

MASON COUNTY PLANNING ADVISORY COMMISSION

April 21st, 2014

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1. CALL TO ORDER

The meeting was called to order at 6:02 PM by Bill Dewey.

2. ROLL CALL

Members present: Kristy Buck, Tim Duffy, Rob Drexler, Bill Dewey, and Vicki Wilson.
Ken VanBuskirk was excused.

Staff present: Barbara Adkins and Rebecca Hersha.

Department of Ecology: Tim Gates and Rick Mraz.

3. REGULAR BUSINESS

a) Agenda

Rebecca commented that #4b should read "revisit 'non-water oriented mixed use' allowance in Commercial Development and Industrial & Marine Terminal Development." The Commission agreed on title change.

b) Minutes

The minutes from April 7th were reviewed.

Rick made a comment regarding page #8, the correct word should be 'litigation' (not mitigation).

Kristy stated on page #3 her name reads Cathy Buck and should be corrected to Kristy Buck.

Vicki asked staff to check if the wording on page 14 #5 should be 'water oriented uses and development' rather than 'water-oriented recreation.' Rebecca stated she believes Vicki is correct, and will verify and revise that language in the minutes, if appropriate.

A motion was brought by Bill to adopt April 7th minutes as amended. Seconded by Vicki.

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c) Meeting dates in May

Rebecca reminded the PAC that there will be only one meeting, on May 5th, in May due to schedule conflicts. The PAC decided on three meeting dates in June: June 2nd, June 16th, and June 30th. Bill stated that he will possibly miss the May 5th meeting and will not be available for the June 16th meeting. Kristy will not be available to attend the June 30th meeting.

4. PUBLIC MEETING

Bill opened meeting.

a) Wrap Up Boating Facilities

Rebecca referred to the Staff Report titled, "Changes Recommended by PAC and Staff: Version 2: Boating Facilities Marinas; Boat Launches; Docks, Floats, & Boat Lifts; and Mooring Buoys," dated April 11th, 2014.

DEFINITIONS

Rebecca asked for comments on definitions on page 3 and explained that although the PAC had asked for Staff to add a definition for *skirting*, she was not able to find such a definition. It was agreed that a definition of skirting is not imperative.

Vicki expressed concern for definition of *davit*. It was in the last Staff Report (Version 1), but missing from this one. Also, Vicki questioned the word 'lifeboat' in the definition within the last Staff Report. Rebecca stated that she will substitute 'lifeboat' with 'boat' so that it reads:

Davit, Upland. *A small crane on a bulkhead or landward of the Ordinary High Water Mark for suspending or lowering a lifeboat."*

Vicki asked if the definition for 'boatlift' should be broadened to include seaplanes. Jim Reece (public) commented stating seaplane lifts do exist on their own. Kristy suggested modifying the definition to read:

Boat Lift. *An in-water structure used to berth and launch a single vessel or seaplane, suspended over the water's surface. A boat lift is generally a manufactured unit without a canopy cover and may be placed in the water or attached to a dock. A boat lift may be designed either for boats, seaplanes, or personal watercraft. A boat lift is to be differentiated from a hoist or crane used for the launching or haul-out of vessels. Boat lifts with canopies are considered covered moorage.*

MARINAS - REGULATIONS

Kristy noted that a correction should be made to the second paragraph of Regulation #3:

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Proposals for marinas shall include a Habitat Management Plan that identifies measures to protect habitats and mitigate for unavoidable impacts. Pier, ramp, and float construction and design shall meet the non-residential dock regulations including ~~the~~ avoiding impediments to alongshore sediment transport, work windows, etc.

Item #5, page 7 –

There was agreement that Regulation #5, originally recommended by Rebecca to address a policy #8 (#14 in Jan. 2013 draft), is not necessary and should be deleted.

BOAT LAUNCHES – REGULATIONS

Item # A.4(b), page 11 -

There was agreement that #4(b) should read 'in water' rather than 'overwater.'

DOCKS, UNATTACHED FLOATS, AND BOAT LIFTS – REGULATIONS

Item # A.4(b), page 15 -

There was agreement that #4(b) should read 'in water' rather than 'overwater.'

Item (A #9), page 16 -

Rebecca explained that she recommended deleting the reference to the Project Classification Table because the statement isn't made for all uses and modifications. PAC agreed to delete it. Bill asked Staff to check to make sure there is a statement at the beginning of the SMP that makes a similar statement.

Rebecca explained that since there were only 2 regulations that pertained to Boat Houses and Covered Moorage, she tucked them within this chapter (titled Docks, Unattached Floats, and Boat Lifts). Kristy recommended, and the PAC agreed to, changing the title to "Docks, Unattached Floats, Boatlifts, Boathouses, and Covered Moorage" so that it would be easier to find the boathouse and covered moorage regulations.

Item #A.11 (repair and replacement), page 17 –

Rebecca explained that she revised the section per PAC's recommendation, which grandfathers docks and unattached floats, except for the 'materials' used.

Part B: Docks and Unattached Floats

Jim Reece (resident) stated that he has concerns regarding the maximum number of slips (10) within a community dock. Rick made comment stating that the SMP's definition of a marina is

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"for over ten pleasure or commercial craft....," therefore the docks with more than 10 slips are allowed per the Marina regulations.

Jim Reece reiterated that he feels docks should be able to be 8 feet wide. Rebecca explained that the widths are the same as state requirements, and that floating docks (allowed only on freshwater) are allowed to be 8 feet wide.

Jim Reece commented that there should not be a maximum length of 60 feet for docks in lakes. He posed the question, what if it takes 120 ft of dock to get to 4 feet of water for boating dependant needs? Rick stated that this type of a situation would require a variance, and he added that there is no guarantee that waterfront property owners have a legal right to a dock.

Additionally, Jim Reece voiced concern about the maximum square footage for the alphabet at the end of docks because it doesn't allow someone to tie up a boat at four corners of the dock.

Rick recommended using the boat slip area table in the existing SMP, which is based on number of users, and which he felt had been working fine for decades. Rebecca expressed her opinion that she felt the existing regulation and table was unclear because it did not indicate that the area allowed for boat slip included or excluded the open area (where the boat is parked) and that it did not mesh with the current requirement that dock end shapes be limited to a T or L.

After some more discussion, **there was agreement** to do away with the "T, L, and F" requirements for the shape at the end of docks and reintroducing the boat slip area table from the existing SMP with a maximum length (or width depending on how you define it) of 20-feet and clarifying that the boat slip area and 20 foot length does not include the mainstem of the dock, while clarifying that the slip area includes both structure (excluding the mainstem) and boat parking area. This would affect Items B(6)(d-f), on page 19 of the Staff Report.

Item #B(6)(g), page 20 -

To address a question posed by a PAC member at a previous meeting, Rebecca recommended adding a clarification to B.6.g that the measurement of pier width does not include the pilings. There was no objection.

EXISTING USES AND STRUCTURES, page 24

In the Staff Report, Rebecca recommended that the Existing Uses and Structures section of the draft General Regulations (SMP) be revised to read:

A grandfathered structure or structural footprint that is moved any distance on the subject parcel shall increase its conformity with the Program and with property line setback requirements (per the Development Regulations) to the maximum extent practicable provided:

- i. Any remaining structural components (such as a foundation) shall be removed from an abandoned footprint and erosion prevention BMP's are implemented; and,*

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- ii. For overwater construction such as docks, a footprint may not be moved to a location where there is documented submerged aquatic vegetation and forage fish spawning areas; and,
- iii. If the abandoned footprint is located landward of OHWM, it shall be planted with native vegetation equal or greater to the amount cleared (within the buffer) for the new footprint.

It was noted that the language only requires one to increase conformance if the structure or structural footprint is moved. There was no objection to the change.

-----End of Boating Facilities Review-----

b) Revisit 'non water oriented mixed use' allowance (Commercial and Industrial/Marine Terminal Chapters)

The meeting moved on to review their **recommended changes to the Commercial Development Chapter** (a 4 page document prepared by Staff and dated 4/21/2014).

On Page 1 (definitions), Rebecca pointed to the examples that PAC had asked for Staff to add to the definition of 'water enjoyment use.' **PAC agreed with the following added language:**

Primary water enjoyment uses may include, but are not limited to, parks, piers and other improvements facilitating public access to the shorelines of the state; and general water-enjoyment uses may include but are not limited to restaurants, museums, aquariums, scientific/ecological reserves and resorts/hotels (as part of mixed-use development or with significant public access or restoration components).

Item #8(i), on page 2, Staff had added 'and is subordinate to' per PAC's concern that the mixed use provision could be abused by using a very small portion of the property for the water dependent use. Rebecca explained that phrase was also added to the corresponding regulation on page 3, Item #3(b). However, in the regulations, more details were added.

And Item #8(ii) was corrected to match ecology guidelines:

Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit to the Shoreline Managements Acts objectives such as providing public access and ecological restoration.

Item #3, on page 3, Rebecca added 'new' at the beginning of the sentence per PAC's recommendation. Part (b) was changed to address PAC's concern that the mixed use provision could be abused by using a very small portion of the property for the water dependent use. Item #3 reads:

New non-water oriented commercial development is prohibited except:

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- b. *If the use is part of a mixed-use project that includes, and is subordinate to, water dependent uses and provides a significant public benefit with respect to the shoreline Management Act's objectives such as providing public access and ecological restoration: or*

A use is subordinate if it:

- Is part of a mixed-use project that includes water dependent uses,*
- Provides a significant public benefit with respect to the Shoreline Managements Act's objectives such a providing public access and ecological restoration,*
- Is located landward of all oriented uses and,*
- Occupies a surface area smaller than the water dependent component.*

Rebecca explained that the last part was provided by Rick, and the language is used by Port Angeles' in their SMP.

Brian McGinnis (Alderbrook / North Forty Lodging) read the added language and said the uses that he would be proposing at the marina may not be able to meet these requirements. The existing building at Union Marina is 12,000 sq feet. About 2,000 of it is used for moorage, fuel, dry storage and selling boating supplies. Brian stated that the point of the project is to create a community asset with a seasonal farmers market.

Eric Schallon (Green Diamond) commented that we should draw a very bright line around what is regulated as new development. If Brian wants to put up partitions to facilitate 6 small business in his 12,000 sq ft building, that's not new development that's build to lease within an existing foot print so he urged the PAC to go with maximum flexibility for business operating within existing footprints.

Vicki and Bill agree with Eric and the points he is making for existing footprints.

Rick stated that the definition of development only refers to the exterior alteration of structures. Eric reiterated that fact that we need to really look at what is development with respect to water dependent use vs. non water dependent use.

Rick commented that he did not see a trigger if there is no development at the existing Union Marina, and any change in use would be one in long line of mixed uses, therefore he did not see how the Union Marina would be subject to new regulations.

Rebecca stated that development has a pretty clear definition, but uses are also regulated and can trigger Conditional Use Permits, or Administrative Conditional Use Permits. She went on to explain that the Ecology guidelines regarding this provision for non-water oriented uses being allowed as mixed use, employs the term 'use', not the term 'development.'

Tim also stated he did not see a trigger for a permit for changing a use within a portion of an existing building.

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There was agreement to changing 'uses' in item #3b to 'development.' Rebecca recommends matching the language in Ecology's guidelines, which uses the term 'uses.' Rick offered, why not add an 'and/or' situation for (development/uses)?

Vicki stated she would like there to be flexibility for change of uses in existing buildings.

Rebecca went on to explain that when she consulted with Ecology a few years ago about whether a change in use within Union Marina's existing building needed a Conditional Use Permit, the answer was 'yes' if it is changing from retail to non retail. And that this is the reason that Brian is concerned about the Commercial Chapter. Rick stated that that argument may be defensible under the *current* SMP.

Rick read the draft (as revised by PAC) subsection on Existing Uses that requires a CUP for a change of use within an existing building. He said if Union Marina is within a Commercial SED it might not trigger a CUP.

Vicki asked if part of the confusion is coming from using the word 'development' in some sentences and 'uses' in other sentences. She recommended that one word be chosen and used throughout.

Kristy asked, and **there was agreement, to table the discussion**, and Bill and Rob agreed. Rebecca stated we are tabling the 2 page write up on PAC recommended changes to the Industrial and Marine Terminal Development Chapter as well, since it contains the same issues.

-----End of Commercial Development Discussion-----

*****BREAK 8:06PM - 8:13PM *****

c) Recreational Development

Rebecca referred to the Staff Report titled, "**Recreational Development**," dated April 14th, 2014.

DEFINITIONS

Vicki inquired about the difference between recreational development and water enjoyment use. Rebecca stated that a water enjoyment use, per the definition, must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

PROJECT CLASSIFICATION TABLE

Rebecca elaborated on the proposed project classification table. The draft table did not align with the draft regulations, therefore she made several corrections to the table in this staff report.

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Vicki asked for examples of non-water oriented recreation development. Rick answered with 'a soccer field' or 'a camp ground.'

RECREATIONAL – POLICIES

The discussion moved on to policies to which Staff had not recommended any changes. Bill recommended, and the **PAC agreed**, to add a requirement for proper pet waste disposal methods and signage should be added to policy #5(b), page 5. Rebecca added that she will add that requirement for facilities that allow pets.

RECREATIONAL – REGULATIONS

Item # 3(a), page 6 -

Rebecca explained that the Transportation Chapter already regulates parking areas, therefore she recommended deleting regulation 3 and replacing with:

Parking Areas shall be consistent with the Transportation Chapter MCC 17.50.060(13).

Item #3(d), page 6 -

There was agreement to revise Item #3(d) to the following:

Public access points on lakes and marine waters shorelines must provide parking space appropriate for the intended use.

Item #4, page 6 -

There was discussion regarding the fairness and rationale of requiring trail access from upland facilities to the beach. In some cases, it would not be appropriate. Kristy made a motion to strike #4, which was seconded by Tim Duffy. **All agreed - the motion carried:**

~~*Trail access shall be provided from upland facilities to the beach area.*~~

Item #6, page 7 -

Kristy recommended moving #6 on page 7 to the second sentence of policy #1, and changing the term 'must' to 'are encouraged to.' **Motioned by Kristy, 2nd by Rob, all in favor.**

Item #10, page 7 -

The **group agreed** to delete "these areas shall be linked to the shoreline by walkways" and the last sentence so that it reads:

~~*16. Accessory facilities, such as restrooms, recreation halls, commercial services, access roads and parking areas shall be located inland from shoreline jurisdiction unless it can be shown that such facilities are shoreline dependent. These areas shall be linked to the*~~

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~~shoreline by walkways. Proposed development within critical areas or their buffers shall protect habitats and mitigate for unavoidable impacts, consistent with General Use Regulations.~~

Item #13, page 8 -

Rebecca explained that, as a result of previous public comment and PAC discussion, she recommended revising #13 to include water dependent scientific or educational facilities. PAC agreed with the change. Kristy recommended, and the group concurred, removing 'avoid the overwater location, if possible.' As revised, the regulation would read:

~~19. No recreation building or structure, except piers or docks, or bridges, or water dependent scientific or educational facilities shall be built over the water waterward of the Ordinary High Water Mark. Allowed overwater structures shall avoid the overwater location, if possible, and minimize habitat and visual impacts.~~

The PAC agreed with the changes recommended in the Staff Report, except as noted above.

d) Breakwaters Jetties & Groins

BREAKWATER, JETTIES, GROINS – REGULATIONS AND POLICIES

Staff did not prepare a Staff Report for the Breakwaters, Jetties, and Groins chapter. Instead, Rebecca referred to the January 2013 draft. No changes were recommended by the PAC.

5. NEW BUSINESS

No new business was brought forth.

6. ADJOURNMENT

The meeting adjourned at 9:01.