



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Region Office
PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

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.

- 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



