



Planning & Development Services

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Memorandum

To: The Skagit County Board of Commissioners
From: Hal Hart, Planning and Development Services Director
Date: February 3, 2022
Re: Skagit County Shoreline Master Program Work Session 2, Recommendations

Summary

Planning and Development Services (PDS) is providing this memo in advance of the February 7, 2022, Board of County Commissioners (BOCC) meeting. The purpose of this memo is to discuss the recommended changes to the April 2021 public review draft Shoreline Master Program and a possible public hearing before the BOCC. The department is requesting direction on the potential changes to the draft Shoreline Master Program found in Appendix 1.

Board of County Commissioners Review

The first work session of the BOCC was held on January 25, 2022. This was the first of a series of BOCC meetings on the Shoreline Master Program (SMP) prior to sending a locally approved draft to the State Department of Ecology (Ecology) for review.

At this meeting on February 7, 2022, staff would like to discuss the Planning Commission recommendations along with the PDS recommendations. PDS supports many of the Planning Commission recommendations and there are several points that the department would like to resolve prior to Ecology's review.

We would also like to discuss the Board of County Commissioner's request for a public hearing. A hearing will allow the public to testify directly to the Board of County Commissioners, as required by RCW 36.32.120, on the changes currently being considered by the BOCC. If a hearing is requested, an updated 2022 draft SMP could be made available for public review and comment.

Comments received during this review period will supplement the 98 public comments received in response to the April 12, 2021, draft SMP. All the comments from the April to June 2021 comment period have been submitted to the Board for consideration.

Summary of Recommended Amendments to the April 2021 Draft SMP

Planning and Development Services staff provided recommended changes in staff reports to the Planning Commission based on public comments received through June 22, 2021. The Planning Commission deliberated on the proposed SMP from October 12, 2021, to November 30, 2021. The results of their deliberation can be found in their [November 30, 2021, recorded motion](#).

The Planning Commission recommends changes relating to: the 2009 Countywide UGA Open Space Concept Plan, setback averaging, temporary roads for timber harvest, floating homes, non-conforming structures, and removing the maintenance burden from property owners who have provided public access.

Below is an overview of additional Planning Commission recommendations made in response to public comments. A complete set of changes and additional staff recommendations are contained in Appendix 1.

- Transparent boat lift canopies and six-foot pier widths
- Dike and drainage district authority
- Prohibition of nonnative finfish net pen aquaculture;
- Directing sign lighting away from critical areas
- Defining Critical Saltwater Habitat
- Minimizing lot coverage to 10% in the Rural Conservancy environment on new lots
- Early involvement of state and tribal authorities regarding archaeological resources
- Extending the review distance for critical area indicators

Many of the PDS recommendations were incorporated into the Planning Commission recorded motion. However, several issues could be clarified or adjusted due to the State requirements or public comment. Table 1 of **Appendix 1** includes a list of the Planning Commission recommended changes, a PDS response, and options for consideration.

Table 2 of **Appendix 1** are PDS staff recommendations for changes that are not included in the Planning Commission recorded motion. This includes reference to best available science and the additional riparian functions fish and wildlife habitat conservation areas. There are also cross references that need to be updated, and formatting to clean up.

More information on the source of many of the recommendations can be found in the [Public Comment and Response Matrix](#) and the [Kyle Loring Comment Response Matrix](#), found on the County's project webpage at [Shoreline Master Program Update \(skagitcounty.net\)](#). These documents provide department responses to the public's comments. Also, the full record of public comments received during the open comment period and public hearing can be viewed at the following link:

https://www.skagitcounty.net/PlanningAndPermit/Documents/SMP/comments/Skagit%20SMP%20Public%20Comments_all%20comments%207-27-21.pdf

Next Steps

Following this meeting PDS will incorporate recommended changes into a February 2022 draft Shoreline Master Program. Upon request, PDS will schedule a public hearing to take comments on the updated draft SMP. We will then need to take some time to compile and respond to the comments. These will be made available for the BOCC to consider during deliberation.

Following deliberation, staff will make the edits the BOCC authorizes to the draft SMP. Then, the BOCC can adopt a resolution attaching the SMP documents the County intends to adopt, provided they are approved by the State Department of Ecology (Ecology). This resolution will accompany the remainder of the submittal package that is required by Ecology.

Ecology will then determine if the submittal is complete. Once Ecology has completed its public comment and review (which includes responses to comments by PDS staff), they will then issue a letter (usually a conditional approval letter), outlining required and recommended changes to the SMP submittal packet. At that time, the County will determine what is necessary to complete the adoption process.

Attached:

Appendix 1, Summary of Recommended Changes to the Public Review Draft for Board of County Commissioner Consideration

**Appendix 1, BOCC Work Session 2 (February 7, 2022) - Skagit County Shoreline Master Program
Summary of Recommended Changes to the Public Review Draft
for Board of County Commissioner Consideration**

Two tables are provided below containing recommended changes to the Public Review Draft of the Shoreline Master Program (SMP). Table 1 contains Planning Commission (PC) recommendations that are included in the PC Recorded Motion along with Skagit County Planning and Development Services (PDS) department staff responses. Table 2 contains PDS recommendations that were not carried forward by the PC in their Recorded Motion.

Table 1: Planning Commission Recommendations per the Recorded Motion

| Item # | Planning Commission Recommendation | PDS Summary Description and Response | Options for the Board to Consider |
|--------|---|---|--|
| 1 | <p>Amend SMP Section 14.26.370(4) to remove the Countywide UGA Open Space Concept Plan.</p> <p>(a) The Skagit Countywide 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 constitutes Skagit County’s Shoreline Public Access Plan, which provides more effective public access concepts than individual project requirements for public access.</p> <p>(b) <u>When required by this section</u>, shoreline public access should be consistent with the concepts in the Shoreline Public Access Plan.</p> | <p>The department recommends that SCC 14.26.370 (4) be retained as written.</p> <p>The County received several comments with various viewpoints regarding public access. A considerable amount of time was spent with the Planning Commission leading up to the 2016 Planning Commission recommendation, coming up with policies and regulations that meet the state laws and guidelines but provide flexibility for development applicants.</p> <p>Two legal standards also have to be met – nexus and proportionality. When requiring public access as part of a project approval, we have the burden of showing that there is a nexus between the impacts of the proposed project on public access and an increased demand for public access that is created by the project. Consideration also has to be given to the scale of the proposed project and the scale of the identified impacts to public access from the project. A requirement for public access needs to be</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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| | | <p>proportional to the demand for public access created by the proposal.</p> <p>Ecology SMP Handbook: For the shoreline inventory and characterization report, local governments should identify both existing physical and visual access to a jurisdiction's shorelines, including public rights of way and utility corridors, and potential opportunities for enhancing public access [WAC 173-26-201(3)(c)(vi)]. Public access sites should be shown on inventory maps, preferably for each shoreline reach. Existing plans that address public access should be summarized in the report. For example, a parks plan may call for a new trail to the water or kayak launching beach or marina.</p> | |
| 2 | <p>In proposed SCC 14.26.420(4)(b), regarding development standards for docks, replace Table 14.26.420-1 (and related dimensional standards in the narrative) with a requirement for all saltwater docks to comply with WAC 220-660-380 or the conditions of Hydraulic Project Approval, and all freshwater docks to comply with WAC 220-660-140 or the conditions of Hydraulic Project Approval. Move the numeric limits on the number of boat lifts and canopies into the development standards section.</p> | <p>The department recommends that SCC 14.26.420 (4)(b) be retained as written.</p> <p>This recommended change by the PC was originally recommended by PDS in 2016, when there were concerns about varying standards between the local and state requirements for docks. Washington Department of Fish and Wildlife (WDFW) had recently updated its requirements for docks. In 2016, the PC and PDS recommended replacing Table 14.26.420-1, and related dimensional standards in the narrative, with a requirement for all saltwater docks to comply with WAC 220-660-380 or the</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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| | | <p>conditions of HPA, and all freshwater docks to comply with WAC 220-660-140 or the conditions of HPA. At that time, the PC and PDS also recommended that numeric limits on number of boat lifts and canopies be moved into the development standards section.</p> <p>However, PDS realizes that tying County requirements to those of WDFW could create more issues than it resolved, so PDS reinserted Table 14.26.420-1 in the public review draft. Tables like these are extremely useful for both applicants and implementing County staff. Consistency with HPA requirements is a benefit in this case. Most of the width standards are in line with the state standards.</p> <p>The 2016 recommendation is no longer relevant and PDS suggests that it not be included in the SMP.</p> | |
| 3 | <p>Amend SMP Section 14.26.130, Applicability, to read:</p> <p><u>(5) As provided in RCW Title 85 and through the US Army Corps of Engineers PL84-99 Program, the provisions of this SMP do not affect the authorities and powers of diking and drainage districts.</u></p> | <p>The department proposed this change and supports the Planning Commission’s recommendation.</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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| 4 | Remove requirement in Table 14.26.420-1 for Watercraft lift canopies to be constructed of light permeable fabric. | <p>The department recommends that Table 14.26.420-1 be retained as written.</p> <p>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.</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |
| 5 | Timber harvests that are not intended for conversion to other uses consistent with SCC 14.26.445(1) should be allowed to include construction of low impact temporary access roads without a shoreline substantial development permit. Roads should be properly abandoned following harvest. | <p>The department recommends that SCC 14.26.445 be retained as written.</p> <p>The state guidelines changed in 2017 (WAC 173-26-241 Shoreline Uses, (3)(e)) and clarified that forest practices only involving timber cutting are not considered development under the Shoreline Management Act and do not require shoreline review. Excerpt below.</p> <p><i>(3)(e)Forest practices. Local master programs should rely on the Forest Practices Act and rules implementing the act and the Forest and Fish Report as adequate management of commercial forest uses within shoreline jurisdiction. A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial</i></p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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| | | <p><i>development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the act and may require a substantial development permit. In addition, local governments shall, where applicable, apply this chapter to Class IV-General forest practices where shorelines are being converted or are expected to be converted to nonforest uses.</i></p> <p><i>Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to nonforest uses, shall assure no net loss of shoreline ecological functions and shall maintain the ecological quality of the watershed's hydrologic system. Master programs shall establish provisions to ensure that all such practices are conducted in a manner consistent with the master program environment designation provisions and the provisions of this chapter. Applicable shoreline master programs should contain provisions to ensure that when forest lands are converted to another use, there will be no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access.</i></p> <p><i>Master programs shall implement the provisions of RCW 90.58.150 regarding selective</i></p> | |

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| | | <p><i>removal of timber harvest on shorelines of statewide significance. Exceptions to this standard shall be by conditional use permit only.</i></p> <p><i>Lands designated as "forest lands" pursuant to RCW 36.70A.170 shall be designated consistent with either the "natural," "rural conservancy," environment designation.</i></p> <p><i>Where forest practices fall within the applicability of the Forest Practices Act, local governments should consult with the department of natural resources, other applicable agencies, and local timber owners and operators.</i></p> <p>SCC 14.26.445 was rewritten (from the February 2, 2021 version to the April 22, 2021 public release draft) to reflect changes to state requirements (as part of the SMP periodic review process). State rules require that we follow these standards, which necessitated some changes to the draft SMP. The language that is currently included as 14.26.445 closely follows the state rules and have been preliminarily approved by Ecology.</p> <p>PDS staff met with the Forest Advisory Board and went over the proposed changes to the SMP with them. Most of the members were aware of the state changes and understood what it means for them (and have been working in jurisdictions where these requirements are already in place). PDS discussed</p> | |

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| | | <p>with the Forest Advisory Board that the County was changing the process for shoreline substantial development permits, so they will become an administrative permit review process under Part VII and will not require a public hearing before the Hearing Examiner. The administrative review process would also cost less without the need for a public hearing and will be processed timelier than under the current process. So, if and when forest practice activities constitute development under the Shoreline Management Act, and are not specifically identified as a conditional use, the permitting process is administrative, won't take as long as the process in place now which requires a public hearing for shoreline substantial development permits.</p> <p>The department is not thrilled with the new requirements, but has devised code language which meets the requirement of the state rules, but still provides some flexibility by being less specific.</p> | |
| 6 | Maintenance of public access should not be the financial responsibility of the land owner | <p>The department recommends the language in SCC 14.26.370 be retained as written.</p> <p>PDS received several comments with various viewpoints regarding public access. The County attorney spent considerable time on the research to create a defensible public access section. PDS spent a considerable amount of time with the Planning Commission leading up to the 2016 Planning</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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| | | <p>Commission recommendation, coming up with policies and regulations that meet the state laws and guidelines but provide flexibility for development applicants.</p> <p>Two legal standards also have to be met – nexus and proportionality. When requiring public access as part of a project approval, we have the burden of showing that there is a nexus between the impacts of the proposed project on public access and an increased demand for public access that is created by the project. Consideration also has to be given to the scale of the proposed project and the scale of the identified impacts to public access from the project. A requirement for public access needs to be proportional to the demand for public access created by the proposal.</p> <p>Per the Ecology SMP Handbook: <i>For the shoreline inventory and characterization report, local governments should identify both existing physical and visual access to a jurisdiction's shorelines, including public rights of way and utility corridors, and potential opportunities for enhancing public access [WAC 173-26- 201(3)(c)(vi)]. Public access sites should be shown on inventory maps, preferably for each shoreline reach. Existing plans that address public access should be summarized in the report. For</i></p> | |

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| | | <p><i>example, a parks plan may call for a new trail to the water or kayak launching beach or marina.</i></p> <p>In SCC 14.26.370, Public Access, subsection(1) Applicability, states: <i>(a) This section applies to the following shoreline uses and activities, which are required to provide shoreline public access:</i></p> <ul style="list-style-type: none"> <i>(i) Water-enjoyment, water-related, and nonwater-dependent uses;</i> <i>(ii) Commercial and industrial development proposed on land in public ownership.</i> <i>(iii) Land divisions creating five or more lots;</i> <i>(iv) Development that involves five or more multi-unit residential dwelling units;</i> <i>(v) Development by public entities, including local governments, port districts, state agencies, and public utility districts;</i> <i>(vi) Marinas when water-enjoyment uses are associated with the marina;</i> <i>(vii) Recreation pursuant to SCC 14.26.470;</i> <i>(viii) New public structural flood hazard reduction measures, such as new dikes and levees, where access rights can be secured.</i> <p>Item (viii) specifically says where access rights can be secured. It also indicates new dikes and levees. This is clear and concise and would meet the intent of</p> | |

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| | | <p>the PC recommendation to be sure all parties are agreeable (to public access and dikes).</p> <p>PDS took great care in writing this section, making it defensible and providing for as much flexibility as possible for creative solutions to meet the intent of the public access requirements found in state laws and guidelines (RCW 90.58 and WAC 173-26-221).</p> | |
| 7 | <p>We recommend that the Skagit County SMP allow for the future possibility of floating homes when they can be properly sited, designed, supported, regulated, and served by appropriate infrastructure such as access, power, water, and waste disposal</p> | <p>The department recommends the prohibition on new floating homes be retained as written.</p> <p>Floating homes are addressed in WAC 173-26-241, Shoreline uses, (3)(j) Residential development. (iv) Over-water residences:</p> <p><i>(A) New over-water residences, including floating homes, are not a preferred use and should be prohibited. It is recognized that certain existing communities of floating and/or over-water homes exist and should be reasonably accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property.</i></p> <p>WAC 173-26-020 Definitions includes:</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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| | | <p><i>(34) "Shall" means a mandate; the action must be done.</i></p> <p><i>(37) "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.</i></p> <p>The department doesn't believe that the PC recommendation meets the test in (37) to be in compliance with state rules and guidelines above.</p> | |
| 8 | The max width for single user pier/fixed piling is 6 feet. | <p>The department recommends the insertion of the previous Table 14.26.420-1 provided in the February 2, 2021 Planning Commission review draft to address the dock width issue.</p> <p>Upon further review during Planning Commission deliberations, PDS has recommended changing Table 14.26.420-1 back to the February 2, 2021 Planning Commission review draft which had separate columns for Lakes With Anadromous Fish and Lakes Without Anadromous Fish. So, the lakes without anadromous fish would have a 6-foot maximum width for the pier/fixed piling portion, a 4-foot maximum width for the ramp, and an 8-foot width for the floating section.</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt the PDS recommendation 3. Adopt as originally written in the public review draft 4. Other changes as determined by the Board |

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| | | According to information from a search of WDFW's website, several lowland Skagit County lakes within shoreline jurisdiction may contain anadromous fish. | |
| 9 | The Planning Commission recommends leaving the setback averaging provision in the SMP. | <p>The department recommends the setback rules be retained as written.</p> <p>The averaging provision in the current SMP for residential development will no longer be feasible, since the County is required to integrate the applicable critical areas regulations into the new SMP. There are critical area buffers that will apply and averaging neighboring setbacks to determine a shoreline setback is no longer possible in the SMP Update and Periodic Review.</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |
| 10 | <p>Amend the administrative Shoreline Variance to allow an applicant to reduce 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. Less than 25% would not be reviewed as a Shoreline Variance.</p> <p>14.26.574 Fish and wildlife habitat conservation area performance-based buffer alternatives and mitigation standards</p> <p>Add (3) to read:</p> | <p>The department proposed this change and supports the Planning Commission's recommendation.</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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| | <p><u>Buffer Width Decreasing. Buffers may be reduced up to 25% when the applicant demonstrates to the Administrative Official that buffer reduction impacts are mitigated and result in no net loss of ecological functions. Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing as required in SCC 14.26.305. In all circumstances where a substantial portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native vegetation in the degraded portions of the remaining buffer area and shall include a 5-year monitoring and maintenance plan. Buffer reductions greater than 25% are only allowed with a shoreline variance per SCC 14.26.735.</u></p> <p>14.26.735 Shoreline Variance (2)(a) Administrative variance. An application to reduce a standard shoreline buffer width by 50% or less <u>more than 25% but no greater than 50%</u> is an administrative variance.</p> | | |

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| 11 | <p>Add a new item to Table 14.26.405 Uses and Modifications Matrix - to differentiate net pens for native finfish propagation, which would retain the same permit classifications as the current net pen shoreline use, from net pens for propagation of nonnative finfish species which would be prohibited in all shoreline environment designations across the matrix.</p> <p>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.</p> <p>Add to SMP Section 14.26.415 Aquaculture, (7), Net pens:</p> <p><u>(b) A Conditional Use Permit is required for new commercial net pen aquaculture operations proposing to propagate a native finfish species.</u> Then change existing (b) to (c) and existing (c) to (d). Add a new item to read: <u>(e) New commercial net pen aquaculture operations proposing to propagate a nonnative finfish species are prohibited.</u></p> | <p>The department proposed this change and supports the Planning Commission’s recommendation.</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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| 12 | Dimensional Standards. Reduce limits on impervious surfaces in the Rural Conservancy environment designation. Add 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 | The department proposed this change and supports the Planning Commission’s recommendation. | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |
| 13 | Planning Commission requests that the Board of County Commissioners encourage the Department to develop policy and/or interpret language that would allow for the ability to maintain, repair, or replace any lawfully established structure | <p>The department recommends the language for pre-existing structures be retained as written. The proposed language is clear, an interpretation or internal policy is not needed at this time.</p> <p>The SMP already allows for the maintenance, repair, and replacement of lawfully established structures in Part VI. Single-family residences are included in section 14.26.620, docks in section 14.26.630, shoreline stabilization in section 14.26.640, and other pre-existing structures in section 14.26.650.</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |
| 14 | <p>Add the following sentence to SMP Section 14.26.360 Outdoor Advertising and Signs, (4)(d) Lighting, to read in total:</p> <p><u>Directional sign lighting must be directed away from critical areas, unless necessary for public health and safety.</u> Outdoor</p> | The department proposed this change and supports the Planning Commission’s recommendation. | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft |

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| | advertising may not move or fluctuate in lighting or position in any manner. | | 3. Other changes as determined by the Board |
| 15 | <p>Add the following definition from WAC 173-26-221(2)(c) for inclusion in 14.26.820 Definitions:</p> <p><u>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.</u></p> | The department proposed this change and supports the Planning Commission’s recommendation. | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |
| 16 | <p>Add a policy to 6H - Historic, Cultural, Scientific, and Educational:</p> <p><u>6H-1.3 In order to avoid potential conflict or adverse impacts to archaeological, historic, or scientific resources, proponents of shoreline development or use near such areas should be advised to contact state and tribal authorities for early coordination.</u></p> | The department proposed this change and supports the Planning Commission’s recommendation. | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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|---------------|---|---|--|
| 17 | Adjust the review distance, to determine presence or absence of critical area indicators, to 300 feet throughout Part V | The department proposed this change and supports the Planning Commission’s recommendation. | <ol style="list-style-type: none"> 1. Adopt as proposed in the Planning Commission recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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Table 2: Additional Skagit County PDS Recommendations not included in the PC Recorded Motion

| Item # | PDS Recommendation | Planning Commission Discussion and Response | Options for the Board to Consider |
|--------|--|--|--|
| 18 | <p>Public comments received during the 60-day public comment period requested reference to the use of Best Available Science and use of Best Management Practices to be added to SCC 14.26.563, Geologically hazardous area mitigation standards, as a reminder of the standards that apply to mitigation plans.</p> <p>Based on these public comments, PDS recommends adding a more specific change to SCC 14.26.515, Standard Critical Areas Review and Site Assessment Procedures, to address all applicable critical area procedures.</p> <p>(4)(b) The site assessment shall use scientifically valid methods and studies, <u>using best available science and best management practices</u>, in the analysis of critical areas data and field reconnaissance and reference the source of science used.</p> | <p>The Planning Commission reviewed and discussed this PDS recommended change but did not recommend the change as part of their Recorded Motion.</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the PDS recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |
| 19 | <p>Public comments received during the 60-day public comment period requested the inclusion of two additional riparian buffer functions in addressing Fish and Wildlife Habitat Conservation Areas protection. These functions are taken directly from James S. Brennan, Marine Riparian Vegetation Communities of Puget Sound, Puget Sound Nearshore Partnership Technical Report 2007-02, 1-2. These functions are Microclimate and Nutrient Inputs.</p> <p>Based on these public comments, PDS recommends adding the following specific changes to require these functions to be evaluated as part of analysis of riparian buffer areas and to describe the intent of their functions:</p> | <p>The Planning Commission reviewed and discussed this PDS recommended change but did not recommend the change as part of their Recorded Motion.</p> | <ol style="list-style-type: none"> 1. Adopt as proposed in the PDS recommendation 2. Adopt as originally written in the public review draft 3. Other changes as determined by the Board |

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| | <p>Add to SCC 14.26.572(2) <u>(f) Microclimate;</u></p> <p><u>(g) Nutrient inputs.</u></p> <p>Add to SCC 14.26.573(1)(a) <u>(vi) Microclimate. Riparian vegetation creates small- scale microclimates upon which plants, fish, and wildlife depend.</u></p> <p><u>(vii) Nutrient inputs. Riparian vegetation supports substantial populations of insects, which are important for the diet of marine fishes like juvenile salmon</u></p> | | |
| 20 | <p>The following cross referencing errors have been identified in the Public Review Draft.</p> <ul style="list-style-type: none"> 14.26.350(3)(b)(iv) contains an inaccurate cross reference. This section should read as follows: <p>(iv) Mining when conducted in a manner consistent with the environment designation and SCC 14.26.46514.26.460, Mining.</p> 14.26.350(3)(d) contains an inaccurate cross reference. This section should read as follows: <p>(d) New public structural flood hazard reduction measures, such as dikes and levees, must provide public access when required by SCC 14.26.36014.26.370, Public Access.</p> | Small changes like these were mentioned in Planning Commission meetings but not specifically discussed. | <ol style="list-style-type: none"> Adopt as proposed in the PDS recommendation Other changes as determined by the Board |

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| | <ul style="list-style-type: none"> • 14.26.360(4) contains two inaccurate cross references. This section should read as follows: <ul style="list-style-type: none"> (b) Height. On-premise signs and advertising, whether freestanding or wall-mounted, must comply with the Dimensional Standards in SCC 14.26.33014.26.310 and may not extend in height above the highest exterior wall of the building to which the sign relates. Measurement is taken from the average elevation occupied by the structure to sign top. (c) Total sign area. The maximum sign area for each face of a double or single-faced sign is provided in the Dimensional Standards in SCC 14.26.33014.26.310. • 14.26.370(1)(a)(vii) contains an inaccurate cross reference. This section should read as follows: <ul style="list-style-type: none"> (vii) Recreation pursuant to SCC 14.26.47014.26.465. • 14.26.415(4)(d) contains an inaccurate cross reference. This section should read as follows: <ul style="list-style-type: none"> (d) An assessment and mitigation plan in accordance with SCC 14.26.305(5) is required. The standards found in SCC 14.26.55014.26.575 for critical saltwater habitats must also be addressed in the assessment. • 14.26.715(4) contains an inaccurate cross reference. This section should read as follows: | | |

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| | <p>(4) Complete Compliance Required. Except as specified in SCC 14.26.82014.26.740, Revisions to Permits Permit Revision, the applicant must comply with all aspects of an approval granted under this Chapter, including conditions and restrictions.</p> | | |
| 21 | <p>The following formatting errors have been identified in the Public Review Draft.</p> <ul style="list-style-type: none"> 14.26.480 contains a formatting error starting at subsection (c). Subsection (c) should be subsection (B) as part of subsection (vi) and remaining subsections adjusted. This also means that subsection (d) becomes (c) and subsection (e) becomes (d). <p>Existing format:</p> <p>(vi) New and expanded shoreline stabilization measures must mitigate any adverse impacts to ecological functions by incorporating the following measures into the design if appropriate for local conditions:</p> <p>(A) Restoring appropriate substrate conditions waterward of the OHWM, to include substrate composition and gradient. The material should be sized and placed to remain stable during a two-year flood event on rivers and under typical tides or boat- and wind-driven wave conditions on lakes or marine waters, including storm events.</p> | <p>Small changes like these were mentioned in Planning Commission meetings but not specifically discussed.</p> | <ol style="list-style-type: none"> Adopt as proposed in the PDS recommendation Other changes as determined by the Board |

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| | <p>(c) Planting vegetation consistent with Part V, Critical Areas, and SCC 14.26.380 Vegetation Conservation.</p> <p>(A) Additional mitigation measures, including, but not limited to removal of existing armoring, may be required by the County or state or federal agencies, depending on the level of impact.</p> <p>(ii) Shoreline stabilization measures must not significantly interfere with normal surface and subsurface drainage into the adjacent water body.</p> <p>(iii) Shoreline stabilization measures must not be a hazard to navigation.</p> <p>(iv) Stairs or other water access measures may be incorporated into the shoreline stabilization (e.g., steps integrated into the bulkhead, coved area with shallow entry), but must not extend waterward of the shoreline stabilization measure and the OHWM.</p> <p>(v) Shoreline stabilization measures must not restrict appropriate public access to the shoreline. When a structural shoreline stabilization measure is required at a public access site, provisions for safe access to the water must be incorporated into the design (e.g., steps integrated into the bulkhead, coved area with shallow entry). Access measures should not extend farther waterward than the face of the shoreline stabilization measure and the OHWM.</p> <p>(vi) Areas of temporary disturbance within the shoreline buffer must be expeditiously restored to their pre-project condition or better.</p> <p>(vii) Shoreline stabilization measures must not extend waterward more than the minimum amount necessary to achieve effective</p> | | |
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| | <p>stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.</p> <p>(viii) Per RCW 90.58.580, when a shoreline restoration project that includes shoreline stabilization intended to improve ecological functions shifts the OHWM landward:</p> <p>(A) The project may not be approved until the applicant submits a declaration that the applicant has notified the owners of all affected properties by the shoreline jurisdiction creation or increase on such property.</p> <p>(B) Any buffers from the OHWM or lot area for the purposes of calculating lot coverage must be measured from the pre-modification location. The pre-modification OHWM must be recorded with the Auditor on a Department-approved form.</p> <p>Proposed format:</p> <p>(vi) New and expanded shoreline stabilization measures must mitigate any adverse impacts to ecological functions by incorporating the following measures into the design if appropriate for local conditions:</p> <p>(A) Restoring appropriate substrate conditions waterward of the OHWM, to include substrate composition and gradient. The material should be sized and placed to remain stable during a two-year flood event on rivers and under typical tides or boat- and wind-driven wave conditions on lakes or marine waters, including storm events.</p> | | |

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| | <p>(B) Planting vegetation consistent with Part V, Critical Areas, and SCC 14.26.380 Vegetation Conservation.</p> <p>(C) Additional mitigation measures, including, but not limited to removal of existing armoring, may be required by the County or state or federal agencies, depending on the level of impact.</p> <p>(vii) Shoreline stabilization measures must not significantly interfere with normal surface and subsurface drainage into the adjacent water body.</p> <p>(viii) Shoreline stabilization measures must not be a hazard to navigation.</p> <p>(ix) Stairs or other water access measures may be incorporated into the shoreline stabilization (e.g., steps integrated into the bulkhead, coved area with shallow entry), but must not extend waterward of the shoreline stabilization measure and the OHWM.</p> <p>(x) Shoreline stabilization measures must not restrict appropriate public access to the shoreline. When a structural shoreline stabilization measure is required at a public access site, provisions for safe access to the water must be incorporated into the design (e.g., steps integrated into the bulkhead, coved area with shallow entry). Access measures should not extend farther waterward than the face of the shoreline stabilization measure and the OHWM.</p> <p>(xi) Areas of temporary disturbance within the shoreline buffer must be expeditiously restored to their pre-project condition or better.</p> | | |

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| | <p>(xii) Shoreline stabilization measures must not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.</p> <p>(xiii) Per RCW 90.58.580, when a shoreline restoration project that includes shoreline stabilization intended to improve ecological functions shifts the OHWM landward:</p> <p>(A) The project may not be approved until the applicant submits a declaration that the applicant has notified the owners of all affected properties by the shoreline jurisdiction creation or increase on such property.</p> <p>(B) Any buffers from the OHWM or lot area for the purposes of calculating lot coverage must be measured from the pre-modification location. The pre-modification OHWM must be recorded with the Auditor on a Department-approved form.</p> <ul style="list-style-type: none"> • 14.26.650, Other Pre-Existing Structures, contains a formatting error. In subsection (4), (b) and (c) should be (i) and (ii). <p>Existing format:</p> <p>(4) Replacement.</p> <p>(a) A structure damaged or destroyed by fire, natural disaster, or other casualty may be reconstructed to the configuration existing immediately prior to the time the development was damaged, if all of the following occur:</p> | | |

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| | <p>(b) The applicant submits a complete application for reconstruction or replacement within 12 months of the date the damage occurred. The applicant may request a 12-month extension of the period to submit application for reconstruction or replacement prior to the expiration of the original 12-month period. Such a request is a Level I application. The County may grant the extension if the applicant has made a good faith effort to submit a complete application, and extenuating circumstances beyond the applicant’s control (not market conditions or financing delays) have delayed submittal of a complete application.</p> <p>(c) The applicant obtains all permits and completes construction within five years.</p> <p>Proposed format:</p> <p>(4) Replacement.</p> <p>(a) A structure damaged or destroyed by fire, natural disaster, or other casualty may be reconstructed to the configuration existing immediately prior to the time the development was damaged, if all of the following occur:</p> <p>(i) The applicant submits a complete application for reconstruction or replacement within 12 months of the date the damage occurred. The applicant may request a 12-month extension of the period to submit application for reconstruction or replacement prior to the expiration of the original 12-month period. Such a request is a Level I</p> | | |

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| | <p>application. The County may grant the extension if the applicant has made a good faith effort to submit a complete application, and extenuating circumstances beyond the applicant’s control (not market conditions or financing delays) have delayed submittal of a complete application.</p> <p>(ii) The applicant obtains all permits and completes construction within five years.</p> <ul style="list-style-type: none"> • 14.26.470(1)(b) contains a duplicate word that needs deleted. See strikeout below <p>(b) Motels, hotels and other transient or commercial housing are regulated by by SCC 14.26.430 Commercial Development.</p> | | |