City of Kenmore

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City of Kenmore
Planning Commission Meeting Agenda

Tuesday, January 29, 2019 @ 7:00 p.m.
Kenmore City Hall
18120 68th Ave. NE, Kenmore, WA 98028

If you have any questions or to confirm agenda items prior to the meeting, or if you require special accommodations, please call Bridgit Baker at 425-398-8900. You may also stop by City Hall at 18120 68th Avenue NE, Kenmore. Planning Commission agendas are also available on our website at www.kenmorewa.gov.

1. **CALL TO ORDER**

2. **CITIZEN COMMENTS**

3. **AGENDA ITEMS**

   Critical Areas and Shoreline Master Program Amendments Memo
   Attachment 1 - Follow-up information and revised recommendations

4. **ADJOURNMENT**

5. **UPCOMING MEETINGS:**
   February 2, 2019, 7:00 pm (to be cancelled?)
   February 19, 2019, 7:00 pm (to be cancelled)
   February 26, 2019, 7:00 pm
   March 5, 2019, 7:00 pm
   March 19, 2019, 6:15 pm (Planning Short Course)
   March 26, 2019, 7:00 pm (Public Hearing?)

18120 68TH AVENUE NE
KENMORE, WASHINGTON 98028

MEMO

TO: Planning Commission

FROM: Debbie Bent, Community Development Director
Lauri Anderson, Principal Planner

DATE: January 24, 2019

SUBJECT: Critical Areas and Shoreline Master Program Amendments

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The agenda for your January 29 discussion is to consider the next set of change requests to the amendments you previously have considered. Attachment 1 is the compilation of questions, issues and revised recommendations resulting from discussions with the Department of Ecology (Ecology), other staff and the consultants. Staff suggests that, as in the past, you review the amendments and discuss concerns "by exception."

Yesterday, we received comments on the Public Agency and Utility Exception (PAUE) from the Department of Ecology and comments from FEMA on the revised flood regulations. The comments are extensive, and we will be meeting with our consultants over the next several days to discuss responses. Given that the agenda packet for your February 5 meeting is due next week and we will not have time to draft changes for your review, we recommend that you cancel your February 5 meeting and take up the last set of recommended amendments at your February 26 meeting.

This will push the public hearing on the CAR/SMP amendments to late March and we will be asking about your availability for a hearing on Tuesday, March 26. (As you recall, your regular second meeting in March is the Planning Short Course.)

Please don't hesitate to contact us if you have questions in advance of the meeting.

Attachments
Attachment 1: Follow-up information and revised recommendations

Following are some of the questions/concerns raised by Department of Ecology (Ecology), staff, and the consultants, along with the staff responses and, if appropriate, staff's revised amendment recommendations.

SHORELINE SUB-ELEMENT

1. Are the designation descriptions consistent between the Shoreline Sub-Element and the shoreline code?

Staff response: Other staff have flagged a concern that the purpose and designation descriptions may be inconsistent. Reviewing the Comprehensive Plan and code sections together, staff recommends the following adjustments to increase consistency between the two documents and to make additional updates:

17.1 Downtown Waterfront Environment [Comprehensive Plan]
Purpose: The purpose of the Downtown Waterfront Environment is to provide for mixed urban water-oriented~~enjoyment~~ uses, public access and recreation while protecting existing ecological functions. [change to match 16.20.010]

Designation Criteria: The shoreline along the contiguous downtown waterfront that is zoned regional business and waterfront commercial in KMC Title 18 and does not meet the requirement for other designations is to be assigned the Downtown Waterfront Environment designation. [change to match 16.20.020]

16.20.020 Designation criteria. [regulations]
The shoreline along the contiguous downtown waterfront that is zoned regional business and waterfront commercial in KMC Title 18 and does not meet the requirement for ~~Urban Conservancy or Shoreline Residential~~ other designations is to be assigned the Downtown Waterfront Environment designation. [change to update zoning]

17.2 Shoreline Residential Environment [Comprehensive Plan]
Designation Criteria: The Shoreline Residential Environment designation should be assigned to shoreline areas if they are predominantly developed for single-family or multifamily residential development or are planned and platted for residential development, and the shoreline areas do not meet the criteria for other designations. [change to match 16.25.020]

17.3 Urban Conservancy Environment [Comprehensive Plan]
Purpose: The purpose of the Urban Conservancy Environment is to protect and restore ecological functions of open space, streams, wetlands, and floodplains ~~and other sensitive lands~~ where they exist in urban and developed settings, including areas below the ordinary high water mark in Swamp Creek, while allowing a variety of compatible uses.

16.30.010 Purpose. [regulations]
The purpose of the Urban Conservancy Environment is to protect and restore ecological functions of open space, streams, wetlands, and floodplains where they exist in urban and developed settings, including areas below the ordinary high water mark in Swamp Creek, while allowing a variety of compatible uses.

17.5 Aquatic Environment [Comprehensive Plan]
Designation Criteria: Lake Washington and the Sammamish River below (waterward of) the ordinary high water mark are to be designated as Aquatic Environment. In Lake Washington, the Aquatic Environment extends to the centerline of the lake.

2. **Adjust Urban Conservancy (page 4E-6) to address Ecology comment about suitability for water dependent uses associated with recreation**.

Staff response: In response to Ecology's concern about removal of the standard language about general suitability for water-dependent uses (which came from the Washington Administrative Code or WAC), staff and consultants recommend the following change to clarify the limited scope of allowed water-dependent uses.

Designation Criteria: An Urban Conservancy Environment designation is assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring ecological functions of the area ~~and that are not generally suitable for water-dependent uses if any of the following characteristics apply~~. This designation should be applied when:

(A) The shoreline ~~includes wetlands or exceptional riparian corridor that should not be more intensively developed~~is suitable for water-related or water-enjoyment uses and public access and recreation-related water-dependent uses;

CRITICAL AREA REGULATIONS

3. Update mitigation bank provisions

Staff response: Revisions were originally suggested to the existing wetland mitigation bank provisions in City code, and then a new section allowing mitigation bank usage for stream impacts was developed. Staff is now recommending that mitigation banking language in Ecology's model wetland code be utilized instead of the modified City code, and then adapted for use in the stream section. The suggested language is more concise and avoids referencing other documents and state laws whose titles and/or dates may change over time.

18.55.330 Performance standards – Mitigation requirements.

I. Mitigation Banking

1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
   a. The bank is certified under state rules;
   b. The *city manager* determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
   c. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.
2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.
3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

~~I. *Mitigation Banking*. The *City* may consider and approve *mitigation banking* as a form of compensatory *mitigation* for *wetland* impacts when the provisions of this chapter require *mitigation* and when it is clearly demonstrated that the use of a bank will provide equivalent or greater replacement of *critical area functions and values* when compared to on-site *mitigation*; provided, that all of the following criteria are met:~~

~~1. Banks shall only be used when they provide significant ecological benefits including long-term conservation of *critical areas*, important *species*, habitats, and when they are consistent with~~

~~the *City* comprehensive plan and create a viable alternative to the piecemeal *mitigation* for individual project impacts to achieve ecosystem-based conservation goals.~~

~~2. The bank shall be established in accordance with the Washington State Draft~~ Wetland ~~Mitigation Banksing Rule (Chapter~~ 173-700 ~~WAC) or as revised, and the Wetlands Mitigation Banking Act (Chapter~~ 90.84 ~~RCW),~~ and ~~the federal *mitigation banking* guidelines as outlined in the Federal Register Volume 60, No. 228, November 28, 1995. These guidelines establish the procedural and technical criteria that banks must meet to obtain State and federal certification.~~

~~3. Preference shall be given to *mitigation banks* that implement *restoration* actions that have been identified formally by an adopted shoreline *restoration* plan or the Lake Washington/Cedar/Sammamish (*WRIA* 8) Watershed Chinook Salmon Conservation Plan.~~

18.55.430 Performance standards – Mitigation requirements.

D. Credits from a mitigation bank may be approved for use as compensation for unavoidable impacts to aquatic habitats when:

a. The bank is certified under state rules;

b. The city manager determines that the mitigation bank provides appropriate compensation for the authorized impacts; and

c. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.

2. Accounting methods for quantifying project impacts and the necessary compensation shall be consistent with methods specified in the certified bank instrument.

3. Credits from a certified mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin.

~~D. *Mitigation Banking*. The *City* may consider and approve *mitigation banking* as a form of compensatory *mitigation* for stream or lake impacts when the provisions of this chapter require *mitigation* and when it is clearly demonstrated that the use of a certified bank will provide equivalent or greater replacement of *critical area functions and values* when compared to on-site *mitigation*; provided, that all of the following criteria are met:~~

~~1. Banks shall only be used when they provide significant ecological benefits including long-term conservation of *critical areas*, important *species*, habitats, and when they are consistent with the *City* comprehensive plan and create a viable alternative to the piecemeal *mitigation* for individual project impacts to achieve ecosystem-based conservation goals.~~

~~2. The bank shall be established in accordance with applicable provisions of the Washington State Wetland Mitigation Banks Rule (Chapter 173-700 WAC) or as revised.~~

~~3. Preference shall be given to *mitigation banks* that implement *restoration* actions that have been identified formally by an adopted shoreline *restoration* plan or the *Lake Washington/Cedar/Sammamish (WRIA 8) Watershed Chinook Salmon Conservation Plan*.~~

4. <u>The regulations should set up a "tiebreaker" if a second geotechnical analysis is needed.</u>

Staff response: The Planning Commission set out a strategy for choosing a third geotechnical reviewer if the City's reviewer and the applicant's reviewer did not agree on approaches. Staff recommends the following language:

18.55.630 Critical areas report.

A. A *critical areas* report shall be required for all proposed *alterations* of properties that are located within 200 feet of any *geologically hazardous area*. Requirements for *critical areas* reports for *geologically hazardous areas* are available from the *city manager*.

B. In the event that the *applicant's* geotechnical consultant and the City's geotechnical reviewer cannot resolve the geotechnical issues and do not agree on required development conditions~~At its discretion~~, the City may require ~~*applicants* to fund~~ a third-party review of the *critical areas* report ~~by a *qualified professional* selected by the *City* and agreed to by the *applicant*~~. The *applicant's* consultant and the City's reviewer shall select a mutually agreed upon qualified professional to provide the final opinion. The applicant shall fund this review and shall make substantive changes to the proposed *alteration* or provide additional analysis as directed by the third-party reviewer.

5. Check the definition of "public agency" as the PAUE is considered.

Staff response: This request was made by the Planning Commission, concerned that other agencies (non-profits such as churches) might also benefit from the PAUE.

Staff recommends against broadening this definition as the State guidance references only public agencies or utilities. The PAUE is meant to address governmental or utility entities that serve the general public or have a public service obligation. These types of services, facilities and utilities are defined below:

> *RCW 36.70A.030 (13) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.*
>
> *RCW 36.70A.030 (14) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.*
>
> *WAC 365-196-210 (24) "Public service obligations" means obligations imposed by law on utilities to furnish facilities and supply service to all who may apply for and be reasonably entitled to service.*
>
> *WAC 365-196-210 (36) "Utilities" or "public utilities" means enterprises or facilities serving the public by means of an integrated system of collection, transmission, distribution, and processing facilities through more or less permanent physical connections between the plant of the serving entity and the premises of the customer. Included are systems for the delivery of natural gas, electricity, telecommunications services, and water, and for the disposal of sewage.*

Public facilities, services, and utilities are addressed in various Comprehensive Plan Elements, including the Capital Facilities Element and Utilities Element.

Churches and other non-profits do not provide public facilities, public services or utility services as defined under the Growth Management Act. However, there is already a process that recognizes the rights of property ownership and a need for reasonable use of property by all non-public property owners that are encumbered with critical areas, called a reasonable use exception.

SHORELINE REGULATIONS

6. Are additional regulations for Swamp Creek Commercial needed?

Staff response: Development of a new environment designation requires some additional edits to other code sections. Staff recommends the following:

16.15.020 Names of shoreline environment designations.

In order to accomplish the goals, policies, and regulations of the Kenmore Shoreline Master Program, the following shoreline environment designations have been established:

A. Downtown Waterfront Environment.

B. Swamp Creek Commercial.

CB. Shoreline Residential Environment.

DC. Urban Conservancy Environment.

ED. Natural Environment.

FE. Aquatic Environment.

7. What are the buffers for Swamp Creek Commercial?

Staff response: Development of a new environment designation requires establishment of designation-specific shoreline buffers. Staff recommends the following:

Shoreline Density and Dimensions Table	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Shoreline Buffers from OHWM on Swamp Creek						
Residential development[31]	NA	60 ft	50 ft	150 ft	150 ft	--
Water-oriented parks and outdoor recreational facilities	NA	50 ft	(3)	(3)	(3)	--
Non-water-oriented parks and outdoor recreational facilities	NA	60 ft	75 ft	100 ft	150 ft	--
Other water-oriented uses	NA	50 ft	50 ft	100 ft	150 ft	--
All other non-water-oriented uses	NA	60 ft	150 ft	150 ft	150 ft	--

8. Should fill outside of the floodplain be "P" for Urban Conservancy?

Staff response: This request was made by City staff. After reviewing the Shoreline Master Program Guidelines (WAC 173-26), consultants agreed that fill could be allowed in upland areas outside of floodplains in the Urban Conservancy Environment designation.

16.55.030 Shoreline modifications table and conditions.

A. Shoreline Modifications Table.

Shoreline Modifications Table

KEY **P –** Permitted Modification **C –** Shoreline Conditional Use Required **X** – Prohibited Modification **U** – Same modification allowances as in adjacent upland Environment **NA –** Not applicable *Shoreline modifications* are allowed only if the underlying zoning allows the modification	**DOWNTOWN WATERFRONT**	**SWAMP CREEK COMMERCIAL**	**SHORELINE RESIDENTIAL**	**URBAN CONSERVANCY**	**NATURAL**	**AQUATIC**
Fill. See also KMC Section 16.55.060.						
Upland outside of floodplain	P	P	P	~~C~~P	C	NA
Upland inside of floodplain	P	C	C	C	C	NA
In-water, restoration	NA	P	P	P	P	P
In-water, non-restoration	NA	C	C	C	C	C

9. Add a definition of "boat launch."

Staff response: This request was made by City staff. Staff recommends the following:

16.10.085 Boat launch.
"Boat launch" means an inclined slab, set of pads, rails, planks, or graded slope which extends waterward of the OHWM, and is used for transferring watercraft between uplands and the water by means of a trailer, hand, or mechanical device.

10. **Incorporate state law that provides relief to properties added to shoreline jurisdiction by restoration projects**.

Staff response: This proposed change was recommended in Ecology's SMP periodic update checklist based on a 2009 change in state law. Staff recommends the following:

16.75.055 Relief from shoreline master program development standards and use regulations.
A. Purpose of section. This section incorporates statutory direction from RCW 90.58.580. In adopting RCW 90.58.580, the legislature found that restoration of degraded shoreline conditions is important to the ecological function of our waters. However, restoration projects that shift the location of the shoreline can inadvertently create hardships for property owners, particularly in urban areas. Hardship may occur when a shoreline restoration project shifts shoreline jurisdiction into areas that had not previously been regulated under the act or shifts the location of required shoreline buffers.

The intent of this section is to provide relief to property owners in such cases, while protecting the viability of shoreline restoration projects.

B. Conditions and criteria for providing relief. The city may grant relief from standards and use regulations in this title when the following apply:

1. A shoreline restoration project causes or would cause a landward shift in the ordinary high water mark, resulting in the following:
   a. Land that had not been regulated under this title prior to construction of the restoration project is brought under shoreline jurisdiction; or
   b. Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the Kenmore SMP and this title; and
   c. Application of this title would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent.
2. The proposed relief meets the following criteria:
   a. The proposed relief is the minimum necessary to relieve the hardship;
   b. After granting the proposed relief, there is net environmental benefit from the restoration project;
   c. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the Kenmore SMP and this title; and
   d. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section.
3. The application for relief must be submitted to the Washington State Department of Ecology for written approval or disapproval. This review must occur during Ecology's normal review of a shoreline substantial development permit, conditional use permit, or variance. If no such permit is required, then Ecology shall conduct its review when the city provides a copy of a complete application and all supporting information necessary to conduct the review.
   a. Ecology shall provide at least twenty days notice to parties that have indicated interest to Ecology in reviewing applications for relief under this section, and post the notice on its web site.
   b. Ecology shall act within thirty calendar days of the close of the public notice period, or within thirty days of receipt of the proposal from the city if additional public notice is not required.

C. A substantial development permit is not required on land that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark.

11. Allow Vehicle or Equipment Rental in Downtown Waterfront with P3,18 (same as Urban Conservancy and Aquatic).

Staff response: This request was made by City staff. Staff recommends the following:

16.50.030 Shoreline use table and conditions.

A. Shoreline Use Table.

Shoreline Use Table

KEY **P –** Permitted Use **C –** Shoreline Conditional Use **X** – Prohibited Use **U** – Same use allowances as in adjacent upland Environment	**DOWNTOWN WATERFRONT**	**SWAMP CREEK COMMERCIAL**	**SHORELINE RESIDENTIAL**	**URBAN CONSERVANCY**	**NATURAL**	**AQUATIC**
Vehicle or equipment rental	~~X~~ P3,18	X	X	P3,18	X	P3,18

~~4~~3. Only the *water-dependent* portion of the use shall be allowed in the *shoreline environment*~~, except as provided in this section for utility uses~~.

18. Only when accessory to a park or recreational facility and related to water access for the public.

12. Add "native" to standard 3 as follows:

Staff response: This request was made by City staff to ensure that removal of non-native vegetation is not limited. Staff recommends the following:

B. In the Natural Environment, recreational uses shall meet the following standards:

1. Vehicular access, parking and restrooms should be located outside the shoreline jurisdiction; if infeasible to locate outside of the shoreline jurisdiction, such facilities shall be located as far from the shoreline as is *feasible*;

2. Trails should be designed primarily for pedestrian access, including access by wheelchair where appropriate, and should be no wider than is necessary to accommodate expected pedestrian traffic;

3. Removal of native vegetation for recreational uses shall be the minimum necessary to provide pedestrian access and limited visual access to the shoreline;

13. Amend utility facilities standards regarding impact on salmon spawning, rearing or migration habitat:

Staff response: This request was made by City staff. The proposed change recognizes that there may be short-term adverse impacts to habitat during project implementation which are unavoidable. Staff recommends the following:

16.50.080 Utility facilities.

The following standards apply to utility uses within the *shoreline environment*:

A. Stormwater and sewage outfalls may be permitted in *shoreline environments* if upland treatment and infiltration to groundwater, streams or *wetlands* is not *feasible* per WAC 173-26-020 and there is no long-term adverse impact on salmon spawning, rearing or migration habitat;

14. Floats and moorage buoys should be "P" in the Natural Environment, rather than "U."

Staff response: This request was made by City staff. Floats and moorage buoys would not be appropriate in the Sammamish River waterward of the Natural Environment based on navigation and other ecological concerns. Staff recommends the following:

16.55.030 Shoreline modifications table and conditions.

A. Shoreline Modifications Table.

Shoreline Modifications Table

KEY **P –** Permitted Modification **C –** Shoreline Conditional Use Required **X** – Prohibited Modification **U** – Same modification allowances as in adjacent upland Environment **NA –** Not applicable *Shoreline modifications* are allowed only if the underlying zoning allows the modification	**DOWNTOWN WATERFRONT**	**SWAMP CREEK COMMERCIAL**	**SHORELINE RESIDENTIAL**	**URBAN CONSERVANCY**	**NATURAL**	**AQUATIC**
Water access structures[4]. See also KMC Section 16.55.050.						
Other *floats* and moorage buoys	P	X	P	P	~~X~~P8	U

8. Floats and moorage buoys are only permitted waterward of the Natural Environment designation in Lake Washington.

15. Amendments to Water Access Structures standards:

Staff response: The request to allow for necessary removal of habitat features was made by City staff. Staff recommends the following:

2. Existing habitat features (e.g., large and small woody debris, ~~substrate material,~~spawning gravel, etc.) shall be retained to the maximum extent practicable and new or expanded water access structures placed to avoid disturbance of such features. Mitigation is required where habitat features cannot be avoided or when habitat features are removed to address navigation or access requirements.

16. Limitation on area of commercial covered moorage.

Staff response: This request was made by Ecology to implement principles and requirements in WAC 173-26 for minimization of over-water structure size. Staff recommends the following:

~~15~~6. No covered ~~boat lift, dock, pier, covered moorage, covered float, or other covered~~water access structure is permitted waterward of the *ordinary high water mark*, except as provided below:

b. Covered moorage may be provided for commercial boat repair facilities. Applicants shall submit information demonstrating that the covered area is the minimum necessary to serve the proposed use.

17. Editorial changes to grating requirements in 16.55.050.B:

Staff response: This request to make editorial changes was made by City staff. Staff recommends the following:

The grating must be either multi-directional grating with a minimum of 40% open space or ~~square~~rectangular grating with a minimum of 60% open space. Provide documentation to show ~~amount of~~ % open area.

18. Cross-references in parks regulations to water access structure regulations.

Staff response: This request was made by City staff to address consistency in regulation section titles and to provide useful cross-references to the more detailed regulations governing water access structures in 16.55.050. Staff recommends the following:

16.50.070 Parks and recreation.

A. *Recreational development* in all environments must meet the following standards:

1. The construction of ~~swimming facilities, *docks*, *piers*, moorage buoys, *floats*, and launching facilities~~ water access structures waterward of the *ordinary high water mark* shall be governed by the regulations relating to ~~*docks*, *piers*, moorage buoys, *floats*, or launching facility~~ water access structure construction in KMC 16.55.050.

2. Swimming areas shall be separated from boat launch areas and *marinas*, to the maximum extent practical, consistent with 16.55.050.C.

19. Amend description of landscape plan preparer.

Staff response: This request was made by City staff to address an unnecessarily restrictive limit on the authors of a native landscaping plan. Staff recommends the following:

16.60.010 Vegetation conservation areas.
E. Landscaping plans for *shoreline buffers* associated with shoreline *development* regulated under the shoreline code must be prepared by a ~~landscape architect or certified professional wetland scientist~~qualified professional with experience developing native lake- or riverfront landscaping plans. Landscaping plans are not required for normal maintenance, including maintenance of existing nonconforming landscaping that complies with KMC 16.75.050.

20. Move outdoor storage prohibitions (16.65.020.B.3) back to "use" section.

Staff response: Prohibitions on outdoor storage are found in 16.65.020.B.3 but should be moved to the "use allowance" section to parallel treatment in the Zoning Code. Staff recommends the following:

16.50.030 Shoreline use table and conditions

D. Outdoor ~~s~~Storage.
Outdoor storage is allowed only in the Downtown Waterfront Environment and is prohibited in all other environments. Such use shall be accessory to a permitted ~~for~~ water-dependent ~~manufacturing~~

~~and industrial~~ use~~s~~, ~~must~~shall be at least 20 feet from the *ordinary high water mark* ~~in the Downtown Waterfront Environment and is prohibited in all other environments~~, and shall meet the following standards:~~.~~

1. Storage shall not be permitted in required setbacks and shall not be located between the building(s) and the primary street.

2. Storage shall be screened from view from the public right-of-way and adjacent residential zones using a minimum six-foot-high solid wood fence, masonry wall, or vegetation approved by the *city manager*.

3. Storage shall be maintained in a neat, orderly and safe manner.

4. Outdoor storage areas shall be graded and shall meet the requirements of the City's Stormwater Pollution Prevention Manual. Outdoor storage areas may be surfaced with permeable materials if adequate drainage and erosion and dust control are provided.

5. Lighting shall be directed away from adjacent residential zones and shall be shielded as necessary to reduce impacts.

21. Define upland.

Staff response: This suggestion was made by Ecology to add clarity to the categories in the modifications table that distinguish between upland and in-water activities. Accordingly, staff recommends the following:

16.55.020 Interpretation of shoreline modifications table.

The shoreline modification table in KMC 16.55.030 determines whether a specific shoreline modification is allowed within each of the shoreline environments. The shoreline environment is located on the vertical column and the specific ~~use~~modification is located on the horizontal row of the table. The specific modifications generally are grouped by the shoreline modification categories in WAC 173-26-231. The table should be interpreted as follows:

G. For purposes of interpreting the modification table, "upland" means that the use or activity is landward of the shoreline waterbody's ordinary high water mark.

22. Identify sections of 18.55 that should be excluded from the shoreline regulations.

Staff response: This change is an Ecology requirement. Because the Shoreline Master Program has its own RCW- and WAC-mandated permit processes and procedures required and allowed by the Shorelne Management Act, certain provisions of the critical areas regulations (which are under the Growth Management Act) can not be utilized in shoreline jurisdiction. Although those sections of Chapter 18.55 state that they may not be utilized in shoreline jurisdiction, Ecology requires that the SMP also clearly state which regulations do not apply. Accordingly, staff recommends the following:

16.05.060 Relationship to other Kenmore programs.

B. The following sections of the Kenmore Municipal Code are adopted and incorporated by reference as part of the *Shoreline Master Program*[1]:

1. Chapter 1.20 KMC – Code Enforcement.

2. Chapter 18.55 KMC – Critical Areas, but for the following sections:

KMC 18.55.150 - Exemptions

KMC 18.55.160 - Exception – Public Agency and Utility

KMC 18.55.170 - Variances

KMC 18.55.180 - Exception – Reasonable Use

KMC 18.55.230 - Unauthorized critical area alterations and enforcement

~~KMC 18.55.090 – Jurisdiction – Critical areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~3. KMC 18.55.130 – Mapping (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~4. KMC 18.55.140 – Signs and fencing of critical areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~5. KMC 18.55.150 – Exemptions (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~6. KMC 18.55.190 – Critical areas reports – Requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~7. KMC 18.55.200 – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~8. KMC 18.55.210 – Mitigation sequencing (as adopted in Ordinance No. 12-0334).~~

~~9. KMC 18.55.220 – Mitigation plan requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~10. KMC 18.55.230 – Unauthorized alterations and enforcement (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~11. KMC 18.55.250 – Notice on title (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~12. KMC 18.55.260 – Critical area tracts (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~13. KMC 18.55.270 – Building setbacks (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~14. KMC 18.55.280 – Bonds to ensure mitigation, maintenance, and monitoring (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~15. KMC 18.55.290 – Critical area inspections (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~16. KMC 18.55.300 – Designation and rating of wetlands (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~17. KMC 18.55.320 – Wetland performance standards – General requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334, and as further amended through Ordinance 12-0334).~~

~~18. KMC 18.55.330 – Wetland performance standards – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334, and as further amended through Ordinance 12-0334).~~

~~19. KMC 18.55.400 – Designation and rating of streams (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~20. KMC 18.55.420 – Streams performance standards – General requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~21. KMC 18.55.430 – Streams performance standards – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~22. KMC 18.55.500 – Designation of fish and wildlife habitats of importance (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~23. KMC 18.55.520 – Fish and wildlife habitat performance standards – General (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~24. KMC 18.55.530 – Fish and wildlife habitat performance standards – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334, and as further amended through Ordinance 12-0334).~~

~~25. KMC 18.55.600 – Geologically hazardous areas – Purpose (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~26. KMC 18.55.610 – Designation of geologically hazardous areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~27. KMC 18.55.620 – Designation of specific hazard areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~28. KMC 18.55.640 – Geologically hazardous areas performance standards – General requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~29. KMC 18.55.650 – Geologically hazardous areas performance standards – Specific areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~30. KMC 18.55.700 – Flood hazard areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~31. KMC 18.55.710 – Flood fringe – Development standards and permitted alterations (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~32. KMC 18.55.720 – Zero-rise floodway – Development standards and permitted alterations (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~33. KMC 18.55.730 – FEMA floodway – Development standards and permitted alterations (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~34. KMC 18.55.740 – Flood hazard areas – Certification by engineer or surveyor (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~35. KMC 18.55.750 – Channel relocation and stream meander areas requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

3.

23. Revise maximum walkway widths for overwater structures.

Staff response: This request was made by Ecology to implement principles and requirements in WAC 173-26 for minimization of overwater structure size. Staff recommends the following:

Element	Overwater Structure Dimensional and Design Standards	
	Lake Washington	Sammamish River
Maximum Width	Residential ~~up to 4 Units~~ • 4 ft. for *pier or dock* • 4 ft. for *ramp* • 6 ft. for *ell* and *float* Public~~.~~ or Commercial ~~or More than 4 Residential Units~~ • ~~4~~8 ft. for main walkway. If project-specific justification of need is provided, the width may be increased to 6 ft. without a variance. • 5 ft. for perpendicular fingers or *ells* • 5 ft. for *ramp* • 8 ft. for *ell* and *float*.	Residential ~~up to 4 Units~~ • 4 ft. for *ramp* • 6 ft. for *float* Public~~.~~ or Commercial ~~or More than 4 Residential Units~~ • 5 ft. for *ramp* • 6 ft. for *float*

24. Delete reference to 2-cubic yards of fill for watercraft lifts.

Staff response: Following discussion with Ecology in early January, consultants and staff researched whether there was a need for this proposed allowance. Based on communications with a shoreline design/permitting contractor, Staff does not believe this provision is necessary and recommends it be deleted as shown below:

Element	Overwater Structure Dimensional and Design Standards	
	Lake Washington	Sammamish River
Watercraft lifts	• One free-standing or floating boatlift with a canopy is allowed per detached dwelling unit. • Additional watercraft lifts, without a canopy, at a single residential use waterfront structure are allowed, not to exceed three and only two can be ground-based; all other lift(s) must be floating or suspended lift(s).	• One free-standing or floating boatlift with a canopy is allowed per detached dwelling unit OR 2 jet ski lifts or 1 fully grated platform lift is allowed, per detached dwelling unit • Boatlifts shall be located on the waterward, upstream or downstream sides of the *dock*, not on the landward side of the *dock*. • ~~A maximum of 2 cubic yards of *fill* are permitted to anchor a boatlift, subject to the following requirements:~~ ~~– May only be used if the substrate prevents the use of anchoring devices that can be embedded into the substrate~~ ~~– Must be clean~~ ~~– Must consist of rock or pre-cast concrete blocks~~ ~~– Must only be used to anchor the boatlift~~

Element	Overwater Structure Dimensional and Design Standards	
	Lake Washington	Sammamish River
		~~Minimum amount of *fill* is utilized to anchor the boatlift~~

25. Reconsider buffers on the Sammamish River.

Staff response: During an in-person meeting in early January and via written comments provided in December 2018, Ecology raised concerns about the adequacy of proposed amended buffers in two areas: 1) the mobile home park on the Sammamish River (area B4), and 2) the performance standards for water-oriented parks and recreation facilities in lieu of a fixed dimensional buffer. Staff and consultants recommend the following:

Shoreline Density and Dimensions Table						
	DOWNTOWN WATERFRONT	**SWAMP CREEK COMMERCIAL**	**SHORELINE RESIDENTIAL**	**URBAN CONSERVANCY**	**NATURAL**	**AQUATIC**
Shoreline Buffers from OHWM on Sammamish River						
Residential development[1]	75 ft	NA	B1: 150 ft B2: 100 ft B3: (4) B4: 15 (6)	150 ft	150 ft	--
Water-oriented parks and outdoor recreational facilities	50 ft (3)	NA	50 ft (3)	100 ft (3)	150 ft (3)	--
Non-water-oriented parks and outdoor recreational facilities	100 ft	NA	75 ft	100 ft	150 ft	--
Other water-oriented uses	75 ft	NA	50 ft	100 ft	150 ft	--
All other non-water-oriented uses	100 ft	NA	150 ft	150 ft	150 ft	

3. Public trails in *critical areas* and buffers are specifically addressed in Chapter 18.55 KMC. In recognition of the existing condition of current and planned City shoreline parks and recreation facilities, the following standards shall guide new development and redevelopment of other water-oriented public access and recreation facilities in ~~lieu of shoreline~~ buffers. For any allowed development or modification within a buffer, ~~A~~applicants shall submit a plan that addresses compliance with each of the following applicable standards and principles. The City may review and condition the project to more fully implement the principles below. ~~New *public access* improvements shall comply with the requirements of Chapter 18.55; provided,~~:

a. In additional to trails and water-dependent developments, such as water access structures, the following list of uses and modifications may be allowed within buffers if they support water-oriented parks and outdoor recreation facilities and demonstrate consistency with b through f below. This list will serve as a guide, and is not exclusive. The *city manager* has the discretion to decide if a proposed use or modification supports water-oriented public access and outdoor recreation, and shall consult the City's public access plan as identified in KMC 16.50.060.

1. Benches, picnic tables and picnic shelters.

2. Play and exercise equipment.

3. Boating support improvements (e.g., boat storage, staging areas, temporary seating for events).

4. Observation platforms.

5. Visual and auditory art installations.

6. Safety improvements (e.g., cameras, fencing, fire prevention).

ba. ~~that new *public access* improvements may be allowed within *critical area*s, or shoreline or *critical area* buffers, if~~ New or expanded water-oriented development shall follow mitigation sequencing to protect existing riparian areas and other critical areas. Unavoidable impacts ~~are~~shall be mitigated consistent with the requirements in KMC 18.55.190 through 18.55.220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions.~~, and the public access improvements meet the following standards:~~

~~a. In order to encourage public access improvements and improved shoreline habitat in the Downtown Waterfront shoreline, a public access trail may be located within the stream buffer required in KMC 18.55.420, when accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved. Trails paralleling the shoreline of the Sammamish River in the Downtown Waterfront Environment shall be located at least 50 feet from the ordinary high water mark. Spur trails may be extended to the water's edge but such access areas should be limited in order to protect ecological functions of the buffer.~~

cb. To the extent feasible, non-water-oriented public access and recreation uses and modifications should be upland of water-oriented uses and modifications.

dc. If parking improvements supporting water-oriented parks and outdoor recreation facilities can not comply with KMC 16.50.087, parking ~~New or expanded pollution-generating impervious surfaces~~ within ~~50 feet of the ordinary high water mark or within already disturbed areas~~ buffers shall be limited to ~~those~~that necessary to ~~support water-oriented parks and outdoor recreation facilities~~, provide vehicle access to boat launches, to improve existing informal parking areas, to expand existing parking, or to provide ADA parking when there are no feasible locations outside of shoreline jurisdiction and outside of shoreline buffers. New or improved pollution-generating impervious surfaces must provide water quality treatment consistent with the City's adopted Surface Water Design Manual. All parking should be located as far from the ordinary high water mark as feasible, and any expansions should not extend closer to the shoreline waterbody.

ed. New and expanded public access and recreation uses in shoreline jurisdiction shall be located to avoid and minimize intrusion into riparian areas, as well as avoid tree and shrub removal. Necessary tree removal shall be mitigated at a ~~3~~2:1 ratio, with an emphasis on use of native conifers placed to maximize ecological benefits to the shoreline waterbody.~~, and the public access improvements meet the following standards:~~

fe. A vegetation management strategy for any allowed uses in shoreline jurisdiction shall be developed that incorporates a site-specific plan for use of integrated pest management techniques, if applicable, identifying anticipated use of fertilizers, herbicides and pesticides. The strategy shall include methods of application that ensure that these materials will not enter the water.

~~b. In order to allow for a waterfront promenade area along the inner harbor area of the Downtown Waterfront Environment, *public access* improvements may extend to the water's edge when accompanied by a plan demonstrating that the *ecological functions* of the overall required buffer area on a project site would be substantially improved.~~

6. The shoreline buffer of 15 feet applies to the existing manufactured housing community. A shoreline buffer of 75 feet shall apply to any proposed change of use, but may be reduced to 50 feet

without a shoreline variance with implementation of (1) a buffer enhancement plan, consistent with KMC 16.60.010.H and applicable provisions of Chapter 18.55 KMC, and (2) a public access plan, consistent with KMC 16.50.060.

26. Revise parking standards

Staff response: During an in-person meeting in early January, Ecology raised concerns about the consistency of the new parking standards with all parking-related provisions of WAC 173-26-241. Staff recommends the following changes:

16.50.087 Parking

A. Parking facilities in shoreline jurisdiction are not a preferred use and shall be allowed only as necessary to support an authorized use. Parking is prohibited in the Natural Environment unless supporting a water-dependent use.

B. Parking should be located outside the shoreline jurisdiction; if infeasible to locate outside of the shoreline jurisdiction, such facilities shall be located as far from the shoreline as is feasible.

C. Plan, locate, and design proposed parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

D~~C~~. Lighting from parking areas shall be screened from illuminating fish and wildlife habitat areas and their buffers; provided, that lighting necessary for safe operation of a permitted water-dependent use may be allowed, but should be screened to the extent possible from illuminating fish and wildlife habitat areas and their buffers.

27. Provide more prescriptive standards for building setback reductions (size of mitigation area, etc.)

Staff response: During an in-person meeting in early January, Ecology raised concerns about the level of detail in the compensatory requirements for setback reductions (footnote 2 of KMC 16.65.020.B references 16.60.010.H). Given the varying nature of existing and potential proposed conditions, these performance standards are intended to provide sufficient direction to allow for a site-specific/project-specific approach. Staff recommends the following:

H~~G~~. When considering compensatory habitat enhancement as mitigation for impacts from new structures, such as when a reduced buffer or shoreline setback or a non-*water-dependent use* is requested, the enhancement should:

1. B~~b~~e proportional to the degree of impact of the new structure and associated alterations on shoreline *ecological functions*~~,~~. For example, an approved buffer or setback reduction should be compensated with an equivalent area of native vegetation enhancement, including trees along the water's edge, when feasible;

2. ~~and t~~Take into account the degree to which the existing buffer has already been compromised~~.~~;

3. Offset changes in surface water runoff rates and water quality (such as through increased impervious area), habitat structure (such as loss or alteration of vegetation), and habitat quality (such as from lighting, noise or activities) that are a result of the project; and

4. ~~Enhancement should f~~Focus on restoring *ecological functions* that are most critical and that have been most diminished in the Kenmore shoreline.

~~In approving any compensatory habitat enhancement plan, the director shall consider the changes in surface water runoff rates and water quality (such as through increased impervious area), habitat structure (such as loss or alteration of vegetation), and habitat quality (such as from lighting, noise, or activities) that the project would cause.~~ Enhancements ~~should generally focus on offsetting these impacts but~~ may also focus on restoring other critical *ecological functions* in the shoreline that have been lost or diminished over time (such as placement of large woody debris in water or restoring shallow water habitat) at a sub-basin or watershed scale. The ~~director~~*city manager* may determine whether an enhancement that provides a broader ecological benefit may be substituted for one that would offset the impacts of an individual project.

The ~~director~~*city manager* may deny a request to allow intrusion into a buffer or for *development* of a non-*water-dependent use* if the enhancement proposed does not fully mitigate the impacts of the project or provide a sufficient broader ecological benefit.