PLANNING COMMISSION  
COMMISSIONER'S HEARING ROOM, COUPEVILLE, WA  
TUESDAY, AUGUST 14, 2012

<table>
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<tr>
<th>District 1</th>
<th>Members Present</th>
<th>Members Absent</th>
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<td></td>
<td>Val Hillers</td>
<td>Anna-Marie Sibon</td>
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<td>Dean Enell</td>
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<td>Mike Joselyn</td>
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<td>District 2</td>
<td>Mitchell Howard – Chair</td>
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<td>Leal Dickson</td>
<td>Wayne Havens – Vice Chair</td>
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<td>District 3</td>
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<td>James Hall</td>
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<td>Scott Yonkman</td>
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Meeting called to order at 6:04 p.m. by Chair Mitchell Howard

ROLL CALL  
Mike Joselyn, Leal Dickson, Mitchell Howard, Dean Enell, Scott Yonkman, Val Hillers

Planning staff present: Robert Pederson – Director, Karen Stewart – Shoreline Master Program Update Coordinator

ITEMS FROM THE PUBLIC

No Comments

Director Robert Pederson introduced David Pater from the Department of Ecology and Mark Johnson, consultant for the County on the SMP update from ESA Adolphson.

NEW BUSINESS:

Public Workshop

To discuss the proposed comprehensive update of the Island County Shoreline Master Program in compliance with the Shoreline Management Act and 2003 current state shoreline management guidelines. The update includes revised goals and policies that will amend the shoreline element of the Comprehensive Plan; revised shoreline environment designations; a restoration plan; and an amendment to replace the existing Chapter 17.05 ICC in its entirety with a new Chapter 17.05A ICC, to be known as the Shoreline Master Program Regulations and Procedures.

Karen Stewart stated this meeting was the first of three workshops in different locations throughout the County, which represents the kick off the local adoption process for Island County. The same presentation would also occur in Freeland and on Camano Island.
**Island County Shoreline Master Program Update**

**Shoreline Management Act of 1971**

"...prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

RCW 90.58.020

**SMA Jurisdiction**

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<th>Islands</th>
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<td>Ben Ure</td>
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**Policy Goals of the Act**

- Foster reasonable and appropriate uses
- Protect natural resources
- Promote public access

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SMA provides an overarching framework of goals and policies
3 Major goals of the Act
  – hierarchy of land uses with priority on water oriented uses
  – protect the natural resources and ecological functions
  – promote public access – visual & physical

State and Local Partnership
Ecology – Develop Guidelines (Chapter 173-26 WAC)
Local Gov. – Draft Shoreline Master Programs
Ecology – Approve Shoreline Master Programs

Local Gov. – Issue Shoreline Development Permits; Recommend Shoreline Conditional Use
Permits/Variances
Ecology – Review/approve local shoreline permits
Local Gov. – Enforce Permits

Why update?
  • New requirements WAC Chapter 173-26 – effective in 2004
  • Changed circumstances, land uses
  • Community vision and shoreline conditions assessed; incorporate most current, accurate,
    and complete scientific and technical information available (201)
  • Regulatory reform—create updated SMP that is easier to use (consolidated code), provide
    incentives, respects private property rights while protecting water quality and habitat

Components of SMP for Local Adoption
  • Goals and Policies – amend Comprehensive Plan
  • SEDs—maps, shoreline use classifications (Table 1)
  • Regulations—consolidated Chapter 17.05A ICC
  • Restoration Plan – appendix to Comp Plan

Shoreline Environment Designations
  • 6 classifications with provisions in SR for lagoon communities and historic beach
    communities
  • Examples: High Intensity, Natural, Rural Conservancy, Shoreline Residential, SR-
    Lagoon Community
  • Examples: Parallel Designations
Goals and Policies
- Relate to inventory
- Basis for regulations

Goals and Policies – Beach Public Access
- Access is required for new subdivisions 5 lots or greater.
- Street ends, rights-of-ways and other public lands shall provide, enhance and preserve physical and visual access to the water where feasible.
- Designed to provide for public safety and minimize potential impacts to private property and individual privacy.
- Result in no net loss of ecological functions.
- Access is not required if demonstrated to be infeasible because of incompatible uses, safety, security, or constitutional and other legal limitations.

Development Standards
- Buffer enhancement
- Nonconforming structures
  - May continue as legal non-conforming structure
  - May be maintained and repaired
  - Non-conforming single family residences may be expanded
  - Expansion waterward may occur using the common line setback provision

- Common line setback

Figure 4-1a
• Residential buffers and setbacks (Table 3)
  Examples:
  o Natural
    Buffer – 125’ Setback - 25’
  o Rural Conservancy
    Buffer – 75’ Setback - 25’
  o Shoreline Residential
    Buffer – 30’ Setback - 20’
  o Shoreline Residential- Lagoon Communities
    Buffer – 0’ Setback - 50’

**Shoreline Stabilization**

- **Bulkhead repair and replacement allowed**
  o Shall not protrude waterward of existing structure
  o Size and quantity of material shall be the minimum necessary

- **New Bulkheads**
  o Must show demonstration of need by a geotechnical analysis
  o Non-structural methods preferred. Soft approaches include:
    - Vegetation enhancement
    - Upland drainage control
    - Beach enhancement
    - Anchor large woody debris
    - Gravel placement
Public Comment

Jeanne Hunsinger, 4639 Saratoga Rd. Langley
Commented on:
- Provided information regarding a typo on page 66 F.1 – the third line in the August version has the word “regards” added from the May version.
  - It was determined this made it ambiguous and was not needed.

Ingrid Johnson, 72 Donahue Rd.
Commented on:
- An old cabin the family has owned since the 40’s on Nordic Lane, she wanted to know if there was someone who could help the general public to understand what they can or can’t do on such a property.
  - Mr. Pederson stated the Department would assists property owners navigating their way through the regulatory program. There are consultants that do this as well. The SMP works in concert with the zoning rules and the building codes of the County and the State.

Ron Nelson, 180 NW Coveland St.
Commented on:
- Clarification on the phrase “no net loss of ecological functions”
  - David Pater from DOE replied the bottom line for Island County is the current inventory and characterization represents the current conditions at this point in time, providing a baseline for the no net loss of ecological functions. The goal of the Shoreline Master Program is to maintain that baseline of conditions. The concept of no net loss has to be handled on a project level basis.
  - The State looks at it from a programmatic standpoint, every eight years jurisdictions must file a report assessing the activities that occurred over those eight years and how the SMP is achieving this no net loss of ecological function.
  - On a project level ecological function on that specific project could be made up by mitigation in another area so that the county as a whole maintains the same baseline of ecological functions.

Barbara Bennett, 812 Casino Dr., Greenbank
Commented on:
- Concern for a shifting baseline of ecological expectations that residence have.
- This is a great opportunity for Island County to preserve its unique qualities. Many innovations in this plan create guidelines that will help to preserve its unique qualities as a marine site.
- Asked for clarification of the option of building on a non-conforming footprint.
Mark Johnson (ESA) replied that a fair amount of work has been done to codify some exceptions where development has been done close to the shoreline. It is recognized that people need to be able to continue to have existing structures that may become obsolete or need some re-building or other modifications that are fairly reasonable things to do, even though the original building was somewhat harmful to the environment in the beginning.

What has been devised is a system of buffers and setbacks that requires any native vegetation to be maintained, and then there is a setback from that where ideally any structure would be behind that, but recognizing that some lots are too small to allow a reasonable size footprint.

If there is not enough room for a footprint of 2,200 sq. ft., there is some intrusion into the setbacks or buffers that would be allowed. There is however a formula for improving the vegetation next to the shore. The idea is that there will be a little bit more of an impact in one area, but one of the more damaging things of the intense development that has been lost in the past, the vegetation next to the water’s edge, would then be improved.

There are at least eight different variations of that idea spelled out in the Code, trying to address different circumstances that can arise to alleviate people from having to pursue a variance.

Planning Commission comments

Commissioner Enell commented on:

- Averaging line where people can build a non-conforming structure, concerned about the standard and where that might lead.
  - Mr. Pederson replied these provisions are in the existing Code and there is no proposal to change that. What is being changed is in some instances rather than requiring a variance to do some of the things that now require that process, there will be an option for the applicant to provide a specific net ecological gain of some habitat previously lost in exchange for not having to go through the variance process. It could still be done the traditional way. There is also a 25’ standard that cannot be exceeded. This largely occurs in plats from the 20’s and 30’s, there is really not much option. There is a substantial investment in these small communities and this allows provisions for these folks to maintain and improve their properties.

- Beach access and encroachment on public property. Concerned that there is not code in Island County or any method of dealing with this encroachment.
  - Karen Stewart stated that as a result of the public outreach regarding this topic new language has been added. See page 51: “Any unauthorized encroachment of development onto a shoreline public access or easement, including any public
street end adjoining public shorelands or tidelands, shall be considered a violation of this Chapter and subject to enforcement and penalties provided herein."

- Mr. Pederson stated this particular reference will need to be revised; the penalties are established in the Zoning Code rather than the SMP.

- Jet skis – he would like to see a definition of jet skis and thinks there should be some restrictions in certain areas like Double Bluff.

- Page 27, concerned about fish farms. This is a new area and all the ramifications of this endeavor are now fully clear yet, he felt it should be the burden of the applicant to prove the proposal is a sound practice and will not damage the environment, rather than the County having to prove that it does not.

Commissioner Hillers commented on:

- On page 55 regarding noxious chemicals. Asked if it had a legal definition. She further stated that she had asked someone from the Whidbey Conservation District to come to the Freeland meeting to provide some suggested language.

- Page 16, questioned why the definition of Marine Campgrounds states less than two, rather than just stating one.
  - It was determined that it was meant to be no more than two.

Commissioner Yonkman commented on:

- Common line setback; stated he was pleased to see this was being maintained. In his experience it is a good system.

- Creative ways to mitigate; helping people use their land while protecting the environment at the same time regarding buffers and setbacks was a good approach.

- Regarding the development and stabilization of bulkheads; he was concerned when there is a bulkhead on both sides of a vacant lot and whether that lot would not be allowed a bulkhead without a geotech report indicating it was in danger of sliding into the water.
  - Mark Johnson stated this was one of the challenges of updating the guidelines. The WAC is fairly specific where shoreline stabilization, and in particular where structural stabilization can be allowed. It is only in very limited circumstances, where any kind of stabilization would be allowed waterward of the Ordinary High Water Mark. They have tried to carry forward the spirit of what has been in the Code, while at the same time meeting the Ecology guidelines.
  - Mr. Pederson stated that page 80 outlines where shoreline stabilization may be allowed. This provision comes from existing Code.

Commissioner Dickson commented on:

- No net loss. He discussed the definition on page 16: “No Net Loss” means the maintenance of the aggregate total of the County shoreline ecological functions over time. The no net loss standard contained in WAC 173-26-186 requires that the impacts
of shoreline use and/or development, whether permitted or exempt from permit requirements, be identified and mitigated such that there are no resulting adverse impacts on ecological functions or processes. He wanted to know if the aggregate total mean that over time a parcel could be developed that would result in a nearly complete loss of ecological function as long as that ecological function will be addressed somewhere else.

- David Pater from Ecology reiterated it would be looked at on a programmatic basis. The effectiveness of the SMP and how the County implements these regulations and policies. On a project level there will be a net loss on some of these sites, which can be addressed by mitigation elsewhere. Key elements of the SMP include buffers and setbacks that help address this as well.

• **Definition of Ecological Functions, page 19:** *Shoreline Ecological Functions*: Shoreline functions or shoreline ecological functions are the work performed or role played individually or collectively within ecosystems by a wide variety of interacting physical, chemical and biological components that are interdependent in varying degrees and scales, and that produce the landscape and habitats as they exist at any one time. Shoreline ecological functions include, but are not limited to those included in WAC 173-26-201(3)(d)(i)(C). Commissioner Dickson stated he felt this definition should have a longer, stricter definition that includes the biological component.

- David Pater stated these definitions are basically taken verbatim out of the SMP State guidelines. A jurisdiction could add more detail to these definitions as long as it is consistent with the general concepts.

• Expressed a concern over who would determine whether a project would have a net loss of ecological function.

- Karen Stewart replied that interlaced throughout the program, the more critical biological habitat types are addressed, through environment designations, buffers, and setbacks etc. The regulations address protection of these biological components, such as locating a dock in such a manner as to not allow any further disruption of eel grass as an example.

- Mr. Pederson stated the Planning Director would be responsible for determining whether a project would result in a net loss. There are also provisions for appeals.

- Mr. Pater commented that Island County’s preparation of the environmental designations, and their analysis and the applications of those designations is one of the better ones he has seen. It is well thought out.

*Commissioner Yonkman moved to adjourn, Commissioner Hillers seconded, motion carried unanimously.*

Meeting adjourned at 7:45 p.m.
Respectfully submitted,

[Signature]
Paula Bradshaw

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