COMMENT #1

Burcar, Joe (ECY)

From: Ruth Williams [ruthalice@comcast.net]
Sent: Monday, September 02, 2013 1:52 PM
To: Burcar, Joe (ECY)
Subject: Seattle Shoreline Master Program: Comprehensive Update - Matthews Beach Park

Dear Mr. Burcar:

I just have a question. I'm confused by the fact that the map that includes Matthews Beach Park (Map 2, Area 1-F) shows that area as 'less impaired'. Thornton Creek enters Lake Washington cradled in a flume, and Seattle Public Utilities has recently determined that the creek is polluted with human E coli. The pollution levels sometimes cause the swimming beach to be closed. How could this situation be rated as 'less impaired'? Or is this a determination that might be changed in the update?

Thank you for your assistance.

Ruth Williams,
Thornton Creek Alliance President
1219 NE 107th St.
Seattle, 98125

COMMENT #2

Burcar, Joe (ECY)

From: John Chaney [jchaney@nwlink.com]
Sent: Wednesday, September 11, 2013 3:08 PM
To: Burcar, Joe (ECY)
Cc: Stockdale, Erik (ECY); 'Mauri Shuler'; 'Sugimura, Diane'; Margaret.Glowacki@seattle.gov; 'Raup, Ethan'; 'Margie Freeman'; 'Barbara Engram'; 'Kevin Bagley'; 'Langdon Miller'; 'Linda Bagley'; 'Greg Baumann'; 'Kevin Bagley'; bill@imagingservicebureau.com; 'Toni Radonich'; 'Mike Sherlock'; 'Bill Cirino'; 'John Geisheker'; sally.clark@seattle.gov
Subject: RE: Seattle SMP

Hi Joe

Thank you for your response to my concerns. I really appreciate it. I would suggest that more information may be useful on the Ecology website, since the public may be confused by the Tool Box and assume these are process requirements and not just suggestions.

I appreciate the document with a compendium of the City Council meeting activity. It might be useful to post this at both the DPD SMP website and the Ecology Seattle SMP website. The PLUS Committee agendas and other materials are only easily accessible back to December 12, 2012 and I found the access to archived materials difficult to understand. I appreciate the link at the end of the document to the PLUS Committee meetings. However, those materials do not appear to include any record of the public comments. The City video files show those offered orally but I submitted and I observed many others submitting written comments at the meetings and outside of the meetings to both DPD and City Council. Where are those public comments available? I also did not find any direct response to those comments and that might lead a member of the public to believe that were not considered. The record still does not reflect all the public comments received by the City.

I look forward to responses on my other points unresolved is the issue of the record of names and addresses of all interested parties. This strikes at the core of the public process, without adequate notification how can the public be involved.

I would disagree with the characterization that all the comments and responses to those comments as noted in my question #5 are in the record. I find the empty City Comments file on CD 1 very concerning. The fact that these are not anywhere in the record and clearly not available, remains a significant issue for me.

I appreciate that Ecology is holding a public hearing, given the fact that Seattle and its shorelines are among the most diverse in the state, I would expect nothing less from your department.

Best Regards, John Chaney

From: Burcar, Joe (ECY) [mailto:jobu461@ECY.WA.GOV]
Sent: Wednesday, September 11, 2013 12:33 PM
To: John Chaney
Cc: Stockdale, Erik (ECY); 'Mauri Shuler'; 'Sugimura, Diane'; Margaret.Glowacki@seattle.gov; 'Raup, Ethan'; 'Margie Freeman'; 'Barbara Engram'; 'Kevin Bagley'; 'Langdon Miller'; 'Linda Bagley'; 'Greg Baumann'; 'Kevin Bagley'; bill@imagingservicebureau.com; 'Toni Radonich'; 'Mike Sherlock'; 'Bill Cirino'; 'John Geisheker'; sally.clark@seattle.gov
Subject: RE: Seattle SMP

Hi John,

You have requested access to the following documents related to the City of Seattle's updated SMP, which are all included in "Disk 1" of the City's submittal and are located in the subfolder noted below:

COMMENT #2

- *Shoreline Master Program Update: Public Involvement Plan* – "Public Involvement" folder;
- *Table 1 – Shoreline Master Program Public Meetings 2007-2013* - "Public Involvement" folder;
- *Seattle SMP-Checklist* – located in the main "CD-1" folder;
- *City of Seattle SMP-update Directors Report* – located in the "Director's Report" folder;
- *Vision Report 2008* – located in the "Vision Report" Folder.

I have attached a copy of the City's "60-day Notice of Intent to Adopt", which was provided by the City on "Disk-3".

We have verified with the City that the information you requested in Item #5 is available on the City Council's website. This information is included in an attached document, which lists all of the relevant City Council and PLUS-Committee meetings (related to the SMP-update) and provides web links to the supporting documents (i.e., staff reports, presentations, amendments to draft provisions) for each of these meetings, within which issues raised by the public are discussed.

In response to some of the concerns you raised in your September 9th email, we think it is important to reiterate the difference between "submittal requirements" pursuant to the list provided in WAC 173-26-110, from substantive review and "determination of consistency" requirements related to Part III of the SMP-Guidelines (WAC 173-26-171 through 173-26-251). As you have noted, submittal requirements need to be satisfied to allow interested parties sufficient information to enable them to provide comments to Ecology. Further, it is appropriate and we welcome comments from interested parties stating their opinion on the substance of the SMP. However, it is important for you to understand that Ecology's substantive review does not happen as a part of evaluating the submittal for completeness, for which we need to reserve judgment on the substance of SMP provisions, until after considering comments or issues raised by interested parties.

In addition, I would like to clarify that your specific reference to "steps" or "tasks" provided in the Shoreline Planners Toolbox are exactly what the name implies; they are "tools" or a resource for local planners working on the development of an updated SMP. This is a resource intended to help the update and is not a substantive requirement for jurisdictions to follow.

Finally, I want to reiterate that we support your interest to ensure that there is a complete record associated with our review of the updated SMP. We are committed to providing adequate opportunity for public review and comment on the SMP, including reasonable public access to relevant materials in the record. We have worked extremely hard as an agency to go beyond the minimum requirements provided in the SMP-Guidelines to provide access to the most relevant components of the SMP record in a user-friendly manner on our website. Through our work with interested parties statewide, we believe this extra step is appreciated and results in more constructive and informed public involvement. Similarly, Ecology is not required to hold a public hearing as part of our review of a locally adopted SMP, for which we have the discretion to host a public hearing when we believe it is warranted.

I have spoken with Erik Stockdale about LULA's request to postpone tonight's public hearing. Given that three weeks still remain in the public comment period, and that we are providing the information you requested in item #5 in your email dated September 9, 2013, we see no procedural basis on which to postpone the hearing. However, If you feel the remaining three weeks are not sufficient for you to review the additional materials, you may request an extension to the public comment period.

Thank you again for your thoughtful involvement in the public process. Best regards,

COMMENT #2

-Joe

Joe Burcar | Senior Shoreline Planner | Department of Ecology | 425-649-7145 | Joe.Burcar@ecy.wa.gov

From: John Chaney [mailto:jchaney@nwlink.com]
Sent: Monday, September 09, 2013 8:46 AM
To: Burcar, Joe (ECY)
Cc: Stockdale, Erik (ECY); 'Mauri Shuler'; 'Sugimura, Diane'; Margaret.Glowacki@seattle.gov; 'Raup, Ethan'; 'Margie Freeman'; 'Barbara Engram'; 'Kevin Bagley'; 'Langdon Miller'; 'Linda Bagley'; 'John Chaney'; 'Greg Baumann'; 'Kevin Bagley'; bill@imagingservicebureau.com; 'Toni Radonich'; 'Mike Sherlock'; 'Bill Cirino'; 'John Geisheker'; sally.clark@seattle.gov
Subject: RE: Seattle SMP

Hi Joe

I appreciate your making the time on Friday for me to come view the City of Seattle SMP submission.

We talked briefly after my review of the materials but I wanted to memorialize my observations.

I was extremely disappointed to find so many significant gaps in the record of the City of Seattle SMP Process. The City has had months to complete the required submissions and yet the record is significantly deficient. You attached the form you use but I am concerned that the "tool box" showing the SMP process has not been followed. In your notice of the public comment period, you directed the public to the Ecology website, at that site I found this prominent specific link in the "Citizen Guide" which further directed me to "What local governments must do to update SMPs: Shoreline Planners Toolbox" Here the process and outcomes are clearly delineated for both citizens and governments. I used those tasks in my review and my earlier e-mail.

I find it hard to accept Ecology moving forward with the public review period or the public hearing until the record is sufficient and complete. I am raising these concerns early in the Ecology review in hopes of having them corrected rather than letting this defective record and process continue.

I only spent a few hours looking at the file and I could have missed some items which may be filed together or misfiled. I will refer to my questions as stated in my Tuesday September 3, 2013 e-mail (included below), since these formed the initial concerns for my file review. I also want to be clear that I reviewed the materials at the City and Ecology website prior to my visit to your office, and was not able to find the noted materials there. Even if they were posted at a City site, it is my understanding that Ecology is required to have its own a complete record.

COMMENT #2

1) ***Where is the public participation plan located. How has the City of Seattle shown that they ensured that all interested parties had a meaningful opportunity to participate. How and where is that documented?*** I found a public participation plan and a list of meetings on CD 1, however I did not find a discussion of how the City had ensured that all interested parties had a meaningful opportunity to participate. Where is this described and documented?

2) **Where is compliance with this process (Task 5.1) documented**? I did not find discussion of the "process to assure that proposed regulations and administrative actions do not unconstitutionally infringe on private property rights."

3) **Was this notice of intent to adopt provided? If so, what evidence was supplied to show that Tasks 5.1 and 5.2 were concluded?** I did not find the "notice of intent to adopt" pursuant to RCW 36.70A.106 and WAC 173-26-100(5) nor any discussion of how Tasks 5.1 and 5.2 were concluded. If the Director's Report of August 2012 was intended to fulfill all of this evidence of compliance with Tasks 5.1 or 5.2 it is dated prior to any deliberations by the City Council and the public hearing held by the Council in October 2012.

4) **Was the Public Hearing held and where is compliance with the requirements of WAC 173-26-100 documented?** I did not find documentation regarding the Public Hearing and compliance with WAC 173-26-100. I assume this is merely an oversight but the record must be clear and complete.

5) **Where is the summary responding to all comments received during the public hearing and the public comment period located? Does the summary discuss how the draft SMP addresses the issues identified in each comment? Noted in task 5.6 is the Response to comments received as a part of a complete submission.** I reviewed the Public Comments and Responses on CD 1, the only responses found are to Draft 1. The City made substantial changes regarding over water living and other areas, and received commends to Draft 2. I did not find any responses to the comments made on Draft 2 or to the Mayor's Recommended SMP or changes proposed and adopted at City Council. The file folder marked "Comments at City Council" is totally empty with neither any comments nor any response to those comments. Without the opportunity to review the full comments and responses of the City, the finding of a complete submittal and the establishment of a public comment period is premature.

6) **Where are the documents for tasks (Task 5.6) 3, 4 and 5 above located and when were they received by Ecology?**
    4. Public hearing record (Task 5.5)
    5. Response to comments received (Task 5.6)

COMMENT #2

As noted above, I did not find these records in the submittal file. These are significant documents in the process and without them Ecology erred in finding the submission complete.

7) **Where are these items located? Where are the copies of all public comments located? I did not find any listing of comments to the Mayor's proposal, the Council PLUS Committee, the Council public hearing or the Council adoption hearings, please indicate where they are located.** Compliance with WAC 172-26-110 is fundamental to the complete submission by the City. In my review of the file I was unable to locate the following items. If the department has a definition of "all" which is less than the common understanding of the word, please direct me to that definition.
    - A summary of proposed amendments and explanation text, staff reports, records of hearing and other materials.
    - Copies of all public, agency and tribal comments received and a record of names and addresses of interested parties involved in the local government process.

    I found a list of e-mails on CD 3 "SMP Email_Addresses". I personally know of comments submitted by e-mail, hand delivered and sent by USPS. Yet only e-mail addresses are presented by the city. I also know of e-mail comments submitted and those e-mail addresses do not appear on the list. How many others did not find their way onto this City list? How did the City create and add to this list? I find it quite odd, even in this day of electronic communication, that every party to this entire project has an e-mail addresses and not a single street address was noted. LULA presented petitions of clearly interested parties, many with e-mails, these petitions and those e-mails are not included in the City list. Given these discrepancies with the mailing list, the City should be required to provide backup including all sign-in sheets for any meetings in the process, and all correspondence received by the City throughout the SSMP process. Only by providing the backup materials can the public gain confidence that the City has provided a complete record of "**all** the names and addresses of interested parties" as required. Without a complete list how can Ecology give adequate notice to interested and involved members of the public?

8) **Where is the SMP Submittal Checklist located?** Thank you for sending the checklist you used in evaluating the City Submission however I question whether the items on the checklist have been fully completed by the City. Without a full and complete record how can the public, agencies and tribes be assured that all of the requirements of WAC 173-26 have been met and the materials submitted into the public record?

This is a matter of significant concern, especially since Ecology has opened the public comment period and established a date for a public hearing. The public hearing is scheduled in three days, even if every item that was required to be submitted was produced during that time, the public would have little time to review the "complete" record. The public comment can

COMMENT #2

only reasonably be made on the public process when the full record has been submitted, then the public has the ability to comment on the process and the outcomes of that process.

I look forward to a response on how Ecology will bring this submission into compliance.

Best Regards,

John Chaney

CC: Erik Stockdale, Ecology

Diane Sigimura, Maggie Glowacki, Sally Clark and Ethan Raup, City of Seattle

LULA Board

From: Burcar, Joe (ECY) [mailto:jobu461@ECY.WA.GOV]
Sent: Thursday, September 05, 2013 8:29 PM
To: John Chaney
Cc: Stockdale, Erik (ECY); 'Mauri Shuler'; Margaret.Glowacki@seattle.gov
Subject: RE: Seattle SMP

Hi John,

I am happy to share the materials (CD's and hard copies) submitted by the City. As offered in our notice, I am also happy to set up an appointment to allow you to go through the submittal at our office.

I will be in the office most of the day tomorrow (Friday), Monday and Tuesday, but can also make sure the materials are available for your review if I am not in the office when you are available to go through the submittal. **Please let me know when (date and estimated time) you would prefer to view the materials and I will make sure to have them available.** Our office is open between the hours of 8AM to 5 PM Monday through Friday.

All of the the submittal materials are not posted on our website. The webpage is only intended to provide the most commonly requested materials and is not intended to host the entire record.

In regards to the contents of the City's submittal, I recently provided you with a document that cataloged the City's submittal in reference to WAC 173-26-110, which provides the submittal requirements for local jurisdictions forwarding their updates to Ecology for review. I have again included this document with this email, which will hopefully help guide you throught the submittal materials.

You are also welcome to contact the City with questions related to the submittal. I have cc'd Maggie on this email, as she is most familiar with the materails created during the City's development of the updated SMP.

I will look forward to hearing back from you with your prefered time to review the submittal.

Best regards,

-Joe

COMMENT #2

From: John Chaney [jchaney@nwlink.com]
Sent: Tuesday, September 03, 2013 6:33 PM
To: Burcar, Joe (ECY)
Cc: Stockdale, Erik (ECY); 'Mauri Shuler'
Subject: Seattle SMP

September 3, 2013

Dear Joe and Erik

I have reviewed both the Ecology website and the City of Seattle website as noted in your notice to interested parties (8/26/2013). I was unable to locate materials that appear to be required for the determination that Ecology has a complete submission for consideration by Ecology and for public to use in commenting. If the planners tool box is not an accurate and complete listing of the requirements, please direct me to the complete document.

If these materials were submitted but not posted to the public websites, please explain how the public may have access to the documents. I am extremely concerned that Ecology does not have a full record of the City process and public comments. Without these documents available to the public how can we make informed public comments to Ecology? How can Ecology diligently and thoroughly review how the City has complied with the submission requirements and with the process requirements set out in WAC 173?

I am extremely concerned over the significant gaps in the process and documents, how can Ecology set a public comment period and public hearing without a full record available to the public? I hope these questions are easily answered and all the documentation is available before your public hearing, since the documentation appears to be required before Ecology even determines that the submission is complete and then embarks on the public comment portion of the Ecology review and approval.

Best Regards, John Chaney
VP Lake Union Liveaboard Association
jchaney@nwlink.com
31425 SE Issaquah Fall City Road
Fall City WA 98024
Vessel: Suttree

I followed the Shoreline Planners Toolbox which you referred me to as a member of the public. I apologize for copying from the website but it seemed the easiest way to reference the materials.

Task 1.2: Develop public participation plan

Local governments that receive state funding must submit a public participation plan to Ecology to ensure planning efforts meet requirements. A plan should describe the participation process including specific contacts, opportunities, and a schedule. At a minimum, local governments must ensure that all interested parties have a meaningful opportunity to participate, and describe and document the steps and methods used.

1) **Where is the public participation plan located. How has the City of Seattle shown that they ensured that all interested parties had a meaningful opportunity to participate. How and where is that documented?**

Phase 5: Local approval

COMMENT #2

Task 5.1: Assemble complete draft SMP

Local governments also must use a process to assure that proposed regulations and administrative actions do not unconstitutionally infringe on private property rights. **This process must be documented in the SMP Checklist.**

2) Where is compliance with this process documented?

Task 5.3: Provide Growth Management Act (GMA) 60-day notice of intent to adopt

Upon conclusion of Tasks 5.1 and 5.2, local governments planning under the GMA must notify Ecology and the Department of Commerce of its intent to submit a locally approved SMP amendment to Ecology as least 60 days in advance of final local approval, pursuant to RCW 36.70A.106 and WAC 173-26-100(5).

3) Was this notice of intent to adopt provided? If so, what evidence was supplied to show that Tasks 5.1 and 5.2 were concluded?

Task 5.4: Hold public hearing

Local governments must hold at least one public hearing prior to local approval of the draft SMP, consistent with the requirements of WAC 173-26-100. The names and mailing addresses of all interested parties providing comment shall be compiled. Local governments must publish notice of the hearing in one or more newspapers of general circulation in the area where the hearing is to be held.

4) Was the Public Hearing held and where is compliance with the requirements of WAC 173-26-100 documented?

Task 5.5: Prepare a responsiveness summary

Prior to approval of the draft SMP by the local elected body (e.g. city council, county commissioners), the local government must prepare a summary responding to all comments received during the public hearing and the public comment period, discussing how the draft SMP addresses the issues identified in each comment.

5) Where is the summary responding to all comments received during the public hearing and the public comment period located? Does the summary discuss how the draft SMP addresses the issues identified in each comment? Noted in task 5.6 is the Response to comments received as a part of a complete submission.

Task 5.6: Approve SMP and submit to Ecology

The local elected body must approve the draft SMP. Local governments should then assemble the complete draft SMP (Task 5.1) and submit the locally-approved SMP and supporting documents to Ecology. Deliverables must include two hard copies and one digital copy in Microsoft Word format of the following, with accompanying maps:

1. A complete, locally approved SMP including maps, with relevant supporting documentation (Tasks 5.1 and 5.7)
2. SEPA products: checklist, MDNS or EIS; SEPA notice (Task 5.3)
3. Evidence of compliance with GMA notice requirements (Task 5.4)
4. Public hearing record (Task 5.5)
5. Response to comments received (Task 5.6)

6) Where are the documents for tasks 3, 4 and 5 above located and when were they received by Ecology?

COMMENT #2

WAC 173-26-110 requires the following as part of the submittal package:

- A signed resolution or ordinance documenting local approval of the submittal.
- Specific text amending or replacing the existing master program.
- Amended environment designation maps.
- A summary of proposed amendments and explanation text, staff reports, records of hearing and other materials.
- Evidence of compliance with SEPA.
- Copies of all public, agency and tribal comments received and a record of names and addresses of interested parties involved in the local government process.

7) **Where are these items located? Where are the copies of all public comments located? I did not find any listing of comments to the Mayor's proposal, the Council PLUS Committee, the Council public hearing or the Council adoption hearings, please indicate where they are located.**

Task 5.7: Demonstrate how Phase 5 complies with the Guidelines

- Local governments must fill in the SMP Submittal Checklist for the tasks completed under Phase 5.

8) **Where is the SMP Submittal Checklist located?**

9) **Why are any of the documents noted above not located on the City or Ecology website?**

COMMENT # 2 (JOHN CHANEY)

Testimony: *My name is John Chaney. I'm a resident of Fall City, Washington. My partner, Bruce, and I are the third owners of the vessel "Sutry," a small houseboat that was built in the city of Seattle, has resided in the city of Seattle since 1996, and moored at the Nickerson Marina. I use the term houseboat, because that is my Washington official licensing registration class, although the city and Ecology do not have a houseboat definition. I'm also the vice president of the Lake Union Live-Aboard Association or LULA. I was appointed to the on-water residence process as a stakeholder. I'll try to keep my comments brief—you'll clearly get some in writing—and will submit further written comments. This has been a long process, but this is only the second public hearing in all of these years related to the Seattle SMP. There's only one other that I know of.*

In my eyes Seattle has failed to achieve adequate public participation, a strong pillar of the SMP process. For me and my community the SSMP, Seattle Shoreline Management Program, has failed to live up to the objective of having an adequate public participation plan and an adequate execution of that plan. I expect Seattle has more shoreline conditions than most cities and counties in Washington, therefore the citizen involvement must be robust and far reaching. Seattle failed to include any representative of the live-aboard community and the CAC. Then they failed to modify their public participation plan as unrepresented communities came forward, specifically the houseboat community. The city made little or (SIREN-they're not coming for me, I know that) . . . The city made little or no response to the many public comments made by my community. The record at the city and Ecology now is incomplete, as I indicated in my email Monday. Ecology seriously erred in proceeding to this public comment period without a complete submission by the city of Seattle. After the city adopted the SSMP, the city and Ecology engaged in a belated stakeholder process related to on-water residents. I think it is telling that those recommendations are not included in the SSMP record and I ask that all the recommendations and all the materials in that process be entered into the Department's SSMP file.

Seattle failed to correctly apply the single-family use preference to my community. I asked this question earlier. In re-reading the SMA I'm struck by how it specifically responds to a single-family use preference, yet I and my neighbors' single-family use does not seem to have been reviewed in that context. We are continually characterized as illegal or, at best, non-conforming. Seattle has failed to reasonably accommodate existing over-the-water houseboat communities as required in WAC (Great. I'll come back in a minute.) as required in WAC 173.26.241. The city continually refers to the prohibition by Ecology of overwater residents, but fails to make reasonable accommodation for our existing community. This is complicated by an apparent city conclusion that many existing houseboats are illegal, when I find no such record behind that assertion.

The Director's Report, that is the DPD Director's Report, states the existing SMP regulates uses on vessels, but does not address live-aboard use of vessels, creating confusion as to whether it is prohibited as a residential use over water. And then parenthetically says it is not. So, I'm confused. The city has continually asserted there are some 150 illegal overwater residences in Seattle. When this assertion was questioned, since the city does not issue any permits for boats, the city's lead planner then stated, we should just go to court to establish our legal status. No proof of illegal status was presented, although many of the residents have been located in Seattle for many years, some for decades. The SSMP lacks reasonable accommodation. The city SMP regulations, related to live-aboard vessels are flawed. By identifying specific types and manufacturers of vessels as approved and not approved, the city has not established reasonable criteria for distinguishing between uses. The ordinance establishes vague criteria that will be subject to arbitrary and capricious application. (Thank you Gail.)

COMMENT # 2 (JOHN CHANEY) - CONTINUED

The criteria are not related to environmental impact, public use, and access to the shoreline. It also makes a few established live-aboard uses non-conforming; however, it only does that to one small class of live-aboard uses. Houseboats. However, it only does that to us. And I have more comments and I'll come back at the end.

[Hearing Officer – "Mr. Chaney, who had expressed interest in continuing his comments for the record"]

Thank you. I really think that the Seattle SSMP regulations related to live-aboard vessels are flawed. By identifying specific types and manufacturers of vessels as approved and not approved, the city has not established reasonable criteria for distinguishing between uses. The ordinance establishes vague criteria that will be subject to arbitrary and capricious application. The criteria are not related to environmental impact, public use, and access to the shoreline. It also makes a few established live-aboard uses non-conforming. However, it only does that to one small class of live-aboard uses: houseboats. The on-water residents Stakeholder Group, that you've all heard about this evening, made recommendations on Section 60.A.214. I have to say, as a stakeholder, those were dismissed by the city and disregarded by the Department of Planning and Development. I found that to be one of the hardest experiences of this year. Probably one of the hardest experiences had a long time for the investment of my time and for the attention to the essential, sort of, negotiation amongst all the parties that were a part of that group. I thought that was a horrendous waste of your money and a waste of my time, and I think very disrespectful to public participation.

I understand this is a huge undertaking for the city of Seattle and thus getting the SSMP right is valuable to the citizens of the city, the state, tourists, and businesses. It's a delicate balance, and I'm proud to stand here having worked to gain the SMA adoption of 1970s. I was there. I'm not proud of the way the city has treated my community, but I hope substantial review by Ecology will lead to a more reasonable and balanced approach.

As to Ecology's review, I have found the Department of Ecology staff members to be open. However, I do want to close with some concerns that relate to Ecology's review. I understand and appreciate that the update process is a collaborative one with Ecology. However, comments by Ecology staff during the City Council and Stakeholder process might be given the impression that Ecology has already determined the city's approach and outcomes are sufficient. Ecology must show that its decision is not already been made. I also think it's unfortunate that a decade after the 2003 SMA settlement, of which all of those names that were on the screen; I don't believe the city of Seattle was one of them. But after the 2003 SMA settlement there is no substantive guidance by Ecology on the issue of overwater residents.

I believe this failure to engage the issues statewide has led to a wide range of solutions and here in Seattle an unfortunate prejudice against some parts of the single-family live-aboard community. I hope that in the end my concerns are disproven. I thank Ecology for holding the public hearing, even though not required to do so. Washington shorelines and waters are one of our most precious resources. Let's work together to protect them in a way that leaves no doubt about a fair process and reasonable application of the regulations. Thank you.

COMMENT #2

Burcar, Joe (ECY)

From: John Chaney [jchaney@nwlink.com]
Sent: Monday, November 04, 2013 12:21 PM
To: Burcar, Joe (ECY)
Subject: Seattle SMP - comments
Attachments: ECY comments Seattle SMP - Chaney.pdf

Attached find additional written comments.

Best Regards, John Chaney

COMMENT #2

John Chaney
31425 SE Issaquah Fall City Road
Fall City, WA 98024
Vessel: Suttree, Nickerson Marina, Seattle

November 4, 2013

Public comments: Seattle Shoreline Master Program (SSMP)
Via e-mail to Joe Burcar, jobu461@ECY.WA.GOV

I have participated in the public review process of the Seattle Shoreline Master Program (SSMP). I have made comments on the SSMP Second Draft, the SSMP SEPA Final, the SSMP Mayor's Final Recommendations and throughout the City Council review process. I was a Stakeholder participating in the On Water Residents Stakeholder Group which issued its recommendations May 31, 2013 and currently serve as the Vice President of the Lake Union Liveaboard Association.

I want to thank the Department of Ecology (Ecology) for all the assistance that has been provided during the development and review process for the SSMP. I want to specifically recognize the assistance and careful attention to detail by Joe Burcar and Geoff Talent, with Geoff leaving to work for the Seattle Department of Planning and Development (DPD) during the Seattle development process leading to the addition of Erik Stockdale, all at the Northwest Regional office.

Background
The 1970's and 80's brought resolution and protection to the Floating Home community on Lake Union and Portage Bay after years of uncertainty and contention. Floating Homes are not vessels and have permanent connections to utilities. There are now some 480± Floating Homes with no additional being permitted although they are now a preferred water dependent use. The 1990's saw 34 House Barges permitted and new House Barges are prohibited in Seattle. These are a residential use on the water in vessels but lack propulsion and steering. Live-aboard vessels have existed in Seattle for well over 150 years and are part of a rich maritime history in this maritime city blessed with significant resources of both fresh and salt water.

In briefing the City Council, DPD noted that some 150 vessels with live aboard use may be at issue with the new regulations. They often went farther to identify these uses as potentially illegal. By some estimates there are 100's of Seattle citizens who live on vessels located on the Duwamish River; in salt water marinas, especially Shilshole Bay Marina estimated to have some 600 live-aboards; and all the fresh waters of the Ship Canal, Lake Union and Portage Bay.

Many different vessels have been constructed, moored in Seattle and are, or have been used as, residences. That is part of the rich maritime history of Seattle and a long history of innovation and variety in our built environment. The SSMP Citizens Advisory Committee ***Vision*** stated in part " ... *existing historic, diverse and active uses of Seattle's shorelines will be*

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maintained." The live-aboard community is an integral part of the unique, historic, diverse and active use of Seattle's waters and shorelines. Now we have a small flotilla of vessel owners who feel imperiled by current litigation efforts and the proposed update to the SSMP regulations.

1) Public Participation

The SSMP has failed to live up to the objective of having an adequate public participation plan and an adequate execution of that plan. Seattle has more shoreline conditions than most cities in Washington, therefore, the efforts toward Citizen Involvement and participation must be robust and far reaching. The Plan is extensive but seemed to have a blind spot toward understanding or engaging the liveaboard community.

Seattle failed to include any representation of the liveaboard community on the SSMP Update Citizens Advisory Committee (CAC). Then they failed to modify their public participation plan as unrepresented communities came forward, including the entire Liveboard community and specifically including the Houseboat communities. Because there was no real opportunity for inclusion in the CAC process the City should be compelled to provide a full record of our community involvement. The City has failed to provide a complete public participation record to Ecology. Many public comments to City Council, City Council Staff, DPD staff and the Mayor's office still have not been presented to Ecology to complete the public record. I continue to believe that an incomplete record is a serious flaw. I see no latitude for Ecology to accept nor permit Ecology review with less of a record than is required in State code. WAC 173-26-110 is very clear, that a record of ALL public, agency and tribal comments is required.

There was confusion and uncertainly during the reviews of the SSMP with 4 different iterations of the regulations in the last year prior to the City Council adoption. Since the Draft 2 release, DPD held no informational meetings with the public and provided no opportunities for public comment outside of the formal SEPA comment period to the department. The City conducted the required minimum of one public hearing and the City Council made substantive changes to the proposed SSMP without a follow-up public hearing. This lack of public participation following multiple, substantive changes to the SSMP has caused the City of Seattle to fail to meet the public participation standards of the SMA and its implementing regulations.

2) Seattle Vision

The vision statement of the CAC should provide a foundation for development of policy but the development of SSMP policies related to the existing liveaboard and the houseboat communities do not align with the CAC Vision. The existing historic, diverse and active houseboat community was not recognized in the planning and the proposed regulations do not support the maintenance of our community but just the opposite, the potential destruction of our historic, diverse and active community.

The vision statement of the CAC reads as follows:

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> *The SMP Update Citizens Advisory Committee envisions a future for Seattle's shorelines in which the Shoreline Management Act's three major co-equal policy goals (protecting preferred uses, providing environmental protection, and promoting public access) are truly balanced. This means that the opportunity for citizens to experience and interact with the shoreline in a wide variety of ways will not be limited by a lack of public access points or views. It means that the shoreline's ability to sustain diverse plants and animals will be both protected and restored.* **It means that existing historic, diverse and active uses of Seattle's shorelines will be maintained.** *And it means ensuring that Seattle remains a place where marine businesses thrive and make an important contribution to both the economy and our unique character.* **[emphasis added]**

3) Comprehensive Plan

At the Comprehensive Plan policy level I am pleased that the City of Seattle has proposed a new section to the Seattle Comprehensive Plan regarding Live-aboard use and I want to make sure that includes our Houseboat community. However, I do not believe that the adopted SSMP regulations align with this Comprehensive Plan policy. Houseboats as one type of recreational vessel are not being allowed as live-aboards and no reasonable standards have been proposed or supported by science to make a distinction between Houseboats and other vessels. Where is the science to make the distinction between Houseboats and any other liveaboard vessel?

> *LU235 Allow live-aboards on vessels in moorage areas and provide standards that mitigate the impacts of live-aboard uses on the shoreline environment.*

4) SMA Single Family use preference

The SMA RCW 98.58 and the implementing WAC contains specific preferences for the preservation of single-family residences, private property rights and the preservation of uses that are unique. The SSMP has failed to adequately apply those preferences and protect the existing single family uses in the Houseboat community. The fact that Ecology has not provided formal guidance on this matter to the jurisdictions nor the public may account for this error. The City has made many references characterizing my community as illegal, potentially illegal and non-conforming even though we are clearly single family residences. The SMA preference for preservation of single family residences and unique uses should be applied to all live-aboard vessel uses including Houseboats.

WAC 173-26-176

(a) **The utilization of shorelines for economically productive uses that are particularly dependent on shoreline location or use.**

"*It is the policy of the state to provide for the management of the shorelines by planning for and fostering all reasonable and appropriate uses.*"

"*Uses shall be preferred which are. . .**unique** to or dependent upon use of the state's shoreline.*"

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"Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, ***shall be given priority for single-family residences*** *and their appurtenant structures...*

(h) Recognizing and protecting private property rights.

"The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership;. . .and, therefore coordinated planning is necessary. . .while, at the same time, ***recognizing and protecting private rights*** *consistent with the public interest."*

(i) Preferential accommodation of single-family uses.

"Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for ***single-family residences*** *and their appurtenant structures. . ."*

5) Reasonable accommodation of existing over water communities

The City has continued to state "WAC 173-26 prohibits new overwater residences" and "The State's guidelines address overwater residences, including floating homes, and prohibit new floating homes (WAC 173-26-241[3] [j]) and overwater residences." These statements are both inaccurate and incorrect. The City continually refers to the prohibition by Ecology of "over water residences" but also fails to make reasonable accommodation for our existing community. This is complicated by an apparent City conclusion that many existing Houseboats are "illegal" when I find no court findings behind that assertion.

The DPD Directors Report states: "The existing SMP regulates uses on vessels but does not address live aboard use of vessels, creating confusion as to whether it is prohibited as a residential use over water (it is not)." I agree with this statement that a liveaboard use of a vessel is not prohibited. I also question the position of Ecology that the liveaboard use of a vessel is an "overwater residence." Clearly a floating home is not a vessel and any common understanding of "over" is distinct from "in" or "on" the water. The SSMP also makes the distinction between in-water and over-water in a number of places.

LU281 Allow in-water and over-water structures that are primarily for navigational purposes.

23.60A.152 General development

J. All **in-water and over-water** structures shall be designed, located, constructed, and managed to avoid adverse impacts to aquatic habitat, such as increased salmonid predator habitat and adverse impacts due to shading, to the maximum extent feasible and to limit construction to the times of the year when construction will have the least impact on migrating salmonids as set by WDFW and the U.S. Army Corps of Engineers.

K. Durable, non-toxic components are the first priority for **in-water and over-water** structures and shall be used unless it is unreasonable.

T. Construction and repair work shall use best management practices to prevent the entry of debris and other waste materials into any water body. No **over-water or in-water** application of paint, preservative treatment, or other chemical compounds is permitted, except in accordance with best management practices. Any cleaning, sanding, cutting of treated wood,

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> or resurfacing operation occurring **over-water or in-water** shall employ tarpaulins securely affixed above the water line to prevent material from entering the water.

The city has continually asserted that there are some 150 illegal over water residences in Seattle. When this assertion was questioned, since the City does not issue any permits for the construction of vessels, the City's lead SMP planner stated at a City Council Committee Meeting that we could just "go to court" to establish our legal status. No proof of illegal status was presented although many of the residences have been located in Seattle for many years, some for decades. The SSMP lacks reasonable accommodation as required in WAC 173-26.

> ***(WAC 173-26-241[3] [j]) New over-water residences, including floating homes, are not a preferred use and should be prohibited. It is recognized that certain existing communities of floating and/or over-water homes exist and should be reasonably accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property.***

6) SSMP regulations related to Liveaboard Vessels are flawed

By identifying specific types and manufactures of vessels in SMC 23.60A.214, as either approved and not approved, the city has not established reasonable criteria for distinguishing between the uses. The ordinance establishes vague criteria that will be subject to arbitrary and capricious application. The criteria are not related to environment impact, public use nor access to the shoreline. It would make some currently legal and established liveaboard uses non-conforming. However it only does that to one small class of the liveaboard uses, houseboats. The On Water Residences Stakeholder Group made recommendations on Section 23.60A.214 and these were dismissed by DPD and the Seattle City Council PLUS Committee. Ecology offered the opinion that these recommendations were not likely to be approved by Ecology. The only valid determination by Ecology regarding such recommendations should be made as a part of this process. By reference, I propose all of the "going forward" Stakeholder Recommendations for comment by the City and review by Ecology. I have reviewed the Ecology file on the SSMP and that document is already in the record and I reference all its recommendations here. The process of Ecology review, we are currently engaged in, is the only legal and binding review by Ecology. I hope that substantive review by Ecology will lead to a more reasonable and balanced approach.

7) Non conforming status for existing uses

The SSMP would create a nonconforming status for existing legal residential use of some vessels by design. This is contrary to guidance on this matter from Ecology, requiring an equitable application of standards to the same existing circumstances and a reasonable accommodation for an existing legal community. Because vessels including house barges are

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not fixed to the land as are most other uses and development. Because most of the non-conforming section **23.60A Part 2 Nonconforming Uses and Structures** are not applicable to vessels, especially given their mobile nature, a new non-conforming section should be developed for vessels. See #13 below.

8) Ecology Review

I do want to express some concerns related to Ecology's review beyond those in #6 above. I understand and appreciate that the update process is a collaborative one between the City of Seattle and Ecology. However, comments by Ecology staff during the City Council and Stakeholder processes might give the impression that Ecology has already determined that the City approach and outcomes are sufficient, reasonable and adequate. Ecology must show that its decision has not already been made before reviewing the complete record, including public comment.

I also think that it is unfortunate that a decade after the 2003 SMA settlement, there is no substantive guidance by Ecology on the issue of "over water residences." I believe this failure to engage the issue statewide has led to a wide range of solutions, and here in Seattle, an unfortunate prejudice against some parts of the existing single family residential community. I thank Ecology for holding a public hearing, even though not required to do so. Washington's shorelines and waters are one of our most precious resources, let's work together to protect them in a way that leaves no doubt about a fair process and reasonable application of the pubic's regulations.

The following are specific areas of the SSMP that warrant response by the City of Seattle and further review by Ecology.

9) The SSMP exceeds a reasonable application of the SMA authority and infringes on federal preemption related to vessels.

The SSMP exceeds the authority of the City and Washington State in the SMA by removing the exemption for vessels designed and used for navigation. Section 23.60A.018 removes moored vessels and those with uses unrelated to navigation from the non-regulated actions and make them subject to regulation.

23.60A.018 Non-regulated actions((.))
Except as specifically provided otherwise, the regulations of this chapter ((~~shall~~)) do not apply to the operation of boats, ships and other vessels designed and used for navigation, other than moorage of vessels and uses on vessels unrelated to navigation; … ((~~None of these actions shall constitute a development requiring a substantial development permit.~~)) **These are the alterations from the current SSMP**

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10) The SSMP uses vague standards

The SSMP has established vague standards. The "type of vessel" is unclear in sections 200 and 215. DPD staff correspondence with this author indicated that this meant "commercial or recreational" type vessels, but that reading is unclear and the term is undefined. This may lead to future misinterpretation and should be made clear in the SSMP. Likewise the standards of "adequate" and "incidental to the customary use" are overly broad, insufficient, undefined and leave unreasonable discretion to the city.

23.60A.200 Standards for marinas, commercial and recreational

F. Commercial and recreational marinas may provide moorage for vessels used as live-aboard vessels if the marina meets the following standards, in addition to the general development standards in subsections 23.60A.200.A through 23.60A.200.D:

1. The live-aboard vessel is the **type of vessel** allowed to be moored at the commercial or recreational marina; and
2. The marina provides shower facilities connected to a sanitary sewer that are **adequate** to serve the number of live-aboard vessels moored at the marina.

23.60A.215 Standards for uses on vessels

A. Activities and uses on a vessel, except as allowed in Section 23.60A.214, that are not **customary to that type of vessel** are prohibited while the vessel is moored.

B. Customary activities or uses occurring while the vessel is moored are subject to the standards of the applicable shoreline environment unless incidental to the customary use of the vessel or the residential use allowed under Section 23.60A.214.

C. Signs on vessels, whether the vessel is moored or not, are subject to Section 23.60A.212.

D. In shoreline environments where uses are allowed over water, those uses are not allowed on vessels unless consistent with subsections 23.60A.215.A, 23.60A.215.B or 23.60A.215.C.

11) The SSMP definitions for liveaboard vessel is overly broad

The SSMP establishes a definition for "Live-aboard Vessel", this term was not defined in the current SSMP and Ecology does not offer adopted guidance in this area. The definition is overly broad, complex and confusing. What does the term "used" or "used as a dwelling unit" mean? Does a half-hour to check the vessel and secure the lines, qualify as a day of use? Does going aboard and reading a book, without leaving the dock, qualify as "used?" If a recreational vessel is used every weekend for a year, that is over 90 days especially with the addition of holidays. Does that use constitute a "live-aboard use"? The criteria of "mail, tax or similar purposes" are overly broad and have no relation to the ecological impact of the use, a substantial standard for the SMA, nor is there any change in the public use of the waters with this definition. A citizen may receive mail at many locations including work, home or a postal mail-box. These mail locations do not substantiate a dwelling use, how

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does receipt of mail substantiate "used"? If a vessel is identified on a tax return, how does that substantiate "used" and how would the City legally obtain that information? The implication of this overly broad and complex definition may be a crushing administrative burden to marinas. Additionally, creating an arbitrary requirement for expensive new or expanded marina facilities to meet what may be a phantom demand. Perhaps the intended consequence is to coerce marinas toward a policy denying moorage to liveaboard uses. This clearly creates a lack of safe harbor for existing vessel uses, a diminishment of the vessel values and a restriction on the private property use of existing vessels moored in Seattle. This does not comport with the SMA or WAC. Also, this infringes on the federal preemption regarding regulation of recreational vessels.

23.60A.924 Definitions -- "L"
"Live-aboard or live-aboard use" means a use that meets the definition of live-aboard vessel".

"Live-aboard vessel" means a vessel that is used as a dwelling unit for more than a total of thirty days in any forty-five day period or more than a total of ninety days in any three hundred sixty-five-day period; or the occupant or occupants identify the vessel or the facility where it is moored as their residence for voting, mail, tax, or similar purposes. Marinas may define "residential use" more narrowly than the above definition, but not more broadly.

12) The SSMP modifies the Ecology definition of Vessel

The city has stated that any modification of the definition for vessel is not permitted because it is the same as the ecology definition of Vessel. The SSMP proposes to change the existing definition "vessel." Ecology should either not permit this change or open the discussion to a different definition of vessel, since the Ecology definition is substantially different from the Federal definition, or those found in other sections of the RCW and WAC sections. The Ecology definition of vessel found in WAC 173 is not established in the SMA.

Section 23.60.942 of the Seattle Municipal Code, enacted by Ordinance 113466, is amended as follows:
23.60.942 Definitions -- "V"
"Vessel" means ships, boats, barges, or any other floating craft ((which))that are designed and used for navigation and do not interfere with the normal public use of the water, including historic ships ((which))that do not have means of self-propulsion and steering equipment.

13) The SSMP treatment of non-conforming vessels use is inadequate

A non-conforming use is a pre-existing use on a property that, while it was legal at the time it was established or constructed, is not allowed under current regulations. One example is an industrial use in a residential environment. A non-conforming structure is a pre-existing structure that was constructed in conformance with standards when it was built but is non-conforming with specific current development standards such as height, lot coverage, setback or parking. A property may be non-conforming to use standards, structure

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development standards or both. Ecology recently offered new guidance on legally established uses and development including a reference to RCW 90.58.620 which allows more flexibility to local jurisdiction regarding residential structures. I see no reference to this or analysis in the city documents. I suggest the following as a new section to address any nonconforming vessels with single family residential use.

New Subsection
23.60A.122 Nonconforming uses
F. A vessel nonconforming to development standards 23.60A.214 or 23.60A.204 may be maintained, repaired, remodeled and structurally altered within the existing vessel overwater coverage. The vessel may be relocated to a different moorage within Seattle if the moorage is in compliance with 23.60A.200.

14) The SSMP BMP standards are inconsistent

For the first time, the City of Seattle will establish Best Management Practices (BMPs) in the SSMP including Sections 23.60A.187; 23.60A.200; and 23.60A.202. These should be conforming in content, standards and method of implementing changes to the maximum extent feasible. Currently they all differ which will lead to confusion and potentially inadequate compliance. However, three of the standards are clear and I support them as written when applied to all vessels.

- Disposing of sewage at pump-out stations or through a pump-out service;
- Limiting the amount of gray water produced by minimizing water use;
- Disposing of garbage, food scraps, waste material and recyclables into the appropriate on-land receptacles;

Each of the SSMP sections noted above contain different BMP standards which will be confusing to users and does not reflect any policy basis for creating so many similar but not identical BMP standards. The change as proposed below regarding "hazardous liquids" is an example of the overly broad and unclear language in the SSMP. I also question the code writing structure of 23.60A.187 since vessels are not over the water structures, WAC 173-27-030(15) defines "Structure" means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels. Is it appropriate to include section B here? Regardless of the code structure BMPs should apply to all vessels, whether recreational, commercial; with or without live-aboard use.

I have pointed out in prior comments to DPD that there is a lack of clarity in the standards for BMPs in different sections of the SSMP For example: *7. Using a double containment system when using products on the vessel to contain any spills in the second receptacle and prevent the products from entering the water.* What products are referred to in line 7? Are these hazardous products or must I double contain my ecologically sound dish soap or my

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bowl of milk laden cheerios? Did the city mean to parallel the standard proposed at 23.60A.202.E.6? *"6. Using a double containment system when using toxic liquid products on decks and other areas exposed to the outside to contain any spills in the second receptacle to prevent these products from entering the water."* I think this language would not require that I double contain my salsa, dish soup, cheerios or beer on my deck and clearly not inside my vessel?

The following are suggested changes to modify and conform similar BMP sections. This is a suggestion and all sections should be examined for conformance unless there is a policy articulating a difference between BMPs for different vessel uses and moorages.

> 6. Not using herbicides, pesticides or fertilizers in outside areas or on the exterior of the vessel; and
> 7. Using a double containment system when using hazardous liquid products on the decks and other areas exposed to the outside of the vessel to contain any spills in the second receptacle and prevent the products from entering the water.

The SSMP uses the term Best Management Practices in many instances and in some instances does not reference what those practices are by 1) listing the practices in the SSMP, 2) referencing an adopted code or 3) referencing a national, regional or state document or law that lists the practices. When the term is used, it should establish what specific practices are applicable. I reference as illustrative but not as a complete analysis sections 23.60A.152 R & T, 23.60A.190 B3, H3e & J1, 23.60A.194 C and 23.60A.217 D. I also find the use of "... include, but not limited to ..." in 23.60A.202 E and 23.60A.204 D overly broad and unspecific, creating the opportunity for arbitrary and capricious application, in addition to the creation of standards outside of the SMA review and approval process.

15) The SSMP BMPs are subject to revision and amendment outside of the SMA review and approval requirements

Granting authority to change BMP's by Director's Rule bypasses the public participation requirement for implementing changes to the SSMP in accordance with the SMA. The granting of a different comment and review process for Floating Homes and not affording this process to any other vessel or marina owner/operator is creating an inequitable public participation process. If BMPs are allowed to be changed by rule, without following the SMA review process, Ecology should require the city to use a review process that mandates the inclusion of affected stakeholders with outreach to the affected stakeholder communities and review by the legislative authority (City Council) for the City of Seattle.

The SSMP should be modified to include a change to the adopted SSMP provision in each section granting authority to modify the BMPs by Directors Rule. I suggest the use of a common public engagement standard and public process to modify the SSMP Best Management Practices.

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The following suggested addition to protect the public participation process of the SMA would require engagement of stakeholders and review with a public hearing before the City Council to authorization of changes to the SSMP by Director's Rule. I consider this a significant compromise since the changes should be only made by ordinance and not Director's Rule. It is up to Ecology to protect the public participation in changes to the SSMP.

> In developing the Director's Rule the Director shall consult with the affected stakeholders and at least 30 days prior to the Department adopting the Director's Rule, DPD shall present the rule to City Council for review and comment in a public hearing.

16) The definitions for water-oriented uses do not adequately address use of vessels, including liveaboard use or conform to WAC 173-26-020

One of the Shoreline Management Act's (SMA) major tenets is reserving the shoreline for uses that are "unique to or dependent upon use of the state's shorelines" [RCW90.58.020]

The definition of "Water-dependent use", "Water-enjoyment use" and "Water-related use" do not conform to the definitions contained in WAC 173-26-020 and should conform.

The definition of "Water-dependent use" refers to specific uses as being included. The example of uses mostly includes terms which are not defined in the SSMP including: Ferry and passenger terminals, marine construction and repair, aquaculture, boat launch facilities, moorage, tour boats, cruise ships, tug and barge operations, recreation that provides physical access to the water, limnological or oceanographic research facilities that require the use of the adjacent water for its operation.

Of particular concern is the term "moorage." The vessels which use the moorage should be clearly defined as a part of the moorage, and therefore a water dependent use. I suggest the addition of a definition for moorage or the qualification of this term as "moorage of vessels."

Suggested definition: "Moorage" means a place to moor vessels including: quays, wharves, jetties, piers, floats, docks, anchor buoys and mooring buoys.

The definition of "water-related use" refers to specific uses or similar uses. The example of uses mostly includes terms which are not defined in the SSMP including: Seafood and fish processing, lumber and plywood mills, sand and gravel companies and concrete mix and cement plants if a substantial portion of up to50 percent of product or materials for any of the foregoing uses arrive by vessel, water pollution control services, marine electronics, marine refrigeration, marine sales, boat rigging operations and storage of items that have come off of a vessel and will be returned to a vessel or transported to another location; such as, cargo containers and products.

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Of particular concern is the definition of uses that are not water-related: offices, eating and drinking establishments, catering services, non-marine sales and service, lodging, adult care centers, child care centers, religious facilities, hospitals, and residential uses.

Of these not water-related, there is s significant change from the current SSMP which at SMC **23.60.928 "N."** defines the term.

> "Nonwater-dependent use" means a use which is not water-dependent or water-related in that access to the water or to water-dependent uses is not required for its operation, even if the aesthetics of a waterfront location may increase profitability. The following and similar uses are included: Eating and drinking establishments, lodging, retail sales and services, medical services, funeral services, offices, religious facilities, schools, principal use parking, tennis courts, health clubs, and residential uses **on land. [emphasis added]**

23.60.928 "N" which defines "Nonwater dependent use" and the most specific difference is the removal of the clarifying phase **"on land."** By prohibiting all residential uses as a matter of definition and policy, the residential use of vessels is placed in serious jeopardy. The definition of water related uses should continue the existing clarification of **"residential uses on land"** as a Nonwater dependent use and might consider adding **"or in structures built over the water"** to clarify the difference between use of vessels and those uses on land and structures.

17) Remove unused and unnecessary definitions that were added in prior SSMP drafts and are no longer relevant including:

"**Freeboard**" means the height of the main deck above the water line. Where the threshold of the main entrance to the structure is above the main deck, the freeboard is measured to the threshold of the main entrance.

"**House height**" means the distance from the main deck to the top of the roof.

"**Overall length**" is the length of the hull structure. It does not include elements such as bow sprits or figureheads.

"**Sea state**" means the general condition of the free surface on a large body of water, with respect to wind waves and swell, at a certain location and moment. A sea state is characterized by statistics, including the wave height, period, and power spectrum. Sea state varies with time as wind and/or swell conditions change. The sea state can either be assessed by an experienced observer, like a trained mariner, or through instruments like weather buoys, wave radar or remote sensing satellites.

COMMENT # 3

Burcar, Joe (ECY)

From: tim collier [captaintimcollier@yahoo.com]
Sent: Saturday, September 07, 2013 8:43 AM
To: Burcar, Joe (ECY)
Subject: save our houseboats

To whom it may concern,

I have owned a houseboat here in Seattle for the past 12 years. I'm writing to ask to be treated fairly. I have been a licensed U. S. Coast Guard Captain for the past 25 years and have taken numerous boats through rigorous Coast Guard inspections. Never have I experienced such random rules and regulations about a definition of a 'vessel'. Clearly this is all aimed at the existing houseboats with the goal at eliminating them from the waters.

It would be appreciated if you had some sort of professional that has dealt with naval architecture/floatation/navigation, etc, come up with a real plan.

I have been paying my yearly 'vessel' registration with the belief that I was doing the right thing. Now It seems you are trying to go back in time and rewrite the rules..

We are all in limbo now. Not knowing what will happen to our homes, and have it all riding on a set of always changing random rules is not fair.

Do the right thing. Thank you. Tim Collier

COMMENT #4

Burcar, Joe (ECY)

From: fritz wagner [fwagner@u.washington.edu]
Sent: Sunday, September 08, 2013 10:36 AM
To: Burcar, Joe (ECY)

Dear Mr. Bucar and DOE-----I live on a floating home in Portage Bay. The proposed changes DOE is proposing do not comply with the state law allowing continued use of ALL existing floating homes as I understand it. Given this, DOE must send the regulations back to the city of Seattle for revisions. Your help in seeing this is done would be much appreciated. Many thanks. Fritz Wagner, 3110 Portage Bay Pl. Slip C, Seattle 98102--206-524-0979

COMMENT # 5

Burcar, Joe (ECY)

From: Spiderpeople [spiderpeople@comcast.net]
Sent: Sunday, September 08, 2013 6:22 PM
To: Burcar, Joe (ECY)
Subject: Shoreline Master Program

The proposed changes to the Shoreline Master Program do not comply with the state law allowing continued use of **ALL** existing floating homes. DOE must send the regulations back to the city of Seattle for revisions. Thank you. Jon Zegree and Spider Kedelsky, 1210F E. Shelby Street, Seattle 98102

COMMENT # 6

Burcar, Joe (ECY)

From: Hettie Collier [hettie_collier@msn.com]
Sent: Monday, September 09, 2013 8:32 AM
To: Burcar, Joe (ECY)
Subject: Houseboats

I lived in South Africa during the Apartheid era and saw the dreadful acts of the Government taking away people's homes and properties in certain areas. It was inhumane and cruel beyond belief.

Now I am appalled that this is taking place in the United States of America and even more shocked that the City of Seattle would stand by and watch people and families potentially have their homes taken away from them for no apparent reason. This act to remove a certain group of houseboats from Lake Union seems to be first hand discrimination. How can this be allowed to happen in a country where we fight against this kind of injustice? How would any person who is wanting to pass this law feel about their own home being taken away from them?

Hettie Collier

COMMENT #7

Burcar, Joe (ECY)

From: Stacy McCarthy [mccarthy_stacy@yahoo.com]
Sent: Monday, September 09, 2013 2:34 PM
To: Burcar, Joe (ECY)
Subject: Shoreline Master Plan

Joe Burcar, SEA-Program
Washington Department of Ecology
Northwest Regional Office
3190-160th Ave. SE
Bellevue, Washington 98008

Dear Mr. Burcar,

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

The city is choosing to not comply with legeislation passed in 2011, legislators passed an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes which protects people from losing their moorages and, in the end their homes. I am not sure why a city would refuse to honor a law, , but the city has refused to change their proposed Shoreline Management Program to comply with the law. This lack of adherence to a law, is endangering people's homes and in the end, the long-term survival of our floating home community. I am sure you can imagine if such an illegal act would put your home at risk, how you would react. This affects our families, our neighborhood and our pocketbooks and I certianly do not have spare cahnge to buy another home because myine has become worthless.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

I very much apprecaite your serious consideration of this letter and ones like it.

Thank you,

Stacy McCarthy

COMMENT # 8

Burcar, Joe (ECY)

From: Sue Lesser [sulesser@gmail.com]
Sent: Monday, September 09, 2013 2:39 PM
To: Burcar, Joe (ECY)
Subject: Shoreline Management Program revisions

Dear Mr. Burcar,

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you.

--
Sue Lesser
Seattle Mando for Kids
Dancing Crows
206-595-7206

COMMENT # 9

Burcar, Joe (ECY)

From: randy@randyo.com
Sent: Monday, September 09, 2013 3:04 PM
To: Burcar, Joe (ECY)
Subject: SMC 23.60.202

Attn: Joe Burcar, SEA-Program
Washington Department of Ecology
Northwest Regional Office
3190-160th Ave. SE
Bellevue, Washington 98008

Dear Mr. Burcar,

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you.

Randall Olbrich

2766 Westlake Ave N

Houseboat A

Seattle, WA 98109

COMMENT # 10

Burcar, Joe (ECY)

From: Bill Taraday [BTaraday@totevision.com]
Sent: Monday, September 09, 2013 3:22 PM
To: Burcar, Joe (ECY)
Subject: Shoreline Master Program

Importance: High

Dear Mr. Burcar,

Re. Shoreline Master Program

This is to request that you send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). I expect the city to comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change its proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

To be specific, I ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thanks in advance for your support and cooperation in this matter.

Sincerely,

Bill Taraday
1319 Dexter Ave. N., Suite # 020
Seattle, WA 98109
Tel: 206-623-6000 x 201
Fax: 206-623-6609
E-mail: btaraday@totevision.com
www.totevision.com

This message has been sent to btaraday@totevision.com

As a subscriber of Westlake & Northlake Floating Homes at Floating Homes Association, we'll periodically send you an email to help keep you informed. If you wish to discontinue receiving these types of emails, you may opt out by clicking Safe Unsubscribe.

COMMENT # 11

Burcar, Joe (ECY)

From: Peter Erickson [peter@peter-erickson.com]
Sent: Monday, September 09, 2013 3:26 PM
To: Burcar, Joe (ECY)
Subject: City of Seattle_ Proposed Shoreline Master Program Regulations

Dear Mr. Burcar,

As a 38 year resident of the floating home community I am distressed at Seattle's proposed Shoreline Management Program _ specifically with regard to the section on floating homes (SMC 23.60.202). Why does the city continue to refuse to comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake?

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. In the current proposal the city again refuses to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you.

Sincerely,

Peter Erickson
2025 Fairview Avenue East
Houseboat "I"
Seattle, WA 98102

206-850-5729

COMMENT # 12

Burcar, Joe (ECY)

From: William Wilcox [william@willdesign.org]
Sent: Monday, September 09, 2013 3:56 PM
To: Burcar, Joe (ECY)
Subject: Floating Homes

Dear Mr. Burcar,

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you.

Will Wilcox
Hamlin Pier

COMMENT # 12

Burcar, Joe (ECY)

From: William Wilcox [william@willdesign.org]
Sent: Tuesday, September 10, 2013 12:01 PM
To: Burcar, Joe (ECY)
Subject: Floating Homes

Dear Mr. Burcar,

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you.

William Wilcox

COMMENT # 13

Burcar, Joe (ECY)

From: Otter Ville [otterville@comcast.net]
Sent: Monday, September 09, 2013 4:10 PM
To: Burcar, Joe (ECY)
Subject: Shoreline Management Pogram

September 9, 2013

Joe Burcar, SEA-Program
Washington Department of Ecology
Northwest Regional Office
3190-160th Ave. SE
Bellevue, Washington 98008

Dear Mr. Burcar,

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you.

Joan Zegree, Spider Kedelsky
1210F E. Shelby St.
Seattle 98102

COMMENT # 14

Burcar, Joe (ECY)

From: Fogarty Faith [faithfog@gmail.com]
Sent: Tuesday, September 10, 2013 9:21 PM
To: Burcar, Joe (ECY)
Subject: Comments on Seattle's SMP relating to live-aboard vessels

Dear Mr. Burcar and others interested -

I am a houseboat (vessel) live-aboard on Lake Union (Gas Works Park Marina), and I have repeatedly given my input to the Seattle Department of Planning and Development and the City Council with my concerns about the way they seem hell-bent on ramming legislation through that would make my home illegal.

They (the City) have shown no inclination to take our input at their sham "public hearings," and they certainly have not given us REASONABLE ACCOMMODATION, as the State requires.

Have you looked at the 5 (I think) iterations of the Seattle SMP proposal relating to liveaboard vessels? Have you noticed how each iteration is almost completely different from the previous one, but NOT because of input at public hearings but more to EVADE our input. It's SHUCK AND JIVE all over the place.

My boat was build by a reputable LOCAL boatbuilder who studied the City's CAM 229 and made sure that the boat he built was compliant with the definition of a "vessel" -- which, according to the law, could be legally lived on.

Now, DPD is seeing that the original regulation is not to their CURRENT liking, so they are trying desperately to redefine the law, UNDER THE GUISE of "clarifying" what the law really meant. Nowhere in Seattle ordinances or in the CAM (Client Assistance Memo) issued to clarify the rules at the time my boat was built was there mention of what the SHAPE of the boat had to be, or what WIDTH TO HEIGHT TO LENGTH RATIO it must be, and WHAT SIZE MOTOR r it should have. Now they are proposing requirements retroactively that were non-existent at the time my and others' boats were built.

I have neighbors in this marina with boats like mine who have lived on them for 20 years and raised children on them, and now they are (as I am) at risk of losing their home all because Seattle's DPD, with the Council's blessing, is angry at the fact that some boatbuilders built enormous boats (which, I may point, can meet the test of navigation) and they (DPD Staff who have NO expertise in boats) think they are illegal and wants to get rid of them by RETROACTIVELY changing the law.

Please do not let them do this.

Sincerely,
Faith Fogarty
Houseboat Owner and Live-Aboard

Public Testimony – Dept. of Ecology Hearing Proposed City of Seattle SMP – Sept. 11, 2013

COMMENT # 14 (FAITH FOGARTY)

Testimony: *Hi my name is Faith Fogarty and I live on a houseboat in Lake Union; a live-aboard. I'm grateful that you're here so that we can talk to someone with authority, other than the city, on this subject, because they have been curiously unresponsive to our input and desire to work with them.*

The city Department of Planning and Development has shown no interest in working with us to find an equitable solution to their problem with us. I say their problem, because there has certainly been no public or general outcry against us. In fact, quite the contrary. When any of us talk to our friends and say what's happening, they say: What? Why? And we explain that we don't know why, really why. The DPD's apparent rejection and rewriting of the heart of the Stakeholders Group's recommendations really shocked us. The city turned the state's generous $20,000 subsidy to convening that group into a total waste of money and a slap in the face of all those volunteers. Some of them are here who worked on that very hard and came up with reasonable proposals. The city is not out for reasonable accommodation is fairly clear. DPD says that their new rules regarding live-aboard houseboats are simply clarification of the original rules, where we thought these were new rules. And they say, no, it's clarification. Now, if I'm not mistaken, DPD clarifies rules with client-assistant memos, CAMs. And such clarification was issued in CAM 229, back, I suppose, in the 90s and it was updated as recently as 2004, with absolutely nothing in it that they have now put into the rules.

My houseboat was built in accordance with that CAM, in 2009, by a reputable local boat builder who followed CAM 229 to the letter, and built the houseboat that he navigated, using the outboard motor on the home, down from Stanwood through Puget Sound and through the locks into Seattle Marina, under its own power. He, okay, well anyway. I abandoned my land residence and put my savings into buying that boat where I thought I could live forever. I have about $200,000 dollars plus in that boat. And, if the rules go through and applied retroactively, in whatever way they are (inaudible 59:44.6) applied, it would make my boat illegal. And I will lose that money because there's nobody that's going to buy my boat if it's illegal.

So, I wish that, I would hope that DOE would put pressure on the city to redo their rules, particularly look at Section 2l4, and find reasonable accommodation. Thank you.

COMMENT # 15

Burcar, Joe (ECY)

From: Andy Salter [Andy@verislawgroup.com]
Sent: Tuesday, September 10, 2013 9:43 AM
To: Burcar, Joe (ECY)
Subject: Seattle Shoreline Master Program

Attn: Joe Burcar, SEA-Program
Washington Department of Ecology
Northwest Regional Office
3190-160th Ave. SE
Bellevue, Washington 98008

Dear Mr. Burcar,

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you.

Andrew Salter

COMMENT #15

Burcar, Joe (ECY)

From: Andy Salter [Andy@verislawgroup.com]
Sent: Thursday, October 03, 2013 12:53 PM
To: Burcar, Joe (ECY)
Subject: Comments re Shoreline Master Program

Washington Department of Ecology, Northwest Regional Office

Attn: Joe Burcar SEA-Program

3190-160th Ave. SE, Bellevue, Washington 98008, or email
Joe.Burcar@ecy.wa.gov

Dear Mr. Burcar,

Please send Seattle's proposed Shoreline Master Program back to the City for revisions to the section regarding floating homes (SMC 23.60.202). The City must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The City has refused to change their proposed Shoreline Master Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you.

Andy Salter

1210 East Shelby Street, Unit G

Seattle, WA 98102

COMMENT # 16

Burcar, Joe (ECY)

From: Lou Daly [loudaly@nwlink.com]
Sent: Tuesday, September 10, 2013 1:06 AM
To: Burcar, Joe (ECY)
Subject: Seattle's proposed Shoreline Management Program

Dear Mr. Burcar,

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, I ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you.

Lou Daly

3260 Portage Bay Pl. E.
Seattle WA 98102

COMMENT # 17

Burcar, Joe (ECY)

From: Mark & Erin [mepc@fastmail.fm]
Sent: Tuesday, September 10, 2013 5:44 AM
To: Burcar, Joe (ECY)
Subject: SMP -- "conforming and preferred use" status

Dear Mr. Burcar,

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you.

Mark Koenig

COMMENT # 18

Burcar, Joe (ECY)

From: Taft David [davtaft1@gmail.com]
Sent: Tuesday, September 10, 2013 1:42 PM
To: Burcar, Joe (ECY)
Subject: Shoreline management program

Dear Mr. Burcar,

I am writing as a floating home resident and ask that Seattle's proposed Shoreline Management Program be sent back to the city for revisions that concern floating homes (SMC 23.60.202). The city should comply with the Shoreline Management Act (RCW 90.58.270) which gives our home conforming and preferred use status and allow for continued use of all homes currently on the lake.

In 2011, our legislators passed and the Governor signed into law an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects homes that lose their moorages (Safe Haven) who would otherwise have to discard their homes. The city has until now refused to change their proposed Shoreline Management Program to comply with state law and endangers the long term survival of our floating home community.

Specifically, I ask for revisions to the proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d and 23.60.202.B.1 that outline the right of displaced homeowners to relocate.

Thank you for your consideration.

David Taft, floating home resident
Wandesforde's Dock
Lake Union

COMMENT # 19

Burcar, Joe (ECY)

From: Cindy Wishart [cdietz@hickorytech.net]
Sent: Tuesday, September 10, 2013 3:20 PM
To: Burcar, Joe (ECY)
Subject: Seattle Shoreline Master Program

Dear Washington Department of Ecology;

I am e-mailing you concerning my houseboat on Lake Union. I am currently a resident of the State of Minnesota, who fell in love with the Seattle area many years ago. My sister, Nancy, is a long time resident of Seattle. In 2007, I was fortunate enough to purchase a slip at Gas Works Park Marina and built a craftsman houseboat with the dream of my husband & I retiring in the Seattle area and living on our houseboat. The time of our retirement is finally approaching and we are very concerned about the possible loss of our retirement home.

The decisions that are made concerning floating homes could potentially have a huge impact on my husband & I financially, but most importantly, could effect our retirement dream of living in Seattle. Our houseboat was built to be as "green" as possible, because we love Lake Union and want it to be our home. Section 214, living on a vessel, is written to impose new regulations on my existing home making my home illegal or at best designating it a non-conforming use, while at the same time, not allowing my husband & I to make improvements to become compliant.

Although my husband & I will not be able to attend the public meeting tomorrow, please know that we are very concerned about the Seattle Shoreline Program and the devastating effect it could have on our future retirement dream.

We love Lake Union and are looking forward to our future living aboard our houseboat!
Thank you for your consideration.

Sincerely;

Cindy & Dale Wishart

Permanent Address:
59396 127th St
Mapleton, MN 56065

Local Address:
2143 N. Lake Way Slip #9
Seattle, WA 98103

COMMENT # 19

Burcar, Joe (ECY)

From: Cindy Wishart [cdietz@hickorytech.net]
Sent: Thursday, October 03, 2013 9:09 AM
To: jill.vannenman@seattle.gov
Cc: Burcar, Joe (ECY)
Subject: Seattle Houseboats

As an owner of a houseboat on Lake Union, I am e-mailing you in support of "Keep existing Seattle houseboat-vessels safe" and would hope that you will create a Director's Rule that will exempt existing houseboats from retroactive rules.

My husband & I love the Seattle area and hope to retire there. Our houseboat was built to be as "green" as possible, because we love Lake Union & look forward to becoming a permanent resident there in the very near future. So, we are asking for your support on this important ruling. Please keep our retirement dream alive and consider the additional expenses that will be incurred by every houseboat owner if current houseboats are not exempt from this ruling.

Thank you for your consideration.

Cindy & Dale Wishart

Permanent Address:
59396 127th St
Mapleton, MN 56065

Retirement Home Address:
2143 N. Lake Way, Slip # 9
Seattle, WA 98103

(Gas Works Park Marina)

Cindy & Dale Wishart

COMMENT # 20

Burcar, Joe (ECY)

From: Richard Patton [patton24601@gmail.com]
Sent: Wednesday, September 11, 2013 3:09 PM
To: Burcar, Joe (ECY)
Subject: Shoreline Management Program

As a floating home resident of more than 30 years, I thought that 2011 state legislation gave my neighborhood some protection and longevity by designating houseboats as conforming and with preferred use status.
Now, I understand that the city is balking at complying with this law.

Specifically, I support revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you,
Richard Patton
206.724-1121

COMMENT # 21

Burcar, Joe (ECY)

From: Nadine Morin [nmorin@Tousley.com]
Sent: Wednesday, September 11, 2013 3:25 PM
To: Burcar, Joe (ECY)
Subject: Shoreline Management Program

Dear Mr. Burcar,

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate. The floating home docks and communities are a vital part of the history of Lake Union, the University District and an example of a alternative lifestyle. The docks are a source of community and a point of interest for tourists, generating income for the City and State.

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

Thank you.

COMMENT # 22

Burcar, Joe (ECY)

From: Robert Blumberg [robtbg@gmail.com]
Sent: Wednesday, September 11, 2013 6:16 PM
To: Burcar, Joe (ECY)
Subject: Shoreline Master Program

11 September 2013

Dear Mr. Burcar,

I am writing to you as a 20 plus year houseboat resident. We have a wonderful, varied, both architecturally and economically houseboat community. Most of the new ones being built are boring boxes while the older ones range from funky to elegant. The proposed Shoreline Management Program will severely negatively effect these older, historically interesting, masterpieces. The state recognized this in setting up the current Shoreline Management Act!

Please send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you

Robert Blumberg
Robert Blumberg
The Dox Moorage Coop
2235 Fairview Ave E
Houseboat 13
Seattle WA 98102

COMMENT # 23

Burcar, Joe (ECY)

From: HealyMetcalf [healymetcalf@gmail.com]
Sent: Thursday, September 12, 2013 12:45 PM
To: Burcar, Joe (ECY)
Subject: . . . . our home since 1994.

Attn: Joe Burcar, SEA-Program

Washington Department of Ecology

Northwest Regional Office

3190-160th Ave. SE

Bellevue, Washington 98008

Dear Mr. Burcar,

We are writing to you as the owners of one of Seattle's iconic "Floating Homes" which has been our home since 1994.

Our request is for you to send Seattle's proposed Shoreline Management Program back to the city for revisions to the section regarding floating homes (SMC 23.60.202). The city must comply with the Shoreline Management Act (RCW 90.58.270), which gives our homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

In 2011, our legislators passed, and the Governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages and would otherwise have to discard their homes. The city has refused to change their proposed Shoreline Management Program to comply with the law and is endangering the vitality and long-term survival of our community.

Specifically, we ask for revisions to proposed SMC 23.60.202.B.3.a, SMC 23.60.202.B.3.d, and SMC 23.60.202.B.1.c that would accommodate the right of displaced homeowners to relocate.

Thank you for your assistance.

Best regards,

Loretta Lebair Metcalf

and

COMMENT # 24

RECEIVED

SEP 11 2013

DEPT OF ECOLOGY

Tuesday September 10, 2013

Washington Department of Ecology
Northwest Regional Office
3190 160th Ave. SE
Bellevue, Washington 98008

Attention: Joe Burcar SEA Program

In 2011 our legislators passed, and the governor signed into law, an amendment to the Shoreline Management Act that allows for continued use of all existing floating homes and protects people who lose their moorages from having to destroy their homes with no alternative place to moor them. The city continues to refuse to change their proposed Shoreline Management: program to comply with the law and is endangering the vitality and long term survival of the Floating Homes Community.

I am requesting that the proposed Shoreline Management Program be sent back to the city, for revisions to the section regarding Floating Homes (SMC 23.60.202). It is imperative that the city comply with the Shoreline Management Act (RCW 90.58.270). This section gives our floating homes conforming and preferred use status and states a goal of allowing continued use of all homes currently on the lake.

The critical Sections that need revisions are the following:

Proposed sections
SMC 23.60.202.B.3. a
SMC 23.60.202.B.3.d
SMC 23.60.202.B.1.c
These sections would accommodate the right of displace homeowners to relocate.

Respectfully

Mary D. Pintler "Dixie"
65 Pine Street #305
Edmonds, WA 98020
425-967-3357
I am an owner of a floating home located at
2331 Fairview Avenue East #N
Seattle WA 98102

Public Testimony – Dept. of Ecology Hearing Proposed City of Seattle SMP – Sept. 11, 2013

Comment # 25 (Marta Shea)

Testimony:

My name is Marta Shea. My husband is Langdon Miller and he has left for another important meeting that he's going to go to ahead of me. I've spoken many times on the issue of Seattle waters and houseboats. I am a houseboat owner at Seattle Marina. He and I bought our houseboat three years ago when he came here to Seattle to take a job. We bought it with the full understanding that it was legal to live on a houseboat. We were offered opportunities to view many houseboats for sale. We chose one. We were offered the opportunity to take out a mortgage. We registered our houseboat, licensed it, and did all the things that we thought were required under the law to be there. We set up a pump-out contract. And we rented, from a marina, a slip that would properly accommodate our houseboat and started living aboard.

Since this process of figuring out who houseboats are has come into our lives approximately a year and a half ago, which, I guess it was a problem before that, but we weren't aware of it, what frustrates me is not the Department of Ecology, I've looked over your materials today, they're very enlightening. I understand also that your department paid for the stakeholder's group, which took six months out of several people's lives to work together and work hard and think hard about accommodation, what we really are trying to accomplish as people, as citizen groups, and what might be fair to those of us who belong to the 115 or so square-shaped boats. We call them boats. We call them vessels. They float and have, at least ours does, means of propulsion, steering, and everything that, kind of, constitutes a vessel by now retro, reading back through, you know, what a vessel is. But what I find so difficult to understand is the kerfuffle that's come about by whether you should live aboard a square-shaped vessel or accommodations being made for people who live aboard pointy-shaped vessels. And, okay, let's look at the science. We look at the science and it's irrelevant. It's just a likely that I and my husband use our toilets just as much as our neighbors and their pointy boat use their toilets. And by design, our boat is not able to pump out directly our black water. We do have gray water containment, but it's not necessary to use that. So I don't see any ecological benefit of square versus pointy.

Okay, so the other iterations of the DPDs, you know, trying to find a way to define houseboats and, you know, I have to say, I think they're trying to get rid of us. But, and we'll fight it. And we have been. We come downtown. We spend our twenty bucks on parking. We make our little comments, they're always the same, and mine are always going to be the same. I don't understand this relevant, measurable, pertinent, and rational reasons why square-shaped vessels are not to be allowed on our waterways. We pay our taxes through our moorage fees. We spend money in the city. We take care of the waterways. We are first responders to people who are having problems on the waterways. And I don't see that we're a problem. And I would urge the Department of Ecology to pass the relevant parts of the SMP that have to do with protecting our shorelines and I would ask them to insist that the city figure out a way to accommodate the 115 of us, roughly 200 people, who would like to continue living in our homes. We don't want to have to leave. And frankly, most of us will lose all of the equity that we have in our homes. Thank you.