

**Skagit County Planning Commission  
Public Hearing: Shoreline Master Program (SMP) Update  
May 11, 2021**

**Planning**

**Commissioners:** Kathy Mitchell  
Mark Knutzen  
Vince Henley  
Amy Hughes  
Tim Raschko, Chair  
Joe Woodmansee  
Tammy Candler, Vice Chair  
Martha Rose  
Joseph Shea

**Staff:** Hal Hart, Planning Director  
Peter Gill, Long Range Planning Manager  
Betsy Stevenson, Senior Planner  
Daniel Hasenoehrl, Planning Intern

**Others:** Dan Nickel, Consultant (The Watershed Company)

**Public Hearing**

**Commenters:** Marlene Finley, Evergreen Islands  
Kyle Loring, Evergreen Islands  
Kathleen Lorence-Flanagan  
Amy Trainer, Swinomish Indian Tribal Community  
Dennis Katte, Lake Cavanaugh Improvement Association  
Scott Andrews  
Nora Kammer, Skagit River System Co-Op  
Randy Good, Friends of Skagit County  
Rick Wagner  
Ellen Gray  
Tom Glade, Evergreen Islands

Chair Tim Raschko: The Planning Commission is now in session. We'll start with a roll call being as that we are in cyberspace. So I ask first, Commissioner Candler?

Vice Chair Tammy Candler: Present.

Chair Raschko: Commissioner Henley? Commissioner Hughes? I see you. Commissioner Knutzen?

Commissioner Mark Knutzen: I'm here.

Chair Raschko: Okay. Commissioner Mitchell?

Commissioner Kathy Mitchell: Here.

Chair Raschko: Commissioner Rose.

Commissioner Martha Rose: Here.

Chair Raschko: Commissioner Shea.

Commissioner Joseph Shea: Here.

Chair Raschko: And Commissioner Woodmansee.

Commissioner Joe Woodmansee: Here.

Chair Raschko: Okay, we have everybody present. That's great. I appreciate it. Is there a motion to approve the minutes?

Commissioner Mitchell: Yes, Chair, this is Kathy Mitchell. I'd like to make a motion to approve the minutes.

Chair Raschko: Is there a second?

Vice Chair Candler: I'll second. This is Commissioner Candler. I'll second.

Chair Raschko: Commissioner Candler, thank you. So it's been moved and seconded to approve the minutes. Is there any discussion of the minutes or the motion?

(silence)

Chair Raschko: Hearing none, all those in favor, say "aye," please.

Multiple Commissioners: Aye.

Chair Raschko: Are there any nays?

(silence)

Chair Raschko: If there are no nays, are there any abstains?

(silence)

Chair Raschko: Okay, so that's approved unanimously. Thank you.

So we'll move straight to the key item tonight in our agenda, which is the Shoreline Master Program Update Public Hearing. So in compliance with the state guidance around COVID-19, the County's conducting this public hearing virtually. The purpose of the hearing is to receive testimony on the Shoreline Master Program Comprehensive Update and Periodic Review.

Before we begin, we'll hear a brief presentation on the proposal from staff. And, Peter, at the conclusion if you could go through the list that would be appreciated. Go ahead, Peter.

Peter Gill: Thank you, Chair Raschko. We do have some slides to go through. I'm going to ask Dan Nickel, the Watershed Company, and Betsy Stevenson from our office to run us through those slides. I believe he has a screen share up.

Dan Nickel: Yes, I will do that now. Okay. All right, well, welcome once again. It's a pleasure to be before you tonight. So before the hearing and before we hear comments I'd just like to kind of run through a few items, one of which I want to just kind of do a follow-up recap of our discussion from the last meeting on April 27<sup>th</sup>. And then I'd just like, for the record, just to go through a brief recap of, you know, what the Planning Commission review has been talking about over the past few months and then hit on really just a quick overview of what we discussed at the last meeting, which was Ecology's input and their preliminary review, which has – we've incorporated some changes to the Shoreline Master Program.

So to begin with, I want to hit on this buffer reduction clarification. At the last meeting one of the questions that came up was in relationship to the shoreline variance procedures that are in the Skagit County Code 14.26.735. That's on page 220 of the public review draft. And currently subsection (2) of that section reads that there's two types of variances. We have an administrative variance and a hearing examiner variance. And the administrative variance, as it's written, identifies that an application – it applies when an application to reduce a standard buffer width by 50% or less is considered an administrative variance. And then a hearing examiner variance, where the application would be sent to the hearing examiner for review, is for really any other variance beyond that 50% reduction.

And so the question came up about, you know, well, is there a lower threshold for that? And, you know, at the time I clarified that I actually believed there was a lower threshold where a buffer reduction of 25% or less could be done administratively not as a variance but as part of substantial development permit process. And I guess I wanted to clarify this because it's something that was actually in the 2016 Planning Commission draft – and I've identified this below in these bullets – that anything less than a 25% buffer reduction could be approved by staff with a mitigation proposal. And then anything between 25 and 50% could be approved through an administrative variance. Anything beyond 50% would be a hearing examiner variance.

So I guess I wanted to reiterate that that was the intent, was to keep with that Planning Commission draft. So there is clearly in the current version – the public review draft – we have an area under this subsection .735 where we would like to make a correction and make it clear that, you know, the administrative variance applies for when you have between a 25 and a 50% reduction in the buffer. It's something we're – I'll explain this to you later, but it's looking for some Planning Commission input on this.

So this is just an example of kind of how this applies. So if you can see, there's three lines here – and I'm not sure if you can see my mouse or not. This standard buffer line is depicting the line at which an existing residence could be potentially moved up to the standard buffer without – you know, I guess that would be your buffer limit. Now if you wanted to move somewhere closer to a water body, closer to the shoreline, you could do that up to a 25% buffer reduction through an *administrative* approval process. Anything beyond 25 or something between 25 and 50% buffer reduction if you wanted to build in this zone, you would need to have an administrative variance approval, and anything beyond that would be a hearing examiner variance.

The one clarity – and we'll get to that at the end here of my presentation – was that with the variance process both of these variances, whether it's administrative or hearing examiner review,

will be required to go through the same shoreline variance criteria as set by the state. So Ecology would need to review and approve those variances.

All right, so let me, I guess, begin. I'm going to cover this fairly quickly because I do want to make sure we get plenty of time for the public comments. But as we reiterated last meeting, the public comment period has been extended until June 22<sup>nd</sup> at 4:30 p.m. That's a 60-day comment period. We've got the public hearing tonight. We are hosting another virtual monthly project update this Thursday on May 13<sup>th</sup>, and to register for that event you can go to the online open house, which many people have done. And I will say that we've had quite a lot of folks visiting the online open house. We've had, I think, over 600 unique visitors to the site since the public comment period opened on April 22<sup>nd</sup>. We have, I believe, 18 comments that have been submitted to date. So it's been a good amount of traffic to the site. Comments can be submitted – public comments can be submitted via the online open house at [skagitsmpopenhouse.com](http://skagitsmpopenhouse.com). You can go to the County's website, the Shoreline Master Program website, for, you know, detail on the SMP draft and associated documents, and also you can go to the online open house to register for the public meeting on this Thursday.

All right, I'm just going to really quickly go over the Planning Commission's review process that we've been working with you all on. Since the end of January we started meeting, discussing this comprehensive and periodic Shoreline Master Program Update, and we began with talking specifically about the legislative update requirements that are part of a periodic review. We talked a bit about this critical area ordinance integration. And then we talked in February about the general regulations that pertain to all shoreline activity. We spoke a bit about the use and modifications matrix, as well as more detailed discussions on specific changes to the use and modification language.

And then in March we had a couple of meetings. We talked at length about, you know, legally established pre-existing uses and structures, and administrative rules and definitions, as well as some changes to the shoreline environment designation mapping. If you recall, we made a few changes there – removing Judy Reservoir, for one, and extending the Rural Conservancy Skagit Floodway designation further upstream on the Skagit River. And then came back on March 23<sup>rd</sup> and talked a bit more about those changes and held a recap last meeting of Ecology's preliminary review, which'll go into a bit more detail here in the following slides.

So as I mentioned on the April 27<sup>th</sup> meeting, we have been meeting with the Department of Ecology, both County staff and the consultant team, with Ecology to get their preliminary feedback on the current draft. So they were reviewing the draft that was before the Planning Commission, the Planning Commission draft, and discussing with them to get their feedback on a number of issues. And these five topic areas were really the main topics that we discussed with them. They did lead to some changes that are in the current public review draft, and I'll go over these here in these next few slides.

To start with, critical area integration, the critical areas ordinance. This was kind of a key discussion topic in which we decided that – and I say “we” as the consulting team and County staff – really decided to bring in the critical areas regulations as part of the Shoreline Master Program. And so it's been brought in as Part V of the SMP. The box here, which shows a number of sections which are currently in the critical areas ordinance – that's Skagit County Code 14.24 – these are areas that were *not* brought in. They were excluded, most of which because they were not relevant to or under the Shoreline Management Act, or they were either redundancies that are just aren't necessary. So these areas were excluded, and I'll hit on a couple of topic areas that we discussed. One was the sections on Forest Practices and the other was on Ongoing

Agriculture. Those were excluded. Those are two topic areas that are in the current critical areas ordinance but they are already covered in the Shoreline Master Program. And another item that was amended was the Wetland Impact Minimization Measures and the Mitigation Ratios that were previously cross-referenced in the critical areas regulations. Those have actually now been brought into the body of the SMP just for clarity's sake. It's not a change necessarily but we are bringing that in so it's clear to folks when they review the document.

We also discussed with Ecology how to weave in, or how the, I guess, Agricultural section – which is Part IV of the Shoreline Master Program – how this works and integrates with the critical areas ordinance. So Agricultural Activities is covered under Skagit County Code 14.26.410. That's on page 86 of the public review draft. And one of the key parts here and it's detailed in this graphic, which is also in the Master Program, is that the Shoreline Master Program does not apply to agricultural activities on agricultural land. So if you have a current existing agricultural practice on agricultural lands, those can continue and they do not need to be regulated by the Shoreline Master Program. In areas outside of shoreline jurisdiction the County has a Voluntary Stewardship Program that many of you are aware of, and that would – that works in areas of agricultural practices *outside* of shoreline jurisdiction. Any new agricultural activities that are – that have not been – that are not on agricultural land and not ongoing or not existing agriculture would be subject to the Shoreline Master Program, but those are for new activities that have not existed before.

In terms of Forest Practices – this is also in Part IV of the Shoreline Master Program. This is Section 14.26.444 on page 117 of the public review draft, and there's a couple of things here and the first and foremost was for consistency with the state rules that came out in 2017 which identified that – and I'll read here: "A forest practice that only involves timber cutting is not development under the Shoreline Management Act and this Shoreline Master Program and does not require a substantial development permit or a shoreline exemption. But as a further clarification to this, and I guess, in concert with that, is that if you have a forest practice that *does* involve something that is *beyond* timber cutting – we discussed it at the last meeting; it could be road development, it could be culverts, it could be a number of things that are associated but it's not just timber cutting. Those *would* be subject to the Shoreline Master Program. That's under the 2017 state legislative update. And for further clarification, any clearcutting of timber that is actually solely incidental to the preparation of land for other uses and is not going to be considered a forest practice. So if you have a development that's occurring that is – let's say it's residential development – that is land being cleared for the residential development – it's being permitted as residential development – the clearing of the timber would not be considered a forest practice.

One other clarification that was made here that Ecology recognized was that under the Natural Environment, per the Washington Administrative Code 173-26-211, that in the Natural Environment forest practices must be considered a conditional use under a conditional use permit. And so we have revised that. That's been circled herein red. The reference is on page 117 of the public review draft.

All right, moving on. Under Docks – that's also under Part IV of the SMP and it's specifically under the Boating Facilities and Related Structures and Uses section. That's 14.26.420, on page 95, the public bill draft. And in here the development standards table – that's Table 14.26.420-1 – this was modified to combine the columns for docks on lakes with and without anadromous fish. This is per the Department of Ecology and the Department of Fish and Wildlife recommendation, really to be consistent with requirements for freshwater docks – and changed that from 6 feet to 4 feet for piers without fish – on lakes without anadromous fish, I should say.

So what this was for this change, in this table it combines – the prior table in the earlier version had two columns here. One was for lakes with anadromous fish and one with the lakes without anadromous fish. But based on the feedback we have received from those two state agencies, we have combined this column. And the change really results in this maximum width for individual or joint use docks, specifically pier and fixed piling piers. So it's four feet for a single user – four feet wide.

And then the other change related to docks actually was contained in Part VI under Legally Established Pre-Existing Uses and Structures. This is subsection 630, located on page 210 of the public review draft. And this was actually where the prior version had allowed an alternative design to docks when you had an approval from federal and state agencies, specifically Department of Fish and Wildlife; however, Ecology does not support the use of such an alternative design just as an open-ended approval. However, Ecology is willing to allow some design flexibility. They do recognize that existing legally established nonconforming structures that are covered under this section, you know, are warranted some level of protection. So they are willing – they're willing to, you know, work with the County on this language that we had proposed to allow some flexibility in this design alternative, as long as we are specific about keeping with the intent of no net loss. And some specifics to this is, you know, ensuring that the overall square footage of these structures would not increase. So you have some design flexibility to, you know, position and work with your walkway widths. And that grated decking would be installed on these structures, and that really the focus for many dock situations is that the nearshore walkways are kept as narrow as possible so we can minimize the impacts on migrating salmonids.

And the last section I have to note is – we talked about at the very beginning. This is in relation to the administrative variances that I talked about – the correction I mentioned. This is in Part VII. It's under the filing procedures with Ecology. It's Skagit County Code 14.26.735 on page 222 of the public review draft. And I've actually put in here in the underlined strikethrough text what I would see as a correction to the language we have in your current draft, where we would say in the very first bullet that the County has created an administrative variance for buffer reductions between 25 and 50%. I have a note down here that this asterisk is just really a note to the Planning Commission, you know, that this edit is not currently in the public review draft but it may be considered and recommended by the Planning Commission, or some form of that language that gets at allowing or identifying that the administrative variance should be between 25 and 50% buffer reduction. Anything less than 25% can be handled administratively through a normal shoreline permit process as long as the appropriate mitigation is undertaken. You still have to go through mitigation sequencing and no net loss evaluations, but it's more of an administrative process that would get staff approval and would not need to go to Ecology for their approval. Now they would be allowed to review it, but it would not necessarily need their approval.

So that is the end of the presentation tonight. I think at this time it would be appropriate to turn it back over to the Chair and proceed with the rest of the hearing. Thank you.

Chair Raschko: Thank you. Are there any questions about the presentation?

(silence)

Chair Raschko: Okay, hearing none, we'll move on. We'll go to the hearing and everybody will have an opportunity to speak, but if we go beyond 9 p.m., then the hearing will be continued at a later date and time at which those who are unable to speak will have the opportunity. So, Peter, could you please just read the list so that people have an idea of how long it will be?

Mr. Gill: I will. We did get about 15 people signing up ahead of time to speak, starting with Douglas Pratt; next, Marlene Finley; then Kyle Loring; Kathleen Lorence-Flanagan; Amy Trainer; Dennis Katte; Scott Andrews; Nora Kammer; Ellen Gray; Randy Good; Tom Glade; Rein Attemann; and Roger Oos. Those are the sign-ups ahead of time.

Chair Raschko: Okay, thank you. Those who have not signed in ahead of time can still be given an opportunity to speak following those who have registered. Each person will have three minutes to address the Planning Commission. Mr. Gill will hold up a sign when you have 30 seconds left, and at the end of three minutes the expectation is that your testimony will end. And in fairness to those who limit or stop short in order to honor that requirement, nobody will be allowed to go beyond the three minutes. Written comments on this proposal are not limited in length and they'll be accepted until June 22<sup>nd</sup>. So you can go ahead and write as long of comments as you wish. The comments will be recorded in the meeting transcript.

So thank you for taking the time to participate. The public hearing is now open. We'll call the first speaker. Before you testify, clearly state your name and spell your last name for the record, and indicate where you reside. Okay?

So Peter, if you would go ahead, please, and call the first speaker.

Mr. Gill: Sure. The first person on the list is Douglas Pratt. Douglas, if you want to go ahead and unmute your computer, you have three minutes. And this is a reminder that if you are calling in on the telephone you'll have to hit "star 6" in order to unmute yourself within the meeting.

Is Douglas Pratt with us?

(silence)

Mr. Gill: Maybe we could circle back at the end. The next person on the list is Marlene Finley.

Marlene Finley: Good evening, Commissioners and Planning staff. My name's Marlene Finley. That's f-i-n-l-e-y. And I live in Anacortes. I'm on the Board of Directors for Evergreen Islands.

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.

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?

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.

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.

That's all I have. Thank you for listening.

Mr. Gill: Thank you, Ms. Finley. The next person on our sign-up sheet is Kyle Loring. Kyle, if you wouldn't mind unmuting yourself and going ahead and speak your name and address for us.

Kyle Loring: Thank you, Mr. Gill. My name is Kyle Loring and I'm a lawyer working with Evergreen Islands and overseeing a little bit of the review of this Shoreline Master Program with them. I live in Friday Harbor, Washington.

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.

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 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.

So those are my two points for tonight. I thank you for your time and for your hard work.

Mr. Gill: Thank you very much. The next person on our list is Kathleen Lorence-Flanagan. If you can go ahead and unmute yourself and please state your name and address for the record.

Kathleen Lorence-Flanagan: Okay. Thank you and good evening. My name's Kathleen Lorence-Flanagan and I live at 2005 10<sup>th</sup> 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. Thank you. That's it.

Mr. Gill: Thank you for your comments.

Ms. Lorence-Flanagan: Sure.

Mr. Gill: All right, the next person on our list is Amy Trainer. Amy, if you want to go ahead and unmute yourself, say your name and address, and you'll have three minutes.

Amy Trainer: Thank you. Good evening. My name is 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. Thank you very much.

Mr. Gill: Thank you for the comments. The next person on our list is Dennis Katte. Dennis, if you want to unmute yourself.

Dennis Katte: Yes, I have.

Mr. Gill: All right, you are on. Please state your name and address for the record.

Mr. Katte: My name is Dennis Katte. It's spelled k-a-t-t-e. 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. And thank you for hearing. Thank you for listening.

Mr. Gill: Thank you for your comments. The next person on our list is Scott Andrews. Scott, if you can unmute yourself.

Scott Andrews: Thank you.

Mr. Gill: Great. I can hear you. Name and address for the record.

Mr. Andrews: Sure. My name is Scott Andrews, a-n-d-r-e-w-s. I have lived at 119 North 39<sup>th</sup> 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.

Mr. Gill: Thank you for your comments. The next person on our list is Nora Kammer. Nora, if you want to go ahead and unmute yourself, you'll have three minutes.

Nora Kammer: Thank you. 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 22<sup>nd</sup> 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. Okay, yeah. I'll be providing written comment. Thanks very much for your time.

Mr. Gill: Thank you for your comments. The next one on our list is Ellen Gray. Ellen, if you would like to unmute yourself, you'll have three minutes. Please state your name and address for the record.

Unidentified female speaker: Peter, Ellen may be a little bit late so you might want to circle back.

Mr. Gill: We will circle back. We've had a couple. Thank you. Mr. Randy Good, you are next on the list. If you could unmute yourself, and I believe you're on the phone so you would need to –

Randy Good: This is –

Mr. Gill: Yes, we can hear you.

Mr. 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](http://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.

Mr. Gill: Thank you for your comments. Is – let's see, do we have a Tom Glade with us tonight? If so, please unmute and your name and address for the record. I think I did see your name earlier.

Unidentified female voice: It looks like Tom stepped away for a minute.

Mr. Gill: We will come back around. The next person on the list is Rein Attemann. Are you with us tonight? Rein Attemann? If so, please unmute yourself.

(silence)

Mr. Gill: All right. I'm going to keep going down the list. The next person on my list is Roger Oos. Are you with us tonight? If so, you can unmute yourself. Again, if you are on the telephone you will have to hit "star 6" to unmute yourself within the meeting. And you will need to make sure your phone is also unmuted. Again, Roger Oos?

(silence)

Mr. Gill: Okay, I'm going to go back up to the top of the list. Is Douglas Pratt with us at this point?

(silence)

Mr. Gill: All right. Well, Commissioner Raschko, that is all the folks on the list. We can circle back around to see if there's some other folks that can talk after we take other comments from other folks. But I will let you lead that.

Chair Raschko: Thank you. I thank everybody for your testimony. Is there anybody who has dialed in or logged into this meeting but did not register that still wishes to speak?

Unidentified male voice: Yes.

Chair Raschko: And who have we?

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 8<sup>th</sup> 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. Thank you for listening and thank you for your dedication.

Chair Raschko: Thank *you*. Is there anybody else who has called in or logged in who wishes to speak?

(silence)

Chair Raschko: Well, hearing none –

Unidentified female voice: Oh.

Chair Raschko: Go ahead.

Ellen Gray: I'm sorry. I just was able to join the meeting. This is Ellen Gray.

Chair Raschko: Okay. Go ahead, please.

Ms. Gray: Okay. Thank you, Commissioners, for holding this virtual hearing. 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 – can you still hear me?

Mr. Gill: Yes.

Ms. Gray: Oh, sorry. I just lost you. Okay. 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. Thank you very much.

Chair Raschko: Thank you. Mr. Gill, can you cycle through the registered names that we haven't heard from yet?

Mr. Gill: Sure can, and I see Mr. Glade is with us and he is on the list. Mr. Glade, you can unmute yourself. You'll have three minutes once you state your name and address for the record.

Tom Glade: Good evening, Commissioners. I'm 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. Thank you for the time this evening.

Mr. Gill: Thank you for your comments. The other person on the list that we haven't heard from tonight is Douglas Pratt. Are you with us at this point?

(silence)

Mr. Gill: If so, go ahead and unmute yourself. Also Rein Attemann, would you like to speak tonight?

(silence)

Mr. Gill: Roger Oos? If you're with us, you can unmute yourself. And again, if you're on the telephone you'll have to also unmute using "star 6" to get into the meeting and unmute.

(silence)

Mr. Gill: There is a new name on the list, Arnold **Prackmo**. If you are with us, you can unmute yourself.

(silence)

Mr. Gill: Well, Chair, I think that is everyone on the list.

Chair Raschko: Okay, thank you. And I'd like to thank everybody for their testimony and the work you put in to preparing. It's very much appreciated. Does any Planning Commissioner have any questions for any of the speakers or for the staff?

(silence)

Chair Raschko: Okay, hearing none, if there's no objection from anybody on the Commission then we will close the public hearing. But as a reminder, written comments on this proposal will



still be accepted through June 22<sup>nd</sup>. The Planning Commission will meet to consider the comments and deliberate on a recommendation to the Board of County Commissioners on June 29<sup>th</sup>. So with that, we will move to our Director's Update. Mr. Hart or Mr. Gill?

Hal Hart: Thank you, Commissioner. I'll let Peter do the first slide.

Mr. Gill: Sure. So we try to bring you updates from the Board of County Commissioners every week. Just this morning, the Board established the 2021 Docket. They reviewed 14 public petitions as well as five County-initiated petitions. They ended up docketing seven public petitions and five County petitions. So once a petition is on the docket, we will then take it through the environmental review, SEPA review, and do the state notification. Once that happens, we will bring it to the Planning Commission for work sessions and presentations and then we will have another hearing on the docket and each of the items within the docket. The Board would like to meet jointly to discuss the items on the docket for the year and so we are going to try and set that up if the Planning Commission can make time for that.

All the petitions that we received are on our website, the 2021 Comprehensive Plan Amendment website, along with all of the comments. And we did receive nearly 800 comments on this year's – or the petitions for docketing. Not all of those petitions were docketed, but they are available for you and the public to go ahead and take a look at all those comments. And we will be bringing those to you in the next couple of meetings, including (the) next meeting.

So that takes me to my next bullet. We try to let you know what's going on the next meeting or the next two or three meetings, hopefully. So the next meeting is the 25<sup>th</sup> of this month. We will be introducing the items that are on the docket for this year – a brief overview of what those are. We would also like to bring to you an update on the Agritourism project. We have closed the survey and settled the discussion groups and revised the situation assessment, and we'd like to provide a fairly thorough update on how that went and circle back around to let everyone know where we're at with that.

The next meeting is June 15<sup>th</sup> and at that meeting we hope to hold a joint meeting with the Board of County Commissioners and the Planning Commission to talk about the docket.

We'd also like to have a work session on the Shoreline Program. And this would be a chance for you to hear some of the comments that are coming in and give you a kind of preview of what the comments will be. And we'd like to fold that out over the next couple of meetings prior to the deliberation, which we hope to do on June 29<sup>th</sup>. So that would be the first meeting after the public comment period closes on the Shoreline Program. And so that is the 29<sup>th</sup> and so we would like to try to do the deliberations, or at least start them, on the 29<sup>th</sup>, once we have all the comments in hand and you have all been – you've had a chance to look at them.

So that's kind of a preview of the next meetings. The last thing I wanted to note is that we do have a new Prosecuting Attorney's office representative for the Planning Department. His name is Jason D'Avignon. I probably butchered that. But he is available to you, and I did send you his contact information this week if you would like to reach out.

And, Hal, this is your slot.

Mr. Hart: Oh. Sure. Yeah, I added a reminder, Commissioners, that I received an update. We always send these updates out to new planning commissioners, old planning commissioners, new staff, as well. There is something called the Planning Short Course in Washington State. This is

– it's offered about once a month. There will be two upcoming courses. The next one is May 27<sup>th</sup> between 1 and 4 p.m. in the afternoon. The following one will be June 21<sup>st</sup> in the evening from 6 to 9 p.m. And so what they typically go over are some basic Growth Management aspects in Washington state law: What's the framework for planning in Washington state? Then they also tend to cover some legal issues that you may run into as a planning commissioner and/or that jurisdictions may run into. They also may pick a specific topic for each one as well. So it may be different for the different one you're at. The information – there's a green-colored – it's hard to see because I have a light on it; I apologize for that. But there is a link there. But if you were to go to the Washington State Department of Commerce website and look at Short Courses, you can see that they have information there about short courses for the next couple of months. I would also suggest that there are several short – some as short as four to seven-minute – videos, resources that are available that might be of interest to new planning commissioners, old planning commissioners, and I look at them periodically to see if they're valid and accurate. So I'll probably be doing that soon. It's been a while since I looked. But I do want to remind you that we have a huge docket this year and that we have a lot of – a very diverse docket, as well. So this might be something that as a starting point we begin to do a little bit of homework ahead of time.

Thank you, Commissioners. If you have any questions, I'm free to help you.

Chair Raschko: Are there any questions for Mr. Hart or Mr. Gill? Commissioner Mitchell?

Commissioner Mitchell: Yes, thank you. Hal or Peter, so what's coming with the docket: Will everything that's being docketed be legislative?

Mr. Gill: Yes. There is one rezone that is part of the docket, site-specific rezone. But everything else is not a site-specific project.

Commissioner Mitchell: Thank you.

Mr. Gill: Yes.

Mr. Hart: Very good question.

Chair Raschko: Are there any other questions or comments?

(silence)

Chair Raschko: Okay. Mr. Gill, is that – have you anything else?

Mr. Gill: No. I'd just like to say thank you to the public for providing the testimony. I know taking time out of your night to do so is a big deal so I appreciate that too, as well.

Chair Raschko: Okay, thank you. So that'll complete the Director's Update and we'll move to Planning Commissioner Comments and Announcements. So we'll start with Commissioner Candler. Have you anything?

Vice Chair Candler: I do not have anything tonight. Thank you.

Chair Raschko: You're welcome. Commissioner Henley? You have to unmute.

Commissioner Vince Henley: The pesky mute button. I sent out some information that I'd like you to take a look at and we can address it in a subsequent meeting.

Chair Raschko: Okay, thank you. Yeah, I got it and read it. It's very interesting and I appreciate your having done so. Commissioner Hughes?

Commissioner Amy Hughes: Nothing.

Chair Raschko: Okay, thank you. Commissioner Knutzen.

Commissioner Knutzen: I have nothing. Thank you.

Chair Raschko: Okay. Commissioner Mitchell?

Commissioner Mitchell: Nothing. Pass. Thank you.

Chair Raschko: Okay. Commissioner Rose?

Commissioner Rose: I don't have anything. Thanks.

Chair Raschko: How about Commissioner Shea?

Commissioner Shea: Nothing from me. I just wanted to say thanks to everyone that came and spoke and I look forward to reading your letters. Thank you.

Chair Raschko: Thank you. Commissioner Woodmansee?

Commissioner Woodmansee: Nothing from me tonight.

Chair Raschko: Okay. I want to again thank the staff for the hard work on this update and all the resources, and I also want to thank all the people who were thoughtful enough to put their time into prepared testimony for our public hearing. And I appreciate very much those that are going to put in the written comments and I look forward to lots of interesting nighttime reading.

So, with nothing else, our meeting will be concluded and be adjourned. Thank you.