

Skagit County Planning and Development Services Shoreline Master Program Periodic Review 2020-2021

This Public Comment Matrix includes a summary of all public comments received during the Skagit County Planning Commission comment period and public hearing. Common issues of concern have been binned into 16 separate issues; these issues are numbered 1-16 in column 1 (Issue Ref. No.) and summarized in column 2 (Summary of Concern). The public comments that referenced these issues are indicated in column 3 (Comment Number(s)) and can be cross referenced to the SMP Public Comments available online on the County’s SMP website at: <https://www.skagitcounty.net/Departments/PlanningAndPermit/SMPMain.htm>. Column 4 (Department Response) includes responses to these comments and indicates whether a revision to the proposed SMP is recommended. The full comment letters are numbered 1-87 while the public hearing verbal comments are numbered 88-98. The comments are attached in their entirety to this matrix for reference. An index of public comments is provided below.

Index of All Textual Comments (#1-87)

Comment Number	Submitted On	Name	Organization	Comment Number	Submitted On	Name	Organization
1	04/22/2021	Julia Gates		17	05/10/2021	Sandy Wolff	
2	04/25/2021	Albert Lindstrom		18	05/13/2021	Rein Attemann	Washington Environmental Council
3	04/25/2021	Ronald Haworth		19	05/13/2021	Cory McDonald	WA DNR
4	04/25/2021	Lisa Lewis		20	05/13/2021	KIM MOWER	
5	04/26/2021	John Stewart		21	05/14/2021	Rick Anderson	
6	04/27/2021	Glen Johnson		22	5/19/2021	Dale Malmberg	
7	04/28/21	Peter H. Grimlund		23	05/22/2021	GARY HAGLAND	Citizens Alliance for Property Rights, Skagit Chapter
8	04/28/2021	David Lynch		24	05/31/2021	Donna Mason	
9	04/29/2021	Tammy Force		25	05/31/2021	Joe Geivett	Emerald Bay Equity
10	05/02/2021	William Daniel		26	6/11/2021	DENNIS KATTE	Lake Cavanaugh Improvement Association
11	05/04/2021	Mark Johnson		27	6/13/2021	Larita Humble	Lake Cavanaugh Improvement Association
12	05/04/2021	George Sidhu		28	6/16/2021	Kyle Loring	Evergreen Islands, Washington Environmental Council, RE Sources, and Guemes Island Planning Advisory Committee
13	05/06/2021	john martin		29	6/16/2021	Kyle Loring	
14	05/07/2021	DENNIS KATTE	Lake Cavanaugh Improvement Association	30	6/16/2021	Kyle Loring	
15	05/08/2021	Rich Wagner		31	6/16/2021	Kyle Loring	
16	05/10/2021	DENNIS KATTE	Lake Cavanaugh Improvement Association				

Comment Number	Submitted On	Name	Organization	Comment Number	Submitted On	Name	Organization
32	6/16/2021	Kyle Loring		59	6/21/2021	ARLENE FRENCH	
33	6/16/2021	Kyle Loring		60	6/21/2021	Mark Hitchcock	Skagit Land Trust
34	6/16/2021	Kyle Loring		61	6/21/2021	Luis Gastellum	
35	6/16/2021	Kyle Loring		62	6/21/2021	Karlee Deatherage	RE Sources
36	6/16/2021	Kyle Loring		63	6/21/2021	Hal Rooks	Guemes Island Planning Advisory Committee
37	6/16/2021	Kyle Loring		64	6/21/2021	Tim Trohimovich	Futurewise
38	6/16/2021	Kyle Loring		65	6/21/2021	Marnie Pennington	
39	6/16/2021	Kyle Loring		66	6/21/2021	Mary Ruth and Phillip Holder	
40	6/16/2021	Kyle Loring		67	6/21/2021	Valerie Rose	
41	6/16/2021	Kyle Loring		68	6/22/2021	Jenna Friebe	Skagit County Drainage and Irrigation District Consortium, LLC
42	6/17/2021	EUGENE KIVER		69	6/22/2021	Michael Hughes	Skagit County Agricultural Board
43	6/17/2021	Scott Andrews		70	6/22/2021	Timothy Manns	Skagit Audubon Society
44	6/17/2021	Amanda Rose		71	6/22/2021	Lin McJunkin	
45	6/18/2021	Rosie Wuebbels		72	6/22/2021	Rick Eggerth	Mt. Baker Group, WA State Chapter Sierra Club
46	6/18/2021	Richard Bergner		73	6/22/2021	Amy Trainer	Swinomish Indian Tribal Community
47	6/18/2021	Laurie Sherman		74	6/22/2021	Carolyn Gastellum	
48	6/18/2021	Konrad Kurp		75	6/22/2021	Rein Attemann	
49	6/18/2021	Norm Conrad		76	6/22/2021	Barbara Tuttle	
50	6/19/2021	Julia Hurd		77	6/22/2021	Karen Gardiner	
51	6/19/2021	Kathleen Lorence		78	6/22/2021	philip brown	
52	6/19/2021	Gena DiLabio		79	6/22/2021	Roger Oos	
53	6/19/2021	Teresa Dix		80	6/22/2021	Brian Lipscomb	
54	6/20/2021	Patty Rose					
55	6/20/2021	Patty Rose					
56	6/20/2021	Mary Ratermann					
57	6/20/2021	JANET WEEDMAN					
58	6/21/2021	Dennis Clark	WA DNR AQR				

Comment Number	Submitted On	Name	Organization	Comment Number	Submitted On	Name	Organization
81	6/22/2021	Martha Bray		84	6/22/2021	Martha Bray	
82	6/22/2021	Robert Warinner	WDFW	85	6/22/2021	Edith Walden	
83	6/22/2021	GARY DUVALL	Lake Cavanaugh Improvement Association	86	6/22/2021	John Day	
				87	6/22/2021	Roger Oos	

Index of All Verbal Comments (#88-98)

Includes all verbal comments as transcribed from the Skagit County Planning Commission Public Hearing held on 5/11/21

Comment Number	Name	Organization	Comment Number	Name	Organization
88	Marlene Finley	Evergreen Islands	88	Marlene Finley	
89	Kyle Loring		89	Kyle Loring	
90	Kathleen Lorence-Flanagan		90	Kathleen Lorence-Flanagan	
91	Amy Trainer		91	Amy Trainer	Swinomish Indian Tribal Community
92	Dennis Katte		92	Dennis Katte	Lake Cavanaugh Improvement Association
93	Scott Andrews		93	Scott Andrews	
94	Nora Kammer		94	Nora Kammer	Skagit River System Co-Op
95	Randy Good		95	Randy Good	Friends of Skagit County
96	Rick Wagner		96	Rick Wagner	
97	Ellen Gray		97	Ellen Gray	
98	Tom Glade		98	Tom Glade	Evergreen Islands

Planning Commission Public Comment Matrix
SUMMARY AND RESPONSE

Issue Ref. No.	Summary of Concern <i>See attached comment matrix below for full comments.</i>	Comment Number(s)	Department Response
1	Lake Cavanaugh		
	a. Boatlift canopies - requirement of light permeable fabric for boat covers would result in damage to boats.	14, 27, 92	<u>Change not recommended.</u> Overwater cover provided by in- and above-water structures such as docks and boatlift canopies shades the aquatic area, providing potential habitat for predators of juvenile salmon as well as inhibiting growth of aquatic plants. Requiring boat lift canopies to be of light permeable fabric is known to minimize the impact of solid structures similar to the use of grated decking on docks.
	b. Dock height – 1.5-foot clearance above the OHWL should not apply to Lake Cavanaugh since the water height varies so much.	15, 83, 96	<u>Change not recommended.</u> The commenters were specifically focused on Lake Cavanaugh conditions and the effects of a highly fluctuating annual hydrograph on dock use. However, per Figure 14.26.420-1 of the SMP, the dock may include a floating segment. The SMP only specifies that the fixed-pile pier portion be at least 1.5 feet above the OHWM. Therefore, in the case of Lake Cavanaugh, a floating dock segment can be used over the majority of the water, which would alleviate this concern.
	c. Dock width – 4 feet dock width is too restrictive and poses safety issues.	15, 83, 25, 26, 96	<u>Change not recommended.</u> See the response to item 1.e below regarding concerns about dock width requirements surrounding anadromous fish vs. non-anadromous fish use. The dappled shade from vegetation overhanging the water is a natural shading which provides cover for juvenile salmon that use the nearshore environment for predator avoidance, rest etc., plus the overhanging branches drop insects and debris which make up the diet of juvenile salmon and other small aquatic species. Grated decking mimics the 40% light transmittance, similar to native vegetation. In contrast, shading provided by solid overwater coverage, such as a dock, provides sharp edges and cover for predators of salmon and causes salmon migration paths to be diverted around docks into deeper water where there tend to be more predators present.
	d. Objection to dock grating standards.	25, 27, 83	<u>Change not recommended.</u> See the response to items 1.c above and 1.e below.
	e. No anadromous fish in Lake Cavanaugh, therefore the same	15, 83, 96	<u>Change recommended.</u>

	standards as lakes with anadromous fish should not apply.		The change of Figure 14.26.420-1 of the SMP to include all lakes together in one column rather than separate lakes with anadromous fish use vs. those without anadromous fish use was based on recommendations from the Washington Department of Fish and Wildlife and the Washington Department of Ecology. Based on public comments and a review of the science related to the importance of focusing width restrictions for the protection of anadromous fish, staff recommend returning the dimensional standards table for docks to the Planning Commission review version dated February 2, 2021 which required a maximum dock width of 6 feet for lakes without anadromous fish and 4 feet for lakes with anadromous fish.
	f. 100-foot setback should be a 50-foot setback.	15, 27, 83	<p><u>Change not recommended.</u></p> <p>Many of the shoreline lots around Lake Cavanaugh are substantially deeper than 100-feet; while they may still have difficulty accommodating the 100-foot buffer and a septic drainfield. The County proposes to keep the 100-foot shoreline residential buffer for several reasons:</p> <ol style="list-style-type: none"> 1. A reduction to 50 feet would weaken the existing standards that have been in place for over 11 years through the adopted critical areas code. Fish and Wildlife Habitat Conservation Areas buffers are already 100 feet for most lake shorelines and the proposed SMP update does not increase the buffer width for the lots in question that are proposed to be designated Shoreline Residential. Instead, the SMP Update incorporates this existing CAO standard. 2. The established shoreline buffer widths are not arbitrary, but were established using Best Available Science to protect ecological functions. The SMP Update is required to protect ecosystem functions, and buffers are essential for that purpose. 3. While the shoreline buffer is 100 feet, there is nevertheless opportunity to reduce this buffer through administrative review processes. Currently, a landowner must often seek both a shoreline and critical areas variance to reduce the shoreline buffer. Once the SMP Update is adopted, the applicant will only have to go through one unified process. 4. Notably, where an existing residential structure is to be rebuilt, remodeled, or reconstructed, we have language in SCC 14.26.620(3)(a)

			that allows minor enlargement without a shoreline variance if specific criteria are all met.
	g. Size limitations for dock floats are unclear and too restrictive.	15, 27, 83	5. This issue is not specific to Lake Cavanaugh Change not recommended. See the response to items 1.c and 1.e above. In addition, per WAC 173-26-231 (3)(b), docks should be for the purpose of moorage and access to watercraft or the water. Docks are not for the primary purpose as an overwater deck.
	h. Support for 50% reduction of building setback with an administrative variance.	25	Change recommended. As noted in Planning Commission meetings following the release of the public review draft, the intent of the Administrative Shoreline Variance in SMP Section 14.26.735 was to apply in situations where an applicant was reducing a buffer more than 25% but less than 50%. Buffer reductions greater than 50% would only be allowed through a standard variance reviewed by a Hearing Examiner. Conversely, buffer reductions of up to 25% could be allowed administratively without a variance. The County suggests revising the SMP in Section 14.26.310, Dimensional Standards and in the development standards section of the Fish and Wildlife Habitat Conservation Areas, Section 14.26.574 to specifically allow such administrative reductions with mitigation sequencing and an evaluation of no net loss.
	i. No support within the community for joint-use docks.	15	Comment noted. The applicability of joint-use docks is County-wide and would apply to docks on both marine and freshwater systems. Joint use docks are not required for single family residential use. The option for them provides flexibility in design if landowners choose to do so.
2	Aquaculture		
	a. Prohibit new commercial net pens.	24, 28 ¹ , 42, 44, 45, 46, 47, 49, 50, 51, 52, 56, 65, 66, 67, 70, 72, 73, 74, 75, 76,	Change recommended. New commercial net pens are not currently proposed as prohibited. Rather, applications for new net pens would go through a Shoreline Conditional Use permit review per the Uses and Modification Matrix in SMP Section 14.26.405 and comply with specific application requirements per SMP Section 14.26.415 which includes a requirement that the applicant demonstrate “that the native fish and wildlife resources will not be significantly impacted.”

¹ Comment 28 includes supplemental materials submitted as comments 29-41

		77, 78, 86, 91	Upon further evaluation, the department recommends adjusting the provisions related to finfish aquaculture and prohibit all non-native finfish net pen aquaculture.
	b. Limit geoduck harvesting.	18	<u>Change not recommended.</u> Applications for new commercial geoduck harvesting must go through a Shoreline Conditional Use permit review and comply with specific application requirements focused on protecting existing ecological conditions and avoiding use conflicts per SMP Section 14.26.415.
	c. Allow for more kelp production.	1	<u>Comment noted.</u>
	d. Prohibit non-native finfish net pens. Provide clarity and distinguish between net pen aquaculture for native and non-native finfish.	18, 62	<u>Change recommended.</u> See the response to item2.a above.
	e. Require CUP for uses designated as in-water native finfish aquaculture.	18	<u>Change recommended.</u> In-water finfish aquaculture would require nets to contain the finfish. Such a net pen requires a Shoreline Conditional Use Permit per SMP Section 14.26.405. The text language does not reflect the matrix that a Conditional Use Permit is needed. In 14.26.415 (7), we should add (b) A Conditional Use Permit is required for new native finfish aquaculture. Then change existing (b) to (c) and existing (c) to (d).
	f. Unclear where upland finfish rearing facilities are regulated in the SMP.	18	<u>Comment noted.</u> RCW 90.58.065: (2)(a) defines Agricultural activities and includes <i>producing, breeding or increasing agricultural products.</i> (2)(b) defines Agricultural products and includes <i>upland finfish.</i> (2)(c) defines Agricultural equipment and agricultural facilities and includes <i>upland finfish rearing facilities.</i> Part VIII of this Master Program also includes these definitions. Upland finfish are regulated under 14.26.410 Agriculture, and fall under the definitions and descriptions described here.
	g. Objection to lessening aquaculture restrictions.	24, 73, 91	<u>Comment noted.</u> See the response to item 2.a above.
3	SMP fails to address climate change and acknowledge sea level rise.	24, 28, 42, 43, 44, 45,	<u>Change not recommended.</u>

		46, 47, 49, 50, 52, 56, 60, 65, 67, 70, 71, 72, 73, 74, 75, 76, 77, 78, 84, 86, 70, 74, 78, 62, 75, 64, 66, 81, 84, 86, 93, 97	<p>The Shoreline Management Act and Ecology Guidelines currently contain no requirements for SMPs to address climate change or sea level rise. Skagit County is committed to reducing and mitigating operational and regional greenhouse gas emissions and adapting to the effects of a changing climate.</p> <p>In June 2008, Skagit County Commissioners approved Resolution R20080304, setting in motion a broad-ranging initiative to address climate change, reduce resource consumption, and create a Sustainable Skagit. Most recently, the County published a Climate Action Plan (2019) available at https://www.cakex.org/documents/climate-action-plan-skagit-county-washington.</p> <p>Skagit County intends to pursue grant funding to address climate change and sea level rise through Ecology’s SMP competitive grant pilot program <u>Shoreline Master Program competitive grant pilot program - Washington State Department of Ecology</u></p>
4	Protect drinking water sources from saltwater intrusion.	24, 28, 42, 44, 45, 46, 47, 50, 51, 52, 57, 70, 72, 74, 75, 77, 78, 86	<p>Comment Noted.</p> <p>General goals and policies referenced in the Comprehensive Plan Chapter 6 (Shoreline Master Program Element) of the SMP address critical areas, environmental protection, water quality, and vegetation conservation, among others. Additionally, Part V of the SMP includes protection measures for aquifer recharge areas and specifically includes development standards for seawater intrusion areas in Section 14.26.550.</p>
5	Shoreline Development and Use Standards		
	<p>a. Establish adequate shoreline buffers as habitat.</p> <ul style="list-style-type: none"> - Do not reduce or degrade riparian buffers - Adopt WDFW’s up-to-date buffers to protect Chinook and other salmon 	24, 28, 42, 44, 45, 46, 47, 49, 50, 51, 52, 56, 57 59, 64, 66, 67, 70, 72, 74, 75, 76, 77, 78, 79, 81, 84, 86, 87, 88, 90, 91	<p>Change not recommended.</p> <ul style="list-style-type: none"> - Buffer reductions are allowed (up to 25%), as is a common practice under shoreline and critical areas management. Buffer reductions with mitigation allows for ecological improvements in buffer function (e.g. planting native vegetation). - The County acknowledges that the Washington Department of Fish and Wildlife (WDFW) has issued new management recommendations for riparian management zones. Although the County is not proposing the use of the term Riparian Management Zone, the proposed 200-foot buffers on shoreline rivers is consistent with the protection measures recommended by WDFW.

<p>b. Prevent uses or modifications into or over important saltwater plants like seagrasses and macroalgae. Protect critical saltwater habitats from boating facilities.</p>	<p>24, 28, 42, 44, 45, 46, 47, 50, 62, 74, 77, 78</p>	<p><u>Change not recommended.</u> The SMP includes provisions to protect critical saltwater habitats per SMP Section 14.26.575. Where impact avoidance is not feasible, mitigation is required to result in no net loss of ecological functions. The County prefers to keep the language as proposed. The SMP, as written here, recognizes proposed uses or modifications in critical saltwater habitat that are for beneficial public purposes, for instance shoreline habitat and systems enhancement projects as noted in WAC 173-26-231(3)(g), which reads in part: <i>Master programs should include provisions fostering habitat and natural system enhancement projects. Such projects may include shoreline modification actions such as modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.</i> The department believes the language as written here protects critical saltwater habitats, but allows for restoration of the natural character and ecological functions of the shoreline. Any such public need would be firmly established prior to approval. State and federal agencies would also have jurisdiction over such development and would require their own permits/review.</p>
<p>c. Retain requirements to permanently sign Protected Critical Areas and their buffers.</p>	<p>42, 44, 45, 47, 50, 52, 74, 77, 78</p>	<p><u>Comment noted.</u> Permanent buffer edge marker requirements are provided in SMP Section 14.26.520(2)(b).</p>
<p>d. Do not allow timber harvesting as a shoreline use.</p>	<p>24, 56, 88</p>	<p><u>Change not recommended.</u> Timber harvest alone as part of a Forest Practice is not considered development under the SMA and therefore does not require shoreline review. Forestry is an allowed use per the Shoreline Management Act (SMA).</p>
<p>e. Shoreline armoring - prohibit new shoreline armoring and require a CUP for all shoreline armoring - do not classify boulders as soft armoring</p>	<p>24, 42, 44, 45, 46, 47, 49, 50, 51, 52, 60, 62, 74, 77, 78, 81, 84, 86, 66, 70, 54/55, 74, 75, 89, 98</p>	<p><u>Change not recommended.</u> Shoreline armoring is specifically allowed under the Shoreline Management Act and is exempted from a substantial development permit when necessary to protect an existing single-family residence. However, the County does require a CUP for all new hard stabilization and soft stabilization in some environment designations. The use of boulders by themselves does not necessarily constitute hard armoring (e.g. Boulders may be used in soft armoring techniques to anchor logs). However, boulders which are connected to form a wall would be considered hard armoring.</p>

			<p>There is not a definition for soft shoreline stabilization in RCW 90.58, WAC 173-26 or WAC 173-27. The proposed language may prove limiting for the use of soft shoreline stabilization measures if this definition is included in the SMP. The actual stabilization measures may not maintain or enhance all ecological functions, but are preferable to hard shoreline stabilization measures, and will require review under 14.26.305 Environmental Protection,</p> <p>An application for shoreline stabilization also requires additional information in 14.26.480(3) and must meet Development Standards found in 14.26.480(4).</p> <p>The language in 14.26.480 is derived from WAC 173-26-231(3)(a) Shoreline Stabilization.</p> <p>The SMP Handbook, Chapter 15 Shoreline Stabilization, recognizes that:</p> <p style="padding-left: 40px;"><i>“Soft shoreline stabilization techniques include a variety of different approaches that preserve or mimic shoreline functions.”</i></p> <p style="padding-left: 40px;"><i>“The Guidelines distinguish between “hard” and “soft” stabilization measures and provide a list of options generally arranged from soft to hard.”</i></p> <p style="padding-left: 40px;"><i>“Some of these techniques are more appropriate in some settings than others. In addition, what is considered soft along a heavily developed shoreline may have significant adverse impacts in a more natural environment.”</i></p> <p>The department believes that 14.26.480, read in its entirety and context, complies with the requirements of WAC 173-26-231(a) and meets the intent of the SMP Handbook Chapter 15 Shoreline Stabilization</p>
	<p>f. Retain the sections on Vegetation Conservation and Designating Habitats and Species of Local Importance.</p>	<p>28, 42, 44, 45, 47, 67, 70, 72, 74, 75, 77, 78, 86</p>	<p>Comment noted. Vegetation Conservation regulations are located in SMP Section 14.26.380 and designating Habitats and Species of Local Importance is located in SMP Section 14.26.570.</p>
	<p>g. Retain sections of the code that allow access to property for administrative officials to monitor permit compliance.</p>	<p>42, 44, 45, 47, 52, 67, 74, 77, 78</p>	<p>Comment noted. Permission to enter private property is given as part of the application process</p>
	<p>h. Require mitigation for expansion into critical areas.</p>	<p>62</p>	<p>Change not recommended. The referenced SMP Section 14.26.515(3)(b-d) addresses limited circumstances where development may be allowed, PROVIDED it does not adversely impact or encroach into critical areas or their buffers. This</p>

			may include expansion of an existing residence by up to 200 square feet, or vertical expansion.
i.	Allow for more restoration.	1, 28, 70, 72, 74, 75, 86	<u>Comment noted.</u> The County has completed a Shoreline Restoration Plan as part of the SMP comprehensive update that identifies likely future restoration actions along County shorelines.
j.	Limit pesticides and herbicides adjacent to wetlands, streams, lakes, and rivers. Standardize water quality buffers across Skagit County codes for herbicides and pesticides.	24, 28, 70, 72, 74, 75, 86, 88	<u>Comment noted.</u> The SMP includes references to pesticide and herbicide control, including policies under Section 6C and regulations specific to Agricultural practices, Recreational uses, and areas adjacent to wetlands.
k.	Concern for lighted signage within shoreline area and its buffers.	73	<u>Change Recommended</u> The County recommends adding the following to SMP Section 14.26.360(4)(d) Lighting. <u>Directional sign lighting must be directed away from critical areas, unless necessary for public health and safety.</u> Outdoor advertising may not move or fluctuate in lighting or position in any manner. 14.24.320 General Provisions Applicable Upland of the OHWM states: (8) Lighting. Interior and exterior lighting must be designed and operated to avoid illuminating nearby properties or public areas; prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas; and to prevent hazards. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening. Lighting must be directed away from critical areas, unless necessary for public health and safety.
l.	Ensure clarity about allowable materials for construction of docks.	73, 89	<u>Change not recommended.</u> The SMP Section 14.26.420(4)(g) already includes specific limitations on in-water piling specifications which prohibits treatments with pentachlorophenol, creosote, copper naphthalene, chromate copper arsenate, or comparably toxic compounds. 14.26.330 states: (16) Flotation materials. (a) Flotation material (e.g., floats, buoys) must be encapsulated within a commercially manufactured shell, including polyethylene, encapsulated concrete, or another material specifically approved by applicable federal

			<p>or state agencies for use in aquatic environments, that prevents breakup or loss of the flotation material into the water, and is not readily subject to damage by ultraviolet radiation or abrasion.</p> <p>(b) During maintenance, existing, unencapsulated flotation material must be replaced.</p> <p>(17) Tire use. Tires are prohibited as part of above- or below-water structures or where tires could potentially come in contact with the water (e.g., flotation, fenders). Existing tires used for flotation must be replaced with inert or encapsulated materials such as plastic or encased foam during maintenance or repair of the structure.</p>
	m. Development standards for structures, including docks, do not mention any shading of dock lighting so as not to attract fish.	73, 89	<p>Change not recommended. SMP Section 14.26.330(20) addresses lighting on, over and in-water structures, requiring they be “ beamed, hooded, or directed to avoid causing glare on adjacent properties or water bodies.”</p>
6	Best Available Science		
	a. Lake Cavanaugh – no scientific evidence supports 100 foot buffers as better than 50 foot buffers on freshwater lakes without anadromous fish.	83	<p>Comment noted. The shoreline and critical area buffers are based upon the County’s existing critical areas ordinance which included an assessment of the best available science to derive appropriate buffers. All Type S rivers have a 200-foot buffer. For lake and marine shorelines, buffers are established based on shoreline environment designation which takes into account the existing baseline ecological functions and underlying land use.</p>
	b. Data and analysis used in update of the SMP is dated and not an accurate reflection of current conditions.	28, 63, 70, 72, 73, 74, 75, 85, 86	<p>Comment noted. The SMP update included the completion of a detailed Shoreline Inventory and Characterization in 2014 which serves as the County’s baseline condition from which future evaluation of no net loss will be considered. The inventory and characterization report used the most current and relevant information available at that time. Similarly, the County’s critical areas ordinance approval process included a detailed evaluation of best available science (BAS) as required by the Growth Management Act.</p>
	c. No best available science for riparian zones.	24, 88, 91	<p>Comment noted. As noted above, a detailed review of BAS, including riparian areas, was completed as part of the County’s critical areas ordinance update. The County acknowledges that since that time, the Washington Department of Fish and Wildlife (WDFW) has issued new management recommendations for riparian management zones. The proposed 200-</p>

			foot buffers on shoreline rivers is consistent with the management recommendatons from WDFW.
7	DNR Forest Practices Policies. Concern about duplicative regulations between County and DNR and unintended consequences of limiting development related to forest practices within shoreline jurisdiction	19	Comment Noted. The County is following State guidance on this topic per WAC 173-26-241(3)(e) and Ecology’s recommendation to provide this clarity in the County’s SMP.
8	Flood Hazard Reduction		
	a. Clarification of flood hazard reduction and include marine shorelines	60, 68, 73, 86	Change not recommended. The County acknowledges that flood hazard reduction measures apply to marine and freshwater systems. SMP Section 14.26.350 Flood Hazard Reduction (1) Applicability states: <i>.(a) This section applies to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that may increase flood hazards. Flood hazard reduction measures include nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, and structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.</i> <i>(b) Although some flood hazard reduction measures may serve a dual function as shoreline stabilization, their primary purpose is to control the location of floodwaters directly. Alternatively, the primary purpose of shoreline stabilization measures is to prevent erosion of land from currents and waves originating in the shoreline water body (rather than upland sources of erosion), which is a more indirect control of the location of flood and non-flood waters. Shoreline stabilization is addressed in SMP Part IV.</i> The County believes that the way we describe and differentiate between flood hazard reduction measures and shoreline stabilization in 14.26.350(1) is useful here. Also, 14.26.350(2) Application Requirements, uses “ new flood hazard reduction measures in shoreline jurisdiction, ” which is inclusive of all shoreline areas. <i>(2) In addition to the general application requirements, all applications for new structural flood hazard reduction measures in shoreline jurisdiction must demonstrate all of the following:</i> <i>(a) That the measures are necessary to protect existing development and that nonstructural measures are not feasible, as documented in a scientific and engineering analysis;</i>

			<p><i>(b) That potential adverse impacts on ecological functions and priority species and habitats can be successfully mitigated;</i> <i>(c) That appropriate vegetation conservation actions will be undertaken consistent with the Shoreline Vegetation Conservation provisions of SCC 14.26.370; and</i> <i>(d) That structural flood hazard reduction measures are consistent with any adopted comprehensive flood hazard management plan approved by Ecology that evaluates cumulative impacts to the watershed system.</i> Much of the language found in WAC 173-26-221(3) specifically speaks to rivers and streams, so it won't all apply to other freshwater systems (lakes for example) or marine shorelines. The development standards found in 14.26.350(3) come directly from WAC 173-26-221(3).</p>
	<p>b. Allow for maintenance and repairs of flood control devices.</p>	<p>68, 69</p>	<p>Comment Noted. Maintenance and repair activities are exempt from a substantial development permit per RCW 90.58.030(3)(e)(i),(iv),(viii) and (x), and WAC 173-27-040 as stated in SMP Section 14.26.720. In addition, 14.26 Part VIII, and RCW 90.58.065 contain definitions for agricultural equipment and agricultural facilities: "Agricultural equipment" and "agricultural facilities" includes, but is not limited to: (i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; (ii) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; (iii) farm residences and associated equipment, lands, and facilities; and (iv) roadside stands and on-farm markets for marketing fruit or vegetables; And agricultural activities: "Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided</p>

			that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation; 14.26.410 Agriculture describes when “agricultural activities” on “agricultural lands” under certain conditions, that the SMP does not apply.
	c. Public access should not be allowed in flood controlled areas.	68, 69	<u>Change not recommended.</u> The County recognizes that, based on agreements and ownership, dike districts may not have the ability to grant public access. The provision in SMP Section 14.26.350(3)(d) which requires public access, where feasible , on new public structural flood hazard reduction measures, such as dikes and levees is specifically derived from WAC 173-26-221(3)(c). There are areas within Skagit County where agreements have been reached for public access along portions of dikes on a marine shoreline and a river shoreline. Prohibiting such cooperative agreements in the SMP isn’t the best way to address the concern raised here. The SMP, as written, provides for discussion and opportunities for the consideration of public access when new public structural flood hazard reduction measures are being proposed. It does not require public access and the concerns raised by the commenters are valid reasons for showing such access isn’t feasible..
9	No Net Loss		
	a. Ensure No Net Loss of ecological functions.	28, 49, 53, 60 70, 72, 74, 75, 82, 86	<u>Change not recommended:</u> The requirement to achieve no net loss of ecological functions (NNL) is required throughout the SMP, including application to all development under SMP Section 14.26.305(1) Further assurance of NNL is achieved through broad implementation of mitigation sequencing per SMP Section 14.26.305(5). The requirement to document NNL is listed specifically in most use and modification regulations in SMP Part IV. Reference to No Net Loss requirements is also included in many policies.
	b. SMP does not provide process for monitoring no net loss of ecological functions to eelgrass and macroalgae.	18, 91	<u>Change not recommended:</u> Monitoring of no net loss of ecological functions is not required at this time as part of the comprehensive and periodic updates of the County’s SMP. The County does anticipate that future comprehensive updates to the SMP will include an evaluation of no net loss compared to the baseline condition established during this update.
	c. Compensatory mitigation fails to replace lost ecological functions of critical areas, specifically in the case of wetlands.	28, 70, 72, 74, 75, 86	<u>Change not recommended:</u> The County’s critical areas protection standards, specifically those for wetlands, are following Washington Department of Ecology guidance.

			This includes the requirements for conducting mitigation sequencing and to follow compensatory mitigation rules. The County does acknowledge that the success of mitigation is dependent upon proper maintenance and monitoring.
	d. SMP fails to demonstrate that its policies and regulations will achieve no net loss of shoreline ecological functions and processes.	73	<u>Comment noted.</u> The County prepared a Cumulative Impacts Analysis and No Net Loss Report in 2016 as part of the public review process during Planning Commission review. These documents will be updated per the upcoming Planning Commission recorded motion to ensure no net loss of ecological functions is likely to be achieved through SMP implementation.
10	Remove references to Skagit Countywide UGA Open Space Concept Plan.	23, 95	<u>Change recommended.</u> The Skagit County UGA Open Space Concept Plan is referenced in the public access provisions of the SMP update but is not binding. Together with the Comprehensive Parks and Recreation Plan, it provides guidance for where public access may be most beneficial to the public. The SMP update simply encourages that public access be consistent with these two documents. The County proposes the following language in SMP Section 14.26.370(4) to explicitly identify the Countywide UGA Open Space Concept Plan as a voluntary plan. (a) The Skagit Countywide UGA Open Space Concept Plan <u>is a voluntary plan.</u> The UGA Open Space Concept Plan and the Skagit County 2020 Comprehensive Parks and Recreation Plan provide for a connected network of parks, open space, and trails, and together constitute Skagit County’s Shoreline Public Access Plan, which provides more effective public access concepts than individual project requirements for public access. (b) <u>When required by this section,</u> shoreline public access should be consistent with the concepts in the Shoreline Public Access Plan.
11	Regulate boat wake at Big Lake to prevent further shoreline erosion and potential damage to docks.	11	<u>Change not recommended.</u> The State Shoreline Management Act and the County’s SMP do not regulate boat use, including size and speed.
12	County has not taken adequate action to restore or replace Sinclair Island dock.	5, 7, 8	<u>Comment noted.</u>

			The County recognizes the failed condition of the Sinclair Island public dock. However, there is no funding to repair or rebuild the dock at this time. The repair of the dock is not mandated by the SMP.
13	SMP Clarifications/Text Suggestions		
	a. Define critical saltwater habitat.	62, 64	Change recommended: A definition of critical saltwater habitat should be included in the SMP. The following definition from WAC 173-26-221(2)(c) is proposed for future inclusion: 14.26.820 <i>Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.</i>
	b. Include statement about flood protection and drainage in opening recital.	68	Change not recommended: The County acknowledges that there are many other specific considerations that could be included in the SMA priorities. In general, the stated goals include consideration of the obligations of the Special Purpose Districts.
	c. Property owners in the Rural Conservancy - Skagit Floodway designation have been inadequately informed about development rights.	20	Comment noted. The Rural Conservancy – Skagit Floodway environment designation follows all the same policies and regulations as the Rural Conservancy environment designation as stated in Management Policy 6B-5.2 and SMP Section 14.26.405(2). The purpose of the Rural Conservancy – Skagit Floodway designation is to provide additional notice to map readers that all of the Rural Conservancy policies apply, but such areas are also within the floodway of the Skagit River at the water pipeline crossing upstream from the State Route 9 bridge. Development within the floodway is significantly constrained by SCC Chapter 14.34, Flood Damage Prevention.
	d. Waterfront lots less than 1 acre should be exempt from wetland requirements and restrictions.	21	Change not recommended: Exemptions from wetland requirements are not allowed by the Department of Ecology within shoreline jurisdiction.
e. Include boat lifts and consider navigation, fish habitat, quality of water and aesthetic impacts in permit process.	22	Change not recommended: Boat lifts may be allowed for moorage of watercraft per SMP Section 14.26.420. The commenter was concerned about boatlifts being located within side setbacks. This issue would be addressed during zoning review. Other impacts associated with boat lifts, including those to fish habitat and water quality would be addressed as part of a dock	

			application, potentially including an assessment of impacts to critical freshwater or saltwater habitats.
	<p>f. Shoreline Environment Designations</p> <ul style="list-style-type: none"> - Discrepancy with shoreline environment designations and shoreline jurisdiction. Commenters also noted the SED maps and content are inaccurate and dated. - Concerns about methodology used to establish upstream limit of shoreline jurisdiction for streams and rivers. 	62, 64, 69, 73	<p>Comment noted.</p> <ul style="list-style-type: none"> - Shoreline environment designation maps are based on the existing mapping, with modifications based on the 2014 shoreline inventory and characterization report which evaluated current baseline ecological conditions and underlying land use in Skagit County. The inventory and characterization report used the most current and relevant information available at that time. - The upstream limit of shoreline jurisdiction for all streams and rivers was based upon a commonly referenced USGS model of stream flow.
	<p>g. Include language supporting the ability of tribal members to exercise their treaty rights. Including prevention of installation of mooring buoys in locations that would interfere with fishing by tribal members in usual and accustomed places. As well, notification of actions with the potential to interfere with tribal treaty rights. Consider adding a project approval review expressly directed toward evaluating potential impacts to cultural resources.</p>	28, 70, 72, 73, 74, 75, 86	<p>Comment noted.</p> <p>Skagit County fully recognizes and acknowledges tribal treaty rights. The Department strives to coordinate with tribes on permit applications in sensitive areas within Growth Management Act and Shoreline Management Act noticing and public comment legislative requirements. Prior to shoreline use and development, there are specific permit processes to inform tribes prior to a local decision. In many cases, whether that be a Shoreline CUP or Variance, after a local decision, the Department of Ecology must approve the local action as well.</p> <p>14.26.130 Applicability (4) states: As recognized by RCW 90.58.350, the provisions of this SMP do not affect treaty rights of Indian Nations or tribes.</p>
14	Dimensional Standards		
	<p>a. Proposed residential expansion allowance of 200 square feet would allow for only a small size increase for some existing structures.</p>	17	<p>Comment noted.</p> <p>Expansions of single-family residences which are nonconforming to the development standards may be allowed to expand beyond a 200 square foot limit in the future through a Shoreline Variance.</p>
	<p>b. Adopt better impervious surface limits and lot width requirements for areas outside the urban growth area.</p>	64	<p>Change not recommended:</p> <p>The proposed impervious surface limits and lot width requirements are intended to be consistent with County zoning.</p>
	<p>c. There should be reduced limits on impervious surfaces in the Rural Conservancy environment designation.</p>	62	<p>Change recommended:</p> <p>WAC 173-26-211(5)(b)(ii)(D) does recognize that scientific studies support a maximum lot coverage of 10 percent in the Rural Conservancy environment. However, this same subsection goes on to state, "Master programs may allow greater lot coverage to allow development of lots legally created prior to the adoption of a master program prepared under these guidelines. In these instances, master</p>

			<p>programs shall include measures to assure protection of ecological functions to the extent feasible such as requiring that lot coverage is minimized and vegetation is conserved.”</p> <p>The County suggests adding a footnote to Table 14.26.310-1 to acknowledge that new lots in Rural Conservancy created after the adoption of the SMP would need to comply with this 10 percent hard surface coverage limitation.</p>
	d. Limiting dock width to 4 feet poses a safety issue.	17	<p><u>Change not recommended:</u> The County’s proposed dock widths are consistent with State guidance from WDFW and Ecology.</p>
15	Administrative Issues		
	a. Inadequate code monitoring and permit enforcements.	48, 54, 55, 63, 85	<p><u>Comment noted.</u> Code enforcement is addressed through SCC 14.44. Additionally, enforcement actions may be taken by the State (WDFW and Ecology) or at the federal level.</p>
	b. Against processes for unincorporated communities.	61	<p><u>Comment noted.</u> This issue is outside the bounds of the Shoreline Master Program</p>
	c. Variances. Buffer reductions of more than 25% should require a standard variance, not an administrative variance	28, 62, 64, 70, 72, 74, 75, 86	<p><u>Change not recommended.</u> As noted in Planning Commission meetings following the release of the public review draft, the intent of the Administrative Shoreline Variance in SMP Section 14.26.735 was to apply in situations where an applicant was reducing a buffer more than 25% but less than 50%. Buffer reductions greater than 50% would only be allowed through a standard variance reviewed by a Hearing Examiner. Conversely, buffer reductions of up to 25% could be allowed administratively without a variance.</p> <p>The variance criteria remains the same between an administrative variance and a standard variance and both are reviewed by Ecology in identical fashion. The only difference between the two is one may be approved administratively by the Administrative Official versus a more extensive review process before a hearing examiner.</p>
	d. Variances. Need to require a variance for the expansion and replacement of nonconforming residential structures.	28, 62, 64, 70, 72, 74, 75, 86	<p><u>Change not recommended.</u> The County, along with Department of Ecology, recognize the need to allow normal repair, maintenance, and in some limited cases, enlargement and expansion of legally established residential structures. SMP Section 14.26.620 outlines allowances for minor enlargement of such structures, up to 200 feet in footprint, as long as the enlargement does not extend further waterward, does not exceed the height</p>

			allowances or the existing structure’s height, and all adverse impacts are mitigated on site. Such enlargements are considered minor enlargements and can be reviewed and approved administratively. Enlargements that do not meet all of the specified criteria for minor enlargements require a shoreline variance.
	e. Variances. Clarify use of the term buffer width since that implies side to side measurement	16	<u>Comment noted.</u> In this case the shoreline buffer width represents the distance perpendicularly landward from the ordinary high water mark. It is a commonly used term for planning and development purposes.
	f. Process for maintaining a privately funded beach restoration project should be easier.	13	<u>Comment noted.</u>
	g. Five days is too short for filing appeals.	24, 49, 75	. <u>Change not recommended.</u> The County prefers to keep the language as proposed. The local administrative reconsideration or appeal process provides opportunity for additional consideration at the local level. The five day filing period timeline has proven to be adequate to complete the filing process.
	h. Objection to allowing more administrative discretion on variances and buffers.	85, 24, 51 54, 55	<u>Comment noted.</u> The variance criteria remains the same between an administrative variance and a standard variance and both are reviewed by Ecology in identical fashion. The only difference between the two is one may be approved administratively by the Administrative Official versus a more extensive review process before a hearing examiner.
16	Other		
	a. Site-specific concerns. Individual property owners concerned for regulation changes impacting specific site, constrained by critical areas and shoreline buffers and the resulting impact on future single family residential development.	3, 4, 9, 10 85, 63, 61	<u>Comment noted.</u> Site specific considerations related to existing and future development are reviewed at the time of a development application. See the responses to items 1.f. and 5.a.
	b. Non-SMP related issues	2, 6, 48, 79, 87	<u>Comments noted.</u>
	c. Support of SMP amendments/policies. Many comments approve retention of SCC 14.26.735 (consideration of cumulative impacts when granting a variance).	12, 16, 28, 42, 44, 45, 47, 50, 52, 58, 70, 72,	<u>Comments noted.</u>

		74, 75, 81, 84, 86	
d. Mining waterward of OHWM and CMZ should be prohibited.		28, 62, 64, 70, 72, 74, 75, 86	<p><u>Change not recommended:</u> There are existing sand and gravel extraction operations on river shorelines; the Department recommends they be allowed to continue, with appropriate standards, permitting, and mitigation.</p> <p>Per the Use and Modificatons Matrix (SMP Section 14.26.405) and the Mining provisions in SMP Section 14.26.460, mining waterward of the OHWM is prohibited except for in rivers and streams where the locations will not adversely affect the natural processes of gravel transportation for the system as a whole, will not have significant adverse impacts to habitat for priority species, nor cause a net loss of ecological functions of the shoreline. Mining in upland areas is only allowed through a conditional use permit in Rural Conservancy and High Intensity shoreline environments.</p> <p>WAC 173-26-241(h) recognizes mining in shoreline areas and the master program needs to accomplish two purposes in addressing mining: <i>First, identify where mining may be an appropriate use of the shoreline, which is addressed in this section and in the environment designation sections above. Second, ensure that when mining or associated activities in the shoreline are authorized, those activities will be properly sited, designed, conducted, and completed so that it will cause no net loss of ecological functions of the shoreline.</i></p>
e. Require predevelopment investigations for areas where archaeological resources are likely to be located.		64	<p><u>Change recommended.</u> The County supports consideration of early coordination where applicable. Draft language is in progress.</p>
f. Require analysis of all geologic hazards and require case-by-case determinations of landslide buffers.		64	<p><u>Comment noted.</u> A geologic hazard site assessment is required per SMP Section 14.26.562 when the Administrative Official determines the development is within 200 feet of a known or suspected risk, or within a distance from the base of a landslide hazard area equal to the vertical relief, and that the geologic condition may pose a risk to life and property.</p>
g. Floodplain maps, other existing conditions are inaccurate. This includes Rural Conservancy boundaries that should be more specific and include areas where the designation extends		68, 80, 85	<p><u>Comment noted.</u> Mapping and other associated inventory elements use the best available information at the time they were assembled. The County acknowledges that some of this information may contain errors and will review the SMP environment designation and shoreline jurisdiction maps again, prior to</p>

	landward of existing dikes, levees, and tidegates.		adoption. The County will require site specific assessments at the time of a development application to provide accurate representation of existing conditions.
	h. SMP does not meet the standards set by the Shoreline Management Act for protecting shorelines of the state, in particular, shorelines of statewide significance.	73	<u>Change not recommended:</u> The SMP acknowledges shorelines of statewide significance in both identification and listing of use preferences in the Comprehensive Plan Chapter 6 Shoreline Master Program Element, Section 6A. Furthermore, the County has included a shoreline buffer of 200 feet (the full minimum extent of shoreline jurisdiction) along all Type S rivers and streams, significantly limiting impacts to these shoreline areas.
	i. Provisions do not sufficiently protect vegetation waterward of the OHWM and within the CMZ.	73	<u>Change not recommended:</u> The SMP includes numerous protection standards for vegetation. SMP Section 14.26.380, Vegetation Conservation, applies to all development actions (even those that are exempt from a substantial development permit). These provisions specify that clearing for allowed development must be the minimum necessary and mitigation must be provided to achieve no net loss of ecological functions. Mitigation sequencing is required for any proposed development that does not meet all the specific objective standards (i.e. buffers, setbacks, dimensional criteria). The Vegetation Conservation section also includes rules for the retention of significant trees. Specific to in-water development, standards are proposed to avoid or minimize impacts to aquatic vegetation (see SMP Sections 14.26.420 and 14.26.575) 14.26.330 sets forth general provisions that apply waterward of the OHWM, (1) specifically mentions special emphasis on protecting and restoring priority habitat and species.(11) addresses bank and vegetation protection and (22) mentions aquatic weed control in areas where the presence of aquatic weeds adversely affects native plant communities and fish and wildlife habitat.
	j. Agriculture. Concern over wholesale exemption under the SMA and the impact of agricultural practices on tribal treaty rights and resources (e.g. impacts to water quality)	91, 94	<u>Comment noted.</u> <u>The SMP relies on RCW 90.58.065.</u>
	k. Dredging. Dredging rules appear inconsistent, allowing dredging without evaluating effects. Need to restrict dredging unless it is demonstrated to have no adverse effect.	94	<u>Comment noted.</u> This language is included in Part III General Regulations, 14.26.305, Environmental Protection, which applies to all modifications and uses.