

# MASON COUNTY PLANNING ADVISORY COMMISSION

**May 5, 2014**

*(This document is not intended to be a verbatim transcript.)*

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## **1. CALL TO ORDER**

Chair Ken VanBuskirk called the meeting to order at 6:03 PM.

## **2. ROLL CALL**

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

**Planning Department Staff present:** Rebecca Hersha & Barbara Adkins.

**Department of Ecology:** Rick Mraz.

## **3. REGULAR BUSINESS**

### **(a) Adoption of Agenda**

The agenda was adopted. Rebecca noted that the 4/21/2014 minutes are not completed yet.

### **(b) Announcement of Upcoming Public Hearing (non SMP)**

Barbara announced that there will be two public hearings on 6/02/2014 regarding amendments to Title 13 as well as amendments to Title 16.

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### 4. PUBLIC MEETING – Workshop on the Shoreline Master Program Update

#### (a) Grading, Fill & Excavation - Policies and Regulations

Rebecca began discussing the draft Grading, Fill, and Excavation chapter by referring to the Staff Report, dated 5/5/2014, prepared for this topic. She noted that the Public Works Department recently provided input on this chapter, while handing out a copy of their comments, which are grouped with comments on the Dredging chapter.

Rebecca stated that the draft chapter, including the title, repeatedly uses the term 'grading' and the term 'fill' and/or the term 'excavation' together, when the definition of grading includes both fill and excavation. To begin a regulation with 'grading and fill' is redundant because grading includes filling. She felt the chapter and title could be cleaned up by removing the redundancies, while being careful to use the correct terminology. **Vicki made a motion to Staff's recommended changes, including changing the title** from 'Grading, Fill & Excavation' to 'Grading.' The motion seconded by Rob Drexler. All are in favor, none oppose.

#### DEFINITIONS

Rebecca noted that because the definition of grading includes fill and excavation, there is some obvious overlap with the definition and the definitions of mining and dredging. For example, for a dredging project, it could be confusing to know whether to apply both the Grading chapter's regulations and the Dredging chapter's regulations or just the Dredging chapter. She stated that dredging and mining are actually regulated separately (the Grading chapter does not apply).

#### Appurtenance

Rebecca moved on to page 3, explaining that 'appurtenances' to a single family residences, which are exempt from needing Substantial Development Permits, include up to 250 cubic yards of grading as long as it is upland of the OHWM. Therefore, this small amount of grading for a residential use is not regulated by the Grading chapter.

Vicki stated that the definition of Appurtenance appears to be grammatically incorrect. Rebecca recommended, and **the PAC agreed to**, editing the definition to read more like the SMA's definition in WAC:

*Appurtenance. An appurtenance which is necessarily connected to the use and enjoyment of a single-family residence and is located landward ...*

Vicki also pointed out that the changes to the definition recommended in this Staff Report – the addition of fences and septic tank/drainfields - were actually already recommended and approved – look at the 8/6/2013 document with PAC recommended changes to the 2013 draft General Regulations.

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### Channel Migration Zone

Rebecca had recommended in the Staff Report to revise the Resource Ordinance's definition of 'channel migration zone' to match the draft SMP's definition, which matches the definition in Ecology's Guidelines and is very similar to FEMA's definition. Barbara asked whether or not it's defined in the flood prevention ordinance, and if it is, we need to make sure that the definition is consistent. Rick replied that it is not defined in the Flood Ordinance. Rick and Melissa McFadden (Public Works Department) exchange if the definition would affect projects. Rick Mraz commented that the change to match the ecology's guidelines would be a safe and defensible definition.

No decision was made on whether to change the definition in the Resource Ordinance to match the SMP.

### Development

**All PAC members are in favor of the minor change of the word "state" to "stage"** in the definition, since it appears to have been a typo. The last sentence it will now read *"the surface of the waters overlying lands subject to the act at any state stage of water level."*

### Dredging

Melissa stated that she recommended deleting the 'maintenance dredging' language from the definition of dredging, because maintenance is shoreline exempt. However Staff and PAC felt that the definition was not implying that maintenance dredging is not exempt.

## GRADING - POLICIES

Item #1, page 5 -

Public Works' Staff had recommended **changing the term 'local currents' to 'water flow.'** Vicki expressed concern about whether that would change the meaning at all. Rick states that it helps to expand the concept a bit because currents are typically associated with rivers or tides. **There is no opposition to the change.**

Item #2, page 5 -

Ken stated that he was not fond of policy #2, *"Priority should be given to grading for environmental cleanup and restoration."* The group discussed whether there was any benefit to having this policy. **Kristy made a motion to strike policy #2, 2<sup>nd</sup>** by Rob Drexler. All members were in favor.

Item #3, page 5 -

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Vicki pointed out that in the January 2013 draft the 3<sup>rd</sup> line down “*and alteration of ecological processes*” was omitted. Rebecca stated that this was not intentional and will correct the mistake.

### GRADING - REGULATIONS

Item #1, page 6 –

Ken expressed dissatisfaction for regulation #1 because he felt it give the state special privilege. Vicki commented that this regulation was put into effect to help ease the process for anyone trying to accomplish ecological restoration. Rick added that the intent was to allow for more of the money funding a restoration project to go towards actual restoration rather than permit fees. Ken and Rob were concerned about whether these restoration projects get proper monitoring when there is no permit required. Rick stated that if we were to require a permit, it would become the counties responsibility to follow up and determine if the restoration methods were sound. Ken again expressed his interpretation that the regulation was giving state agencies a break, which he was not supportive of. Rebecca answered that the regulation is not giving state agencies a break. Instead it is gives restoration projects *authorized* by the state a break.

Kristy commented on adding in “that have been” after “restoration projects” within the regulation. Vicki remarked that “should not” should be replaced with “shall not.” Rebecca referred to a comment made by Public Works that “or in wetlands” was unintentionally omitted from the January 2013 draft.

Rob moved to accept the strikeouts recommended by Staff within (b) and (c). All members were in favor.

There was agreement that regulation #1 should read:

*Grading and fills waterward of the ordinary high-water mark or in wetlands for ecological restoration projects that have been authorized by a state agency should ~~not~~ shall not require a conditional use permit. All other grading is prohibited waterward of the ordinary high water mark, except that it may be considered as a conditional use for the following activities:*

- a. *water dependent aquacultural practices;*
- b. *water dependent uses where no upland or structural alternative is possible; ~~Except in Natural and Conservancy designations of Shorelines of statewide Significance (Hood Canal)~~*
- c. *public access where no other upland or structural alternative is possible; ~~Except in Natural and Conservancy designations of Shorelines of statewide Significance (Hood Canal)~~*

...

(a, d –e were unchanged)

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Item #2, page 6 -

The PAC agreed with the changes to regulation 2 that Staff proposed in the Staff Report:

*~~The regulations in this chapter do not apply to the fill necessary for shoreline stabilization measures shall not be considered under fill. Excavation below the ordinary high-water mark (dredging) is considered under dredging, or to mining.~~*

Items #3 through #8 -

PAC agreed with Staff's recommended edits in regulations #3 through #8.

Item #9, page 8 -

Ken was concerned with the last sentence in regulation 9, "The use of contaminated material or construction debris is prohibited" because a fill material could be contaminated with weed seeds. He wanted to make sure that the regulation clarified that weed seeds are a form of contamination and are prohibited. He asked Rebecca to get some information from the weed board to see if they had any input on phrasing that sentence.

Item #11, page 8 -

Vicki commented that 'fills' was stricken from the first sentence but not in the second part. Rebecca and the PAC members agreed that the second 'fill' should also be deleted.

Item #12, page 8 -

Vicki commented that, in the second line, 'urban' should be removed and replaced with 'commercial.' All were in agreement. PAC also agreed with the changes recommended by staff in the Staff Report, so that it will read:

*For water-dependent uses upland of the ordinary high water mark, fill-grading may be permitted in Residential, Urban Commercial and Rural designations; and may be considered as a Conditional Use in the Conservancy and Natural environments; and are Prohibited in the Natural environment, unless they are an element of an approved restoration project.*

Item #13, page 8 -

PAC also agreed with Staff's recommended changes to regulation 13:

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*For non-water-dependent uses upland of the ordinary high water mark, ~~fills-grading~~ may be considered as a Conditional Use in Urban, Residential, Rural and Conservancy environments; and are Prohibited in the Conservancy environments when they are part of a shoreline of statewide significance, and Natural environment unless they are an element of an approved restoration project.*

### PROJECT CLASSIFICATION TABLE

Vicki voiced her confusion regarding the draft project classification table - the different letters under aquatic makes it hard to know what is permitted or not. She suggests just stating, "see regulations". The **PAC members like the suggestion**, and Rebecca will make the change.

----- BREAK: 7:44PM - 7:51PM -----

### **(b) Archaeological Areas and Historic Sites - Policies and Regulations**

Rebecca referred to the Staff Report prepared for Archaeology, dated 4/28/2014. She explained that the Department of Ecology just has a couple standards on the topic, whereas Mason County's draft chapter has several regulations. The CAC and JTAC SMP process resulted in adopting much of the Department of Archaeology and Historic Preservation's Model Ordinance. However the new regulation #1 was language recommended by the Skokomish Tribe.

Rebecca had researched the Archaeology regulations that other jurisdictions had incorporated into their draft SMP's. Some had simply copied Ecology's two standards and some had more detailed requirements similar to Mason County's 2013 draft. Rick Mraz commented that the tribes (Skokomish) argue pretty strongly that a lot of their settlements were located on the shoreline and if anything were to turn up, that's where it would likely be.

Rob felt that Archaeology is not limited to shoreline areas, and therefore this chapter should not be contained in the SMP, but in a document that has a more broad jurisdiction.

Ken asked Staff if the County's Historic Preservation Commission has had a chance to comment. Rebecca replied that although the Staff Report contains no recommended changes to the January 2013 draft, she did send it to the chair of the Historical Preservation Commission, but have not heard anything back yet. Ken stated he would like to wait until the Historic Preservation Commission has more time to weigh in on this document.

Vicki's own perspective is that she would like to see us be sensitive to these issues, but she also would like to see it be dealt with on a broader level - not just within the SMP.

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She went on - if we decide to deal with it here in the SMP, she would like to see a streamlined process. She added that she feels it is not clear in these regulations what triggers the cultural resources site assessment.

Kristy found these regulations to be overkill and that they should be simplified to Ecology's standards. There was more discussion about replacing the draft chapter with the two Ecology standards on Archaeology.

PAC asked Rebecca provide them, via email, with a compilation of the Archaeological chapters in other jurisdictions' SMP's.

Kristy made a motion to table the Archaeological Areas and Historic Sites discussion. All were in favor.

**(c) Dredging** – Not discussed.

## **5. NEW BUSINESS**

There was no new business and no public comments.

The next scheduled meeting is set for June 2, 2014 and it will consist of a public hearing on an amendment to Title 13 (Utilities - relating to the authorization of the use of Latecomers Agreements) and a public hearing for a proposed amendment to Title 16 (Plats and Subdivisions).

## **6. ADJOURNMENT**

Rob moved to adjourn. Vicki seconded the motion. The meeting was adjourned at 8:51 P.M.