



200' SMA Boundary

0 200  
Feet (approx.)

44

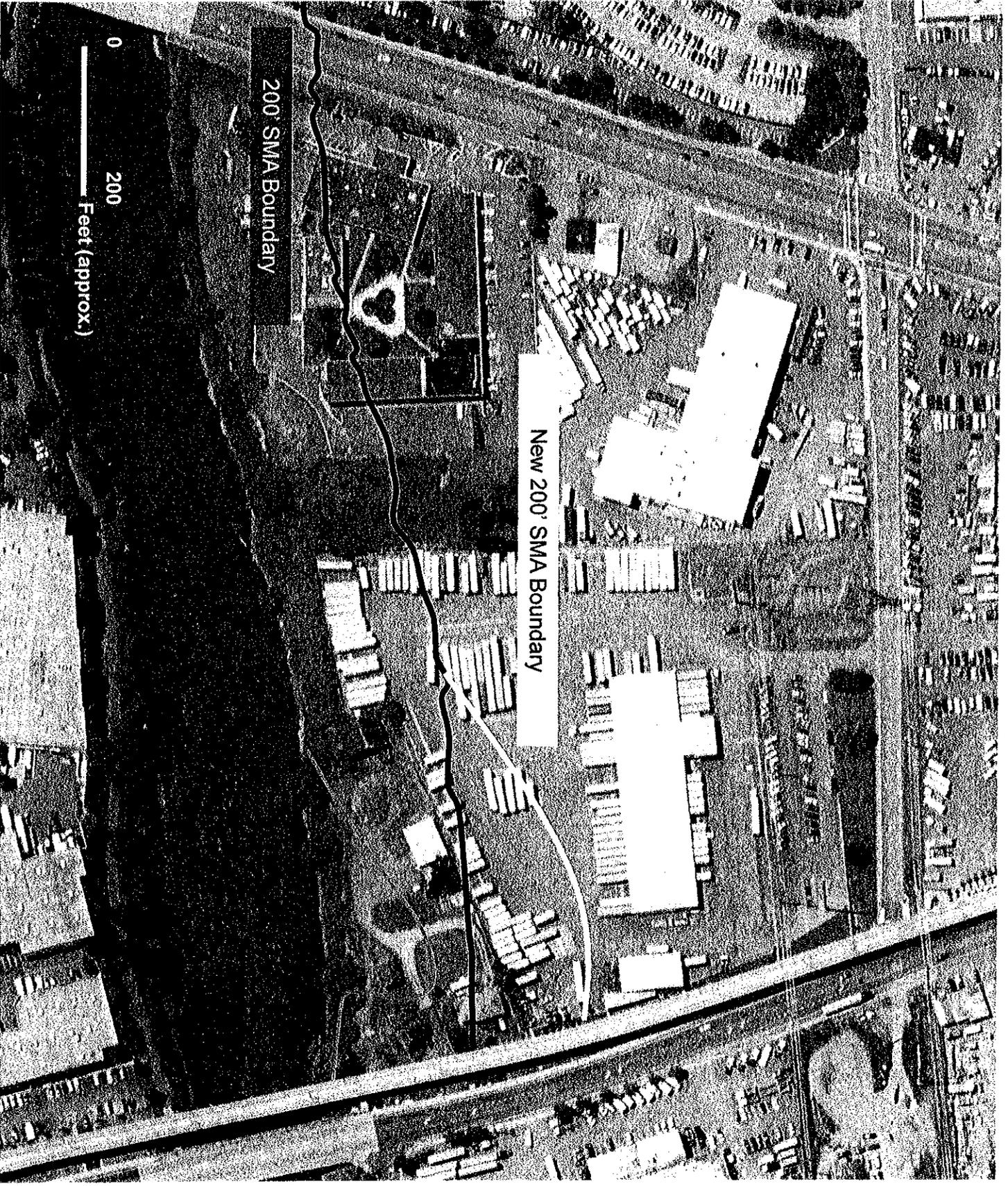
EXHIBIT \_\_\_\_\_ DATE \_\_\_\_\_  
PROJECT NAME  
*SMP Update*  
FILE NO *L06-088*



200' SMA Boundary

Duwamish Gardens  
OHWM (approx.)

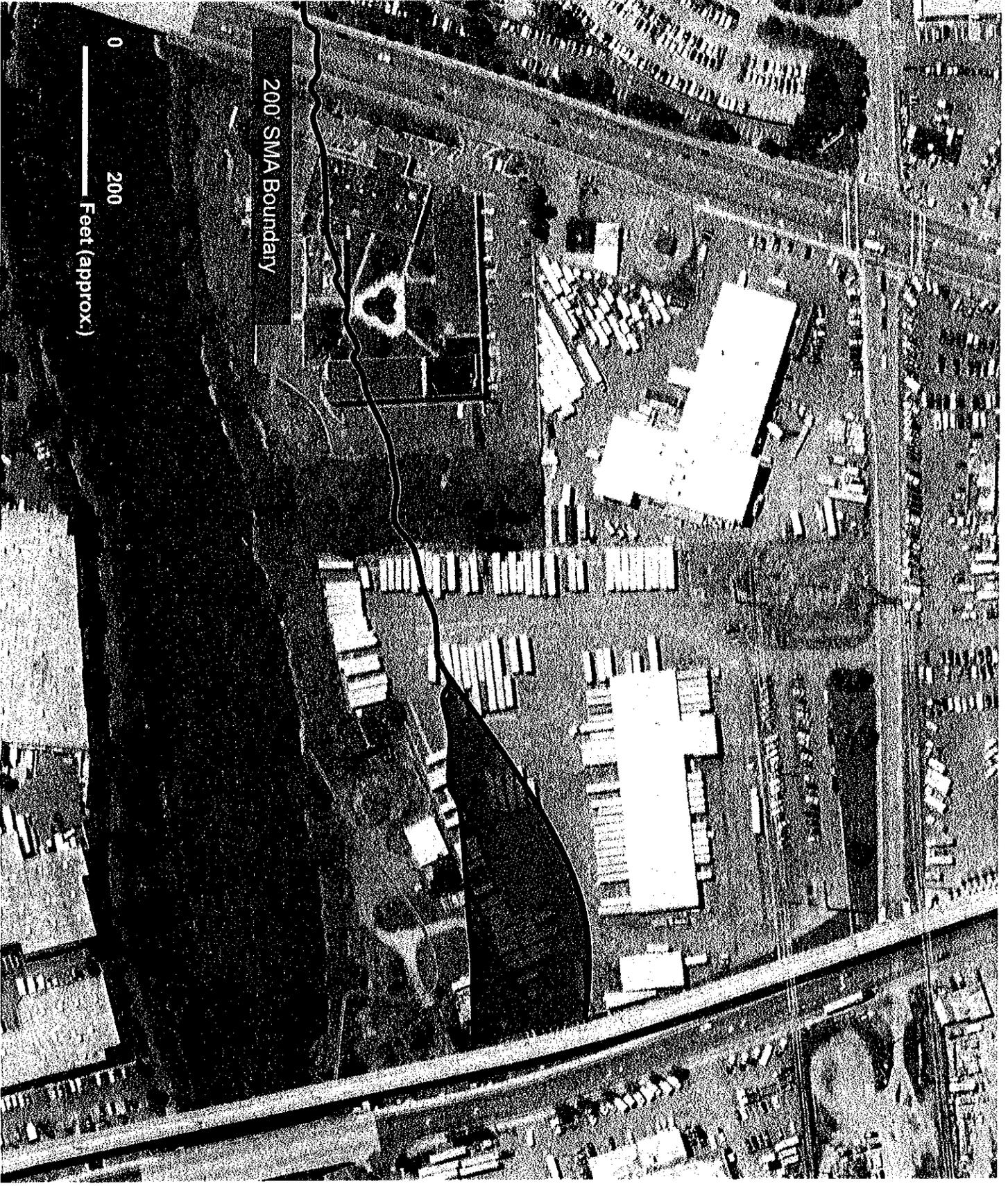
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200' SMA Boundary

New 200' SMA Boundary

0 200 Feet (approx.)



200' SMA Boundary

0 200 Feet (approx.)

# Proposed SMP Text Amendment

## 13.2 Changes in Shoreline Jurisdiction due to Restoration

In cases where shoreline restoration projects result in a change in the location of the OHWM and associated shoreline jurisdiction on the subject property and/or adjacent properties, the following standards shall apply:

A. The portion of property that moves from outside shoreline jurisdiction to inside shoreline jurisdiction as a result of the shoreline restoration project:

1. may be developed for the full range of uses of the underlying zoning consistent with the zoning code, including uses that are not water-oriented-;
2. is not required to obtain a shoreline substantial development permit-;
3. is not subject to the SMP provisions for public access; and
4. is not subject to shoreline design review; and

5. is not subject to the development standards set forth in this Program.

B. The Shoreline Residential Environment Buffer, High Intensity or Urban Conservancy Environment Buffer width may be reduced to no less than 25 feet measured from the new location of the OHWM for the portion of the property that moves from outside the shoreline jurisdiction to inside shoreline jurisdiction as a result of the shoreline restoration project, subject to the following standards:

1. The 25 foot buffer area must be vegetated according to the requirements of the Vegetation Protection and Landscaping Section or as otherwise approved by the City; and
2. The proponents of the restoration project are responsible for the installation and maintenance of the vegetation.

BC. The habitat restoration project proponents must record with King County a survey that identifies the location of the OHWM location prior to implementation of the shoreline restoration project, any structures that fall within the shoreline jurisdiction and the new location of the OHWM once construction of the shoreline restoration project is completed.

ED. Shoreline restoration projects must obtain all U.S. Army Corps of Engineers and Washington State Department of Fish and Wildlife approvals as well as written approval from the City.



Peter L. Buck

October 13, 2008

Ms. Carol Lumb  
City of Tukwila  
Department of Community Development  
6300 Southcenter Blvd., Suite 100  
Tukwila, WA 98188

**RE: Comments Regarding Draft Shoreline Master Plan**

Dear Ms. Lumb:

This firm represents Amalfi Investments, which owns a 6.7-acre parcel, zoned industrial, located at 11231 East Marginal Way South. Given Amalfi's proximity to the Duwamish River and a proposed salmon habitat improvement project, Amalfi has significant concerns relating to the City's draft shoreline master plan.

Amalfi has signed a letter, along with numerous other shoreline stakeholders, that sets forth a number of global concerns. Amalfi also has several individual concerns, which I discussed during the October 9th public hearing. This letter is a follow-up to my remarks at that public hearing.

As mentioned, I participated in the citizen advisory committee and other meetings back in the mid-1970s when the original Tukwila shoreline master program was adopted. That program provided for relatively extensive development along the shorelines. The guiding principle was that the shorelines had a relatively hard environmental edge. In the subsequent 30 years, numerous property owners, including Amalfi, have relied upon that master program in developing their properties.

In addition to the global problems discussed at length by other shoreline property owners, Amalfi is particularly concerned with the shoreline implications of the proposed Duwamish Gardens salmon habitat improvement project and the effect that project could have on the ordinary high water mark.

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Phone: 206.448.6229 Fax: 206.448.6291 [www.bucklawgroup.com](http://www.bucklawgroup.com)

The Duwamish Gardens restoration project has been proposed on land that sits between Amalfi and the Duwamish River. Under the current proposal, the City would realign the shoreline to create new nearshore salmon habitat, thereby substantially relocating the ordinary high water mark landward of its current location. As you clarified during the public hearing, a large portion of Amalfi's property would be subject to shoreline regulations as a result of this relocation.

We have enclosed a set of the PowerPoint slides that we presented at the October 9th public hearing. Slide 4 shows the area of the Amalfi property that would be subject to the City's shoreline master plan upon completion of the Duwamish Gardens project as a result of the relocated ordinary high water mark. That area, which is permitted under the applicable zoning, is currently paved and used as a parking lot. Under the City's draft shoreline master plan, however, that area would become a nonconforming use upon completion of Duwamish Gardens because parking is not allowed on the shoreward side of the building under the plan's development standards.

Thus, due to what many would consider to be an environmentally positive thing—construction of a salmon habitat restoration project—our client would be put in the unenviable position of having a non-conforming parking lot. That means that Amalfi could not expand the lot. It probably means that Amalfi could not re-pave or re-stripe the lot. If Amalfi were to cease using the lot for six months, it would probably have to be abandoned. Given the nature of leasing businesses, this puts an unbearable burden on our client.

It would seem that here (and anywhere else that the City may want to construct a salmon habitat restoration project that alters the alignment of the shoreline) the City is sowing the seeds for a significant legal battle with the upland owner who stands to lose significantly if the restoration project proceeds. The last thing the City should want to do is give landowners incentives to fight restoration projects.

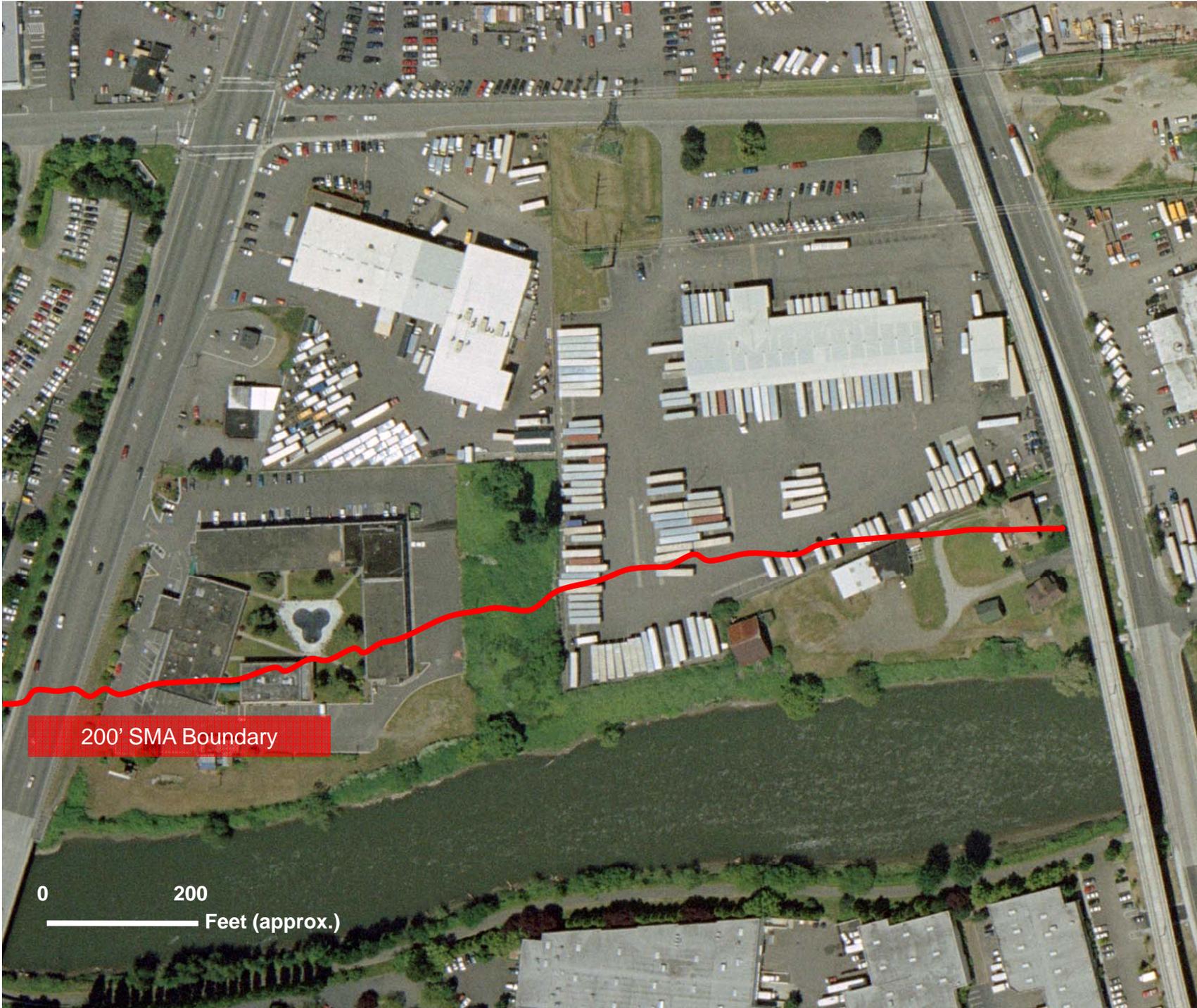
We have proposed a change to section 13.2 of the draft shoreline master plan, as shown on Slide 5, which could prevent this situation. It would preserve Amalfi's investment while allowing the restoration project to proceed. This change would also lead to the result that the Chair of the Planning Commission thought was intended. Our change would prevent a shift of the effect of the shoreline master program landward with the movement of the ordinary high watermark for salmon restoration projects. We would strongly encourage adoption of such language.

Sincerely,



Peter L. Buck

Enclosures  
cc: client



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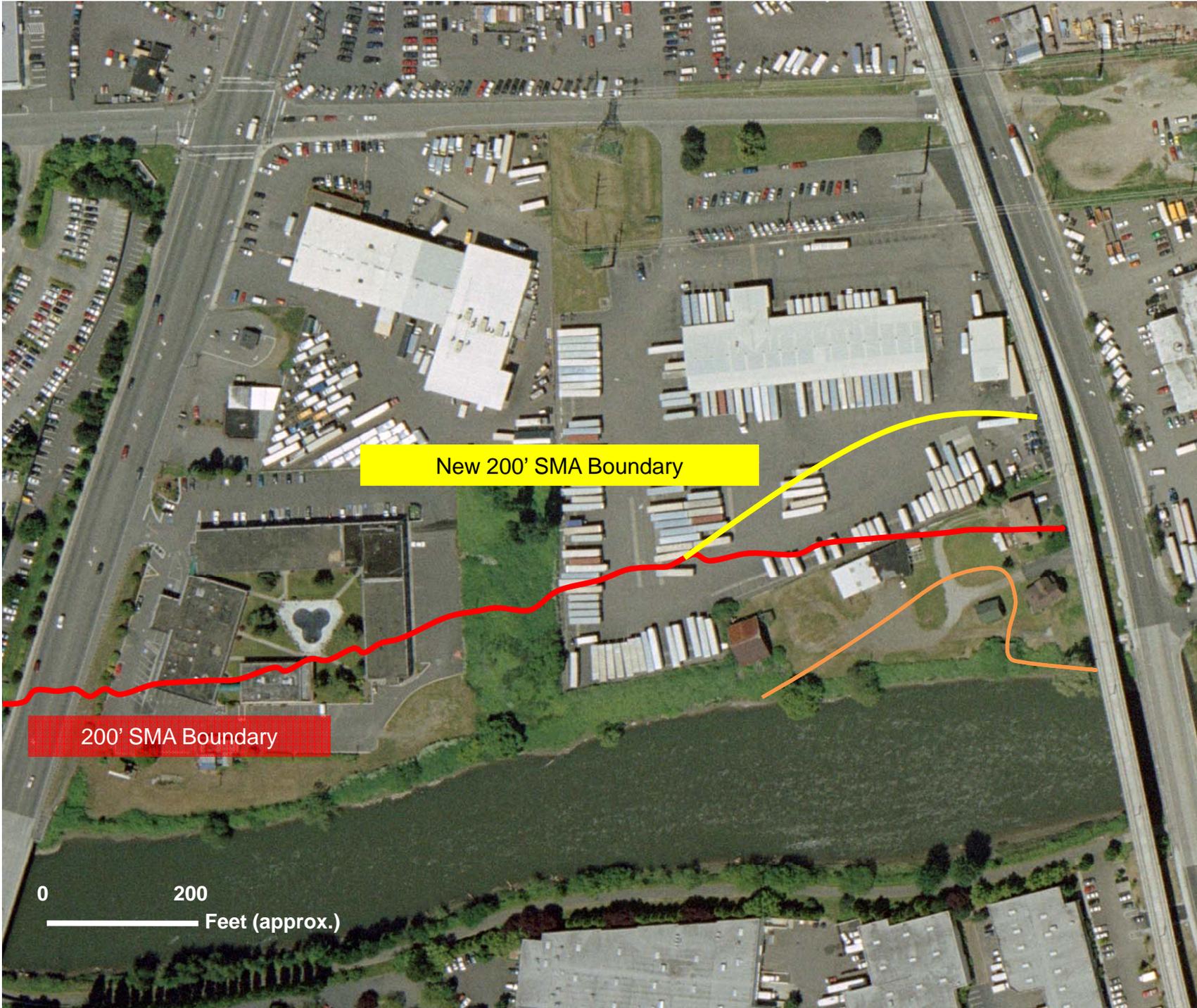
0 200  
Feet (approx.)



200' SMA Boundary

Duwamish Gardens  
OCHM (approx.)

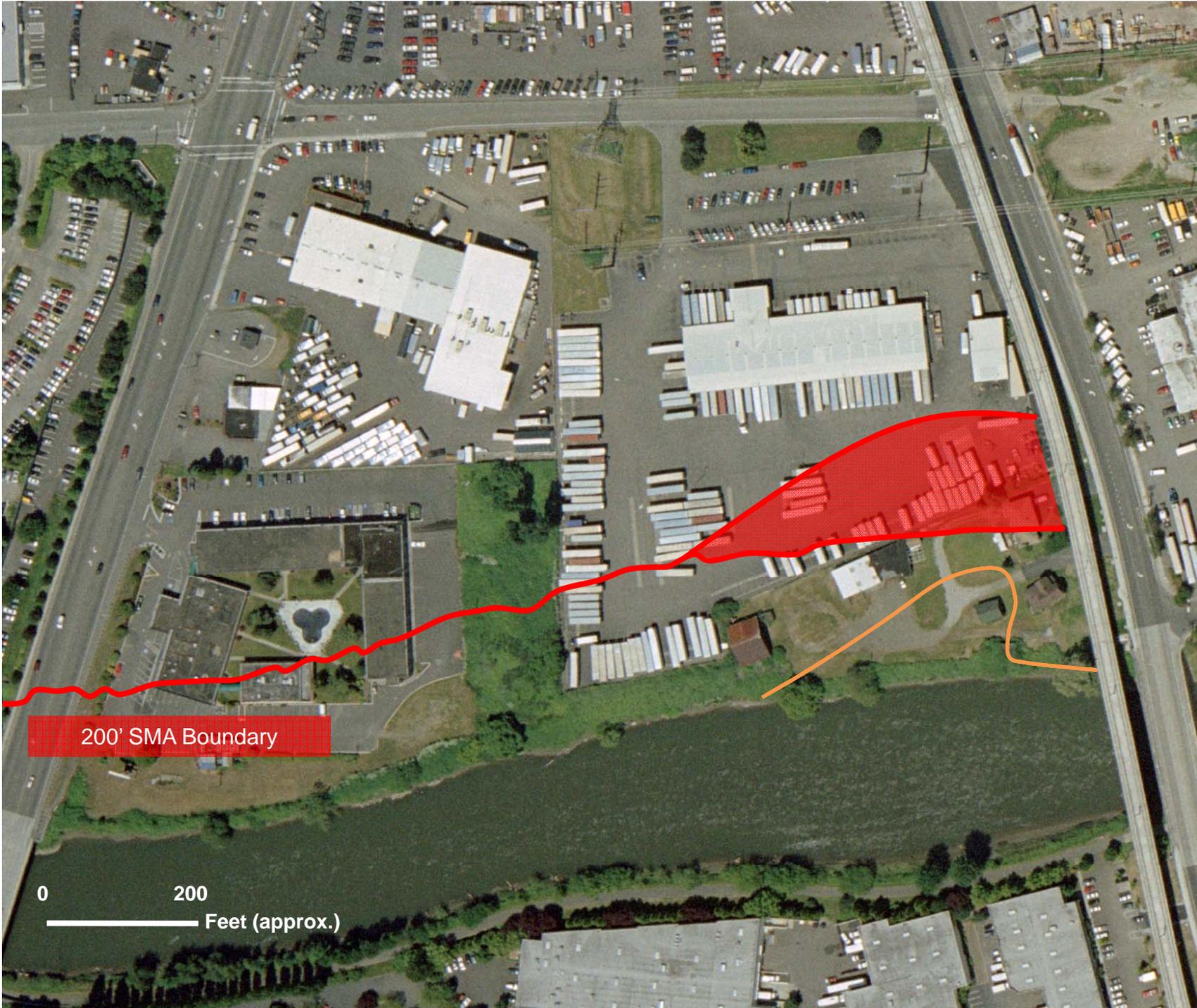
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