

Meeting # 5 Shoreline Advisory Committee
Thursday, December 8, 2011
Skagit County Board of Commissioners' Hearing Room

SAC members present: Herb Goldston, Brian Lipscomb, Michael Hughes, Ward Krkoska, Kevin Bright, Chuck Haigh, Oscar Graham, Scott Andrews, Kim Mower, Jon Ostlund, Kraig Knutzen and Tim Hyatt.
SAC members absent: Wayne Crider, Bill Dewey, Shirley Solomon and Daryl Hamburg

Others present: Betsy Stevenson, Skagit County SMP Update Project Manager, Dan Nickel from The Watershed Company, Lisa Grueter from Berk and Kit Harma from the Guemes Island Planning Advisory Committee.

Kit Harma from the Guemes Island Planning Advisory Committee introduced himself and discussed the Guemes Island Subarea Plan. Their working group is interested in being part of the update process and incorporating the policies from the subarea plan into the SMP update.

The summary from SAC Meeting #4 (November 10, 2011) was not available for review. It will be sent out separately.

Handout materials were made available to the committee members:

Agenda for SAC Meeting #5

Discussion Guide for Meeting #5 (Shoreline Uses and Example Use Matrix)

Draft Shoreline Environment Designation Maps (Maps 2a, 2b and 2c)

The members expressed positive comments about the December 6, 2011 joint meeting with the Planning Commission. Speakers included Greta Movassaghi from the US Forest Service who spoke on the Wild and Scenic Rivers designations in Skagit County, Bob Warinner, Watershed Steward from Washington Fish and Wildlife and Dennis Clark with Department of Natural Resources.

The topic of **Environment Designations** was continued from the previous November SAC meeting. Dan Nickel presented the draft environment designation maps, noting they were a starting point for the discussion, but would take several months to complete. The maps before the SAC did not receive a thorough QA/QC review.

The Natural designation and whether there should be privately owned lands given that designation was discussed. Most of the federal lands are mapped as Natural. Some may be changed to Rural Conservancy, based on the actual land use of the site.

In developing the maps, if it wasn't federal land, High Intensity use or Shoreline Residential, it initially defaulted to Rural Conservancy. Then the hydrologic, vegetative and habitat functions were evaluated. The reaches that were ranked in the top 25% of all three function categories were changed from Rural Conservancy to Natural. This ended up being approximately 10% of the total number of reaches being changed to Natural.



For the lakes, Shoreline Residential was the assumed designation if the lots were less than 1 acre in size and had less than 150 linear feet of shoreline frontage. A question was asked if density was the primary factor for determining Shoreline Residential areas. It was. The area along Burrows Bay shows Shoreline Residential along Biz Point and Alexander Beach. The rest is green. What is that? Green shows as Natural. That is an area that should be looked at carefully. Yes, because most of the lots are already developed, or were platted, so the lots are smaller and designed for single family residential use.

It was noted the federal lands are Natural, but the state lands are shown as Rural Conservancy. The question about why the difference was asked. It was suggested that forest natural resource lands be reclassified from Rural Conservancy to Natural. Forest practices (Class I,II and III) as permitted uses and Class IVG as conditional uses, would be consistent with DNR. The federal and state lands are managed under different management plans and for different uses. Also, federal activities on federal lands are not subject to SMA regulations, where state or private lands are. The Rural Conservancy designation seems pretty lenient for residential development. In forested areas, the timber industry isn't in favor of residential development, consistent with County zoning regulations. The shoreline designation should be consistent with the zoning. Timber harvests under forest practice rules should be permitted and not require a conditional use permit. What would a change to Natural do to the foresters? Need to consider that landowner's ability to borrow money can be based on the land value and the bank considers development rights on the property in determining value. Has the Forest Advisory Board been included? Betsy will be meeting with them on Monday. Does the SMA still allow 30% timber harvest within shorelines of statewide significance?

Kiket Island is now a state park and should be considered for a Natural Shoreline designation. Scott will provide a copy of the Swinomish sensitive areas and shoreline map to coordinate.

The north end of March's Point has been mapped as High Intensity, which is consistent with the Anacortes SMP. The remainder of that area is shown as Rural Conservancy. No other areas are shown as High Intensity.

Shangri-La is shown as Shoreline Residential. What is the difference between that and High Intensity? The definition from the state guidelines was read.

There are midchannel islands upstream (Skagit) of Sedro-Woolley that are owned by the U.S. Forest Service, private landowners and others are managed through conservation easements. May want to look at designating them as Natural. SAC needs to look at the conservation map (Middle Skagit Reach Analysis) and compare the lands and the designations. May not be a good place for development. A lot of it is zoned Ag-NRL, so the density is low. If the designation is changed (to Natural), how does that affect agriculture? The Envision Skagit 2060 plan contains recommendations that the SAC should be looking at now. Low intensity agriculture is an allowed use in the Natural zone.

The salt marsh within the delta area that is state owned should be Natural. The area inside the dikes is tidally inundated and influenced. Isn't that farmland? It's been farmed for one hundred years. The methodology for ecosystem functions evaluation used existing data. Dan was surprised that that area didn't rate higher.

There was a question on the methodology for looking at existing residential development. The area around Lake Erie, only a portion is mapped as Shoreline Residential. What about future use? Was that considered when mapping was done? Rural Conservancy does allow for residential development.

SOME QUESTIONS TO CONSIDER:

Existing mobile home parks have been mapped as Shoreline Residential. Is that appropriate? Should it be considered residential or a commercial use? Snohomish County uses facultative floodplain indicators. There could also be sub-types in Shoreline Residential for single family or multi-family. The idea of

mobile homes and manufactured homes being considered differently than other types of single family residences.

The use of parallel designations (marine shoreline in Anacortes area), where it would be different from the water through the bluff area and then the upland area is a possibility. Shoreline Residential may also be appropriate for the small lots along the river for recreational residential use.

The Natural area shown along Burrows Bay needs to be reconsidered. The area is single family residential lots. Shouldn't it be Rural Conservancy?

What would be the reason for treating permanent and vacation homes differently? The recreational vacation homes should not be designated Shoreline Residential. Especially park models. They are very difficult to move in the event of a flood. The areas along the river in the floodway should not be Shoreline Residential.

DISCUSSION GUIDE was presented and reviewed. **The Example Use Matrix** was reviewed and discussed carefully. Several questions and comments were offered on the uses and what would be permitted outright, through a conditional use permit, or would be prohibited.

Agriculture Several SAC members commented that Agriculture is a commercial use in the matrix (ag – tourism). The existing code (Skagit County Code) has been carefully crafted for Ag-NRL and three members support the language that is already in code. The SMP should not create a loophole that would not be allowed otherwise (under development regulations in the Skagit County Code). It was pointed out that the matrix is just an example and a starting point for the discussion.

Aquaculture The Aquaculture use in a Shoreline Residential Area shows prohibited. Concern for one commercial aquaculture operation on Samish Island. It shouldn't become a nonconforming use. There are areas where landowners practice small scale personal aquaculture (for consumption and for water quality). The SMP should not prohibit that type of aquaculture.

Boating Facilities Boating Facilities in several designations is listed as shoreline substantial development permit or exemption. There was a discussion about the review process for substantial development permits, conditional use permits and shoreline exemptions. Some concern was voiced about the existing review process for proposals, especially under normal maintenance and repair. The shoreline exemptions that are currently listed in the SMP were discussed. The development of a marina is a substantial development and a substantial investment. Applicants want some sense of the process before they invest. The permitting process needs to be clear and easily understandable. Performance standards with some predictability in permitting process outcome should be considered. There are a lot of projects that are proposed on shorelines. The SMP will govern those projects that don't require Corps permits or Hydraulic Project Approval (HPA) from State Fish and Wildlife. There needs to be a focus on the zoning in shoreline areas.

A question was asked about how we would differentiate the Aquatic designation for areas that may be sensitive, such as eelgrass beds?

Commercial The commercial uses are broken down into several categories – mixed use commercial, mixed use residential to provide some flexibility and account for a wide variety of uses that may occur on a given parcel. One SAC member asked about a shoreline residential water ski school. Would it be considered a commercial use? Was not in favor of prohibiting commercial uses in Shoreline Residential areas, because there are instances where they currently exist or might be acceptable. Another SAC member asked about why mixed use residential uses were shown as prohibited in the Shoreline

Residential designation? Through the Envisions Skagit 2060 process, there was discussion about higher density residential and mixed use development. May want to reconsider that. Would home based businesses be considered under this type of use? It could be an accessory use to the primary residential use of the property. How would a conflict with the underlying zoning and comprehensive plan designation be addressed? Would zoning or shoreline designation trump? It could be written into the SMP that if there is a conflict with other regulations, the more restrictive would apply (similar to what the existing SMP does). The shoreline designation is usually only a portion of the property and would not necessarily restrict the entire parcel. The zoning and shoreline designations will be reviewed to alleviate conflicts when possible. It might depend on whether the SMP is considered a land use law or an environmental law or regulation. They are seen differently in the courts.

Flood Hazard Management It was suggested that this use may need to include some subcategories (Bothell SMP example), which might include levees and dikes and shoreline armoring. This section might be better suited for the Shoreline Modification Matrix. It was noted that the repair and maintenance thresholds need to be determined and included in the SMP. It was also noted that dike maintenance is exempt.

Forest Practices was discussed earlier with the Environment Designations portion. No additional comments were made.

Industrial Uses It was suggested that the underlying zoning should be looked at carefully for industrial uses. Also it was mentioned that it may not be appropriate to prohibit non-water oriented Industrial Uses in a Rural Conservancy Shoreline Area.

Institutional Uses It was noted that this is not a use that Ecology requires be addressed separately. It was intended to cover public facilities, churches, schools, hospitals, etc. Should check the zoning regulations to see if this would be consistent.

Mining The only question here was what would constitute in water recreational mining? Panning for gold?

Recreational Uses There were no comments by the SAC members.

Transportation and Parking This may require some clarification that breaks out roads, bridges, trails and parking. Needs to be clear what these uses are. Based on the detailed discussion on public access, one SAC member was wondering if parking for public access areas would be allowed? Yes. It is important to provide parking for public access sites, although sometimes it can be located outside shoreline jurisdiction.

Utilities There were no comments by SAC members.

The discussion regarding the Example Use Matrix was concluded.

The consultant team noted that Lyman and Hamilton will be contacted soon and they will have the opportunity to review the proposed environment designations.

The Urban Growth Areas for Mount Vernon and Anacortes could be pre-designated to align with their adjacent shoreline designations, since they have both recently adopted their updated master programs. We will need to coordinate with the other cities and towns so that the shoreline designations within the urban growth areas are compatible.

The Discussion Guide included some **Definitions** to consider with the use matrix, which were based on the WAC guidelines, the Shoreline Management Act and Skagit County Code. One of the members asked that the definition for repair and maintenance from the state rules be added for clarification. For levees, what is considered normal maintenance and repair. There is also language in the Critical Areas Ordinance (SCC 14.24) that came from a Western Washington Growth Management Hearings Board case that could be considered. A SAC member asked about something that is destroyed. Is that considered repair, or do they have to start over as new? That would all need to be clear in the SMP language.

A SAC member asked some process questions about whether decisions had been made on which environment designations were being used. Then the broader question of the decision making process for the SAC was discussed. The SAC Charter was looked at to clarify the decision making process and also note that the SAC is not a voting body, but rather is charged with helping to make informed progress on advising staff and consultants on the development of the Master Program. Their input will be noted and shared during meetings with the Planning Commission and Board of County Commissioners. One member indicated that he would like to have clear consensus on pivotal issues. Would like to vote on whether something moves forward or is ready to move forward. The group will strive for consensus, but would be comfortable with majority/minority opinions rather than a vote. SAC members want to be clear when items are decided and moved forward. The meeting summaries are helpful with that, so the group is clear on the direction being taken and whether items are being looked at in more detail by the SAC or moving forward.

The question was posed to the SAC members about the Environment Designation system. Are they ready to use Ecology's designation system. The group agreed to use the new designations, but use the past maps as much as possible. Also, if there is a need for unique designations, they want the flexibility to do that later.

Another clarifying question was asked about trying to revise and utilize the existing SMP or starting from scratch and using existing portions of the SMP that are appropriate to use under the new Ecology guidelines. The SAC members agreed to start from scratch on a new document, but understand the value of retaining as much of the existing SMP language as possible. Other comments included:

- Use the old document for reference and highlight the substantial changes being made.
- There is value in the old SMP, it's simple, well thought out, pretty tight and shouldn't be thrown out.
- Hope to simplify the regulations with the new designations. Need to consider people's expectations. Can't ignore the past. Hope to find consistency between the regulations and what people have. Look at landowner incentives. Provide a quality packet.
- Do not try to go through a line-by line change review between the old SMP and the new version. There are too many differences to make this exercise workable.
- A new document is in order. Our experience from the past is invaluable as we segue into the future. Tie into the Envision Skagit 2060 project and keep the train on the same tracks.

It was agreed by the SAC members and project team that ending the meeting by going around the group to individually share thoughts on the discussion items and issues before them was very valuable and should be factored into the agenda for each meeting.

The next SAC meeting is January 12, 2012.

MEETING ADJOURNED