

Public Comment Summary: City of Bellingham Shoreline Master Program Limited Amendment

The following written comments were received during the Ecology Comment Period (October 15 – November 17, 2014)

Attachments that are referenced in this comment tracker are those that were provided to Ecology as part of the City's limited amendment submittal.

Exhibit A is additional information that was provided by the Port of Bellingham in order to supplement the "Local Government Responses"

ITEM	SMP Section	Commenter	Comment / Concern	Local Government Response / Rationale	Ecology Response / Rationale
01	Environment Designations: 22.11.10	Louann Chapman	The city needs to update its SMP supporting documentation as it is unclear what criteria were used to justify the changes to the environment sub-designation at the log pond from Waterfront District (WD) – Recreational Use to WD Mixed Use. Specifically, it has not been shown how the amendments would protect shoreline ecological functions.	No change. Page 6 of Attachment 10 of the Planning Commission staff report (Attachment 3 of the submittal to DOE) identifies criteria and factors that justify the limited amendment (LA). The amendment and all of the supporting materials clearly specify that the existing buffer width of 50-feet would not be changed.	Ecology concurs with the City's comments. The purpose of the proposed amendments are to make the shoreline master program (SMP) consistent with the City's adopted Waterfront District Master Plan (WDP). The City has not amended regulations that affect Ecology's determination that the SMP will ensure no net loss of ecological functions. The amendment retains the environmental protections for the Log Pond area through requirements of a 50-foot buffer and 75-foot structural setback.
02	Environment Designations 22.11.10	Barry Wenger	Many years were spent by the state, city and the port to inventory, analyze, plan for and justify the area around the log pond as a Recreational Use sub-designation. This should not be discarded in favor of the proposed non-water-oriented Mixed Use sub-designation.	No change. The LA does not discard the prior work. Those uses allowed in the Recreational uses sub-area are still allowed PLUS limited N-W-O uses (as allowed by the underlying industrial zoning per BMC 20.37.420). Please also see the information provided in Exhibit A.	Previous versions of the waterfront district master plan envisioned the Log Pond area as a large recreational park. In 2012, the Port of Bellingham released a new preferred alternative that redistributed the large park area abutting the Log Pond to other locations in the Waterfront District. This alternative was ultimately adopted by the City of Bellingham necessitating the need to amend the SMP for consistency.
04	Environment Designations 22.11.10	Pam Borso	"The proposed amendments include changing land use areas and would open the area for maritime industrial uses. These are not necessarily in the public's interest as they would not protect the shoreline ecology and should not be approved."	No change. The amendment and all of the supporting materials clearly specify that the existing buffer width of 50-feet would not be changed and that water-oriented uses would continue to be allowed.	The Shoreline Management Act (SMA ACT) establishes a policy that preference be given to for uses that are unique to or dependent upon a shoreline location such as those associated with the maritime industry. Certain types of water-oriented uses and developments would be inappropriate at the Log Pond due to the shallow bathymetry and the presence of eelgrass. The WDP will maintain a portion of the existing Georgia-Pacific (G-P) wharf on the Whatcom Waterway for use by water-oriented uses located on the Log Pond uplands. The Bellingham Shipping Terminal would also be available to support water-oriented uses in this area.
05	Environment Designations 22.11.10	Sandra Randall	With the empty storefronts in downtown Bellingham, development should be focused there. The log pond area needs a recreational park for use by people with a habitat buffer of 150-ft rather than 50-ft.	No change. The required buffer width of 50 feet is not included in this LA. Furthermore, the shoreline of the Log Pond itself will be restored as part of the Whatcom Waterway Phase I Cleanup Action Plan to provide improved habitat function in the nearshore area. The uses allowed in Industrial Mixed-Use zoning will not compete with Downtown Bellingham storefronts.	Ecology concurs with the City's comments. The WDP designates the area along the Log Pond itself as a public amenity to be developed for shoreline access and habitat protection in the future.

06	Environment Designations 22.11.10	Stefan Pashov & Amy Pashov	<p>There are other locations within the city for business development. The shoreline is a limited resource and should be reserved for activities that enhance quality of life and showcase our beautiful natural location. The waterfront should be cleaned up and redeveloped for use as a park and as natural habitat.</p> <p>Keep the log pond, and waterfront area as a whole as a recreational area.</p>	<p>No change. The LA still allows for 'clean up' and public access.</p> <p>The Log Pond itself is not natural habitat. It was a log pond created for log haul out during the time the GP mill was operational.</p> <p>However, the bedlands of the Log Pond were capped with eelgrass in 2001. The Log Pond has been monitored periodically since that time to ensure that eelgrass continues to establish and colonize.</p>	According to the WDP, clean up, habitat enhancement and public access are envisioned for the Log Pond and its adjacent shoreline.
07	Environment Designations 22.11.10	Blue Green Waterfront Coalition	<p>The log pond area has long been envisioned as an open recreational space where habitat and public access could coexist. Many in the community were disappointed when the WDP designated this area for industrial use.</p> <p>The log pond is colonized with eelgrass and used as a seal haul out. The BlueGreen Coalition supports the designation of this area for industrial use but only if the buffer is widened to 125-feet with an additional 25-foot vegetated building setback. The larger buffer and setbacks would ensure adequate separation between adjacent commercial and industrial uses and the marine shoreline while leaving adequate space for recreation and habitat restoration to coexist. Without these additional protective measures, amending the sub-designation is inappropriate.</p> <p>These comments were provided to city during the public hearing dated May 15, 2013 but were not adequately considered as part of the waterfront planning process.</p>	<p>No change. The required buffer width of 50-feet is not included in this LA. Furthermore, the shoreline of the Log Pond itself will be restored as part of the Whatcom Waterway Phase I Cleanup Action Plan to provide improved habitat function in the nearshore area.</p> <p>Please note that the DOE has already approved a 50-foot buffer width in this sub-area. This means that water-dependent or related industrial use could locate there which could present the same impacts to the abutting shoreline as a N-W-O use in terms of building bulk, lighting and activity.</p>	Ecology concurs with the City's comments. A 50-foot buffer at this location, along with the planned clean up and shoreline enhancements, will be a significant improvement over existing shoreline conditions.
08	Environment Designations 22.11.10	Blue Green Waterfront Coalition	"We support the use of light industry, habitat, and recreation in the long pond area, in accord with the Shoreline Management Act. A new policy for the shoreline mixed use designation must be added which states uses are preferred in the following sequence: water-dependent, water-related, water-enjoyment, and then non-water-oriented."	Please see policies for commercial and industrial development in 22.09.030.A 2-3 (commercial) and 22.09.050.A 2, 8, 10 (industrial).	Ecology concurs with the City's response. Commercial and Industrial use policies in the SMP already outline a preference for water-oriented development.
09	Environment Designations - BMC 22.03.030	Wendy Harris	The City lacks a purpose statement, designation criteria and management policies for the new environment designations being proposed which are required by WAC 173-26-211(4). As such, it is unclear how and why the environment designations were determined or how they protect ecological systems.	<p>No change. The shoreline designation remains "Waterfront District."</p> <p>This designation (initially "high intensity") was created during the development of the SMP during 2006-2009.</p> <p>22.03.030.F states that the purpose of the WD designation is to "plan for, protect and implement restoration of the shoreline ecological function, reserve areas for water-dependent and water-related uses,</p>	Ecology concurs with the City's response. The amendment shifts the sub-designations within the WD in order to be consistent with the adopted WDP. These changes do not alter existing buffers or planned clean up and habitat enhancements for the area.

				<p>maximize public access to the shoreline and accommodate shoreline mixed uses and non-water-oriented uses where appropriate."</p> <p>3 management policies were revised to facilitate the LA. These are policies m, o, and p of 22.03.030.F.2.</p>	
10	Environment Designations 22.11.10	Wendy Harris	The proposed environment designation changes will increase density and intensity of shoreline use.	No change. Industrial uses whether water-oriented or not have similar impacts in terms of activity, building bulk, lighting.	The City has not amended regulations that affect Ecology's determination that the SMP will ensure no net loss of ecological functions. The proposal retains the environmental protections for the Log Pond area through requirements of a 50-foot buffer and 75-foot structural setback. The City has further determined that proposed amendments will spur re-development that will speed up clean-up and recovery consistent with the City's shoreline restoration plan.
11	Environment Designations 22.11.10	Wendy Harris	Shoreline environment designations should not be changed lightly to accommodate the latest development proposal.	The change was contemplated and proposed to DOE in 2010 - right after the city submitted its SMP Update package to DOE. DOE advised the city that they would have to wait until they (DOE) approved the SMP through the update process which occurred in 2013.	Ecology concurs with the City's comments.
12	Environment Designations - BMC 22.03.030	Wendy Harris	Environment designations inherently have significant environmental impact. They are the foundation on which the SMP is built as they direct the creation of policies and regulations to implement their purpose. Environment designations are based on a detailed functional assessment of each shoreline reach including biological and physical character, land use patterns and community values. Nothing has changed in the ecological function of the WD shoreline.	Noted.	The Waterfront District environment designation remains unchanged.
13	Environment Designations 22.11.10	Wendy Harris	Increased shoreline development is problematic for the log pond, which is an area that has always been identified for shoreline habitat restoration. The area contains an eelgrass restoration project intended to provide habitat for ESA-listed fish species. The proposed amendments are likely to have a significant environmental impact yet no increased mitigation has been considered in the process.	<p>No change. This sub-area of the Waterfront District designation (along with the recreational use sub-area along the southern ½ of Cornwall Avenue Landfill) has the largest required buffer width - 50-feet. This sub-area is also expected to have uses that industrial in nature. Other areas of the WD shoreline designation that allow for water-dependent and water-related uses do not have required buffer widths where existing piers or bulkheads exist.</p> <p>Please note that habitat restoration is required for N-W-O uses. Only <i>mitigation</i> is required for water-oriented uses.</p>	Ecology concurs with the City's comments. The upland areas adjacent to the Log Pond currently have no protective buffer. The WDP and SMP will re-establish a functioning buffer to enhance this area.

14	Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.	Barry Wenger	There is no basis under the SMA or its implementing rules that allow for stand-alone, non-water-oriented uses, nor is it consistent with the current SMP and its supporting documents. Stand-alone non-water-oriented industrial and commercial uses have no place within the shoreline jurisdiction, especially adjacent to an area ideal for public access like the log pond.	<p>No change. Please see staff response to comment #1.</p> <p>WAC 173-26-201(2)(d)(v) i-ii allows for N-W-O uses within shoreline jurisdiction in certain circumstances. The subsection specifies that "Evaluation pursuant to the above criteria (in i-ii), local economic and land use conditions, and policies and regulations that assure protection of shoreline resources, may result in determination that other uses are considered as necessary or appropriate and may be accommodated provided that the preferred uses area reasonable provided for in the jurisdiction."</p> <p>Please also see the information provided in Exhibit A.</p>	Ecology concurs with the City's comments. In addition to WAC 173-26-201(2)(d)(i) through (ii), NWO can be allowed in high-intensity shoreline designations like the Waterfront District where consistent with the provisions of WAC 173-26-211(5)(d)(ii) .
15	Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.	Barry Wenger	The log pond represents the only relatively accessible and restorable beach within the WD shoreline which is dominated by vertical wharfs and bulkheaded fill. It makes little sense to allow non-water-oriented uses to impinge on this unique location.	No change. The LA does not impinge on restoration opportunities at the Log Pond. A 50' buffer and public access will be required.	Future NWO uses/developments permitted by the City would be located at least 75-feet from the Log Pond shoreline. The WDP retains the area adjacent to the Log Pond for public access and habitat enhancement.
16	Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.	Henry Kastner	The use exception area is not consistent with the SMA, which discourages non-water-oriented uses in favor of those that preserve ecological function, public access and limited maritime industry.	<p>No change. Please see staff's response to comment #14.</p> <p>Please also see the information provided in Exhibit A.</p>	The proposed amendments retain existing environmental protections to the Log Pond shoreline. Non-water-oriented uses can be authorized in limited situations under the SMA and its supporting rules and guidelines.
17	Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.	Barry Wenger	"The Jan 23, 2007 Bellingham Waterfront Lands Analysis prepared for the Port clearly demonstrates there are many acres of non-shoreline land available for non-water-oriented industrial uses now and into the foreseeable future, particularly in the adjacent, upland eight acres of the former pulp mill site. The report concludes that presently there is an adequate supply of shoreline industrial land under both low and high demand scenarios for water-oriented uses in the long term. However, removal of such shoreline areas and replacing them with inappropriate upland uses seriously erodes this state resource over time. Therefore, there is no justifiable reason to allow encroachment of non-water-oriented light industrial uses into the existing Recreation Use shoreline designation."	<p>Noted. The Log Pond Area will remain available for Water-Oriented Uses if there is demand.</p> <p>Please also see the information provided in Exhibit A.</p>	<p>According to the Port, "the proposed amendment would allow more flexible use of an 8.4 acre area in the Log Pond. One acre of this area is currently designated as habitat and public access in the SMP and WDP. The remaining 7.4 acres within the Log Pond shoreline jurisdiction will remain available for water-oriented uses, with greater flexibility to also allow compatible light industrial uses."</p> <p>The WDP also retains a portion of the existing wharf adjacent to the Log Pond as well as an access easement across future park areas for use by water-oriented tenants within the Log Pond area. In addition, the adjacent shipping terminal is also available to the west of the Log Pond. The Port and City state that water-dependent uses in other areas of the Log Pond would be infeasible or impractical given the shallow bathymetry, presence of eel</p>

					grass and the public amenities planned for the actual shoreline of the area.
18	Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.	Barry Wenger Gaythia Weis	Approval of the use exception area will set a state-wide precedent allowing for inappropriate upland uses within shoreline jurisdiction by other ports and local governments. The cumulative impacts of such amendments would be environmentally destructive and undermine the SMA.	Noted. Please also see the information provided in Exhibit A.	Approval of the proposed amendments does not outright allow other jurisdictions to authorize NWO uses of their shorelines. The state master program guidelines (WAC 173-26-211(5)(d)(ii)) allow NWO uses, in select circumstances where specific demonstrations are met. These include the use of Special Area Planning associated with complex sites such as the City's 237-acres waterfront district redevelopment. The City's decision to allow NWO uses is based on specific site considerations, and consistent with the above-referenced guidelines. Approval of similar proposals would be reviewed on a case-by-case basis.
19	Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.	Barry Wenger	There are no statewide-adopted criteria for size, purpose, intent, scope, standards, etc. for use exception areas. Such an approach is illegal.	Noted. Please also see the information provided in Exhibit A.	See Ecology comment #14.
20	Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.	Gaythia Weis	The proposal to allow stand-alone, non-water-oriented uses are not consistent with the intent of the SMA which prefers shorelines be reserved for water-oriented uses including water-dependent, water-related and water-enjoyment uses to the maximum extent feasible.	Noted. Please see staff's response to comment #14. Please also see the information provided in Exhibit A.	See Ecology comment #14
21	Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.	Blue Green Waterfront Coalition	Allowing non-water-oriented uses in any shoreline location within the WD is inappropriate and inconsistent with the SMA. The shoreline is a finite resource and as such water-oriented uses are preferred. The SMA establishes the concept of preferred uses of shoreline requiring that "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the sate' shorelines...". "Preferred uses include single-family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide public access opportunities. To the maximum extent possible, the shorelines should be reserved for "water-oriented uses, including water-dependent, water-related, and water-enjoyment uses."	Noted. Staff is familiar with the policy in RCW 90.58.020. Please see staff response to comment #14. A 50' buffer with public access is maintained. Please also see the information provided in Exhibit A.	See Ecology comment #14
22	Use Exception Area: 22.03.30.F.2.g	Port of Bellingham	The WDP, development regulations and SMP amendment to allow stand-alone non-water-oriented uses in a defined and limited area within the log pond area (aka "Use Exception Area), are all	Noted. Please also see the information provided in Exhibit A.	No further Ecology comment.

	<p>22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.</p>		<p>consistent with the land use decision documented in the 2007 Phase 1 Whatcom Waterway Consent Decree and the 2011 amendment thereto.</p>		
23	<p>Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.</p>	Port of Bellingham	<p>Allowing stand-alone non-water-oriented uses within a limited area within the WD is consistent with the Special Area Planning section (WAC 173-26-201(3)(d)(ix)) and High-intensity environment section (WAC 173-26-211(5)(d)) of the SMP guidelines.</p> <p>The SMP designates the WD as a Special Planning Area and contains policies relating to habitat restoration, public access, job-creation and water-oriented uses (SMP 22.03(F) Waterfront District). The Waterfront District purpose statement says that shoreline mixed-uses and non-water-oriented uses should be accommodated where appropriate. The WD and the proposed SMP amendment implement the community vision for the waterfront. The management policies of Ecology’s guidelines applicable to high-intensity environments where special area planning is allowed, are satisfied by the proposed SMP amendment (WAC .173-26-211(5)(d)(ii)).</p> <p>The purpose of high-intensity environments is to <i>“provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded”</i> (WAC 173-26-211(5)(d)). Priority should be given to water-dependent and water-enjoyment uses, however <i>“non-water-oriented uses in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline”</i>.</p> <p>Because the use exception area does not have direct access to the shoreline, non-water-oriented uses can be allowed consistent with WAC 173-26-211(5)(d)(ii)(a).</p>	<p>Noted.</p> <p>Please also see the information provided in Exhibit A.</p>	No further Ecology comment.
24	<p>Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.</p>	Wendy Harris	<p>The use exception area has been invented as a new way to allow stand-alone non-water-oriented uses which are highly discouraged by the SMA. The shoreline is a very limited resource and should be preserved for ecological function, public access and limited maritime industry. The use exception area is not consistent with the SMA or SMP.</p>	<p>Noted. Staff's intent was only to specify the land area within the re-designated shoreline sub-area ("Shoreline Mixed-Use") where those uses would be allowed. Staff could remove the phrase "Use Exception Area" and provide a precise legal description where non-water-oriented use would be permitted.</p> <p>Please also see the information provided in Exhibit A.</p>	<p>Ecology concurs with the City’s comments. The term “use exception area” implies that any use can be located within upland areas surrounding the Log Pond. This is not the case when all of the applicable SMP provisions are applied. Removal of the phrase is recommended as suggested by the City.</p> <p>See Appendix B – Ecology Recommended Changes.</p>

25	Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.	Wendy Harris	The existing SMP does not allow stand-alone non-water-oriented uses in either the recreation or mixed-use sub-designations. The City is attempting to end run its own regulations and the SMA by creating the use exception area.	No change. Not true. N-W-O uses such as offices and residential ARE allowed in other "Shoreline Mixed Use" sub-areas of the Waterfront District shoreline designation. Please also see the information provided in Exhibit A.	The City has approved amendments to its SMP to allow NWO uses in select areas in compliance with the SMA and its implementing rules and guidelines. See Ecology comment #14.
26	Use Exception Area: 22.03.30.F.2.g 22.03.30.F.4.b(iv) 22.03.30.F.6.m 22.03.30.F.6.o 22.03.30.F.6.p.	Wendy Harris	The City provides no explanation or justification for the creation of a use exception area to allow stand-alone non-water-oriented uses.	No change. Please see staff's response to comment #1 and #24. Please also see the information provided in Exhibit A.	See Ecology comment #14.
27	Waterfront District - 22.03.030.F	Wendy Harris	The waterfront section of the SMP had been left vague and flexible to accommodate future plans but the WDP went beyond anything that the public or Ecology had contemplated.	Noted. Not true. The prior versions of the WDMP EIS contemplated more intense development (in terms of square footage and uses allowed) than the alternative specified in the FEIS Addendum issued in December, 2012.	No further Ecology comment.
28	Amendments – 22.07.020	Wendy Harris	The City has failed to allege a change in facts, circumstances or science required to revise the SMP under SMP 22.07.20. This section states that amendments can only be approved to be more consistent with the SMA or more equitable in its application to persons or property due to changed conditions in the area.	No change. The LA maintains its protection of the Log Pond. The required 50-foot buffer is not proposed to be revised. The changed conditions include the adoption of the Waterfront District Sub-Area Plan and Development Regulations in 2013. The adoption of these changed the zoning in the Log Pond uplands to Industrial Mixed-Use and relocated the large park area at the log pond to the Cornwall Avenue Landfill area (Cornwall Beach Park) in marine reach #7. The Port has indicated that there has been a decrease in demand for land areas that support water-oriented uses. Please also see the information provided in Exhibit A.	Washington Administrative Code 173-26-090 encourages local governments to periodically review a shoreline master program and make amendments deemed necessary to reflect changing local circumstances, new information or improved data. In December 2013, the City adopted the WDP and applicable development regulations (BMC 20.37.400 – 480) and docketed associated amendments to the comprehensive plan to be completed in 2016. The purpose of the limited amendments is to make the SMP consistent with the WDP consistent with the WAC cited above.
29	SMP Inventory and Characterization	Wendy Harris	Since the City conducted their original SMP shoreline inventory and analysis, three species of rockfish, and their habitat, have obtained ESA protection. Development in Bellingham Bay by the Port was specifically referenced by NOAA as a cause of harm to rockfish habitat. In addition, a recent study by Ecology indicates that Bellingham Bay has the worst sediment quality in Puget Sound due to a loss of biodiversity in the benthic community. One cause of such a decline could be shoreline development. The City should be required to re-evaluate its shoreline reach analysis to consider these issues and the need for mitigation.	Noted. The City plans to re-inventory its shorelines as part of its next SMP update, due in 2020.	The National Oceanic and Atmospheric Administration (NOAA Fisheries) classified and mapped critical habitats for Yelloweye Rockfish, Canary Rockfish and Bocaccio of the Puget Sound/Georgia Basin in preparation of the proposed rule for listing under the Endangered Species Act. NOAA Fisheries considers deepwater sites (>30 Meters) with complex bathymetry and nearshore areas with sand, rock and/or cobbles that contain kelp as areas meeting the definition of Critical Habitat for the above species. These habitats were not identified or mapped by NOAA Fisheries within Bellingham Bay.

					<p>The area of Bellingham Bay associated with the proposed limited amendment has been heavily altered by past industrial uses and developments which may have historically impacted juvenile settlement sites of canary rockfish and bocaccio according to NOAA Fisheries. With the listing of these species, in-water development proposals typically associated with port areas (dredging, docks/piers, bulkheads, etc.), are reviewed for impacts to rockfish presence by the United States Army Corps of Engineers prior to authorization.</p> <p>Bottom sediments within the Whatcom Waterway are contaminated with mercury and phenolic compounds associated with the former Georgia-Pacific (G-P) pulp and paper operations. Cleanup actions are currently underway by the Port of Bellingham, with Ecology oversight within the Whatcom Waterway. In addition, Ecology worked with G-P in 2001 to clean up sediments with this log pond portion of the site.</p>
30	SMP Cumulative Impacts Analysis	Wendy Harris	The City needs to review and potentially revise its SMP Cumulative Impact Analysis as the proposed SMP amendments will result in an increase in the type and intensity of shoreline development.	No change. Please see staff's response to comment #10.	See Ecology comment #10.
31	General - SMA	Gaythia Weis	The SMA is an important program that is the cornerstone of public citizen and state government efforts to protect the wise use of our state's shorelines. The Department of Ecology serves as our guardians, working to ensure that the SMP is successfully implemented. The credibility of the SMP and Ecology rests on fair and consistent application of SMA provision to local planning issues.	Noted.	The City has approved amendments to their SMP that are consistent with the shoreline management guidelines. Ecology's authority under the Shoreline Management Act is limited to review of SMPs based solely on consistency with these guidelines. It is the responsibility of the City to assure consistency between the SMP and other elements of the comprehensive plan and development regulations. See WAC 173-26-191(1)(e).
		Wendy Harris			
32	General – SMA/SMP	Gaythia Weis	"Developing Shoreline Master Programs under the Shoreline Management Act is a lengthy process involving extensive public and governmental agencies input and effort. The Shoreline Management Act and the Shoreline Master Programs developed under its provisions, recognize the need for broad scale comprehensive plans, and the importance of having smaller scale decisions fit within the provisions of these overall plans. Support for the hard work of developing and adopting Shoreline Management Programs depends on these SMPs being perceived as significant and lasting documents."	Noted. The Port and City developed The Waterfront District Sub-Area Plan, Development Regulations and associated agreements during the same time period, which also had an extensive public involvement process. Both documents were clear that the intent was for the SMP to be consistent with and implement the Waterfront District Sub-Area Plan.	No further Ecology comment.
33	General – Public Access & Habitat	Wendy Harris	The City has ignored comments and concerns raised by the public and Ecology by siting public access areas in identical areas proposed for habitat restoration. The City has also ignored concerns from the Lummi Nation and the Washington State	No change. The Waterfront District Sub-Area Plan and Interlocal Agreement for Facilities in the Waterfront District clearly specify a public access amenity around the edge of the Log Pond. Furthermore, the RECREATIONAL use sub-area is intended to allow for	Ecology believes that public access and habitat protection can coexist within the WDP through careful park planning and design. In areas where critical habitats exist, adjacent to areas planned for public access, future park plans should implement measures to protect such areas from high

			Department of Fish and Wildlife on issues regarding the waterfront.	recreation (water-enjoyment) within the shoreline jurisdiction. Allowance of N-W-O uses in this location may decrease the potential for in-water development associated with water-dependent uses.	intensity public use. In these areas, visual access could be provided in lieu of direct access to the shoreline or the physical access could be controlled by an elevated walkway, vegetation screening, signage or other measures.
34	Log Pond	Gaythia Weis	"The log pond, while environmentally degraded from its original pristine shoreline conditions, still contains some species of ecological significance and can serve as an environmental refuge in an otherwise heavily armored shoreline. It is also appreciated by local citizens as a recreational asset."	Noted. A 50' buffer and public access are proposed.	Additional improvements to the Log Pond are currently underway as part of the Whatcom Waterway clean up actions. Together with the establishment of an upland buffer over time, habitat conditions at the Log Pond will likely continue to improve over existing conditions.
35	Log Pond	David Henry & Carol Fuglestad	The log pond area should be retained as a park with open green space and not be developed with buildings. Such a park would be the centerpiece of the WD much like Zuanich Point Park is to the Squalicum Marina area.	Noted. The Waterfront District Sub-Area Plan and Interlocal Agreement for Facilities within the Waterfront District have contemplated a public access amenity along the edge of the Log Pond. Please see staff's response to comment #58.	Additional park acreage was added to the WDP at the former Cornwall landfill site to the east of the Log Pond. Ecology understands that the total amount of park acreage is the same as previous WDP alternatives that included a large park at the Log Pond. See Port of Bellingham comment #57.
36	Log Pond	Port of Bellingham	The log pond represents a unique land use area within the WD. Sediments within the log pond are contaminated and were capped by Georgia Pacific in 2000/2001 as part of an Interim Action cleanup under a MTCA Agreed Order with Ecology. The Port acquired the property in 2005 and entered into a Consent Decree with Ecology in 2007, and an amendment in 2011 to cleanup with site with a primary emphasis on habitat enhancement. The shallow bathymetry of the log pond is not compatible with water-dependent commercial and industrial uses. The adjacent shipping terminal site would have to be used if such developments were to operate on the upland portions of the log pond. Following cleanup actions which are scheduled to start in 2015, the log pond will consist of a soft beach suitable for both habitat and public access.	Noted. Please also see the information provided in Exhibit A.	Clean up actions are currently underway within the Log Pond.
37	Log Pond	Port of Bellingham	The existing SMP assures that there will be no net loss of ecological functions in the area. The log pond is undergoing extensive habitat redevelopment and restoration as part of the MTCA cleanup.	Noted.	No further Ecology comment.
38	SEPA Review (SMP)	Louann Chapman Henry Kastner Pam Borso	The SMP amendments should require an environmental impact statement (EIS). The amendments will lead to an increase in use intensity and vessel traffic in an area containing federal endangered species as well as state priority habitat species. Increased intensity of shoreline use is related to a decline in ecological functions, such as habitat and biodiversity of aquatic species. A recent Ecology study indicated a severe decline in Bellingham Bay's sediment quality, due in large part to loss of	No change. The SEPA Official issued a Determination of Non-Significant Impact on the proposal. (SEP2013-00020) largely because codes and regulations will address potential impacts to water quality of Bellingham Bay. Stormwater is regulated by BMC 15.42 and the requirements for no net loss of existing shoreline ecological function exist in the SMP - regardless of use type and location.	No further Ecology comment.

		Wendy Harris	biodiversity. The city's SEPA application lacks analysis or discussion of how the amendments will avoid such impacts.	Water related and water-dependent uses can be as intense of development as N-W-O uses.	
39	SEPA Review (SMP)	Wendy Harris	<p>The City's SEPA DNS overlooks important habitat impacts without consideration of the need for mitigation.</p> <p>The City admitted that waterfront shoreline development will have environmental impact. An earlier WD EIS stated that there would be impacts to the aquatic species due to an increase in recreational boating with development of a new marina, and these impacts would be off-set by a decrease in commercial shipping traffic. Those decreases no longer exist as a result of the proposed amendments.</p> <p>These new impacts on the aquatic environment were ignored when the Port issued an EIS Addendum in December of 2012. The City's SEPA application references only the EIS Addendum, so these impacts were overlooked during the SEPA review associated with the SMP amendments.</p>	<p>No change. The LA does not change the requirements for mitigation sequencing, mitigation as well as habitat restoration when a N-W-O use is proposed.</p> <p>The EIS Addendum incorporates the prior editions of various EISs (Draft, Supplemental, Final). An addendum can't be issued out of thin air - it has to rely and build upon the prior work and analysis conducted.</p> <p>Please see page vi of the EIS Addendum issued by the POB in December 2012.</p>	No further Ecology comment.
40	SEPA Review (SMP)	Wendy Harris	The City's SEPA application admits that protected species exist within the area of the proposed SMP amendments but provides no discussion or analysis that supports their claim that there will be no wildlife impacts.	No change. The regulations that protect shoreline ecological function and demonstration of no net loss of existing shoreline ecological function in this location are NOT a part of the LA.	No further Ecology comment.
41	SEPA Review (SMP)	Wendy Harris	Few people have actual notice of the SEPA process or understand the importance of shoreline environment designations and special use exceptions in achieving no net loss.	<p>Noted. The SEPA official extended the comment period deadline from June 21, 2013 to July 3, 2013.</p> <p>A Planning Commission public hearing was scheduled for July 11, 2013. This provided staff and Planning Commissioner's adequate time to review SEPA comments submitted prior to the public hearing.</p>	No further Ecology comment.
42	SEPA Review (WDP)	Louann Chapman	A new comprehensive EIS should be developed for the WDP. The existing EIS consists of five documents that were developed over a five year period and review different impacts under different alternatives. The resulting document is confusing, outdated, lacks consistency and transparency and should be updated or supplemented with to facilitate an updated environmental analysis.	Noted - no change.	No further Ecology comment.
43	SEPA Review (WDP)	Tip Johnson	The scope has been expanded without reopening the scoping (SEPA) process to review potential environmental concerns.	Noted - no change. The Preferred Alternative is consistent with the range of alternatives considered.	No further Ecology comment.
44	SEPA Review (WDP)	Wendy Harris	The SEPA Planned Action Ordinance provides vested rights for developers who will never have to conduct new SEPA reviews that may lead to increased environmental standards.	Not applicable. The SEPA Planned Action Ordinance is not part of the LA.	No further Ecology comment.

45	Cleanup	Tip Johnson	The amendments are designed to lower the MTCA remediation standards and save money for GP and insurance companies at the expense of public health.	Not applicable. MTCA actions and regulations are not a part of the LA.	The GP West cleanup site is located in the area of the Log Pond. MTCA cleanup levels for this site are not affected by the proposed SMP amendments.
46	Cleanup	Tip Johnson	The log pond is probably receiving mercury and other toxins from the "Chem-Fix Project" of chlorinated mercury sludge mixed with concrete and from the Chlor-Alkali plant area in general. The clean-up plans are based on 35-tons of Mercury but we know that at least 400 to 600 tons were used. Where is the missing Mercury?	Not applicable. MTCA actions and regulations are not a part of the LA.	A 2013/2014 interim cleanup action at the GP West site removed approximately 3,500 tons of mercury-contaminated soil and building materials. Environmental investigations show mercury-contaminated groundwater is not adversely affecting marine sediments. A draft feasibility study evaluating cleanup options is currently under development and is expected to be issued for public review later this year. For more information, see the GP West webpage at: https://fortress.wa.gov/ecy/gsp/Sitepage.aspx?csid=2279
47	ASB	Tip Johnson	The City has not contemplated, at least publicly, the future cost of replacing the water treatment capacity of the aerated stabilization basin (ASB). The 26-acre ASB with an approved outfall might serve multiple needs, save money and protect nearshore habitat.	Not applicable.	No further Ecology comment.
48	Process	Louann Chapman Henry Kastner	The shoreline master program (SMP) should not be amended until the waterfront district plan (WDP) is final. Making changes based on a draft WDP, which is subject to change, could lead to a need for additional amendments in the future, which would be a waste of government resources.	WDMP and supporting materials were adopted in December, 2013. This LA will not be approved until DOE completes their review, analysis and findings and issues a decision.	No further Ecology comment.
49	Process	Louann Chapman Henry Kastner	The WDP should be developed to be consistent with the existing SMP, which represents what the public agreed to after years of stakeholder input.	Noted - no change.	Ecology approved the SMP comprehensive update with knowledge that changes may be necessary upon the City's adoption of the final WDP.
50	Process	Louann Chapman Henry Kastner Gaythia Weis Pam Borso Wendy Harris Henry Kastner	Amendments to the SMP should be rare and are too soon as the SMP was only recently finalized. Considerable time and effort was spent by the City, Ecology and the public. The timing of the changes undermines the public process and appears suspicious. Nothing of material significance has changed regarding the Bellingham waterfront since the SMP was approved.	Noted - no change. Please also see staff's response to comment #11. Please also see the information provided in Exhibit A.	See Ecology comment #28 and #49.
51	Process	Henry Kastner	The use exception area proposal was not included within the SMP public notice.	Noted - no change. The "Use Exception Area" was not clearly identified in the public notice language but was	No further Ecology comment.

				clearly identified in the proposal itself including the staff report and ALL materials available on the city's webpage.	
52	Process	Gaythia Weis	The purpose of the SMP is to guide future development. The WDP should have been written in accordance with the SMP rather than amending the SMP to meet the WDP.	Noted - no change.	See Ecology comment #49.
		Pam Borso			
53	Process	Pam Borso	"The proposed amendments will increase the type and density of shoreline development and is inconsistent with the intent of the SMP as passed into law. This gives the appearance of the city trying to go around the law and causes loss of credibility with the public."	No change. Please see staff's response to comment #7 and #10.	See Ecology comment #10.
54	Process	Port of Bellingham	The Port of Bellingham (port) worked with the city in preparation of the proposed amendments to the SMP to align allowed uses, height limits, and setbacks in the log pond area with the WDP, SMP guidelines and the SMA.	Noted. Please also see the information provided in Exhibit A.	No further Ecology comment.
55	Process	Port of Bellingham	The WDP was jointly prepared by the port and city over an eight year timeframe with considerable public involvement. The port was also involved with the city's SMP update process during the same timeframe. The intent of the WDP was to develop a set of compatible planning and development documents the implemented the community vision for redevelopment of the Bellingham Waterfront District. The result was the development of a new neighborhood plan, WDP, waterfront district development regulations, port comprehensive scheme of harbor improvements, a SEPA planned action ordinance, WDP development agreement and these amendments to the SMP which recognize the WD as a unique special planning area under WAC 173-26-211(d)ii)(A) and WAC 173-26-201(3)(d). These policies and regulations are intended to guide the re-development of a degraded industrial site consistent with the Growth Management Act, The SMA, and the goals and policies of the city and the port, while enabling the cleanup of the Whatcom Waterway under the Model Toxics Control Act (MTCA) under a Consent Decree with Ecology.	Noted. Please also see the information provided in Exhibit A.	No further Ecology comment.
56	Process	Port of Bellingham	The lengthy process of both the SMP update and WDP development made it necessary to adjust both documents overtime to be consistent with one another. A preliminary WDP in 2010 proposed a large park in the log pond area, with residential mixed-use development in the adjacent uplands. This draft also proposed shoreline regulations to implement the plan as appendices. These regulations were incorporated into the 2010 draft SMP. After considerable public discussion, the draft WDP was modified and adopted by the port and the city in December 2013.	Noted. Please also see the information provided in Exhibit A.	No further Ecology comment.

57	Process	Port of Bellingham	The main difference between the draft 2010 WDP and the 2013 WDP is the relocation of some of the park acreage adjacent to the log pond area and the designation of the upland areas for industrial use. Both the 2010 and 2013 plans propose 33-acres of overall park acreage, over two miles of shoreline public access and clean-up/restoration of six MTCA sites.	Noted. Please also see the information provided in Exhibit A.	No further Ecology comment.
58	Process	Tip Johnson	The process has been intentionally revised, divided and expanded to hide environmental liabilities and to create confusion and fatigue which has driven citizens away from the process.	Noted. The SMP and Sub-Area Plan are both complicated documents developed simultaneously with extensive public input and environmental review.	No further Ecology comment.
59	Process	Wendy Harris	The City issued a SEPA DNS and pursued an SMP amendment after ignoring concerns raised by Ecology regarding WDP and SMP consistency and the potential for conflict between public access and shoreline restoration. It then obtained city council approval based on misleading representations that the SMP amendments were an anticipated necessity.	According to the Interlocal Agreement for Public Facilities in the Waterfront District, public access around the edge of the Log Pond is not expected to be provided until phase IV. Phase III begins after 1,000,000 square feet of floor area is developed in the WD south of the Whatcom Waterway. City Council does not approve SMP Amendments. Only DOE approves these.	See Ecology comment #49 and #33.
60	Process	Wendy Harris	The City proceeded with a park master plan, ASB trail and over-water walkway in the Cornwall area without waiting for approval of the SMP amendments by Ecology. This was a tactical move by the City to put pressure on Ecology to approve the SMP amendments.	Not applicable. Development proposals may move forward with or without adoption of a master plan UNLESS a moratorium is specifically placed on the subject area- which did not occur.	The limited amendments do not affect the areas associated with the future Cornwall Park and associated overwater walkway or the recently developed Aerated Stabilization Basin (ASB) trail.
61	Process	Wendy Harris	New shoreline development must comply with the SMP to meet no net loss standards yet the purpose of the proposed SMP amendments is to make the SMP consistent with the WDP. Policies and regulations have no purpose if they can be amended to accommodate development. It is the duty of Ecology to protect the integrity of the SMA/SMP process.	No change. Please see staff's response to comment #5.	See Ecology comment #18, #31 and #49
62	Process	Wendy Harris	The City is conducting a piecemeal environmental review by not including the overwater walkway project proposed to connect the Cornwall park site to Boulevard Park in its review of the WDP. It is well known that over-water structures are harmful to the aquatic ecosystems and the City avoided considering this issue by treating the project as part of the South Hill neighborhood, rather than the WD. Impacts must be analyzed as part of an ecological whole rather than arbitrary neighborhood boundaries created by the City.	Noted - no change. Federal, State and local agencies have completed and continue to perform a substantial amount of environmental review on the Overwater Walkway which is almost entirely outside of the WD sub-area.	The overwater walkway received a shoreline conditional use permit authorized by the City and Ecology in 2011. Ecology found that as conditioned, the project would not result in significant impacts to shoreline ecological functions.
63	General	Pam Borso	Supports comments provided by Wendy Harris.	Noted.	No further Ecology comment.
64	General	Stefan Pashov & Amy Pashov	"Our vision needs to be a city as a meeting place for people to exchange ideas and to be in the presence of each other and in contact with nature. This is why public spaces and parks lie at the	Noted.	No further Ecology comment.

			<p>heart of the concept of a city. They define the character of the community that we chose to live in. The way we envision cities should not be the 19th century model of a city growing around industry. Cities should not be dormitories (sic) communities attached to factories. Cities ought to be developed as intentional communities, and what shapes a city in this way more than anything else is parks and public spaces. We shape our environment and our (sic) in return our environment shapes us so we must be responsible for the choices that we are now making in planning Bellingham's waterfront.</p> <p>These are the choices that will last for years to come. We inherited the decisions of the previous generation and now we are paying the price. Let's pay it forward to the future inhabitants and creates something great for them. A wise plan should use the Athens, Greek model of the Forum, rather than the Industrial Revolution Dickens model.</p> <p>Remember, that some businesses can also take profit away from a community, this expensive cleanup is only one example of this."</p>		
65	General	Port of Bellingham	The WDP and the SMP assure that visual and public access is available throughout the waterfront, including the log pond area (SMP 22.02.20.D.2.c). Regarding public access, the proposed amendments are consistent with the city's Park, Recreation and Open Space Plan and the Port's Scheme of Harbor Improvements.	Noted. Please also see the information provided in Exhibit A.	No further Ecology comment.
66	General	Port of Bellingham	"The limited amendment proposal to allow stand along non-water oriented uses within a specific limited portion of one area within the Waterfront District special planning area is consistent with and furthers the goals and policies of the SMA, Ecology's guidelines and the SMP" (WAC 173-26-211(5)(d)(iii)(A). "The management policies set forth in Ecology's guidelines applicable to high intensity uses, including non-water oriented uses in the limited areas are satisfied" (WAC 173-26-211(d)(ii).	Noted. Please also see the information provided in Exhibit A.	No further Ecology comment.
67	General	Tip Johnson	The Port historically "gamed" the SEPA review associated with the WDP to avoid consideration of the public use of the former GP water treatment system. Ecology originally objected but was forced to accept based on legal terms. The process has been illegitimate and against the public interest since that time. That one step delegitimizes all following conclusions and should be addressed before further decisions are made. Otherwise, these actions could be viewed as fraud.	Not applicable.	No further Ecology comment.
68	General	Tip Johnson	Decision-makers do not have an accurate understanding of the environmental problems associated with the WDP that have led to the SMP amendments.	Noted.	No further Ecology comment.

EXHIBIT A - SUPPLEMENTAL INFORMATION PROVIDED BY THE PORT OF BELLINGHAM

HOW DOES THE WATERFRONT DISTRICT SMP COMPLY WITH WAC 173-26-211 MANAGEMENT POLICIES FOR HIGH INTENSITY ENVIRONMENT?

WAC 173-26-211 Environmental Designation System

(5) (d) "High-intensity" environment.

(i) **Purpose.** The purpose of the "high-intensity" environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

(ii) **Management policies.**

(A) In regulating uses in the "high-intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed use developments.

The Waterfront District Sub-Area Plan, Waterfront District Development Regulations, Waterfront District EIS, Planned Action Ordinance and the associated Waterfront District Shoreline Designation were developed jointly to comply with WAC 173-26-200 (3)(d) Special Area Planning. The Waterfront District is a 257 acre brownfield site which was historically used for heavy industrial use. The existing shoreline is characterized by bulkheads, rip rap, overwater coverage, creosote pilings, and limited habitat or public access. A portion of the shoreline is currently developed for water-dependent uses, including the Bellingham Shipping Terminal, two boatyards, and a seafood processing facility.

The combined policies and regulations within the Waterfront District Sub-Area Plan, Waterfront District Development Regulations, Waterfront District EIS, Planned Action Ordinance and associated Waterfront District Shoreline Designation are intended to remove environmental contamination, restore habitat and public access and return the Waterfront District to productive use, including large areas reserved for the Shipping Terminal and Marine Trades Area. A network of public access trails and parks are proposed to restore public access to the shoreline. Overwater coverage will be removed and soft banks will be restored in all areas not designated for water-dependent uses. A mix of Water-Dependent, Water-Related and Water-Enjoyment uses are proposed within Shoreline Jurisdiction. Non-Water Oriented uses are allowed only within mixed-use developments above the ground floor, with a 50' shoreline setback and a public access and habitat restoration requirement.

Table 1 shows the acreage of uplands within the existing Waterfront District Shoreline Designations. This Table shows that 13.6 acres, or 22% of the total Waterfront District shoreline acreage, is reserved for Water-Oriented Uses. An additional 25 acres, or 41% of the total acreage is reserved for Recreational Uses. The remaining 22.8 acres, or 37% of the total shoreline acres allow Shoreline Mixed-Use development. The Mixed-Use areas have a 25' shoreline buffer and 50' building setback designated for habitat and public access. All buildings must have a Water-Oriented use on the ground floor. The 35' height limit restricts buildings to three stories. A maximum of 2/3 of each building within the Shoreline Mixed-Use designation could be used for a non-water-oriented use.

Table 2 shows the acreage of uplands within the Proposed Waterfront District Shoreline Designations. In the proposed SMP amendment 13.6 acres, or 22% of the Waterfront District shoreline acreage, will continue to be reserved for Water-Oriented Uses. An additional 16.6 acres, or 27% of the total acreage will be designated as Waterfront District Recreational Uses. The remaining 31.2 acres, or 51% of the total land within shoreline jurisdiction will be designated for Shoreline Mixed-Use. The City of Bellingham owns or controls 5.3 acres within the Waterfront District Shoreline Mixed-Use designation in the Cornwall Beach area, which is designated as public Park in the Waterfront District Sub-Area Plan. The Waterfront-Mixed Use area within the Log Pond area has 50' shoreline buffer and 75' setback for non-water-oriented uses. Residential uses are not allowed in the existing Zoning or proposed SMP.

The proposed 2013 update to the Bellingham SMP designates a total of 24 acres of Port-owned land within shoreline jurisdiction as Waterfront District for Shoreline Mixed Use. 6.8 acres of Port land within this Shoreline Mixed-Use Designation is already developed for Water-Dependent or Water-related uses, including the Colony Wharf boat yard, Bornstein Seafoods, Bitter End Boatworks, and Bellingham Marine Industries. These existing businesses are located within the Marine Trades area in the Waterfront District Plan adjacent to the Whatcom and I&J Waterway. The Waterfront District Sub-Area Plan and associated zoning regulations "**reserve this area primarily for industrial uses which depend upon or relate to the waterfront.**" and also allows compatible industrial and commercial uses. The Port is investing significant public funds to upgrade the shorelines along the Whatcom and I&J Waterways to support the C Street Terminal, boatyards and fish processing facilities which have frontage on these two waterways, and is proposing a marina and additional marine trades uses in this area in the future.

The proposed 8.4 acre Shoreline Mixed Use shoreline jurisdiction in the Log Pond area is also zoned Waterfront District Industrial Mixed Use and reserved "**primarily for industrial uses which depend on a marine location.**", similar to the Marine Trades area. The current Recreational Uses SMP designation is not consistent with the zoning or Sub-Area Plan, and the 25' height limit within shoreline jurisdiction will seriously inhibit marine industrial uses within this area. The Waterfront District Sub-Area Plan already call for a 50' habitat buffer with a public access trail, and an additional 20' landscaped buffer adjacent to the trail. This buffer and setback is sufficient to address habitat and water-enjoyment uses along the shoreline, while ensuring consistency with zoning. The proposed SMP amendment provides additional setback for

non-water-oriented uses, but would allow flexibility for warehouses and yard space within shoreline jurisdiction to be used for a variety of water-oriented and non-water-oriented uses, consistent with the zoning and Waterfront District Sub-Area Plan.

Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-200 (3)(d).

The Log Pond Area shoreline is not suitable for direct water access due to Eel Grass beds and shallow water. The shoreline along this area will be restored for habitat and public access.

If an analysis of water-dependent use needs as described in WAC 173-26-201 (3)(d)(ii) demonstrates the needs of existing and envisioned water-dependent uses for the planning period are met, then provisions allowing for a mix of water-dependent and nonwater-dependent uses may be established. If those shoreline areas also provide ecological functions, apply standards to assure no net loss of those functions.

The Bellingham Waterfront Lands Analysis completed by BST for the Port in 2007 concludes that there was a sufficient supply of land along the Bellingham Waterfront to meet the projected demands for Water-Related Uses over the next 20 years (which would be until 2027.) The study projected a demand for 112 to 134 acres for water-related uses in the next 20 years, and estimated that 149 acres were available at that time. The proposed SMP amendment would allow more flexible use of an 8.4 acre area in the Log Pond. One acre of this area is currently designated as habitat and public access in the SMP and Waterfront District Sub-Area Plan. The remaining 7.4 acres within the Log Pond shoreline jurisdiction will remain available for water-oriented uses, with greater flexibility to also allow compatible light industrial uses.

(B) Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "high-intensity." However, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.

There are approximately 264 acres of uplands in the Shoreline Jurisdiction within Bellingham City Limits. The Port owns or manages approximately 49% or 129 acres; the City owns or controls approximately 14.5 % or 38.5 acres and others own 36.5% or approximately 96.5 acres. Of the Ports approximate 129 acres, approximately 45 acres is regulated by the SMP to be strictly Water dependent or Water Oriented; Approximately 23.5 acres is Recreational per the SMP; and approximately 60.5 acres is designated Mixed Use.

Of the 60.5 acres of Port land which is designated Shoreline Mixed Use Areas per the SMP; approximately 70% or 42.5 acres is already occupied by Water dependent (marina), water oriented (webblockers, fish processing, boat storage, & other ground floor services), water enjoyment (hotel & restaurants) and public access uses (Zuanich, Tom Glenn Commons & promenade). Of the remaining 18 acres approximately 7 acres are earmarked for future waterfront public access parks. So in short, of the 129 Acres owned by the Port in the Shoreline Jurisdiction; approximately 118 acres or **91.5 % of the Port owned land within Shoreline jurisdiction is currently used or designated for Water-Dependent, Water-Related, Water- Enjoyment and Recreational/Public Access uses.**

The land and shoreline within the Waterfront District has all been previously developed for a High Intensity Industrial Use. The intent of the Waterfront District Redevelopment Project and SMP Special Area Planning for the Waterfront District is to restore this previously developed area to improve shoreline ecological function, increase public access, and make additional land available for a variety of Water-Oriented uses. The small portion of this site designated for Non-Water-Oriented Mixed Use are needed to activate the site and generate revenues to help fund the cleanup and infrastructure needed to restore activate this vacant brownfield.

(C) Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply in accordance with any relevant state and federal law.

Habitat restoration is required for all Mixed-Use development projects within shoreline jurisdiction per BMC 22.03.30. The Waterfront District includes six MTCA sites, with cleanup plans managed by Department of Ecology.

(D) Where feasible, visual and physical public access should be required as provided for in WAC 173-26-221 (4)(d).

The Waterfront District Sub-Area Plan includes view corridors to establish and preserve water views. Public access will be restored along the majority of the shoreline frontage.

(E) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

The Waterfront District Development Regulations include design standards, sign regulations and policies regarding development siting, low impact development and natural vegetation.

Table 1 Acreage within Existing Waterfront District Shoreline Designations

Shoreline Designation	Acres in Port Ownership¹	Acres in City Ownership¹	Acres in Private Ownership	Total Acres within 200' Shoreline
Waterfront District Water Oriented Uses	13.6			13.6 acres 22%
Waterfront District Recreational Uses	17.2	7.4	.4	25 acres 41%
Waterfront District Shoreline Mixed-Use	15.7	5.3 ²	1.8	22.8 acres 37%
Total acres within Shoreline Jurisdiction	46.5	12.8	2.2	61.5 acres

¹ Includes Use authorizations for adjacent state owned land and or ROW's

² This Mixed-Use Shoreline area is located within Cornwall Beach Park designated in the Waterfront District Master Plan.

Table 2 Acreage within Proposed Waterfront District Shoreline Designations

Shoreline Designation	Acres in Port Ownership¹	Acres in City Ownership	Acres in Private Ownership	Total Acres within 200' Shoreline
Waterfront District Water Oriented Uses	13.6			13.6 acres 22%
Waterfront District Recreational Uses	8.8	7.4	.4	16.6 acres 27%
Waterfront District Shoreline Mixed-Use	24.1	5.3 ²	1.8	31.2 acres 51%
Total acres within Shoreline Jurisdiction	46.5	12.8	2.2	61.5 acres

¹ Includes Use authorizations for adjacent state owned land and or ROW's

² This Mixed-Use Shoreline area is located within Cornwall Beach Park designated in the Waterfront District Master Plan.