

December 6, 2011

Margaret Glowacki
Department of Planning and Development
700 5th Avenue, Suite 2000
Seattle, WA 98124-4019

Subject: Proposed changes to Shoreline Master Program

Dear Ms. Glowacki,

These are my comments in regards to the process of drafting a new Shoreline Master Program (SMP) as mandated by the State of Washington's Department of Ecology. One of the major tenets of the SMP is the reserving the shoreline for uses that are “unique to or dependent upon use of the state’s shorelines” [RCW90.58.020].

I am reiterating my comments made to you last May, and will also reply to your response to those as found on the Parks website.

I, like many others, am troubled by proposed changes in the Conservancy Management (CM) environment that appear in the draft version of the City of Seattle’s SMP, and in your final version. The CM environment is the area extending onto land up to 200 feet from the shoreline. The purpose of the CM environment is to ensure water-dependent infrastructure, such as water recreation facilities in marinas or parks. Developments in the CM zone should be managed to preserve their ecological function and guarantee public access and uses at the water.¹

At issue is your revision to Section 23.60.224.D of the SMP which reads:

“Office use and institutional uses are prohibited, except these uses are allowed in existing buildings within designated historic districts as a special use if located on the second floor for child care uses, which can be located on the first or second floor of the existing building and other uses allowed or allowed as special uses are not practical, because of the building design or because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition” [emphasis added]

¹ Preferred uses for shoreline areas are listed in WAC 173-26-201(2)(d). The order of preference assigned to these uses is as follows:

- Protection and restoration of ecological function.
- Water dependent uses.
- Water related uses.
- Other compatible water enjoyment uses.
- Single family residences.

Further, WAC 173-26-020 provides definitions for several of the key terms used, and it is clear that the exemption for institutional use does not begin to meet any of these uses.

This use exemption is contrary to the intent of the Shoreline Management Act (SMA) and specifically would allow a prohibited use in a CM zone located at Building 11 in Magnuson Park. Public records indicate that this section has been specifically modified for a proposed use in Building 11 at Magnuson Park at the request of the developer 'Building 11 Investors, LLC'.

In your response to the draft comments you state:

“Within the Conservancy Management (CM) shoreline environment, the proposed changes to uses allowed are limited to existing buildings located within a designated historic district. Currently there is only one designated historic district within the Shoreline District, located within the Magnuson Park. Magnuson Park was deeded to the City by the US government after closure of the former Naval Air Station at Sandpoint. The Department of Parks and Recreation worked with DPD to allow adaptive re-use of historic structures that represented the historic legacy of Sandpoint at Magnuson Park. Only one building falls within the jurisdiction of Seattle’s Shoreline Master Program (SMP) and only a portion of this building is within 200-ft of the shoreline in the CM environment. **[This is incorrect. Building 27 also falls within the CM zone]** The building pre-dated the Shoreline Management Act (SMA). To support Parks ‘continuing effort to re-use and activate the building, the proposed amendments to the City’s SMP allow for some non-water dependent use to be located on the second floor of the building, and also allow child care facilities on the first floor of the building. Allowing child care facilities on the first floor of the building will provide opportunities for children to access the shoreline for recreation and educational purposes. **[the SMP language refers to childcare facilities on the second floor, which is something that the lessee has not identified to date]**

Allowing a non-water dependent use to be located on the first floor Parks, or any other applicant, is required to demonstrate that water dependent or water related uses, otherwise allowed or allowed as special uses, are not practical, because of building design or because they cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition. Therefore, allowing these uses with conditions, mitigates their impacts to the shoreline district and thereby complies with and meets the intent of the SMA and SMP.

The letter that is referred to in several comments written by DPD Director Diane Sugimura to Darrell Vange explains the above.”

[\[http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@shorelinemasterpr og/documents/web_informational/dpdp021579.pdf\]](http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@shorelinemasterpr og/documents/web_informational/dpdp021579.pdf)

Diane Sugimura’s letter to Darryl Vange of June 1, 2010 clearly states that DPD “will recommend an exception that allows all or some of the uses permitted under the Building 11 lease agreement to take place in the shoreline zone”. A medical center or institutional use is NOT identified as one of the permitted uses allowed in the lease, and that language should be struck.

Further, DPD's Andy McKim, in an interpretation dated July 15, 2011 states that medical services tenant proposed by the lessee is not an institutional use, and that medical services are clearly prohibited in the CM zone (nor allowed by their lease).

Since "offices" are allowed under the Building 11 lease, the following language for Section 23.60.224.D is suggested:

Office use and institutional uses are prohibited, except office uses are allowed in existing buildings within designated historic districts as a special use if other uses allowed or allowed as special uses are not practical because of the building design or because it can be demonstrated that such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition.

I believe that this language more accurately reflects the intent of City Council when the lease was written for Building 11 to allow recreation, childcare and office tenants in the building. It is also consistent with the commitment made by the Director to put forward SMP changes to allow the lessee to place non-conforming uses in the CM zone that are allowed by their lease with the city.

Sincerely,

William Bradburd

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Copy: City Council