

From: dllrbjg@aol.com
To: [Keith Scully](#); [Betsy Robertson](#); [Doris McConnell](#); [Laura Mork](#); [Eben Pobee](#); [John Ramsdell](#)
Cc: [Debbie Tarry](#); [Margaret King](#)
Subject: [EXTERNAL] May 23, 2022 Council Meeting - Item 9(c) - Ordinance No. 967
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Attachments: [RBPA SMP Public Access.pdf](#)

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Councilmembers,

Over the past year there have been two predominate references to Shoreline City plans that have brought Ordinance 967 (Condemnation of Parcel 727810-0905) to the Council agenda this evening.

The first reference is to the Parks Recreation and Open Space (PROS) plan for “Acquiring Shoreline and beach access.” The second referenced is a Natural Environmental Policy in the City’s Comprehensive Plan, “additional public access to Shorelines natural features, including the Puget Sound shoreline.”

One document that has not been referenced is the Shoreline Master Program or the SMP – which governs development within 200ft of the Ordinary High Water Mark as dictated by the State’s Shoreline Management Act. The SMP regulates a wide variety of development 200ft SMP zone.

One prominent element in the SMP is the Public Access element whose goal and objective are as follows:

PUBLIC ACCESS ELEMENT

Goal Increase public access to publicly-owned areas of the shoreline.

Objective Provide for public access to publicly owned shoreline areas, except where deemed inappropriate due to safety hazards, inherent security problems, environmental impacts, or conflicts with adjacent uses.

The Public Access Element also has ten Policies and eleven Regulations that are imposed in addition to city wide regulations. As for SMP Public Access regulations, they do not differentiate between public or private development. I have attached pages 51-53 of the City’s SMP the Policies and Regulations to this email.

The Policy and Regulations associated with Ordinance 967 are as follow.

Item 7 of the Public Access policies is:

Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy. This may include providing a physical separation to reinforce the distinction between public and private space, providing adequate space, through screening with landscape planting or fences, or other means.

Of the ten Regulations, several that speak to the matters related to Parcel 0905 are the following:

2. Requirement of public access to shorelines does not confer the right to enter upon or cross private property, except for dedicated and marked public easements.

5. Public access sites shall be made barrier free for people with disabilities.

6. Public access sites shall be connected directly to the nearest public street.

Currently, the nearest public street to parcel 0905 is Richmond Beach Drive & NW 195th Street. Any ADA compliant direct access to Parcel 0905 would be extremely expensive. Conversely, extending the public road west of the BNSF right of way would require a BNSF lease as well as acquiring additional parcels of private property to convert to a public street.

Has City staff discussed with the Council the approximate costs and expenditures to comply with the SMP Public Access regulations?

The costs associated with meeting the regulations of the SMP need to be accounted in calculating the true cost of proceeding with Ordinance 967.

Therefore, I request the council postpone any action on Ordinance 967 until these costs can be properly estimated and budgeted.

For reference, here is the link to the City of Shoreline's Shoreline Master Program:
<https://www.shorelinewa.gov/home/showpublisheddocument/18579/635496587381230000>

Thank you for your thoughtful deliberation.
Richard Kink
Shoreline WA

- vi. A plant schedule for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, timing of installation; and
 - vii. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.
- I. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

20.230.040 Public Access

Public access to the shoreline is the physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations. There are a variety of types of public access, such as picnic areas, pathways and trails, promenades, bridges, street ends, ingress and egress, and parking.

A. Public Access Policies

1. Public access provisions should be incorporated into all private and public developments. Exceptions may be considered for the following types of uses:
 - a. A single family residence;
 - b. An individual multi-family structure containing more than four (4) dwelling units; and/or
 - c. Where deemed inappropriate by the Director.
2. Development uses and activities on or near the shoreline should not impair or detract from the public's visual or physical access to the water.
3. Public access to the shoreline should be sensitive to the unique characteristics of the shoreline and should preserve the natural character and quality of the environment and adjacent wetlands, public access should assure no net loss of ecological functions.
4. Where appropriate, water-oriented public access should be provided as close as possible to the water's edge without adversely affecting a sensitive environment.
5. Except for access to the water, the preferred location for placement of public access trails is as close to the furthest landward edge of the native vegetation zone as practical. Public access facilities should provide auxiliary facilities, such as parking and sanitation, when appropriate, and shall be designed for accessibility by people with disabilities. Publicly owned shorelines should be limited to water-dependent or public recreation uses, otherwise such shorelines should remain protected open space.
6. Public access afforded by public right of way street ends adjacent to the shoreline should be preserved, maintained, and enhanced.
7. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy. This may include providing a physical separation to reinforce the distinction between public and private space, providing adequate space, through screening with landscape planting or fences, or other means.
8. Public views from the shoreline upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excess removal of vegetation that partially impairs views.

9. Public access facilities should be constructed of environmentally friendly materials and support healthy natural processes, whenever financially feasible and possible.
10. Public access facilities should be maintained to provide a clean, safe experience, and to protect the environment.

B. Public Access Regulations

1. Public access shall be required for all shoreline development and uses, except for a single-family residence or residential projects containing four (4) or less dwelling units.
2. Requirement of public access to shorelines does not confer the right to enter upon or cross private property, except for dedicated and marked public easements.
3. A shoreline development or use that does not provide public access may be authorized provided the applicant demonstrates and the Director determines that one or more of the following provisions apply:
 - a. Unavoidable health or safety hazards to the public exist that cannot be prevented by any feasible means;
 - b. Security requirements cannot be satisfied through the application of alternative design features or other solutions;
 - c. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
 - d. Unacceptable environmental harm, such as damage to fish spawning areas will result from the public access that cannot be mitigated; and/or
 - e. Significant conflict between the proposed access and adjacent uses would occur and cannot be mitigated.
4. The applicant must also demonstrate that all reasonable means to public access have been exhausted, including but not limited to:
 - a. Regulating access by such means as limiting use to daylight hours;
 - b. Designing separation of uses and activities with such means as fences, terracing, hedges, or landscaping; and/or
 - c. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system.
5. Public access sites shall be made barrier free for people with disabilities.
6. Public access sites shall be connected directly to the nearest public street.
7. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
8. Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat or short plat as a condition running with the land. Said recording with the King County Recorder's office shall occur at the time of permit approval (RCW 58.17.110).
9. The standard state approved logo and other approved signs that indicate the public's right of access and hour of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. Signs controlling or restricting public access may be approved as a condition of permit approval.
10. Development on or over the water shall be constructed as far landward as possible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.

11. Physical public access shall be designed to prevent significant impacts to natural systems by employing Low Impact Development techniques.