

DRAFT October 4, 2021

Skagit County Planning Commission's Recorded Motion Regarding Skagit County Shoreline Master Program Comprehensive Update and Periodic Review

Proposal publication date:	April 22, 2021
Proposal name:	Skagit County Shoreline Master Program Comprehensive Update and Periodic Review
Documents available at:	www.skagitcounty.net/smp
Public hearing body:	Skagit County Planning Commission
Public hearing date:	Tuesday, May 11, 2021, at 6 p.m.
Written comment deadline:	Tuesday, June 22, 2021, at 4:30 p.m.
PC deliberations:	October 12, 2021 and

After considering the written and spoken comments and considering the record before it, the Planning Commission enters the following findings of fact, reasons for action, and recommendations to the Board of County Commissioners.

Findings of Fact and Reasons for Action

1. The State of Washington requires the Shoreline Master Program, originally adopted in 1976, be updated consistent with current law.
2. Placeholder for findings....
3. ...

Recommendation

The Planning Commission recommends that the Board of County Commissioners **approve the proposal** Skagit County Shoreline Master Program Update (Appendix A), Shoreline Environment Designation Maps (Appendix B), List of Shoreline Jurisdiction (Appendix C) attached hereto with the following changes:

1. ~~Change the Shoreline Environment Designation map as requested in Nancy Fox's March 15 comment letter, and shown on the attached map, with the exception of the ferry dock area.~~

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Commented [PjG1]: Not attached on draft recorded motion.

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Commented [PjG2]: This first set of recommendations come from previous (2016) recorded motion or from PC work sessions. Items from 2016 that were already addressed in current draft SMP are in red with strikeout.

- a. ~~Guemes map issue 1, from Rural Conservancy to Shoreline Residential.~~
- b. ~~Guemes map issue 4, from Rural Conservancy to Natural.~~
- c. ~~Guemes map issue 6, from Shoreline Residential to Rural Conservancy.~~
- d. ~~Guemes map issue 8, from Shoreline Residential to Rural Conservancy.~~
- e. ~~Guemes map issue 9, from Rural Conservancy to Natural.~~

~~2.1.~~ Delete SCC 14.26.370(4) regarding the Shoreline Public Access Plan.

Commented [PjG3]: Also see Dept recommendation in item #25.

~~3.~~ ~~Require legal markers at public access points to assist the sheriff and first responders.~~

~~4.~~ ~~Delete empty proposed SCC 14.26.520-540, and section .560.~~

~~5.2.~~ Move the content of proposed SCC 14.26.550, Additional Provisions for Fish and Wildlife Habitat Conservation Areas, into SCC Chapter 14.24, Critical Areas.

Commented [PjG4]: May no longer be an issue since no longer referencing the Critical Areas Ordinance.

~~6.~~ ~~Update the table in existing SCC 14.24.530(2), Lake and Marine Shoreline Buffers, to reflect the new shoreline environment designations.~~

~~7.~~ ~~Fix the reference to mitigation sequencing in SCC 14.26.415(4)(c) and (d).~~

~~8.3.~~ Revise proposed SCC 14.26.415(2)(b)(ii) to read: "Ongoing maintenance, harvest, replanting, changing culture techniques or species does not require shoreline review unless cultivating a new species in the waterbody or using a new culture technique, and that new species or culture technique has significant adverse environmental impacts (if not allowed by an existing shoreline permit)."

~~9.4.~~ Revise proposed SCC 14.26.415(2)(b)(iii) to require "shoreline review," not necessarily a "shoreline permit."

~~10.~~ ~~Revise proposed SCC 14.26.415(3) to read, "A letter of exemption is required for aquaculture activities that require shoreline review and do not constitute substantial development or otherwise require a Conditional Use Permit or Variance."~~

~~11.~~ ~~Revise SCC 14.26.415(4)(h) to allow control of invasive species.~~

~~12.5.~~ ~~Revise SCC 14.26.415(8)(d)(vi) to delete "and avoid conflicts with neighboring uses."~~

~~13.6.~~ ~~Add a note to proposed SCC 14.26.440, Fill, Excavation, and Grading, to explicitly exempt aquaculture from that section.~~

~~14.7.~~ ~~Add a definition of "flood hazard reduction" to Part VIII, Definitions, and make it clear that it includes dikes and levees. Add notes to "shoreline stabilization" sections in Part IV and VI to clarify that these sections do not apply to flood hazard reduction measures.~~

~~15.8.~~ ~~Reverse the order of (1)(d) and (1)(e) in SCC 14.26.140.~~

~~16. In SCC 14.26.620(3)(b), replace (iii) and (iv) with new (iii) to read: “the enlargement does not cause the existing structure to exceed the height limit, or in the case of an existing over-height structure, the enlargement does not increase the structure’s existing height.”~~

~~17. Correct citations to the mitigation sequencing in SCC 14.26.310.~~

~~18. Revise SCC 14.26.380(3)(d)(v)(A) to replace “historically found on the site” with “appropriate to the site.”~~

~~19.9.~~ Add Shoreline Exemptions to the list of applications exempt from Notice of Development Application in SCC 14.06.150(2).

~~20. Add shoreline variances to the list of permits subject to time limits in SCC 14.26.715(3).~~

~~21.10.~~ In SMP Part II, add 10% impervious surface limit to Rural Conservancy and Urban Conservancy for new lots created after the adoption of the SMP.

Commented [Pg5]: Matrix issue 14(c). Also, see Dept. recommendation on item #27 below.

~~22. Integrate Ecology’s edits as expressed in their April 4, 2016, comment letter with the edits noted in Supplemental Staff Reports #3 and #4, except FB 36.~~

~~23. Modify SCC 14.26.480(2)(a) and (2)(c)(i) to replace “an existing structure” with “existing primary structure(s).”~~

~~24.11.~~ 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.

~~25. Modify proposed SCC 14.26.420(5)(c)(iii) allowing planting of riparian vegetation as mitigation for overwater structures only when in-kind mitigation options are proven infeasible.~~

~~26.12.~~ Add definitions of “dock” (already defined in Boating Facilities but not in Part VIII) and “pier,” “ramp,” and “float” from WAC 220-660-140(1) to Part VIII, ~~and the applicability subsection in Boating Facilities and move Figure 14.26.420-1 illustrating dock components, into the applicability subsection.~~ Add cross-references to Part VIII, Definitions, for the definitions contained in SCC 14.26.420.

~~27.13.~~ Extend the Rural Conservancy-Skagit Floodway designation on the map to cover all Rural Conservancy upstream on the Sauk River ~~and on the upper Skagit River~~, to the limit of the FEMA floodway, and make the designation criteria (policy 6B-5.1) consistent.

Commented [Pg6]: This was done on the upper Skagit, but not on the Sauk River due to the changed river conditions on the Sauk.

~~28.14.~~ Add definitions in Part VIII for each of the Shoreline Environment Designations that include cross-references to SMP Part II, Shoreline Environment Designations.

~~29.15.~~ Revise proposed SCC 14.26.420(4)(b)(iv) regarding community docks to allow a 1:1 ratio of boats to residential units.

~~30.16.~~ In proposed SCC 14.26.475 Shoreline Habitat and Natural Systems Enhancement Projects, add a requirement to hold a pre-application neighborhood meeting, with details about timing and notifications (in SCC Chapter 14.06), and a requirement that projects may not have negative effects on neighboring properties.

~~31.17.~~ Public access on dikes must be agreeable to the applicant and the process to determine feasibility should be written into the regulations in SMP Section 14.26.350(3)(d). Clarify new vs. existing dike maintenance.

Commented [Pg7]: Matrix issue 8(c.)

~~32.18.~~ Include statement about flood protection and drainage in policies. The SMP should contain a statement on the unique role of the Dike and Drainage special districts in Skagit County and their relevance to Shorelines. Add to 6C-1.4.

Commented [Pg8]: Matrix issue 13(b.)

~~33.19.~~ Remove requirement in Table 14.26.420-1 for Watercraft lift canopies to be constructed of light permeable fabric.

Commented [Pg9]: Matrix issue #1(a.)

~~34.20.~~ Forest practices that are not intended for conversion to other uses consistent with SCC 14.26.445(1) should be allowed to temporary access roads without a shoreline substantial development permit.

[The following list of amendments are Department recommended changes in response to public comments. These items were discussed with the Planning Commission as part of the work sessions on the Public Comment and Response Matrix. The matrix issue is noted in the margin for background and reference. If PC agrees with Department recommendation the item will stay, otherwise remove or revise accordingly. Specific code changes are underlined.]

~~35.21.~~ Amend Table 14.26.420-1 to return the dimensional standards table for docks to the Planning Commission review version dated February 2, 2021 which required a maximum dock width of 6 feet for lakes without anadromous fish and 4 feet for lakes with anadromous fish.

Commented [Pg10]: Matrix issue # 1(c.) & 14(d.). Regarding comments that 4 feet is a safety risk, specifically from lake residents. This is remedied for lakes with non-anadromous fish by replacing table 14.26.420-1 to the February version of the SMP. Dock floats are allowed to be up to 8 feet wide.

~~36.22.~~ Amend the administrative Shoreline Variance, under 14.26.735, 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.

Commented [Pg11]: Matrix issue #1(h) and #15(c)&(d)&(h)

~~37.23.~~ Aquaculture. Modify Table 14.26.405-1 to prohibit all non-native finfish net pen aquaculture and to differentiate net pens for native finfish propagation, which would retain the same permit classifications as the current net pens shoreline use, from net pens for

Commented [Pg12]: Matrix issue 2(a.) & (d.)

propagation of nonnative finfish species which would be prohibited in all shoreline environment designations across the matrix. New commercial net pens require a Shoreline Conditional Use permit, amend 14.26.415 to match the table.

Add new item to 14.26.415 (7) to read: adding (b) A Conditional Use Permit is required for new native finfish aquaculture. and (e) New commercial net pen aquaculture operations proposing to propagate a nonnative finfish species are prohibited.

~~38~~24. Shoreline Development and Use Standards. Amend section 14.26.360(4)(d) Lighting, as follows: Directional sign lighting must be directed away from critical areas, unless necessary for public health and safety. Outdoor advertising may not move or fluctuate in lighting or position in any manner.

Commented [PjG13]: Matrix Issue 5(k); Kyle Loring Table Page 14-15.

~~39~~25. Skagit Countywide UGA Open Space Concept Plan. Amend SMP Section 14.26.370(4) to explicitly identify the Countywide UGA Open Space Concept Plan as a voluntary plan.

(a) The Skagit Countywide UGA Open Space Concept Plan is a voluntary plan. The UGA Open Space Concept Plan and the Skagit County 2020 Comprehensive Parks and Recreation Plan provide for a connected network of parks, open space, and trails, and together constitute Skagit County's Shoreline Public Access Plan, which provides more effective public access concepts than individual project requirements for public access.

(b) When required by this section, shoreline public access should be consistent with the concepts in the Shoreline Public Access Plan.

Commented [PjG14]: Matrix issue #10 and Planning Commission comments.

~~40~~26. Define critical saltwater habitat. The following definition from WAC 173-26-221(2)(c) is proposed for 14.26.820:

Commented [PjG15]: Matrix issue 13(a.)

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.

~~41~~27. 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.

Commented [PjG16]: Matrix issue 14(c.) Consistent with item #10, PC recommendation from 2016.

~~42~~28. Require predevelopment investigations for areas where archaeological resources are likely to be located. Amend SCC 14.26.340 to include a list of exceptions when an archeological survey will not be required.

Commented [PjG17]: Matrix issue #16(e.)

29. The critical areas section (SCC 14.26.515) already includes 300 feet as a review distance, consistent with the largest possible wetland buffer. Therefore, amend subsection (4) to adjust the Administrative Official's review distance from 200 feet to 300 feet.

~~43~~³⁰. A partial change recommended to 14.26.515 Standard Critical Areas Review and Site Assessment Procedures.

Commented [PjG18]: Matrix Issue #6; Kyle Loring Table Page 57.

- a. (4)(b) The site assessment shall use scientifically valid methods and studies, using best available science and best management practices, in the analysis of critical areas data and field reconnaissance and reference the source of science used.

~~44~~³¹. Fish and wildlife habitat conservation area protection standards. Amend 14.26.573 (1)(a) Intent of Riparian Buffers to recognize two additional functions of microclimate and nutrient inputs. This adds language as subsections vi and vii:

Commented [PjG19]: Kyle Loring Table Page 61.

“a. The intent of riparian buffers is to protect the following 5, 7 basic riparian forest functions that influence in-stream and near- stream habitat quality:

vi. Microclimate. Riparian vegetation creates small-scale microclimates upon which plants, fish, and wildlife depend.

vii. Nutrient inputs. Riparian vegetation supports substantial populations of insects, which are important for the diet of marine fishes like juvenile salmon.”

This recorded motion approved :

Commission Vote	Support	Oppose	Absent	Abstain
Tim Raschko, Chair				
Tammy Candler, Vice Chair				
Kathy Mitchell				
Vincent Henley				
Mark Knutzen				
Amy Hughes				
Martha Rose				
Joe Woodmansee				
Total	0	0	0	0

SKAGIT COUNTY PLANNING COMMISSION
SKAGIT COUNTY, WASHINGTON

Tim Raschko, Chair

Date

Hal Hart, Secretary

Date