

**DRAFT Thursday, November 18, 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:	<a href="http://www.skagitcounty.net/smp">www.skagitcounty.net/smp</a>
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

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 delta.
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. 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 timeline<sup>1</sup>.
9. 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.
10. Skagit County has combined the completion of the Comprehensive Update and the Periodic Review into the current SMP document.
11. The 2016 draft SMP and Shoreline Environment Designation maps provide a starting point for the current amendments.
12. The proposed update is a complete rewrite of the current SMP and Shoreline Environment Designation maps, to comply with new state rules and the best available science, 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, ~~and supplemental changes to the Unified Development Code, SCC 14 as necessary.~~
13. 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 Plans<sup>2</sup>.
14. The Shoreline Master Program Public Participation Plan was presented to the Planning Commission on January 26, 2021.
15. A draft SMP document was made available on February 2, 2021 for preliminary review by the Planning Commission and the public.
16. Planning and Development Services reviewed the draft SMP with the State Department of Ecology in February and March 2021.

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<sup>1</sup> WAC 173-26-090

<sup>2</sup> RCW 36.70A.481

17. The second draft SMP, April 12, 2021, was developed following work sessions with the Planning Commission and feedback from the State Department of Ecology.
18. 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.
19. 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
  - 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
20. 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.
21. 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.
22. A Staff Report was provided to the Planning Commission on May 5, 2021.
23. 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.](#)
24. 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.
25. A public hearing was held on May 11, 2021 and the public comment period was open from April 22 through June 22, 2021.
26. 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.

27. Comments were grouped according to topic areas and responded to by Skagit County. There were sixteen (16) topic areas, and seventy-five (75) subtopics.
28. 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.
29. Additional Planning Commission work sessions to address public comments were held on June 29, July 27, August 10, September 14, and September 28<sup>th</sup>.
30. 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.
31. ~~A second~~ [Supplemental Staff Reports](#) ~~was~~ ~~were~~ provided to the Planning Commission on ~~October 24~~ [5, 2021](#), and [November 4, 2021](#).
32. Planning Commission deliberations were held on October 12, 2021, October 26, 2021, November 9, 2021, and November 23, 2021.
33. 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.
34. No additional capital facilities are required to implement the Shoreline Master Program amendments.
35. 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.
36. The proposed SMP amendments improve compliance with the State Shoreline Management Act.
37. 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.*

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

## **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. 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).”
3. Revise proposed SCC 14.26.415(2)(b)(iii) to require “shoreline review,” not necessarily a “shoreline permit.”
4. 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.
5. 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.
6. Remove requirement in Table 14.26.420-1 for Watercraft lift canopies to be constructed of light permeable fabric.

*A requirement for light impermeability defeats the purpose of a lift canopy, which is to protect the watercraft from ultraviolet light*

7. Forest practices that are not intended for conversion to other uses consistent with SCC 14.26.445(1) should be allowed to construct *low impact* temporary access roads without a shoreline substantial development permit. Roads should be properly abandoned following harvest.

*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.*

8. Maintenance of public access should not be the financial responsibility of the land owner.

*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. He/she should not be further burdened with the financial responsibility of*

9. 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.

*There is a shortage of housing in Skagit County*

*No form of housing proposal should be denied without proper review of the proposal*

*There are presently floating housing developments in Washington with self contained systems for access, power, water and waste disposal*

10. The max width for single user pier/fixed piling is 6 feet.

*Private docks are used by families with small children or elderly persons for whom dock width is a safety concern*

11. The Planning Commission recommends leaving the setback averaging provision in the SMP.

12. 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.

13. 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.

14. 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.

**This recorded motion approved**

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

SKAGIT COUNTY PLANNING COMMISSION  
 SKAGIT COUNTY, WASHINGTON

\_\_\_\_\_ Date  
 Tim Raschko, Chair

\_\_\_\_\_ Date  
 Hal Hart, Secretary