

The City of Bellevue passed *Resolution #8922* on May 18, 2015, authorizing submittal of the updated Shoreline Master Program (SMP) to the Department of Ecology (Ecology) for review. The City submitted materials to Ecology related to the updated SMP on December 30, 2015. Upon review of the submittal, Ecology notified the City of a complete submittal in a letter dated January 25, 2016, initiating state review of the updated SMP. Ecology accepted public comments on the updated SMP from September 30 through October 31, 2016, and at a public hearing hosted by Ecology in Bellevue on October 18, 2016. Notice of the comment period and public hearing was published in *The Seattle Times* on September 29, 2016, and was provided to over 900 individuals listed as regional or local “interested parties”. Ecology received testimony from 10 people at the public hearing on October 18 and written comments from an additional 19 individuals or organizations as summarized in Table 1 below. Table 2 provides a summary of issues raised during the comment period as well as a place for the City to insert a response to the issues raised pursuant to [WAC 173-26-120](#) (6).

Table 1 (below) lists all the individuals or organizations that provided comment and reference to each particular topic/issue as summarized in Table 2 beginning on page 3.

TABLE 1: LIST OF COMMENTERS AND WHERE THEIR COMMENTS MAY BE FOUND IN THE <i>COMMENT SUMMARY TABLE</i>		
COMMENT NO.	ORGANIZATION - COMMENTER NAME (DATE RECEIVED)	SUMMARY/RESPONSE (TABLE 2 – BELOW)
1	Ron Selset (10/1/2016)	A-1
2	Herb Roberts (10/13/2016)	B-3, D-2, F-2, F-3, F-6, G-3
3	Save Lake Sammamish - Joanna Buehler (10/18/2016 Public Hearing & 10/31/2016 Email)	A-3, A-4, B-2, B-3, B-5, B-8, D-1, E-1, F-1, F-2, F-3, F-5, G-1, G-2, G-3, G-4, G-5, G-6, G-7, G-8, G-10, H-1, H-2, H-3, H-4, H-5, H-6, J-1
4	WA Sensible Shorelines Association - Anita Skoog Neil (10/18/2016 – Public Hearing)	B-1, B-8
5	Eric Hansen (10/20/2016)	B-1, B-9
6	WA Sensible Shorelines Association – Martin Nizlek (10/28/2016)	A-2, B-5, L-1
7	WA Sensible Shorelines Association - Charlie Klinge (10/19/2016 Email & 10/31/2016 Email)	B-1, B-4, B-8, B-9, G-9
8	Tom Shafer (10/3/2016 Email, 10/18/2016 Public Hearing, & 10/20/2016 Email)	A-1, B-1, B-4, B-8, B-9
9	Kevin R. Wallace (10/20/2016)	A-2
10	Gene Welch (10/24/2016)	B-3, G-10
11	Linda Nohavec (10/25/2016)	B-2, B-3, B-8, G-4
12	Don Miller (10/18/2016 Public Hearing)	B-1

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13	Save Lake Sammamish – Willie Elliot (10/18/2016 Public Hearing & 10/31/2016 Email)	B-2, B-7, F-2, F-6, G-3
14	Diane Tebelius (10/18/2016 Public Hearing)	B-1, B-8
15	Scott Sheffield (10/18/2016 Public Hearing)	A-4, B-4, B-6, B-8
16	WA Sensible Shorelines Association – Laurie Lyford (10/18/2016 Public Hearing & 10/31/2016 Email)	B-1, B-4, B-8, G-9
17	Dallas Evans (10/18/2016 Public Hearing)	B-1, B-4, B-8
18	Meydenbauer Bay Yacht Club – Gerry Lakin (10/18/2016 Public Hearing)	B-1
19	Edward Mills (10/30/2016)	B-2, B-3, B-8, F-5
20	Janet Wall (10/30/2016)	B-2, B-3, D-1, F-5, G-4, G-8, G-10
21	Lake Sammamish Kokanee Work Group – David St. John (10/31/2016)	B-3, B-7
22	Jonathan Frodge (10/31/2016)	B-2, B-3, C-1, C-2, C-3, C-4, C-5, C-7, D-1, F-2, F-4, F-5, G-2, G-3, K-1, L-1
23	Snoqualmie Indian Tribe, Environmental & Natural Resources Department – Angela Dillon (10/31/2016)	B-2, B-3, C-5, H-6
24	Trout Unlimited, Bellevue/Issaquah Chapter – Brad Throssell (10/31/2016)	B-2, B-3, B-7
25	Philip Bloch (10/31/2016)	D-3, F-6
26	Phantom Lake Homeowners Association – Elfi Rahr & Norman Baullinger (10/31/2016)	B-10, L-2, N-2
27	Save Lake Sammamish - J. Richard Arambaru (10/31/2016)	B-2, B-3, B-8, D-1, F-4
28	Carmen McDermott (10/31/2016)	B-9
29	Phantom Lake Homeowners Association – Brian Parks (10/31/2016)	N-1

Please note, the statements below are not the opinions or comments of the Department of Ecology, but rather a summary of SMP issues received during the public comment period.

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
State Review and Approval Process				
A-1	Ecology review	1, 8	Ecology’s notice requesting comments caused some confusion as to what stakeholders should focus their comments on. A number of commenters thought Ecology had already reviewed the City’s SMP and therefore requested to see Ecology review of the proposed SMP to help inform their public comment.	<u>Comments noted</u>
A-2	Review time	9	One comment stated the following: “Hurry up. It’s been two years.”	<u>Comment noted</u>
A-3	Missing pages	3	Page SMP 115 LUC 20.25E.070.C.2.d.ii “Shoreline Setbacks – Allowed Development to:” – numbers 1-4 listed here are not found in the SMP. Page SMP 135 lists LUC 20.25E.080.C.3.c “Excess Material” as the last subsection shown.	<u>Comment noted. Revision proposed.</u> References should point to LUC 20.25E.070.C.3.f, g, h, and i.
A-4	CAO amendments	3	Commenter requests Ecology not approve Bellevue’s proposed CAO amendments prior to approval of an acceptable SMP update.	<u>Comment noted</u> Ecology is presently reviewing the CAO amendments passed by resolution by the Bellevue City Council. Proposed amendments to the CAO will be adopted at same time as the Ecology-approved SMP.
General Comments				
B-1	Approve	4, 5, 7, 8, 12, 14, 16, 17, 18	A number of comments generally urged Ecology to approve the SMP update as submitted.	<u>Comments noted</u>
B-2	Disapprove	3, 11, 13, 19, 20, 22, 23, 24, 27	In contrast to the comment above, a number of other comments generally urging Ecology to disapprove/reconsider/make changes to the SMP update.	<u>Comments noted</u> Specific issues raised in these general comments are addressed in specific responses below.

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B-3	Prioritize ecological protections	2, 3, 10, 11, 19, 20, 21, 22, 23, 24, 27	<p>A number of comments encouraged Ecology to amend the SMP so that it generally prioritizes the protection of public resources over individual property rights.</p> <p>Citing a general concern the provisions of the SMP do not adequately protect public resources, comments identified the following elements of the SMP to be changed:</p> <ul style="list-style-type: none"> • Setbacks: characterized as too small to protect water quality; suggest increasing size of required buffers • Native Vegetation Buffers: necessary for water quality protection and to provide quality habitat. • Grass Lawn: characterized as equivalent to impervious surface, which does not function as a native vegetation buffer. • Bulkheads: associated with impacting habitat and displacing water onto other properties. • Critical Areas Ordinance: perception that the City’s existing CAO standards are more protective than proposed SMP standards. Overall concern that lake protections will be reduced. 	<p><u>Comments noted. No revision proposed.</u></p> <p>The Shoreline Management Act directs local jurisdictions to “protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest, (RCW 90.58.020), as do the state Shoreline Guidelines, WAC 173-26-176(2) and (3). The May 18, 2015 Council SMP Transmittal (City’s Draft SMP) was drafted to maintain no net loss to shoreline ecological functions. The City’s Draft SMP regulations require nexus and proportionality between loss of ecological functions and required mitigation, providing flexibility and fairness, while ensuring no net loss of shoreline ecological functions, as required by WAC 173-26-186(8), from a baseline of existing conditions.</p> <p>With respect to specific comments raised:</p> <p>Setbacks: Setback distances take into account existing development patterns and levels of shoreline function. An analysis of existing setbacks in the 2015 Cumulative Impacts Analysis indicated that the 50-foot shoreline residential vegetation conservation area is consistent with the median setback width for existing residential development along the City’s Lake Washington and Lake Sammamish shorelines. Any new impervious surfaces between 25 and 50 feet from the OHWM are required to be mitigated under the vegetation conservation requirements. .</p> <p>Native Vegetation Buffers: LUC 20.25E.060.K and 20.25E.065.F include shoreline vegetation conservation standards, which are designed to ensure nexus and rough proportionality between mitigation requirements and proposed land alterations within the vegetation conservation area. Standards incentivize planting of native vegetation close to the shoreline, but also allow for flexibility in how impacts are offset.</p> <p>Grass Lawn: As Commenter 22 notes, mown grass lawn vegetation provides little ecological function and may contribute to nutrient or pollutant loading of the lakes. Mown grass lawn is given a higher value than impervious surface in Chart 20.25E.065.F.8.d because impervious surfaces are not vegetative at all but rather more permanent fixtures than mown lawns that can simply be allowed to grow into</p>

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				<p>unmown grass fields or be converted back to other landscaping or native plantings with relative ease. Mown grass lawn is <i>not</i> allowed as mitigation planting for removal of vegetation.</p> <p>Bulkheads: Hard shoreline stabilization is regulated under LUC 20.25E.080, consistent with WAC requirements. Only soft shoreline stabilization measures are allowed for new or enlarged shoreline stabilization, unless an applicant can demonstrate soft measures are not technically feasible as required under the new regulations. The Washington legislature determined that existing shoreline stabilization is allowed. The state guidelines, WAC 173-26-231(3)(a) establish a priority of stabilization methods allowing hard-surface stabilization methods only if other methods are demonstrated to be infeasible.</p> <p>CAO: The CAO is incorporated by reference for protection of critical areas in the shoreline jurisdiction. Minor amendments to the CAO have been advanced by the City Council consistent with Growth Management Act requirements for periodic updates to comprehensive plans and development regulations. Proposed amendments to the CAO are being reviewed together with the SMP update and will be adopted at the same time once approved by Ecology.</p>
B-4	Regulations must respect existing condition	7, 8, 15, 16, 17	Citing the fact that most of the City's shoreline areas are already developed, commenters emphasized the importance that the new regulations respect the existing developed condition of the lake shorelines in determining mitigation requirements and other regulations potentially restricting maintenance or improvements to these existing uses.	<p><u>Comments noted. No revision proposed.</u></p> <p>The shoreline analysis report describes the environmental baseline. This information was used to inform the development of the City's Draft SMP. In particular, an analysis of shoreline setbacks and vegetative conditions of existing development informed the approach to setback and vegetation conservation provisions in the City's Draft SMP. The provisions in the City's Draft SMP are intended to maintain no net loss of shoreline ecological functions relative to the existing condition. The City's Draft SMP places a strong emphasis on nexus and rough proportionality for required mitigation in order to satisfy constitutional limitations on the regulation of private property under the United States Supreme Court's <i>Nollan, Dolan, and Koontz</i> decisions; this is particularly evident in the vegetation conservation regulatory standards for the shoreline residential environment.</p>

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B-5	Water levels on Lake Sammamish	3, 6	<p>In comments submitted to Ecology, a Lake Sammamish resident requests that Ecology recognize surrounding issues and impacts related to high lake water levels on the lake and support efforts to return to historic water levels and conditions as a reference point in determining structure setbacks.</p> <p>The comments raise concern with methodology used in the City’s Ordinary High Water Mark (OHWM) study and accuracy concerns with the use of two-foot contour data to implement setback standards.</p> <p>The commenter goes on to suggest raised lake levels on Lake Sammamish have damaged many docks, for which they caution replacing them at higher elevation is problematic because of the significant range of fluctuation in seasonal water levels, limiting use of piers during peak summer activity.</p> <p>Other comments request the OHWM be updated to 31.8 NAVD 88 elevation that was established in 2004 for the purpose of establishing the Shoreline Overlay District and measuring all shoreline structure setbacks and vegetation conservation areas.</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>The City’s 2004 ordinary high water mark study for Lake Sammamish followed State-supported methodologies and rigorous statistical analysis to verify the results and conclusions, including a third-party review and concurrence. This study found that use of a static OHWM elevation of 31.8 feet (NAVD88) would “ensure, with 95% confidence, that the setback for any proposed development would not begin waterward of the true OHWM” (The Watershed Company 2004).</p> <p>The City’s Draft SMP relies on the Ecology definition of OHWM, rather than an elevation for determining shoreline jurisdiction and for the placement of bulkheads. Either an elevation of 31.2 feet (NAVD88) or a site-specific assessment of the OHWM may be used to determine the shoreline structure setback location. As noted in the Cumulative Impacts Analysis (Section 6.4, Shoreline Environment Designations), “[T]he difference in elevation that is used to measure setbacks is not expected to affect the locations of setbacks on properties with existing bulkheads, which comprise 71% of the shoreline length on Lake Sammamish.” In such cases, the OHWM (whether 31.8 feet or 31.2 feet) is most often located at the bulkhead rather than along the beach substrate. Therefore, measurements of setbacks from either 31.8 feet or 31.2 feet are likely to generate similar development outcomes related to placement of upland structures.</p>
B-6	Need to collect data	15	<p>Comments suggest alleviating much of the surrounding priorities for the Bellevue SMP update in the future by collection of meaningful data related to fish declines, water quality, etc. The commenter suggested Ecology start collecting data on water quality of Lake Sammamish.</p>	<p><u>Comment noted. No revision proposed.</u></p> <p>Federal, state, and local agencies collect and monitor data on Lake Sammamish. Lake Sammamish is within the Cedar-Sammamish watershed, which is designated as WRIA 08. Ecology maintains information on WRIA 08 on its website: http://www.ecy.wa.gov/water/wria/08.html.</p> <p>Ecology maintains information on impaired waterbodies throughout the state through the federal Water Quality Assessment 305(b) report and 303(d) list of impaired water bodies. The 303(d) list shows by waterbody, the types of pollutants impairing the water. Washington is required under the Clean Water Act to update the assessment every 2 years. A searchable database and a water quality atlas may</p>

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				<p>be accessed here: http://www.ecy.wa.gov/programs/wq/303d/currentassessmt.html.</p> <p>King County has two water quality sampling stations located over the deep central basin of Lake Sammamish. There is also a monitoring buoy located in the southern basin of the lake that collects continuous readings through the water column. King County monitors water quality of Lake Sammamish and that data is available here: http://green2.kingcounty.gov/lakes/LakeSammamish.aspx.</p> <p>U.S. Fish & Wildlife studies juvenile chinook salmon and Kokanee populations in Lake Sammamish.</p>
B-7	Kokanee salmon	13, 21, 24	<p>Commenters encourage Ecology to ensure the SMP contributes to ongoing efforts to recover the native Kokanee salmon population.</p> <p>Other comments suggest the City’s SMP does not adequately consider long-term survival needs of Kokanee salmon. Specifically, they are concerned about the loss of riparian native trees/shrubs, loss of shallow water habitat, increased use of pesticides/fertilizers, increased shoreline armoring, and increased predator habitat.</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>In addition to provisions requiring shoreline vegetation conservation, the City’s Draft SMP includes several provisions designed to protect salmonids and species of local importance, including limitations on recreational trails and other transportation uses; and a requirement of all uses and development that disturbance not occur in habitat used for salmonid rearing or spawning unless no other technically feasible location exists (LUC 20.25E.060.C).</p>
B-8	Private property rights/Public Trust Doctrine	3, 4, 7, 8, 11, 14, 15, 16, 17, 19, 27	<p>Many comments reference property rights as an important consideration for determining the appropriate balance in managing existing and proposed shoreline uses. Many of the comments received from Washington Sensible Shoreline Association (WSSA) supporters describe extensive efforts throughout the City’s update process focused on finding a balance between property rights and protection of ecological functions. They generally conclude the proposed SMP is a compromise, informed during the Council’s deliberations by detailed review of potential incentives to encourage protections, along with a clear consideration of the nexus or the need for regulations to be proportional to or based on the level of development or disturbance. In short, they would have</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>The City’s Draft SMP frames the legitimate public purposes of its policy choices as a balance between water-dependent use of shorelines; public access; and protection of ecological functions. Basing the SMP’s regulations on scientific information makes the City’s policy choices regarding its balancing of permitted uses, modifications of the environment, and required mitigation and related determinations of nexus and proportionality legally defensible.</p> <p>As described in other comments and responses, throughout the development of the SMP, the City emphasized ensuring no net loss of shoreline ecological functions while respecting single family residential development as a priority use under the Shoreline Management Act. The City incorporated flexibility into the SMP to allow</p>

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			<p>preferred a less complicated and more flexible system but overall think the City’s final system is fair.</p> <p>Alternatively, commenters from Save Lake Sammamish (SLS) provide a different perspective through a legal interpretation supporting their perspective that ecologic protections cannot be overlooked because of property rights concerns. Comments also reiterate the state’s obligation under the Public Trust Doctrine to protect the public’s right to access and enjoyment of waters of the state. Finally, commenters make the point “...shoreline protective regulations [that are] based on scientific information are not subject to being overturned by the taking analysis in Nollan or Dolan.”</p>	<p>property owners a variety of means to meet standards for maintaining shoreline functions. The City’s shoreline vegetation mitigation provisions require <i>nexus</i> and <i>rough proportionality</i> between shoreline impacts of proposed development and the nature and extent of required mitigation, in accordance with United States Supreme Court decisions in the <i>Nollan</i>, <i>Dolan</i>, and <i>Koontz</i> cases. The emphasis on flexibility, nexus, and rough proportionality inherently involves more complexity in order to provide meaningful choices to property owners while meeting constitutional <i>nexus</i> and <i>rough proportionality</i> limitations.</p>
B-9	Impact to property values	5, 7, 8, 28	<p>Comments from a shoreline property owner voicing concerns for weakening of ecological protections on Lake Sammamish. Specifically, the commenter states the importance in maintaining the environmental health of the lake to continue to support recreation, views, and aesthetics they believe are necessary to maintain property values. They identify specific concerns with reduction to shoreline setback standards and native plant buffers.</p> <p>Alternatively, other commenters suggest flexibility in making improvements to one’s shoreline home is important to maintain property values, for which they are concerned too much regulation could limit their ability to protect their investment.</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>The provisions of LUC 20.25E.065.F were developed specifically to provide nexus and rough proportionality between the impacts of proposed development on shoreline ecological functions of vegetation and required mitigation. The vegetation conservation area standards provide flexibility for shoreline property owners while ensuring that mitigation satisfies a nexus and rough proportionality relationship to impacts, as required by the <i>Nollan</i>, <i>Dolan</i>, and <i>Koontz</i> decisions, and are consistent with constitutional and other legal limitations on the regulation of private property, as required by WAC 173-26-186(5) and 173-26-191(2)(a)(i)(D). These provisions strike a balance between maintaining shoreline ecological functions and allowing modifications and mitigation actions that are compatible with a range of site-specific conditions in accordance with RCW 90.58.020 and WAC 173-26-176.</p>
B-10	Phantom Lake	26	<p>Since Phantom Lake is a small kettle lake with a peat bottom and had no natural inlets or outlets before manmade alterations, much of what is in the SMP is not applicable, and implementation of its requirements on Phantom Lake is not appropriate.</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>Under the SMA, lakes 20 acres or larger are included in the definition of “shorelines of the state” (RCW 90.58.030(2)). Phantom Lake is on the order of 55 acres, and is therefore included in the City’s shoreline jurisdiction and subject to the City’s Draft SMP.</p>

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				In 2008, City of Bellevue staff performed a site visit to Phantom Lake along with representatives of Ecology and The Watershed Company in order to determine the extent of shoreline jurisdiction for Phantom Lake and nearby Larsen Lake. Based on field evaluation of hydraulic connectivity, Phantom Lake, its associated wetlands, and Larsen Lake were confirmed for inclusion in shoreline jurisdiction.
Shoreline Master Program Element				
C-1	SMP Goal 'to give priority to single-family residences'	22	Comments suggest this goal is at odds with the intent of the SMA, related to giving preference to <i>"uses which are consistent with control of pollution and prevention of damage to the nature environment, or are unique to or dependent upon use of the shoreline."</i>	<u>Comment noted. No revision proposed</u> In accordance with RCW 90.58.020, and WAC 173-26-241(3)(j) the City's Draft SMP identifies single-family residences "as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment." Provisions in LUC 20.25E.065 are intended to ensure that residential development is executed in such a manner and results in no net loss of shoreline ecological functions in accordance with WAC 173-26-186(8)(b).
C-2	Goal of SMP to maintaining existing ecological function	22	Commenter suggests the City's goal to adopt <i>"a user friendly...predicable...framework... [with] increased regulatory flexibility for property owners"</i> is a misguided goal inconsistent with the SMA. Alternatively, they suggest the SMP should primarily emphasize protection or restoration of natural resources within shoreline areas and require an appropriate level of technical expertise, best available science, and best management practices as required under the SMA.	<u>Comment noted. No revision proposed.</u> This comment refers to one of a series of summary statements describing how and why shoreline policies of the City's Draft SMP were developed. In this specific instance, the referenced statement corresponds with the understanding that regulations that are user-friendly, predictable, and appropriately responsive to site conditions are more likely to be implemented, and at lower costs to property owners and the City. Best available science and the advice of technical advisors were incorporated into the development of the regulatory framework, which anticipates redevelopment to be a major opportunity for the City to "foster reinvestments that maintain existing shoreline ecological functions." This summary policy statement is within the City's discretion under RCW 90.58.020 and WAC 173-26-176 and -186.
C-3	Accessory parking policies – SH-32 and SH-36	22	Commenter suggests Policies SH-32 and SH-36 related to parking be deleted or amended to require parking be located outside of shoreline setbacks or buffers.	<u>Comment noted. No revision proposed.</u> SH-32 reads: "Allow accessory parking in the shoreline setback <i>only when required to serve a water-dependent use</i> , and limit such parking supply to the minimum necessary.... Where feasible, accessory parking <i>should be located outside of</i>

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				<p><i>shoreline jurisdiction</i>" (emphasis added).</p> <p>SH-36 reads: "Encourage accessory parking facilities to incorporate natural drainage practices and low impact materials where technically feasible."</p> <p>These provisions are consistent with guidance in WAC 173-26-241(3)(k), which states that parking facilities in shorelines, "shall be allowed only as necessary to support an authorized use. Shoreline master programs shall include policies and regulations to minimize the environmental and visual impacts of parking facilities." Specific criteria are established for the evaluation of technical feasibility in LUC 20.25E.060.C, making these standards clearly enforceable and consistent with the concept of mitigation sequencing.</p>
C-4	General policies "Shoreline Vegetation Conservation and Buffering"	22	<p>Comments generally suggest the City's vegetation conservation policies are inadequate to maintain no net loss since they allow for increased impervious surface and loss of native vegetation.</p> <p>In addition, the commenter asks the City to define what 'comparable' non-native vegetation is or what 'proportional' refers to concerning use of non-native vegetation, or remove the terms from the SMP and require the preservation of native vegetation.</p>	<p><u>Comment noted. No revision proposed.</u></p> <p>Under the shoreline vegetation conservation standards, expansion of impervious surfaces is generally not allowed within 25 feet from the OHWM, and new impervious surfaces between 25-50 feet from the OHWM must be mitigated (with the exception of a one-time lateral expansion allowance of 200 SF). The approach to residential vegetation conservation incentivizes planting of native vegetation along the shoreline, but allows for non-native vegetation that is either mitigated or that replaces lower functioning surfaces (e.g., lawn, impervious surface, or bare dirt).</p> <p>The City's Draft SMP focuses on nexus and rough proportionality in its approach to shoreline vegetation conservation. This approach recognizes a continuum of value, ranging from impervious surfaces (lowest) to native vegetation overhanging the shoreline (highest). Changes to the type of landcover within the vegetation conservation area are required to be proportionally offset.</p> <p>It appears that the commenter may be referencing in part an earlier version of the SMP, since the City's Draft SMP does not use the term "comparable" with regard to non-native vegetation, nor does it use the term "shoreline greenscaping," which was included in the previous version of the SMP.</p>
C-5	Residential use policies	22, 23	Comments suggest Policy SH-59 allowing for "minor expansion" into minimal setbacks or buffers is not well defined, is	<u>Comment noted. Minor revision proposed.</u>

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	(minor expansion) SH-59		inconsistent with other SMP provisions attempting to minimize loss of ecological functions, and cannot be implemented in a way that maintains no net loss of shoreline functions.	<p>Under the SMA, existing residential development landward of the OHWM that was legally established prior to the effective date of the SMP may be considered conforming under the SMP (RCW 90.58.620). Per LUC 20.25E.065.E, expansion of an existing structure within 25 feet of the OHWM is allowed only if it is 200 SF or less, is no closer to the OHWM than the existing structure, and shoreline impacts are mitigated. Given these constraints on potential expansion, the policy and implementing regulation provide a reasonable opportunity for minor expansion and “only in a manner that does not degrade shoreline ecological functions.”</p> <p>A minor revision is proposed to LUC 20.25E.065.E.2.a. to clarify that the standard structural setback is 50 feet. It should read: “Expansion of the exterior footprint of an existing legally established structure within the 25 feet of the OHWM <u>50 feet shoreline structure setback</u> is allowed when:”</p>
C-6	Pier/Dock Policy SH-95	25	The commenter argues grandfathering certain nonconforming structures, such as boathouses, puts a premium on their existence, whereas they would suggest SMP policies encourage removal of these structures in order to not provide financial benefits for uses that are inconsistent with best practices.	<p><u>Comment noted. No revision proposed.</u></p> <p>Whereas, legally established residential development landward of the OHWM is considered conforming, legally constructed boathouses located waterward of the OHWM are considered non-conforming structures. Provisions in LUC 20.25E.065.I.3 allow for repair and maintenance, but not for replacement or expansion of a non-conforming boathouse unless the structure is damaged or destroyed by fire, explosion, natural disaster, or other unforeseen circumstances.</p>
C-7	Pier, dock, and recreation policies	22	<p>The commenter questions how the City will manage against a proliferation of docks without more rigorous criteria to determine an applicant’s actual need for a dock.</p> <p>In addition, the commenter asks if mitigation will be required for additional docks, for which they question how the SMP could satisfy no net loss.</p> <p>They suggest the SMP include provisions to require joint use or community docks rather than individual docks and only when impacts to ecological functions can be avoided.</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>As indicated in the Cumulative Impacts Analysis (The Watershed Company 2015) 93 percent and 91 percent, respectively, of residential parcels on Lakes Washington and Sammamish in the City of Bellevue have existing overwater structures. While there is potential for some new single family residential docks (19 on Lake Washington and 29 on Lake Sammamish), based on permit trends, dock replacement is expected to occur much more commonly. Given the built-out condition of the residential lakeshore, the potential for joint use docks is highly limited. The City’s Draft SMP does include provisions for joint use docks, but when adjacent properties have existing docks, the likely practicality of joint use docks is highly limited.</p>

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				<p>LUC 20.25E.065.H includes requirements for docks consistent with WAC 173-26-231(3)(b). Design standards address materials and lighting. Standards for new and reconfigured docks address decking requirements and dimensional standards that minimize ecological impacts.</p> <p>In addition to local permits, state and federal permits are required for new overwater cover. These permits typically require mitigation, which commonly occurs through installation of native vegetation or softening of the shoreline.</p>
LUC 20.25E.010 – Authority				
D-1	Shorelines of statewide significance	3, 20, 22, 27	<p>Commenters allege there is little emphasis in the SMP regarding protection/restoration of valuable natural resources and that the SMP prioritizes local (individual) interests above statewide interests, inconsistent with SMA policies related to Shorelines of Statewide Significance (SSWS). Commenters recommend Ecology substantially modify the SMP to restore statewide interests as a higher priority.</p> <p>Commenters also suggested that, since Lake Sammamish is a SSWS managed by several jurisdictions, common policies (similar to those required in neighboring jurisdictions) should apply.</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>Consistent with WAC 173-26-186(8), the City’s Draft SMP emphasizes maintaining no net loss of shoreline ecological functions. LUC 20.25E.010.F contains specific provisions for shorelines of statewide significance, including priority of uses, consistent with WAC 173-26-251. The prioritization of single family residential use of the shoreline is further consistent with RCW 90.58.020 and WAC 173-26-241(3)(j), so long as it is developed in a manner consistent with control of pollution and prevention of damage to the natural environment. The City invested substantial effort into developing provisions for shoreline residential development to ensure this standard is met.</p> <p>The SMA allows for SMPs to be locally tailored to adapt to local conditions, WAC 173-26-186(8)(d). Nevertheless, many elements of the City’s Draft SMP draw from the policies and regulations that other jurisdictions on Lakes Washington and Sammamish have adopted. While the specific implementing regulations may differ from city to city around the lakes, many of the policies are similar among the various jurisdictions.</p>
D-2	Critical area conflicts	2	<p>Commenter alleges changes in the SMP reduce protections already provided by the Critical Areas Ordinance for the lake.</p>	<p><u>Comment noted. No revision proposed.</u></p> <p>See response above in Line B-3. Where critical areas occur within shoreline jurisdiction, those critical areas are regulated under the City’s Draft SMP through the incorporation by reference of the CAO. In 2010, through EHB 1653, the State</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
				legislature clarified that in shoreline areas that do not include critical areas, shorelines are regulated by the SMP rather than the CAO. The City's Draft SMP was developed consistent with WAC 173-26-186(8) to ensure no net loss of shoreline ecological functions
D-3	Shoreline streams	25	Commenter suggests that the City consider including Yarrow Creek and Coal Creek as shoreline jurisdictional streams as their base flows may actually satisfy the minimum 20 cfs threshold to be considered shorelines of the state. In addition, they suggest these two streams are restoration opportunities with the potential for providing significant natural resource benefits.	<p><u>Comment noted. No revision proposed.</u></p> <p>Flow data is available near the mouth of Coal Creek collected between 1964 and 1968. Mean annual flows in those years ranged from 10.1 cfs to 12.6 cfs. This data is cited in the City of Redmond report that the commenter referenced. Mean annual flow conditions are believed to be similar to those measured fifty years ago, although peak flows have likely increased with associated development. Therefore, it is highly unlikely that Coal Creek would meet the 20 cfs threshold. The data cited in the Redmond report in the comment seem to be associated with the average peak and base flows at which other parameters in the study were measured.</p> <p>The commenter does not seem to suggest that Yarrow Creek actually meets the 20 cfs standard, but that it should be included in shoreline jurisdiction nevertheless. The comment starts, "Although the Shoreline Area must include stream with greater than 20 cfs and lakes larger than 20 acres, there is no prohibition against including areas smaller than that where appropriate." Shoreline jurisdiction is defined and limited by WAC 173-18 through 173-22. The City may not extend shoreline jurisdiction beyond its legal authority. Streams that do not meet the criteria of shorelines are still be regulated as critical areas under the City's critical area ordinance.</p>
LUC 20.25E – Uses				
E-1	Nonconforming uses	3	Comments allege the SMP perpetuates nonconforming structures and allows them to be replaced or upgraded without mitigation or restoration.	<p><u>Comment noted. No revision proposed.</u></p> <p>See response above in Line C-6.</p> <p>Per LUC 20.25E.040.F.2, expansion of non-conforming structures is not allowed. LUC 20.25E.040.G.2.c.iv and LUC 20.25E.040.G.3.c.v allow for relocation only if such relocation reduces the nonconformance and if ecological functions are restored.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
LUC 20.25E.060 - Development Regulations				
F-1	20.25E.050 - Shoreline Lot Coverage	3	Commenter is concerned the lot coverage requirements within the Shoreline Overlay District are the same as that for the underlying residential land use, which ranges from 50 to 80 percent. They suggest the high lot coverage limits do not take into account the environmental sensitivity of the Shoreline Overlay District nor the provisions of the SMA.	<p><u>Comment noted. No revision proposed.</u></p> <p>Maximum lot coverage and maximum impervious surface coverage standards vary by shoreline environment designation, which take into account existing development patterns and land use/zoning designations. An increase in impervious surface coverage within the Vegetation Conservation Area in the Shoreline Residential environment requires mitigation per LUC 20.25E.065.F.</p> <p>As reported in the Cumulative Impacts Analysis, impervious surface coverage in shoreline jurisdiction (based on data from 1999) is 44 percent along Lake Washington residential shorelines and 39 percent along Lake Sammamish shorelines. Since the 50 percent impervious surface standard applies to most single-family residential shoreline areas, the maximum impervious surface standard is similar to the range of existing conditions.</p>
F-2	20.25E.050 B - Shoreline Setbacks (General)	2, 3, 13, 22	Comments generally suggest the setbacks required under the SMP are too small to adequately protect water quality, satisfy no net loss, or protect neighbors' views. They are concerned these setbacks will negatively affect wildlife and fish through the close proximity of human activity. To alleviate this concern, they suggest that the City adopt and implement standards that minimize disturbance of existing habitats.	<p><u>Comments noted. No revision proposed.</u></p> <p>In general, setback distances take into account existing development patterns and levels of shoreline function. Together, setbacks and height restrictions are intended to protect views from landward and adjacent locations.</p>
F-3	20.25E.060 General Requirements Rebuttable Presumption Standard	3	Commenter alleges this provision undermines the authority of the SMP. Further they state mitigation required by LUC 20.25E.050 through 20.25E.080 as proposed is inadequate to protect water quality, fish, and ecological functions.	<p><u>Comment noted. No revision proposed.</u></p> <p>The rebuttable presumption is included to minimize the onus on individual landowners to complete mitigation assessments where the SMP provides clear guidance. If an applicant meets the standards required by the SMP and all prescribed mitigation requirements, the project is presumed to meet no net loss.</p> <p>In LUC 20.25E.065, mitigation follows a relational table that provides nexus and proportionality to impacts. Also in LUC 20.25E.065, prescribed dock dimensions and decking materials for new docks minimizes potential impacts.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
				In other sections where specific standards are not applied, the City's Draft SMP includes a requirement to demonstrate no net loss of functions.
F-4	20.25E.060 B - No Net Loss	22, 27	Comments reference SMP Guideline requirements requiring updated SMPs to include policies/regulations that assure no net loss of shoreline ecological functions (NNL). The commenters allege the City's SMP does not include sufficient protections to satisfy NNL. One commenter (SLS) recommends Ecology modify the SMP to incorporate their previous changes dated September 8, 2013, December 9, 2013, and June 6, 2014.	<u>Comments noted. No revision proposed.</u> Per LUC 20.25E.060.B.1, all shoreline uses and development are required to ensure no net loss of ecological functions and processes. See response in Row F-1 regarding the rebuttable presumption of no net loss, which applies to development standards in 20.25E.050 through 20.25E.080. Any project requiring a shoreline conditional use permit, a shoreline variance, or a shoreline special report will require additional analysis and demonstration of no net loss. The Cumulative Impacts Analysis and No Net Loss Report provide an analysis of the capacity of the City's Draft SMP to achieve no net loss, in the context of development pressures, the restoration plan, and other protective regulations.
F-5	20.25E.060 D - Mitigation Sequencing as a SMA requirement.	3, 19, 20, 22	Commenters allege the proposed SMP does not meet an acceptable standard of resource protection, nor does it satisfy the NNL requirement in the SMA. Further, they point to sections of the SMA requiring SMPs to establish a policy that first avoids negative impacts and second mitigates for those impacts.	<u>Comments noted. No revision proposed.</u> See response above in Line F-4. Policies SH-16 and SH-81 also establish general policies of avoidance, minimization, and mitigation. LUC 20.25E.060.D.2, Mitigation Sequencing Analysis Required provides a general regulation requiring avoidance as the first step in mitigation sequencing.
F-6	Vegetation Conservation and Landscape Standards	2, 13, 25	Multiple comments raised concerns with the SMP's vegetation provisions, suggesting native vegetation buffers be required to protect water quality and provide effective shoreline habitat. Other comments (25) raise concerns the vegetation conservation provisions in the SMP incentivize maintaining a low value system by tying current and future mitigation obligations to the relative quality of the composition of the buffer. Specifically, the concern is it penalizes "good actors" (intent of improving their shoreline buffer through planting or maintenance of native vegetation) with a relatively higher	<u>Comments noted. No revision proposed.</u> The vegetation conservation provisions were developed based on the City's strong desire to ensure that mitigation required of shoreline homeowners is supported by science and meets the standards of nexus and rough proportionality. The approach is designed to maintain existing functions while incentivizing use of vegetation with the highest ecological value. The approach also includes provisions for "enhancement" credits, which apply to infill plantings in areas not presently meeting mitigation standards; "conservation" credits, which apply to maintenance (and avoidance) of existing high quality mature vegetation; and "advance" credits, which

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
			mitigation obligation than the “bad actors” removing native vegetation from their shoreline setback. To alleviate this disincentive, the commenter suggests the City rework the approach to create a more equitable system that rewards property owners who maintain higher ecological values on their property, while increasing costs for those that avoid good stewardship.	provide an incentive to improve landcover conditions prior to any development action. In this way, the approach incentivizes “good actions” based on objective criteria.
LUC 20.25E.065 - Residential Development Regulations				
G-1	A. Shoreline use preferences	3	Commenter states the City’s listed preference ignores the special goals and use priorities articulated for shorelines of statewide significance, particularly the uses permitted in the Residential Chart for Shoreline Environments (LUC 20.25E.030 at page SMP 45). They are concerned the SMP does not recognize the statewide interest over local interest or preserve the natural character of the shoreline.	<u>Comment noted. No revision proposed.</u> See response above in Line D-1. Single-family residential development is permitted or conditionally permitted in all upland shoreline environment designations; in Urban Conservancy-Open Space, single-family residential development is allowed only if there is no feasible alternative to locating the building within the shoreline jurisdiction.
G-2	Shoreline structure setback	3, 22	Comments recommend a 50-foot shoreline structure setback landward from the OHWM, comprising 35 feet landward of the OHWM in a no-touch buffer zone, plus a 15-foot building setback line, similar to that adopted by Issaquah. Another commenter specifically suggested the City replace its 25-foot setback with a 75-foot setback (similar to what is required in Seattle’s SMP) or at a minimum a 50-foot setback, as necessary to protect ecological functions and views.	<u>Comments noted. No revision proposed.</u> Per Chart 20.25E.050.A and LUC 20.25E.060.K, the required Vegetation Conservation Area and structure setback are 50 feet in both Urban Conservancy and Urban Conservancy Open Space. In Residential environment designations, the structure setback is 50 feet, with an allowance that the setback may be reduced to 25 feet so long as vegetation impacts are mitigated. Vegetation conservation standards apply within the entire 50-foot setback. It is recognized that other jurisdictions have differing approaches to setbacks and shoreline vegetation conservation; the proposed setbacks in Bellevue were developed with consideration of the City’s unique shoreline characteristics and existing conditions.
G-3	Chart 20.25E.065.F.8.d Shoreline Land Cover Types and Values	2, 3, 13, 22	Comments state grass lawn is equivalent to impervious surface on the shoreline, as it cannot filter runoff and adds nutrients and pollutants to the lake. More specifically, comments question the effectiveness of	<u>Comments noted. No revision proposed.</u> As discussed in the response in Line B-3, grass lawn provides little function and may contribute to nutrient or pollutant loading of the lakes. Grass lawn is considered a higher value than impervious surface in Chart 20.25E.065.F.8.d because impervious

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			<p>allowing “shoreline greenscaping” within setback areas, which they suggest be amended to only allow use of native vegetation and large woody materials.</p>	<p>surfaces are considered more permanent than a mown lawn, which can be converted back to other landscaping or native plantings with relative ease. The difference in the value of lawn and impervious surfaces is used only to calculate the impact of converting a lawn to impervious surface. Grass lawn is <i>not</i> allowed as mitigation planting for removal of vegetation.</p> <p>Native vegetation is assigned a higher value than non-native vegetation in order to ensure that use of non-native vegetation for shoreline vegetation replacement/enhancement/retention will be performed in larger quantities to make up the difference in ecological value. In general, the vegetation conservation provisions were developed based on the City’s strong desire to ensure that mitigation required of shoreline homeowners is supported by science and meets the standards of nexus and rough proportionality. The approach is designed to incentivize use of vegetation with the highest ecological value.</p>
G-4	Residential regulations F. Vegetation conservation	3, 11, 20	<p>Commenters suggest standards in the updated SMP authorize a potential loss of up to 70% of existing trees, shrubs, and native vegetation within the Shoreline Residential designated areas. Further, they are concerned the plan considers lawns as equivalent to vegetated buffer, which they dispute as they interpret lawn as not providing the buffering, filtration, or habitat value a vegetated buffer provides.</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>It is not clear where the commenters come up with the loss of 70% of existing trees, shrubs, and native vegetation within Shoreline Residential areas under the City’s Draft SMP.</p> <p>See response in Line G-3, above, related to the approach to vegetation conservation in Shoreline Residential areas and the valuation of mowed lawn.</p>
G-5	Residential regulations H. Residential Moorage – 6. Boats and watercraft lifts	3	<p>Comments suggest the City did not adequately consider the cumulative impact of an increase in overwater structures.</p>	<p><u>Comment noted. No revision proposed.</u></p> <p>This comment mistakenly assumes that “4 covered boat slips per dock are allowed.” However, LUC 20.25E.065.H.6 allows up to four boat lifts per single-use dock with only one allowed to have a lift canopy which must be “light transmitting” unless other materials are approved on a site-specific basis. In contrast to a covered moorage slip, a boat lift canopy typically covers only the boat and not the entire slip. Overwater structures associated with residential uses were addressed in the Cumulative Impacts Analysis Section 6.4.1.</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
G-6	LUC20.25E.65 - Nonconforming boathouses	3	<p>Commenter suggests these provisions perpetuate nonconforming structures without mitigation to compensate for their detrimental impacts and states such provisions do not match the regulations explained in Ecology’s SMP Handbook. “In essence the proposed update deems nonconforming structures as conforming.” Commenter suggests proposed regulations and language need to change to meet the mandates of the SMA. Commenter asks City to disallow expansion of any nonconforming structure and to disapprove alterations to any nonconforming structure without compensatory mitigation.</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>See response above in Line C-6. Consistent with RCW 90.58.620, the City’s Draft SMP (LUC 20.25E.065.I.4) considers legally established residential structures and appurtenant structures landward of the OHWM which encroach into the shoreline structure setback to be conforming structures. Such structures are granted a footprint exception per LUC 20.25E.065.E.1.c. Boathouse structures waterward of the OHWM are considered non-conforming structures. LUC 20.25E.065.I.3.c limits repair of a boathouse to up to 50 percent of its value within a three-year period; if repairs exceed that threshold, it is considered a new boathouse, which would not be permitted waterward from the OHWM. Replacement boathouses are allowed only when a legally established boathouse is damaged or destroyed by fire, explosion, natural disaster, or other unforeseen circumstances (LUC 20.25E.065.I.3.e). In such cases, mitigation is required for areas of temporary construction disturbance. No provisions in LUC 20.25E.065.I allow for expansion of an existing nonconforming boathouse.</p>
G-7	Dock Grating Mitigation – LUC 20.25E.065.F.8.h	3	<p>Commenter questions why the City is willing to grant mitigation credit for an action (dock grating) already required by WDFW. Likewise, they disagree rewarding replacement of solid decking of the entire dock area with grating decking would earn 75 units of mitigation credit. They also raise concerns with the concept of advance mitigation and increases in the value, as detailed in LUC 20.25E.065.F.i.</p>	<p><u>Comment noted. No revision proposed.</u></p> <p>Credits for grated decking: The commenter is correct in acknowledging WDFW’s requirement to use grated decking. However, replacement of solid dock decking with grated decking is given mitigation credit as a way to incentivize installation of grated decking where such an action may not be necessary at the time of an application.</p> <p>Advance mitigation planting and the increasing value of credits: One of the most effective means of ensuring successful mitigation planting is to install and maintain plantings prior to the anticipated impacts. In the case of advance mitigation, the longer the time period between planting and impacts, the more likely the mitigation planting will be successful long-term and at the same time be larger, more mature specimens. Therefore, credits are allowed to increase in value if the impacts are delayed.</p>

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G-8	Tree Retention Standards	3, 20	Commenters allege that the tree standards in the SMP would permit the removal of significant trees within the Shoreline Vegetation Conservation Area and allow replacement trees planted outside the shoreline vegetation conservation area, which commenters say would eliminate their value as mitigation.	<p><u>Comments noted. No revision proposed.</u></p> <p>Per LUC 20.25E.065.F.8.c.iii, removal of significant trees shall be replaced at a minimum ratio of 1:1 with a comparable tree and potentially up to 3:1 depending upon the size of the tree. In all cases, at least one replacement tree is required to be located within the Vegetation Conservation Area, thereby ensuring their continued presence in the nearshore area. Specific emphasis is placed on tree species that grow to heights greater than 50 feet tall. Such trees are known to provide important perch and nesting habitat for birds, and this value would be realized whether trees are within 50 or 200 feet from the OHWM. If such a tree is removed, it must be replaced with a tree of comparable mature growth listed in LUC 20.25E.065.F.8.g.</p>
G-9	Vegetation conservation require restoration	7, 16	<p>Comments reiterate Ecology’s regulations in stating the following: “vegetation conservation standards do not apply retroactively to existing uses and structures.” WAC 173-26-221(5)(a). Inconsistent with this limit, they allege that the proposed SMP contains detailed regulations imposing vegetation conservation standards in existing developed yards. Comments further conclude that these requirements impose extensive requirements on homeowners for any home additions or changes to their landscaping.</p> <p>Commenters suggest the proposed requirements go beyond protection of existing conditions and seek to attain restoration of lost functions inappropriately through regulatory means.</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>Consistent with the Shoreline Management Act (SMA), the City’s shoreline regulations do not apply retroactively to existing uses and structures. The City’s shoreline policies and regulations do apply when there is a proposed development or use, which includes modifications to existing development and uses. The City’s vegetation conservation standards are supported by Policy SH-43, which directs the City to, “implement shoreline vegetation mitigation proportional to the impact associated with new development or substantial expansion.”</p>
G-10	Vegetation Conservation Effectiveness	3, 10, 20	<p>Comments raise concerns the vegetation conservation standards in the SMP are not stringent enough. Citing the need to encourage the retention of trees and woody plant cover both along the shoreline and on adjoining land, commenters allege the changes proposed in the update are inconsistent with established standards, the principles in WAC 173-26-221 (5) (b), and with the overall goal to protect the lake’s water quality for future generations.</p> <p>Comments also raise long-term cumulative impact concerns</p>	<p><u>Comments noted. No revision proposed.</u></p> <p>The approach to residential vegetation conservation is based on a debit-credit system to ensure nexus and rough proportionality between impacts and required mitigation. Both impacts and mitigation requirements are calculated based on a change in the type of land cover and on the premise that different types of land cover offer a continuum of benefits and/or potential impacts to shoreline ecological functions (water quality, fish habitat, and wildlife habitat). Higher credit values are given to higher functioning land cover types (i.e. native vegetation and nearshore</p>

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			<p>with a standard in the SMP they believe would legally allow a property owner to remove up to 1,000 square feet of vegetation within a five-year period without requiring mitigation.</p>	<p>vegetation). A grass lawn is given a very low value, second lowest only to impervious surfaces. The conversion to such a low value land cover would create greater mitigation requirements compared to conversion to an area vegetated with non-native landscaping, for example. Higher values given to nearshore and native vegetation promotes the desired land cover types emphasized in Policies SH-41, SH-43, and SH-44.</p> <p>The comments regarding the unmitigated removal of up to 1,000 square feet of vegetation are incorrectly summarized. The focus of the provision is on <u>alteration</u> (emphasis added) rather than removal of vegetation. Removal of some vegetation (less than 200 square feet) would be allowed without mitigation, but the main intent of defining Shoreline Vegetation Impacts is to recognize the need for flexibility to maintain and alter the <u>type</u> (emphasis added) of vegetation within the Vegetation Conservation Area. As such, the definition of Shoreline Vegetation Impacts specifies the following:</p> <ol style="list-style-type: none"> 1. Requires mitigation when vegetation removal greater than 200 square feet within a 5-year period occurs in the nearshore (0-25 feet from OHWM) per LUC 20.25E.065.F.7.b.i. Note, this does not include impacts to overhanging vegetation which requires mitigation no matter how small per LUC 20.25E.065.F.7.c. 2. Requires mitigation when vegetation removal greater than 1,000 square feet within a 5-year period occurs in the area between 0-50 feet from the OHWM (LUC 20.25E.065.F.7.b.ii, but must also comply with subsections F.7.b.i and F.7.c. 3. Additionally, and most directly related to the public comments, <u>any</u> (emphasis added) vegetation removal or alteration which includes an increase of lawn area or bare ground by more than 200 square feet within a 5-year period, would be considered a Shoreline Vegetation Impact. See subsection F.7.b.iii.

LUC 20.25E.080 – Shoreline Modifications

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
H-1	Shoreline armoring – LUC 20.25E.080.F.3.a.iv	3	Commenter states concerns with this provision, as they allege the consideration of private monetary cost against environmental degradation of the public resource is inconsistent with the NNL mandate and the “special policy goals of the act and guidelines for shorelines of statewide significance.” WAC 173-26-181.	<p><u>Comment noted. No revision proposed.</u></p> <p>This provision would allow for monetary costs to be evaluated when determining the feasibility of avoiding such impacts. The stated provision is not inconsistent with the NNL mandate as it does not remove an applicant from required mitigation of impacts.</p>
H-2	New or enlarged shoreline stabilization measures	3	Commenter suggests the words “legally permitted” should be inserted between “protect” and “existing” in the first sentence of LUC 20.25E.080.F.4 to be consistent with the language found in later section LUC 20.25E.080.4.g in dealing with retention of setback with new soft stabilization.	<p><u>Comment noted. Minor revision proposed.</u></p> <p>The City agrees with the commenter and suggests making this change to insert the words “legally established” between “protect” and “existing” in the first sentence of LUC 20.25E.080.F.4.a. The term “legally established” is consistent with the terminology in LUC 20.25E.080.F.4.g.</p>
H-3	Mitigation and restoration - LUC 20.25E.080.F.4.f	3	Commenter suggests mitigation requirements be added to those shoreline stabilization projects fortifying pre-existing bulkheads, as they allege these projects also need to be subject to shoreline restoration and mitigation to offset their damage and disruption to the shoreline’s ecological functions.	<p><u>Comment noted. No revision proposed.</u></p> <p>The fortification of pre-existing bulkheads would likely fall under two categories, repair or replacement. Any fortification which includes expansion would require mitigation.</p> <p>Bulkhead repair would be allowed outright under LUC 20.25E.080.F.5. Replacement bulkheads would also be allowed. However, replacement structures must follow several key provisions that ensure compliance with no net loss.</p> <ol style="list-style-type: none"> 1. Replacement structures must be angled at a 1:1 slope or less, unless the Director concludes that there is no practical alternative based on a report by a qualified professional. 2. The materials, size, location and design of the replacement structure must ensure no net loss of shoreline ecological functions. Therefore, it must not contribute to the continued degradation of ecological functions. LUC 20.25E.080.F.6.d. <p>In addition, as noted in the Cumulative Impacts Analysis, “federal and state regulatory oversight is likely to establish a higher standard for the replacement of shoreline stabilization that may help to maintain no net loss of functions.”</p>

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
H-4	Removing shoreline stabilization	3	Comments referencing LUC 20.25E.080.F.4.g, LUC 20.25E.080.F.4.h, and LUC 20.25E.080.F.7 – interpret these provisions as creating a disincentive for property owners to remove concrete bulkheads and restore shoreline habitat. To alleviate this concern, they recommend these two provisions be either deleted or replaced with a provision focused on impacts of bulkheads on neighboring properties.	<u>Comment noted. No revision proposed.</u> The stated provisions are all intended to encourage soft-stabilization or bulkhead removal by eliminating disincentives associated with an otherwise apparent landward encroachment of shoreline jurisdiction.
H-5	Repair of existing shoreline stabilization	3	Commenter disagrees with the statement in LUC 20.25E.080.F.6 that provides for the replacement of all legally established shoreline stabilization measures and says they “...are presumed necessary to protect existing shoreline structures and property...” Commenter alleges there is no basis for such a presumption and suggests the language be removed.	<u>Comment noted. No revision proposed.</u> This approach is consistent with the City’s approach to non-conforming structures. The referenced statement is based on the presumption that such bulkheads are typically constructed to protect structures <u>and property</u> (emphasis added). The provisions in LUC 20.25E.080.F.6 go on to require specific design criteria which emphasize softer design approaches for replacement structures.
H-6	Shoreline stabilization and Salmon Recovery	3, 23	The commenters raise general concerns related to the high percentage of existing shoreline stabilization along Lake Washington/Sammamish and their effect on salmon species. Specific to the SMP, comments reference SH-104 as a good first effort to prohibit new or expanded stabilization. However, they remain concerned the SMP would allow new bulkheads for primary residential structures (the most common use in the City) without an opportunity for the Tribe to comment on the proposal. In addition, they are concerned the SMP does not require mitigation for shoreline stabilization. To alleviate this concern comments suggest the City require buffers and setbacks of native plants and the replacement of hard bulkheads with soft bioengineered or mixed shoreline stabilization techniques to begin to improve habitat conditions.	<u>Comments noted. No revision proposed.</u> New bulkheads shall be mitigated and/or restored pursuant to a mitigation and restoration plan per LUC 20.25E.080.F.4.f. As stated in the cumulative impacts analysis, new and expanded bulkheads are expected to be very rare or non-existent in the City based on past permit trends. New bulkheads along Lake Washington and Lake Sammamish will require Corps and WDFW approvals along with the City. The Tribe will have opportunity to comment on proposals for new bulkheads. As noted under Line H-3 above, federal and state regulatory oversight is likely to establish a higher standard for mitigating new shoreline stabilization, further ensuring the City experiences no net loss of ecological functions related to such development.
LUC 20.25E – Procedures				

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
I-1	No comments received related to this section			N/A
LUC 20.25E - Permits and Decisions				
J-1	LUC20.25E.170.C.7 – appurtenance	3	Commenter raises concern with allowing hot tubs to be located within the vegetation conservation, as chemically-treated water in hot tubs needs to be changed frequently and may be emptied into the lake, creating water quality issues.	<u>Comment noted. Minor revision proposed.</u> Such illicit discharges would be regulated under the City’s Storm and Surface Water Code. The City recommends including reference to LUC 24.04.
LUC 20.25E – Administration/Enforcement/ Definitions				
K-1	Residential use definition	22	The commenter questions the appropriateness of allowing the wide range of appurtenant uses/structures as part of a “residential use,” as they do not see these uses as water dependent or sufficiently protected by SMP standards (i.e., insufficient setback/buffer) or required mitigation.	<u>Comment noted. No revision proposed.</u> Residential use, while not a water-dependent use of the shoreline, is considered a preferred use of the shoreline under the SMA. The City’s definition of a residential use encompasses a wide variety of associated uses. Within the Vegetation Conservation Area, the development of any such associated use would require mitigation per the standards listed in LUC 20.25E.065.F.
Inventory and Analysis				
L-1	Shoreline is not urban	22	The commenter states: “...there is a recurring emphasis that the current shoreline is urban and that protection, let alone restoration of ecological functions, is not the focus of the SMP.” In addition, they go on to state: “Contrary to the draft shoreline maps, the Bellevue shore of Lake Washington is not urban, nor is the shoreline of Lake Sammamish.”	<u>Comment noted. No revision proposed.</u> The term “urban” is commonly used to describe municipalities within the Urban Growth Area (UGA), such as the City of Bellevue. Residential areas which fall within an incorporated city in the UGA are therefore part of an urbanized landscape. The purpose of the SMP is to maintain no net loss of shoreline functions, which entails protection of existing conditions. It is outside of the regulatory authority of the SMP to require restoration; however, voluntary restoration of shoreline ecological functions is encouraged.
L-2	Characterization of Phantom Lake	26	Commenter provides four corrections related to past failed restoration efforts at Phantom Lake. Details are listed in their	<u>Comment noted. No revision proposed.</u> See responses to Lines N-1 and N2. Clarification of past Phantom Lake water quality

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
			comment letter.	control activities and concerns regarding future approaches to inflow alterations are appreciated.
Cumulative Impacts Analysis				
M-1	No comments received related to this section			N/A
Restoration Plan				
N-1	PL-2 (Phantom Lake Inlet Channel) and PL-3 (Acquire lake front property for conservation easement)	29	Commenter alleges the creek coming into Phantom Lake is “man-made” - not natural. Commenter opposes Restoration Plan items “PL-2” and “PL-3” and proposes replacement with a new item, “PL-7”, to restore the Phantom Outlet Channel as far as the Weowna Park boundary.	<p><u>Comment noted. No revision proposed.</u></p> <p>Phantom Lake is a kettle lake that was formed by glacial ice and likely had no defined inlet or outlet other than overland flow to the north to the Larson Lake system. Phantom Lake is mainly fed by groundwater with flows also entering from the surrounding storm and surface water system in 7 locations with the most prominent being the inlet that enters the lake at the south end (also known as Phantom Creek). The inlet channel currently serves to convey stormwater flows into the lake from the adjacent business park and residential area to the south. Phantom Creek inlet channel is under private ownership from SE 24th Street to the lake. Phantom Lake outlet channel, also known as Phantom Creek is also a manmade channel that was constructed around 1890 when a local farmer dug a ditch to drain the area upstream. In the late 1980’s, the Utility Department constructed and maintained a small weir on the channel in an effort to improve the water quality of the lake during summer months. This was done following a larger restoration project that opened up the Kelsey Creek channel through the Lake Hills greenbelt to the north. Limited water quality sampling of Phantom Lake was conducted until after the completion of the project to monitor the water quality of the lake. After years of neglect, in 2013, Parks and Utilities received a grant to clear the outlet channel and working in cooperation with the Phantom Lake HOA, the outlet channel was cleared. Following that work, Utilities agreed to not make any further adjustments to the weir unless requested by the Phantom Lake HOA. Responsibility for maintaining the channel going forward remains with the underlying property owners.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	ECOLOGY COMMENT SUMMARY	CITY OF BELLEVUE RESPONSE
				<p>The City’s Restoration Plan is supported by draft policies SH-102 and 103. Focusing on restoration projects that address legitimate restoration needs and acquisition of shoreline areas that are sensitive to urbanization, preserves valuable natural and aesthetic resources for the community and provides functions that benefit Bellevue’s shoreline jurisdiction. Projects ultimately included in the restoration plan, and suggestions for the addition and deletion of projects, were reviewed as part of the SMP Update process.</p>
N-2	Phantom Lake	26	<p>Commenter provides an extensive history of the lake, as well as analysis of past failed restoration efforts. Based on these observations they suggest the following: reduce inflow into the lake, monitor and correct water quality of input at south inlet to the lake, monitor phyto/zooplankton during summer months as an indicator of lake health, and maintain/utilize data gathered to inform future activities/policies within the Phantom Lake watershed.</p>	<p><u>Comment noted. No revision proposed.</u></p> <p>See response to Line N-1. Reducing inflow to the lake is difficult. The storm and surface water system is a gravity based system. Given that Phantom Lake sits in a low spot within the watershed and all surrounding areas drain to the lake, it would require installing several hundred feet of pipe and pumping the stormwater to another basin to achieve reduced flows from the inlet channel. Upstream of the inlet channel is a three-chamber detention and water quality pond known as Pond A that is operated by Bellevue Utilities. The pond was sized in accordance with the design standards in place when it was built. Phytoplankton and Zooplankton have been monitored in the past on Phantom Lake by Utilities. Monitored efforts were scaled back several years ago as they showed no notable change over time. Total Phosphorus, Chlorophyll-A and Pheophytin are still being monitored today although at a reduced level than they were previously.</p> <p>The City’s restoration plan seeks to improve shoreline ecological functions by managing the quality and quantity of stormwater runoff. The restoration plan, along with the city’s storm and surface water regulations will be used to achieve objectives that provide measurable improvements for the Phantom Lake watershed.</p>