

Mason County Planning Advisory Commission

June 13, 2016

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1. Call to Order

Bill Dewey called the meeting to order at 6:05 p.m.

2. Roll Call

Present: Kevin Shutty, Vicki Wilson, Deb Soper, Rob Drexler, Bill Dewey

Staff: Rebecca Hersha, Tim Gates- Ecology

3. Regular Business

a. Adoption of Agenda

Rebecca added Title 15, advising that it is discussed first due to its size. She also asked to discuss the upcoming meetings at the end of the meeting. The agenda was adopted with changes.

4. Public Hearing –

Shoreline Master Program Update’s Title 15

Presenter: Rebecca Hersha, Community Services Department- Planning Division

Bill Dewey opened the public hearing at 6:07 p.m.

Rebecca first announced that a staff report was prepared for the hearings and informed the public that it was posted on the Mason County website. She then advised that there were two versions of Title 15. Draft “A” is a clean version with no changes. Draft “B” has a full markup with the changes. She went on to explain that Title 15 is the document that addresses administrative and permitting guidelines.

Rebecca suggested opening public comment for Title 15 first, so that the comments could be discussed. No public comment was received. With no comments from the PAC, Rob made a movement to approve draft “A”, title 15. Motion seconded by Kevin. All in favor, motion carried.

Shoreline Master Program Update’s “Draft Resource Ordinance,” February 2016

Rebecca prefaced by explaining that the SMP references the Resource Ordinance for critical area requirements. She discussed revisions and major changes done within the document by the PAC. The PAC agreed to follow the same format by asking for public comment first by chapter.

Rebecca announced that she would be working off of draft “A”.

8.52.010: Authority - 8.52.050: Relationship to other regulations

Jim Reece spoke first, and declared that he sent a letter in previously to the PAC. He said that he did not wish to cover the letter at this time and moved forward with his questions. On page 8 under "Mason Environmental Permit (MEP)", Jim said that he did not understand the definition and asked Rebecca for clarification. She explained that certain development activities such as clearing isn't considered development under the SMP and that Ecology Staff has advised her that MEP's cannot be required in the shoreline jurisdiction. Jim then asked about the definition of "Water dependent use" on page 16. He asked if boat lifts should be included as an example. Rebecca answered that boat lifts are associated with docks, and docks are water dependent. Finally, Jim proposed a definition regarding waves created by watercraft. Rebecca told Jim that the Community Services Department does not have jurisdiction over vessels and the damage they may cause. At this time Rebecca introduced Tim Gates from Ecology and asked if he had any feedback on damage caused by vessels. Tim informed Jim that the SMP is only about land use and development, and would not have authority to regulate vessels. Jim stated that there should be some wording about the right to fix your bulkhead, lifts, docks, or other items damaged by the large waves. Tim stated that within the SMP, there are existing provisions that allow for stabilization. Rebecca said that since the SMP cannot regulate the watercrafts causing the large waves, adding a definition would cause confusion. Before sitting down, Jim discussed culverts removed at the end of Mason Lake that provided overflow in heavy rains. Rebecca replied that Public Works would need to be contacted, because the regulations within the SMP would not cover that issue.

Mike Jorgeson spoke next and asked the PAC if any of them live or know anybody that lives on Mason Lake. He argued that the damage being caused on the lake was a huge issue that could not be described without seeing it. Rebecca reiterated that the SMP is not going to have jurisdiction over vessels and their waves. Mike said the sheriff doesn't have the manpower to handle it, and he doesn't know who to speak to at the state level. Rebecca suggested that he speak to a County Commissioner and also said that she has been trying to contact the state parks department because they have enforcement officers.

Vicki asked if there is a way for the concerned public to perhaps move forward with a zoning change request. She said that since other counties have changed zoning to assist with watercraft issues that could be a possibility within Mason County. Rebecca agreed that would be a good step. Tim Gates offered to send Mike a packet of information.

Doug Schlyer addressed Jim Reece's concerns with adding a definition for an item not within the SMP. He told Jim that a definition is used in a document to define things addressed in the document, and the SMP would be the wrong place to define terms for this topic.

Jim Verano voiced concern over not receiving notification of the SMP updates even though he lives on the shoreline. Rebecca stated that notice was sent at the beginning of the update process to all shoreline property owners asking whether they wished to be involved. He then asked about boat lifts, saying they were not allowed on Lake Cushman. Eileen Fisher of Lake Cushman argued that they are allowed due to the fact that she and her husband have one. Rebecca noted that Lake Cushman does allow lifts, but also added that unlike other lakes, Cushman has extra restrictions due to the fact that in addition to the county and the state Department of Fish and Wildlife, the Army Corps of Engineers, Tacoma Power, and the Lake Cushman Maintenance

Company also govern that water.

8.52.060: Long Term Commercial Forest Lands – 8.52.100 Additional resource land provisions

No comments.

8.52.110: Wetlands

No comments

8.52.120: The critical aquifer recharge areas - 8.52.130 Frequently flooded areas

No comments

8.52.140: Landslide hazard areas – 8.52.160: Erosion hazard areas

Jim Varano asked about a large landslide near Lake Cushman. He questioned if it was the responsibility of the state or the county to repair the area. Rebecca suggested he check with Public Works if it is along a county road. He then questioned the need for geotech studies. Rebecca asked him to contact her at work outside of the hearings.

8.52.170: Fish and wildlife habitat conservation areas

Rebecca discussed some updates made within this section including the setbacks and mitigation.

Doug Schlyer asked how the common line would be determined on a residence sitting in a cove on a lake. Rebecca said the common line would be averaged based on the setbacks of neighbors.

Monica Harle questioned the allowance for proposed commercial uses without a Conditional Use Permit when changing from one non-water related to another non-water related use and what review is done to make sure a harmful business is not placed on the shoreline or within a Conservancy zone. Rebecca explained that language is in the SMP, not the Resource Ordinance, so she will address this comment at the upcoming hearing for the SMP.

Under *J. Habitat Management Plan Requirements*, Jim Varano stated that the required reports are expensive. He asked how the public is expected to pay for the repairs let alone these studies. Rebecca sympathized, but explained that this language has been in place for years and that the regulations in the Resource Ordinance is required to meet ‘best available science.’ If it does not, it can be successfully appealed. She added that the mitigation site plan for common lines can be prepared by property owners. Rob stated that the PAC actually lessened the requirements by allowing the mitigation site plan to be drawn by the owners. Tim Gates informed Jim that repair and replacement of an existing structure wouldn’t trigger the need for many of the studies in most cases.

Doug Schlyer asked if there was a time when permits were not required for docks. Rebecca said shoreline and SEPA requirements came into place in the mid 70’s.

Jim Reece asked if studies could be shared by neighbors since they were on the same water. Rebecca advised that if neighbors were building a joint dock then they could go in on studies together, but in general, the reports are done for specific parcels or developments.

8.52.190: Development review process - 8.52.270: Enforcement

No revisions or comments

8.52.275 - Restoration

Jim Reece questioned who was responsible for restoration. Rebecca informed Jim that it was the responsibility of the property owner. Jim asked if that changed in cases of enforcement when a citation was issued. Rebecca explained that if someone destroys a buffer, restoration will be required. Jim asked why that would not be the case when docks and shores are damaged by wakes. Rebecca said that is not a development activity or a use that is governed by the Resource Ordinance or the SMP, so it could not be enforced by these documents.

Becki Varano asked if a home owner could draw their own restoration plan. Rebecca said no and read the following from page 122:

(A) Restoration Plan.

(1) The applicant shall submit a restoration plan prepared by a qualified biologist, plant ecologist, geologist or similarly qualified professional, as appropriate, which shall include as a minimum the following: ...

Draft Resource Ordinance APPENDIX A

No comments

Draft Resource Ordinance APPENDIX B

Monica Harle questioned if the common line applies in every case or if there are boundaries to what cannot be used. Rebecca said that you can only use a structure that is within 150 feet of the parcel boundary to determine a common line.

Draft Resource Ordinance APPENDIX C

No comments

Bill asked if anybody from the public had any additional comments or questions before the PAC held a discussion. No comments or questions.

Vicki stated she had questions and was using draft B showing the track changes. Rebecca and Vicki discussed various issues and questions. The information below reflects issues and changes made.

8.52.030 – Definitions

Aquatic management areas- Rebecca had recommended striking this definition because the term was replaced years ago by Fish & Wildlife Habitat Conservation Areas. The PAC agreed with this decision.

Common line mitigation plan- Added per Rebecca, approved.

Fish and Wildlife Habitat Conservation Areas (FWHCA) - Addition by Rebecca, approved.

8.52.110 – Wetlands

(4) *Mitigation Ratios (e) Preservation*- Recommended simplified language approved.

8.52.170 - Fish and wildlife habitat conservation areas

Table 8.52.170 (A) Species of Importance that May Occur in Mason County- Vicki asked if the Stellar Sea Lion should still be listed because as she understood, the Eastern Stellar Sea Lion was removed from the endangered list. Rebecca said she would look into this. Vicki noted that when she is preparing permits for the Army Corps of Engineers she is also required to note Bocaccio and Pacific Eulachon.

(4) *Activities in FWHCA's or Buffers that Do Not Require a Habitat Management Plan, (d) Fences*- After a lengthy discussion regarding bodies of water that should be included, Tim recommended changing the following:

~~*On lakes and marine shorelines, f*~~*Fences limited to three (3) feet in height are allowed in the buffer and setback, provided they do not extend waterward of the ordinary high water mark and provided the removal of native vegetation does not exceed the ratio allowed in subsection (F)(21) (View Corridors).*

(g) *Maintenance and Use of Existing Landscaped Areas*- The following was changed:

An existing landscaped area is one which is defined by mowed grass, flower beds, orchard trees, ~~non-native~~ shrubs, and ~~non-native~~ trees. Maintenance and use includes mowing, weeding, trimming, replacement of vegetation types, placing...

The PAC recommended the same change on page 107 (h) *Landscape Walls and Temporary Structures in Existing Landscaped Areas*.

In section (E) *Establishment of Setbacks on Fish and Wildlife Habitat Conservation Areas*, Rebecca asked if the PAC would like to keep the suggested language under (h) *Landscape Walls and Temporary Structures in Existing Landscaped Areas*:

If such maintenance or use in the buffer area is abandoned or discontinued for greater than five (5) years, activities must conform to the provisions of this chapter. This maintenance allowance does not apply to areas where the ordinance requires restoration or enhancement for common line and other buffer reductions and encroachments.

She noted that other planners had asked to have this language due to past issues with applicants. Vicki said she would like to have the sentences separated because they are two separate thoughts. Tim Gates said this language doesn't fit within this section. Vicki pointed out that this language is on page 102 under (g) *Maintenance and Use of Existing Landscaped Areas*. Rebecca agreed that the above language should be deleted from section (h).

Jim Reece discussed adding a definition of "wave". Vicki asked what it was that he was specifically trying to define. Jim answered that he was trying to define the large man made waves that are causing damage on the shoreline. Tim addressed Jim saying that the SMP discusses protection from damage caused by wind, waves, etc. The source of the wave is not questioned. Jim said that he is trying to manage the damage caused by these boats. Rob suggested going before the Board of County Commissioners regarding this issue because the

SMP is not the place for it. He said that enforcement is needed, and the planners cannot provide that. Rebecca suggested going through a state department because they handle many of the regulations regarding boating. Jim argued that the county holds the power to write ordinances and should be doing so.

Vicki questioned a ‘common line mitigation plan’ versus a ‘restoration plan.’ She said that based on public comment, the PAC needs to be able to explain why a property owner would be allowed to do their own mitigation plan, but not a restoration plan. Rebecca explained that the common line mitigation plan deals with proposed clearing or development, whereas the restoration plan is a larger issue because it deals with a protected habitat conservation area that has been developed in violation of the codes. The restoration plan must state the actual projected cost of the restoration, maintenance, and monitoring. Vicki asked that the PAC think it over and discuss it at the June 20th hearing.

Monica Harle asked if the title to the section could be changed. She said if the title was changed it would give more of an indication of a problem. She suggested: 8.52.275 – *Restoration/Reparation*. Rebecca agreed and said she would either change the title of the section or move the restoration section to within the enforcement section.

Rob Drexler made a motion to adopt the Resource Ordinance with the indicated changes. Motion seconded by Kevin Shutty. All in favor, motion carried.

5. New Business

None

6. Adjournment

The hearing was adjourned at 9:02 p.m.