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.

In a letter dated November 22, 2010, Ecology summarized the key issues from all the public comments received. The City then responded to the summarized comments in a letter received by Ecology on February 4, 2011. This document is a compilation of Ecology comment summary, the City Response and reference to Ecology’s decision. Please see Attachment A (Findings & Conclusions) Attachment B (Required Changes) and Attachment C (Suggested Changes) as part of Ecology’s decision for detailed analysis specific SMP elements and conclusions related to the City’s (Ordinance 2009-265) compliance with the SMP-Guidelines in WAC 173-26 (Part III).

Ecology has attempted to insert a general reference to required changes as part of Ecology’s decision on the City’s SMP. Please note that Ecology has considered every comment submitted. However, “decision references” have not been provided for every comment as some comments have been repeated and Ecology may not have made a change within the decision relevant to the comment. Therefore, detailed analysis of specific required changes based on inconsistency with SMP requirements may not be listed within this attachment, but are provided within the Findings & Conclusions (Attachment A), Required Changes (Attachment B) or Suggested Changes (Attachment C) as part of Ecology’s decision on the SMP.

PUBLIC COMMENTS AND TESTIMONY PROVIDED TO ECOLOGY FOR THE CITY OF SAMMAMISH SMP-UPDATE

(Comment 1A, page 1) 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.

1A - City response: Sammamish has worked to achieve a balance between shoreline uses, private property rights, environmental conservation, and the protection of the public interest as required by RCW 90.58. To help in achieving this balance, multiple opportunities for interested parties to express opinions and concerns were available throughout the update process. The City-adopted SMP strives to accommodate appropriate shoreline uses and development while providing protection of the public interest in maintaining the ecologic functions of the lakes.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 1B, page 2) 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.

1B - City response: Sammamish has worked to achieve the no net loss of ecological function standard as directed by WAC 173-26. A summary of the SMP provisions and no net loss can be found in Chapter 7.0 of the Cumulative Impact Analysis. This summary states “the cumulative actions taken over time in accordance with the proposed SMP are not likely to result in a net loss of shoreline ecological functions from existing baseline conditions.”

Ecology decision: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 1C, page 2) 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 it is important that the restoration be a very important part going forward.

1C - City response: The Shoreline Inventory and Characterization Report states that there are few undeveloped or vacant lots in the shoreline planning area of Lake Sammamish, Pine Lake, or Beaver Lake. As noted in the Cumulative Impact Analysis, some of the ‘vacant’ parcels that do exist on Lake Sammamish are used as private recreational properties by community groups. Others are too small to accommodate a residence (Figure 7). Only about 13% of the Lake Sammamish parcels are without existing bulkheads. The CIA addresses development potential on all of the lakes (See pages 41, and 46-47). The location of parcels that are large enough to be subdivided into more than four lots is limited to Pine and Beaver Lakes. Beaver Lake has 11 vacant parcels that could be subdivided based on width and size. Five of these are public parks or preserves, and the remaining parcels are constrained by critical areas that reduce the potential lot yield to four or fewer or have limitations from prior platting or conservation easements. Of the 13 parcels on Pine Lake, one is Pine Lake Park, one is a private open space tract, and one is just over the amount needed for four lots. There is one parcel that could create more than 10 lots and that parcel is 400 feet from Pine Lake Park. For additional information on vacant parcels and subdivision potential, the Vacant Land Parcels and Maps and Subdivision Potential Table is available from the City upon request.

All new development and redevelopment on the lakes must meet the standards of the City-adopted SMP. These standards restrict activities that would cause adverse impacts to the shoreline environment, encourage other Low Impact Design strategies, and create restoration incentives. The Cumulative Impact Analysis recognizes that additional development will occur, but that the SMP, other regulations, and voluntary restoration efforts “will prevent a net loss of shoreline ecological functions from existing baseline conditions” (CIA 7.0 p 57).

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has
based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1D, page 3) 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.

1D - City response: Sammamish intends to continue to work to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58.

The state guidelines note that the effect of the master program is “generally on future development and changes in land use” (WAC 173-26-191). The City-adopted SMP is applicable to new development and uses, and specifies that existing legal uses within shoreline jurisdiction may continue (25.06; 25.08.100(3)(a)).

The City-adopted SMP states that “existing legally established private docks and floats may be repaired and maintained” (25.07.050(1)(i)).

Ecology decision reference: Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

(Comment 1E, page 4) Ilene Stahl, 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. Stahl is concerned that instead of applying science, the City Council yielded to perceived public opinion. Stahl states the view that the small lakes, and even Lake Sammamish, belong to everyone. Stahl advocates the application of science to preserve our lakes for future generations.

1E - City response: The City-adopted SMP provides protection to the shoreline of Pine Lake by requiring a structure setback of 50 feet (shoreline setback of 45 feet and a building setback of 5 feet), by restricting new development and uses within this setback, and by requiring 80% tree retention within shoreline jurisdiction (25.06.020). Additionally, it encourages a vegetation enhancement area immediately landward of the Ordinary High Water Mark (25.06.020(12)). These provisions are in line with the best available science recommendations of the Management of Pine Lake Water Quality study which is included in Folder 5 – Related Documents of the SMP submittal to ECY. Since incorporation the City has also adopted the CAO, Storm Water Manual, and Public Works Standards to further improve the water quality of all City lakes.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1F, page 5) Linda Eastlick, public hearing on October 7, 2010: Eastlick supports the SMP adopted by the City Council. Eastlick 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. Eastlick 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.

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

1F - City response: Sammamish has included the Management of Pine Lake Water Quality study in the ECY SMP submittal. As noted above, the study states that the water quality of Pine Lake has improved since 1988. The study also states that “Pine Lake has a relatively small area and is mostly surrounded by large trees that protect it from wind that could otherwise deepen the mixed layer” which could result in increased summer algal blooms. Due to this finding, the City-adopted SMP has more restrictive tree retention regulations for Pine and Beaver Lake than for the rest of
Sammamish. In order to protect water quality, 80% of the significant, non-hazard trees within the shoreline jurisdiction must be retained (25.06.020(11)).

The City-adopted SMP states that aquatic and noxious weed control may occur in order to protect native plant communities and associated habitats when done in conformance with applicable law (25.06.020(2)). Clearing and grading is also allowed when necessary to accommodate allowed use/development including landscaping and the establishment of a vegetation enhancement area (25.06.020(3)). Consistent with the existing Critical Area Ordinance, the SMP requires replanting when invasive vegetation is removed from critical areas. The city’s wetland biologist provides educational information and assistance regarding the property owners’ removal of noxious weeds.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based on the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to err on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1G, page 5) 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.

1G - City response: The SMP contains policies that address public access to public beach areas. The shoreline stabilization policies in the City-adopted SMP recognize the importance of site-specific solutions and the need to accommodate shoreline public access (25.04.020(5)). Stabilization needed to facilitate public shoreline access for substantial numbers of people is allowed on public land if bulkhead alternatives are determined to be infeasible or insufficient (25.07.070(3)).

(Comment 1H, page 6) 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 due 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.

1H - City response: Sammamish has included the Management of Pine Lake Water Quality study in the ECY SMP submittal. For additional study information please see Comment 4. Areas outside
of shoreline jurisdiction are not within the direct jurisdiction of the SMP. Sammamish requires projects needing drainage review to meet the core requirements contained in the 1998 King County Surface Water Design Manual and directs ongoing water quality compliance through the use of the best management practices contained in the 1998 King County Stormwater Pollution Prevention Manual (SMC 15.05.010). Projects within the Pine and Beaver Lake watersheds that are larger than 5,000 square feet, must include storm water facilities designed to remove 80 percent of all new phosphorus loading (21A.50.355(8)(a)). Additionally, Sammamish uses incentives to encourage incorporation of LID planning and design approaches into project development. Streamside vegetation is regulated under SMC21A.50. The City is currently in the process of adopting stormwater provisions that meet equivalency to the Department of Ecology Stormwater Management Manual for Western Washington.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1I, page 6) 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.

1I - City response: Comment noted.

Sammamish Municipal Code regulates maximum impervious surface and the stormwater runoff impacts of new development within the city, for areas both inside and outside of shoreline jurisdiction.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of
impairment of water quality, water quantity and habitat functions. As described within Ecology's Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1J, page 7) 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.

1J - City response: Within the City-adopted SMP, new shoreline uses and developments “shall incorporate all known, available, and reasonable methods of preventing, controlling and treating stormwater to protect and maintain surface and ground water quantity and water quality”. Additional city wide regulations regarding stormwater are included in SMC 15.05 and 21A.50. Sammamish encourages the use of rainwater harvesting and other LID stormwater management methods.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1K, page 8) Boyer Halvorson, public hearing on October 7, 2010: Halvorson supports the SMP as submitted to Ecology. Halvorson 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.

1K - City response: Sammamish has worked to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58.

Pine and Beaver Lakes require 80% tree retention to protect water quality. The results of the Pine Lake water quality study indicate the importance of trees on wind mixing and water quality. There is also a city requirement for all known and reasonable technologies (AKART) phosphorus standard for new development on Pine and Beaver Lakes. Vegetation enhancement areas are encouraged.

For additional information on vegetation management areas please see comment response 1E and 1O.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1L, page 8) 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.

1L - City response: The City-adopted SMP provides protection to the lake shorelines by requiring
a structure setback of 50 feet (shoreline setback of 45 feet and a building setback of 5 feet) on all lakes. Lake Sammamish properties have an opportunity for setback reductions through the use of restoration incentives. New development and uses within this setback are restricted, while incentives for vegetation and reduced impervious surfaces are provided (25.06.020). On Pine and Beaver Lakes 80% tree retention within shoreline jurisdiction is required.

The Shoreline Public Access Regulations are consistent with Sammamish’s Comprehensive Plan, Open Space Plan, and various park master plans. A Public Access Summary that features citywide shoreline park and open space plans along with bike and pedestrian access routes is included in Folder 5 – Related Documents of the SMP submittal to ECY.

The Cumulative Impact Analysis estimates that 87% of Lake Sammamish shoreline parcels, 75% of Pine Lake shoreline parcels, and 73% of Beaver Lake shoreline parcels have docks. The City-adopted SMP limits the length and square footage of new docks, and requires that they be built using WDFW approved materials and methods. The Cumulative Impact Analysis supports Ms. Richardson’s statement that over time the City-adopted SMP will result in a reduction of overwater coverage (CIA 5.2.1 page 42).

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part I). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1M, page 9) 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.
1M - City response: Sammamish has worked to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58. For additional information, please see the city response to Comment 19.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1N, page 10) Urban Massett, public hearing on October 7, 2010: Massett is concerned that, without bulkheads, shorelines on the north side of Lake Sammamish will suffer shoreline erosion. Massett says that he has heard from people on the Sound that complain that Ecology is kind of shutting them down, making their property worthless. Massett believes that Ecology is just not doing its job.

1N - City response: The City-adopted SMP requires that new residential development and normal appurtenances must be located where they won’t require new structural shoreline stabilization. Existing residences may be protected by appropriate shoreline stabilization methods when a qualified engineer determines they are threatened from erosion caused by currents or waves (27.07.070(2)).

Ecology decision reference: (Shoreline Stabilization) Ecology concurs with the City’s response related to Shoreline Stabilization. The City’s Shoreline Stabilization standards were found by Ecology to be generally consistent with SMP-Guideline requirement. Therefore, Ecology has only identified a few minor changes within Attachment B (Required Changes). It should be noted that the Shoreline Stabilization requirements within the SMP-Guidelines within WAC 173-26-231-3 (a) are relatively prescriptive. Therefore, all jurisdictions completing their SMP updates consistent with the SMP-Guidelines will have similar Shoreline Stabilization standards that reflect a clear preference for soft armoring over hard armoring, but recognize that site specific conditions will dictate the appropriate stabilization method to ensure adequate protection for existing (primary) structures, for which a “demonstrated need” for (erosion) protection will be required for
consideration of future armoring proposals.

(Comment 1-O, page 10) C.J. Kahler, public hearing on October 7, 2010: Kahler 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. Kahler 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. Kahler cities a memorandum of June 16, 2009 from ESA Adolfson which states “vegetative lake shore homes may also contribute more nutrients than they remove.” Kahler 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. Kahler notes that the Pine Lake Water Quality Report did not have clear direction on vegetative buffers. Kahler states that the Pine Lake Water Quality Report documented that the quality of Pine Lake has improved during the past 15 years. Kahler supports the SMP adopted by the City Council.

1O - City response: The ESA Adolfson memorandum of June 16, 2009 offers an overview of several scientific studies regarding lakeshore buffers and water quality. It notes that vegetated areas may contribute more nutrients than they remove. It also quotes a 2004 study by Hubri et al that found “dense vegetation generally increases treatment of surface water quality” (ESA Memo included at end of this document). By requiring tree retention and encouraging vegetation at the shoreline, Sammamish will maintain ecologic function of their lakes (CIA 4.2.2 p 25).

For additional study information regarding water quality management please see Comment 4.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 1P, page 11) 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 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.

1P - City response: Comment noted.
Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 1Q, page 12) Reid Brockway, public hearing on October 7, 2010: Brockway states that the draft SMP should be largely unchanged, because it’s 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.

1Q - City response: The City-adopted SMP allows for clearing and grading necessary to accommodate the allowed use/development. This includes that necessary for landscaping (25.06.020(3)). It also allows for aquatic and noxious weed control if native plant communities or water dependent uses are threatened as long as controls conform to local, state and/or federal regulations (25.06.020(2)). Within critical areas, vegetation removal is allowed using the Partial Exemptions provisions of 25.06.020(8)(d). This provision is consistent with current Sammamish practice.

The definition of development is the one used by the Washington Administrative Code. Maintenance, including reroofing an existing structure, is exempt from the review process of the program (25.07.080(3) & 25.06.020(8)). The City-adopted SMP does not require a Shoreline Substantial Development Permit to reroof an existing structure.

Requiring joint use docks for subdivisions is consistent with the state guidelines and helps ensure that Sammamish meets no net loss requirements (WAC 173-26-231(3)(b) & CIA 5.2.2 p. 45-47). One additional joint use dock would be allowed per subdivision.

The City-adopted SMP requires that new residential development and normal appurtenances must be located where they won’t require new structural shoreline stabilization. Existing residences may be protected by appropriate shoreline stabilization methods when a qualified engineer determines they are threatened from erosion caused by currents or waves (27.07.070(2)).

A flow control weir at the North end of Lake Sammamish controls the discharge volume and rate. The turnover or flushing rate of the lake is relatively long for the size and volume of the lake (Inventory and Characterization Report p 10 & 30). The report notes that the shores of Lake Sammamish are subject to erosion caused by foot traffic, local surface runoff, wind-driven waves, and waves from motorized watercraft (p 26).

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version

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1 Sammamish believes the phrase transcribed as “city-state” is correctly transcribed “steady-state”.

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(Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Shoreline Stabilization) Ecology concurs with the City’s response related to Shoreline Stabilization. The City’s Shoreline Stabilization standards were found by Ecology to be generally consistent with SMP-Guideline requirement. Therefore, Ecology has only identified a few minor changes within Attachment B (Required Changes). It should be noted that the Shoreline Stabilization requirements within the SMP-Guidelines within WAC 173-26-231-3 (a) are relatively prescriptive. Therefore, all jurisdictions completing their SMP updates consistent with the SMP-Guidelines will have similar Shoreline Stabilization standards that reflect a clear preference for soft armoring over hard armoring, but recognize that site specific conditions will dictate the appropriate stabilization method to ensure adequate protection for existing (primary) structures, for which a “demonstrated need” for (erosion) protection will be required for consideration of future armoring proposals.

(Pier/Dock) Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

(Comment 1R, page 13) 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.

1R - City response: Sammamish has incorporated by reference SMC Critical Areas Ordinance 21A.50, as amended by O2009-264. The ordinance is included in the Related Documents folder of the submitted SMP. The ordinance is consistent throughout Sammamish. Any changes to SMC 21A.50 affecting shorelines will need to be reviewed and approved by ECY in order for the changes to apply within Shoreline Jurisdiction. The City-adopted SMP includes the statement that “where this Program makes reference to any RCW, WAC, or other federal, state or local law or regulation, the most recent amendment or current edition shall apply” however, the reference to SMC 21A.50 is specific to O2009-264 (25.01.060(3) & 25.01.070).

A onetime expansion of 200 square feet is allowed for legally established non-conforming houses
For additional information regarding setbacks, non-conformance, and partial exemptions please see Comment 11.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Critical Areas) Ecology have listed required changes (Attachment B) related to integration of the City’s Critical Areas Ordinance (CAO). The changes are related to formal reference to limited sections of the City’s existing CAO and multiple wetland specific changes to ensure consistency with the applicable sections of the SMP-Guidelines.

Appropriate references to specific sections of the City’s CAO have been determined based on consistency with WAC 173-26-221 (2). Some sections of the City’s existing CAO such as exemptions in SMC 21A.50.050 through SMC 21A.50.070, references to “Reasonable Use” and the “Sunset Provision” in SMC 21A.50.400 are not consistent with SMP-Guideline provisions and therefore cannot be included as part of the City’s SMP.

In reference to wetland standards, Ecology have required changes to Mitigation Ratios and protection standards of aquatic bed wetlands to ensure consistency with the SMP-Guidelines under WAC 173-26-221 (2).

(Comment 2) Carole A. Williams, written comment received during the public comment period: Please approve the SMP as adopted by the City.

2 - City response: Comment noted.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26
Attachment D – Responsiveness Summary to Public Comments

(Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 3) Mike Collins, written comment received during the public comment period: Please accept (and) approve the Sammamish SMP.

3 - City response: Comment noted.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 4) 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 Tech 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.

4 - City response: Sammamish appreciates the many types of volunteer work done by residents.

The Shoreline Master Program is written to be consistent with state requirements. Working at or within the waters of the state for purposes of bank protection or dock repair may require permits from appropriate agencies.

The City-adopted SMP will require a shoreline exemption and permit for dock replacement. This is consistent with current regulations and practice.

The Tetra-Tech report, Management of Pine Lake Water Quality, states that precipitation during the study year (2005) was approximately 8 percent below normal. The report recognizes the low rainfall and takes it into account when reaching its conclusions. The study recommends several
methods to control phosphorus runoff into the lake. These include: that all development and redevelopment comply with the 2005 revised CAO, including that all new development within the Pine Lake Watershed retain 80% of the total phosphorus in runoff on an annual basis; that biobuffers and stormwater management for water quality controls continue to receive high priority within the City; and that retention of shoreline vegetation and trees surrounding the lake be encouraged (Management of Pine Lake Water Quality 6.2 & 6.4). The City-adopted SMP encourages residents on Pine and Beaver Lakes to include a vegetation enhancement area immediately landward of the OHWM (25.06.020(11)). It also requires that 80% of the significant trees within the shoreline jurisdiction be retained (25.06.020(11)).

Retention of trees that are hazardous is not required (25.06.020(11)).

Sammamish is expecting to continue providing education regarding shoreline protection to its citizens.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 5) 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.

5 - City response: Comment noted.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-
265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 6) 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.

6 - City response: State guidelines specify four principal factors to be considered in applying environmental designations: existing use, biological and physical character, comprehensive plan goals, and the state’s designation criteria. The two parcels of concern to Ms. Nelson, parcel 2025069071 & 9085) are vegetated and do not include existing residential structures. They are located at the southern end of a reach just south of Weber point on the Lake Sammamish shoreline. The reach includes vegetative cover and small tributaries, and it retains ecologic functions that benefit the lake (Inventory and Characterization Report 4.1.2, p 32-33, shoreline Map 1). These parcels are comparatively less developed then parcels designated Shoreline Residential by the City-adopted SMP. An Urban Conservancy designation for these parcels is consistent with the Urban Conservancy environment in the state guidelines (WAC 173-26-211(5)(e)).

According to County records, these parcels are currently designated Conservancy. City-adopted SMP designation of Urban Conservancy is consistent with their current designation and should not affect the value the property.

Ecology decision reference (Shoreline Environment Designations) Ecology has provided analysis and a finding related to the City’s designation of shoreline environments. Ecology provided comments throughout the update process recommending a number of specific recommendations to the City’s related to their proposed environment designations. However, as provided in the Findings & Conclusion (Attachment A) Ecology has determined that the City provided a adequate basis to support their adopted environment designations consistent with applicable sections of the SMP-Guidelines.

(Comment 7A-F) Karen Walter for the Muckleshoot Indian Tribe, written comment received during the public comment period:

7A – 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 party 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 Muckleshoot Tribe believes that more recent data regarding piers exists.
7A - City response: Comments regarding the Inventory and Characterization Report are appreciated and noted. The report was finalized in June 2007 as part of the SMP Update process. The report was initially completed as a Draft document, and revised consistent with comments from neighboring jurisdictions, agencies, surrounding Native American Tribes, extensive internal review, and Ecology review. The City notes that some information regarding streams and/or fish use may have been updated consistent with new information since 2007. Likewise, new information and studies regarding fish ecology in lake environments and other pertinent subjects may be available.

Comments will be addressed during the next comprehensive update of the City’s SMP.

7B - Shoreline Master Program: The Muckleshoot Tribe would like to review all shoreline applications.

7B - City response: Current review procedures include the Muckleshoot Tribe on shoreline and other application notices.

7C – New policy: 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.

7C - City response: Comment noted. The goals and policies of the SMP are generally consistent with the suggested new policy.

7D – Recommendations: The Muckleshoot Tribe recommends the following:

- **(Lighting)** The SMP should be modified to include requirements that dock and pier lighting do not shine on the surface of Lake Sammamish.
- **(Vegetated enhancement area)** The Muckleshoot Tribe is 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.
- **(Water Quality)** The Water Quality, Stormwater, and Nonpoint Pollution Regulations should also require the use of low impact development techniques where site conditions allow.
- **(Dock Width)** 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.
- **(Transportation)** 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.
- **(Utilities)** 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.

7D - City response:
- **(Lighting)** The SMP includes a standard that specifies exterior lighting shall not shine directly onto the water. Exterior lighting fixtures shall include full cut off devices (light shields) such that
glare or direct illumination onto the lake is minimized. This provision is part of the General Shoreline Regulations (25.06.020(4)) and would apply to lighting on docks and piers.

- **(Vegetated enhancement area)** This comment is focused on Environmental Protection and Conservation Regulations within the SMP (25.06.020). Sammamish has worked to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58. Shoreline setback and vegetation enhancement area standards were developed to meet this balance.

  The majority of the Lake Sammamish shoreline in the City is developed with single family residential uses at urban densities; in these areas, narrow existing shoreline setbacks are common, as is shoreline modification. Given existing urban conditions along the shoreline, incentivizing beneficial restoration actions (bulkhead removal, restoration and/or maintenance of natural shoreline conditions, shoreline vegetation enhancement) allows the City to establish a wider baseline setback and require beneficial enhancement and restoration of functions when a narrower setback is desired or required due to site constraints. See the Cumulative Impact Analysis for additional discussion of Lake Sammamish shoreline setback approach.

- **(Water Quality)** Sammamish has worked to achieve a balance between protection of ecological functions and shoreline uses. In order to develop consistent regulations throughout the City wherever feasible, the SMP’s approach to addressing water quality, stormwater, and nonpoint pollution regulations is largely consistent with the City-wide adopted approach. On highly developed shorelines in developed basins, like the Lake Sammamish shoreline and the East Lake Sammamish Basin, actions outside of shoreline jurisdiction can have as much or potentially greater impacts on shoreline functions than buffer width and wide buffers may not be that advantageous in terms of maintaining habitat and especially water quality. This suggests that a City-wide approach is appropriate.

  The City has adopted incentive based Low Impact Development standards (SMC 21A.85). The LID standards are applied to all City projects and incentives are established for private development projects that incorporate LID. The City also requires use of King County Surface Water Management (KCSWDM) standards for all projects. The City is currently in the process of adopting stormwater provisions that meet equivalency to the Department of Ecology Stormwater Management Manual for Western Washington.

  As added provisions encouraging minimization of water quality and stormwater impacts, the SMP incentives reduced impervious surface coverage along the Lake Sammamish shoreline (25.06.020(9 and 10). For Pine and Beaver Lakes, the SMP requires 80% tree retention throughout the shoreline jurisdiction, and implementation of stringent water quality standards developed for the lake management areas, including removal of 80% of total phosphorus. These measures are consistent with recommendations for the lakes’ respective water quality studies and the regulations are found in lake management areas – Special district overlay (SMC 21A.50.355).

- **(Dock Width)** This comment is focused on private residential dock width standards within the SMP (Table 3). Sammamish has worked to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58. Residential dock dimension standards were developed to meet this balance.

  Although in many instances a 50% of lot width standard for residential docks is far wider than necessary for development of an appropriate dock, the standard was applied with recognition of the Corps and WDFW review that is required for any new or expanded dock (as in-water work). Corps RGP 3 expired in March 2010 and has not been reissued. Dimensional and
design requirements including mitigation elements for construction of new docks on Lake Sammamish are still reviewed by the Corps. The SMP recognizes this, and relies on continued state and federal review and approval of all new dock projects as additional protection.

**Ecology decision reference: (pier/dock)** Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

- **(Transportation)** Sammamish has worked to achieve a balance between shoreline uses and the protection of the public interest as required by RCW 90.58. Transportation use standards were developed to meet this balance. Existing transportation standards included in the SMP apply to ‘new transportation facilities’ and ‘new roads’; these provisions would apply to expanded transportation facilities, including expanded roads. Work creating new impervious surfaces would be required to meet the stormwater and water quality standards applicable throughout the city, and any applicable provisions of the lake management areas-special district overlay (21A.50.355).

Transportation projects with direct or indirect impacts to surface waters would require additional review, both through city regulations (critical areas and stormwater regulations) and state (WDFW, Ecology) and federal (Corps and ESA consistency) regulatory programs.

- **(Utilities)**: Sammamish has worked to achieve a balance between shoreline uses and the protection of the public interest as required by RCW 90.58. Utility standards were developed to meet this balance. Utility standards included in the SMP were developed to require consideration of alternative siting, project design, and use of existing right-of-ways. Utility projects with direct impacts to surface waters or other habitats would require additional review, both through city regulations (SMC 21A.50 and SMC 15.05) and state (WDFW, Ecology) and federal (Corps and ESA consistency) regulatory programs.

**7E - Cumulative Impacts Analysis:** The Muckleshoot Tribe states 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 Muckleshoot Tribe is 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.

**7E - City response:** Comments regarding the Cumulative Impact Analysis are appreciated and noted. Development at Lake Sammamish Landing would be completed consistent with the adopted SMP. Planning for park developments are underway, including establishment of a preferred alternative site plan during the Master Planning Process. The conceptual plan includes enhanced shoreline access as well as consideration of shoreline conditions. Shoreline restoration is noted in the plan, and associated park facilities (including parking facilities) are located as far from the shoreline as is feasible.
The Cumulative Impact Analysis addresses potential impacts associated with parks development in section 5.2.1 (page 30).

Discussion of Lake Sammamish shoreline setback and vegetation enhancement provisions within the Cumulative Impact Analysis do not refer to the SMP setback as a buffer. The term buffer is only used in this area to refer to the lake buffer that was established by the City’s critical areas regulations (21A.50). The SMP uses an incentive approach to encourage restoration of the shoreline and establishment of a vegetation enhancement area as a means to reduce the standard shoreline setback.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

7F - 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.

7F - City response Comments regarding the Restoration Plan are appreciated and noted. The comment recommending incorporation of LID techniques into the SMP is noted; LID techniques and other provisions to minimize water quality and stormwater impacts are addressed in response to a similar comment from the Muckleshoot Tribe pertaining to the SMP (above).

The Restoration Plan identifies opportunities to restore fish passage on pages 46 and 47; however establishing a definitive plan and timeframe to implement restoration projects is not possible in the Restoration Planning context. Timelines and benchmarks for restoration implementation are discussed in section 6.5 of the Restoration Plan (page 55).

(Comment 8) 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.

8 - City response: The City-adopted SMP allows for aquatic and noxious weed control if native plant communities or water dependent uses are threatened as long as controls conform to local, state and/or federal regulations (25.06.020(2)). Clearing and grading necessary for landscaping and the establishment of a vegetation enhancement area is also allowed (25.06.020(3)). Consistent with the existing SMC 21A.50 Critical Area Ordinance, the City-adopted SMP restricts noxious weed removal methods to hand labor and/or light equipment and requires an approved restoration or enhancement plan within critical areas such as stream or wetland buffers (25.06.020(8)(d)).

Sammamish recommends that property owners use best management practices for noxious weed removal and provides information assisting the landowners as needed.

(Comment 9A -) Rory Crispin, written comment received during the public comment period.

9A – 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.”

9A - City response: The existing King County SMP limits the total surface area of residential piers to 600 square feet of overwater coverage per residence (25.16.140(E). The RGP-3 standards of the Army Corps of Engineers allow for expedited review of docks that have 480 square feet of overwater coverage or less. Additional square footage from the Corps may be permitted under certain circumstances. The City-approved SMP restricts the size of docks serving one lot to 600 square feet (25.07.050(2) & (3).

As noted by Mr. Crispin, Sammamish chose to limit duplication of existing agency requirements within the SMP in order to avoid possible regulation overlap and inconsistency.

Ecology decision reference: (Pier/Dock) Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on
regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

9B - 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.

9B - City response: The shorelines of Sammamish do not include any areas of commercial development and, as Mr. Crispin states, are all within the Urban Growth Boundary. The use of three shoreline designations: Natural, Urban Conservancy, and Shoreline Residential was discussed by the Sammamish Planning Commission on April 17, 2008. After further review, Sammamish determined that protection of the shoreline could be achieved with two designations: Urban Conservancy Environment (UC) and Shoreline Residential Environment (SR).

A combination of site and reach characteristics was used to determine which parcels should be designated UC or SR. The City-adopted SMP designates the City-owned Beaver Lake Preserve as UC (Shoreline Designation Map 4). The purpose of UC is to “protect and restore relatively undeveloped or unaltered shorelines” while allowing “substantial numbers of people to enjoy the shoreline” (25.02.020(1)(b)). The area within 200 feet of the lake on the Preserve property originally contained a residence and a second structure along with a pump house on the lake which currently remains. A large area of open space is present where the original residential development and structures were located. Covenants on the property prevent its use for anything other than passive recreation and require that it be preserved in essentially its current state. This designation ensures that adequate public access to Beaver Lake is available to Sammamish residents, while it protects the ecological functions of the Preserve.

Sammamish believes it is appropriate to base environmental designation decisions on factors such as existing use and biological character.

Ecology decision reference (Shoreline Environment Designations) Ecology has provided analysis and a finding related to the City’s designation of shoreline environments. Ecology provided comments throughout the update process recommending a number of specific recommendations to the City’s related to their proposed environment designations. However, as provided in the Findings & Conclusion (Attachment A) Ecology has determined that the City provided a adequate basis to support their adopted environment designations consistent with applicable sections of the SMP-Guidelines.

9C - 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.

9C - City response: Sammamish has incorporated by reference SMC Critical Areas Ordinance 21A.50, as amended by O2009-264. The ordinance is included in the Related Documents folder of the submitted SMP. RCW 90.58.090(4) charges the Department of Ecology (ECY) with
determining whether the master program is consistent with RCW 90.58.020 and applicable shoreline guidelines, and provides a level of protection of critical areas at least equal to that provided by the local government's critical areas ordinances adopted and thereafter amended pursuant to RCW 36.70A.060(2). This has been accomplished through the incorporation of the CAO’s protections into the SMP.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Critical Areas) Ecology have listed required changes (Attachment B) related to integration of the City’s Critical Areas Ordinance (CAO). The changes are related to formal reference to limited sections of the City’s existing CAO and multiple wetland specific changes to ensure consistency with the applicable sections of the SMP-Guidelines.

Appropriate references to specific sections of the City’s CAO have been determined based on consistency with WAC 173-26-221 (2). Some sections of the City’s existing CAO such as exemptions in SMC 21A.50.050 through SMC 21A.50.070, references to “Reasonable Use” and the “Sunset Provision” in SMC 21A.50.400 are not consistent with SMP-Guideline provisions and therefore cannot be included as part of the City’s SMP.

In reference to wetland standards, Ecology have required changes to Mitigation Ratios and protection standards of aquatic bed wetlands to ensure consistency with the SMP-Guidelines under WAC 173-26-221 (2).

9D - Liberal Construction: Crispin suggests that a liberal construction clause in the SMP misapplies a state statute and is not needed.

9D City response: Comment noted.

(Comment 10) 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.
10 - City response: Sammamish has included the referenced study, Management of Pine Lake Water Quality, in the Related Documents folder of the ECY SMP submittal. The study found that the water quality of Pine Lake has improved since 1988.

On Pine and Beaver Lakes 80% tree retention within shoreline jurisdiction is required and tree retention on Lake Sammamish is consistent with the rest of the Sammamish (25.06.020(11)). New development and uses within the shoreline setback are restricted, while incentives for vegetation and reduced impervious surfaces are provided (25.06.020(3, 9 & 10)).

Areas outside of shoreline jurisdiction are not within the direct jurisdiction of the SMP. Sammamish requires projects needing drainage review to meet the core requirements contained in the 1998 King County Surface Water Design Manual and directs ongoing water quality compliance through the use of the best management practices contained in the 1998 King County Stormwater Pollution Prevention Manual (SMC 15.05.010). Additionally, the City is in the process of adopting stormwater provisions that meet equivalency to the Department of Ecology Stormwater Management Manual for Western Washington. Sammamish also uses incentives to encourage incorporation of LID planning and design approaches into project development. Pine and Beaver Lakes require use of the AKART phosphorus standard for new development. For citywide practices regarding phosphorus control, please see Comment 4.

Maintenance of landscaping along the shoreline is not restricted by the City-adopted SMP.

Noxious and aquatic weed control is allowed when native plants and associated habitats are threatened or when they threaten a water dependent use (25.06.020(2)). Restoration plans are required for weed removal within Critical Areas, consistent with current Sammamish practice (25.06.020(8)(d). Please see Comment 8 for additional information about clearing weeds.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 11) 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.

11 - City response: The City-adopted SMP includes a 50 foot setback (45 foot shoreline setback and 5 foot building setback) from the OHWM on all the lakes. On Lake Sammamish, the setback from the OHWM can be reduced to 20 feet (15 foot shoreline setback and 5 foot building setback) through the use of a variety of mitigation incentives (25.06.020(7) and Table 1). Legally established homes that are non-conforming to the City-adopted SMP are allowed to remain and may be reconstructed, replaced, or expanded as long as the changes do not increase the non-conformity (25.08.100(1)). In addition, one time footprint expansions of 1,000 square feet are allowed behind the structure with the establishment of a 15 foot vegetation enhancement area. A small, one time expansion of 200 square feet is allowed for legally established non-conforming houses (25.06.020(8) & 25.02.060(10)(a)).

Ecology decision: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part I). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City's supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Comment 12) 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.

**City response:** Sammamish has worked to achieve a balance between shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58.

All of the setback reduction mitigation methods described in 25.06.020(10) Table 1 benefit Lake Sammamish. The methods are prioritized by the amount of setback reduction they provide. Therefore, the methods do not require a priority order to be effective.

The Redmond SMP, approved by ECY as noted above, includes a Lake Sammamish setback of 35 feet from the OHWM. This setback can be reduced to 20 feet with planting of primarily native vegetation (20D.150.60-020). The Sammamish City-adopted SMP provides a variety of methods for reducing the 50 foot setback on Lake Sammamish to a minimum of 20 feet (25.06.020(10)). The 50 foot setback on Pine and Beaver Lakes may not be reduced.

**Ecology decision reference:** Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

**No Net Loss - water quality, quantity and habitat** Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

**Comment 13** 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
City response: Please see response to Comment 1J regarding rainwater harvesting.

The City-adopted SMP includes a 50 foot setback on Lake Sammamish which can be reduced to a minimum of 20 feet through a variety of mitigation methods (25.06.020(10)). The 50 foot setback on Pine and Beaver Lakes may not be reduced. To protect shoreline ecological function and achieve no net loss, the City-approved SMP setback requirements are based on consideration of the Best Available Science for buffers and the existing urban conditions of the Sammamish shorelines.

Sammamish has worked to include citizens in the process of the SMP update. The first public participation goal of the Sammamish Public Participation plan is “be transparent and inclusive” (Folder 7, Public Participation Summary). Throughout the process individual and Interest groups were contacted and updated through mailings, email alerts, and a webpage. The process included open houses, Planning Commission and City Council meetings, and a variety of meetings with individual citizens and groups. Summaries of the 4 year Public Participation process can be found in Folder 7 of the SMP submittal to ECY.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 14) 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 to 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.

City response: For a response to many of these concerns, please see Comment 1Q.

Alternative setback provisions were considered by the planning commission and council including the option of a setback that excluded the footprint of legally constructed houses. Methods currently used in neighboring jurisdictions were discussed. Concerns over implementation and fairness for all lakeshore owners resulted in the setback regulations found in the City-adopted SMP.
The Liberal Construction clause of the SMP comes from the RCW 90.58.900.

**Ecology decision reference:** Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

**(Pier/Dock)** Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

**Comment 15** 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 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 immediately east of Lake Sammamish Parkway was suggested.

**City response:** For additional responses to many of these concerns, please see Comment 1C.

During discussions regarding vegetation conservation, Sammamish determined that a name differentiation (buffer, setback, vegetation enhancement area) was less important than adoption of methods that would achieve a positive outcome for the lakes.

Any changes to SMC 21A.50 affecting shorelines will need to be reviewed and approved by ECY in order for the changes to apply within shoreline jurisdiction. The extensive documentation related to lake shorelines that forms part of the record for the CAO has been included as part of the ECY
A combination of site and reach character was used to determine which parcels were designated SR or UC. The City-adopted SMP designates the Beaver Lake Preserve as UC (Shoreline Designation Map 4). This purpose of UC is to “protect and restore relatively undeveloped or unaltered shorelines” while allowing “substantial numbers of people to enjoy the shoreline” (25.02.020(1)(b)). The area within 200 feet of the lake on the Preserve property originally contained a residence and a second structure along with a pump house on the lake which currently remains. A large area of open space is present where the original residential development and structures were located. Covenants on the property prevent its use for anything other than passive recreation and require that it be preserved in essentially its current state. This designation ensures that adequate public access to Beaver Lake is available to Sammamish residents, and protects the ecological functions of the Preserve.

Sammamish is committed to meeting the shoreline public access needs of its residents. Public access is currently available on all three SMP regulated lakes. The City believes the Public Access Plan provides adequate public access to all citizens and that the limited subdivision potential along the lakes would lead to little, if any, provision of additional public access through redevelopment. The CIA addresses development potential on all of the lakes (See pages 41, and 46-47). The location of parcels that are large enough to be subdivided into more than four lots is limited to Pine and Beaver Lakes. Beaver Lake has 11 vacant parcels that could be subdivided based on width and size. Five of these are public parks or preserves, and the remaining parcels are constrained by critical areas that reduce the potential lot yield to four or fewer or have limitations from prior platting or conservation easements. Of the 13 parcels on Pine Lake, one is Pine Lake Park, one is a private open space tract, and one is just over the amount needed for four lots. There is one parcel that could create more than 10 lots and that parcel is 400 feet from Pine Lake Park. Provisions for increased access are included in the Public Access Summary found in Folder 5-Related Documents of the ECY SMP submittal.

Spacing minimums of 200 feet for docks in UC was eliminated because the requirement does not significantly protect the environment. Under the City-adopted SMP, effective overwater coverage by docks on Lake Sammamish is expected to decrease over time because new and replacement docks will be built with light penetrating materials (CIA 5.2.1, p 42).

Sammamish is currently working on Transfer of Development Rights provisions that will apply to the whole city and these could potentially be used along Lake Sammamish in the future.

Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on
these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Pier/Dock) Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

(Shoreline Stabilization) Ecology concurs with the City’s response related to Shoreline Stabilization. The City’s Shoreline Stabilization standards were found by Ecology to be generally consistent with SMP-Guideline requirement. Therefore, Ecology has only identified a few minor changes within Attachment B (Required Changes). It should be noted that the Shoreline Stabilization requirements within the SMP-Guidelines within WAC 173-26-231-3 (a) are relatively prescriptive. Therefore, all jurisdictions completing their SMP updates consistent with the SMP-Guidelines will have similar Shoreline Stabilization standards that reflect a clear preference for soft armoring over hard armoring, but recognize that site specific conditions will dictate the appropriate stabilization method to ensure adequate protection for existing (primary) structures, for which a “demonstrated need” for (erosion) protection will be required for consideration of future armoring proposals.

(Critical Areas) Ecology have listed required changes (Attachment B) related to integration of the City’s Critical Areas Ordinance (CAO). The changes are related to formal reference to limited sections of the City’s existing CAO and multiple wetland specific changes to ensure consistency with the applicable sections of the SMP-Guidelines.

Appropriate references to specific sections of the City’s CAO have been determined based on consistency with WAC 173-26-221 (2). Some sections of the City’s existing CAO such as exemptions in SMC 21A.50.050 through SMC 21A.50.070, references to “Reasonable Use” and the “Sunset Provision” in SMC 21A.50.400 are not consistent with SMP-Guideline provisions and therefore cannot be included as part of the City’s SMP.

In reference to wetland standards, Ecology have required changes to Mitigation Ratios and protection standards of aquatic bed wetlands to ensure consistency with the SMP-Guidelines under WAC 173-26-221 (2).

(Comment 16) Chas Dreyfus, Barbara Bruell, Jason Hanson, 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:

- **(Buffers)** Establish science-based buffers
- **(Enhancement)** In the areas that are already degraded with development, require enhancement with new development and redevelopment.
- **(Armoring and docks)** Stop armoring the shoreline and include ways to replace armored shorelines with softer methods. Slow the proliferation of docks.
Attachment D – Responsiveness Summary to Public Comments

- **(Incentives)** Make sure the incentives for reducing setbacks and buffers require actual enhancement, and reduce the amount of intrusions allowed in setbacks or buffers.

- **(Density and septic systems)** Stop approving new dense urban development on septic systems near shoreline waters.

**City response:** For additional response regarding buffers and overwater coverage, please see Comment 15.

- **(Buffers)** The City-adopted SMP provides protection to lake shorelines by requiring a structure setback of 50 feet (shoreline setback of 45 feet and a building setback of 5 feet) and by restricting new development and uses within this setback. Building closer to the OHWM is not allowed on Pine and Beaver Lakes and requires implementing mitigation options on Lake Sammamish. Tree retention of 80% is required within the shoreline jurisdiction of Pine and Beaver Lakes and vegetative enhancement adjacent to the OHWM is encouraged (25.06.020). These provisions are in line with the best available science recommendations of the Management of Pine Lake Water Quality study.

- **(Enhancement)** All new development and redevelopment on the lakes must meet the standards of the City-adopted SMP. These standards restrict activities that would cause adverse impacts to the shoreline environment, encourage other LID strategies, and offer appropriate restoration options and incentives within shoreline jurisdiction and the shoreline setback (CIA 7.0, p 57).

- **(Armoring and Docks)** The City-adopted SMP requires that new residential development and normal appurtenances are located where they won’t require new structural shoreline stabilization. When new shoreline stabilization is required to protect an existing residence, it must be mitigated by establishing and maintaining a required vegetation enhancement area landward and adjacent to the OHWM (25.07.070(1)(a). Bulkheads that are not necessary for protection of a residence must be replaced with bulkhead alternatives or bio-stabilization (soft stabilization) (25.07.070(6)).

Sammamish does not anticipate large numbers of new docks on any of the lakes since most parcels already have docks (CIA 5.2.1 & .2, p 42 & 46). Parcels that are subdivided will be limited to an additional joint use dock in order to ensure the no net loss standard is met (25.07.080(6)). Under the City-adopted SMP, effective overwater coverage by docks on Lake Sammamish will decrease over time because new and replacement docks will be built with light penetrating materials). WDFW approved methods and materials, as specified by WAC 220-110-060, are also required for Pine and Beaver Lakes (25.07.050(1)(g)).

- **(Incentives)** Setback reduction is not available for Pine and Beaver Lakes. On Lake Sammamish the setback may be reduced if specific criteria are met. The system of setback reduction and required compensatory restoration measures are consistent with previously established critical areas standards and maintain the ecological protections currently provided by Critical Areas regulations (CIA 4.2.2, p22).

- **(Density and septic systems)** Within shoreline jurisdiction, the City-adopted SMP requires newly created parcels to have a minimum size of 12,500 square feet and a minimum width of 50 feet at or near the OHWM and (25.07.080(6)). These requirements protect the shoreline while maintaining density levels consistent with the city’s comprehensive plan. All new septic systems must meet the King County Department of Health standards including siting requirements (CIA 4.2, p 20).
Ecology decision reference: (No Net Loss - water quality, quantity and habitat) Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative Impact Assessment).

(Pier/Dock) Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

(Shoreline Stabilization) Ecology concurs with the City’s response related to Shoreline Stabilization. The City’s Shoreline Stabilization standards were found by Ecology to be generally consistent with SMP-Guideline requirement. Therefore, Ecology has only identified a few minor changes within Attachment B (Required Changes). It should be noted that the Shoreline Stabilization requirements within the SMP-Guidelines within WAC 173-26-231-3 (a) are relatively prescriptive. Therefore, all jurisdictions completing their SMP updates consistent with the SMP-Guidelines will have similar Shoreline Stabilization standards that reflect a clear preference for soft armoring over hard armoring, but recognize that site specific conditions will dictate the appropriate stabilization method to ensure adequate protection for existing (primary) structures, for which a “demonstrated need” for (erosion) protection will be required for consideration of future armoring proposals.

(Comment 17) 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.
City response: Please see comment 1-L for responses to Ms. Richardson’s concerns.

Ecology decision reference: Ecology appreciates the dedicated involvement of all interested parties involved in this update. Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

(Comment 18) 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.

18 - City response: Comments noted. Please see comment 1-O and Comment 19 for responses to Mr. Kahler’s specific concerns. [Please see Ecology decision reference under the City’s earlier responses as listed].

(Comment 19A - Y) 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:

19A - 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.

19A - City response: The City considered RCW 90.58.020 and State Guidelines in developing SMP Goals (25.03). The SMP addresses the intent of RCW 90.58.020 and the New Goal suggested by Futurewise in several existing goals, including:
• 25.03.020 (Conservation Goals 1 – 7) – Each of these existing goals provide policy and guidance for how to implement the intent of RCW 90.58.020.

• 25.03.030 (1) (Public Access Goals - Provide opportunities for physical and visual public access to public shorelines when such access can be reasonably accommodated without human health, safety, and/or security risks, while minimizing adverse effects on shoreline functions and processes, private property rights, and/or neighboring uses);

• 25.03.050(2) (Shoreline Use Goals - Ensure that shoreline use patterns are compatible with the ecological functions and values, and with the surrounding land use, and that they minimize disruption of these functions and values);

• 25.030.60 (1 – 4) – All Shoreline Restoration and Enhancement Goals provide policy and guidance aimed at implementing the intent of RCW 90.58.020.

Existing goals within SMP Chapter 25.03 address the intent of RCW 90.58.020; incorporation of the New Goal recommended by Futurewise would largely duplicate the existing goals (as a broad, less directed statement).

The governing principles of the SMP (25.01.050) state that ‘protecting the shoreline environment is an essential statewide policy goal’, and establishes that the SMP must include ‘policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions in a manner that is consistent with RCW 90.58 and WAC 173-26-201(2)(e)(i)’. While the RCW 90.58 reference is broad, the WAC reference included in this section directly indicates state guidelines for mitigation sequencing. The SMP implements mitigation sequencing through a variety of approaches, including inclusion of mitigation sequencing requirements detailed in incorporated Critical Areas Regulations (SMC 21A.50.135 Avoiding impacts to critical areas). While the proposed revision to 25.03.020(8) would not be inconsistent with the SMP, specifying the use of mitigation sequencing in this specific location is not necessary to ensure use of mitigation approaches consistent with State Guidelines.

Ecology decision reference: Ecology has extensively reviewed the Council approved version (Ordinance 2009-265) of the SMP for compliance with the SMP-Guidelines under WAC 173-26 (Part III). As specified in Attachment A, Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

19B - 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 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.

**19B - City response:** The above comments from Futurewise reiterate statements made throughout their comment letter. The City considered State Guidelines for mitigation sequencing and no-net-loss of ecological function throughout development of the SMP. Review of existing conditions during the Inventory and Characterization effort revealed a generally consistent pattern of existing ecological function and shoreline use/cover on each of the three lakes. This pattern is detailed in the Inventory and Characterization Report and the Cumulative Impact Analysis and is reflected in the Shoreline Environmental Designations established for the lake shorelines.

The City concluded that the number and type of designations identified in the SMP were appropriate considering the uniformity of the existing and anticipated land uses within shoreline jurisdiction. The types of uses that some jurisdictions might prohibit because of potential impacts on shoreline functions are highly unlikely to occur on Sammamish lake shorelines because of the historic land use pattern, zoning standards and comprehensive plan designations. Given the existing and anticipated use pattern, the City’s standards for allowed uses and modifications, which are tailored to the specific and limited range of anticipated uses, are justified.

**Ecology decision reference (Mitigation Sequencing)** Ecology has required multiple changes the City’s SMP related to Mitigation Sequencing. Ecology has concluded that portions of Ordinance 2009-265 are not compliant with applicable sections of the SMP-Guidelines, for which specific changes have been identified within Appendix B. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

**19C - Shoreline Reach Characterization and Implications for SMP and Future Development:** 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., pg. 5).

**19C - City Response:** Sammamish’s SMP Update effort successfully catalogued shoreline conditions; existing conditions and functions were used to inform development of the SMP resulting in a fair and consistent approach for balancing property rights and protection of the environment and public interest. The Futurewise comments suggest that the City’s approach to assessing each of the lake shorelines did not accurately characterize variations in ecological functions / existing conditions at an appropriate scale. The City’s I&C Report describes each shoreline independently, noting specific conditions and uses along the shorelines where appropriate, as shown in this example:

A relatively undisturbed stretch of shoreline is located along the northeastern section of the lake near Inglewood Hill Road, the areas north and south of Weber Point, and extending north to the large wetlands of Marymoor Park. Along this stretch, neighborhoods are interspersed among sandy/gravelly beaches that provide salmon and eagle habitat. Much
of the shoreline contains mature forest that provides important habitat for nesting and foraging eagles. Foraging is likely to occur throughout the entire shoreline of Lake Sammamish due to the abundance of fish and waterfowl. (Excerpt from the I&C Report, p. 32-33).

This information was carried forward and in many cases further refined during development of the SMP policies and regulations as the Planning Commission and later the City Council requested additional information on shoreline conditions. Variations in existing ecological function / land cover and planned uses were discussed during public open houses and other public meetings. The Planning Commission and City Council balanced considerations related to the relatively narrow range of ecological variability with the relatively uniform land use pattern when deciding on environment designations and other SMP standards.

The issue of subdivision potential and intensification of use was one of the main topics of discussion with the Planning Commission and City Council and Staff provided a detailed assessment of the number of lots where subdivision could occur. The Council concurred with Staff’s opinion that on large lots with houses set back from the shore (a common situation on Pine and Beaver Lakes) creation of new lots would likely affect the back (landward) portion of the lots—not on the portion closest to the shore as Futurewise suggests. In any case, new development would need to meet the combined setback requirements of 50 ft and the minimum lot size standard of 12,500 SF. Additionally, specifically in response to this concern, the Council required the minimum lot width to be met at the Ordinary High Water Mark. The Council concluded that these provisions would safeguard against the types of concerns noted in the Futurewise letter, namely intensification of use and potential to build new homes “very close to the water.”

19D - Environment Designations: 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. 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.

19D - City Response: Sammamish established shoreline environment designations based on existing ecological condition and function, existing land use pattern, and anticipated future uses; SEDs are reflective of the generally uniform uses occurring along the City’s shorelines and are consistent with State Guidelines. The Futurewise letter suggests the higher functioning areas be
identified with “protective environments that conform to the SMP Guidelines in both designation criteria and use limits.” The City believes that the UC designation on the less altered shorelines in Sammamish is consistent with the State Guidelines, which define the purpose of the designation as follows: to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. (WAC 173-26-211(e)).

For the highest functioning areas within the UC environment (including wetlands, streams, associated buffers, and other significant habitat areas), the policies and regulations of the SMP provide additional protections through incorporation of SMC 21A.50, Critical Areas and Environmental Protection Policies and Regulations, Shoreline Vegetation Conservation Policies, Site Planning Policies, Water Quality, Stormwater and Nonpoint Pollution Policies and Regulations. The intent of these regulations is to ensure that where compatible uses are allowed within the UC environment, that they are planned for, designed, and used in a fashion that maintains or improves shoreline functions.

The Futurewise letter highlights specific ‘areas’ where SR areas should be UC. Many of these areas occur on Lake Sammamish; however the Futurewise list also includes the shoreline area north of Pine Lake Park and selected areas of Beaver Lake. The City’s approach to establishing shoreline environments was to identify and designate shoreline segments and groups of parcels according to broader patterns of ecological function, land cover, and planned use to avoid a parcel-by-parcel designation system consistent with State Guidelines (WAC 173-26-211 – Environment designation system). The City’s approach is consistent with the City’s intent to establish consistent policies and regulations for shoreline property owners with the same (or very similar) zoning and planned land use designations.

The City’s assessment of conditions on the northwest and southeast shorelines of Beaver Lake differs from the assessment suggested in the Futurewise letter. At either end of the northwest shoreline there are large publically owned and managed park / open space areas designated as UC. The area within 200 feet of the lake on the Preserve property originally contained a residence and a second structure along with a pump house on the lake which currently remains. A large area of open space is present where the original residential development and structures were located. Covenants on the property prevent its use for anything other than passive recreation and require that it be preserved in essentially its current state, leading to the UC designation. The shoreline between Beaver Lake Park and Beaver Lake Preserve, by contrast is composed generally of single-family residential properties (documented in the I&C Report and CIA. The Council concluded that development pattern matched the Guidelines’ criteria and purpose of the SR designation. This development pattern is consistent with the pattern along the majority of the southwest shoreline, which is designated SR (Official Shoreline Designation Map, Part 4 of 4).

Ecology decision reference (Shoreline Environment Designations) Ecology has provided analysis and a finding related to the City’s designation of shoreline environments. Ecology provided comments throughout the update process recommending a number of specific recommendations to the City’s related to their proposed environment designations. However, as provided in the Findings & Conclusion (Attachment A) Ecology has determined that the City provided a adequate basis to support their adopted environment designations consistent with applicable sections of the SMP-Guidelines.

19E - Technical Issue Recommendation: ‘Technical Issue Recommendation’ on page 6 of the Futurewise letter: Futurewise et al. suggest that not all of the Sammamish shoreline jurisdiction is mapped. This would result in the default designation of Urban Conservancy being applied in those circumstances.
**19E - City Response:** The SMP Official Shoreline Designation Map set clearly maps the waterward area within 200 feet of the ordinary high water mark (OHWM) as having the same environment designation as the adjoining shoreland areas. The decision not to map the full waterward extent was made in order to maintain focus of the SMP on the area where almost all uses and modifications have and will continue to occur. The statements in SMP 25.01.030 clearly define the extent of jurisdiction consistent with state law.

In addition to mapping of the SEDs, the City’s SMP has a clear approach to establishing policies and regulations for environment designations:

25.05.010 Shoreline Jurisdiction – (2) … For Lake Sammamish, the waterward extent of shoreline jurisdiction, as measured from the OHWM toward the western city boundary, shall be governed by the regulations pertaining to the adjoining shoreland area and all such uses shall be considered accessory to the primary use. For Pine and Beaver Lakes, the waterward extent of shoreline jurisdiction, as measured from the OHWM toward the center of each lake, shall be governed by the regulations pertaining to the adjoining shoreland area and all such uses shall be considered accessory to the primary use. The OHWM shall be determined based on site-specific observation and assessment using accepted protocols and criteria in accordance with RCW 98.58.030(2)(b).

Section 25.05.020 (Shoreline Environment Designations) and text included on the Official Shoreline Designation Map set further discusses the City’s straightforward system.

**19F - 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. Futurewise suggests 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.

**19f - City Response:** The City considered and included a variety of policies and standards for protection of shoreline vegetation and existing functions outside of the established setback for all three lakes. On Pine and Beaver Lakes the SMP requires 80% tree retention within shoreline jurisdiction and tree retention on Lake Sammamish is consistent with the requirements throughout the City (25.06.020(11)).

New development and uses within the shoreline setbacks are restricted, while incentives for vegetation and reduced impervious surfaces are provided (25.06.020(3, 9 & 10)). Additional regulations that require consideration and minimization of development impacts throughout shoreline jurisdiction include the following:

- 25.06.020 (3) – Specifies that the amount of clearing and grading shall be limited to the minimum necessary to accommodate the allowed use/development.
- 25.06.020 (5) – Specifies that property owners proposing new shoreline use or development shall mitigate adverse environmental impacts in accordance with this Program and other applicable regulations whether or not the use/development requires or is exempt from a shoreline substantial development permit.
Attachment D – Responsiveness Summary to Public Comments

- **25.06.050 (1 – 4)** – Specifies requirements to ensure stormwater and nonpoint pollution from new shoreline uses and developments is minimized through use of BMPs for controlling erosion and sedimentation and use all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and water quality in accordance with SMC 15.05 (Surface Water Management), requirements of SMC 21A.50 and other applicable laws. Also specifies detailed requirements for new on-site sewage systems.

- **25.01.070 (Critical Areas Regulations Incorporated by Reference)** – Incorporation of critical areas regulations provides additional protection of high functioning and/or high value areas, including wetlands, tributary streams, and associated buffers. These regulations extend through shoreline jurisdiction and provide significant protection to existing natural / open space areas where the approximate locations of wetlands and streams have been mapped (see I&C Report Map Folio).

### 19G - Setback and Vegetation Conservation – General:

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, Futurewise suggests the standards 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.

### 19G - City Response:

Sammamish has worked to achieve a balance between ecological protection, shoreline uses, private property rights, and the protection of the public interest as required by RCW 90.58.

The City-adopted SMP includes a 50 foot setback (45 foot shoreline setback and 5 foot building setback) from the OHWM on all the lakes. On Lake Sammamish, the setback from the OHWM can be reduced to 20 feet (15 foot shoreline setback and 5 foot building setback) through with the use of a variety of mitigation incentives (25.06.020(7) and Table 1). The Redmond SMP, approved by Ecology, includes a Lake Sammamish setback of 35 feet from the OHWM. This setback can be reduced to 20 feet with planting of primarily native vegetation (20D.150.60-020). Legally established homes that are non-conforming to the City-adopted SMP are allowed to remain and may be reconstructed, replaced, or expanded as long as the changes do not increase the non-conformity (25.08.100(1)). In addition, one time footprint expansions of 1,000 square feet are allowed behind the structure with the establishment of a 15 foot vegetation enhancement area. A small, one time expansion of 200 square feet is allowed for legally established non-conforming houses (25.06.020(8) & 25.02.060(10)(a)).

The proposed SMP includes a variety of development regulations that prevent and/or mitigate impacts of new development. Property owners proposing new shoreline use or development must mitigate adverse environmental impacts in accordance with measures listed in SMC 25.06.020(10). Mitigation measures must be implemented according to the standard mitigation sequence of first avoiding, then minimizing, then compensating for impacts or providing replacement resources (over-arching SMP principle 25.01.050 and inclusion of mitigation sequencing requirements detailed in incorporated Critical Areas Regulations (SMC 21A.50.135 Avoiding impacts to critical areas)).

The discussion of setback / vegetation conservation standards within the Futurewise letter extends for seven pages. The following comments highlight key concerns from Futurewise (many of which
are succinctly summarized by bulleted recommendations provided on Page 10 of the Futurewise letter).

Ecology decision reference (Mitigation Sequencing, Vegetation Management) Ecology has required multiple changes the City’s SMP related to Mitigation Sequencing. These changes have been applied more specifically to vegetation management standards in the City’s SMP. As discussed within Ecology’s decision (including Attachments A, B, and C), some of the City’s setback incentives are not consistent with mitigation sequencing as they either do not avoid or minimize impacts or do not require compensatory mitigation to offset potential impacts from future development. These changes are necessary in order for the SMP to be considered compliant with the SMP-Guidelines.

19H - Setback and Vegetation Conservation – Assessment of Existing Conditions: Futurewise et al. recommend that vegetation condition and setback character needs to be further (accurately) identified for use in the setback system.

19H - City Response: The standard shoreline setbacks in the SMP are designed to protect remaining existing ecological function while recognizing existing land cover / land use conditions along the City’s lake shorelines. The existing vegetation patterns were considered in developing the setback provisions. City staff also take into account site specific information concerning vegetative cover at the time a development application is reviewed to ensure that the setback standards and ecological protection provisions of the SMP are applied.

19I - Setback and Vegetation Conservation – Protection and Enhancement of Vegetation on All Lakes / Basis from CAO Standards: Futurewise et al. suggests that 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 no net loss of ecological function.

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. Quote from Futurewise et al. (pg. 10):

“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. Science-based lake buffers should more closely resemble buffers for streams and wetlands.”

19I - City Response: The City established a standard shoreline setback of 45 feet plus a 5 foot building setback for all shorelines. Uses of the shoreline setback area are limited, with maximum permissible footprint of residential accessory structures specified at 200 SF (25.06.020(7), 25.07.080, and Table 1). Consistent with the City’s intent to balance protection of shoreline ecological function with protection of property rights, the SMP uses multiple approaches to
maintain conditions and functions along the Sammamish, Pine, and Beaver Lake shorelines. Approaches include the following standards:

- For residential uses within UC areas, the maximum amount of impervious surface allowed shall not exceed 40% of the lot area above OHWM (25.07.080(2)(c)).
- Expansion or reconfiguration of existing legally established residential structures is allowed, however expansion within shoreline setback areas and/or resulting in a reduced shoreline setback is highly limited (25.07.080(3)(a and b)).
- Residential subdivision within shoreline jurisdiction is limited, with a 50 foot minimum lot width (at or near the OHWM) and 12,500 SF minimum lot size (for created lots) required for subdivision. Analysis as part of Planning Commission and City Council review of the SMP (included in the CIA) determined that potential for subdivision within shoreline jurisdiction would be extremely limited on all lakes, especially Lake Sammamish. These subdivision criteria will ensure that more intensive use of the shoreline through extensive creation of new shoreline lots does not occur over time.

Additionally, many of the less developed Urban Conservancy areas along the Sammamish, Pine, and Beaver Lake shorelines are part of City-owned park and open space areas. Several of these park areas include protection / conservation requirements, and all are managed according to master use plans. Beaver Lake Preserve was placed in public ownership with a requirement that it would be preserved as natural open space – development that is identified within the Beaver Lake Preserve Draft Master Plan is limited to passive soft surface trails, some ADA accessible trails, wildlife view points and view decks, and one hand boat launch along the lake shoreline.

The City has recently completed master planning for Beaver Lake Park. The Preferred Alternative Plan identifies wetland and stream areas through the park. Under the Plan, development near the shoreline will include shoreline restoration; active use areas will largely be consistent with existing conditions; lake and stream riparian areas are maintained with improvement to existing trails and limited development of new trails.

Pine Lake Park has recently undergone major capital improvements, with shoreline restoration a significant portion of activities. Development of active uses was focused on areas well setback from the shoreline, with significant riparian cover maintained throughout most of the 200 feet backing the shoreline.

Lake Sammamish Landing is the undeveloped park area extending along much of the City’s northern Lake Sammamish shoreline. The Master Plan adopted priorities for the park:

1. To provide public access to Lake Sammamish.
2. To enhance and protect the environmentally sensitive shoreline areas.
3. Generate support and interest in the park.

The Preferred Plan for the park is consistent with these priorities, with shoreline and riparian restoration identified along with enhanced public access facilities.

In all of these park areas, wetlands, streams, and associated buffers, as well as other identified wildlife habitat areas, will be provided protection through incorporated critical areas regulations (21A.50). Within Beaver Lake Park, Beaver Lake Preserve, the large wetland to the southwest of Pine Lake (UC designated area) and other inventoried and un-inventoried wetland and stream areas, protection and mitigation for unavoidable impacts would be would required.

The City also considered strategies for shoreline setbacks being considered and implemented by other Lake Sammamish jurisdictions. The Redmond SMP, approved by Ecology, includes a Lake Sammamish setback of 35 feet from the OHWM. This setback can be reduced to 20 feet with planting of primarily native vegetation (20D.150.60-020).
19J - Setback and Vegetation Conservation – Shoreline Setback Reduction on Lake Sammamish: 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.

19J - City Response: The City-adopted SMP includes a 50 foot setback (45 foot shoreline setback and 5 foot building setback) from the OHWM on all the lakes. On Lake Sammamish, the setback from the OHWM can be reduced to 20 feet (15 foot shoreline setback and 5 foot building setback) through with the use of a variety of mitigation incentives (25.06.020(7) and Table 1). This approach is based on existing land use and development patterns, where single-family homes occur at urban densities with relatively narrow setbacks (generally 20 to 50 feet, or less, on Lake Sammamish and 50 to 80 feet on Pine and Beaver Lakes). For Lake Sammamish, existing development patterns require use of an incentive-based, multi-faceted approach to ensure no-net-loss while allowing consistent and reasonable development. This was the City’s intent in developing standards 25.06.020(9) (Lake Sammamish Vegetation Enhancement Area) and 25.06.020(10) (Lake Sammamish Reduced Shoreline Setback).

For Pine and Beaver Lakes, no setback reductions are allowed, additions to non-conforming residences must generally occur only behind the residence and vegetation enhancement may be required. 80% tree retention is required for all areas within shoreline jurisdiction.

The approach is generally consistent with Futurewise guidance ‘Making Small Shoreline Buffers Work with Buffer Guidance’ (attached to the comment letter). The guidance specifies 20 feet as the smallest buffer that should be allowed where ‘science-based’ buffers are not feasible due to existing development and ongoing use. The SMP establishes a standard setback of 50 feet (45 + 5), and only allows reduction (Lake Sammamish only) below this when one or more of a suite of mitigation options are included. Responses for specific comments on the setback reduction mitigation options are included below.

The Futurewise et al. letter contains several recommendations for specific changes to the SMP language, including several specific comments regarding the setback reduction criteria listed in table 1 within the SMP.

- Reduction 1, Alt. 2 and Alt. 3: The three alternatives developed as part of Reduction Criteria 1 were intended to incentivize shoreline stabilization alternatives and maintenance of natural shorelines wherever feasible. Many of the existing single-family residential lots along the Lake Sammamish shoreline have bulkheads or other structural shoreline stabilization. Removal of these structures is encourage by Alternative 1. For shoreline residential lots that are partially modified or not modified, the City’s intent is to encourage full restoration to natural conditions or maintenance of natural conditions if they occur. Alternatives 2 and 3 create this fair and consistent approach for Lake Sammamish property owners while encouraging restoration and / or maintenance of shoreline conditions along the entire length of the shoreline.

- Reduction 2: Establishing the shoreline vegetation enhancement area is only triggered for certain expansion of existing legal non-conforming structures, or as an alternative for when new structures seek to build closer than the standard shoreline setback. Existing residential development along Lake Sammamish is frequently less than 40 feet from the lake shoreline. Given the existing pattern, the City’s approach for Reduction 2 is to encourage wider setbacks (where feasible from lot constraints) or allow maintenance of the existing pattern of development when the vegetation enhancement area is completed consistent with 25.06.020(9).

- Reduction 4 and 5: The Futurewise letter criticizes small (5 to 10 foot) reductions for encouraging development to limit impervious surface coverage and lawn coverage. The basis
for the criticism is focused on how it would be ineffectual for large lots. This is inconsistent with the general pattern of lots along the City’s Lake Sammamish shoreline, which are comprised of relatively small lots with significant existing impervious coverage (where developed). Given the existing pattern of lot size and development, incentivizing reductions in impervious surface and/or lawn area will result in greater coverage of vegetation throughout the lot area.

- **Reduction 6:** The Futurewise comment suggests adding 1 foot of width to the shoreline vegetation enhancement area for 1 foot of reduced shoreline setback, with a maximum 10 foot reduction available. This suggestion is similar to the 50 SF addition per 1 foot reduction currently proposed. As currently proposed, additional areas of vegetation enhancement would be contiguous with the vegetation enhancement area, however could allow some flexibility for site planning on generally small (constrained) residential lots.

- **Reduction 7:** Maintenance and/or restoration of aquatic vegetation provides significant habitat functions along the shoreline. Similar to alternative criteria for Reduction 1, allowing maintenance/conservation of vegetation where it occurs allows the City to encourage shoreline restoration in all areas.

- **Reduction 8:** Implementation of the shoreline vegetation management plan required by this reduction option would require review and approval by the City. In addition, implementation of the plan would be ensured consistent with the City’s existing approach for ensuring implementation (monitoring and maintenance) of required mitigation plans (for critical areas impacts).

Although property owners are allowed limited additions to existing structures within the setback or may reduce the setback width on Lake Sammamish, the effects are offset by the beneficial actions that property owners take to enhance nearshore/shoreline vegetation and/or remove hard armoring. By creating an incentive for property owners to “soften” bulkheads and incorporate fish-friendly, natural shorelines and restore the riparian areas immediately landward of the shoreline, the overall condition of the shoreline is expected to improve compared to current conditions. This is particularly relevant due to the developed nature of the majority of the shoreline with most residences already constructed close to the OHWM. Property owner development is expected to be primarily additions and remodels.

On highly developed shorelines in developed basins, like the Lake Sammamish shoreline and the East Lake Sammamish Basin, actions outside of shoreline jurisdiction can have as much or potentially greater impacts on shoreline functions than buffer width and wide buffers may not be that advantageous in terms of maintaining water quality and habitat. However, vegetation enhancement and bulkhead removal at the water’s edge can have positive effects on water quality and habitat by creating shade, providing organic inputs, removing impediments to migration, and opening up spawning habitat (see the Sammamish Shoreline Inventory and Characterization Report, and Chapter 2 of this report, for further discussion). As a result of required setback reduction actions, the net adverse effect of the reduced setback width is negligible and more than offset by mitigation actions.

**19K - Incorporated Critical Areas Ordinance – General:** 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.
19K - City Response: Critical areas regulations were developed for consistent application throughout the City to protect unique, fragile, and valuable elements of the environment and require mitigation of unavoidable impacts on environmentally critical areas by regulating alterations in or near critical areas (21A.50.010 – Purpose). The City has worked to achieve balance between private property rights and protection of ecological functions; incorporation of critical areas regulations into the SMP without significant changes to provisions (outside of those required focused on shoreline setback and vegetation protection standards) allows for continued use of consistent standards throughout the City. Specific concerns pertaining to integrated critical areas regulations are summarized and addressed below.

Ecology decision reference (Critical Areas) - please see discussion under 19N.

19L - Incorporated Critical Areas Ordinance – Specific Concerns: Futurewise et al. is concerned that the City’s integrated CAO standards include ‘inappropriate buffer related provisions’ (see page 19 of comment letter). Concern is focused on:
- CAO allowances for use of buffers (utilities and stormwater facilities, trails);
- standards for lacustrine wetlands;
- allowances for small wetlands (under 100 SF), and
- exclusion of allowance for ‘water-enjoyment uses’ within the buffer.

19L - City Response:
- CAO Allowances for Utilities and Trails
  Allowances for utilities and trails within critical areas buffers are detailed at length in 21A.50. The City’s provides allowances to enable common and necessary infrastructure development - the location and design of which are typically constrained because they must follow existing rights-of-way, connect to other existing infrastructure, or meet safety standards. The City’s provisions ensure that allowances are limited, necessary, and that impacts are mitigated. For example, alterations allowed within wetlands and wetland buffers are detailed by 21A.50.300. The section states that utilities may be allowed in wetland buffers if it is determined “that no reasonable alternative location is available” and “the utility corridor meets any additional requirements for installation, replacement of vegetation and maintenance, as needed to mitigate impacts” (21A.50.300(4)). Additional provisions are applied for utility corridors, including assurance that the wetland and wetland buffer is not utilized by a species listed as endangered or threatened by state or federal government…”, that the corridor alignment is as far from the wetland within the buffer area as is feasible, tree protection standards, that additional buffer is provided, that necessary access points (maintenance roads) minimizes disturbance, and so on (21A.50.300(5)). Similar protective measures are provided for stormwater utility allowances, public and private trails, and crossings (21A.50.300(6 – 13). Allowances for streams, primarily focused on stream buffer areas, are similarly refined to facilitate very specific allowances, as detailed by 21A.50.340.

Outright exemptions from critical areas standards for utilities are limited to alterations required by emergency situations, normal and routine maintenance, relocation of certain facilities (excluding electrical substations and high-voltage lines) when required by a local governmental agency that approves the new location of the facilities, and activities within existing developed utility corridors (21A.50.050 – Complete exemptions). Clearing and grading exemptions referenced in 21A.50.050(5) are detailed to ensure that exemptions that may impact critical areas do not apply when occurring in a critical area or associated buffer (16.15.050 Clearing and grading permit required – Exceptions).

Other King County cities have similar provisions for certain allowed uses within critical areas – like Sammamish, the majority of these provisions are focused on allowances for reduced buffer
widths and/or alignment of utility and trail facilities through buffers and use of buffers for certain types of stormwater facilities. See Bellevue Land Use Code (20.25H.050 Uses and development in the Critical Areas Overlay District), City of Duvall Sensitive Areas Regulations (14.42.220 0- Wetland Alterations), City of Kirkland Chapter 90 – Drainage Basins (90.55 and 90.60).

State and federal regulations, documented in the Inventory and Characterization Report and Cumulative Impact Analysis, also require protection for wetlands, streams, and lakes. All development activity, except as exempted by specific provisions of state and federal programs, would have to comply with these regulations and provide appropriate mitigation for any impacts that occur.

Ecology decision reference (Critical Areas) - please see discussion under 19N.

- **Lake Fringe (Lacustrine) Wetlands**
  Critical areas provisions specify that wetlands located entirely waterward of a lake’s OHWM should be regulated consistent with SMP standards (setback, vegetation protection) (21A.50.290(2)). This provision was developed to establish clear and consistent standards for shoreline property owners. The Futurewise letter does not clearly state that the provision would apply only to lake fringe wetlands located entirely waterward of the OHWM. For wetlands extending waterward and landward of the OHWM, wetland standards would still apply.

- **Exemption for Small, Isolated Wetlands**
  The limited exemption provided by 21A.50.320 for isolated wetlands less than 1,000 square feet is common to many neighboring jurisdictions’ critical areas provisions (see discussion below). Impacts to isolated wetlands are also reviewed by Washington State Department of Ecology and require an Administrative Order. The state may require mitigation (http://www.ecy.wa.gov/biblio/0106020.html).

  The City of Bellevue does not regulate Category IV wetlands under 2,500 square feet in size (http://www.codepublishing.com/wa/bellevue/LUC/BellevueLUC2025H.html#20.25H.095). The City of Duvall may allow alteration or displacement of Category IV wetlands less that 2,000 square feet in size (http://library.municode.com/index.aspx?clientId=16325&stateId=47&stateName=Washington).

  Ecology decision reference (Critical Areas) - please see discussion under 19N.

- **Water-Enjoyment Uses**
  Allowances for water-oriented uses within the shoreline setback are consistent with the City’s intent to establish a balanced SMP that protects the public interest while still allowing for private property rights and appropriate uses. "Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

  In Sammamish water-enjoyment uses would be associated with an existing public park / open space area, and would likely be limited to recreational trails and/or wildlife viewpoints / view platforms. In the limited areas where water-enjoyment uses could occur in the City as accessory to recreational uses, the City does not want to exclude such uses from the shoreline
setback area (limiting potential for enhancing public access).

**19M - Use Regulations:** 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.

**19M - City Response:** The SMP was developed to provide consistent and usable policies and regulations for uses and development within the shoreline area; amongst other strategies to achieve usability the SMP is focused on uses and development activities that commonly occur and/or are allowed by underlying zoning in shoreline areas. As documented in the I&C Report and the CIA, existing and anticipated uses along the City’s lake shorelines are significantly limited. Existing and planned primary uses include residential use, recreational and open space uses, transportation use, and utility use. Underlying zoning throughout shoreline jurisdiction is R-4 (Urban Residential – maximum density of 4 dwelling units per acre). Allowed uses within R-4 areas include primarily single family residential and accessory uses. Uses not listed may not be allowed by underlying zoning, or, would require a shoreline conditional use permit.

The SMP does not address the following specific uses as none occur or are generally permitted in shoreline areas of the City by underlying zoning: aquaculture, commercial, forest practices, industry / port, mining, and multifamily residential. Including policies and regulations for these uses are not necessary as they are not generally permitted uses.

Boating facilities that do occur and are anticipated to continue in the City are addressed through policies and regulations for docks and other moorage uses (25.07.050 and 25.07.060) and boat launches (25.07.040). The SMP includes Shoreline Restoration and Enhancement Goals (25.03.060) and Restoration regulations (25.06.040).

The introductory text to the Permitted Uses table details coordination between the table and all use regulations that follow (25.07.010).

**Ecology decision reference (Shoreline Uses)** Ecology has specified Required Changes (Attachment A) related to both appropriate definitions of uses within the SMP and distinction of all SMA-related uses as either “permitted” (including development standards to satisfy no net loss), “Conditional” (requiring a Conditional Use Permit), or “Prohibited” (potential impacts do not need to be considered. Further, Ecology has provided a finding within Attachment A (Findings & Conclusions) concurring with the City’s conclusion that no use conflicts are anticipated through implementation of the SMP.

**19N - Critical Areas Integration:** 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.

**19N - City Response:** The City considered alternatives in incorporation of critical areas regulation (21A.50) into the SMP. Further, the City is aware of integration consideration for certain permits (Reasonable Use Exemption requiring a Shoreline Variance, for example) and other administrative provisions. The City is required to ensure consistency with SMA requirements and State Rules during implementation and administration of the SMP.
**Ecology decision reference (Critical Areas)** Ecology have listed required changes (Attachment B) related to integration of the City’s Critical Areas Ordinance (CAO). The changes are related to formal reference to limited sections of the City’s existing CAO and multiple wetland specific changes to ensure consistency with the applicable sections of the SMP-Guidelines.

Appropriate references to specific sections of the City’s CAO have been determined based on consistency with WAC 173-26-221 (2). Some sections of the City’s existing CAO such as exemptions in SMC 21A.50.050 through SMC 21A.50.070, references to “Reasonable Use” and the “Sunset Provision” in SMC 21A.50.400 are not consistent with SMP-Guideline provisions and therefore cannot be included as part of the City’s SMP.

In reference to wetland standards, Ecology have required changes to Mitigation Ratios and protection standards of aquatic bed wetlands to ensure consistency with the SMP-Guidelines under WAC 173-26-221 (2).

**19O - Critical Areas Regulations – Exemptions:** 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.

**19O - City Response:** Specifics regarding the City’s approach for complete exemptions and allowances within critical areas regulations, as incorporated into the SMP, are discussed in a previous response above.

Partial exemptions previously included in 21A.50, and redeveloped for application in the SMP, are designed to allow for certain uses and activities without requiring shoreline permit procedures, but as specifically stated, in conformance with state law. When state law requires a shoreline substantial development or other permit, the permit would still be required. The partial exemptions still require that all applicable standards of the SMP be followed. Partial exemptions are detailed be 25.06.020(8)), and include: structural modification, addition to, or replacement of existing legally created structures that do not meet shoreline setback and building setback requirements provided that the nonconformance into the shoreline setback is not increased (or minimally increased for the primary structure consistent with criteria 25.06.020(8)(b and c); select vegetation removal activities; and conservation, preservation, restoration and / or enhancement activities.

The City is aware of SMA required administrative and permitting standards; the SMP will be administered consistent with State Guidelines.

**Ecology decision reference (Critical Areas) -** please see discussion under 19N.

**19P - Miscellaneous Concerns – Intensification of use in an urban environment:** 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.

**19P - City Response:** Through completion of the Inventory and Characterization Report, Planning Commission and Public review and comment, and City Council adoption, the City developed a fair and consistent approach for the SMP to meet State Guidelines while allowing reasonable (and preferred) redevelopment and development consistent with City zoning, Comprehensive Planning, and parks master planning. The SMP incorporates provisions to ensure that new and/or expanded in-water structures are limited in length and size, that joint use facilities are preferred in instances where subdivision occurs, and that structures are designed and constructed to minimize impacts.

**19Q - Miscellaneous Concerns – SMP Terminology:** 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.

**19Q - City Response:** Through completion of the Inventory and Characterization Report, Planning Commission and Public review and comment, and City Council adoption, the City developed a fair and consistent approach for the SMP to meet State Guidelines while allowing reasonable (and preferred) redevelopment and development consistent with City zoning, Comprehensive Planning, and parks master planning. The Futurewise comment is noted.

**19R - Miscellaneous Concerns – Subdivision:** Futurewise et al. state that "no new subdivision lots should be allowed" in shoreline jurisdiction.

**19R - City Response:** The analysis conducted for the CIA included evaluation of the potential effects of subdivision of property (See pages 41, and 46-47). The analysis was focused on Pine and Beaver Lakes, as very little potential for subdivision is available on Lake Sammamish. The CIA documents where there is moderate potential for lot subdivision on the smaller City lakes, that the standards of the SMP are intended to focus the intensification of land use away from the shoreline area (requiring shared use docks, existing pattern of long, narrow lots with existing development at the lake-end of the lot). In addition the CIA discusses previous subdivision trends, which suggest that significant levels of subdivision will not occur within the foreseeable future (since 2005, one short-plat subdivision has occurred on Beaver Lake, none on Pine). The location of parcels that are large enough to be subdivided into more than four lots is limited to Pine and Beaver Lakes. Beaver Lake has 11 vacant parcels that could be subdivided based on width and size. Five of these are public parks or preserves, and the remaining parcels are constrained by critical areas that reduce the potential lot yield to four or fewer or have limitations from prior platting or conservation easements. Of the 13 parcels on Pine Lake, one is Pine Lake Park, one is a private open space tract, and one is just over the amount needed for four lots. There is one parcel that could create more than 10 lots and that parcel is 400 feet from Pine Lake Park. Additional limitations to subdivision would come through standards required for new on-site septic systems when sewer is unavailable, as well as lot size and width requirements at the Ordinary High Water Mark. See CIA discussion, page 46.

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.

**19S - 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.

19S - City Response: The suggestion from the Futurewise letter that shoreline stabilization standards need to be added for all types of development is inconsistent with the pattern of existing development and planned use of the City’s lake shorelines. Stabilization standards are included for stabilization types common and anticipated for residential, recreational, utility, and transportation uses – other primary uses do not occur on the shorelines of the City.

The mitigation approach suggested by the Futurewise letter (removal of twice the length elsewhere for new shoreline stabilization) is not feasible. The large majority of Sammamish shorelines are owned by residential property owners, with relatively short lengths of shoreline under their ownership and control. Implementing the suggested program would in practice prohibit shoreline stabilization, even where deemed necessary for protection of an existing structure. As an alternative, the City has developed an approach to regulating shoreline stabilization that is fair and consistent for shoreline property owners, while only allowing structural stabilization approaches where deemed necessary by specific criteria. The SMP approach is summarized below:

The SMP restricts construction of new bulkheads and expansion of existing bulkheads on residential properties to those situations where ‘soft-shore’ or bio-stabilization approaches are deemed infeasible (see CIA for additional discussion). This additionally extends to legally established bulkheads that need to be replaced (25.07.070(6)) (maintenance and repair is allowed pursuant to 25.07.070(8)). Bulkheads are only allowed when there is evidence from a geotechnical engineer that the existing primary structure is in imminent danger of damage caused by wind or waves and not by improper drainage, vegetation removal, or other upland conditions, for projects whose primary purpose is remediating hazardous substances pursuant to RCW 70.105, or to ensure shoreline access for substantial numbers of people. (25.07.070(2), (3) and (4)).

When shoreline stabilization is determined necessary, mitigation is required in the form of protection and/or enhancement of the vegetation within the shoreline vegetation enhancement area (25.07.070(1)(a)). Additional standards would apply to the size and design of the stabilization, including requirements for incorporation of natural vegetation and habitat elements wherever reasonable, and construction and maintenance in a manner that does not degrade the water quality of affected waters, maintains surface- and groundwater flows (weep holes) (25.07.070(1)(b, c, d, f, g, h)).

No gabions, motor vehicles, appliances, structure demolition debris, or solid waste to be used for shoreline stabilization. Any such objects that may be remnant from replaced shoreline stabilization must be removed from the shoreline and shoreline setback unless doing so would cause damage to the environment. (25.07.070(1)(e))

Breakwaters, jetties, rock weirs, groins and similar structural modifications are prohibited. 25.07.070(10).

Ecology decision reference (Shoreline Stabilization) Ecology concurs with the City’s response related to Shoreline Stabilization. The City’s Shoreline Stabilization standards were found by Ecology to be generally consistent with SMP-Guideline requirement. Therefore, Ecology has only identified a few minor changes within Attachment B (Required Changes). It should be noted that the Shoreline Stabilization requirements within the SMP-Guidelines within WAC 173-26-231-3 (a)
are relatively prescriptive. Therefore, all jurisdictions completing their SMP updates consistent with the SMP-Guidelines will have similar Shoreline Stabilization standards that reflect a clear preference for soft armoring over hard armoring, but recognize that site specific conditions will dictate the appropriate stabilization method to ensure adequate protection for existing (primary) structures, for which a “demonstrated need” for (erosion) protection will be required for consideration of future armoring proposals.

**19T - 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.

**19T - City Response:** The SMP includes standards to limit overall dock length (85 feet or the length necessary to reach a depth of 8 feet) and area (dependant on number of residential lots using the dock – see CIA Table 3 and 25.07.050(2 and 3)) for residential docks. Other standards for overwater structure include limitations on boat lifts and canopies (allowed with restrictions on Lake Sammamish, prohibited on Pine and Beaver Lakes), and limitation on the number of floats allowed.

*Development of the SMP also recognized state and federal standards for design, location, and construction of docks and other in-water structures. Standards implemented by the Army Corps of Engineers and WDFW include specification for materials, design standards, and construction methods all provided to minimize impacts to aquatic areas. Federal and state standards additionally require mitigation for impacts associated with development of new or expanded overwater structures.*

**Ecology decision reference (Pier/Dock)** Ecology has listed both “required” (Attachment B) and “suggested” (Attachment C) changes to pier/dock standards for compliance with SMP-Guidelines. Within Attachment A (Findings & Conclusions), Ecology provides findings related to pier/dock standards under the “Shoreline Modification” section. In general, Ecology’s changes are based on regional pier/dock standards that are acceptable to federal resource agencies to promote streamlined review of pier/dock proposals through local, state and federal review processes. Further, over the last 3-years, Ecology and local Lake Washington/Sammamish jurisdictions have coordinated with the federal resource agencies to amend the regional pier/dock standards to allow more flexible standards for replacement proposals. Finally, the changes proposed within the SMP will allow for minor repair of pier/dock structures (within a defined threshold) that will not require upgrades of the structure to new standards.

**19U - 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.

19U - City Response: Proposed SMP allows subdivision on lots a minimum of 50 feet wide, and specifies that all created lots must have a minimum area of 12,500 square feet. Additional density would be consistent with underlying zoning and only be permitted if all other site conditions would allow (SMC 25.07.080(8)).

New subdivision, if served by septic systems, would be required to meet Washington State Department of Health / King County Department of Health standards for on-site septic until public sewer is made available. See response to subdivision comments above for discussion of foreseeable subdivision within the Pine Lake and Beaver Lake shoreline areas. Note that both sewer and water service is provided by independent districts within the City of Sammamish.

19V - 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.

19V - City Response: The Shoreline Public Access Regulations are consistent with Sammamish’s Comprehensive Plan, Open Space Plan, and various park master plans. Parks master plans document the City’s intent to enhance and/or develop shoreline parks in a fashion consistent with the intent of this Futurewise comment (Master Plans were noted in discussion previously about vegetation management, with links to plan). Water-oriented development is focused along the shoreline, and all other planned parks improvements are located well away from the shoreline wherever feasible. The Plans additionally identify shoreline restoration and open space conservation in less developed areas along the lake shorelines (as well as associated wetlands and stream corridors). A Public Access Summary that features citywide shoreline park and open space plans along with bike and pedestrian access routes is included in Folder 5 – Related Documents of the SMP submittal to ECY.

19W - 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.

19W - City Response: Sammamish is committed to meeting the shoreline public access needs of its residents. Public access is currently available on all three SMP regulated lakes. Provisions for increased access are included in the Public Access Summary found in Folder 5-Related Documents of the ECY SMP submittal.

There is little to no subdivision expected in the City’s shoreline areas that would result in creation of 4 or more new lots – such subdivision is potentially feasible on approximately 10% of Pine and Beaver Lake residential lots, however review of development trends over the last six years indicates that subdivision will not occur at significant levels (CIA). The City developed a fair and
consistent approach to public access policies and regulations; in doing so the City determined that focusing public access improvements at existing park and open space areas along each of the shorelines would best serve public needs.

**19X - 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.

**19X - City Response:** The City is aware of SMA required administrative and permitting standards; the SMP will be administered consistent with State Guidelines.

**19Y - 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.

**19Y - City Response:** Comments regarding inadequacies of the CIA are noted. As the comment states, many of the CIA’s perceived inadequacies are a result of perceived shortcomings in the SMP. The responses to all other SMP comments from the Futurewise letter address the City’s approach to developing a fair and balanced program. Other responses address the primary concern with the CIA.

As stated in the CIA, a significant component of the SMP comes through adoption and implementation of the Shoreline Restoration Plan. During the SMP Update Process, the City developed a Restoration Plan that is intended to provide recommendations for restoring the shorelines of Lake Sammamish, Pine Lake and Beaver Lake as well as developing a framework under which shoreline restoration can be successfully achieved. As components of the plan are implemented voluntarily or as mitigation for development impacts, the City expects to see a gain in shoreline ecological functions, which will offset some of the effects of past and expected future development.

**Ecology decision reference: (No Net Loss - water quality, quantity and habitat)** Ecology has based many of the “required” (Attachment B) and “suggested” (Attachment C) changes to Ordinance 2009-265 (locally approved SMP) on SMP-Guideline requirements to satisfy No Net Loss of shoreline ecological functions pursuant to WAC 173-26-186-8 and 173-26-201. Ecology’s findings associated with No Net Loss can be reviewed within multiple sections of the Findings & Conclusions (Attachment A) document as part of Ecology’s decision. Pursuant to WAC 173-26-201, ecological functions within fresh water lakes are generally evaluated based the degree of impairment of water quality, water quantity and habitat functions. As described within Ecology’s Findings & Conclusions (Attachment A), to satisfy the no net loss requirement of the SMP-Guidelines, jurisdictions are required to first characterize the status (degree of impairment) of all three functions and then evaluate the potential impact to these functions based on the type, amount and relative (anticipated) impact of future development allowed by the SMP. The SMP-Guidelines recognize that perfect information may not be available to specifically describe future impacts, therefore the Guidelines directs jurisdictions to error on the side of caution, to ensure protection of existing (water quality, quantity and habitat) functions in order to satisfy the no net loss requirement. Ecology has identified multiple changes within Attachment B and C, based on these requirements to ensure adequate protection of water quality, quantity and habitat functions as described within the City’s supporting documents (Inventory/Characterization, Cumulative...
Impact Assessment).