



PLANNING COMMISSION REGULAR HYBRID MEETING AGENDA

Wednesday, April 26, 2023 at 6:00 PM

PLANNING COMMISSIONERS

Chair: Daniel Hubbell
Vice Chair: Michael Murphy
Commissioners: Kate Akyuz, Carolyn Boatsman
Michael Curry, Victor Raisys, and Adam Ragheb

LOCATION

Mercer Island Community & Event Center and Zoom
8236 SE 24th Street | Mercer Island, WA 98040
(206) 275-7706 | www.mercerisland.gov

We strive to create an inclusive and accessible experience. Those requiring accommodation for Planning Commission meetings should notify the Deputy City Clerk's Office 3 days prior to the meeting at (206) 275-7791 or by emailing deborah.estrada@mercerisland.gov.

Registering to Speak: Individuals wishing to speak live during appearances, must register with the Deputy City Clerk by 4pm on the day of the Planning Commission meeting. Register at (206) 275-7791 or email deborah.estrada@mercerisland.gov. Each speaker will be allowed three (3) minutes to speak.

If providing comments using Zoom, staff will permit temporary video access when it is your turn to speak. Please activate the video option on your phone or computer, ensure your room is well lit, and kindly ensure that your background is appropriate for all audience ages. Screen sharing will not be permitted, but documents may be emailed to planning.commission@mercergov.org.

Join by Telephone at 6:00 pm: Call **253.215.8782** and enter **Webinar ID 882 3782 2197** .

Join by Internet at 6:00 pm:

- 1) Click this [Link](#)
- 2) If the Zoom app is not installed on your computer, you will be prompted to download it.
- 3) If prompted for Meeting ID, enter **882 3783 2197**

Join in person at 6:00 pm: Mercer Island Community & Event Center – 8236 SE 24th Street, Mercer Island

CALL TO ORDER & ROLL CALL, 6 PM

PUBLIC APPEARANCES

This is the opportunity for anyone to speak to the Commission about issues of concern.

REGULAR BUSINESS

1. Planning Commission Meeting Minutes:
 - a. February 22, 2023, Regular Meeting
 - b. March 22, 2023, Regular Meeting
 - c. March 29, 2023, Special Joint Meeting
2. ZTR23-001: Draft Marina Regulations

OTHER BUSINESS

3. Deputy Director's Report:
 - a. Meeting Schedule – May 10 and May 24
4. Planned Absences for Future Meetings

ADJOURNMENT



PLANNING COMMISSION HYBRID MEETING MINUTES

Wednesday, February 22, 2023

CALL TO ORDER

The Planning Commission was called to order by Chair Hubbell at 6:04 pm.

PRESENT

Chair Daniel Hubbell, Commissioners Kate Akyuz, Carolyn Boatsman, Victor Raisys, and Adam Ragheb were present in the Council Chambers.

Vice Chair Michael Murphy and Commissioner Michael Curry participated remotely.

STAFF PRESENT

Council Chambers: Alison Van Gorp, Deputy Director
Remote Participation: Molly McGuire, Planner

PUBLIC APPEARANCES

Audrey Covner, Anjali Grant and Matt Goldbach addressed the Commission and shared comments regarding the proposed amendments to the Business Zone.

REGULAR BUSINESS

1. Approve the January 25, 2023, Meeting Minutes

A motion was made by Raisys; seconded by Ragheb to:
Approve the minutes of the January 25, 2023, meeting.
Approved 7-0

2. ZTR22-001 Allowing Schools in the Business Zone

Deputy Director Alison Van Gorp reviewed the proposed amendment to the development regulations for the Business zone with the commissioners and requested feedback. The commission provided initial guidance on the draft code amendment.

3. ZTR23-001 Allowing SCUP for the Review of Marina and Swim Facilities

Planner Molly McGuire reviewed the proposed amendment to the Shoreline Master Program with the commissioners and requested feedback. The commission provided initial guidance on the draft code amendment.

OTHER BUSINESS

Deputy Director's Report

Deputy Director Alison Van Gorp provided a progress report on the periodic update to the Comprehensive Plan.

Planned Absences for Future Meetings

There were no planned absences.

Next Scheduled Meeting

The next scheduled meeting of the Planning Commission is March 22, 2023, at 6:00pm.

Item 1.

ADJOURNED

The meeting adjourned at 8:41 pm

DRAFT



PLANNING COMMISSION HYBRID MEETING MINUTES

Wednesday, March 22, 2023

CALL TO ORDER

The Planning Commission was called to order by Vice Chair Murphy at 6:02 pm.

PRESENT

Vice Chair Michael Murphy (remote), Commissioners Kate Akyuz, Carolyn Boatsman, Victor Raisys, and Adam Ragheb were present in the Council Chambers.

Commissioner Michael Curry was absent.

STAFF PRESENT

Council Chambers: Alison Van Gorp, Deputy Director; Deborah Estrada, Deputy City Clerk; Adam Zack, Senior Planner
Remote Participation: Molly McGuire, Planner

PUBLIC APPEARANCES

Audrey Covner, addressed the Commission and spoke in support of the proposed amendments to the Business Zone without any restrictions. She expressed an urgency regarding the zoning code amendment, explaining that the school they are partnering with needs to move out of its current site by 2024.

**Note – Ms. Covner intended to speak to the public hearing on ZTR22-001 rather than under appearances.*

PUBLIC HEARING

1. ZTR22-001: Zoning Code Amendments: Business Zone Permitted Uses

The Public Hearing was opened at 6:11 PM

- Anjali Grant (architect) spoke on behalf of Herzl Ner-Tamid in support of an amendment to the Business Zone, explaining that the Mercer Island Comprehensive Plan designates a commercial office zone that is compatible with schools. She requested that the City Code be amended to be consistent with the Comprehensive Plan.
- Matt Goldbach, Mercer Island, encouraged the Commission to use a Conditional Use Permit (CUP), explaining that all schools on Mercer Island use a CUP. He questioned whether businesses and residents around the B Zone had been notified of the proposed changes to the zone. He also encouraged a traffic study to be completed prior to amending the City Code.

The Public Hearing was closed at 6:20 PM

2. ZTR23-001: Shoreline Master Program Amendment: Public Comment Period

The Public Hearing was opened at 6:21 PM

Gardner Morelli, Mercer Island, spoke on behalf of the Mercer Island Beach Club, in support of Alternative Option B2 as outlined in the staff report. He further explained that Option B1 proposes too many permitting challenges; however, Option B2 has a workable timeline.

The Public Hearing was closed at 6:26 PM

REGULAR BUSINESS

1. Planning Commission Meeting Minutes for February 22, 2023

The minutes were postponed to the April meeting.

2. ZTR22-001: Add Schools as Allowed Use in Business Zone

Deputy Director Alison Van Gorp reviewed a presentation on ZTR22-001, allowing schools in the Business Zone. She discussed the purpose, background, alternatives, and next steps.

Commissioners discussed the topic at length.

A motion was made by Boatsman; second by Akyuz to:

Adopt the staff's draft code amendment, option B, with the following revisions. 1) setbacks from property lines abutting single family zoning should be changed from 45 feet to 35 feet and, 2) both setbacks and screening are not required on internal property lines.

A motion was made and duly seconded to amend the code amendment accordingly:

The draft code amendment should be further revised as follows. Section 19.04.050 (B)(3)(c) should be amended to read "Playfield. A one-fourth acre or larger playfield, play surface, or open space shall be provided in one usable unit. The playfield may be located on an adjacent lot."

Amendment Approved 5-0

Main Motion Approved 5-0

3. ZTR23-001: Allow SCUP for Review of Marina and Swim Facilities

Planner Molly McGuire reviewed a presentation on ZTR23-001, regarding Shoreline Regulations for Marina and Swim Facilities. She discussed the purpose, background, Shoreline Conditional Use Permit process, alternatives, and next steps.

Commissioners discussed the topic at length and expressed support for Alternative B2, which would continue work on the shoreline amendment as outlined below:

- Direct staff to develop specific performance standards for "marinas;"
- Planning Commission would consider marina standards at its April 26 meeting; and
- A second public hearing on the proposed standards would be scheduled at a special May 10, 2023, meeting.

A motion was made by Akyuz; seconded by Raisys to:

Support Alternative B2 for a permitted use.

Approved 5-0

OTHER BUSINESS**Deputy Director's Report**

Deputy Director Alison Van Gorp provided a progress report on the following:

- Next meeting – March 29 and April 26
- Business Zone (ZTR22-001) recommendation will move forward to City Council
- Staff will bring back the SMP process at a later date.
- A special meeting and second public hearing on ZTR23-001 will be scheduled for May 10

Planned Absences for Future Meetings

There were no planned absences.

Next Scheduled Meeting

The next scheduled regular meeting of the Planning Commission is April 26, 2023, at 6:00pm.

Item 1.

ADJOURNED

The meeting adjourned at 8:44 pm

DRAFT



PLANNING & DESIGN COMMISSION

JOINT HYBRID SPECIAL MEETING MINUTES

Wednesday, March 29, 2023

CALL TO ORDER

The Joint Planning and Design Commission meeting was called to order at 6:04 pm.

PRESENT

Planning Commissioners:

Vice Chair Michael Murphy and Commissioners Kate Akyuz, Carolyn Boatsman, Michael Curry, Victor Raisys, and Adam Ragheb were present remotely.

Design Commissioners:

Traci Granbois and Cather Lategan

STAFF PRESENT

Council Chambers: Deborah Estrada

Remote Participation: Jeff Thomas, Alison Van Gorp, Grace Manahan, and Andrea Larson.

REGULAR BUSINESS

1. Parliamentary Procedure Training

Ann Macfarlane of Jurassic Parliament discussed the following topics:

- Meeting discussion, Point of Order, Appeal
- How to do this?
- Motions and Amendments
- Authority and role of chair, members, and staff
- Citizen advisory committee pitfalls
- Public hearings and public comment
- The right kind of control

ADJOURNED

The meeting adjourned at 8:46 pm

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

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PLANNING COMMISSION

TO: Planning Commission

FROM: Molly McGuire, Planner

DATE: April 19, 2023

SUBJECT: ZTR23-001

ATTACHMENTS:

- A. Marina Regulations (First Draft)
- B. Required and Local Choice Marina Regulations
- C. Department of Ecology Letter, dated April 19, 2023

PURPOSE

This memo provides the Planning Commission (Commission) with the first draft of marina regulations (Attachment A). At the April 26 meeting, the Commission will provide initial input on the draft marina regulations.

BACKGROUND

An amendment of the Shoreline Master Program (SMP) to allow expanded boating facilities to serve clubs and organizations was docketed in 2022. The docket request was submitted by the Mercer Island Beach Club (MIBC) to allow them to replace and improve their existing facility. Background on the original docket proposal submitted by MIBC and associated docketing procedures can be found in the previous [Staff Memo dated February 15, 2023](#).

The Commission first considered proposed amendments at its [February 22, 2023](#) meeting. It then held a public hearing regarding the initial proposed amendments on [March 22, 2023](#). More information on the initial proposed amendments can be found in the [Staff Memo dated March 15, 2023](#). Following the public hearing, the Commission asked staff to draft more specific regulations for marinas for consideration at its April meeting.

What is a marina?

A marina is an overwater structure that provides either short- or long-term moorage for vessels. Typically, marinas are commercial operations where slips are either rented by individual boat owners or provide moorage for members of an organization like a yacht club. Marinas are typically larger than private residential docks that provide moorage for single-family residences or homeowner associations. Marinas can come in a wide range of sizes, from a large facility like Shilshole Bay Marina in Seattle with 1,400 slips to smaller facilities with just a few slips. Because they vary in size and are a more intense use of the shoreline, there are specific topics that need to be considered when drafting regulations for marinas.

Environmental Considerations

The nearshore environment can be affected by the construction and operation of a marina. Overwater structures can shade the lakebed, influencing underwater vegetation and the wildlife that rely on it. Marinas can impact the transport of sediment in the nearshore environment from erosion, accretion, and water circulation. Sediment transport is an important environmental function for many plant and animal species that inhabit the nearshore environment, particularly juvenile salmon, and the forage fish they eat. Marinas can sometimes require dredging to maintain the necessary depth for the vessels they serve, which can impact species in the nearshore environment. The need for dredging can be exacerbated by the reduction of sediment transport caused by wave attenuation, shoreline armoring, and other aspects of marinas. The concentration of boating activities in a marina can adversely influence water quality if wastewater and chemicals such as fuel are not handled correctly. As the size and intensity of marinas increase, these effects can become more pronounced. For further reading, a link to a white paper on the environmental effects of overwater structures on freshwater habitat is provided in the resources section of this memo.

The Washington Shoreline Management Act (SMA) requires cities to establish an SMP that “Establish use regulations designed to assure no net loss of ecological functions associated with the shoreline” ([WAC 173-26-241\(2\)\(a\)\(iv\)](#)). Given that marinas are a shoreline use that can impact the nearshore environment in many ways, special care is needed to ensure that the SMP will adequately regulate that use to achieve the no net loss of ecological functions standard. The aspects of marinas that might have environmental impacts should be controlled by regulations to reduce those potential effects. Further, requiring a no net loss plan to be submitted with an application for a marina can help to ensure the environmental impacts have been considered and, if necessary, will be mitigated.

Public Access

One of the goals of the SMA is to maintain public access to the shorelines and waters of the state. [WAC 173-26-221\(4\)\(a\)](#) explains this concept further: “Public access includes the ability of the general public to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. [...]” The concept of public access under the SMA is complicated but can be broken into three components:

- Esthetic and visual access to the shoreline both from the land and the water;
- Maintaining navigability of the waters of the state so the public can use these waters; and
- Physical access to the shoreline on publicly owned lands.

Marinas interact with public access in several ways. First, because they are overwater structures, marinas can have effects on navigability of waterways if they are allowed to extend too far into navigable waterways. Depending on their size and the services to be provided, marinas can interrupt visual access to the shorelines. Regulations to control the scope, scale, intensity, and bulk of marinas can help to reduce the impacts to navigability and visual access. On the other hand, marinas can increase public access because they provide opportunities for their customers or members to access the water and enjoy water-dependent uses like boating.

SMA and Marinas

Chapter 173-26 WAC contains state master program approval/amendment procedures and master program guidelines for local jurisdictions to utilize. Part III, Guidelines authorize local governments to adopt such rules as are necessary and appropriate to carry out the provisions of the SMA. The guidelines are guiding parameters, standards, and review criteria for local master programs. Within these guidelines are provisions for shoreline modifications, which are generally related to construction of a physical element,

and shoreline uses. Shoreline modifications are usually undertaken in support of or in preparation for a shoreline use.

The shoreline modification guidance for piers and docks in WAC 173-26-231(3)(b) states that new piers and docks shall be allowed only for water-dependent or public access for which the need for the proposed design, size, and construction must be demonstrated through a demand analysis and approved by the local jurisdiction. The draft regulations in Attachment A contain conditions for demonstrating public access, and requirements for the demand analysis.

WAC 173-26-241(3)(c) contains guidance for boating facilities which exclude docks serving four or fewer families:

Where applicable, shoreline master programs should, at a minimum, contain:

- (i) Provisions to ensure that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.
- (ii) Provisions that assure that facilities meet health, safety, and welfare requirements. Master programs may reference other regulations to accomplish this requirement.
- (iii) Regulations to avoid, or if that is not possible, to mitigate aesthetic impacts.
- (iv) Provisions for public access in new marinas, particularly where water-enjoyment uses are associated with the marina, in accordance with WAC [173-26-221](#)(4).
- (v) Regulations to limit the impacts to shoreline resources from boaters living in their vessels (live-aboard).
- (vi) Regulations that assure that the development of boating facilities, and associated and accessory uses, will not result in a net loss of shoreline ecological functions or other significant adverse impacts.
- (vii) Regulations to protect the rights of navigation.
- (viii) Regulations restricting vessels from extended mooring on waters of the state except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

The draft regulations in Attachment A include requirements for demonstrating no net loss of ecological function and regulations that require the boating facility to meet the minimum necessary guidance in the WAC.

Washington Department of Fish and Wildlife (WDFW)

Washington State law (RCW 77.55) requires people planning hydraulic projects in or near state waters to get a Hydraulic Project Approval (HPA) from WDFW. An HPA ensures that construction is done in a manner that protects fish and their aquatic habitats. Any proposed marina would need to obtain an HPA from WDFW.

The proposed subsection (L) in MICC 19.13.050 would require an applicant to get an HPA prior to approval of a building permit. In addition to this requirement, the draft regulations in Attachment A include several provisions from Chapter 220-660 WAC Hydraulic Code Rules which minimize project-specific and cumulative impacts to fish life. These provisions reflect the current and best science, technology, and construction practices related to the protection of fish life. The draft regulations include, specifically, provisions from WAC 220-660-160 Marinas and terminals in freshwater areas, which address marina design, breakwater design, piling design, and construction and maintenance guidance.

U.S. Army Corps of Engineers (USACE)

USACE regulates activities that could obstruct or alter navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899. Lake Washington is listed as a navigable waterway under this act with 20 miles of navigable length. If Endangered Species Act (ESA)-listed species or critical habitat may be affected by or occur in the vicinity of the proposed project, USACE may consult with other federal agencies before making a permit decision, in which case a Biological Evaluation would be required describing the impact of the proposal on ESA-listed species and critical areas. The shoreline of Mercer Island contains ESA-listed species critical habitat areas, such as Chinook Salmon.

Project applicants would need to obtain a [Standard Individual Permit or Letter of Permission](#) through USACE for a new marina. The typical permit process includes a 15-to-30-day public comment period, review by USACE and others including the public, special interest groups, and local, state, and federal agencies, and a decision would be issued by the District Engineer. The estimated processing time for a Standard Individual Permit through USACE is 120 days. The maintenance or modification of an existing marina may be reviewed under a Nationwide Permit (NWP) if the project meets the National and Regional General Conditions in [NWP 28](#) or [NWP 3](#).

Nonconforming Uses and Structures

The SMP regulates nonconforming uses and structures under MICC 19.13.020, General regulations. A legal nonconforming structure or use is defined as a structure or use that lawfully existed prior to September 26, 1960, or conformed to the applicable code requirements that were in effect at the time it was constructed or commenced but no longer conforms to the current regulations of the zone in which it is situated due to subsequent changes in code requirements. Overwater uses and structures, and uses and structures 25 feet landward from the OHWM, which were legally created may be maintained, repaired, renovated, remodeled and completely replaced to the extent that the nonconformance with the standards and regulations of the SMP is not increased.

MARINA REGULATION RESOURCES

Staff reviewed many resources when preparing the attached draft marina regulations (Attachment A). The resources reviewed include guidance for drafting regulations provided by the WA Department of Ecology (Ecology) in the SMP Handbook, marina pollution prevention guidelines and best management practices (BMPs), research into the effect of overwater structures on freshwater shorelines, the requirements established in the state law, and marina regulations in other jurisdictions. Links to these resources are provided below.

Ecology SMP Handbook

<https://apps.ecology.wa.gov/publications/SummaryPages/1106010.html>

Pollution Prevention for WA State Marinas [BMPs published by University of Washington]

<https://wsg.washington.edu/wordpress/wp-content/uploads/marina-handbook.pdf>

Overwater Structures: Freshwater Issues [White Paper detailing the environmental effects of overwater structures on the freshwater environment]

<https://wdfw.wa.gov/publications/00052>

WAC 173-26-231 Shoreline modifications. [Ecology SMP regulatory guidance]

<https://app.leg.wa.gov/wac/default.aspx?cite=173-26-231>

WAC 173-26-241 Shoreline uses. [Ecology SMP regulatory guidance]

<https://app.leg.wa.gov/wac/default.aspx?cite=173-26-241>

WAC 220-660-140 Residential and public recreational docks, piers, ramps, floats, watercraft lifts, and buoys in freshwater areas. [WA Department of Fish and Wildlife (WDFW) freshwater dock regulations]

<https://app.leg.wa.gov/WAC/default.aspx?cite=220-660-140>

WAC 332-30-139 Marinas and moorages. [WA Department of Natural Resources (DNR) Marina Regulations]

<https://app.leg.wa.gov/WAC/default.aspx?cite=332-30-139>

Kirkland Zoning Code (KZC) 83.290 Marinas and Moorage Facilities Associated with Commercial Uses and Public Parks

<https://www.codepublishing.com/WA/Kirkland/?KirklandZ83/KirklandZ83.html#83.290>

Bothell Municipal Code (BMC) 13.11.300 Boating Facilities

<https://bothell.municipal.codes/BMC/13.11.030>

Kenmore Municipal Code (KMC) 16.50.050 Boating Facilities

<https://www.codepublishing.com/WA/Kenmore/#!/Kenmore16/Kenmore1650.html#16.50.050>

San Juan County Code (SJCC) 18.50.280 – Marinas

<https://www.codepublishing.com/WA/SanJuanCounty/#!/SanJuanCounty18/SanJuanCounty1850.html#18.50.280>

DRAFT MARINA REGULATIONS AND PLANNING COMMISSION FEEDBACK

Staff prepared the draft regulations in Attachment A after reviewing the relevant guidance, state level requirements, and similar regulations from neighboring jurisdictions. Staff would like the Planning Commission's input on the following topics on April 26.

Local Choices

The draft marina regulations in Attachment A are comprised of two types of regulations, local choices in which the City has some flexibility, and state requirements that must be included in the SMP for new boating facilities regulations. The table in Attachment B gives a summary of these regulations and indicates whether the regulation is a local choice or a state requirement. The Planning Commission discussion on April 26 will focus on those proposed regulations identified as local choices in Attachment B.

Substantial Development Permit or Shoreline Conditional Use Permit

The new draft regulations add "Marinas" as a new use in MICC 19.13.050 Table B, Shoreland Uses Waterward of the Ordinary High Water Mark. There are two choices for allowing "Marinas" in Table B: (1) Shoreline Substantial Development Permit (SSDP) or (2) Shoreline Conditional Use Permit (SCUP). An SSDP is an administrative shoreline permit that is typically reserved for uses and developments that require some exercise of discretion about nontechnical issues but do not require a public hearing because they are less likely to generate broad public interest. An application for an SSDP would require a notice of application with mailing and posting on the property, a 30-day public comment period, and a decision would be issued by the code official. The proposal would need to demonstrate compliance with all applicable standards in the SMP, including the new marina standards in Attachment A.

On the other hand, SCUPs are a review type that requires some exercise of discretion and also are likely to be projects of broad public interest because of their complexity and potential impacts. The SCUP process includes a public hearing before the Hearing Examiner which gives the public more opportunity to provide input on proposals that are more complex. The expanded process under the SCUP is designed to account for developments that are likely to vary from proposal to proposal.

During the March 22 joint public hearing, the Planning Commission proposed allowing marinas as a Permitted (P) use in the Urban Residential Environment shoreline designation, and Not Permitted (NP) in the Urban Park Environment shoreline designation. Allowing marinas as a permitted use would require the applicant to apply for an SSDP. **After consulting with Ecology, staff recommends allowing “Marinas” by SCUP** (Attachment C).

Marinas are a higher intensity shoreline use with a great degree of variability. The SCUP permitting process has the highest level of review among shoreline permits, giving the City the largest window to identify and address potential impacts from each proposal. Every SCUP requires a public hearing prior to the City issuing a decision, allowing the public, including neighboring property owners, an opportunity to weigh in on proposals and identify potential impacts which the permit conditions of approval can address. The SCUP process is the one most used by neighboring jurisdictions. For these reasons, the SCUP process for permitting marinas is the staff recommended approach.

Under the SMA, the cumulative impacts of allowing a given use must be considered ([WAC 173-26-201\(3\)\(d\)\(iii\)](#)). The City’s most recent periodic review of the SMP did not consider marinas as an allowed use; therefore, the cumulative impacts of allowing marinas were not considered. The SMA allows cities to use the permitting process to evaluate the cumulative impacts of a given use if it might have unanticipated or uncommon impacts that cannot be reasonably identified at the time of master program development. Marinas are highly variable in size, scale, and intensity of use. Requiring the SCUP process for marinas will provide an adequate review process to evaluate and address the potential cumulative impacts. This would give the City the opportunity to evaluate individual proposals and add site specific conditions as necessary to address the likely impacts of the proposal.

Every SCUP requires a 30-day comment period and public hearing prior to the City issuing a decision. The combination of comment period and public hearing gives the public time to review the proposal and make comments. Given the impact that an intense use like marinas could potentially have on neighboring property owners, the additional public review as part of the SCUP process would grant neighbors additional opportunities to weigh in on proposals prior to a decision. This will give the City additional information about potential impacts and allow staff to develop permit conditions to address those expected impacts. The comment period and public hearing should be required for marinas because they are higher-intensity shoreline uses that neighboring property owners should be able to comment on prior to the City issuing a decision.

A SCUP is required in most jurisdictions for higher intensity uses like marinas. In researching marina standards, all jurisdictions reviewed require a SCUP for uses similar or identical to a marina. This is likely due to the factors listed above: variability of proposals, differing impacts, and public input. The combination of most jurisdictions taking this approach, the recommendation from Ecology (Attachment C), the increased public input for SCUPs, and the ability to account for cumulative impacts are the reasons staff recommends requiring a SCUP for marinas.

MICC 19.16.010 – Definitions.

[...]

Marina: A private or public moorage facility providing the purchase, lease, and/or use of a slip for storing, berthing, and securing watercraft, including both long-term and transient moorage. Marinas may include accessory facilities for providing incidental services to users of the marina, such as waste collection, boat sales, or rental activities, and retail establishments providing fuel service, repair, or service of watercraft. Marinas do not include moorage facilities serving four or fewer single-family residences.

[...]

MICC 19.13.010 – Authority and purpose.

[...]

- E. Relationship with other federal and state law. The provisions of this chapter shall not relieve any responsibility to comply with other federal and state laws or permits. The shoreline management permit and enforcement procedures contained within Chapter 173-27 WAC as presently constituted or hereinafter amended, are adopted by reference. All work at or waterward of the OHWM may require permits from one or all of the following: U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Natural Resources or Washington Department of Ecology.

[...]

MICC 19.13.040 – Use regulations.

[...]

Table B — Shoreland Uses Waterward of the Ordinary High Water Mark		
SHORELAND USE WATERWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Moorage facilities and covered moorages 600 square feet or less	P	P
Covered moorage larger than 600 square feet	SCUP	SCUP
Floating platforms	P	P
Mooring piles, diving boards and diving platforms	P	P
Boat ramp	P	P

Table B — Shoreland Uses Waterward of the Ordinary High Water Mark		
SHORELAND USE WATERWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Boat houses	NP	NP
Floating homes	NP	NP
Public access pier, dock, or boardwalk	P	P
<u>Marinas</u>	<u>P</u>	<u>NP</u>
Utilities	P	P
Public transportation facilities including roads, bridges, and transit	P	P
Transit facilities including light rail transit facilities	P	NP
Dredging and dredge material disposal	P	P
Breakwaters, jetties, and groins (except those for restoration of ecological functions)	NP	NP
Restoration of ecological functions including shoreline habitat and natural systems enhancement	P	P
<p>Notes:</p> <p>A use not listed in this table is not permitted within shorelands.</p> <p>A use permitted by this table shall meet all other applicable regulations, including, but not limited to, being an allowed use in the applicable zone.</p>		

MICC 19.13.050 – Shorelands development standards.

[...]

- F. *Moorage facilities.* All permits for new and expanded moorage facility, other than marinas and public access piers or boardwalks, shall meet the following standards unless otherwise exempted. Moorage facilities have the option of meeting either the development standards prescribed in subsection (F)(1) or (F)(2) of this section, or the "alternative development standards" in subsection (F)(3) of this section.

[...]

L. *Marinas.* Marinas must comply with the following standards.

1. With the exception of the requirements for moorage facilities related to width and length, marinas shall comply with design standards required for moorage facilities listed in Table D, Requirements for Moorage Facilities and Development Located Waterward from OHWM.
2. Marinas are only allowed if they provide significant public access to the shoreline. A proposed marina provides significant public access by meeting one of the following conditions.
 - a. The marina is owned or operated by a public agency;
 - b. The marina is owned or operated by an organization or corporation serving at least fifty (50) people; or
 - c. The marina is open to the general public and access is not limited to membership in an organization.
3. *Application Requirements.* Applications for marinas must include the following.
 - a. A no net loss plan, consistent with MICC 19.13.020(C), which demonstrates that the proposed project will not create a net loss in ecological function of the shorelands.
 - b. A demand analysis or master plan that projects future needs for pier or dock space during the life of the development.
 - i. The total amount of moorage spaces proposed;
 - ii. The total number of commercial moorage spaces within a one-mile radius of the proposed facility; and
 - iii. The expected population and vessel characteristics of the potential users of the facility and how these characteristics relate to specific facility design elements including slip sizes, pier and dock length, and necessary water depth.
4. *General Requirements.* The following standards apply to all marinas.
 - a. Marinas shall be designed and operated consistent with federal and state water quality laws and established best management practices (BMPs) for marina operators, including BMPs for bilge water discharge, hazardous waste, waste oil and spills, sewer management, and spill prevention and response. Rules for spill prevention and response, including reporting requirements, shall be posted on site.

- b. Marinas shall be designed and sited to prevent the need for maintenance dredging during the life of the development. Moorage must be designed to avoid vessels resting on the lakebed.
- c. Marinas must not be larger than necessary to accommodate the expected need as determined by the required demand analysis, this includes:
 - i. Piers, docks, and floats must not be wider or longer than necessary to accommodate the expected need;
 - ii. The number of slips provided must not exceed the expected need; and
 - iii. The slip dimensions must not be larger than necessary to moor the expected vessels moored.
- d. Marinas shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. All other exterior finishes above the waterline must be nonreflective.
- e. Marinas must not include materials treated with pentachlorophenol, creosote, chromated copper arsenate, or comparably toxic compounds. Any paint, stain or preservative applied to components of the marina must be leach resistant and completely dried or cured prior to installation.
- f. Marinas must not interfere with the public use and enjoyment of the water or create a hazard to navigation.
- g. At least one (1) pumpout facility for use by the general public shall be provided. This facility must be easily accessible to the general public and clearly marked for public use.
- h. At least one (1) Public restroom must be provided upland of the OHWM.
- i. At least one (1) covered and secured waste receptacle must be provided upland of the OHWM.
- j. Utility and service lines located waterward of the OHWM must be affixed below the pier deck and above the water. Utility and service lines located upland of the OHWM shall be underground, where feasible.
- k. Covered moorage is prohibited in marinas.
- l. Floating homes and live aboard vessels are prohibited.
- m. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody

vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.

n. Exterior lighting mounted on piers, docks or other overwater components of a marina shall be at ground or dock level, be directed away from adjacent properties and the water, and designed and located to prevent light from spilling onto the lake water. The following development activities are exempt from this requirement:

i. Emergency lighting required for public safety;

ii. Lighting required by state or federal regulations;

iii. Lighting for public rights-of-way;

iv. Outdoor lighting for temporary or periodic events (e.g., community events at public parks); and

v. Seasonal decorative lighting.

o. The applicant must provide documentation of approval of the marina by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.

p. Vessels shall be restricted from extended mooring on waters of the state, except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

5. Piles. Piles associated with a marina must comply with the following requirements.

a. Piles shall be placed at least eighteen (18) feet from the OHWM.

b. Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate or comparably toxic compounds.

c. Piles must be spaced eighteen (18) feet apart. The code official may authorize alternate spacing of piles provided the applicant demonstrates that the alternate spacing reduces the total number of piles needed for the project.

d. Piles must not exceed twelve (12) inches in diameter. The code official may authorize larger piles provided the applicant demonstrates that the larger piles reduce the total number of piles needed for the project.

e. Piles must be fitted with devices to prevent perching by fish-eating birds.

6. Piers, docks, and floats. Piers, docks, and floats associated with a marina must comply with the following requirements.
- a. Marina piers, docks, and floats must be designed to minimize the lakebed shading to the greatest degree feasible.
 - i. Piers, docks, and floats within thirty (30) feet of the OHWM must not exceed six feet in width.
 - ii. Piers, docks, and floats more than thirty (30) feet from the OHWM may be wider than six (6) feet provided:
 - A. Piers, docks and floats wider than six (6) feet must be approved by the Army Corps of Engineers and/or Washington Department of Fish and Wildlife;
 - B. Potential environmental impacts of piers, docks, and floats with a width greater than six (6) feet must addressed in the required no net loss plan; and
 - C. The code official may condition approval to require mitigation for any pier, dock, or float exceeding six (6) feet in width.
 - iv. Piers, docks, and floats must be fully grated. The grating material's open area must be at least sixty (60) percent.
 - b. Length. Marina piers, docks, and floats must be designed to avoid adversely affecting navigability of waterways.
 - i. Piers, docks, and floats shall not extend more than one-hundred and fifty (150) feet waterward of the OHWM.
 - ii. The code official may condition approval to reduce the maximum length to reduce the effects of piers, docks, and floats on navigability of the waterway.
 - c. Floats. Floats associated with a marina must comply with the following requirements.
 - i. All floats shall be designed to prevent the bottom of the float from resting on the lakebed.
 - ii. All floats must be fully enclosed and contained in a shell, tub, or wrap. The shell, tub, or wrap must prevent breakup or loss of the flotation material into the water. The shell or wrap must not be readily subject to damage by ultraviolet radiation and abrasion.

ATTACHMENT B: REQUIRED AND LOCAL CHOICE REGULATIONS

Local Choices: The City has more flexibility for the regulations listed below as local choices column. The local choices included in the draft regulations have been researched by staff and adapted from state guidance and surrounding jurisdictions. Local choices listed in the table are highlighted in yellow.

State Requirement: The regulations included in the “State Requirements” column are required by the Washington Administrative Code (WAC). These are not able to be changed. This column contains summaries of each regulation. Please see the Draft Marina Regulations document for the full regulations.

Code Section	Proposed Text	Required or Local Choice	Source/Discussion
Amend MICC 19.13.040 Table B - Shoreland Uses Waterward of the Ordinary High Water Mark.	Marinas are added as a new use and are allowed in the Urban Residential Environment shoreline designation as a Permitted (P) use. Marinas are Not Permitted (NP) in the Urban Park Environment shoreline designation.	Local Choice	During the March 22 public hearing, the Planning Commission recommended that Marinas be allowed as a permitted use, which would require only a Shoreline Substantial Development Permit (SSDP). Marinas were not considered as an allowed use through an SSDP during the most recent periodic update, so the resulting cumulative impacts were not analyzed. Due to the variability in size, intensity, and impacts, and the necessity for public input and evaluation of cumulative impacts, staff recommends allowing marinas by Shoreline Conditional Use Permit. Please review the staff memo for further discussion.
Amend MICC 19.13.050(F) Shoreland Development Standards for Moorage Facilities.	<i>Moorage facilities.</i> All permits for new and expanded moorage facility, other than <u>marinas and public access piers or boardwalks</u> , shall meet the following standards unless otherwise exempted. Moorage facilities have the option of meeting either the development standards prescribed in subsection (F)(1) or (F)(2) of this section, or the "alternative development standards" in subsection (F)(3) of this section.	Local Choice	Moorage Facilities standards are highly focused on privately owned residential facilities. The standards in this section should not apply to marinas due to size and ownership differences. Public access piers, docks, or boardwalks, which are more like marinas, are also exempted from this section.
Proposed new MICC 19.13.050(L)(1) Shoreland Development Standards – Proposed new section (L) for “Marinas”.	L. <i>Marinas.</i> Marinas must comply with the following standards. 1. With the exception of the requirements for moorage facilities related to width and length, marinas shall comply with design standards required for moorage facilities listed in Table D, Requirements for Moorage Facilities and Development Located Waterward from OHWM.	Local Choice	Marinas are a different use to privately owned residential moorage facilities and proposed to be subject to different width and length requirements. Under this proposed regulation, Marinas would be subject to the other design standards in Table D, such as setbacks and height limits.
Proposed new MICC 19.13.050(L)(2)	2. Marinas are allowed only if they provide significant public access to the shoreline meeting one of three conditions (owned or operated by a public agency, owned or operated by an organization serving 50+ people, or open to the general public without access limited by a membership)	Local Choice	This requirement is in line with one of the goals of the SMA to maintain public access to the shorelines and waters of the state. This would prevent private, single-family residences from developing a marina.
Proposed new MICC 19.13.050(L)(3)(a) Application Requirements.	3. <i>Application Requirements.</i> Applications for marinas must include the following. a. A no net loss plan, consistent with MICC 19.13.020(C), which demonstrates that the proposed project will not create a net loss in ecological function of the shorelands.	Required	Marinas are a high intensity use that should always require a no net loss plan based on the SMA no net loss requirements.

ATTACHMENT B: REQUIRED AND LOCAL CHOICE REGULATIONS

Code Section	Proposed Text	Required or Local Choice	Source/Discussion
Proposed new MICC 19.13.050(L)(3)(b) Application Requirements.	<p>b. A demand analysis or master plan that projects future needs for pier or dock space during the life of the development.</p> <p>i. The total amount of moorage spaces proposed;</p> <p>ii. The total number of commercial moorage spaces within a one-mile radius of the proposed facility; and</p> <p>iii. The expected population and vessel characteristics of the potential users of the facility and how these characteristics relate to specific facility design elements including slip sizes, pier and dock length, and necessary water depth.</p>	Required and Local Choice	<p>A demand analysis for new nonresidential docks is required by WAC 173-26-231(3)(b).</p> <p>While the demand analysis is a state requirement, the requirements within the analysis are more flexible. Staff has proposed three requirements to gather more information on the proposal and to ensure that the facility has been designed to the minimum necessary to meet demand needs.</p>
Proposed new MICC 19.13.050(L)(4)(a) General Requirements.	<p>4. <i>General Requirements.</i> The following standards apply to all marinas.</p> <p>a. Marinas shall be designed and operated consistent with federal and state water quality laws and established best management practices (BMPs) for marina operators, including BMPs for bilge water discharge, hazardous waste, waste oil and spills, sewer management, and spill prevention and response. Rules for spill prevention and response, including reporting requirements, shall be posted on site.</p>	Local Choice	<p>Requiring state and federal approval is a standard found throughout the SMP for moorage facilities and public access piers, docks, and boardwalks. Requiring BMPs and on-site spill response to be posted is a recommendation from <u>Pollution Prevention For WA State Marinas</u>, marina best management practices published by the University of Washington. https://wsg.washington.edu/wordpress/wp-content/uploads/marina-handbook.pdf</p>
Proposed new MICC 19.13.050(L)(4)(b) General Requirements.	<p>b. Marinas shall be designed and sited to prevent the need for maintenance dredging during the life of the development. Moorage must be designed to avoid vessels resting on the lakebed.</p>	Required	<p>Requirement from WAC 173-26-231(3)(f)</p>
Proposed new MICC 19.13.050(L)(4)(c) General Requirements.	<p>c. Marinas must not be larger than necessary to accommodate the expected need as determined by the required demand analysis, this includes:</p> <p>i. Piers, docks, and floats must not be wider or longer than necessary to accommodate the expected need;</p> <p>ii. The number of slips provided must not exceed the expected need; and</p> <p>iii. The slip dimensions must not be larger than necessary to moor the expected vessels moored.</p>	Required	<p>Requirement from WAC 173-26-231(3)(b)</p> <p>Ensures that the marina is designed to be the minimum size necessary to meet the demand demonstrated by the demand analysis to prevent unnecessary impacts.</p>
Proposed new MICC 19.13.050(L)(4)(d) General Requirements.	<p>d. Marinas shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. All other exterior finishes above the waterline must be nonreflective.</p>	Local Choice	<p>This is a common standard included in several surrounding jurisdiction's codes and a recommended regulation in Ecology's SMP Handbook (page 8).</p>
Proposed new MICC 19.13.050(L)(4)(e) General Requirements.	<p>e. Marinas must not include materials treated with pentachlorophenol, creosote, chromated copper arsenate, or comparably toxic compounds. Any paint, stain or preservative applied to components of the marina must be leach resistant and completely dried or cured prior to installation.</p>	Required	<p>WAC 220-660-140(4)(c) & Ecology's SMP Handbook (page 12)</p>
Proposed new MICC 19.13.050(L)(4)(f) General Requirements.	<p>f. Marinas must not interfere with the public use and enjoyment of the water or create a hazard to navigation.</p>	Required	<p>WAC 173-26-241(3)(c)(vii)</p>

ATTACHMENT B: REQUIRED AND LOCAL CHOICE REGULATIONS

Code Section	Proposed Text	Required or Local Choice	Source/Discussion
Proposed new MICC 19.13.050(L)(4)(g) General Requirements.	g. At least one (1) pumpout facility for use by the general public shall be provided. This facility must be easily accessible to the general public and clearly marked for public use.	Local Choice	Would reduce potential water pollution by providing boaters with a facility to safely dispose of wastewater.
Proposed new MICC 19.13.050(L)(4)(h) General Requirements.	h. At least one (1) Public restroom must be provided upland of the OHWM.	Local Choice	Would reduce potential water pollution by providing the public with a designated public restroom.
Proposed new MICC 19.13.050(L)(4)(i) General Requirements.	i. At least one (1) covered and secured waste receptacle must be provided upland of the OHWM.	Local Choice	Would reduce potential water pollution by providing marina users with a designated trash receptacle.
Proposed new MICC 19.13.050(L)(4)(j) General Requirements.	j. Utility and service lines located waterward of the OHWM must be affixed below the pier deck and above the water. Utility and service lines located upland of the OHWM shall be underground, where feasible.	Local Choice	Ensure that utility lines on marinas would not be placed above the dock. This would reduce negative visual impacts. Esthetic impacts and visual access are part of 'public access' goals under the SMA.
Proposed new MICC 19.13.050(L)(4)(k) General Requirements.	k. Covered moorage is prohibited in marinas.	Local Choice	Covered moorage is largely discouraged in Ecology's SMP Handbook (page 12) due to shading impacts.
Proposed new MICC 19.13.050(L)(4)(l) General Requirements.	l. Floating homes and live aboard vessels are prohibited.	Local Choice	Floating homes are prohibited in Table B of the SMP. Prohibiting live aboard vessels as well provides more clarity for allowed uses in the marina.
Proposed new MICC 19.13.050(L)(4)(m) General Requirements.	m. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.	Local Choice	This standard is used elsewhere in the SMP to ensure that bank vegetation is minimally disturbed and replaced as necessary.
Proposed new MICC 19.13.050(L)(4)(n) General Requirements.	n. Exterior lighting mounted on piers, docks or other overwater components of a marina shall be at ground or dock level, be directed away from adjacent properties and the water, and designed and located to prevent light from spilling onto the lake water. The following development activities are exempt from this requirement: i. Emergency lighting required for public safety; ii. Lighting required by state or federal regulations; iii. Lighting for public rights-of-way; iv. Outdoor lighting for temporary or periodic events (e.g., community events at public parks); and v. Seasonal decorative lighting.	Local Choice	Ensures that lighting will not be mounted overhead and reduces the visual impacts of the marina.
Proposed new MICC 19.13.050(L)(4)(o) General Requirements.	o. The applicant must provide documentation of approval of the marina by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.	Required	State and federal agency approvals are required for all overwater structures. This same standard is used elsewhere in the SMP for both privately owned residential moorage facilities and public access piers, docks, and boardwalks.
Proposed new MICC 19.13.050(L)(4)(p) General Requirements.	p. Vessels shall be restricted from extended mooring on waters of the state, except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.	Required	WAC 173-26-231(3)(c)(viii)

ATTACHMENT B: REQUIRED AND LOCAL CHOICE REGULATIONS

Code Section	Proposed Text	Required or Local Choice	Source/Discussion
Proposed new MICC 19.13.050(L)(5)(a) Piles.	5. Piles. Piles associated with a marina must comply with the following requirements. a. Piles shall be placed at least eighteen (18) feet from the OHWM.	Local Choice	Limits disturbance of lakebed near the shoreline and is also required for public access piers, docks, and boardwalks elsewhere in the SMP.
Proposed new MICC 19.13.050(L)(5)(b) Piles.	b. Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate or comparably toxic compounds.	Required	WAC 220-660-140(4)(c) and Ecology’s SMP Handbook (page 12).
Proposed new MICC 19.13.050(L)(5)(c) Piles.	c. Piles must be spaced eighteen (18) feet apart. The code official may authorize alternate spacing of piles provided the applicant demonstrates that the alternate spacing reduces the total number of piles needed for the project.	Local Choice	Allows for flexibility in spacing of the piles and gives the applicant the opportunity to use fewer piles which would result in less disturbance of the lakebed.
Proposed new MICC 19.13.050(L)(5)(d) Piles.	d. Piles must not exceed twelve (12) inches in diameter. The code official may authorize larger piles provided the applicant demonstrates that the larger piles reduce the total number of piles needed for the project.	Local Choice	Allows for flexibility in diameter of the piles and gives the applicant the opportunity to use fewer piles which would result in less disturbance of the lakebed.
Proposed new MICC 19.13.050(L)(5)(e) Piles.	e. Piles must be fitted with devices to prevent perching by fish-eating birds.	Required	WAC 220-660-140(4)(e).
Proposed new MICC 19.13.050(L)(6)(a) Piers, docks, and floats.	6. Piers, docks, and floats. Piers, docks, and floats associated with a marina must comply with the following requirements. a. Marina piers, docks, and floats must be designed to minimize the lakebed shading to the greatest degree feasible. i. Piers, docks, and floats within thirty (30) feet of the OHWM must not exceed six feet in width. ii. Piers, docks, and floats more than thirty (30) feet from the OHWM may be wider than six (6) feet provided: A. Piers, docks and floats wider than six (6) feet must be approved by the Army Corps of Engineers and/or Washington Department of Fish and Wildlife; B. Potential environmental impacts of piers, docks, and floats with a width greater than six (6) feet must addressed in the required no net loss plan; and C. The code official may condition approval to require mitigation for any pier, dock, or float exceeding six (6) feet in width. iv. Piers, docks, and floats must be fully grated. The grating material's open area must be at least sixty (60) percent.	Required and Local Choice	WAC 220-660-140(3)(c)(iv)(E) WAC 220-660-140(3)(c) WAC 220-660-140(3)(c)(i) 19.13.050(L)(6)(a)(ii), Allowing floats more than 30 feet from the OHWM to be wider than six feet is a local choice. This gives the applicant flexibility in marina designs while requiring the backstop of state and federal agency approvals, and demonstration of no net loss of ecological function of the shorelands. This provision also gives the code official the opportunity to require mitigation to ensure no net loss is met for docks that exceed 6 feet in width.
Proposed new MICC 19.13.050(L)(6)(b) Piers, docks, and floats.	b. Length. Marina piers, docks, and floats must be designed to avoid adversely affecting navigability of waterways. i. Piers, docks, and floats shall not extend more than one-hundred and fifty (150) feet waterward of the OHWM. ii. The code official may condition approval to reduce the maximum length to reduce the effects of piers, docks, and floats on navigability of the waterway.	Local Choice	150 feet is the maximum distance allowed in other areas of the SMP and is suggested here for consistency. The 150 foot maximum is a local choice, but the SMA requires jurisdictions to avoid impacts to navigability. Establishing the maximum distance from the OHWM of 150 feet is one of the ways the City’s SMP avoids impacting navigability of waterways.

ATTACHMENT B: REQUIRED AND LOCAL CHOICE REGULATIONS

Code Section	Proposed Text	Required or Local Choice	Source/Discussion
<p>Proposed new MICC 19.13.050(L)(6)(c) Piers, docks, and floats.</p>	<p>c. Floats. Floats associated with a marina must comply with the following requirements.</p> <ul style="list-style-type: none"> i. All floats shall be designed to prevent the bottom of the float from resting on the lakebed. ii. All floats must be fully enclosed and contained in a shell, tub, or wrap. The shell, tub, or wrap must prevent breakup or loss of the flotation material into the water. The shell or wrap must not be readily subject to damage by ultraviolet radiation and abrasion. 	<p>Local Choice and Required</p>	<p>WAC 220-660-140(3)(e)</p> <p>The regulation requiring that floats not rest on the lakebed is a local choice. This will minimize impacts to aquatic vegetation and habitat. Nearly all of the other marina regulations reviewed had similar requirements.</p>
<p>MICC 19.16.010 Definitions, proposed new definition for "Marina".</p>	<p><i>Marina:</i> A private or public moorage facility providing the purchase, lease, and/or use of a slip for storing, berthing, and securing watercraft, including both long-term and transient moorage. Marinas may include accessory facilities for providing incidental services to users of the marina, such as waste collection, boat sales, or rental activities, and retail establishments providing fuel service, repair, or service of watercraft. Marinas do not include moorage facilities serving four or fewer single-family residences.</p>	<p>Local Choice</p>	<p>Standard definition used by the City of Kirkland and contains language from state requirements.</p>

DRAFT



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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April 19, 2023

Molly McGuire, Planner
 Community Planning & Development
 City of Mercer Island
 9611 SE 36th Street
 Mercer island, WA 98040

RE: City of Mercer Island Shoreline Master Program (SMP) Amendment—Draft Marina Regulations

Dear Molly McGuire,

Thank you for sharing the City of Mercer Island's (City) draft marina regulations with the Department of Ecology (Ecology) on April 6, 2023.

The draft regulations list marinas as a permitted use within the Urban Residential Shoreline Environment designation, which would result in the City reviewing any new marinas proposed under a Shoreline Substantial Development Permit (SSDP). Ecology recommends that the City reconsider this approach and instead require a Shoreline Conditional Use Permit (SCUP) for this use for the following reasons:

- Variation in Size/Intensity of Use: The draft regulations do not specify a standard size or intensity of marina, but rather includes criteria obligating a proponent of a new marina to consider the type of moorage demand in designing and proposing a facility. Based on this approach, it is expected that future proposed marinas will vary in size, scale, and intensity. Therefore, the CUP criteria should be utilized in review of these proposals to ensure consistency with state and local Shoreline Management policies.
- Cumulative Impact: The City's existing SMP does not include marinas as a shoreland use waterward of the ordinary high water mark, and includes a note stating, "A use not listed in this table is not permitted within shorelands." In the last City SMP periodic review, the cumulative impact of marinas was not analyzed or considered and therefore the potential for cumulative impact from allowing such facilities within Urban Residential Environment which covers the majority of Mercer Island's shoreline is unknown. If the City wishes to list this use as "permitted," then the cumulative impact of this change needs to be analyzed as part of the SMP amendment process. Alternatively, if this use were to require a SCUP, it would provide the City with an opportunity to evaluate cumulative impact for each project on a case-by-case basis.

Molly McGuire, Planner
April 19, 2023
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- **Siting:** Per Chapter 173-26-231(3)(c)(i) WAC, boating facilities are restricted to suitable locations. The City can either make a determination at this stage (SMP amendment) about suitable locations for marinas within its jurisdiction or, through the SCUP process, evaluations can be made on a project level.
- **Public input:** Going from a use that is outright prohibited to permitted through an SSDP along a significant area of shoreline within a jurisdiction is a substantial change. While there is an opportunity for public comment through the SMP amendment process, people may be focused on the current proposal and not the siting, construction, and operations of individual, future marinas in terms of:
 - a. Upland infrastructure (e.g., road access, traffic, parking, associated buildings),
 - b. Public access (Chapter 173-26-241(3)(c)(iv) WAC),
 - c. Aesthetic impacts (e.g., views, sound, hours of operation; Chapter 173-26-241(3)(c)(iii) WAC),
 - d. Navigation rights (Chapter 173-26-141(3)(c)(vii) WAC), and
 - e. No net loss of ecological functions (Chapter 173-26-241(3)(c)(vi) WAC).

As you are aware, a SCUP simply outlines a process under which the City could review this new use and authorize if the proposal meets Chapter 173-27-160 WAC and City requirements. It also provides the City with the opportunity to review proposals on a case-by-case basis, solicit public input, and add site-specific conditions when necessary. Additionally, Ecology's review helps ensure that a proposal not only meets the City's SMP but also the Shoreline Management Act and Guidelines. At a later date, if the City were to decide to make marinas a permitted use, this could be accomplished through a separate amendment process with the addition of supporting analysis characterizing appropriate size and intensity standards for future marinas to satisfy.

Ultimately, it is up to the City of Mercer Island to determine the permitting pathway that is most appropriate within its jurisdiction, and Ecology will support the City in its decision and continue to provide input to staff.

If you have any questions about this letter, please call me at (425) 365-6571.

Sincerely,



Rebekah R. Padgett, Regional Shoreline Planner
Shorelands and Environmental Assistance Program

Molly McGuire, Planner
April 19, 2023
Page 3 of 3

Sent by electronic mail: molly.mcguire@mercerisland.gov

E-cc: Alison Van Gorp, City of Mercer Island
Adam Zack, City of Mercer Island



