

Skagit SMP Public Comments

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

Index of All Verbal Comments

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

All Verbal Comments

Comment Number	Name	Comments
88	Marlene Finley	<p>I live in Anacortes. I'm on the Board of Directors for Evergreen Islands.</p> <p>I'd like to turn your attention to timber harvest and the SMP. There's three sections that I found that are related to tree cutting and timber harvest. One is 14.26.380, which is Vegetation Conservation, which is actually a very detailed section providing restrictions and limits on tree removal within the 200-foot shoreline, and it's very good – some of the best language I've seen. The regulations include percent canopy retention by SED. And the next section I found was what you've already ____ (disturbance in sound system) and that's the Forest Practices Act section.</p> <p>So I'm going to skip (strange noises) – that's not me! – I'm going to skip to the third section that I want to draw your attention to and that's 14.26.574. And this section allows timber that is commercial tree removal within HCAs and riparian management zones. This is a quote – quote: "...for greater flexibility and development proposals." Unquote. And another quote: "This is to provide the applicant an additional opportunity for timber removal." Granted, the section goes on to include a list of conditions, but really? Should the County be permitting tree removal in the riparian buffer when streams such as tributaries to the lower Skagit River are listed as impaired for high surface water temperatures? In March 2020, Department of Ecology published a paper on management recommendations to include water quality surface temperatures on the lower Skagit River. This included planting trees in riparian zones. The Skagit River's one of the most unspoiled strongholds for fish habitat in Puget Sound with all five species of salmon represented, and providing an estimated 50% of the Chinook population for Puget Sound. Why does this draft Shoreline Master Program allow timber harvest in riparian buffers?</p> <p>Next I briefly want to talk about buffers. The method for establishing stream buffer widths in this draft doesn't follow best available science. Last December, Fish and Wildlife published the management recommendations for riparian ecosystems. In this paper, buffers are based on site potential tree height. Fish and Wildlife also has an online mapping tool which lists the site potential tree height by location. These buffer recommendations are for urban as well as rural streams, for both fish-bearing and non-fish-bearing streams.</p> <p>Lastly, herbicides and pesticides: The County Comp Plan has three references to pesticides and herbicides, but where are the regulations to keep pesticides and herbicides out of rivers, lakes, and wetlands in this SMP? Maybe this is in another part of County Code.</p>
89	Kyle Loring	<p>Good evening and thank you for taking up the Shoreline Master Program again. I know there was a little bit of a delay. And it appears that a significant amount of work has gone into this document. Anybody who's started to sift through it can see that. My goal has been to review it for consistency with the Shoreline Management Act requirements, including the requirement to base it on the most current, accurate, and complete scientific and technical information, and, of course, to also achieve no net loss of ecological functions around the shorelines. You'll be hearing a bit more from us in the future through written comments.</p> <p>I'm just going to touch on two pretty discrete issues tonight, and one of those has to do with armoring. We noticed in looking at it that the – that's the Structural Shoreline Stabilization section – that it identifies boulders as part of soft armoring, soft shoreline structural</p>

stabilization. And we believe that's a mischaracterization. The boulders are a hard armoring element and they should be removed from the definition for "soft shoreline armoring," partially because there is some extra priority given to soft shoreline armoring – priority over hard shoreline armoring. And so removing that – the boulders – there would promote the proper protection there and the proper prioritization.

So that's the first comment. The second one is about docks. I noticed that the dock provisions vary somewhat from, say, the Army Corps of Engineers or the Department of Fish and Wildlife, and as you know, that gets very confusing for people who are trying to figure out what they can do along their shorelines when they have to go to three different jurisdictions and they have three different sets of rules. So my overarching comment is that these rules should be consistent with those in terms of the construction itself and the designs for those. And I'm thinking of things like grading percentages, heights of piers over beach. Right? The Department of Fish and Wildlife requires a 3-foot clearance at the landward end. This SMP would only be a foot-and-a-half. So little things, but things that will cause shoreline landowners a lot of confusion.

But also even more importantly, from my review I did not see that docks would be prohibited in eelgrass and submerged aquatic vegetation, and that's critical to avoid shading those habitats that provide juvenile salmon with their migration route as they head out to the sea. And that's also very standard too with the Department of Fish and Wildlife and the Army Corps of Engineers. Both of them require a 25-foot separation from things like floats that are on the water – a horizontal separation between those floats and submerged aquatic vegetation like eelgrass and algae, which are critical.

90 Kathleen Lorence-Flanagan My name's Kathleen Lorence-Flanagan and I live at 2005 10th Street in Anacortes. Let me just start by acknowledging the amount of work that all of you as well as many citizens have put into this document. It's an onerous process and I just want to acknowledge that effort. Just a couple things. While Dan's comments at the beginning of the meeting – well, they were appreciated, but it's my understanding that Ecology has historically identified 75% of a standard buffer width as the minimum. In addition, the SMP handbook states that buffers protect the ecological functions of shorelines, they provide a transition between aquatic and upland areas, and ideally they are left undisturbed. So it's hoped that no reductions over 25% will be authorized.

And then setbacks have a similar but also a different function than the buffers. They assure that development is located on a safe distance from steep banks or unstable slopes and also a safe distance from shorelines where they lessen the need then for shoreline stabilization such as bulkheads. It seems like there are just too many instances where exceptions, variances, and permits allow deviation from both buffer and setback regulations. And because these regulations protect ecological functions and help local governments achieve the no net loss standard, I just hope that the reduction of buffers by over 25% will not be allowed and regulations will be enforced without the myriad of workarounds like the exceptions, et cetera.

91 Amy Trainer I'm going to turn off my camera so I make sure I have bandwidth, but I wanted to say hello to everybody. So I am the Swinomish Indian Tribal Community's environmental policy director. I appreciate the opportunity to be here this evening. Address is 11404 Moorage Way in La Conner.

I want to say I appreciate and agree with the comments of Ms. Finley, Mr. Loring, and the previous speakers about concerns over riparian habitat buffers. We echo those concerns and we are adamantly opposed to any consideration of a buffer reduction really greater than 10%. And we will get into that when we provide our written comments. I do want to say a big thank-you to staff. It's been said before: This is a huge undertaking and we very much appreciate your dedication and the time and commitment.

So I only have three minutes – not a lot of time. I want to touch on a quick couple of things. In aquaculture, I'm very disappointed to see that there is no general requirement to avoid impacts to eelgrass. We think this is unacceptable. This is a state and federal priority to protect eelgrass habitat. It's entirely unclear why it is not a very strong priority for the County as well. This is habitat for juvenile salmon. It's spawning habitat for forage fish that juvenile salmon eat. It's food for the Brant goose. And there's no acknowledgment that new or native aquaculture should avoid native eelgrass before going into mitigation. This is problematic.

__ net pens. The existing shoreline regulations are far more protecting than the current proposal. It's important to note that net pens are really no longer a water-dependent use. We will provide written comments about that. But it just doesn't make any sense at this point. You know, right now the current ordinance prohibits new net pens in Skagit Bay and that – or Samish Bay – and that is completely removed in this SMP draft. So why are we having open water concentrated animal feeding operations with potentially hundreds of thousands of fish at the mouth of the most important salmon river in Puget Sound? We have a real problem with that.

Agriculture. You know, yes, there's a wholesale exemption under the SMA, but we're concerned because that means that a huge part of local regulation lacks equity in land use. This results in direct and cumulative adverse impacts on our tribal treaty rights and resources. It definitely impacts water quality. Skagit County, by our count, has over 110 miles – 110 miles – of temperature-polluted salmon streams. Many of those miles are on agriculturally-zoned lands, as documented in Ecology's 2004 Temperature TMDL.

Critical areas for fish and wildlife habitat: Again, you know, this whole buffer averaging, performance-based riparian standards – where did this come from? It's very unclear what the science is behind this. The best available science for Puget Sound is WDFW's Priority Habitat and Species. It requires one site potential's tree height for all streams regardless of the stream width of flow volume. We'd ask that that be the standard and the science used here. We are vehemently opposed to buffer reductions and variances. How are you guys going to ensure no net loss especially when you have ESA-listed salmon?

So there's some real concerns here and we look forward to providing those in our written comments.

92 Dennis Katte

I own property at 33164 West Shore Drive, Mount Vernon. Of course, that's Lake Cavanaugh. And I'm addressing you this evening on behalf of the Lake Cavanaugh Improvement Association, and we represent some 225 members which all have vested interests. And our membership and many other property owners have been working with the County since 2015 on this SMP. And although the revision has addressed some of our previous concerns, there are still some remaining and they are relative to dock and pier construction, buffers, and severe fluctuations in water levels, and some of those have been already addressed. And one of our members, Rich Wagner, has sent in a very detailed submittal on this particular item.

Tonight I'm going to cover an issue on water lift canopies, and this is in Table 14.26.420. And it mandates that we have light, permeable fabric on top of the canopies. And while there seems to be logic for light, the requirement is in itself illogical. Canopies are sold with the explicit purpose of protecting boats from sunlight and ultraviolet-caused trim and upholstery fading, extreme surface heating, and rain. And, of course, with no sun shielding, at 77 degrees on a sunny day air temperature, onboard dark colored surface temperatures can reach up to 125 degrees. I'm sure that some of you have always walked – have frequently walked barefoot by accident on a hot summer day on an asphalt road barefoot or maybe sat down in a lawn chair that's been setting outside and you forget to put a towel between you and your derrieres. But permeable must be defined as to the percent, and it's not. Otherwise it has no meaning at all. Is it 20%? Is it let through 50% or is it translucent or does it have to be transparent?

Further, most boat lift canopies are 8 feet above the summer water levels and plenty of light is allowed underneath. The sun's movement causes varying degrees and angles of light to the water depending on its position. The least amount of direct sunlight occurs when the sun is directly under. I'm going to have to skip ahead and mention that Basta Boatlifts has some information that I submitted on permeability. The fabric that they are using is nonpermeable. It's the only thing available to them. The most important thing of my submittal had to do with shading and helping small minnows. Lake Cavanaugh has no anadromous fish whatsoever. We have no migratory fish.

93 Scott Andrews

I have lived at 119 North 39th Place in Mount Vernon for 19 years. This update's a major improvement over the existing Shoreline Management Plan; however, it has a number of shortcomings regarding insufficient protection of the environment and shoreline habitats. It does not provide adequate protections for riparian buffers or for shoreline resources that are impacted from shoreline armoring. I will address some of these in more detail in my written comments.

Tonight I want to focus on one major issue with the update, and that is its almost complete failure to address sea level rise. There can be no reasonable denial of sea level rise. The science and data are overwhelming. While there's a range of prediction in the elevation, in part dependent upon actions throughout the world over the next decade or two, the fact of sea level rise must be addressed. This is not new. It was clearly included in the report from the advisory group to the update, on which I served previously. Yet sea level rise was not included in the draft plan five years ago, on which this update is now based. This lack was shortsighted then and it is doubly so now. Failure to plan for sea _____ (recording goes dead) more dangerous to deal with in the future. It will magnify impacts to infrastructure, homes, and lives, as well as to shoreline ecological resources. Failure to address sea level rise now will lead to more homes being built in harm's way. It will leave fewer options to avoid impacts and manage strategic retreat from the rising sea, and it will lead to more pressure to allow impacts to shoreline ecological resources through hard armoring. This is poor planning. We know sea level rise has already started and will continue with growing impacts and increasing risks. Yet we fail to even acknowledge this critical problem much less address it in the plan.

I strongly urge the Planning Commission to address sea level rise in this Shoreline Management Plan Update. I will include suggested approaches and specific language in my written comment. Please look to what some other jurisdictions are doing to address sea level rise. I urge you as a planning commission not to make this update merely a paperwork exercise – what the state requires you to do – but to plan ahead for the good of our resources and for the good of the people of Skagit County. Thank you very much for the opportunity to comment.

94 Nora Kammer

I'm Nora Kammer, environmental protection ecologist for the Skagit River System Co-Op, a tribal consortium between the Swinomish and Sauk-Suiattle tribes, both sovereign nations and signatories to the Treaty of Point Elliott. These are preliminary comments and I intend to submit detailed written comments before the June 22nd deadline. Address is 11404 Moorage Way in La Conner.

We support the SMP policy that dredging should be consistent with state and federal rules and regulations, but this SMP continues to allow dredging under circumstances where state and federal policies have restricted the activity or without the necessary permits. Skagit County must regulate development in the floodplain, in accordance with the NFIP, the National Flood Insurance Program, which was clarified in the 2008 FEMA Bi-Op. The Bi-Op restricts various types of development in what they call the riparian buffer zone unless the activity is demonstrated to not adversely affect water quality, water quantity, and a variety of habitat conditions. Dredging is one of those developments not allowed in the riparian buffer zone unless there are no effects, but the draft SMP continues to allow the practice without evaluating effects. We would like to see the SMP and critical areas revised to reflect the restriction of dredging in shoreline jurisdiction and Type N and F riparian areas unless the activity has demonstrated it will not adversely affect, as described in the Bi-Op.

We would also like to see the SMP be consistent with state law. We believe that the RCW and the WAC require a substantial development permit for dredging in a Type S shoreline stream. RCW 90.58.030 is the SMA definition for “substantial development.” Item (3)(e) identifies that activities are not substantial development – identifies activities that are not substantial developments and are exempted from SMA. For agriculture, things that are not substantial developments are, quote, “Construction and practices normal or necessary for farming, irrigation, and ranching activities...” end quote. And then it lists several examples. But the definition excludes some activities from normal agricultural activities. Quote, “A feedlot of any size, all processing plants, other activities of a commercial nature,” and “alteration of the contour of shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities.” Sorry for the double negative, but this is saying that changing the contour of a shoreline in shoreline jurisdiction unless it’s for cultivation is not normal farming activity so it is a substantial development. Cultivation is preparing land and growing crops on it or the act of growing a particular crop. The contour of the land is the topography of the site. Altering the contour should not be considered a normal farming activity as defined in the RCW. The WAC says that this should be construed narrowly, and item (2)(e) in WAC 173-27-040, the ag exemption, specifically excludes altering the contours of a shoreland with the same language as the RCW. We would like to see that reflected in the SMP.

We will be providing written comments about protecting existing vegetation.

95 Randy Good

Randy Good, president of the Friends of Skagit County. Address 35482 State Route 20, Sedro-Woolley. Friends of Skagit County would like to address some concerns with the SMP’s latest draft, page 75, the bullet number 4, Shoreline Public Access Plan, and specifically the Skagit Countywide UGA Open Space Concept Plan. There is a notation beside this that said, quote, “The Planning Commission recommends removing this section,” end quote. Friends of Skagit County supports the Planning Commission removing this section. Planning Commission members, please take a look – look up the skagitcounty.net/openspace website – and this is for the Skagit Countywide UGA Open Space Concept Plan – and check out the last two sentences of the introductory paragraph, which states, quote: “The Plan does not mandate that identified areas be regulated or protected and does not create a regulatory land use designation nor allow public access by default. Instead, the Plan identifies priority areas within the county to be considered for strictly voluntary open space preservation program,” end quote. The ordinance adopting this document shows this as another concept advisory resource for the Planning Commission, for the Board of County Commissioners, and for the public to consider during annual and 8-year Comp Plan updates. The definition of “concept” is an idea, a thought. This voluntary concept plan does not mandate areas to be regulated or protected, does not create regulatory land use designation, nor allow public access by default. The plan identifies areas to be considered strictly for voluntary open space preservation programs. This isn’t the first time Planning Department staff has attempted to include this concept advisory-only document into a regular plan. Again, Friends supports removing this concept plan from the SMP and thank you.

96 Rick Wagner

My name is Rick Wagner. I thought I’d registered but obviously did not. I’m – first of all I want to thank the Commission for meeting tonight. I spent 14 years on my local planning commission so I know the commitment that you make, especially on such a beautiful evening.

My family’s been an owner at Lake Cavanaugh since 1954. Our address there is 32787 South Shore Drive. So this has been a big part of our family life for generations – in fact, our fourth generation now. I did submit my comments on May 8th and I hope you have an opportunity to read those. They’re only two pages long. But I’d like to go through a few of the highlights.

The first thing is I’d like to talk about the 100-foot building setback as was discussed at the meeting last week with the Commission. The proposal to allow administrative reductions was put on the table, and I would very much encourage that because I know at Lake Cavanaugh there’s many, many places where that kind of tolerance is going to be required to get any kind of reasonable dock.

Mostly what I want to talk about is the docks. My colleague Dennis Katte did address some of the other issues on behalf of the Lake Cavanaugh Improvement Association. My comments about the dock, page 99 to 101, and particularly including that table that you saw earlier, 14.26.420-1. One of the most important things that's missing in this document – well, two of the most important things – is that, first of all, Lake Cavanaugh has no anadromous fish. It hasn't had anadromous fish since the '40s. The second point is that Lake Cavanaugh varies in height up to five feet winter and summer. And these two things actually have a rather important impact as you then read the rest of the standards.

First, regarding the dock height: In the table on 14-26, I note for clarity that it's being measured from the surface water. If that's the case and it could be measured in summer, no complaints. If that's not the case and in fact the intent is that it be measured from ordinary high water, then I'd like to run you through the quick calculation of how high that would leave the dock.

If you're looking at a 5-foot drop above ordinary high water, plus the clearance, plus 2 feet for the structure itself, you're looking at a dock that in summer is 7½ to 8½ feet high. I can't believe that that's what we want to see especially in the later areas where the plan says, quote, "Do not unreasonably interfere with shoreline views."

The next thing I want to talk about is maximum width. Again, if maximum width is 4 feet, that's being driven by the change in the anadromous definition. In the previous drafts that definition existed and the dock was allowed at 6 feet. I'm very concerned about a dock that would be 4 feet wide and possibly 8 feet high.

The rest of my comments are in my letter.

97 Ellen Gray

I'd like to specifically talk about my concern that the Shoreline Management Program and the Master Plan does not address sea level rise. And I couldn't find any reference to climate change or sea level rise in the document at all. And maybe there's some rationale for that that I'm not aware of. Maybe the planners are addressing sea level rise in another document. But the fact that this is our body of regulation that governs shorelines, I think we would be remiss to not include addressing sea level rise that – you know, that we need to start planning for and addressing. And I was – there're some really wonderful resources out there. The University of Washington has done an impact study and specifically has looked at Skagit County to try to document what happens with a 1-foot rise, 2-foot-rise, 3-foot rise. And so you can actually see what our county will look like as sea level rises. And I think what's extremely important.

What is – to me – is extremely important is that we start to try to address this issue. I know there's a lot of unknowns, but I think this document needs to at least include a policy that recognizes it as a significant contributor to the shorelines and that we need to look at definitely trying to move density away from shorelines, trying to move density off of our floodplains. And those can be transfer of development rights. Those can be purchase of development rights. There are tools out there that are trying to help jurisdictions with this challenge. And I think it would be really remiss of us to not address or at least include a general policy about addressing sea level rise. And making reference to the maps that the University of Washington and NOAA have generated that reflect what Skagit County will look like.

98 Tom Glade

I reside at 210 Mansfield Court in Anacortes and I am speaking on behalf of Evergreen Islands this evening.

I'm speaking to the aspects of the Shoreline Management Plan that deal with shoreline armoring. Shoreline armoring has several impacts that limit and supply and reduce the width of beach. Armoring the beach will result in the loss of the beach and loss of the structure, limit beach access and deny other forms of coastal recreation. So if you own property with beachfront and you lose your beach, you're going to lose the value of your property. So there are other impacts on it that affect the wildlife and stuff, so there's an abrupt drop in the number of beach logs and the amount of rack that accumulates, which is – and there's no longer beach on which material can be retained

between high tides. Other beaches – beach animals depend on these habitat ___. Juvenile fish such as salmon swimming along shore prepare to do so in shallow water, presumably to avoid predation.

So in respect of this error, there are other ways to address this. Let's see. Okay, I don't want to speak to that. But anyway, the Shoreline Master Program should ensure that these damaging effects of shoreline armoring receive an appropriate review. The Shoreline Master Program should also provide that all property owners seeking to construct a bulkhead on the shoreline of their property receive a hydraulic permit approval from the Washington Department of Fish and Wildlife and also the conditional use which I just mentioned.