

MASON COUNTY PLANNING ADVISORY COMMISSION

May 6, 2013

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1. CALL TO ORDER

The meeting was called to order at 6:00 pm by Chair Jim Sims.

2. ROLL CALL

Members present: Jim Sims, Ken VanBuskirk, Cathi Bright, Rob Drexler and Vicki Wilson. Kristy Buck and Bill Dewey were excused.

Staff present: Rebecca Hersha

Department of Ecology: Tim Gates

3. APPROVAL OF MINUTES

The minutes for April 22, 2013 were reviewed and approved. Cathi made the motion to approve and Jim seconded, the motion passed unanimously.

4. REGULAR BUSINESS

Ground rules for the hearings proceedings were clarified by Chair Jim Sims.

Rebecca introduced guest speakers Reema Shakra, Associate Planner and Teresa Vanderburg, Vice President, of Environmental Science Associates (ESA), who were giving a presentation on the Shoreline Master Program update (SMP). The presentation included Shoreline Jurisdiction, Shoreline Designation and the Restoration Plan.

SHORELINE JURISDICTION

Reema led the presentation starting with Shoreline Jurisdiction and determining where the SMP should apply. She explained that WAC173.26.020 identifies shoreline areas and shoreline jurisdictions as shorelines of the state and shorelands. The first step in any SMP update is to determine which rivers, marine waters and lakes in the county are considered shorelines of the state. The next step is to identify shorelands, which is defined by the state statute.

Reema continued her presentation explaining the minimum jurisdiction that has to be regulated under the SMP. Ken asked who determines the floodplain. Teresa answered that it was FEMA. Ken stated that it has not been updated on the Union River. ESA staff affirmed. Reema explained that typically you would bring in the floodway line, if available, to create a 200-foot buffer. It was explained that Mason County does not have the floodway data extensively mapped.

Minimum Jurisdiction:

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"Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; (RCW 90.58.030)

Reema explained that you measure the 200-foot buffer from the floodway, which is regulated as part of the state code. 200-foot buffer from the floodway line only goes out as far as the floodplain. You are not to map the shoreline jurisdiction beyond the floodplain. She said there are options and you can expand the shoreline jurisdiction to include larger optional areas, including the critical area buffer. She explained that it can include the wetland buffer. If the wetland requires 100-foot buffer, you can optionally expand the shoreline jurisdiction to go to the edge of the wetland, but to the edge of the 100-foot buffer. The other option is to regulate the full extent of the 100-year floodplain, not just 200-feet from the floodway, but the entire 100-year floodplain. Rob asked if it was mandated. Reema explained that you couldn't mandate. He asked what the minimum requirement was. Reema clarified that the minimum requirement is 200-feet from the OHWM plus 200-feet from the floodway. Teresa explained that this example between minimum and maximum requirements are not very much, but that the WAC requires it. Reema stated that there are two options to add floodplains or buffers, if you decide to go with floodplain and/or buffers, you can say that you want to regulate the 100-year floodplain of all the rivers of Mason County or if you just want to regulate the 100-floodplain of Union River.

Maximum Jurisdiction:

Local governments may choose to include: Critical area buffers; and/or Full extent of the 100-year floodplain.

Reema explained that there are some disadvantages to going with the shoreline jurisdiction out to the 100-year floodplain. You would be applying the SMP to a larger area, and applying more policies and more regulations. You are also applying shoreline permits to the entire 100-year floodplain, which would require the property owners to go through a specific appeals process that is mandated in the SMP and variances would have to get Ecology approval. She explained that there are some advantages with using the maximum jurisdiction. The floodway data is lacking, so you cannot map the 200-feet from the floodway, except a handful of streams she explained. This may lead to undermapping the minimum shoreline jurisdiction in the county. If you do decide to go with the maximum jurisdiction, you get to establish a permitting process, which is consistent throughout.

Why Use the Maximum Jurisdiction?

Pros

- Easier to map - FEMA floodway data is lacking
- Greater consistency in permitting across the floodplain
- Assist with FEMA Biological Opinion compliance
- Streamline permitting for critical area buffers

Cons

- SMP policies and regulations apply to a larger area
- Administration of program affects a larger area (permit process, appeals, variances)
- Public concern

Reema also explained that if you are impacting wetlands in shoreline jurisdiction and impacting the wetland buffers you may have to go through two separate permit processes. With the maximum jurisdiction you would just go through one permit.

Cathi asked about the permitting process and how it is impacted. Teresa gave an example if you have a driveway to a house and the driveway might be outside of the shoreline jurisdiction, but the house is within the shoreline. You may have two separate processes for the same development. What if the house crossed the line? Rebecca

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explained that this is why you should go with the maximum jurisdiction. If the shoreline jurisdiction put the house in half the development, the part inside would need a shoreline permit, but the outside of the development would need a critical area permit. It would be two sets of permitting, instead of it all being covered under the SMP. Vicki asked if there would be two different costs involved. Staff affirmed explaining that it may be an advantage to expanding the shoreline jurisdiction to include either the critical area buffers and/or including the 100-year floodplain. Jim asked if they coordinated the SMP with the Resource Ordinance (RO), then one of the permitting processes should be eliminated. Rebecca explained that if the shoreline jurisdiction is the maximum then it covers the entire property, then you would just need a shoreline permit, you would not need a RO critical area permit. Jim questioned zoning under the SMP, asking if it trumps the existing zoning of the property? It was explained that the zoning could only be changed through a request to rezone.

Cathi commented on the jurisdiction requirements and was very concerned that a property owner might have to get two different sets of permits to build. She felt it necessary to use the most restrictive so you do not have to split your project into segments, it should all fall under one permit and one set of requirements. Rebecca commented that the best way to address it was to expand the shoreline jurisdiction to include the regulated buffers from the critical area, so you would only need a shoreline permit. It was discussed in great detail.

Reema explained that you could clarify in the RO that if a shoreline permit were required, that it would serve as the RO permit. But the permit would have to use two sets of regulations inside and outside of shoreline jurisdiction. The regulations under the shoreline jurisdiction might be different from outside. The shoreline permit has to be established because that is from state code. Jim commented that it was a topic that required further discussion.

SKOKOMISH RIVER FLOODPLAIN

The next portion of the presentation heard was the Skokomish River Floodplain. Reema explained that the Skokomish River Floodplain is entirely within the minimum shoreline jurisdiction, which is regulated as floodway under the current regulations of the Flood Damage Prevention Ordinance. Staff explained that the statute drives that floodway designation and Mason County is regulating the 100-year floodplain as a floodway.

Reema commented that they started the SMP mapping update with the maximum jurisdiction with the 100-year floodplain as the study area. The entire floodplain area was studied to be consistent with state code.

What do We Have Mapped Now?

- Maximum Jurisdiction with Floodplain
- Created as a shoreline study area for Inventory and Characterization Report
- Ecosystem-wide processes
- Local government decides final jurisdiction

ENVIRONMENT DESIGNATIONS

Teresa presented the next portion of the workshop with Environment Designations. She explained that the Shoreline Environment Designations (SEDs) help categorize and classify the different shorelines in the County and determine the same types of shorelines together with their existing conditions.

Shoreline Environment Designations (SEDs)

- Function similar to zoning overlays
- Establish allowed or prohibited uses and activities
- Designation-specific policies and regulations

WAC173.26.211

- (2) **Basic requirements for environment designation classification and provisions.**
- (a) Master programs shall contain a **system to classify shoreline areas into specific environment designations.** This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section.

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- (b) An up-to-date and accurate **map of the shoreline area delineating the environment designations** and their boundaries shall be prepared and maintained in the local government office that administers shoreline permits.

She explained that they have to create a map, which will determine the extent of the shoreline jurisdiction, which will show what the environments are for the County. Teresa went on to explain that the existing SMP Shoreline Environment Designation listed as natural, conservancy, rural, urban residential, urban industrial, and urban commercial. Most of the shoreline is classified as conservancy. She went on to explain that there is no existing aquatic designation in the County.

Teresa explained the proposed Environmental Designations developed are for 709 miles of shoreline in Mason County. They are aquatic, natural conservancy, rural, residential, and urban commercial. Jim asked if the proposed Environmental Designations would have any impact on the existing zoning. Teresa confirmed that this would have no impact on existing zoning and that it operates as a second overlay with zoning, but using zoning to help designate.

How Do We Designate?

Designations are based on:

- Existing land use pattern
- Biological and physical character
- Goals and aspiration of the community, as expressed through comprehensive plans

Teresa explained the designations in detail and how and why ESA determined their designations.

Cathi expressed concern with the use of Urban Commercial and how they are designated in Union. She suggested striking Commercial and calling it Urban, adding that it could be residential or commercial, explaining that since there is no high intensity designation, because it doesn't make sense.

ESA agreed with Cathi and stated that they would work on the naming of the designations.

Designation process

- Memo outlining designation criteria
- Poster dot exercise results
- Inventory reach sheets, zoning and Google Earth/Bing Maps
- Applied designations to mapped shoreline reaches

Overall approach on 709 miles of shoreline

- "Lump not split"
- Natural environment was cautiously applied
- Watershed approach
- Balanced community vision (zoning and existing SED) with existing conditions
- Incorporated comments: Tribe, JTAC, CAC

Teresa explained that they worked with both the Skokomish and Squaxin Tribes. They made adjustments to the Environment Designations and then took their draft back out to the Joint Technical Advisory Committee (JTAC) and the Citizens Advisory Committee (CAC) for comments. Some adjustments were done based on comments received. Ken asked if the comments they received were in the December timeline. Reema explained that the Tribes received the first set of Environmental Designations in March 2012 and the committees received theirs in June 2012. The SMP Draft and the Environment Designation map came out to the public during the open house in October/November 2012.

Teresa and Reema explained the designations in detail specifying each designation criteria.

Jim asked if there was any concern with the shellfish industry and the use of Aquatic designation? Tim explained that it simplifies it significantly.

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Vicki commented on the Natural designation criteria that is proposed and asked if they go beyond what is required by Ecology. ESA explained that it is more specific and Ecology's definition of Natural is a little broad. Tim clarified that you have to translate it to something specific or you cannot map it.

There was discussion regarding the UGA boundaries in the Residential Boundaries in Belfair and that part of the Union River that is not designated. Ken commented that he did not think there were any shorelines included. It was determined that it is something that will be discussed at a later date and the possibility of changing the UGA to include both areas of Belfair and the Union River. It was then decided to strike the wording Allyn UGA and Belfair UGA residential zones to just read UGA to the designation criteria under Residential.

Residential Designation Criteria:

- Developed areas characterized by small lots, designated as R-2.5, R-5, ~~Allyn UGA and Belfair UGA~~ residential zones, and: Predominately developed with residential uses
 - Areas planned for residential which are not characterized by critical areas, floodplains or channel migration zones
 - Dock/pier and armoring existing
 - Highly intensive recreational areas
 - PSNERP score of moderate to most degraded

Reema continued with the presentation of designations.

Ken commented on the Conservancy Designation stating that he would like to see Agricultural land, especially Agricultural Resource Land, included in the Conservancy Designation. He felt it appropriate to change. The PAC discussed it in detail.

The presentation on designations continued.

Ken commented that there is Agricultural Resource Land along the Union River and some of that land is within the Urban Growth boundary. Tim explained that one side of the river is designated Rural and the other Residential. Ken felt that the designation should be changed along the Union River to protect the Agricultural land. Tim stated that if you were to change all Rural Designations to Conservancy there would be one designation of Rural Conservancy. He explained that it was discussed at the Citizens Advisory Committee (CAC). The CAC recommended retaining Rural. Tim also confirmed that Ecology has one designation called Rural Conservancy. It was discussed in length.

There was a 10-minute break.

ESA continued with their presentation on Environmental Designations Criteria and how they apply. Reema gave an overview of areas that pertain to each designation starting with Urban Commercial. Cathi suggested striking commercial and calling it Urban. She explained that there are certain areas that were designated as residential, giving an example of Hood Canal between Union and Belfair. It is currently designated as residential, which requires a 100-foot setback. There is never going to be a compliant property when you have densely populated areas such as these. Her concerns were that you could never comply with the requirements on an undeveloped lot. She asked to reevaluate the existing properties regarding density and lot size when considering the criteria. Reema suggested lumping the areas and creating a standard that would address the issues with lot size, density, common line setbacks, allowances, etc. Cathi was concerned with lots smaller than an acre. It was discussed in detail.

Agricultural Resource Land along Skookum Creek was discussed. Teresa discussed the mix of uses along the creek with long term forestry lands, agricultural resource lands and large lots. She explained that everything was blended together and it was given the Conservancy designation. The designation was discussed in detail. Cathi commented on the buffer and dimensional standards for shoreline development, between Rural and Conservancy. Cathi was concerned with the minimum lot width, stating that the only difference was the width between Rural and Conservancy. She asked to change the designation to Rural and strike Conservancy. Staff explained the minimum lot width was retained from the existing SMP. There was no alternative to changing both. Cathi suggested mixing Rural and Conservancy together and call it Rural. Tim explained that there are additional distinctions and they were discussed in detail.

ESA continued their presentation with Harstine Island explaining that it was proposed to give the Natural designation to only part of the island. She described the reasons behind the designation and how it falls in to Natural category.

Jim opened the floor for public comments.

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Charles Watts of Bellevue commented on his property and asked the Board to consider changing the designation from Natural to Residential or Conservancy. He explained that his property has no high banks or feeder bluffs or other qualities that fall under the Natural designation. He described his property as low bank with two cabins, utilities and access. He felt that his property is being lumped in to a category that is inappropriate. He stated that his property is no different than those to the north of his, that are designated Conservancy, or the properties to the south that are designated Residential. Mr. Watts explained that he does not want to change the zoning, but the designation of his land under the SMA. He commented that his property has none of the characteristics of Natural, but has all the characteristics of Residential or Conservancy.

Joe Sinnitt of Tacoma, who represents the Sinnitt family explained that there is a significant difference between Natural and Residential designations. He commented on the setbacks, lot widths and impervious surfaces commenting that the designations make a big difference in future development. His property is proposed to be designated as Natural. Mr. Sinnitt explained that his property is taxed as residential and zoned RR-5 and felt that the property needs to remain Residential designation.

Cathi asked for clarification on which lots have utilities. Mr. Watts and Mr. Sinnitt clarified which parcels have utilities. Jim stated that utilities have no bearing on the designations. Cathi disagreed explaining that they do because they are developed; otherwise they would fall under natural. The board discussed the definition of natural and developed lots in detail. Mr. Watts explained that they have rights to build under the code, but changing it to Natural designation would require them to use a Conditional Use permit for anything they intend to do on the property.

Vicki commented on the letters submitted by Mr. Watts and Mr. Sinnitt. She wanted clarification on the requests that Mr. Watts asked for lots 2, 3 be Rural and Mr. Sinnitt asks for a portion of Lot 4 be Rural. Mr. Watts and Mr. Sinnitt commented that Lots 2 and 3 be considered Residential and agreed that Lot 4 be Rural.

Rebecca commented on the criteria for Residential explaining that it is characterized by small lot size and their lots are fairly large. She felt it met more of the Rural designation. She stated that she would need to confirm that the zoning is RR-5, which would fall under the Residential category. Jim asked if it was appropriate to change the designations to what zoning they were. Cathi commented that it depends largely on the condition of the property.

Ken directed a question to both Mr. Watts and Mr. Sinnitt asking them when they became aware of the designation change. Charles Watts explained that he has been to the meetings since the beginning and attended the open house and had worked with LaJane. Ken stated that there should be a process in which the public is informed. Jim stated that there are probably 100 plus property owners on Harstine Island that will be affected with the changes in the designations. Cathi said they might need to define the criteria of the descriptions of each category.

Jim asked staff if it's possible to go back and revisit the issue of designation and criteria. Cathi suggested that they have five categories; UGA, RAC, residential, rural, natural and aquatic. And define them based on the characteristics of the bulk of the properties that are in that category. Jim asked if conservancy would fall under natural? Cathi explained it would fall under rural.

Tim asked if they are proposing to rename the urban commercial designation and combine rural and conservancy. Cathi affirmed, but asked him to look at how each category is defined. Jim asked if this was allowed within the WAC? Tim stated that if you look at shoreline jurisdiction, they fit easily into the buffer; and a lot of areas clearly meet the existing criteria. He continued that there is a small percentage that is marginal that you need to make a judgment call based on incomplete information. Tim stated that the criteria were looked at closely at the CAC. He explained that what the CAC came up with was a balance, by using the WAC and having it translate in to something you could use. He stated that you couldn't use just zoning.

ESA explained that when you are going through the designation process, that the five they recommend worked. Reema agreed that there is some fine-tuning that needs to be done, as more information and data is brought up. Teresa commented that they are working with the information that they have and that they did not have an on-the-ground study. She felt that they reached out to the public with the two open houses and the mailings. Vicki commented that she did not feel it was worth it to start from scratch and go through the process again.

Eric Schallon of Green Diamond Resource Company suggested that staff explore a method to make constructive notice to people whose designations will be made more strict, they will be losing property rights and flexibility. He added that a newspaper ad will not do it, that the Board needs to mail each property owner a letter. Eric stated that a good place to start would be look at places that are different from their neighbors.

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The Board discussed the designations and their definitions in great detail. Vicki commented that they need to address the standards issues. Tim asked Mr. Watts and Mr. Sinnitt if the mapping on the county website was useful. Mr. Watts commented that if you knew this process was going on, he did not find out about it about a week prior to the first open house in October. He felt that the mapping was great, but it needs to be larger.

RESTORATION PLAN

Teresa presented the next portion of the workshop with the Restoration Plan. She explained that the Restoration Plan is part of the SMP update. She stated that it is voluntary; a non-regulatory part of the SMP update. The Restoration Plan is co-authored by Coastal Geological Services and Herrera Environmental, with ESA being the main author.

WAC173.26.201

- (f) **Shoreline restoration planning.** Consistent with principle WAC 173-26-186 (8)(c), master programs shall include goals, policies and actions for restoration of impaired shoreline ecological functions. These master program provisions should be designed to achieve overall improvements in shoreline ecological functions over time, when compared to the status upon adoption of the master program.

ESA Staff went through their process plan. Teresa explained that they did not get any comments back from the JTAC or the CAC groups, but did receive comments from Ecology. And the comment period was extended to December 2012.

Restoration Plan Process

- February 2012 - Coastal Geologic Services presented to the JTAC
- June 2012 – First Draft Restoration Plan delivered to County
- Responded to Ecology comments
- Comment period extended to December
- April 2013 - Final Draft Restoration Plan

Ken asked ESA if the comment period included the Citizens Advisory Committee (CAC)? Teresa explained it included both the CAC and JTAC, but it did not include the public. Ken commented that LaJane had given the Board the CAC comments and he said that he could not find too many comments that addressed the Restoration Plan. Vicki said that she looked at her notes and they never discussed the Restoration Plan at a CAC meeting, explaining that LaJane had sent out an email to the CAC with a copy of the draft to review and comment. She said that she was not sure how many people on the CAC even read the email, but it was never a topic of discussion. Teresa asked if the CAC was at the meeting in February? Vicki could not affirm. Ken commented that he did not think the Restoration Plan was vetted by the CAC and asked ESA to change the paragraph in Chapter 1.0 Introduction.

Chapter 1.0 Introduction

The first complete version of this report was prepared in August 2012, following a presentation of the proposed methods to the County's Joint Technical Advisory Committee in May 2012. The comment period for both the JTAC and Citizen's Advisory Committee was extended to December 2012. This report was subsequently revised to reflect comments received.

Ken explained that his original concern was after he received a copy of the Restoration Plan in August 2012, it wasn't the same as what the PAC is reviewing currently. Teresa agreed. He stated that when he read that the CAC had reviewed it (as stated in the introduction), he assumed that is why there were changes to the Restoration Plan. Teresa commented that the changes came from what Ecology had addressed. She stated the CAC would be making comments based on an email delivery that there wasn't time in the schedule to have an actual meeting. Ken commented that the actual listing of projects in the August draft have been changed to reflect a more updated list which has not been vetted through the CAC. He questioned if it was only vetted through the JTAC or other state entities. It was discussed in detail.

Teresa continued the presentation explaining the Restoration Plan Process. She said that the focus is on restoration needs already documented by others. They identified opportunities on public lands. ESA staff discussed the restoration opportunities along Hood Canal and South Puget Sound. Freshwater restoration was also discussed.

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Restoration Opportunities for Rivers and Lakes

- Remove dikes where feasible to reconnect rivers to the floodplain
- Install large woody debris in streams lacking in- stream habitat
- Plant trees in the riparian zone
- Monitor and control invasive species
- Remove culverts on tributaries to allow fish access

How can the County use the Restoration Plan?

- Use to identify restoration priorities for grant funding
- Provides a list of funding sources
- Points to restoration opportunities that could be undertaken for project mitigation

ESA staff finished up their presentation stating that the Restoration Plan was available on the County's web page and was out for public review and comment. Ken asked ESA how long it was out for public comment. Teresa asked the PAC if they wanted comments back by a certain time. Ken asked the PAC if they need to adopt the Restoration Plan as part of the SMP as an appendix.

Eric Schallon commented that there is better data out there, giving an example that Sherwood Creek runs through the state forest. He suggested ESA contact their fish biologist to find out if they have more information.

PAC discussed when they should request public comment back. It was discussed in detail. Staff agreed to send out a copy of the Restoration Plan and when the comment period ends. It was determined to give the public 45 days to review the draft.

Cathi addressed the letter that was received from the Port of Shelton. She suggested making the Port of Shelton aware that there are restoration opportunities on their properties. Vicki asked if there was a way of labeling which projects were in Natural environments?

Ken asked about Chapter 5.2 PSNERP Recommendations. He said that he had recently attended a meeting where a PSNERP representative gave a presentation. He suggested that the draft list of projects be sent to the PSNERP representative since he was under the impression that PSNERP is backing off in their designations. Tim commented that he thought they were just narrowing it down. Staff agreed to send a copy of the restoration plan to PSNERP to review.

Jim Reece made a public comment regarding the permitting process for putting in a buoy. He asked if he was required to go through the permitting process on land that he owns to put in a buoy. Jim Sims commented that he would have to go to the Department of Natural Resources. Mr. Reece made the comment about what the constraints and what rights the property owner has

Public comment was closed.

5. NEW BUSINESS

The PAC agreed the next meeting would be on May 20, 2013.

Meeting adjourned at 8:49 p.m.