

SKAGIT  
COUNTY

SHORELINE  
MASTER  
PROGRAM

UPDATE

# Board of County Commissioners Work Session

PLANNING & DEVELOPMENT SERVICES

JUNE 13, 2022

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# Outline

- Review of Department Recommendations in response to public comments (See Response Matrix in packet)



Lake Cavanaugh  
*Photo: Forbes*

# Recommended Change

# #1

Issue Ref. No.	Summary of Concern	Department Response
1.a	<p><b>Lake Cavanaugh</b></p> <p>There appears to be inconsistency in Table 14.26.420-1 which references, “Max Height From Surface of Water” (emphasis added). Comments suggest height should be from OHWM to avoid confusion in the text.</p>	<p><b><u>Change recommended.</u></b></p> <p>Staff agrees with the intent of the comment and recognizes that clarity may be needed. In the case of measuring height above the water, the intent is to measure from the level of ordinary high water. This is not necessarily the location of the OHWM along the shoreline that is used to measure setbacks and shoreline jurisdiction.</p> <p>Staff recommends amending the first row of Table 14.26.420-1 to read, “<u>Max. Height from the Level of Ordinary High Water</u>”</p>

# Recommended Change

# #2

Issue Ref. No.	Summary of Concern	Department Response
2	<p><b>Climate Change/Sea Level Rise</b> The draft SMP does not specifically address the impact of climate change on our county's shorelines. Please consider including policies and regulations that address climate change and sea level rise.</p>	<p><b><u>Changes to be considered.</u></b> See the attached supplement to this comment matrix</p>

# Recommended Change

# #2

## POLICIES

### General Policies

#### **Conservation Policy (NEW 6G-1.4) Environmental Protection**

Applicants proposing shoreline development or uses should be encouraged to consider sea level rise projections when assessing potential project specific impacts.

#### **Conservation Policy (NEW 6G-1.5) Environmental Protection**

Recognize and monitor the potential effects of sea level rise as additional scientific information becomes available. Consider additional specific policies and regulations based on new and accepted scientific projections.

# Recommended Change

#2

## Shoreline Uses and Modifications Policies

### **Institutional Development Policy (NEW 6C-6.5)**

Consider locating essential public facilities and associated new development out of floodplains and areas of marine shorelines that are likely to be inundated by sea level rise during the anticipated life span of those facilities.

### **Residential Development Policy (NEW 6C-15.12)**

Future sea level rise and other climate change factors should be considered during the evaluation of residential development siting.

### **Shoreline Stabilization Policy (NEW 6C-16.5)**

Estuarine and marine shoreline processes should be returned to a more natural state where feasible and appropriate, through the removal of existing shoreline armoring.

# Recommended Change

# #2

## REGULATIONS

### Uses and Modifications Regulations

#### **Commercial Development (SCC 14.26.430) SCC 14.26.430(3)(c)**

*A plan and narrative depicting compliance with subsection (4) Development Standards, for siting accessory commercial uses, provisions for shoreline access, orientation of eating and drinking facilities and lodging facilities, and siting essential public facilities in relation to floodplains and areas of marine shorelines likely to be inundated by sea level rise.*

#### **NEW SCC 14.26.430(4)(e)**

*Consider locating essential public facilities and associated new development out of floodplains and areas of marine shorelines that are likely to be inundated by sea level rise during the anticipated life span of those facilities.*

# Recommended Change

# #2

## **Residential Development (SCC 14.26.470)**

### **SCC 14.26.470(4)(b)**

*Residential development must be located and designed to avoid the need for flood hazard reduction measures, including shoreline stabilization. Proposals for new residential development must also consider future sea level rise and other climate change factors during the siting and design evaluation process.*

## **Structural Shoreline Stabilization (14.26.480)**

### **NEW 14.26.480(4)(b)(vi)(D)**

*Removal of existing shoreline armoring in estuarine and marine shoreline areas, where feasible and appropriate, must be considered as a means to restore natural estuarine and marine processes as part of project development and design.*

# Recommended Change

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# #2

## **Legally Established Pre-Existing Uses and Structures Regulations**

**Pre-Existing Single-Family Residences and Appurtenant Structures (SCC 14.26.620)  
NEW SCC 14.26.620(3)(a)(vi)**

*the enlargement does not increase the livable area and is for the sole purpose of raising the structure to minimize or prevent flooding due to sea level rise.*

# Recommended Change

# #3

Issue Ref. No.	Summary of Concern	Department Response
10.c	<p><b>Public Access</b></p> <p>Table 14.26.405-1 lists water-oriented Recreational Uses as allowed via a CU or SD/E, this includes docks, ramps, and floats as water-dependent forms of recreation. However, docks and launch ramps are prohibited under Boating Facilities in the Natural Environment. Please clarify that public access and recreation, including public docks and launches, on publicly owned land is allowed in all environmental designations when sited appropriately and meeting all protective measures of the SMP to preserve the resources and ecology of the shoreline.</p>	<p><b><u>Change recommended.</u></b></p> <p>The County recognizes that clarity is needed regarding public access docks. The following changes are recommended.</p> <p>In the Uses and Modifications Matrix, SCC Table 14.26.405-1, under Boating Facilities and Related Structures and Uses, add a footnote to “Dock, community” and “Launch ramp” by the “X” in the Natural designation. The footnote would read:</p> <p><u><i>Community docks and launch ramps for public access within the Natural shoreline environment designation require a Shoreline Conditional Use Permit.</i></u></p> <p>Add the following dock description to the Applicability section in SCC 14.26.420(1).</p> <p><u><i>(a)(i)(E) “Public access dock,” meaning a dock exclusively for public access, owned, developed and maintained by a public entity.</i></u></p> <p>Revise SCC 14.26.420(3)(b) to read:</p> <p><i>For all new or expanded marinas, launch ramps, <u>public access docks</u>, and commercial or industrial docks, other than residential docks, applicants must provide an assessment of need and demand, including, but not limited to, the following:</i></p>

# Recommended Change

# #4

Issue Ref. No.	Summary of Concern	Department Response
Att. A #12	<b>Shoreline Environment Designations</b> Specific map revisions suggested in Appendix A were not addressed. These include areas of Young Island, Allan Island, west end of Samish Island, Secret Harbor on Cypress Island, and Hart Slough/Hart Island/Sterling area.	<b><u>Change being considered.</u></b> The County recognizes that the ownership of Young Island changed to Washington State Parks in 2015 and is now part of the San Juan Marine State Park Area. The County is considering a change of the shoreline environment designation from Rural Conservancy to Natural.

# Recommended Change

# #5

Issue Ref. No.	Summary of Concern	Department Response
Att. A #23	<p><b>Vegetation Conservation</b> The proposed 3:1 replacement ratio is insufficient (temporal lag, failure rates) for replacing lost mature trees with 3 small seedlings.</p>	<p><b><u>Change recommended.</u></b> SCC 14.26.380(3)(d), subsection (i) states, “Within critical areas or their buffers, unless otherwise allowed by SMP Part V, Critical Areas, or other sections of this SMP, significant tree retention must be 100 percent.” Furthermore, tree removal outside of critical areas or their buffers is limited by clearing limits per shoreline environment designation in subsection (d)(ii). Allowed removal of significant trees outside of critical area and their buffers, may be removed per an approved allowed use, but significant tree removal must be mitigated at a 3:1 ratio. SCC 14.26.380(3)(f)(ii)(B) addresses unauthorized vegetation removal. The County could require a higher replacement ratio, if it is shown that it is necessary to restore specific functions impacted by their removal.</p> <p>In response, the County recommends a higher minimum replacement ratio.</p> <p>SCC 14.26.380(3) <i>(f) Restoration.</i> <i>(i) When required. In addition to enforcement pursuant to SCC Chapter 14.44, restoration is required whenever any of the following events occur:</i> <i>(A) Vegetation designated to be retained pursuant to an approved retention plan is damaged or dies prior to issuance of occupancy permits or release of any performance assurance bonding;</i> <i>(B) Vegetation is removed without County authorization. <u>Any significant trees must be replaced at a minimum 6:1 ratio.</u></i></p>

# Recommended Change

# #6

Issue Ref. No.	Summary of Concern	Department Response
Att. A #25	<p><b>Vegetation Conservation</b>                      Policy 6G-3.2 prioritizes conifers, but that policy is not carried through to regulations.                      Recommend specifying conifers be emphasized and/or specified in code/prioritized lists of vegetation.</p>	<p><b><u>Change recommended.</u></b>                      The County agrees with this comment and suggests the following edits to SCC 14.26.380, Vegetation Conservation.</p> <p>SCC 14.26.380(3)  <i>(c) Development or uses must be designed and located to avoid the following in descending order of priority, <u>recognizing native conifer as a preferred tree species:</u></i></p> <p>SCC 14.26.330(3)(d)  <i>(v) Replacement trees. When replacement trees are required, the following requirements apply:</i></p> <ul style="list-style-type: none"> <li><i>(A) Replacement trees must replicate the vegetation appropriate to the site in species types and densities, <u>with preference given to native conifers.</u></i></li> <li><i>(B) Replacement trees may be placed in other locations on the property, as approved by the Administrative Official.</i></li> <li><i>(C) Where conditions allow, native replacement trees should be placed in onsite wetlands or wetland, stream or shoreline buffers if doing so would improve function of the critical area or its buffers.</i></li> <li><i>(D) A tree retention plan must be prepared and meet the requirements for restoration plans set forth in (f)(ii)(A), (B), and (C) of this section.</i></li> </ul>

# Recommended Change

# #7

Issue Ref. No.	Summary of Concern	Department Response
Att. A #62	<p><b>Imprecise terminology in Aquaculture provision</b></p> <p>New provision SCC 14.26.415(7)(b) was added to the SC SMP, but we are extremely concerned that imprecise terminology will lead to misinterpretation of this provision. Concerned with the ecological impacts and risks associated with net pen aquaculture, and ‘propagation’ of fish is an extremely narrow task within the realm of net pen aquaculture. Strongly encourage code revision to eliminate the term ‘propagation’ and replace it with ‘aquaculture’ and rely on the definition of ‘aquaculture’ included in SCC 14.26.415.</p>	<p><b><u>Change recommended.</u></b></p> <p>The County agrees to the removal of the term “propagation” from SCC 14.26.415(7)(b). Revised text is below:</p> <p><i>(b) A Conditional Use Permit is required for new commercial net pen aquaculture operations <del>proposing to propagate</del> <u>rearing</u> a native finfish species.</i></p>

# Recommended Change

# #8

Issue Ref. No.	Summary of Concern	Department Response
Att. A #63	<p><b>Overwater Canopies</b></p> <p>Table 14.26.420-1 was modified, removing the specification that boat canopies must use light-permeable fabric. Recommend that the new SMP code encourage removal/storage of the canopy during seasons of the year when the boat and canopy will not be in use. This would meet the desire to protect the boat during boating season, yet reduce shoreline impacts and provide for fuller ecological function on the lakebed for much of the year.</p>	<p><b><u>Change recommended.</u></b></p> <p>The County agrees that the removal of a boatlift canopy should be encouraged during the off-season or when not in use for a significant period of time. See the following edit to Policy 6C-3.3:</p> <p><i>6C-3.3 Minimize shoreline modifications. Facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred. In support of this, joint-use and community structures are encouraged to prevent proliferation of single-user structures. <u>Removal of boatlift canopies when not in use for significant periods during the off-season is encouraged.</u></i></p>

# Recommended Change

# #9

Issue Ref. No.	Summary of Concern	Department Response
Att. B #11	<p><b>Flood Hazard Reduction Policies</b> New Policy 6I-1.8</p> <p><u>Tidal flood and storm surge hazard protection measures will result in No Net Loss of ecological functions and ecosystem-wide processes associated with marine and estuarine shorelines.</u></p>	<p><b><u>Change recommended.</u></b></p> <p>Although this issue is similar to the response under Att. B. comment number #9, the County recognizes that emphasis to marine and estuarine areas could be added to Policy 6I-1.3. The County recommends the following edit:</p> <p><i>6I-1.3 Flood hazard protection measures should result in no net loss of ecological functions and ecosystem-wide processes associated with rivers, <del>and</del> streams, and marine and estuarine areas.</i></p>

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Questions and Answers

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