMITTAL

DATE: January 16, 2013

TO: Mayor Lee and Members of the City Council

FROM: Chairman Carlson and Members of the Planning Commission

SUBJECT: Shoreline Master Program Update – Recommended Comprehensive Plan and Land Use Code Amendments - File Nos. 07-122342 AC and 11-103227 AD

I. INTRODUCTION

With this transmittal, the Planning Commission recommends by unanimous 7-0 vote that the City Council APPROVE the amendments to the Bellevue Comprehensive Plan and the Land Use Code updating the Shoreline policies and the Shoreline Overlay District. Taken together with the other elements listed below, these amendments constitute an updated Shoreline Master Program (“SMP”). In addition to amendments to the Comprehensive Plan and the Shoreline Overlay (Attachments 1 and 2), the Recommended SMP Update contains four additional sets of documents:

- Attachment 1:** Amendments to the Shoreline Element of the Comprehensive Plan (policies)
- Attachment 2:** Amendments to the Shorelines Overlay District, part 20.25E of the Land Use Code (regulations)
- Attachment 3:** City of Bellevue Shoreline Restoration Plan (guidance)
- Attachment 4:** Shoreline Environment Designation (maps)
- Attachment 5:** Shoreline Jurisdiction (maps)
- Attachment 6:** Shoreline Inventory and Analysis (refer to project website http://www.bellevuewa.gov/shoreline_management_documents.htm)

II. SUMMARY OF RECOMMENDATION

The Planning Commission recommends the package amendments contained in the attached Recommended SMP Update to implement the state Shoreline Management Act and the state Department of Ecology regulations contained in Part 3 of Chapter 173-26 WAC and other Ecology guidance. The attached amendments update existing City policies and regulations by

incorporating relevant policy, scientific and anecdotal information, along with selected management practices designed to protect Bellevue's shoreline resources. At the same time, the recommended amendments ensure that shoreline property owners may use and enjoy their properties consistent with private property rights enjoyed by all Bellevue property owners and with the public interest. The recommended amendments strike an appropriate balance between regulation to protect those ecological functions that exist and the freedom to use one's property as one wants.

The Commission's recommendation follows nearly five years of work and 49 individual study sessions. The update involved the effort of a total of twelve different members of the Planning Commission over the course of the project. Voluminous public comment received during the process, especially the hundreds of written and verbal comments from 82 different commenters that followed release of the May 2011 Public Hearing draft, provided significant influence to the process. Also influential was the continuous participation of the Washington Sensible Shoreline Alliance (WSSA)—formed in response to the SMP Update. During this time, in 2010 and 2011, the Washington legislature amended the Growth Management Act (GMA) and the Shoreline Management Act to clarify how the two acts regulate critical areas within the shoreline, including that the shorelines of the state are not, in and of themselves, critical areas subject to regulation as such and that local governments could adopt amendments to their SMP's that would not create nonconformity issues for existing single-family residences.

Planning Commission Approach to Update

The recommended amendments are based on the direction of the Shoreline Management Act that shoreline regulations reflect local needs and circumstances. Accordingly, the Planning Commission's recommendation is consistent with a preference for shoreline regulations that reflect the values and context of Bellevue's shoreline community. Critical to this vision is that any new regulations responding to obligations placed on the city by the Shoreline Management Act and Ecology be balanced, predictable, and flexible while responsive to the City's existing urbanized condition and neighborhood character. The Shoreline Management Act policy statement set forth in RCW 90.58.020 provides in part:

.....

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their

location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. . . .

The package of amendments recommended by the Commission provides a set of rules and performance standards sufficient to protect or enhance shorelines to meet the Shoreline Management Act “no net loss” requirement while allowing appropriate use of the shoreline that is mandated by the Act. The Recommended SMP Update also upholds private property rights while reducing the degree of regulatory oversight and complexity. During the update process, the Planning Commission adopted goals to guide deliberations and to ensure protection of shoreline functions and values through regulations that exemplify the following characteristics:

- **Are Bellevue Appropriate:** The regulations should recognize that Bellevue is heavily urbanized and should be designed to preserve shoreline ecological functions that exist today, rather than require a return to predevelopment conditions. The Commission finds that long-term ecosystem health is a citywide and regional issue due to legacy of past actions and that restoration of the natural ecosystem cannot occur by burdening only shoreline property owners.
- **Consider Neighborhood Character:** The City’s history of environmental protection has resulted in neighborhoods that include natural areas juxtaposed with the built environment. The majority of Bellevue’s shorelines are developed with residential uses that have retained trees and include appropriate landscaping for their urban environment. Efforts to protect shoreline ecological functions should enhance the community’s efforts to preserve the residential character of Bellevue neighborhoods.
- **Represent Balance:** The impact of regulatory changes should not overburden Bellevue’s shoreline property owners and should be balanced against other Shoreline Management Act goals, including priority for single-family residences and their appurtenant structures, recreational use and water-dependent use.
- **Are Predictable and Flexible:** Consistent with other City efforts to improve the permitting experience for citizens, the SMP is designed to be user-friendly, predictable and flexible. There is a community desire for rules that are simple to understand and implement and that limit cost and time of review as a result.
- **Are Inclusive:** The process by which the SMP is drafted should seek and include input from a variety of stakeholders.

Key Components of Planning Commission Recommendation

Given that single-family residential uses dominate Bellevue’s shoreline landscape, and the vast majority of public comment on prior drafts came from residential property owners, the

Commission focused the majority of its efforts on those policies and code sections affecting the residential shoreline.

While residential uses are the prevailing land use on the shoreline, the intent is to ensure that shoreline residential property owners do not bear a disproportionate share of the regulatory burden. Consequently, the recommended amendments fall into two broad categories: (1) those designed to protect shoreline functions and values using avoidance, performance standards, and mitigation measures; and (2) those intended to ensure that shoreline property owners remain able to use and enjoy their properties with limited regulatory interference.

It is important to point out that in almost every case the recommended amendments do not represent new limitations on the use of private property. The City has been regulating shorelines since 1974, including adopting a 25-foot shoreline setback at that time. The recommended amendments are intended to provide for an appropriate suite of policies and regulations necessary to achieve objectives of the Shoreline Management Act, consistent with applicable private property rights, while reducing the degree of regulatory oversight and complexity.

No Net Loss of Ecological Function: The Shoreline Management Act implementing guidelines, referred to as the SMP Guidelines, establish the standard of “no net loss” of shoreline ecological functions as the means of implementing the framework of the Shoreline Management Act through shoreline master programs. For impacts associated with the most common development on Bellevue shorelines, the performance standards contained in the recommended Shoreline Overlay are intended to be sufficient and are presumed to meet the “no net loss” standard. Mitigation sequencing described by the SMP Guidelines is limited to the class of proposals that require a Shoreline Conditional Use, Shoreline Variance or Special Shoreline Report.

Shorelines of State Wide Significance: The Shoreline Management Act identifies certain shorelines as “shorelines of the statewide significance” and raises their status by setting use priorities and requiring “optimum implementation” of the Act’s policies. Because they exceed 1,000 acres in size, the Department of Ecology classifies Lake Washington and Lake Sammamish as shorelines of statewide significance. Implementation of the rules governing shorelines of statewide significance involves special emphasis on statewide objectives and consultation with state agencies and tribes. Agencies and the Muckleshoot Indian Tribe were all included in the robust public engagement that occurred throughout the Shoreline Update process.

Environment Designations: An important new addition included in the Recommended SMP Update is the classification of Bellevue’s shorelines into environmental designations (similar to a zoning overlay). The 1974 SMP had only two environmental designations—urban residential and wetland—and lacked specific implementing regulations. In contrast, the recommended amendments have six designations consistent with state update guidelines: (1) Aquatic; (2) Urban Conservancy - Open Space; (3) Urban Conservancy; (4) Shoreline Residential; (5) Shoreline Residential Canal; and (6) Recreational Boating.

Shoreline Protection – Setbacks and Vegetation Conservation: In addressing the issue of shoreline protection, the recommended amendments are sensitive to the urbanized character of Bellevue and to shoreline property owners' concerns, while protecting ecological functions in the manner sufficient to ensure no net loss. A 50-foot setback and vegetation conservation area is established for the Urban Conservancy and Urban Conservancy Open Space environments, to protect and retain those remaining parts of the shoreline with higher functional value. In contrast, a 25-foot setback is imposed on shoreline in the Residential environment where existing ecological function is more limited and the shoreline is highly developed. The protective benefits typically associated with the larger setback and vegetation conservation area are provided on the residential shoreline through application of city-wide tree preservation standards and a new shoreline greenscape standard to limit impervious surface close to the ordinary high water mark. "Shoreline greenscape" includes all living plant, tree and hedge material, including lawn, and its application is triggered by addition of new impervious area within the 25-foot setback or by new or expanded residential development within 50 feet of ordinary high water mark. The shoreline greenscape requirement ensures that future development will maintain vegetated areas adjacent to the water (preserving the character of shoreline neighborhoods) and will protect the area most closely linked to shoreline ecological function at the water's edge.

Ordinary High Water Mark: The Shoreline Management Act of 1971 (RCW 90.58) defines the "ordinary high water mark" (OHWM) as:

" that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining freshwater shall be the line of mean high water."

Typically, a qualified professional makes such determinations on a site-by-site basis according to procedures provided by the Department of Ecology. However, Ecology accepted Bellevue's 2004 Lake Sammamish Ordinary High Water Mark Study supporting a specific OHWM elevation from which to measure setback. Although the static elevation provided desirable certainty with respect to setback measurement, public input raised concerns that the study elevation was inaccurate due to human interference and disruption of natural lake levels. For example, management of the Hiram Chittenden locks connecting Lake Washington to Puget Sound establishes a maximum ordinary high water elevation for Lake Washington timed to provide water for summer recreation. Similarly, poor maintenance of the weir at the start of the Sammamish River may have resulted in higher high water for durations long enough to affect the OHWM on Lake Sammamish. Property owners at Phantom Lake raised similar concerns about unusually high water and pointed to infrequent outfall maintenance as the cause.

The developed condition of the Bellevue shoreline, coupled with the factors noted above, has resulted in a lake level that has not changed "naturally" as required by the definition above. The recommended amendments maintain the certainty of the static elevation that was originally

developed for Lake Sammamish in 2004, and identifies specific OHWM elevations for establishing structure setbacks for Lake Washington, Lake Sammamish and Phantom Lake based on a variety of other factors. The recommendation incorporates an elevation of 18.8 NAVD 88 (based on the elevation at the locks) for Lake Washington, 30.6 NAVD 88 (based on original design estimate for the Sammamish Slough dredging) for Lake Sammamish, and 260.7 NAVD 88 (based on public testimony) for Phantom Lake. The Commission included an option for use of a qualified professional as an alternative for deviating from the prescribed elevations and requires the use of such professionals for any work occurring at or below the OHWM.

Shoreline Modification – New and Reconfigured Residential Moorage: Moorage standards were amended as a component of the 2006 Critical Areas Update. These standards were based on U.S. Army Corps of Engineers (USACE) performance standards for new docks that, if followed, were anticipated to result in reduced scrutiny under the Endangered Species Act (ESA) and reduced review time. Applicant experience with the standards since 2006 suggested that regulatory redundancy remained between local, state and federal permit reviews.

The recommendation simplifies the regulatory framework applicable to residential moorage by deferring to state and federal agencies with permit authority and focusing local permit review on issues of local importance. The simplified regulations pare down the USACE standards to four key performance measures essential to preserving neighborhood character and ensuring no net loss of ecological functions. Overwater coverage in the nearshore is limited by specifying a maximum walkway width of 4 feet, limiting the total overwater coverage to 480 square feet, and restricting the moorage ell to a minimum of 30 feet from OHWM or to a length necessary to reach a depth of 9 feet. In addition, grating is required throughout. To add further flexibility, the Commission recommendation authorizes modification of the standards outlined above provided the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife, acting under their respective federal and state authorities, approve such modifications. On balance, these amended performance standards address key components of existing standards while reducing their complexity and providing more flexibility for residential property owners.

Residential Moorage – Repair and Replacement: Given the urbanized, developed and recreational character of Bellevue's residential lake frontage, the ability to maintain, repair or replace one's existing dock is an important concern for property owners. Replacement of an existing structure would be allowed in its existing configuration provided installation is undertaken in compliance with industry material standards. This approach is intended to meet the requirements of "no net loss" of ecological function while preserving neighborhood character and not overburdening property owners with unnecessary regulation, consistent with the Act's priority for single-family residences and appurtenant structures and related recreational uses.

Shoreline Modifications—New Stabilization: In addressing the regulation of new stabilization measures, the recommended amendments closely follow the standards provided in the Shoreline Guidelines. Consequently, the recommended amendments limit new stabilization, such as bulkheads, to those situations where need is clearly demonstrated to protect existing primary structures, public facilities, or public use structures. Avoiding the need for new stabilization is a primary policy objective of the state Guidelines, so development that purposefully avoids erosion

hazards by locating the primary structure at a safe distance from OHWM to avoid those risks is preferred. Where an applicant perceives the need for stabilization on a site without it, the amendments require an applicant to show necessity by hiring a qualified professional to conduct a feasibility analysis. The analysis assesses a number of site-specific factors, information about wind direction, speed, fetch and likely wave height, as well as risk to the existing primary structure and other factors.

Where these amendments permit new stabilization, the recommendation expresses a preference for soft stabilization; hard stabilization is an option only when soft options are not technically feasible or the structure to be protected is so near (less than 10 feet) to OHWM that hardened stabilization is the default option. The recommended amendments prohibit new vertical stabilization.

In an improvement over existing 2006 critical areas code, the recommendation clarifies where stabilization may be located when a documented flood hazard area exists. The amendment permits only soft stabilization within the area of special flood hazard with the exception of low-angle planted revetments that have limited impact on flood storage. In general, new stabilization measures are prohibited waterward of the OHWM, except when those measures incorporate approved habitat improvements.

Shoreline Modifications—Repair and Replacement of Existing Stabilization: Similar to docks, the ability to maintain, repair or replace one's existing shoreline stabilization is also an important concern for property owners. The recommended amendments set a clear standard regarding what constitutes "repair" by allowing maintenance and repair of legally established stabilization to occur in all cases, including those situations where conditions necessitate construction of a completely new structure. The amendments also encourage replacement of vertical walls with angled riprap walls or revetments by allowing the replacement structure to be constructed as far waterward as necessary to ensure the OHWM is no further landward than previously existed on the wall or bulkhead that is being replaced.

Other Important Draft SMP Provisions

Nonresidential Nonconformities: The Commission recommended provisions governing nonresidential nonconformities foster reinvestment and ongoing maintenance of legally established uses while discouraging new office uses that no longer conform to the requirements of the SMP. This approach applies most liberally in the Bellfield Office Complex where incentives exist to permit limited conversion of existing nonconforming development as necessary to accommodate allowed shorelines uses. Should existing structures be destroyed by events outside the owner's control, the recommended amendments allow reconstruction of the destroyed structures. Tailored after the recently adopted Bel-Red regulations governing existing conditions, the standards clarify how to document a legally established nonconformity; maintain existing vested entitlements; allow ongoing repair and maintenance; require proportional compliance for alterations over the 50 percent of replacement value; and allow structures to be moved to reduce nonconformity.

Residential Nonconformities: Consistent with RCW 90.58.620, adopted in 2011, the Commission recommended approach limits the application of nonconforming use provisions in the shoreline residential context. Uses that were lawfully established landward of ordinary high water mark remain lawful even if they could not be permitted as new structures following adoption of the SMP Update. Boathouses and similar overwater structures were restricted to repair and maintenance up to a 50 percent replacement cost threshold only. Reconstructions that exceed the cost threshold are prohibited.

Recreation Development: The recommended amendments create four categories of recreation use: parks, marinas, yacht clubs and community clubs. The range of activities allowed reflects a diversity of recreational interests with the focus on water-dependent activities. The amendments permit maintenance and repair of existing facilities up to an established threshold above which improvements such as compliance with landscape standards, use of light penetrable materials, and visual screening are required. Impacts to ecological functions and adjacent uses are addressed by including specific siting and design standards.

The recommended amendments provide specific allowances for development of recreation facilities within the setback including provisions for trails, promenades, viewing platforms, and safety improvements. Construction of new recreation uses may trigger installation of vegetation and landscaping in the required vegetation conservation area. Shoreline setbacks in the Recreational Boating environment were set at 25 feet because of the concern that existing bulkheads and paved parking surfaces may impair ecological functions.

Meydenbauer Bay Park—Special Provisions: The Planning Commission engaged in significant discussion regarding the permit review process for Meydenbauer Bay Park. In response to concerns from the public, the Meydenbauer Bay Neighborhood Association, and the Meydenbauer Yacht Club, the recommended amendments require a general conditional use permit for development of specific phases of the park, both in the Shoreline Overlay District and the upland areas of the park. The Land Use Code currently requires a shoreline conditional use permit for portions of the park located in the Shoreline Overlay District, and a general conditional use permit for the upland portions of the park. Requiring a general conditional use permit for Meydenbauer Bay Park addressed our interest in permit process continuity across the entire park property, and retained local control with the City rather than requiring Ecology approval for park development. A Shoreline Substantial Development Permit will be required to meet state permitting requirements within the 200-foot shoreline jurisdiction. The recommended regulations require that the Meydenbauer Bay Park cannot be established, developed, expanded or modified without being consistent with the terms of the Meydenbauer Bay Park and Land Use Plan together with the Council-mandated implementation principles.

Transportation Uses: The recommended amendments allow new transportation uses in the shoreline subject to the shoreline use charts (LUC 20.25E.030). This section is predominantly applicable to City transportation projects, but it could also apply to transportation uses constructed as part of a private development (such as a plat) or Washington State Department of Transportation projects. Light Rail was specifically excluded from the scope of a transportation use out of recognition that Council is directly considering the regulations applicable to this use.

Where a transportation project has been included in a Council-adopted plan, no further evaluation of technically feasible alternatives is required. In the absence of a Council-adopted plan, an applicant would be required to demonstrate that there is no technically feasible alignment or location with less impact on shoreline ecological function. The showing of feasibility is based on meeting six criteria found at LUC 20.25E.060.C. They include: (1) existing site conditions, (2) location of existing infrastructure; (3) function or objective of the proposed facility; (4) level of risk presented by shoreline erosion; (5) whether the cost of avoidance is disproportionate to environmental benefit achieved; and, (6) the ability of permanent and temporary disturbance to be mitigated. Where no alternative is available, projects must be designed to further limit their impacts by staying clear of critical areas and their buffers, aquatic areas, and the shoreline setback and other sensitive areas on the site. Other performance standards include minimization of disturbance of shoreline features; use of low impact development techniques, minimization of topographic disturbance, and selection of landscaping to enhance public views of the shoreline.

Routine maintenance, repair, and minor expansion of transportation facilities is permitted to the edge of the right-of-way provided that the area of disturbance does not impact critical areas or critical area buffers and shoreline ecological functions are not adversely affected.

Utility Uses: The recommended amendments allow new utility uses in much the same way as transportation uses are allowed. Again, these provisions are predominantly applicable to City projects (such as the Lake Line Replacement), however they would also apply to utility uses constructed as part of a private development or by King County METRO.

A utility use proposed in the shoreline is subject to the shoreline use charts (LUC 20.25E.030). Where the project has been included in a Council-adopted plan, no further evaluation of technically feasible alternatives is required. In the absence of a Council-adopted plan, an applicant proposing a utility use would be required to demonstrate that there is no technically feasible alignment or location with less impact on shoreline ecological functions. The showing of feasibility is based on meeting six criteria found at LUC 20.25E.060.C. They include: (1) existing site conditions, (2) location of existing infrastructure; (3) function or objective of the proposed facility; (4) level of risk presented by shoreline erosion; (5) whether the cost of avoidance is disproportionate to environmental benefit achieved; and, (6) the ability of permanent and temporary disturbance to be mitigated. Where no alternative is available, projects must be designed to further limit their impacts by staying clear of critical areas and their buffers, aquatic areas, and the shoreline setback and other sensitive areas on the site. Other performance standards include minimization of disturbance of shoreline features, use of low impact development techniques, minimization of topographic disturbance, and the requirement to incorporate public access consistent with the requirements at LUC 20.25E.060.I.

Routine maintenance and repair is permitted provided the repair is in-kind restoration to a state comparable to the original condition within a reasonable period after decay has occurred. Minor expansions are permitted by up to 20 percent when necessary to comply with a mandated code update, or to accommodate changes in technology, design or maintenance practice, or minor changes in volume from an area served by the specific utility facility or system.

Site Planning and Subdivision Standards: The recommended amendments rely on existing land use rules for site planning and platting. Maximum flexibility is provided, but new residential development must be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

Public Access: The Planning Commission received significant public comment regarding the appropriate location of shoreline public access. The recommended amendments require shoreline access to be provided for all transportation, utility, and park projects located on public property. The recommended amendments include accommodation for modified access (such as viewing) where physical access poses a safety concern due to the nature or function of the public project with which the access is associated.

Improved Permitting Process: The recommended amendments integrate the Shoreline Management Act and Local Project Review Act (Chapter 36.70B RCW) permitting procedures into procedural requirements applicable in the Shoreline Overlay District. Integrating permit processing requirements is intended to eliminate the need for applicants to navigate and understand permitting requirements described in two different chapters of the Land Use Code. This integration is also intended to streamline the permitting process, in an effort to save applicants time and money associated with permit review. Streamlined and integrated process provisions such as those included in the Planning Commission recommendation, also protect private property rights by ensuring that similarly-situated property owners are treated fairly and consistently. This integration approach has been a hallmark of Bellevue's regulatory reform efforts that originally began with the adoption of well-defined land use procedures in 1995. This clarity of definition and regulatory certainty is now being carried forward to the shoreline jurisdiction with the adoption of well-defined shoreline permit procedures. The integrated permitting process is located at sections LUC 20.25E.100 through 20.25E.200 in the Planning Commission recommendation.

Restoration Plan: The Shoreline Guidelines include a requirement for a restoration plan designed, in part, to assist in offsetting long-term cumulative impacts of development to the shoreline and to avoid incremental and unavoidable degradation to shoreline ecological functions. The recommended Restoration Plan is a new element, not previously included in the existing SMP. The Restoration Plan is not a regulation, but instead is a planning tool that documents restoration objectives along with conceptual mitigation plans for a wide range of potential sites that could be implemented over time.

Other Issues of Concern

Four years of public testimony and significant amendments to the Shoreline Management Act and GMA presented the Commission with a wide range of policy challenges, not all of which fit neatly within the policies or regulations of the SMP. Recognizing that many of these issues needed further examination in a different forum, the Commission summarized below a number of concerns that were not capable of being resolved through the recommended policies and regulations of the SMP. It is the hope of the Planning Commission that the City Council will consider these issues and refer them to appropriate staff, or partner with appropriate local, state or federal agencies, as necessary to resolve the concerns that were raised to the Commission during its work on the SMP Update.

Lake Sammamish Water Levels, Flood Hazard Regulations and Weir Management: In the 1960s, the U.S. Army Corps of Engineers (USACE) began dredging and channelizing the Sammamish River in an effort to protect agricultural interests from spring flooding in the valley and to control flooding on Lake Sammamish. The Commission received significant testimony and documentary evidence showing that the lack of maintenance of the Sammamish River has contributed to extended periods of high water in Lake Sammamish with negative effects to shoreline property over the past decade. WSSA representatives expressed concern that the increased lake water levels, combined with inaccurate floodplain mapping, and overly restrictive flood hazard regulations create a costly burden for property owners. While floodplain management is not a direct component of the SMP Update, City staff and WSSA board members met with FEMA to address the issue and its relationship to the City's National Flood Insurance Program. The Commission recommends that the Council continue to work with King County and the City of Redmond to ensure required maintenance obligations in the Sammamish River are undertaken and continued. Recognizing that review of the flood hazard regulations was not part of the SMP project, the Commission also recommends that Council consider additional review of the Critical Area Flood Hazard Regulations to respond to WSSA's concerns.

Lake Elevation and Water Level Management on Phantom Lake

The Commission received public comment regarding the water levels of Phantom Lake and the impacts of high lake levels on adjoining properties. In response to these concerns, Bellevue Parks and Utilities Departments jointly pursued and obtained a King Conservation District grant to develop and implement an outlet channel maintenance plan as a pilot project for sustainable channel management. The plan included surveying the channel and downstream culvert and removing sediment and organic debris to re-establish conveyance capacity. This work was completed in 2011, and since that time impacts to surrounding residents have been reduced. The Commission recognizes the work performed by the Parks and Utilities Departments, and based on the public comment sees a need for development of a long-term solution to the maintenance of the private outlet channel and culvert. The Commission recommends that the Council direct the Utility Department to facilitate a discussion with residents on ownership and long-term maintenance responsibilities for the outlet from Phantom Lake. The Utilities Department, through its director, expressed a commitment to meet with residents around the lake, and the Department is currently reviewing existing information and the condition of the 1990 improvements to support such a conversation with residents concerning lake levels.

III. BACKGROUND

This section introduces the Shoreline Management Act, outlines the extent of shoreline jurisdiction, and discusses the shoreline context considered by the Planning Commission as it developed a Bellevue appropriate SMP Update.

Purpose of the Shoreline Management Act

The state adopted the Shoreline Management Act (“SMA” or the “Act”) in response to concerns arising from the “uncoordinated and piecemeal development” of the state’s shorelines occurring without sufficient concern for the resource or the public interest. A primary focus of the SMA is to protect and restore the valuable and fragile natural resources the state’s shorelines represent, while fostering those “reasonable and appropriate uses” that are dependent upon waterfront proximity, enhance public access, or increase recreational opportunities for public enjoyment of the shoreline. With regard to development along our state’s shorelines, RCW 90.58.020 provides:

Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.

Role of the Shoreline Master Program Guidelines

The SMP Guidelines provide process and substantive direction to local jurisdictions when preparing their shoreline master programs. RCW 90.58.200 authorizes the Department of Ecology to adopt rules to implement the provisions of the Shoreline Management Act; and under RCW 90.58.060 Ecology was required to adopt guidelines for the development and review of shoreline master programs. The SMP Guidelines were adopted as rules pursuant to the Washington Administrative Procedure Act (Ch. 34.05 RCW).

While designed to allow local government substantial discretion to adopt master programs that reflect local circumstances, the Guidelines contain the criteria that Ecology will use to review and ultimately adopt local master programs under RCW 90.58.090.

For each master program provision addressed in the Guidelines, there is a discussion of applicability, a set of general principles, and a list of standards. The meat of the guidance is in the principles and the standards. The principles are essentially mandatory policies. The standards are also obligatory but differ in specificity. For example, in residential areas that do not otherwise contain critical areas, the Guidelines do not require that a jurisdiction use buffers

or special vegetation management areas. What the Guidelines require is that there is no net loss of ecological function.

In summary, the Guidelines establish specific principles and standards by which Ecology assesses whether a local shoreline master program meets the requirements of state law. The Planning Commission recommendation is intended to implement the concept of “no net loss of ecological function” in a manner that takes into account local conditions, and provide Ecology with appropriate regulatory support to conclude that the master program meets the intent of the Guidelines.

Shoreline Jurisdiction

The Shoreline Management Act applies to shorelines of the state, which includes Shorelines of Statewide Significance (Lakes Sammamish and Washington) and other types of shorelines and shorelands as defined in the Act. The jurisdictional area generally includes lakes 20 acres in size or greater and streams with a mean annual water flow exceeding 20 cubic feet per second and the lands underlying waters of the state and the areas extending landward from waters of the state for 200 feet including floodways, floodplain areas, and wetlands associated with such streams and lakes.

The following areas are included in Bellevue’s shoreline jurisdiction¹:

- Lake Washington, including Mercer Slough upstream to Interstate 405 – The lake waters, underlying lands and the area 200 feet landward of the ordinary high water mark, plus associated floodways, floodplains, and wetlands;
- Lake Sammamish – The lake waters, underlying lands and the area 200 feet landward of the ordinary high water mark, and associated wetlands;
- Lower Kelsey Creek – The creek waters, underlying lands, and territory between 200 feet on either side of the top of the banks, plus associated floodways, floodplains, and wetlands;
- Phantom Lake – The lake waters, underlying lands and the area 200 feet landward of the ordinary high water mark, and associated floodways, floodplains, and wetlands (Lake Hills Greenbelt Wetland Complex);
- On lakes Sammamish and Washington, waterward from the ordinary high water mark to the City’s jurisdictional line, typically halfway across the waterbody.

¹ The SMA applies to reservoirs and lakes 20 acres or more. Lake Bellevue is a fraction of that size and thus not regulated as part of the shoreline jurisdiction. The City of Bellevue regulates Lake Bellevue as a wetland.

Components of Bellevue's Shoreline Master Program

The Planning Commission recommended components of the SMP Update include amendments to the Bellevue Comprehensive Plan and the Land Use Code that are intended to constitute an updated Shoreline Master Program. The City undertook this effort in response to a state mandate that all cities and counties that have shorelines of the state within their jurisdictional limits update their SMPs to comply with the new Master Program rules (Chapter 173-26 WAC).

Bellevue developed its first SMP in 1974. Over time, the state guidance for complying with the Shoreline Management Act changed and now the state requires a number of components and best management practices that rely on the most current scientific information relevant to protecting shoreline functions and values. The state Guidelines now specify a number of required changes necessitating an update of the SMP in a manner consistent with the procedural and substantive requirements of the Shoreline Management Act and its implementing rules, including Chapter 173-26 WAC, Shoreline Master Program Guidelines.

The amendments recommended by the Commission will reside as a Shoreline Overlay within Part 20.25E of the Land Use Code and apply to all areas of the City that are located within shoreline jurisdiction. Similarly, the Comprehensive Plan SMP amendment supplants the City's existing Shoreline policies in their entirety. A subsequent proposal will also include conformance amendments to other land use code sections, including the Critical Areas Overlay District Part 20.25H LUC, as necessary to remove conflicts and ensure cross-reference accuracy with the package recommended by the Planning Commission in this transmittal.

Under state law, the complete SMP is required to include the following components:

1. Shoreline Element of the Comprehensive Plan (policies)
2. Shoreline Overlay of the Land Use Code (regulations)
3. Critical Areas Overlay of the Land Use Code (amended regulations to be developed by the Planning Commission to conform to the Council-adopted SMP)
4. Shoreline Restoration Element (guidance document)
5. Shoreline Environment Designations (maps)
6. Shoreline Jurisdiction (maps)
7. Shoreline Inventory and Analysis (study)
8. Shoreline Cumulative Impact Analysis (analysis to be conducted in the future on Council-adopted SMP)

Requirement to Ensure "No Net Loss" of Shoreline Ecological Functions

The Shoreline Management Act provides a broad policy framework for protecting the natural resources and ecology of the shoreline environment. The SMP Guidelines adopted by the Department of Ecology establish the standard of "no net loss" of shoreline ecological functions as the means of implementing this framework through shoreline master programs. Local governments must achieve this standard through both the SMP planning process and by appropriately regulating individual developments in the future.

Shoreline ecological functions are those processes, roles, or services that shorelines perform. They are the building blocks of habitat types on which species depend. For example, plants and animals depend on certain physical conditions and ecological processes for their survival. Such conditions include water depth, soil type, and water temperature. Ecological processes include water flows and movement, nutrient recycling, sediment movement, and predator-prey (food web) relationships. A change or disruption to specific ecological functions may have a range of impacts, some negative, to the habitat on which specific species depend; loss of habitat can often lead to species loss.

At its most basic, meeting “no net loss” means offsetting any loss of ecological function caused by an action by an equivalent gain in ecological function. For example, when the physical condition of the shoreline is altered by removing existing native vegetation to clear for development, or when nearshore habitat is altered by construction of a dock, impacts may occur to a range of functions (vegetative, hydrologic, and habitat) that may have a direct impact on the ability of certain species to persist. To counter this loss, the SMP Guidelines require mitigation to address both the function that is lost, its spatial location, and the temporal dimension associated with that loss.

The SMP Guidelines rely on a six part mitigation “sequencing” to ensure adequate consideration of all elements that affect net loss of ecological function. Such mitigation sequencing includes: (1) avoiding the impact; (2) minimizing the impact; (3) rectifying the impact; (4) reducing or eliminating the impact through preservation and maintenance; (5) compensating for the impact; and finally, (6) monitoring the impact and ensuring corrective action is taken when failure is apparent. However, not all impacts can be mitigated in this manner and this result is anticipated in SMP Guidelines resulting in an emphasis on restoration planning to balance this cumulative loss over time.

The Shoreline Management Act requires shoreline master programs to ensure “no net loss” of ecological functions. To evaluate if a recommended SMP meets the standard of “no net loss” based on application of the policies, regulations, and programs included in the SMP, the City is required to complete a cumulative impacts assessment that demonstrates the effectiveness of the shoreline master program when tested against future development scenarios. The Cumulative Impacts Analysis is not included in this submittal. Once the Council has had an opportunity to review the Planning Commission recommendation, the Cumulative Impacts Assessment of the SMP Update will be required and must be included as part of the Shoreline Master Program that is forwarded to the State Department of Ecology for final adoption.

Role of Science in the SMP Update

While the SMP Guidelines originated in a negotiated settlement between developers, state and federal agencies, environmental groups, and the Tribes, science information about ecological functions and natural habitats played a very important part in creating the SMP Guidelines. This emphasis on science-based analysis is a required component of any Shoreline Master Program. For example, RCW 90.58.100 (1) instructs local governments to: “consider all plans, studies, inventories and systems of classification made or being made by federal, state, regional or local agencies . . . or by organizations dealing with pertinent shorelines of the state.” The Guidelines

include the requirement to incorporate “the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern.”

The Planning Commission consulted a wide range of scientific information, including consultant studies, peer reviewed articles, and published “gray” literature.² The Commission also heard from a range of agency and independent scientists, policy professionals, and tribal representatives. The Planning Commission listened to hours of public testimony, including lengthy presentations by WSSA representatives, scientists and consultants. In addition, city consultants prepared a detailed shoreline inventory and analysis report that estimated ecological and ecosystem processes at the reach scale. This analysis served as the basis for deciding which environment designations were appropriate and where they should be located. The analysis will also serve as the baseline against which generalized estimates of the impacts of future development actions on the shoreline can be monitored and measured.

While it appears that some evidence points to associations between development on shorelines and observed declines in ecological function in the Puget Sound Basin, ecosystem scientists often disagree about causes, or can identify associations but not the causative factors. Likewise, some of the data presented to the Commission by WSSA suggests that Bellevue’s urbanized environment makes many science-based management recommendations impractical or likely to result in at best nominal impacts on shoreline ecological functions at the watershed scale. Therefore, while the review of science assisted in formulating policy, science did not lead to a precise outcome.

IV. COMPREHENSIVE PLAN AMENDMENT DECISION CRITERIA

The Comprehensive Plan provides a statement of the goals and objectives for the development of the community. The Comprehensive Plan also contains a map that translates goals and policies of the Comprehensive Plan into land use designations indicating where future development is best located. The Comprehensive Plan does not regulate property rights, land uses or other activities directly but rather serves as a blueprint for land use regulations. The Comprehensive Plan also provides policies and locations for public facilities, such as streets, utility service, and other infrastructure to serve future land uses. The Growth Management Act (GMA) requires the Comprehensive Plan to be internally consistent and all elements must be consistent with the land use map. While the GMA requires internal consistency, and consistency between comprehensive plans and regulations, not all actions or regulations must further all comprehensive plan goals and policies. The community vision cannot be achieved through regulation alone. Programs undertaken by the City also serve as an opportunity to advance goals and policies contained in the plan.

The decision criteria for a Comprehensive Plan amendment are set forth in the Land Use Code,

²

Beyond the conventional route of peer-review, there exist vast accumulations of gray literature – conference reports, technical notes, institutional papers, and various articles written for specific entities like state and federal agencies that enter into general circulation without the filter of peer-review.

Section 20.30I.150. Based on these criteria, the amendments recommended by the Planning Commission merit recommendation to the City Council based on the following analysis:

B1. The proposed amendment is consistent with the Comprehensive Plan and other goals and policies of the city, the Countywide Planning Policies (CPP), the Growth Management Act and other applicable law; and

The recommended new shoreline policies are consistent with the Comprehensive Plan and other goals and policies in these planning documents for shoreline development and environmental protection. The amendments are consistent with the overall Comprehensive Plan, including common policy themes, such as encouraging redevelopment and economic development of existing areas, protecting single-family neighborhoods, preserving and enhancing open space, enhancing public access and recreation in the shoreline, and protecting the natural environment. The subsections below address areas of specific policy support.

Land Use Element

The Land Use Element provides broad support for the concepts included in the recommended SMP Update including support for redevelopment of existing developed areas, the inclusion of residential uses in commercial areas, provision of a range of housing choices, provision of open space, and creation of land use patterns that support walking and public health.

Land use changes affect the entire City, but major impacts are usually borne by residents in the immediate vicinity of a particular project. Policies LU-8, LU-9 and LU-22 address the issue of land use compatibility. The Planning Commission recommendation advances these policy ideals by including performance standards for non-residential shoreline uses (such as transportation facilities, utilities and parks) that are protective of shoreline functions and values while including substantive standards such as dimensional limitations and landscaping requirements that provide a gracious transition to adjacent residential uses, and procedures that require public outreach and involvement in land use permitting.

POLICY LU-8. Ensure that commercial land uses are contained within carefully delineated areas.

POLICY LU-9. Maintain compatible use and design with the surrounding built environment when considering new development or redevelopment within an already developed area.

POLICY LU-22. Protect residential areas from the impacts of non-residential uses of a scale not appropriate to the neighborhood.

Bellevue emphasizes a high quality of life and the creation and fostering of livable neighborhoods that have people coexisting with nature not apart from it. The creation of unique commercial spaces coupled with the provision of parks, open space, recreational opportunities and preservation of trees and wildlife habitat are an important part of creating that quality of life. Policies LU-12 through LU-16 focus on creating the conditions for that quality of life by

promoting sensitive site development, the preservation of green space and recreational opportunities throughout the City. The Planning Commission recommendation advances these policy ideals by specifically applying citywide tree regulations to the Shoreline Overlay District that require retention of 30 percent of the diameter inches on the site with new single-family development or redevelopment involving an impervious surface increase exceeding 20 percent of structure area. Likewise the inclusion of a robust restoration plan supports the objectives of LU-15 by including a range of potential projects designed to improve functions and values on shorelines.

POLICY LU-12. Retain land availability for specific commercial uses that are important to the community.

POLICY LU-13. Reduce the regional consumption of undeveloped land by facilitating redevelopment of existing developed land when appropriate.

POLICY LU-14. Distribute park and recreation opportunities equitably throughout the city.

POLICY LU-15. Encourage dedication of open space and preservation and restoration of trees and vegetation to perpetuate Bellevue's park-like setting and enhance the city's natural environment.

POLICY LU-16. Promote a variety of techniques to preserve open space and key natural features, such as sensitive site planning, conservation easements, and open space taxation.

Creative site planning is one of the best means to ensure long-term protection of shoreline ecological functions. Policy HO-18 encourages the use of innovative site planning techniques, and the recommended amendments provide optimal site design flexibility with specific emphasis on preventing design and location of new residential development such that future shoreline stabilization is required. Application of city wide subdivision standards in shoreline jurisdiction is recommended by the Planning Commission. Conservation subdivisions may occur on the shoreline when triggered by the presence of traditional critical areas (i.e., riparian corridors, wetlands or steep slopes) or where a planned unit development is proposed. These are an appropriate alternative to traditional subdivisions where sensitive shoreline resources are at risk.

POLICY HO-18. Provide opportunities and incentives through the Planned Unit Development (PUD) process for a variety of housing types and site planning techniques that can achieve the maximum housing potential of the site.

Transportation Element

Relevant transportation policies provide support for development of a comprehensive transportation system that provides transportation choices by various modes of travel, including transit, cars, pedestrians and bicycles. Such policies support the Planning Commission Recommended SMP Update to provide enhanced opportunities for direct shoreline access and recreation as well as passive view opportunities from transportation corridors. These policies

also support the process simplification incentives that apply to transportation proposals included in a Council-adopted master plan.

POLICY TR-8. Incorporate transit-supportive and pedestrian-friendly design features in new development through the development review process.

POLICY TR-44. Design arterials and streets to fit the character of the areas through which they pass.

POLICY TR-77. Consider pedestrians and bicycles along with other travel modes in all aspects of developing the transportation system.

The Economic Element

The economic element has a section that specifically calls for investment in making Bellevue more livable. The Recommended SMP Update supports a key component of economic health by striking an appropriate balance between mitigation of environmental impacts and redevelopment flexibility and process streamlining which fosters redevelopment.

POLICY ED-17. Recognize the economic development benefits of city and private sector investments in urban amenities like arts and culture, open space and recreational facilities, and high quality urban design. Strengthen the city's assets in these areas as an explicit component of the city's economic development strategy.

Environmental Element

The Environmental Element sets forth the broad policy direction for Bellevue's stewardship of nature in an urban context and provides significant policy support to the Recommended SMP Update. The organizing focus is the realization that the community is fundamentally embedded in a natural environment and the seven major goals and 94 policies contained in the environmental element work to sustain a quality of life based on integration of the natural and developed environment and preservation and restoration of the functions and values that sustain that system. The key to ensuring that such attention quality of life occurs is to ensure that environmental values are integrated into all decision-making processes. The Recommended SMP Update advances these goals with eight new Comprehensive Plan goals and 117 policies that further the quality of life goal with integration of development into shoreline environments in a Bellevue-appropriate way. The two major goals relevant to the SMP Update are:

Goal 1: To integrate the natural and developed environments to create a sustainable urban habitat with clean air and water, habitat for fish and wildlife, and comfortable and secure places for people to live and work.

Goal 2: To promote a sustainable urban environment by weighing environmental concerns in all decision-making processes.

Other environmental goals support the Commission recommendation to rely on City-wide strategies to address water quality, stormwater and nonpoint source pollution prevention obligations in a holistic way by applying the storm and surface water code and standards, and the clearing and grading code and standards, rather than disproportionately burdening shoreline property owners with a community-wide responsibility.

The Environmental Element includes a large number of policies aimed at promoting sustainable practices that conserve materials, energy and natural systems. An important component of fostering these ideas is the consideration of environmental impacts when making a policy or regulatory decision. The Planning Commission recommendation advances Policies EN-1 and EN-3 by including shoreline policies and regulations that adhere with Ecology guidelines for no net loss, by requiring use of non-pollutant materials when those materials will come in contact with water, and by referencing water quality, stormwater, and nonpoint source pollution regulations in the Recommended SMP Update.

POLICY EN-1. Consider the immediate and long-range environmental impacts of policy and regulatory decisions and evaluate those impacts in the context of the City's commitment to provide for public safety, infrastructure, economic development, and a compact Urban Center in a sustainable environment.

POLICY EN-3. Minimize, and where practicable, eliminate the release of substances into the air, water, and soil that may degrade the quality of these resources or contribute to global atmospheric changes.

The next group of applicable policies, policies EN-13 through EN-15, focus on planning and regulatory issues, including the need to utilize the best scientific information in an ongoing adaptive management approach to preserve or enhance functions and values of critical areas and shorelines. While most of the policies are not specific to shorelines, they do address preservation and management of many of the ecological functions that do occur on shorelines. The need for regulatory flexibility that includes a prescriptive regulatory approach and a programmatic, science-based alternative (or off ramp) is outlined here too. As described in Policy EN-14, the need for ongoing adaptive management based on a foundation of monitoring and scientific study is an important component of the overall strategy. Policy EN-13 gives prominence to science-based mitigation for adverse impacts while Policy EN-15 recognizes the watershed scale in which regulatory actions need to fit to be effective. The Recommended SMP Update accomplishes these policy objectives by including shoreline policies and regulations that adhere with Ecology guidelines for no net loss, by requiring use of non-pollutant materials when those materials are exposed to water, and by referencing water quality, stormwater, and nonpoint source pollution regulations in the Recommended SMP Update.

POLICY EN-13. Utilize science based mitigation for unavoidable adverse impacts to critical areas to protect overall critical areas function in the watershed.

POLICY EN-14. Implement monitoring and adaptive management plans for critical areas mitigation projects to ensure that the intended functions are maintained or

enhanced over time.

POLICY EN-15. Integrate site-specific development standards with urban watershedscale approaches to managing and protecting the functions of critical areas..

Policies EN-23 and EN-24 work to focus acquisition efforts on those properties possessing habitat that is most sensitive to urbanization or where shoreline functions and values are largely intact. The Recommended SMP Update includes a restoration plan that identifies acquisition and restoration opportunities for City and private investment consistent with these policy objectives.

POLICY EN-23. Explore opportunities for public acquisition and management of key critical areas of valuable natural and aesthetic resources, and fish and wildlife habitat sensitive to urbanization through a variety of land acquisition tools such as conservation easements and fee-simple purchase.

POLICY EN-24. Prioritize efforts to preserve or enhance fish and wildlife habitat through regulations and public investments in critical areas with largely intact functions and in degraded areas where there is a significant potential for restoring functions.

In many cases, existing single-family residential development already intrudes into existing buffers from critical areas. Policies EN-25 and EN-26 address how expansion of these structures can occur in critical areas. The Recommended SMP Update extends this expansion approach to the shoreline context by exempting the footprints of legally established primary structures from setback requirements and by providing for expansion opportunities that will foster residential reinvestment.

POLICY EN-25. Provide for limited building footprint expansion options for existing single-family structures in the Protection Zone only in a manner that does not degrade critical area functions.

POLICY EN-26. Require mitigation proportional to any adverse environmental impacts from development or redevelopment in the Protection Zone.

The next group of relevant policies addresses a variety of issues from use of best management practices and technology on City project and prioritization and funding of habitat improvement projects. The Recommended SMP Update requires public projects (such as transportation, utility and park uses) to adhere to standards that meet no net loss and include public access where appropriate. The SMP also includes a restoration plan that identifies acquisition and restoration opportunities, and prioritizes them for City and private investment consistent with these policy objectives.

POLICY EN-28. Utilize best management practices and technology in city projects to demonstrate effective environmental stewardship and long-term fiscal responsibility.

POLICY EN-30. Identify, prioritize and implement public projects to improve habitat.

POLICY EN-31. Pursue grants to support habitat improvement projects.

This next set of applicable policies provides the direction for preserving fish and wildlife habitat in the City. Designated fish and wildlife habitat conservation areas in Bellevue include riparian corridors, wetlands, naturally occurring ponds, lakes and shorelines, and steep slopes over 40 percent. Other lands such as shorelines and upland habitat may be given special consideration for fish and wildlife habitat if there is a primary association with an endangered, threatened, or sensitive species or species of local interest. Since such fish and wildlife habitat exists on Bellevue's shorelines, these policies support the emphasis of the Recommended SMP Update on shoreline ecological functions. The recommended amendments include standards for protecting native vegetation and habitat in certain environment designations, and additional performance standards for new shoreline stabilization and docks intended to protect aquatic habitat associated with supporting threatened and endangered salmonids and other aquatic species. On those sites where higher quality habitat exists, the recommended amendments expand the residential setback from 25 to 50 feet and apply strict vegetation conservation requirements. Similarly, dock standards limit overwater coverage to 480 square feet and limit walkway width to 4 feet in the first 30 feet measure from OHWM. The application of citywide tree regulations requires retention of 30 percent of the diameter inches on the site with new single-family development or redevelopment involving an impervious surface increase exceeding 20 percent of structure area. The inclusion of a robust restoration plan supports the objectives of EN-70 and EN-74 by including a range of potential projects designed to improve functions and values on shorelines.

POLICY EN-59. Manage aquatic habitats, including shoreline and riparian (streamside) habitats, to preserve and enhance their natural functions of providing fish and wildlife habitat and protecting water quality.

POLICY EN-61. Give special consideration to conservation or protection measures necessary to preserve or enhance anadromous salmonids, recognizing that requirements will vary depending on the aquatic resources involved, including differing stream classification, and that additional efforts may be identified in the regional salmon recovery planning process.

POLICY EN-67. Preserve a proportion of the significant trees throughout the city in order to sustain fish and wildlife habitat.

POLICY EN-70. Develop and support additional habitat enhancement demonstration projects.

POLICY EN-74. Obtain, for protection and restoration, areas that are sensitive to urbanization, represent valuable natural and aesthetic resources to the community, or provide the functions of critical areas that benefit the community's environment.

Parks, Open Space and Recreation Element

The Parks Element sets forth the broad policy direction for Bellevue's stewardship of existing parks and provides the policy underpinning for future acquisition. Several policies are relevant to the Recommended SMP Update. The focus is on acquisition sufficient to ensure parks

resources are available as the City continues to grow. Parks policies target a range of park opportunities to sustain Bellevue's quality of life. The Recommended SMP Update advances the objectives of the parks policies by providing process streamlining incentives for parks projects that are included in a Council-adopted master plan, by providing development standards applicable to parks uses that encourage preservation of natural areas and use of best management practices in park operations, and by requiring public access to shoreline areas in association with public projects in order to create expanded recreation opportunities.

POLICY PA-6. Obtain, for preservation, natural areas that are sensitive to urbanization or represent a valuable natural and aesthetic resource to the community.

POLICY PA-7. Provide additional public access to Lakes Washington and Sammamish.

POLICY PA-12. Determine the appropriate uses within natural areas based on the environmental sensitivity of the site.

POLICY PA-30. Design, construct, operate, and maintain parklands and facilities to preserve the ecology of natural systems of parklands.

POLICY PA-32. Conserve energy, water, and other natural resources, and practice efficient and environmentally responsible maintenance and operation procedures.

Growth Management Act

In addition to consistency with the Comprehensive Plan, the decision criteria require consistency with the Growth Management Act (GMA). The GMA requires that the Planning Commission recommendation be consistent with the policies, goals, and provisions of the Shoreline Management Act. RCW 36.70A.480(3)(a). Once the City Council takes action on the Planning Commission recommendation, the goals and policies will become an element of the City's Comprehensive plan. The policies, goals, and provisions of the Shoreline Management Act are set forth in RCW 90.58.020:

The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; *that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest.* There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort,

jointly performed by federal, state, and local governments, *to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.*

It is the policy of the state to provide for the management of the shorelines of the state by *planning for and fostering all reasonable and appropriate uses.* This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. *This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.*

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

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the

state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

RCW 90.58.020 (emphasis added). The Recommended SMP Update is consistent with the policies, goals, and provisions of RCW 90.58.020 emphasized above. The Recommended SMP Update protects against unrestricted and uncoordinated planning on Bellevue's shorelines by providing environmental designations, which the current SMP does not, and by providing regulations and performance standards sufficient to protect or enhance shorelines to meet the Guidelines, while allowing appropriate uses of the shoreline that is mandated by the Shoreline Management Act. The Recommended SMP Update provides for all reasonable use and appropriate uses of the shoreline and implements the preferences for uses on Shorelines of Statewide Significance, while recognizing the highly urbanized and developed status of the shorelines of lakes Washington and Sammamish that are within Bellevue's jurisdiction. The Recommended SMP Update strikes an appropriate balance between regulations to protect existing ecological function and providing private property owners the freedom to use their property.

The Recommended SMP Update is also consistent with the following provisions of the Growth Management Act set forth in RCW 36.70A.480, Shorelines of the State:

....

(4) Shoreline master programs shall provide a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources as defined by department of ecology guidelines adopted pursuant to RCW 90.58.060.

(5) *Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(5) and have been designated as such by a local government pursuant to RCW 36.70A.060(2).*

(Emphasis added). Consistent with the GMA, the Recommended SMP Update does not regulate the shorelines as critical areas, except in those areas containing a critical area as recognized under the GMA (e.g., wetlands, streams, landslide hazard areas).

Countywide Planning Policies

Countywide Planning Policies for King County are organized by topics in nine separate chapters. The framework policies in each chapter are implemented through local plans and regulations. Evidence of the consistency of the proposal with the framework policies is as follows:

- **Critical Areas:** The Planning Commission recommendation includes critical areas regulations consistent with the citywide critical areas regulations to continue to protect sensitive areas, such as wetlands, streams, and steep slopes within the Shoreline Overlay District while removing the blanket critical area designation to all shorelines.
- **Land Use Pattern:** The Planning Commission recommendation is consistent with the implementation of the desired land use pattern by maintaining the opportunity to optimize urban levels of development where urban services are available.
- **Transportation:** The Planning Commission recommendation encourages enhanced connections between regional trails, shoreline access areas, and city parks. The Planning Commission recommendation allows new transportation uses in the shoreline subject to the shoreline use charts (LUC 20.25E.030). Light rail was specifically excluded from the scope of transportation use and was addressed in Part 20.25M, Light Rail Overlay District (Ordinance No. 6101, adopted February 25, 2013). Necessary conformance amendments will be presented by staff when the Planning Commission recommendation is transmitted to the Council.
- **Community Character and Open Space:** The Planning Commission recommendation protects historic and archaeological resources (LUC 20.25E.060.E). The Planning Commission recommendation will advance “City in a Park” goals that foster community character by fostering shoreline recreation uses that are consistent with the community vision.
- **Affordable Housing:** Not applicable to this recommendation.
- **Contiguous and Orderly Development and Provision of Urban Services to Such Development:** Not applicable to this recommendation.
- **Siting Public Capital Facilities of a Countywide or Statewide Nature:** The Planning Commission recommendation does not preclude siting of such facilities provided there is no technically feasible alternative to locating the project in the shoreline.
- **Economic Development:** The Planning Commission recommendation supports reinvestment through clear identification of maintenance and repair standards, and by providing opportunities for modifications and expansions of existing development.
- **Regional Finance and Governance:** Not applicable to this recommendation.

B2. The recommended amendment addresses *the interests and changed needs* of the entire city as identified in its long-range planning and policy documents; and

The Planning Commission recommendation addresses the interests and changed needs of the entire City. The update of the SMP was mandated by the State, and the recommended amendments to the Comprehensive Plan are responsive to that mandate. The City and the State of Washington have an overriding interest in maintaining the ecological health and recreation opportunity afforded by Bellevue's shoreline lakes and wetlands and especially lakes of Statewide Significance such as Lake Washington and Lake Sammamish. The City also has an interest in planning for appropriate development and redevelopment of these areas and ensuring that any new uses are sensitive to neighborhood context and shoreline ecology.

B3. The proposed amendment addresses significantly changed conditions since the last time the pertinent Comprehensive Plan map or text was amended. See LUC 20.50.046 [below] for the definition of "significantly changed conditions;" and

Significantly changed conditions are defined as: Demonstrating evidence of change such as unanticipated consequences of an adopted policy, or changed conditions on the subject property or its surrounding area, or changes related to the pertinent Plan map or text; where such change has implications of a magnitude that need to be addressed for the Comprehensive Plan to function as an integrated whole. *This definition applies only to Part 20.30I Amendment and Review of the Comprehensive Plan (LUC 20.50.046).*

The Planning Commission recommendation addresses the significant changes affecting Bellevue's shoreline jurisdiction since Bellevue adopted its first SMP in 1974. The earlier SMP lacked a number of required components and best management practices that rely on the most current scientific information relevant to protecting shoreline functions and values. While the City corrected some of these flaws as part of the 2006 critical areas update process, the state Guidelines revealed a number of required changes dictating a further update of the SMP in a manner consistent with the procedural and substantive requirements of the Shoreline Management Act and its implementing rules, including Chapter 173-26 WAC, Shoreline Master Program Guidelines (Guidelines).

B4. If a site-specific proposed amendment, the subject property is suitable for development in general conformance with adjacent land use and the surrounding development pattern, and with zoning standards under the potential zoning classifications; and

This decision criterion is not applicable to the Planning Commission recommendation for the SMP Update.

B5. The proposed amendment demonstrates a public benefit and enhances the public health, safety and welfare of the city.

The Planning Commission recommendation demonstrates a public benefit and enhances the

public health, safety and welfare of the City by updating the existing SMP consistent with the Shoreline Management Act and its Guidelines, thus ensuring no net loss of ecological functions of the shoreline. The Planning Commission recommendation will update the existing shoreline policies and regulations by incorporating relevant policy, scientific, and anecdotal information, along with selected management practices designed to protect Bellevue's shorelines. The Planning Commission recommendation will provide a set of regulations and performance standards sufficient to protect or enhance shorelines to meet the policies, goals and provisions, of RCW 90.58.020 and the Guidelines, while allowing appropriate and reasonable use of the shoreline as required under the Shoreline Management Act. The recommendation also seeks to enhance the economic and ecological vitality of the Bellevue's shorelines by including predictable regulations for repair and maintenance of existing structures, and development or redevelopment of new structures.

V. LAND USE CODE AMENDMENT DECISION CRITERIA

The decision criteria for an amendment to the text of the Land Use Code (LUC) and legislative map amendments are set forth in the Land Use Code, Section 20.30J.135. Based on the criteria, the LUC amendment (LUCA) included as part of the Planning Commission recommendation to amend the Shoreline Overlay District merit recommendation to the City Council. This conclusion is based on the following analysis:

A. The amendment is consistent with the Comprehensive Plan; and

The LUCA included with the Planning Commission recommendation is the means to implement the draft Shoreline policies and existing environmental policies specific to the shoreline. The recommended LUCA is consistent with the Comprehensive Plan as outlined in detail in Section IV (Comprehensive Plan Amendment Decision Criteria) above.

B. The amendment enhances the public health, safety or welfare; and

The recommended LUCA enhances the public health, safety and welfare by implementing regulations that achieve no net loss of shoreline ecological function while being attentive to the recreational focus that makes shoreline living so enjoyable. Additional attention to creation of shoreline environments, detailed uses charts, enhanced public access on public property, updated administrative procedures, and a comprehensive restoration plan similarly enhance the public health, safety and welfare.

C. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.

The recommended LUCA is not contrary to the best interests of the citizens and property owners of the City of Bellevue. As set forth above, the recommended LUCA furthers the policies of the Comprehensive Plan regarding protection of shoreline ecological functions in a way that also accomplishes land use and other housing and community goals. The recommended LUCA reflects and responds to the City's existing urbanized condition and neighborhood character. The

recommended LUCA is designed to ensure no net loss of ecological functions, while providing balance, predictability, and flexibility to Bellevue citizens. For example, the LUCA includes provisions that reduce regulatory complexity, remove existing regulatory barriers for proposals, and provides for maintenance and improvement to existing structures. As a result, the recommended LUCA furthers the best interests of citizens and property owners as articulated in that Plan.

The recommended LUCA is not contrary to citizens' and property owners' best interest, and in many instances represent an improvement over currently applicable regulations with respect to those interests.

VI. PUBLIC NOTICE AND COMMENT

Table 1 details the scope of the public involvement and outreach effort undertaken by staff and the Planning Commission. The process began with an October 28, 2008, boat tour of Bellevue's Lake Washington shoreline hosted by the Planning Commission. Over the next four years, staff or the Planning Commission conducted a statistically valid telephone survey; two focus groups; three open houses; 40 meetings with more than 20 interest groups and individuals, and 49 study sessions with the Planning Commission, of which 6 were dedicated to science briefings. In addition, staff met 8 times with other City Commissions and the East Bellevue Community Council. Staff kept the community informed via articles in *It's Your City* and *Neighborhood News*, mailed and emailed notices to hundreds of property owners and interested parties, kept the project website updated, launched a shoreline blog, posted to the City's Facebook page, and put up project notice signs.

Table 1: Public Involvement and Outreach

Association/Organization Name	Meeting Date
Bellefield Office Park – Brian Woidneck	May 13, 2009
Meydenbauer Yacht Club	June 12, 2009
Meydenbauer Yacht Club	June 17, 2009
Futurewise	June 25, 2009
Seattle Boat Newport	June 30, 2009
Bayshore East Condominium Owners Association	July 1, 2009
Newport Shores Community Club and Marina	July 2, 2009
Futurewise	August 27, 2009
Newport Yacht Basin	December 16, 2009
Newport Shores Community Club and Marina	February 5, 2010
Seattle Boat Newport	February 26, 2010
Councilmember Wallace	March 4, 2010
Newport Shores Community Club and Marina	March 9, 2010
Dave Douglas – Integrity Shoreline Permitting	March 12, 2010
Vasa Park Resort	March 11, 2010
Brian Parks – Phantom Lake property owner	April 9, 2010
Meydenbauer Yacht Club	June 23, 2010
Newport Yacht Basin Association	June 23, 2010
Greg Ashley – Ashley Design and Permitting	July 2, 2010
Ted Burns – Seaborne Pile Driving	July 2, 2010
Dave Douglas – Integrity Shoreline Permitting	July 9, 2010
Becky Henderson- Marine Restoration and Construction	July 16, 2010
Meydenbauer Bay Neighborhood Association	August 3, 2010

Bill Stazer – Sambica	August 5, 2010
Newport Shores Community Club and Marina	August 10, 2010
Meydenbauer Bay Neighborhood Association	August 11, 2010
Dallas Evans- Lake Sammamish property owner	August 12, 2010
Alfie Rahr- Phantom Lake property owner	August 13, 2010
Mike McCorkle- Sambica Rep.	August 13, 2010
Jim Kramer – Strandvick Board Rep.	August 18, 2010
Dallas Evans - Lake Sammamish property owner	August 19, 2010
WSSA	August 20, 2010
WSSA	August 26, 2010
WSSA	August 24, 2010
MBNA	September 10, 2010
Meydenbauer Yacht Club	September 15, 2010
WSSA	September 15, 2010
Newport Yacht Basin Association	September 22, 2010
Brian Parks and Utility staff	October 26, 2010
Councilmember Wallace and WSSA	October 27, 2010
Dave Douglas – Integrity Shoreline Permitting	November 19, 2010
Meydenbauer Yacht Club	March 17, 2011
Newport Shores Community Club and Marina	March 29, 2011
Greg Ashley – Ashley Design and Permitting	April 6, 2011
Charlie Klinge and WSSA	August 23, 2012
Charlie Klinge and MBNA	September 13, 2012
Charlie Klinge and WSSA	September 14, 2012
Planning Commission Meetings	
	March 12, 2008
	July 23, 2008
	Sept. 10, 2008
Study Sessions	January 28, 2009
	Feb. 25, 2009
	May 27, 2009
	July 8, 2009
	July 22, 2009
	Sept. 23, 2009
Science briefings w/ the Commission	Oct. 14, 2009
	Oct. 28, 2009
	Nov. 4, 2009
	Nov. 18, 2009
	Dec. 9, 2009
	Feb. 24, 2010
	March 24, 2010
	May 12, 2010
	June 9, 2010
	July 14, 2010
	July 28, 2010
Study Sessions	Sept. 8, 2010
	Sept. 22, 2010
	Oct. 20, 2010
	Nov. 3, 2010
	Nov. 17, 2010
	Dec. 8, 2010
	Jan. 12, 2011
	Jan. 26, 2011
	March 9, 2011
	March 23, 2011
	April 20, 2011
May 25, 2011	

	July 13, 2011
	July 27, 2011
	Sept. 14, 2011
	Oct. 26, 2011
	Dec. 14, 2011
	Jan. 25, 2012
Study Sessions	Feb. 22, 2012
	Mar. 28, 2012
	April 11, 2012
	June 27, 2012
	July 11, 2012
	July 25, 2012
	Sept. 26, 2012
	Nov. 14, 2012
	Nov. 26, 2012
	Dec. 12, 2012
	Jan. 16, 2013
Other Boards and Commissions	
East Bellevue Community Council	June 2, 2009 and May 3, 2011
Environmental Services Commission	Oct. 1, 2009, Feb. 3, 2011 and April 7, 2011
Parks and Community Services Board	April 14, 2009 and April 12, 2011
Open Houses	
Overview of update process guidelines and schedule	February 25, 2009
Introduction to process, and shoreline inventory	May 21, 2009
Draft SMP	April 20, 2011
Other Outreach	
Boat Tour	September 20, 2008
Phone Survey	June-July, 2008
Residential Property Owner Focus Group	Nov. 18, 2008
Construction and Marina Industry Focus Group	February 2009
Mailers/Outreach etc.	
Boat Tour Invitation	September 2008
It's Your City	Feb. 2008, Oct. 2008, Oct. 2010, Feb. 2011
Neighborhood News	Mtg notices 2008-present Articles May 2009 and April 2011
Neighborhood Associations	Email to all spring 2008 Met with MBNA Spring 2008
Shoreline Blog	May 2009- October 2009
Project Website	January 2008-present
May 2009 Open House direct mailing	May 2009
April 2011 Open House direct mailing	April 2011
News Releases	May 2009, April 2011
Facebook posting	April 2011
City Website	May 2009, April 2011
Project Notice Signs	Posted May 2010
Research/Background Information	
Interview and Tour Marinas	February 27, 2009, and March 2, 2009
Boat Street Marina – Document Design	August 10, 2010

Participation of Other Boards and Commissions

Environmental Services Commission: The Environmental Services Commission (ESC) commented directly on the Planning Commission recommendation while in draft form. Of greatest concern to the ESC were impacts on Utility Operations having to do with required public access on City projects, reduction of the setback widths, fertilizer and pesticide use, OHWM definitions, conflicting aquaculture definitions and management concerns around lake levels in Phantom Lake.

Given that most of Utilities work occurs through easements on private property, providing public access on these easements would have proved controversial. The Planning Commission changed the regulatory provisions governing public access to apply only to projects on “public lands,” solving the problem for Utilities operations. Similarly, the Planning Commission addressed the ordinary high water (OHW) level for Lake Washington and addressed conflicting aquaculture definitions. Although the ESC recommended a 50-foot setback on all Bellevue shorelines; the Planning Commission recommendation includes a 25-foot setback for residential shorelines and marina uses, in large part because Bellevue’s shorelines—including areas more recently annexed—were developed in accordance with a 25-foot setback. To help preserve vegetation and to provide an incentive to discourage the placement of impervious surfaces within the 25-foot setback; however, the Planning Commission incorporated a new shoreline greenscape standard, which is intended to ensure that future development within 50 feet of the ordinary high water mark will not inappropriately foreclose the ability of water to infiltrate the soil at the shoreline. In addition to the new shoreline greenscape standard, the Planning Commission recommended amendments address mitigation and on-site septic systems, and deleted references covered by other regulations. The Planning Commission also clarified that fertilizers and pesticides should be discouraged in upland areas in the Shoreline jurisdiction.

During the four years of public input, the Phantom Lake Homeowners Association voiced great concern about management of the water elevations in Phantom Lake and suggested the Commission make changes to the Shoreline Restoration Plan to create new momentum for some of their concerns. After giving these issues serious consideration, the ESC provided the Planning Commission with a presentation on Phantom Lake and, based largely on this information, the Commission decided not to make major changes to the Shoreline Restoration Plan.

The final communication provided by the Environmental Services Commission to the Planning Commission on September 18, 2012, is included as Attachment 7 to this memorandum.

Bellevue Parks Board: The Parks & Community Services Board provided the Planning Commission with three principles regarding public access to Bellevue’s shorelines. In general, the principles supported maintaining existing policies of increasing public access to the shoreline on public and private property and allowing intense recreational use of publicly-owned shoreline in order to serve all Bellevue residents. The Planning Commission discussed public access and crafted policies and regulations that provide for public access to publicly-owned shoreline, but concluded that public access to privately-owned property was not consistent with the private property rights of shoreline property owners.

Communications provided by the Parks Board are included as Attachment 8. Table 3 below provides a guide to these communications.

Parks Board Communications with Planning Commission

Attachment #	Date	Topic
8.1	May 12, 2011	General Comments on May 2011 Draft SMP
8.2	March 20, 2012	Parks and Recreation Uses and the SMP
8.3	April 26, 2012	Meydenbauer Bay Park
8.4	July 11, 2012	Parks, open space and public access to Bellevue's shorelines, with a specific focus on the SMP's treatment of Meydenbauer Bay Park
8.5	September 19, 2012	Restoration Plan- Phantom Creek, and Weowna Park

East Bellevue Community Council: The recommended amendments to the LUC are within the jurisdiction of the East Bellevue Community Council (EBCC). Staff first provided the EBCC with an update on the SMP process on June 2, 2009. The City published notice of the courtesy hearing on April 22, 2011, and a courtesy hearing before the EBCC on the Public Hearing draft SMP amendments was held on May 3, 2011. The EBCC received no public comment regarding the proposed amendments and the EBCC voiced no concerns regarding the draft under consideration at that time. Staff will return to the EBCC for a final hearing on the Planning Commission recommendation once Council has adopted the proposed amendments.

It is important to note that all areas of shoreline jurisdiction located within the boundary of the EBCC and identified as wetland are also regulated under the City's Critical Area Overlay District (Part 20.25H LUC). The Planning Commission recommendation will not affect most private property owners in this area, except that in limited circumstances a shoreline substantial development permit may be required when pursuing development activity within a wetland associated with shoreline jurisdiction. In all cases within the EBCC jurisdiction wetlands are protected through the Critical Areas Overlay District by buffers that exceed the limits of the shoreline jurisdiction.

VII. RECOMMENDATION

Upon consideration of the analysis presented in this Transmittal, consideration of public testimony, and review of the record, the Planning Commission recommends APPROVAL by a vote of 7-to-0 of the Recommended SMP Update included in Attachments 1 through 6.

VIII. ATTACHMENTS

- Attachment 1: Amendments to the Shoreline Element of the Comprehensive Plan (policies)
- Attachment 2: Amendments to the Shorelines Overlay District, part 20.25E of the Land Use Code (regulations)
- Attachment 3: City of Bellevue Shoreline Restoration Plan (guidance)

- Attachment 4:** Shoreline Environment Designation (maps)
- Attachment 5:** Shoreline Jurisdiction (maps)
- Attachment 6:** Shoreline Inventory and Analysis (refer to project website http://www.bellevuewa.gov/shoreline_management_documents.htm)
- Attachment 7:** Final Environmental Services Commission communication to the Planning Commission dated September 18, 2012 with Attachment 1
- Attachment 8:** Parks & Community Services Board communications