

DRAFT Tuesday, November 23, 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; October 26, 2021; November 9, 2021; November 23, 2021; November 30, 2021

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. The Shoreline Master Program should value environmental protection, aesthetics, recreational enjoyment of the shoreline, and private property rights.
3. Aquaculture and other natural resource industries are important parts of Skagit County’s economy and culture.
4. In the early 1990s, Skagit County’s rivers were identified as prime habitat sites due to Skagit County’s agriculture and rural nature. Local stewardship of natural resources was respected and viewed positively. Property owners know best the nuances of their properties and the effects that neighboring projects can have on them.
5. The Dike and Drainage Districts play a critical and unique role in Skagit County protecting farmland and infrastructure on the vast lowlands that make up the Skagit River and Samish Rivers deltas. These levee systems also protect urban centers and transportation corridors throughout Skagit County.

6. Human safety should be evaluated when considering dock widths for local shorelines.
7. There is a housing crisis in Skagit County and the planning commission should not be limiting future opportunities for unique housing strategies such as floating residences. While the technology and infrastructure is not ready yet, the county should prepare for future floating residences to provide more housing opportunities.
8. Re: Recommendation #4. A requirement for light permeability defeats a purpose of a lift canopy, which is to protect the watercraft from ultraviolet light. A boat stored on the lift will defeat the purpose of light permeable canopy.
9. Re: Recommendation #5. Temporary roads are a necessary element of the timber harvest process. Properly designed and built access roads will minimize yarding distances and impact during the logging process. Access should not be more burdensome than the logging itself in the permitting process.
10. Re: Recommendation #6. By providing public access the landowner has already made a public contribution in which he has given up some control and exclusive use of his property. The landowner should not be further burdened with the financial responsibility of maintenance of the public access.
11. Re: Recommendation #7.
 - a. There is a shortage of housing in Skagit County.
 - b. No form of housing proposal should be denied without proper review of the proposal.
 - c. There are presently floating housing developments in Washington with self-contained systems for access, power, water and waste disposal.

[12. Skagit County is completing the Comprehensive SMP Update and Periodic Review, under authorities from RCW 90.58.080, WAC 173-26-090 and WAC 173-26-100 \(SMA and Guidelines\), RCW 36.70A.480\(GMA\), RCW 43.21C and WAC 197-11\(SEPA\) and Skagit County Code 14.26 and 16.12.](#)

[13. ~~The Washington State Shoreline Management Act \(SMA\), RCW 90.58.080 \(4\)\(a\)\(ii\), mandates Skagit County to periodically review its SMP every 8-years. The County must also conduct the 2020 Periodic Review per the state mandated timeline¹.~~ Subsequent periodic review of the SMP is required by the Department of Ecology \("Ecology"\) every eight years. The purpose and scope of the 2020-2021 periodic review is to keep the SMP current with amendments to state law, changes in local plans and regulations, and new or improved data and information.](#)

¹WAC 173-26-090

~~12.~~14. An extensive review and public process with Shoreline Advisory Committee, visioning workshops, and the Planning Commission culminated on August 17, 2016, with a recommendation by the Planning Commission to approve the proposed SMP with specified changes. However, final adoption of the SMP Update by the Board of County Commissioners did not occur.

~~13.~~15. Skagit County has combined the completion of the Comprehensive Update and the Periodic Review into the current SMP document.

~~14.~~16. The 2016 draft SMP and Shoreline Environment Designation maps provide a starting point for the current amendments.

~~15.~~17. The proposed update is a complete rewrite of the current SMP and Shoreline Environment Designation maps, to comply with new state rules, and to integrate the shoreline policies into the Comprehensive Plan and the shoreline development regulations into the Skagit County Codes, including: shoreline development regulations SCC 14.26.

~~16.~~18. The goals and policies of the Shoreline Management Act in RCW 90.58.020 are considered one of the 14 goals of the State Growth Management Act and an element in local Comprehensive Plans².

~~17.~~19. The Shoreline Master Program Public Participation Plan was presented to the Planning Commission on January 26, 2021.

~~18.~~20. A draft SMP document was made available on February 2, 2021 for preliminary review by the Planning Commission and the public.

~~19.~~21. Planning and Development Services reviewed the draft SMP with the State Department of Ecology in February and March 2021.

~~20.~~22. The second draft SMP, April 12, 2021, was developed following work sessions with the Planning Commission and feedback from the State Department of Ecology.

~~21.~~23. A notice of public comment period and hearing was issued on April 22, 2021. A request for an extension of the public comment period accepted, extending the comment period closing date from June 7 to June 22, 2021, for a total comment period of 60 days.

~~22.~~24. Public notice and outreach on the amendments was conducted through:

- a. A dedicated Skagit County SMP webpage, and online open house
- b. Publication in the local newspaper of general circulation (April 22, 2021)
- c. Press release, Social media, and email listserve

² RCW 36.70A.480~~1~~

- d. A post card mailer was sent to shoreline landowners in unincorporated Skagit County
- e. Monthly project updates and community question and answer time offered virtually throughout the periodic review process
- f. Notification letters to federally recognized tribes in Skagit County
- g. SEPA Register

~~23.~~25. The Planning and Development Services staff and consultant team held monthly public meetings. The meetings were offered virtually, and have been held on January 21, 2021, February 11, 2021, March 11, 2021, April 8, 2021, and May 27, 2021. Turnout has been between 20 and 40 participants, with meaningful discussion and question and answer sessions.

~~24.~~26. The Planning Commission held SMP work sessions on December 8, 2020, January 26, 2021, February 9, 2021, March 9, March 23, 2021, April 27, 2021, May 11, 2021, and June 15, 2021.

~~25.~~27. A Staff Report was provided to the Planning Commission on May 5, 2021.

~~26.~~28. On April 26, 2021 the 60-day Notice of Intent to adopt an amendment was submitted to the Department of Commerce ~~as required under RCW 36.70A.106~~. Notice was also sent to the Department of Ecology.

~~27.~~29. A SEPA Determination of Non-Significance was issued on April 22, 2021, finding that this non-project proposal does not have a probable significant adverse impact on the environment.

30. A public hearing was held on May 11, 2021 and the public comment period was open from April 22 through June 22, 2021.

~~28.~~ [Skagit County accepted comments on the SMP Comprehensive Update and Periodic Review, proposed under RCW 90.58.080, WAC 173-26-090 and WAC 173-26-100 \(SMA and Guidelines\), RCW 36.70A.480 \(GMA\), RCW 43.21C and WAC 197-11\(SEPA\) and Skagit County Code 14.26 and 16.12.](#)

~~29.~~31. Twenty-two (22) public comments were taken at the public hearing and eighty-seven (87) written comments were compiled in a table and posted on the Planning Commission website on June 29, 2021.

~~30.~~32. Comments were grouped according to topic areas and responded to by Skagit County. There were sixteen (16) topic areas, and seventy-five (75) subtopics.

~~31.~~33. Planning and Development Services reached out to the State agencies, tribes, and relevant tribal organizations in April 2021. Outreach resulted in formal comments

submitted by the Swinomish Indian Tribal Council, Skagit River Systems Cooperative, Washington Department of Fish and Wildlife, and Department of Natural Resources.

~~32.~~34. Additional Planning Commission work sessions to address public comments were held on June 29, July 27, August 10, September 14, and September 28th.

~~33.~~35. All of the comments were responded to by Planning and Development Services in a comment response matrix. The department recommended eleven (11) changes to the April 12 Draft SMP as a result of the public comments.

~~34.~~36. Supplemental Staff Reports were provided to the Planning Commission on October 24, 2021, and November 4, 2021.

~~35.~~37. Planning Commission deliberations were held on October 12, 2021, October 26, 2021, November 9, 2021, and November 23, 2021.

~~36. Skagit County Code (SCC) Chapter 14.08. sets forth a process and criteria for making amendments to plans and development regulations. Specifically, SCC 14.08.080 outlines review by the Skagit County Planning Commission. In its making recommendations, the Planning Commission shall consider:~~

~~a. whether the proposal is supported by the capital facility and functional plans;~~

~~b. whether the proposal is consistent with the requirements of the GMA, the Countywide Planning Policies and other applicable provisions of the Comprehensive Plan;~~

~~c. whether the proposal bears a substantial relationship to the public general health, safety, morals, or welfare.~~

~~37.~~38. No additional capital facilities are required to implement the Shoreline Master Program amendments.

~~38.~~39. These amendments constitute Chapter 6 of the Skagit County Comprehensive Plan, the Shoreline Master Program Element, and by incorporation the amendments are consistent with the Skagit County Comprehensive Plan.

~~39.~~40. The proposed SMP amendments improve compliance with the State Shoreline Management Act.

~~40.~~41. The proposed updates are consistent with the Countywide Planning Policies, specifically:

Policy 5.14: Commercial and industrial activities directly related to or dependent on local aquatic resource areas should be encouraged in shoreline areas provided they are shoreline dependent and/or related.

Policy 10.1: Natural resource lands, including aquatic resource areas and critical areas shall be classified and designated, and regulations adopted to assure their long-term conservation. Land uses and developments which are incompatible with critical areas shall be prohibited except when impacts from such uses and developments can be mitigated.

Policy 10.2: Land use decisions shall take into account the immediate and long-range cumulative effects of proposed uses on the environment, both on- and off-site.

Policy 10.5 Recognize the river systems within Skagit County as pivotal freshwater resources and manage development within the greater watershed in a manner consistent with planning practices that enhance the integrity of the aquatic resource, fish and wildlife habitat, and recreational and aesthetic qualities.

Policy 10.8: The conversion of tidelands to uplands by means of diking, drainage and filling shall be prohibited, except when carried out by a public body to implement Comprehensive Plans for flood plain management or to respond to a natural disaster threatening life and property.

Policy 11.3: For land use proposals, including those within the marine environment, all applicants shall bear the costs for public notification, by mail, and by posting of signs. Affected neighbors and surrounding shoreline owners shall be notified as prescribed by ordinance.

42. The proposed amendments reflect local conditions and promote the general public health, safety, morals, and welfare.

~~41-43.~~ The Skagit County Shoreline Master Program jurisdiction includes all marine waters, rivers with a flow 20 cubic feet per second or greater, lakes 20 acres or larger, upland areas within 200 feet of these water bodies and portions of the floodplains and wetlands associated with these shorelines. It only applies to lands outside cities and towns, in unincorporated areas of the county.

Recommendation

The Planning Commission recommends that the Board of County Commissioners approve the 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. Amend SMP Section 14.26.370(4) to remove the Countywide UGA Open Space Concept Plan.
 - (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.

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

2. 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.
3. Amend SMP Section 14.26.130, Applicability, to read: (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.
4. Remove requirement in Table 14.26.420-1 for Watercraft lift canopies to be constructed of light permeable fabric.
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.
6. Maintenance of public access should not be the financial responsibility of the land owner.
7. 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.
8. The max width for single user pier/fixed piling is 6 feet.
9. The Planning Commission recommends leaving the setback averaging provision in the SMP.
10. 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.

14.26.574 Fish and wildlife habitat conservation area performance-based buffer alternatives and mitigation standards

Add (3) to read: 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.

14.26.735 Shoreline Variance

(2)(a) Administrative variance. An application to reduce a standard shoreline buffer width by ~~50% or less~~ more than 25% but no greater than 50% is an administrative variance.

11. 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 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.

[No motion made or voted on 11/23/21] 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.

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.

Add to SMP Section 14.26.415 Aquaculture, (7), Net pens:

(b) A Conditional Use Permit is required for new commercial net pen aquaculture operations proposing to propagate a native finfish species.

Then change existing (b) to (c) and existing (c) to (d).

Add a new item to read: (e) New commercial net pen aquaculture operations proposing to propagate a nonnative finfish species are prohibited.

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.

~~12.~~13. Clarify and confirm that when an existing footprint is subject to a remodel permit or a replacement permit due to acts of god and/or permit submittal that the

existing footprint be memorialized as the basis for approval or denial of a permit in conjunction with the 200 square foot expansion allowed by the code. [Not a motion, Commissioner Woodmansee 11/23/2021]

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