

Attachment C:

Ecology required text changes in red. Tukwila proposed text alternatives in blue.

Ecology Recommended Changes –

The Department of Ecology approval letter contained 12 recommended changes, numbered 1 through 12, consecutively. The City of Tukwila accepted Recommended Changes 1, 2, 4 through 6, and 9, as proposed by Ecology. The City rejected Recommended Changes 8, 10, and 12. The City proposed alternatives to Recommended Changes 3, 7 and 11, as outlined below.

ITEM	TOPIC	ECOLOGY PROPOSED BILL FORMAT CHANGES on March 24, 2011 (underline = additions; strikethrough = deletions)	RATIONALE	TUKWILA ACCEPTANCE OF RECOMMENDED CHANGE OR ALTERNATIVE SUGGESTED BY LOCAL GOVERNMENT ON SEPTEMBER 22, 2011, ACCEPTED BY ECOLOGY	RATIONALE FOR ACCEPTED CHANGE
1	Definition of Substantial Development	<p>Modify definition of "substantial development" in Section 3 to read:</p> <p><u>"Substantial development" shall mean any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor.</u></p>	The definition of substantial development must be consistent with Chapter 90.58 RCW.	The City accepts the change.	
2	Policy For Shorelines of statewide Significance	<p>Add Section 6.12 to read:</p> <p><u>Tukwila, in developing and implementing its shoreline master program for shorelines of statewide significance, including the Green /Duwamish River, shall give preference to uses in the following order of preference which:</u></p> <p><u>(1) Recognize and protect the statewide interest over local interest;</u></p> <p><u>(2) Preserve the natural character of the shoreline;</u></p> <p><u>(3) Result in long term over short term benefit;</u></p>	This section specifically implements the policy for shorelines of statewide significance in RCW 90.58.020.	The City accepts the change.	

		<p><u>(4) Protect the resources and ecology of the shoreline:</u></p> <p><u>(5) Increase public access to publicly owned areas of the shorelines:</u></p> <p><u>(6) Increase recreational opportunities for the public in the shoreline:</u></p> <p><u>(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."</u></p>			
3	Allowance for fill for restoration projects	<p>Add to Sections 8.2.A.1, 8.3.A.1, 8.4.A.1, and 8.5.A.1 the following:</p> <p><u>Fill solely for the purpose of ecological restoration.</u></p>	<p>Allowance for fill for restoration activities consistent with the Guidelines WAV 173-26-231(3)(c).</p>	<p><u>The City of Tukwila included the proposed language only for activities within the Aquatic Environment.</u></p> <p>Aquatic Environment – Uses</p> <ol style="list-style-type: none"> 1. Permitted Uses: The following uses are permitted in the Aquatic Environment. Uses and activities within the Aquatic Environment must be compatible with the adjoining shoreline environment <ol style="list-style-type: none"> a. Shoreline Restoration Projects. b. Over-water structures subject to the standards established in the Over-water Structures Section that are associated with water-dependent uses, public access, recreation, flood control, channel management or ecological restoration; c. Maintenance or redevelopment of levees for flood control purposes, provided that any redevelopment of a levee shall meet the applicable levee regulations of this SMP; d. New shoreline stabilization utilizing the development standards in the Shoreline Stabilization Section. e. Water dependent commercial and industrial development, if permitted by the underlying zoning district; f. Boats moored at a dock or marina. No boats may be moored on tidelands or in the river channel. g. <u>Fill for ecological restoration.</u> 	<p>Ecology accepts the City alternative. The portion of the change accepted by the City only addressing the Aquatic Environment is consistent with the SMA and Guidelines.</p>
4	When Fill is Allowed	<p>Add to Sections 8.2.A.2, 8.3.A.2, 8.4.A.2, and 8.5.A.2 the following:</p> <p><u>Fill minimally necessary to support water dependent uses, public access, or for the alteration or expansion of a transportation</u></p>	<p>This changed clarifies when will is allowed.</p>	<p>The City accepts the change.</p>	

		<u>facility of statewide significance currently located on the shoreline when it is demonstrated that alternative to fill are not feasible.</u>															
5	Live-Aboards	<p>Live-aboards may be permitted with both of the following additions to the SMP:</p> <p>a. <u>Live-aboards shall be a separate use in the Residential category in the Use Matrix. Live-aboards shall be prohibited in all environments except Aquatic. Live-aboards may be permitted in the Aquatic environment.</u></p> <p>b. <u>A Section 9.12.E shall be added to read:</u></p> <p><u>New over-water residences are prohibited. Live-aboards may be allowed provided that:</u></p> <ol style="list-style-type: none"> 1. <u>They are for single-family use only;</u> 2. <u>They are located in a marina that provides shower and toilet facilities on land and there are no sewage discharges to the water;</u> 3. <u>Live-aboards do not exceed 10 percent of the total slips in the marina;</u> 4. <u>They are owner-occupied vessels; and</u> 5. <u>There are on-shore support services in proximity to the live-aboards.</u> 	Identification of specific standards for live-aboards to be consistent with the Aquatic Environment management policies at WAC 173-26-211(5)(c)(ii).	The city accepts the change.													
6	Tree Diameter Measurements	<p>Modify Table 4 in Section 9.10.B.4 as follows:</p> <p>Table 1. Tree Replacement Requirements</p> <table border="1"> <thead> <tr> <th>Diameter* of Tree Removed</th> <th>No. of Replacement Trees Required</th> </tr> </thead> <tbody> <tr> <td>4-6 inches (single trunk)</td> <td>3</td> </tr> <tr> <td>2 inches (any trunk of a multi-trunk tree)</td> <td></td> </tr> <tr> <td>Over 6 – 8 inches</td> <td>4</td> </tr> <tr> <td>Over 8 – 20 inches</td> <td>6</td> </tr> <tr> <td>Over 20 inches</td> <td>8</td> </tr> </tbody> </table> <p>* measured at height of 4.5 feet from the ground</p>	Diameter* of Tree Removed	No. of Replacement Trees Required	4-6 inches (single trunk)	3	2 inches (any trunk of a multi-trunk tree)		Over 6 – 8 inches	4	Over 8 – 20 inches	6	Over 20 inches	8	This change addressed a public comment and makes this methodology for measuring tree width consistent with others.	The City accepts the change.	
Diameter* of Tree Removed	No. of Replacement Trees Required																
4-6 inches (single trunk)	3																
2 inches (any trunk of a multi-trunk tree)																	
Over 6 – 8 inches	4																
Over 8 – 20 inches	6																
Over 20 inches	8																
7	Usability of Shoreline Environment	<p>Modify Section 10.7 to read:</p> <p>10.7 Watercourse Designation and Ratings</p>	The recommended change is consistent with the Department of Natural	The City accepts the recommended revision on referencing the DNR water types but does not accept the removal of the reference to salmonid fish in items	Ecology accepts the City alternative. While the DNR stream-												

	Maps and depiction of the Black River shoreline.	<p>A. Watercourse ratings are based on the existing habitat functions and are rated as follows:</p> <ol style="list-style-type: none"> Type 1 (S) Watercourse: Watercourses inventoried as Shorelines of the State, under RCW 90.58 (Green/Duwamish River). Type 2 (F) Watercourse: Those watercourses that have either perennial (year-round) or intermittent flows and support salmonid fish use. Type 3 (NP) Watercourse: Those watercourses that have perennial flows and are not used by salmonid fish. Type 4 (NS) Watercourse: Those watercourses that have intermittent flows and are not used by salmonid fish. <p>B. Watercourse sensitive area studies shall be performed by a qualified professional (hydrologist, geologist, engineer or other scientist with experience in preparing watercourse assessments).</p>	Resources (DNR) stream-typing criteria.	3 and 4 above. Thus, the City proposes that the section read:	typing system refers to fish rather than salmonid fish, Ecology accepts the language proposed by the City. As proposed by the City, this provision is consistent with the SMA and Guidelines.
8	Nonconforming Structures in Buffers	<p>Modify Section 10.9.A.1 as follows:</p> <p>10.9 Wetland Watercourse, and Fish and Wildlife Habitat Conservation Area Buffers</p> <p>A. Purpose and Intent of Buffer Establishment</p> <ol style="list-style-type: none"> A buffer area shall be established adjacent to designated sensitive areas. The purpose of the buffer area shall be to protect the integrity, functions and values of the sensitive areas. Any land alteration must be located out of the buffer areas as required by this section <u>while acknowledging nonconforming uses and structures as allowed by Section 14.5 of this SMP.</u> 	This section acknowledges nonconforming structures.	The City rejected this change.	
9	Nomenclature for Stream	Modify Section 10.9.C.2 as follows:	This change proposes to use current nomenclature to	The City accepted the change.	

	typing.	2. Watercourse buffers (measured from the Ordinary High Water Mark): a. Type 1 (S) Watercourse: The buffer width for the Green/Duwamish River is established in the Shoreline Environment Designations of this SMP for the three designated shoreline environments. b. Type 2 (F) Watercourse: 100-foot-wide buffer. c. Type 3 (NP) Watercourse: 80-foot-wide buffer. d. Type 4 (NS) Watercourse: 50-foot-wide buffer.	establishing stream buffers.		
10	Permit Tracking	Add to Section 14: <u>The City will track all land use and development, including exemptions, within the shoreline jurisdiction. A report will be assembled that provides basic project information, including location, permit type issued, project description, impacts, mitigation (if any), and monitoring outcomes as appropriate. Examples of data categories might include square feet of non-native vegetation removed, square feet of native vegetation planted or maintained, reductions in chemical usage to maintain turf, linear feet of eroding stream bank stabilized through plantings, linear feet of shoreline armoring removed or modified levees, or number of fish passage barriers corrected. The report would also update the status of implementation of restoration projects. The staff report would be presented along with any Comprehensive Plan amendments during the yearly review cycle. The report would be used to determine whether implementation of the SMP is meeting the basic goal of no net loss of ecological functions relative to the baseline conditions established in the Inventory and Characterization Report. Based on the results of the annual assessment, SMP amendments may be necessary.</u>	This would establish a system for tracking shoreline development.	The City rejected this change.	
11	Identification of basic review criteria for a shoreline substantial development permit.	Add to Section 14.2: <u>C. A substantial development permit shall be granted only when the development proposed is consistent with:</u> <u>1. The policies and procedures of the Shoreline Management Act;</u> <u>2. The provisions of Chapter 173-27, WAC; and</u> <u>3. This shoreline master program.</u>	Implements RCW 90.58.140 and WAC 173-27-150.	C. A substantial development permit shall be granted only when the development proposed is consistent with: 1. The policies and procedures of the Shoreline Management Act; 2. The provisions of Chapter 173-27, WAC; and 3. This shoreline master program.	Ecology accepted the City alternative. The Ecology recommended language is taken from WAC 173-27-150. While not clearly stated in the SMP, the Shoreline Management Act and 173-27 WAC are still applicable to substantial development permits.

Formatted: Font: (Default) Arial, Underline

Formatted: Font: (Default) Arial, Underline

Formatted: Font: (Default) Arial, Underline

12	Shoreline Exemptions	<p>Section 14.2.B shall be modified as follows:</p> <p>14.2 Substantial Development Permit Requirements</p> <p>A. Permit Application Procedures</p> <p>Applicants for a Shoreline Substantial Development Permit shall comply with permit application procedures.</p> <p>B. Exemptions</p> <ol style="list-style-type: none"> 1. To qualify for an exemption, the proposed use, activity or development must meet the requirements for an exemption as described in WAC 173-27-040, except for properties that meet the requirements of the Shoreline Restoration Section. The purpose of a shoreline exemption is to provide a process for uses and activities which do not trigger the need for a substantial development permit, but require compliance with all provisions of the City's SMP. 2. The Director may impose conditions to the approval of exempted developments and / or uses as necessary to assure compliance of the project with the SMA and the Tukwila SMP, per WAC 173-27-040(e). For example, in the case of development subject to a building permit, but exempt from the shoreline permit process, the Building Official or other permit authorizing official, through consultation with the Director, may attach shoreline management terms and conditions to Building Permits and other permit approvals pursuant to RCW 90.58.140. 3. <u>A written exemption shall be required to be sent to the applicant and to the Department of Ecology if:</u> <ol style="list-style-type: none"> a. <u>The activity is located in a sensitive area or sensitive area buffer;</u> b. <u>A U.S. Army Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899 is required; or</u> c. <u>A section 404 permit under the Federal Water Pollution Control Act of 1972 is required.</u> 		<p>The City rejected this change. In any event, WAC 173-27-050 requires a written exemption for projects that require a Section 10 or Section 404 permit.</p>	
----	----------------------	--	--	--	--