Revised  
Summary of Public Comments - City of Sammamish SMP Update  
November 22, 2010

The Department of Ecology (Ecology) held an open comment period for the Sammamish Shoreline Master Program (SMP) update from September 28, 2010 through October 29, 2010. Testimony was provided by 18 parties at the public hearing on October 7, 2010 and 17 written comment letters submitted during the comment period. This includes 10 parties that both testified at the public hearing and provided written comments.

**George Toskey representing the Sammamish Homeowners, public hearing on October 7, 2010.**

The Sammamish Homeowner (SHO) was extensively involved in commenting on the SMP. SHO was concerned that the earlier draft of the SMP did not provide the balance between the use of the shoreline and the protection of the shoreline environment as required by the Shoreline Management Act. SHO was concerned that the earlier draft SMP contained regulations that conflicted with Washington State Law and the Corps of Engineers’ regulations for Lake Sammamish. SHO recommends that the Department of Ecology approve the SMP update as submitted. The update exceeds the state guidelines and has received more than adequate public comment.

**Peter Scontrino, public hearing on October 7, 2010.**

The Sammamish Shoreline Master Program exceeds all state requirements and exceeds the approved no net loss provisions as adopted by neighboring jurisdictions. The SMP has been completed with strenuous effort on the part of the staff, the council, contractors, owners, and citizens of Sammamish. Scontrino urges the Department of Ecology to support the SMP as adopted by the Sammamish City Council.

**Erica Tiliacos, representing Friends of Pine Lake, public hearing on October 7, 2010.**

Tiliacos showed aerial photographs from 1965 and 2009. We currently have more understanding of what the ecological processes are now, as well as a better understanding of what the impact that humans have. In order to achieve no net loss, from here going forward, we have properties that still are yet to be developed. That development is going to cause losses. Restoration is going to be important with the development and redevelopment that can be expected. While Tiliacos believes that we are on the right track with the SMP, she does think is important that the restoration be a very important part going forward.

**Jim Creevey, public hearing on October 7, 2010.**

Creevey was concerned that the earlier draft of the SMP was unfair. Creevey is concerned that the result of the SMP review process will be unfair. Creevey is concerned about his dock. Because his property has little depth, Creevey describes his dock as his front yard. Creevey uses his dock for social and personal purposes. Creevey is concerned about any rules that would make him share his dock with anyone else. Creevey is also concerned that new rules
would make it difficult to maintain his dock. Creevey is concerned that “experts” - not having lived on Lake Sammamish – do not have the knowledge to develop SMP standards, as Lake Sammamish residents do.

**Eileen Starr, representing Friends of Pine Lake, public hearing on October 7, 2010.**

When Sammamish became a city in 1999, lakes had a 100 foot buffer with a vegetation requirement. After incorporation, the buffer on Pine Lake was eliminated. The SMP proposes to continue to not provide buffers on Pine Lake. Starr is concerned that instead of applying science, the City Council yielded to perceived public opinion. Starr states the view that the small lakes, and even Lake Sammamish, belong to everyone. Starr advocates the application of science to preserve our lakes for future generations.

**Linda Eastwick, public hearing on October 7, 2010.**

Eastwick supports the SMP adopted by the City Council. Eastwick states that the Pine Lake Study demonstrates that water quality has been improving during the past 10 years with the existing regulations in effect. The SMP has a more stringent tree retention policy than the existing regulations. Eastwick states that the proposed tree retention regulations would represent a net gain in ecological function. It is important to be able to clear the shoreline area of detritus to reduce nutrient flow to the lake.

Eastwick is also concerned that there is a requirement for restoration associated with the removal of noxious weeds. Eastwick believes that education programs would work better than regulations.

**Gary Galloway, public hearing on October 7, 2010.**

Galloway is not a shoreline property owner and will rely on public beaches. Galloway is concerned that activities related to shoreline stabilization will make public beaches less usable. Galloway wants public beaches to be accessible and usable.

**Jack Rogers, public hearing on October 7, 2010.**

Rogers supports adoption of the SMP as written. Rogers questions the effectiveness of vegetated buffers given that most stormwater is channelized. On Pine Lake, a 2009 water quality study conducted by Tetra Tech showed an improvement in water quality over a 15 year period do to a water diversion. Rogers states that 61 percent of the water flowing into the lake comes from outside of the SMP area. The SMP area only represents 7 percent of the basin. Rogers states that vegetation in drainage channels would be more effective in protecting water quality.

**Gary Morishima, public hearing on October 7, 2010.**

Some terms in the Department of Ecology presentation, such as ecological function and no net loss are fairly nebulous and somewhat elusive as to their meaning. Morishima urges
Ecology to be explicit as possible as to what is being evaluated. How does Ecology consider anthropocentric versus natural processes with respect to the no net loss standard? How are impacts to ecological functions from outside of the shoreline management area taken into account in terms of the no net loss standard? Many impacts in the basin have sources outside of the shoreline area.

**Mike Collins, public hearing on October 7, 2010.**

Collins noted that the drainage basin in the photographs showed by Erica Tiliacos were part of a larger drainage basin. SHO supports green shorelines. Green shorelines should be part of this presentation. Collins supports equal protection and equal responsibility. The SMP cannot stand alone. Surface water management is more relevant. Transportation is the number one cause of problems that it concerns itself with.

Rain water harvesting is the major change that we should promote in surface water management. Public agencies should facilitate rainwater harvesting.

**Boyer Halverson, public hearing on October 7, 2010.**

Halverson supports the SMP as submitted to Ecology. Halverson is concerned that easements in the form of buffers is illegal. Redmond and Kirkland have approved SMPs without buffers while meeting the no net loss standard. It would be a bad idea to reopen the issue of buffers. How could anyone think that a buffer is necessary on a small inland lake with no salmon or native fish of any sort and steadily improving water quality? How could any state agency defend buffers in court? The SMP submitted to Ecology is a fair and balanced plan.

**Kathy Richardson, public hearing on October 7, 2010.**

Richardson states that the Ecology press release characterized the Sammamish SMP as “a landmark effort that will significantly increase protection and restoration of Lake Sammamish, Pine Lake, and Beaver Lake.” Richardson states that the Sammamish SMP not only achieves, but exceeds WAC standards for no net loss. Richardson states that the vegetation conservation provisions in the SMP not only prevent net loss, but encourage net improvement. The standards in the SMP address specific situations on shorelines in Sammamish.

Richardson states that the SMP makes adequate provision for public access by relying on public parks.

Richardson states that the pier standards in the SMP adequately protect the functions of lakes. There are very few properties on Lake Sammamish and Pine and Beaver Lakes that don't already have docks. Richardson states that the SMP adopted by the City Council will result in a net reduction in impacts from docks.
Tim Trohimovich representing Futurewise, public hearing on October 7, 2010.

Futurewise is happy that people got involved in the Sammamish SMP update. However, Futurewise is concerned that the Sammamish SMP will not protect shoreline resources. Particular concern is expressed regarding the setback and vegetation protection provisions. Futurewise is concerned that the vegetation conservation standards are not adequate to protect threatened species. Futurewise urges Ecology to take a hard look at the vegetation conservation standards and the relevant science.

Irvin Masset, public hearing on October 7, 2010.

Masset is concerned that, without bulkheads, shorelines on the north side of Lake Sammamish will suffer shoreline erosion. Masset says that he heard from people on the Sound that complain that Ecology is kind of shutting them down, making their property worthless. Masset believes that Ecology is just not doing its job.

C.J. Kaler, public hearing on October 7, 2010.

Kaler states that there is a lot of evidence that supports the idea that the vegetation conservation provisions of the adopted SMP are adequate to achieve no net loss. Kaler is concerned that the scientific evidence that was presented on the subject of lake shore vegetation, and its role in protecting lake ecology, fails to scientifically demonstrate the ecological benefits of vegetation. Kaler cites a memorandum of June 16, 2009 from ESA Adolfson which states “vegetative lake shore homes may also contribute more nutrients than they remove.” Kaler cites the an article in the Journal of Environmental Quality arguing that grass does as good of a job at trapping phosphorous as a native vegetative strip. Kaler notes that the Pine Lake Water Quality Report did not have clear direction on vegetative buffers. Kaler states that the Pine Lake Water Quality Report documented that the quality of Pine Lake has improved during the past 15 years. Kaler supports the SMP adopted by the City Council.

Rory Crispin, public hearing on October 7, 2010.

Crispin notes that the SMA establishes a cooperative program with primary responsibility for planning resting with the local government. Crispin reads the SMA to mean that Ecology shall provide support to, and be a public servant of, local governments. Crispin states that the SMA gives wide latitude to local governments. Crispin states that the Sammamish SMP is complies with the provisions of 90.58 RCW. If Ecology is unable to identify specific relevant policy goals of the SMA, and how they were not addressed in the SMP process, then Ecology should concur with the SMP as adopted by the City.

Reid Brockway, public hearing on October 7, 2010.

Brockway states that the draft SMP should be largely unchanged, because its consistent with state statutes, honors the root of no net loss, strikes a reasonable between the interest of the
people and the environment, and was the product of a great deal of work. Brockway is concerned that the SMP requires a restoration plan to remove a single plant. Brockway is concerned that the definition of development includes reroofing. Brockway is concerned that the SMP requires a joint use dock for subdivisions. The SMP should have a dispute resolution and ombudsman system. Brockway only wishes to see these issues addressed if the SMP is opened up for review.

Brockway states that Lake Sammamish is a system in disequilibrium because the lake of lowered by dredging of the slough. Brockway states that Lake Sammamish is not a city-state system. This situation has an effect on shoreline stabilization measures.

Dwight Martin, public hearing on October 7, 2010.

Martin requests that Ecology approve the Sammamish SMP as submitted. The SMP was developed with ample input. RGP-3 is a minimum standard that need not be applied to Lake Sammamish. The sunset clause in the CAO should be of no consequence to Ecology. This is because the requirements in the CAO are no less restrictive in the shoreline area as the rest of the city. Martin believes that when the CAO changes it will be consistent in the shoreline jurisdiction as the rest of the city.

Ecology should not be concerned about the mitigation setback area. We start with a 20 foot setback. A 50 foot setback makes many homes nonconforming. Martin is concerned that property sales have been lost because houses were nonconforming. Martin does not believe that this is fair. Martin supports the provision for a 200 square foot expansion in a shoreline setback. Martin concludes that that is a very minimum amount of relief.

Carole A. Williams, written comment received during the public comment period.

Please approve the SMP as adopted by the City.

Mike Collins, written comment received during the public comment period.

Please accept (and) approve the Sammamish SMP.

Kate Bradley, written comment received during the public comment period.

Ms. Bradley states that she is a volunteer lake monitor, taking water quality related measurements in Pine Lake on a weekly basis.

Bradley reports that several years ago she got permits from the City to place several logs in Pine Lake near the shore and fill behind them to protect a tree from wave erosion. More recently, in order to get a permit to do similar work, Bradley would need to hire a hydrological engineer to determine the location of the ordinary high water mark. Bradley decided to not do the project.

Bradley stated that the City required a permit for a dock replacement. Bradley concludes that
it is better to know where geese defecate in or to be able to remove it than to not know.

Bradley contents that the Tetra Tek study regarding Pine Lake water quality was conducted during a dry year and not valid. Bradley is concerned that there is considerable drainage from upland properties to the lake. Bradley does not believe that buffers would be effective.

Bradley relates a story where several trees were damaged due to a septic drainfield installation. Bradley believes that it would have been better to remove and replace the trees when the drainfield was installed.

Bradley concludes that we need fewer laws more knowledge and a commitment from residents to protect the lake.

James Creevey, written comment received during the public comment period.

Ecology should take into account the time that the City Council and citizens have put into the SMP. Creevey states that the SMP exceeds existing requirements of the County and State in many respects and should be approved as written.

Beth Nelson, written comment received during the public comment period.

Ms. Nelson requests that two specific parcels be designated Shoreline Residential rather than Urban Conservancy. Nelson states that the parcels are located in a residential area with houses on parcels to the immediate south. Nelson is concerned that the Urban Conservancy designation will devalue the property in question.

Karen Walter for the Muckleshoot Indian Tribe, written comment received during the public comment period.

Characterization

Coho, Sockeye, and Cutthroat trout are all documented within Tibbetts Creek and Issaquah Creek. Kokanee are documented in Tibbetts Creek.

On page 15 of the characterization, one of the known human-created barriers (i.e. culvert under a house) on George Davis Creek was to be replaced as part of a redevelopment project (Titcomb house/shoreline project PLN2008-00023).

Currently, Lake Sammamish is an area where the Muckleshoot Indian Tribe routinely exercises its treaty fishing rights. The Characterization implies that there is only historical fishing by the Muckleshoot Tribe. The Muckleshoot comment letter states that Snoqualmie Tribe's fishing rights have not been adjudicated and they are not par to U.S. v. Washington where the "Usual and Accustomed Fishing Areas" were defined by the Federal court.

The comment letter identifies locations where the Muckleshoots believe that more recent data regarding piers exists.
Shoreline Master Program

The Muckleshoots would like to review all shoreline applications.

A new policy stated in the beginning of the SMP should read as follows:

Nothing in the Sammamish Shoreline Master Program or action taken there under shall affect any treaty right to which the United States is a party.

The Muckleshoots recommend the following:

- The SMP should be modified to include requirements that dock and pier lighting do not shine on the surface of Lake Sammamish.
- The Muckleshoots are concerned that the SMP does not necessarily require a vegetated enhancement area. Numerous exceptions are noted. This may be an improvement over existing conditions in some areas; however, it is unlikely that such an approach will result in any substantial restoration of the Lake Sammamish shoreline within the City of Sammamish. The vegetated enhancement area should review additional vegetation and fewer encroachments.
- The Water Quality, Stormwater, and Nonpoint Pollution Regulations should also require the use of low impact development techniques where site conditions allow.
- The proposed maximum width for a private dock of up to 50% of the lot size in all shoreline designations seems too wide. The maximum width for piers and floats per the US Army Corps of Engineers requirements under RGP-3 is 6 feet. Floats in Lake Sammamish should be limited in width to 6 feet consistent with the US Army Corps of Engineers requirements under RGP-3.
- The transportation regulations should be modified to require that modified roads, trails, sidewalks, and driveways to minimize impacts to surface waters and replace existing fish passage barriers.
- The utilities regulations should be modified by requiring that boring is the preferred method of crossing water bodies over trenching. The utilities regulations should be modified to require utilities to fully mitigate for unavoidable impacts to shorelines, rivers, streams, lakes, wetlands, etc.

Cumulative Impacts Analysis

The Muckleshoots state that the proposed Sammamish Landing public park in the north end of Lake Sammamish needs to be developed consistent with the recommendations from the WRIA 8 Chinook recovery plan and all impacts fully mitigated. The use of low impact development techniques should be fully implemented where site conditions allows.
The Muckleshoots are concerned that the text regarding the Shoreline buffer on Lake Sammamish is misleading. The 45 foot shoreline setback is not a buffer as the SMP lacks any requirement to fully vegetate these areas with native vegetation.

**Restoration Plan**

On pages 46-47 of the restoration plan, there should be a definitive plan and timeframe to fix the fish passage barriers identified in Table 6. The repair of one identified culvert from the 1994 East Lake Sammamish Basin Plan in the last 15 years is too slow.

**Scott Moore, King County Noxious Weed Control Board, written comment received during the public comment period.**

The King County Noxious Weed Control Board (KCNWCB) is responsible for reducing the negative impacts of noxious weeds on all shorelines in the county. All landowners are required to control regulated noxious weeds on their property. KCNWCB states that the SMP needs to differentiate between regulated and non-regulated noxious weeds. KCNWCB recommends that the SMP not restrict noxious weed removal methods to hand labor and/or light equipment, but rather rely on KCNWCB Best Management Practices. The KCNWCB recommends that the SMP requirement for an approved restoration or enhancement plan should be waived for the removal of regulated noxious weeds. KCNWCB also recommends that for non-regulated invasive plant infestations below a certain threshold in area, the City should not require a restoration plan and should allow property owners to follow KCNWCB best management practices rather than restrict removal methods.

**Rory Crispin, written comment received during the public comment period.**

**Docks**

Mr. Crispin states that Ecology comments regarding docks are subjective and display a misunderstanding of the regulatory process.

Crispin states that Ecology claims that the Sammamish standards allow much larger new piers and docks than other established standards and that the standards do not contain mitigation to offset the impacts. Crispin states that these statements are false. The dock dimensional standards, i.e. side setbacks, square footage, length, etc., are the same as the King County SMP standards which have been in effect for 40 years. Additionally, docks must be constructed using WDFW approved materials and decking. For Lake Sammamish, docks must be permitted by the Army Corps of Engineers. An Army Corps permit is not issued without appropriate mitigation measures to offset the overwater structure impact. Crispin believes the Corps review to be consistent with the no net loss threshold.

What Ecology characterized as "established standards" were discussed at length during the City review process. Crispin also states that concerns regarding duplicating federal permitting agency requirements was discussed during the City process.
Crispin suggests modifying SMP 25.07.050(2) to add: “New dock or lift must comply with Army Corps regulations.”

**Preserve Designation**

Crispin suggests that all private property be returned to the Shoreline Residential designation and all park land be designated Urban Conservancy. Crispin states that these designations would be consistent with RCW 90.58.020 and WAC 173-26-221. Crispin states that the Beaver lake Preserve is within the State’s Urban Growth Boundary, bounded by shoreline residential designated property, and is consistent with the open space character of the Urban Conservancy designation therefore should be designated Urban Conservancy rather than Natural.

**CAO Sunset Clause**

Crispin states that the issue of the City having a sunset clause within the critical area code, or updating its critical area code itself, is outside the purview of the SMA consistency review, since the draft program already complies with the policies and provisions of RCW 90.58.090(4) as required by RCW 90.58.050.

**Liberal Construction**

Crispin suggests that a liberal construction clause in the SMP misapplies a state statute and is not needed.

**Linda Eastlick, written comment received during the public comment period.**

As demonstrated by the Pine Lake study, water quality has been improving in the past 10 years, or so, under the existing regulations. From this, it is concluded that under the current regulations Pine Lake, at least, is experiencing a net gain in ecological function.

The proposed SMP has a more stringent tree retention policy than the existing policy. Eastlick states that the City of Sammamish has followed the guidelines outlined in WAC 173-26-221(5)(b) for achieving no-net loss of ecological functions through the use of vegetation management provisions. Mandating additional vegetation areas is not necessary to achieve the desired results, those results are already being achieved under current conditions.

Where regulations are considered, they should focus on basin-wide approaches involving the broader citizenry. Eastlick states that the pollutants and nutrients washing in to our lakes are, more often, coming from properties outside the shoreline jurisdiction.

Not included in the proposed SMP regulations is the ability to clear the area along the shoreline of detritus.

If a restoration plan is to be required for removal of noxious weeds, it would be appropriate to apply a de minimis standard below which a restoration plan will not be required.
Dwight K. Martin, written comment received during the public comment period.

Martin supports the City of Sammamish SMP as submitted to Ecology and requests that it be approved as written.

Many structures will be made nonconforming by this SMP. The 200 square foot one time addition exemption is important and should not be reduced or removed. Mitigation should not be required for this small allowance.

The 200 square foot allowance was part of the greater discussion in our community and was factored in to the Program requirement of “no net loss.”

Martin quotes two passages from the Cumulative Impact Analysis that support the idea that the SMP will achieve no net loss of ecological function.

New development brings with it an opportunity for environmental improvement. This includes encouraging people to plant vegetation near the shore edge, removing invasive species, improving the storm drainage system, improved decking for docks, the construction of piers to moor boats, and the replacement of old septic systems. The new SMP nearly outlaws concrete bulkheads.

George Toskey, Sammamish Homeowners, written comment received during the public comment period.

Toskey summarized the Sammamish Homeowners (SHO) involvement in the SMP development. Toskey states that SHO provided notice to shoreline property owners, held meetings, and created a draft SMP. Toskey believes that the SMP exceeds the state guidelines and has received more than adequate public comment.

Toskey addressed two comments made by Ecology in its presentation on October 7, 2010. First Toskey identifies mitigation priorities described for setback reductions described in section 25.06.020(1), Table 1 within the SMP. The letter explains that the reductions do not have to be used in priority order. Landowners can choose which reductions to use.

Toskey states that the only way to avoid mitigation is to build 50 feet back of the OHWM. This is 15 feet more than the setback with no mitigation requirement in the Redmond SMP, already approved by the Department of Ecology. Toskey cites two sections in the SMP supporting the idea that the Sammamish SMP prohibits the removal of significant amounts of vegetation.

Mike Collins, written comment received during the public comment period.

To balance use and the environment the letter recommends buy property - not lawsuits, setup real variances for fees that go to purchase key lands, and use the legislature rather than courts. Non-regulatory measures should include rainwater harvesting. Larger setbacks conflict with urban areas. Equal protection and proportional responsibility is expected by the citizens. The review process is broken.

Reid Brockway, written comment received during the public comment period.
The adopted SMP is a balanced and viable approach.

The definition of "development" is overly broad because it includes "exterior alterations." There is no threshold for vegetation removal. Thus a restoration plan may be required in some circumstances when any vegetation is removed.

Docks are unfairly restricted in subdivisions.

Shoreline setbacks should be drawn around the footprints of houses that would otherwise be within a shoreline setback.

The liberal construction clause in problematic. This clause opens the door to significant misapplication of the code based on a permit reviewer's personal agenda or that of his department. The SMP has been carefully written protecting both the developer and the environment. The liberal construction clause defeats this effort.

The SMP should have a provision for an ombudsman.

**Erica Tiliacos, Friends of Pine Lake, written comment received during the public comment period.**

Tiliacos observed that Ecology's presentation and clarification of "no net loss" has been helpful.

Tiliacos is concerned that the SMP does not propose buffers. Tiliacos finds the insistence of setbacks in the SMP to be troubling. Tiliacos is concerned that the only easy to achieve no net loss is to have previous development restore some degraded areas. Tiliacos is concerned about the sunset clause in the Critical Areas Ordinance (CAO). Considerable effort and scientific review went into the CAO. Tiliacos believes that the CAO should stand with the elimination of the sunset clause.

Tiliacos states that the Beaver Lake Preserve should be designated Natural.

Tiliacos states that Ecology's concern regarding public access can be addressed through public parks on as all of the lakes.

The letter expresses concern that the SMP would allow more docks on Lake Sammamish than the previous SMP.

Mechanisms should be built into the SMP to encourage conservation along the shore of Lake Sammamish. Transferring development rights from the immediate shore area to the area immediate east of Lake Sammamish Parkway was suggested.

**Chas Dreyfus, Barbara Bruell, Jason Hanson, and Katherine Low, written comments received during the public comment period.**
Mr. Dreyfus, Ms. Bruell, Mr. Hanson, and Ms. Low provided nearly identical comments.

The proposed Sammamish SMP should be improved in the following ways:

- Establish science-based buffers
- In the areas that are already degraded with development, require enhancement with new development and redevelopment.
- Stop armoring the shoreline and include ways to replace armored shorelines with softer methods. Slow the proliferation of docks.
- Make sure the incentives for reducing setbacks and buffers require actual enhancement, and reduce the amount of intrusions allowed in setbacks or buffers.
- Stop approving new dense urban development on septic systems near shoreline waters.

**Kathy Richardson, written comment received during the public comment period.**

Richardson quotes a Department of Ecology press release characterizing the Sammamish SMP as "a landmark effort that will significantly increase protection and restoration of Lake Sammamish, Pine Lake, and Beaver Lake". Richardson states that:

- The letter states that Setbacks and vegetation management provision proposed in the SMP are adequate to achieve no net loss of ecological function.
- The SMP makes adequate provision of public access.
- Proposed pier standards adequately protect the ecological function of the lakes.

**C.J. Kahler, written comment received during the public comment period.**

Kahler states that the SMP submitted by Sammamish should be approved by Ecology as submitted.

Kahler focuses on the vegetation management provisions in the SMP. Kahler states that the vegetation conservation provisions are adequate to achieve no net loss of ecological function. Kahler cites several documents as support for the position that the vegetation conservation provisions in the SMP are adequate for Pine Lake and that additional vegetation enhancement or preservation requirements have not been demonstrated to be effective. Kahler cites several court decisions in support of the idea that there are significant constitutional and statutory protections for the right to use private property. Kahler is
concerned that application of a vegetation enhancement area in Pine Lake would cause hardship for almost one-third of the homeowners on the lake.

Dean Patterson (Futurewise), Heather Trim (People For Puget Sound), and Tristin Brown (Sierra Club), referred to here as Futurewise et. al., written comment received during the public comment period.

Necessary Goals

Futurewise et. al. state that a new goal and an edited goal are needed in Section 25.03.020 to direct the use and administration of the SMP document to implement the SMA Policy. The new goal should be added before goal (8), and goal (8) should be edited as follows:

New Goal (based on second paragraph of SMA Policy): “Consistent with the policies of 90.58.020, plan for and manage the shorelines within the City of Sammamish to promote and enhance the public interest, and protect 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.”

Goal (8): Achieve no net loss of ecological functions of Sammamish shorelines by minimizing damage from development using mitigation sequencing.

Futurewise et. al. states that while the no-net-loss of ecological functions language is stated in many places of the SMP, there is no requirement to use mitigation sequencing. There is a similar standard found in the CAO in Section 21A.50.135, but that only applies to specific critical areas, and not to all of shoreline jurisdiction. Futurewise et. al. state that a mitigation sequencing standard consistent with the SMP Guidelines is needed that applies to all of shoreline jurisdiction.

Mitigation Sequencing

Futurewise et. al. is concerned that the Sammamish SMP fails to accomplish mitigation sequencing and no-net-loss of ecological function on the most basic levels:

- Only two environments are used to designate the wide range of shoreline conditions present.
- The environment use and modification limits tables are nearly identical for both environments, so that they essentially function as one environment.
- Almost no uses are prohibited in either environment.
- The wide range of vegetation condition is treated the same with minimal vegetation requirements, even where existing vegetation is intact, and where shorelines are undeveloped.
With limited exceptions, minimal development standards are required for different development types.

Futurewise et. al. is concerned that mitigation sequencing needs to be built into transportation development standards or utility development standards. FP&S is concerned that the absence of a clear requirement for mitigation sequencing transportation and/or utility facilities will unnecessarily impact shorelines.

Futurewise et. al. is concerned that mitigation sequencing is not built into the SMP development regulations.

Shoreline Environment Designations and Characterization

Futurewise et. al. is concerned that the City has used only two environments (Shoreline Residential and Urban Conservancy), even though there is great variation across the City’s 11.8 miles of shoreline. There are several segments of shoreline where homes are constructed at an almost rural density, where homes are set back well away from the water, where intact vegetation still exists between the homes and the water, or where homes are spaced apart with good vegetation existing between them. Yet these areas are grouped along with intensively developed areas with homes at the waterline.

Futurewise et. al. is also concerned that the inventory and assessment of shore lengths is done for only three shore “reaches,” simply corresponding to each lake. These are very long reaches to use in characterizing the cities shorelines, and they are not capable of characterizing the variation in function or level of ecological function. Futurewise et. al. is also concerned about the limited assessment of subdivision potential. Particularly on Pine and Beaver Lakes, there are many lots with development potential that are over a half acre or even several acres in size. Neither the Inventory nor the Cumulative Impacts Analysis fully considers the intensification of residential use that is possible, particularly on lots with houses set well back from the water, where new subdivided lots will result in the new development very close to the water using the very small buffers currently proposed.

Futurewise et. al. recommends that the higher functioning upland areas be identified with protective environments that conform with the SMP Guidelines in both designation criteria and use limits to ensure they are not further degraded with additional development. Futurewise et. al. state that these should be the Natural and Urban Conservancy environments. In addition the Shoreline Residential environment needs more careful application to avoid areas with higher ecological functions. The draft SMP treats both Urban Conservancy and Shoreline Residential environments nearly the same. Futurewise et. al. recommends that more distinction be made in the use limits that correspond with the SMP Guidelines. Futurewise et. al. is concerned that it appears that the buffer provisions are primarily intended to establish a system to deal the most common condition, though not the only condition: existing development. If the city is intent on using smaller non-science buffers for already developed lake areas, Futurewise et. al. suggests that the shoreline environments must be
established such that this type of buffer system is only applied to “intensively developed” areas.

Futurewise et. al. recommends that certain specific areas be designated Urban Conservancy rather than Shoreline Residential.

Futurewise et. al. notes that not all of the Sammamish shoreline jurisdiction is mapped. This would result in the default designation of Urban conservancy being used in some circumstances.

Development Outside of Setbacks

Futurewise et. al. is concerned that the setbacks and vegetation protection measures assume that additional development (without limit) outside of the narrow setback width will have no additional impacts on ecological functions. Futurewise et. al. is concerned that there are extensive provisions to allow activities that will cause impacts, but little detail about how the impacts will be mitigated. The only provision that partially addresses this is Lake Sammamish vegetation enhancement area provision for reducing the already small setbacks. The system possibly also assumes that in developed areas, there are no ecological functions to impact. Futurewise et. al. states that this is contrary to the science, as described in detail in its attached guidance document on using small buffers. Additional development continually intensifies and expands uses and facilities, and increases the impacts of the development. Even if the functions have been degraded by previous development, there are still functions present – probably even some habitat functions. Futurewise et. al. is concerned that the new impacts will degrade those remaining functions more.

Vegetation Conservation

Futurewise et. al. is concerned that the CAO and SMP vegetation management systems are not based on science. Rather than being based on protecting the ecological functions of the shoreline, they are based on existing uses and convenience for further development. The science citations in the City of Sammamish’s own “DRAFT Best Available Science Resource List” (issued June 2005) indicate the need for larger riparian buffers for lakes than those adopted by the city. Futurewise et. al. is concerned that the proposed system will not (1) meet the SMA Policy, (2) prevent loss of ecological functions, (3) meet the mitigation sequencing requirement to avoid and minimize first, (4) compensate for impacts to shorelines and vegetation, (4) avoid or even account for the cumulative impacts of near-water development, and (5) meet the SMA science requirement.

Futurewise et. al. have concern about two main problems for the Sammamish SMP. Existing vegetation is not protected and degraded vegetation areas are assumed to serve as protection from development, with the exception of the new enhancement area requirement for reducing the setback. This strategy effectively results in no vegetation protection in the SMP, even for extensive new development, and for development on areas with intact vegetation. Futurewise et. al. states that this violates the Shoreline Management Act and the Shoreline Master Program Guidelines. With the wide diversity of developed shoreline
character existing in the City, a different strategy is needed to protect the shorelines with higher levels of function from further degradation, while also dealing with the highly developed areas. Futurewise et. al. recommend different ecological protection strategies to achieve non net loss of ecological function in each Shoreline Residential, Urban Conservancy, and Natural environments.

Futurewise et. al. is concerned that the lake setbacks in the proposed SMP are based on the lake CAO buffers system. Futurewise et. al. is of the view that the problems with the CAO mirror the problems described for the SMP, and the problems in the lakes buffers (especially reductions) mirror the problems in the CAO stream and wetland buffers. Futurewise et. al. is concerned that the lake buffers or setbacks are not based on science, and are incapable of protecting shorelines. Aside from being inadequate to protect water quality, such widths cannot even provide wildlife habitat for even modest sized riparian species. All riparian buffer vegetation performs similar functions related to water quality, bank stability, debris and food sources, riparian wildlife species habitat, and wildlife migration. Futurewise et. al. states that science-based lake buffers should more closely resemble buffers for streams and wetlands.

Futurewise et. al. is concerned that lake buffers in the CAO (setbacks in the SMP) are a maximum of 45 feet for Lake Sammamish, but are so discretionary that they more often come out to 15 feet. There are no vegetative buffers required for Beaver or Pine Lakes – only building setbacks of 50 feet, and a requirement to keep a portion of the trees.

The Futurewise et. al. letter contains several recommendations for specific changes to the SMP language.

Futurewise et. al. also has several specific comments regarding the setback reduction criteria listed in table 1 within the SMP.

Incorporated Critical Areas Ordinance

The proposed SMP relies on the CAO protections by incorporating the CAO by reference. The SMP Guidelines require that jurisdictions design their SMP to protect ecological functions. Futurewise et. al. is concerned that the CAO (1) does not address all shoreline areas, and (2) may allow many uses and activities that cause damage to the shoreline. If the CAO cannot protect ecological functions, then it cannot be used alone, and must be either amended itself, or supplemented within the SMP.

Futurewise et. al. is concerned that the setback and vegetation requirements for streams are not defensible in the face of a legal challenge, unless they are accompanied with enhancement requirements as an alternative to science-based buffers can mitigate the impacts of development close to the water.

Futurewise et. al. is concerned that the wetland protection provision in the CAO are not consistent with Ecology’s recommendations for wetland protection.
Futurewise et. al. is concerned that water-enjoyment uses should not be allowed within setbacks. Futurewise et. al. is also concerned that SMC21A.50.290(2) eliminates certain wetland buffers on lakes. Futurewise et. al. is concerned that utilities are not appropriately regulated in wetland buffers.

Futurewise et. al. is concerned that the SMP lacks regulation for a variety of identified shoreline uses and modifications. Thus, the concern is that many uses would be allowed by default with a shoreline conditional use permit. Futurewise et. al. is concerned that there is no language in the SMP requiring the use of the use table.

Futurewise et. al. is concerned that certain CAO provision should be excluded from the SMP. While the SMP accurately applies the ordinance to uses and development, Futurewise et. al. is concerned that the CAO is a chapter of the Development Code Title 21A, and Section 21A.05.040 only applies the CAO to uses and structures, and excludes temporary and emergency activities; which have a more limited application than the SMA. Futurewise et. al. recommends that rather than adopting the CAO wholesale, that only the acceptable sections be adopted to serve as specific development standards. Futurewise et. al. states that Ecology should ensure that reductions of the buffer are subject to a Variance review.

Another concern raised by Futurewise et. al., is that the CAO includes two sections called Complete Exemptions and Partial Exemptions, and Partial Exemptions have been copied into the SMP. Futurewise et. al. is concerned that utility activities; any activity in a lake, stream, wetland, or buffer during an emergency; repair, modification, or replacement of streets; clearing, excavation, and filling that can qualify for a clearing and grading permit exemption; repair of public recreation areas are exempted from protecting shoreline resources. This section allows degradation of ecological functions and cumulative impacts that have not been accounted for. Futurewise et. al. states that it needs to be excluded from the SMP.

Partial exemptions (in CAO 21A.50.060, and SMP 25.06.020(8)) provides a special category of review more similar to the Shoreline Exemptions, where the development is exempt from the review process, but not the protection standards. While the approach may be similar to the SMA, Futurewise et. al. is concerned that it is not compatible with the SMA.

Miscellaneous Concerns

Futurewise et. al. notes that the inventory documents the highly developed nature of Sammamish's shorelines. Therefore, Futurewise et. al. conclude that the SMP needs to stop or slow the proliferation of in-water structures.

Futurewise et. al. is concerned that many development regulation use the term "reasonable" to limit the applicability of a specific standard when "feasible would be a more appropriate term.

Futurewise et. al. state that "no new subdivision lots should be allowed" in shoreline jurisdiction.
Futurewise et. al. is concerned that trails should be located outside of buffers in accordance with mitigation sequencing when possible. Futurewise et. al. is concerned that SMC 21A.50.320 waives protection measures for certain small wetlands and that the reasonable use provisions at SMC 21A.50.070 is overly expansive.

**Shoreline Stabilization**

Futurewise et. al. states that as a general standard, all new development should be designed so that it will not need future stabilization. Futurewise et. al. is concerned that the SMP’s Shoreline Stabilization Policies (in 25.04.020(5)) cover this issue, but the regulations do not implement it.

Futurewise et. al. also recommend that no new bulkheads or armoring should be allowed unless non-structural measures have been tried first. When allowed, new stabilization structures should include removal of twice their length of stabilization elsewhere, particularly in locations where stabilization is not needed, is ineffective, is dilapidated, or where “pocket beaches” can be installed; and those sites should be protected from future stabilization. Replacement stabilization structures should remove an equal length elsewhere.

**Piers, Docks, and Boating facilities**

Futurewise et. al. is concerned that the draft SMP does not address boating facilities, except in that it allows a few named types of boating facilities, and it provides no development standards for boating facilities. Futurewise et. al. has several recommendations to ensure that, in its view, the draft SMP accurately complies with the Guidelines on these subjects.

Futurewise et. al. is concerned that some of the standards proposed in previous drafts, such as the dock spacing requirement have been eliminated. The Docks policies (in 25.04.020) discuss sharing facilities, but there is no implementation to actually make it happen. Even a standard for subdivisions to share moorage is rendered ineffective. Table 3 “summarizes” the development standards and says that shared docks are required. But such a statement is not found in the text. In addition the residential subdivision provisions still allow an “additional” shared use dock, presumably to serve for non-waterfront lots, thus encouraging dock proliferation. There are many development standards for shared moorage when it is proposed, but there is no actual requirement to share moorage docks and piers.

Futurewise et. al. is concerned that the issue of repair and replacement is not addressed as it relates to bringing piers and docks into conformance with the code as substantial parts are replaced over time.

**Septic Drainfield Systems**
Futurewise et. al. is concerned that no new septic systems or expansions of existing septic systems should be allowed within City shoreline jurisdiction. And those currently used eventually need to be connected to municipal sewage treatment system.

Futurewise et. al. notes that the GMA requires that jurisdictions provide their areas with urban-level sewer, water, transportation, and other services. It is inappropriate for urban/city density development (especially near water) to be taking place on septic systems (as allowed in 25.06.050(3)), and existing dense areas of development need to be switched over. Futurewise et. al. states that if there are no city sewer facilities near shoreline areas, the City needs to correct this shortcoming by developing new policies for Utility planning within shoreline jurisdiction and to update the Comprehensive Plan and the City’s functional plans such as the Sewer System Plan and the Capital Facility Plan to provide the needed sewer service.

Public Recreation

Futurewise et. al. is concerned that all public recreation is a preferred use, which is inconsistent with the SMA. Only water dependent uses are preferred, though some recreation uses can qualify for this status.

Public Access

Futurewise et. al. is concerned that there is no public access requirement in the SMP. Futurewise et. al. recommends that new physical public access be required for new single-family residential subdivisions that will create more than four lots and residential developments of more than four housing units; and for commercial, industrial, and other nonresidential uses.

Shoreline Exemptions

Futurewise et. al. is concerned that a description of the abbreviated shoreline exemptions review process is needed. WAC 173-26-191(2)(a)(iii)(D) requires that jurisdictions document their review actions. This includes exemptions. WAC 173-27-040(2)(D) clearly states that work done under an emergency exemption must be removed or obtain a permit. This aspect of the state emergency exemption provisions is entirely missing and should be included in the proposed shoreline master program. Futurewise et. al. recommends several changes to the exemption review process to address its concerns.

Cumulative Impacts Analysis

Futurewise et. al. is concerned that the Cumulative Impacts Analysis (CIA) does not adequately address cumulative impacts that would be allowed by gaps in the SMP. Futurewise et. al. has pointed out what it believes to be many uses and regulation that allow impacts to shoreline ecological functions. Almost none of these are accounted for the CIA.