Excerpts from Proposed SMP Goals and Policies

Recreation and Public Access Element

Island County contains over 200 miles of freshwater and saltwater shorelines. The greatest portion of these shorelines is privately owned, which limits access to the general public. This element is concerned with existing and future additional public recreational opportunities and public access to shorelines, including but not limited to publicly owned parks, tidelands, beaches, recreational areas, and visual access to public waters.

Public access to shorelines is essential to most Island County residents and is an important economic driver for Island County, especially in terms of tourism. In planning for additional recreation areas and facilities within shoreline areas, Island County updated its Parks and Recreation Plan in December 2011. The Plan was adopted as an element of the Island County Comprehensive Plan and provides an analysis of the County’s anticipated recreation needs and projects to meet a growing populace over the next 20 years.

**GOAL:** Increase and enhance a variety of safe and well-maintained recreation opportunities and public access to publicly owned shorelines and tidelands of Island County consistent with the natural shoreline character, public safety, individual privacy, and property rights.

**Policies:**

1. Public access and recreation on public lands is a preferred use of shorelines of the state. Recreational uses and developments that facilitate the public’s ability 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 are preferred.

2. Recreation facilities should be dispersed along the shoreline in a manner that supports frequent recreational access and aesthetic enjoyment of the shoreline for a substantial number of people.

3. Establish workable policies and procedures for identifying, cataloguing, mapping, signing, managing, and recovering public access and tidelands where public access to the shoreline may have been lost or impeded by encroachment or other actions by adjacent or nearby property owners.

4. Protect and maintain existing recreational uses and public access points, and make improvements as needed to ensure safe and convenient access that is compatible with adjacent uses and protective of shoreline ecological functions.
5. Recreational development and public access should be located, designed, and operated to ensure no net loss of ecological functions, protect public health and safety, and minimize adverse impacts on other shoreline uses.

6. Provide a balanced choice of passive and active recreational opportunities countywide, while recognizing that shorelines should be used primarily for water-oriented recreation.

7. Respect and protect private rights in shoreline property when considering recreational uses and public access development.

8. Encourage the development of public access to all publicly owned shorelines, where appropriate.

9. Require commercial, industrial, and multifamily residential waterfront development, and residential subdivisions to provide a means for safe visual and pedestrian access to shorelines, where feasible.

10. Acquire suitable upland shoreline properties to provide public access to publicly owned shorelands and tidelands in areas where existing access is inadequate and before other development makes such action impossible.

11. Encourage linkage of shoreline parks, recreation areas and public access points with linear systems, such as hiking trails, bicycle routes, easements and scenic drives.

12. Artificial marine life habitats (i.e., dive parks) should be constructed in areas of low habitat diversity and in consultation with the Washington State Department of Fish and Wildlife and Department of Natural Resources.

13. Encourage innovative and cooperative approaches among public agencies and private parties to provide shoreline recreation opportunities and public access.

14. Trails and pathways on steep shoreline bluffs should be located, designed and maintained to protect bank stability without the need for shoreline armoring.

15. Protect public visual access to the shorelines and encourage the establishment of new scenic view points.

Pg. 6

8. Encourage shoreline uses and development that enhance and increase public access to the shoreline.

Pg. 19

Increase Public Access to Publicly Owned Areas of the Shorelines.

Development Guidelines:

a. Give priority to developing paths and trails to shoreline areas, linear access along the shorelines, public transit to popular shoreline accesses, and to developing upland parking to serve public access locations.
b. Locate private development inland from public shorelines so that public access is enhanced.

D. Public Access
1. Provide, protect, and enhance a public access system that includes both physical and visual access to shorelines; increases the amount and diversity of public access to the State’s shorelines and adjacent areas; improves the accessibility of existing publicly owned shorelines; relies primarily on publicly-owned access but also requires public access for certain private developments; and is consistent with the shoreline character and functions, private property rights, and public safety.
2. In appropriate areas where intensive recreational uses have been established, such traditional uses should be protected from competing uses that could substantially impact and interfere with the historical and established uses.
3. To the greatest extend feasible, Island County should provide maps and signage as needed to facilitate appropriate use of shoreline public access.
4. Assure that public access is located, designed and maintained in a manner that does not result in a net loss of shoreline functions.
5. Priority should be given to developing visual and pedestrian access to publicly owned uplands and beaches connecting to publicly owned tidelands.
6. Where practical, public access points should be linked with non-motorized transportation routes and served by public transit.
7. Developments, uses and activities should be designed and operated to avoid or minimize blocking, reducing, or detraacting from the public’s visual or physical access to the water and the shorelines.
8. Shoreline development by public entities or on publicly owned land should provide public access as part of each development project, unless such access is shown to be incompatible with the Master Program due to reasons of safety, security, or adverse impacts to shoreline functions and processes.
9. Non-water-dependent developments or subdivisions of land into five (5) or more parcels by private entities should provide public access, unless such access is shown to be incompatible with the Master Program due to reasons of safety, security, or adverse impacts to shoreline functions and processes.
10. Public health and safety concerns associated with public access sites should be adequately mitigated and appropriate precautions taken to prevent adverse impacts on shoreline ecological functions and/or processes.
11. Efforts to implement public access requirements should be consistent with all relevant constitutional and other legal limitations on regulation of private property.
12. Public access requirements on privately owned lands should be commensurate with the scale and character of the development and should be reasonable, effective, and fair to both the landowner and the general public.
13. Maintain clear records of all public access points including public parks, public road ends, public tidelands, public easements, and other public properties designated for public access.
14. Public access that has been encroached upon or closed off by adjacent property owners should be recovered and made accessible to the public. Structures that have been placed in public rights-of-way that provide public access should be removed.

Pg. 28

C. Beach Access
1. Beach access structures should be located, designed and maintained in a manner that minimizes adverse impacts on shoreline ecology.
2. Neighboring property owners are encouraged to propose beach access structures in appropriate locations for shared use.
3. Beach access structures should not be permitted until and unless their adverse effects on lake or marine shoreline functions and processes, including any significant adverse effects on adjoining lands and properties, are fully evaluated and mitigated.
4. Beach access structures may not be appropriate in some areas because of safety hazards or sensitive ecological conditions. The County should not permit these structures in areas where there are expected risks to human health and safety or adverse effects on shoreline functions and processes. Some properties will have view-only access to the neighboring waters.
5. In order to protect the aesthetics of Island County shorelines, the natural habitat forming flow of sediments from bluff to beach, and to reduce risks to human health, safety, and residential structures, beach access structures should be prohibited on bluffs identified as exceptional feeder bluffs.
6. Beach access structures should conform to the existing topography, minimize adverse impacts on shoreline aesthetics, and minimize clearing and grading to the maximum extent feasible.
7. Beach access structures should not be allowed if there is a reasonable likelihood that they will require erosion control structures or armoring in the future.
8. Beach access structures should be designed to minimize the amount of clearing, grading, excavation, and other forms of shoreline alteration so that they don’t require substantial bank or slope modifications.
9. Beach access structures should only be allowed where it provides access to a publicly owned beach or where the same party owns both the uplands and adjoining tidelands or an easement is granted by the tideland owner to the upland owner for access.
10. New subdivisions and non-residential development with bluffs greater than 10 feet in height in the Rural Conservancy designation should be required to provide for community or public access where feasible. New non-residential development does not include remodeling, reconstruction due to natural disaster, minor expansions to the use or minor structural modifications and additions. Public or community beach access on banks lower than 10 feet in height may be allowed for single-family residences by means of a low impact trail.

Pg. 30

Commercial
5. Commercial uses shall provide public access to the shoreline. Public access and ecological restoration should be considered as potential mitigation of impacts to shoreline
resources for all water-related and -dependent commercial uses consistent with all relevant constitutional and other legal limitations on the regulation of private property.

Pgs. 32 & 33

Industrial
10. Industrial development should incorporate public access as mitigation for impacts to shoreline resources unless public access cannot be provided in a manner that would avoid significant interference with operations or hazards to life or property.

Recreation
2. Water-oriented recreational uses should be given priority for access to and use of the water.
7. Linkages between shoreline parks, recreation areas and public access points with linear systems (e.g., water trails, hiking paths, bicycle paths, easements and/or scenic drives) should be provided where feasible.
10. Encourage the use of street ends and publicly owned lands for shoreline public access, development of recreational opportunities and scenic view points.
11. Seek to recover for public use accesses that have been encroached upon or closed off by adjacent property owners.

Pg. 34

Residential
8. Subdivisions of greater than four (4) parcels should be required to provide public access to the shoreline.

Pg. 36

Transportation
5. Planning for transportation and circulation corridors shall consider location of public access facilities, and be designed to promote safe and convenient access to those facilities.
6. Pedestrian trails and bicycle paths along shorelines are encouraged where they are compatible with the natural character, resources, and ecology of the shoreline.
7. Coordinate with Island Transit to provide bus service to beach public access points where feasible.
8. Parking as a stand-alone use should be prohibited. Parking in shoreline areas should be limited to that which directly serves a permitted shoreline use or public shoreline access and located as far away from the OHWM as possible.

Pg. 40 & 41

Moorage facilities
2. Moorage for water-related and water-enjoyment uses should be allowed only as part of a mixed use development and should include public access.
12. Vessels should be restricted from extended mooring on waters of the state unless authorization is obtained from the DNR and impacts to navigation and public access are mitigated.

13. Piers and docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

14. New pier and dock development should be designed so as not to interfere with lawful public access to or use of shorelines. Developers of new piers and shared moorage should be encouraged to provide physical or visual public access to shorelines whenever safe and compatible with the primary use and shore features.

Excerpts from Proposed SMP Regulations

Definitions
Pg. 21
Public Access: A trail, path, road, or launching ramp by which the general public can reach the public waters from a public road.

Pg. 55
4. New publicly funded dikes or levees will be required to dedicate and improve public access pathways unless it would cause unavoidable health or safety hazards.

Pgs. 56-58
M. Public Access
1. Where feasible, new development uses and activities shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical access to public shorelines or visual access (including existing views) of the shoreline from public properties or substantial numbers of residences.

2. 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 as provided in this Chapter.

3. Existing public access shall not be eliminated unless an applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location in the same vicinity.

4. Opportunities to provide or enhance a system of visual or physical public access shall be considered during the review and conditioning of all proposed commercial shoreline developments, publicly funded dikes or levees, or residential developments involving more than four (4) residential lots or dwelling units.

5. Physical public access shall be incorporated into all development proposals on public lands, all public and private commercial and industrial developments, all publicly funded projects, and all residential subdivisions of greater than four (4) lots unless the project proponent demonstrates that any of the following conditions exist:

   a) Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;
b) Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
c) The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access are unreasonably disproportionate to the total proposed development;
d) Significant environmental impacts that cannot be mitigated will result from the public access; or
e) Significant undue and unavoidable conflict between public access requirements and the proposed use or adjacent uses would occur, provided that the applicant has first demonstrated and the County determines that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:
   (i) Regulating access by such means as maintaining a gate or limiting hours of use;
   (ii) Designing separation of uses and activities (including but not limited to, fences, terracing, use of one-way glazing, hedges, landscaping); and
   (iii) Provisions for access at a site geographically separated from the proposal such as a street end, vista, or trail system.
6. When physical public access is deemed to be infeasible based on considerations listed in 5a – e of this subsection, the proponent shall provide visual access to the shore or provide physical access or access improvement at an off-site location geographically separated from the proposed developmental (e.g., a public street end, vista, or trail system).
7. Required public access on privately owned land shall be commensurate with the scale and intensity of the proposed use or development.
8. Public access shall be located and designed to be compatible with the natural shoreline character, to avoid adverse impacts to shoreline ecological functions and processes, and to ensure public health and safety.
9. Public shoreline access provided by public road ends, public road rights-of-way, and public utilities rights-of-way shall not be diminished by the County, neighboring property owners, or other citizens.
10. Public access sites shall be directly connected to the nearest public street and shall include improvements that conform to the requirements of the Americans with Disabilities Act (ADA) when feasible and appropriate.
11. Public access shall include provisions for protecting adjacent properties from trespass and other possible adverse impacts to neighboring properties.
12. Signs indicating the public’s right of access to shoreline areas shall be installed and maintained in conspicuous locations in accordance with County approved standards.
13. Required public access shall be fully developed and available for public use at the time of occupancy of the use or activity or final plat approval.
14. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, kayak or canoe haul-out, boat launching ramp, dock or pier area, or other area serving as a means of view or physical approach to public waters and may include interpretive centers and displays.
15. Public access easements and permit conditions shall be recorded as a separate tract on the deed of title and on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of final plat recording.
16. Maintenance of the public access facility shall be the responsibility of the fee simple owner unless otherwise accepted by a public or non-profit agency through a formal agreement approved by the Shoreline Administrator and recorded with the County Auditor's Office.

Pg. 64
3. In shorelines designated Natural:
a) On bluffs higher than 10 feet in height, beach access structures may be permitted for public access and for new subdivisions when the structure is for public access;

Pg. 67
o) Public access facilities shall be required for all marinas, provided that marinas may restrict access to specific areas and times for safety and security reasons. The design and any operational restrictions of public access shall require approval of the Shoreline Administrator.

2. Public Boat Launches
a) Public boat launches may be permitted when they are located, designed and constructed in a manner that avoids or minimizes adverse impacts on coastal or fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation, area aesthetics, or neighboring uses. When permitted, public boat launches shall be:
   (i) Located in areas where there is adequate water mixing and flushing action to ensure that minor discharges from normal operation of marine engines does not harm local shoreline ecology;
   (ii) Designed so as not to retard or reduce natural shoreline flushing characteristics or littoral drift;
   (iii) Designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available;
   (iv) Designed so that existing or potential public access along beaches is not blocked or made unsafe, and so that public use of the surface waters is not unduly impaired; and
   (v) Developed and maintained to support waterfront access for watercraft. In those limited instances where separate or associated uses are permitted, other than restrooms or septic facilities, only uses that are water-dependent or afford public access uses shall be approved.

b) Public boat launches shall provide adequate restroom and sewage and solid waste disposal facilities in compliance with applicable health regulations.

c) When overwater development is proposed in association with a public boat launch facility, it may be permitted only where such use requires direct water access.

d) Public boat launches shall be located and designed to prevent traffic hazards and minimize traffic impacts on nearby access streets.

e) Public boat launch sites shall include parking spaces for boat trailers commensurate with projected demand and shall comply with the Transportation provisions of this Shoreline Master Program.

Pg. 69 & 70
4. Commercial uses shall provide public access to the shoreline. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline
resources for all water-related and -dependent commercial uses consistent with all
relevant constitutional and other legal limitations on the regulation of private property.

Pg. 74
3. Recreational uses that provide access to and use of the County’s shorelines shall be
   preferred.
8. Signs indicating the public’s right to access shoreline areas shall be installed and
   maintained in conspicuous locations at recreational facility points of access, street ends,
   and public viewpoints. Signs shall be kept to the minimum number and size necessary to
   ensure public awareness of the recreational area and to ensure continued public control of
   the site.
9. When a public recreation site abuts private property or tidelands, signs and other similar
   markers shall indicate geographic limits of public access to minimize conflicts with
   adjacent use and development and to ensure continued public control of the site.

Pg. 75
4. Public access to publicly owned shorelines shall be maintained. When properties are
   subdivided or developed with residential uses, survey markers and signage shall be
   placed indicating the location of any adjacent public right-of-way or easement providing
   access to the shoreline.
5. Subdivisions containing more than four lots shall provide public access in accordance
   with ICC 17.05A.090.M.

Pgs. 77 & 78
22. Beach Access Structures for Residential Uses
   a) Joint use beach access structures shall be preferred in areas of existing residential
      subdivisions located on unstable slopes, marine feeder bluffs or other geologically
      hazardous areas.
   b) Beach access structures located adjacent to fish and wildlife habitat conservation areas
      that include over water structures, landings that require fill or shore protection structures,
      shall only be allowed as a shoreline conditional use.
   c) Beach access structures located in the Natural designation shall be permitted for public
      use purposes and allowed as a shoreline conditional use for private access.
   d) Normal appurtenances and beach access structures shall conform to the following
      criteria:
(i) They shall be located and designed in such a manner so as to not require shoreline
    stabilization over the life of the structure, including the installation of bulkheads solely
    for the purpose of protecting new appurtenances.
(ii) They are designed and located to avoid unstable slopes, eroding bluffs and other
    geologically hazardous areas.
(iii) They are designed and located in such a manner to minimize the loss of existing
    vegetation.
(iv) Beach access structures which require any land disturbing activity within the shoreline
    setback area must comply with the requirements of the County’s land development
    standards.
(v) They shall be designed in such a manner to minimize their impact on shoreline functions and so as to not interfere with normal littoral drift and movement of sediments to and along the shore and shall be located as far landward of the OHWM as practical.

(vi) Beach access structure landings shall be limited in size to that necessary for minimum safe access to the beach and shall not constitute a deck.

23. Public access for residential development shall be required as follows:
   a) New multi-unit residential development, including subdivision of land into more than four (4) parcels, shall provide public access or open space for use by development residents and the public. The County may alter the recommended area threshold per constitutional limits or waive this requirement if public access is infeasible due to incompatible uses, safety, impacts to shoreline ecology or legal limitations. The County may require alternatives to on-site physical access if on-site physical access is infeasible for the reasons noted.
   b) When required for multi-lot or multi-unit residential development, the amount of public access, open space area, and improvements required shall be proportional to the scale of the proposed development and of appropriate character to the shoreline environment designation, as determined by the Shoreline Administrator. The Administrator may waive the public access requirement if public access is infeasible due to incompatible uses, risks to health or safety, impacts to shoreline ecology or legal limitations. In such cases, the Administrator may require alternatives to on-site physical access if on-site physical access is infeasible for the reasons noted.

Pg. 79
5. When roads are permitted within shoreline jurisdiction, they shall include development of scenic view parking areas, pedestrian trails or bicycle trails. The extent of the requirement shall be proportional to the extent of roadway development in the shoreline.

Pg. 83
i) Public access, consistent with ICC 17.05A.090(M), is required, where feasible, as part of any shoreline stabilization construction or replacement project on public land or using public funds.

Pg. 91
7. Each dock, pier, or float proposal shall be evaluated on the basis of multiple considerations, including but not necessarily limited to the potential and cumulative impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, navigation, scenic views, and public access to the shoreline and the best available background information on tidal currents, wave height, and prevailing storm wind conditions.