

**SHORELINE ADVISORY COMMITTEE
SUMMARY NOTES FOR MEETING #2
PUBLIC WORKS BUILDING – MEETING ROOM
October 10, 2011**

ROLL CALL: Present: Helen Chatfield-Weeks, Mahmoud Abdel-Monem, Rick Almborg and Keith Fakkema
Absent: Chris Skinner, Jill Johnson and Jennifer Meyer
Project Staff Present: Senior Planner, Ethan Spoo
Consultant - Gabe Snedeker, Project Manager AHBL
David Pater, State Department of Ecology

Agenda Item I. - Welcome and Introductions

Agenda Item II - Public Comment:

Mr. Bill Massey stated that he is a property owner within reach 3c (see attached meeting materials). He commented that he has reviewed the draft Shoreline Master Program (SMP) on the City's website and thought there was nothing in the document that creates a substantial impact on the properties within reach 3c. He asked if there were any recent changes to the document. He also asked if the City has authority over federal property. Mr. Spoo said there have been some changes, since this document is a working draft. Mr. Snedeker indicated there would be adjustments to the designation to acknowledge long-range plans and current land use in the 3c area.

Mr. Massey indicated he had donated property for the Waterfront Trail and there was an agreement with the City that the setbacks wouldn't be changed. Mr. Snedeker said that setbacks will be examined either at the next meeting or the one after. The new guidelines set a clearer standard as far as achieving no net loss of ecological function based on current conditions. Mr. Snedeker noted that we are early in the process and that there will be many months of meetings with potential changes to drafts.

Mr. Spoo said the City is required to do shoreline planning for federal property (Seaplane Base) because it is within the City's shoreline jurisdiction. The City has authority over private action on federal land. Mr. Snedeker added that would include City development i.e. a wastewater treatment plant.

Agenda Item III - Recap of Committee Meeting #1 and Shoreline Visioning Workshop

Mr. Snedeker and Mr. Spoo summarized the July 20, 2011 public Visioning Meeting for the Committee. The visioning workshop discussion centered on a few main topics:

1. How to balance owner needs with shoreline protection especially as concerns vegetation conservation, setbacks, and stabilization approaches. The State has specific requires for shoreline stabilization. Alternative approaches, such as soft armoring, must first be explored. If alternative approaches are not feasible the least invasive approach must be used. In terms of bulkheads repair, the Guidelines allow greater flexibility than for creating a new bulkhead.

Mr. Snedeker explained that the SMP Guidelines (Chapter 173-26 WAC) should be viewed as requirements. Mr. Pater agreed. The stabilization section is the most prescriptive. Other sections are more generalized in order to recognize local uniqueness and offer flexibility.

2. Mr. Snedeker reported about the requirement to plan for restoration in areas where functions have been impacted. Mr. Snedeker stressed that restoration are voluntary actions that the cities or agencies will take. The restoration plan will set priorities and benchmarks for restoration

activities in the future. Staff emphasized the difference between mitigation and restoration. Mitigation are actions required of property owners to reduce impacts within the shoreline. Restoration are voluntary activities which enhance previously degraded areas and is usually carried out by non-profits and governments. Freund Marsh and Maylor Point are examples of areas where restoration might occur. Mr. Pater added that mitigation is on a site-by-site basis and is the mechanism for holding that line of ecological function (no net loss).

3. Staff and the public also discussed the goals of conserving and enhancing public access along the shoreline, protecting ecological function, and putting priority on uses that require a shoreline location (water-dependent uses).
4. Shoreline environment designations (zones) were discussed at the meeting by staff and the public. Underlying zoning still applies within shoreline environment designations. There was general agreement at the visioning meeting that the high bluff on Scenic Heights should have a different set of regulations applied to it than the low bluff along Dillard's due to differing environmental conditions. The visioning meeting gave staff useful feedback for the environment designations in Oak Harbor. The environment designation system is the framework to achieve no net loss along the shoreline through mitigation for property-owner actions.
5. Wastewater treatment plan. Mr. Spoo noted there was quite a bit of discussion about the City's wastewater treatment plant and its relationship to the shoreline. Citizens concerns centered around water quality impacts and were somewhat reassured about EPA quality standards for treatment plant discharge. Citizens were advised that the treatment plant location would comply with the new SMP. Committee members asked if the discharge from the new wastewater treatment plant would be cleaner (than is now the case) at the discharge point. Mr. Pater indicated that the City would have to have a national pollution discharge elimination system (NPDES) permit from the Department of Ecology's Water Quality Program meeting federal standards. Mr. Snedeker indicated that implementation of federal standards results in mitigation better than no net loss.

Agenda Item IV – Chapter 1: Introduction

Mr. Snedeker summarized the first three chapters of the draft SMP for the Committee. Chapter 1 lays out the purpose of the Shoreline Management Act (SMA) (encourage water-dependent uses, protect shoreline natural resources and promote public access) and the Shoreline Master Program (to carry out the responsibilities that the City is charged with under the law to comply with the Guidelines). Key Concepts include: SMA/SMP purpose, jurisdiction, and permit basics. Chapter 2 titled "Environment Designation Provisions" sets up the framework of environment designations (zones). Key Concepts: understanding the intended purpose of each shoreline environment designation. Chapter 3 titled "General Provisions" advances provisions which apply throughout shoreline jurisdiction. Key concepts include: Archaeological and Historical Resources, Environmental Impacts and Mitigation (No Net Loss and Mitigation Sequencing), Public Access, and Vegetation Conservation.

Mr. Snedeker discussed the Shoreline Environment Designations map showing shoreline jurisdiction and the extent of the environments. He indicated that all maps have limitations of accuracy and data. One of the specific limitations on this map is wetland boundaries. Mr. Pater commented that wetland delineation takes place at the project level with wetland specialists. The language of the law controls where shoreline jurisdiction is, not the map.

Mr. Snedeker talked about the two types of permits that are issued for projects in shoreline jurisdiction: (1) Shoreline Substantial Development Permits (SSDP) and (2) Shoreline Exemptions. Specific exemptions are listed in State law. The current draft references the statutory list.

Q. A Committee member asked whether a property owner could get an exemption that would extend to the property buyer.

A. Mr. Snedeker said that, as with any permitting process, you can sell a property with an entitlement. However, shoreline permits expire within two years. Exemptions do not mean that the SMP standards do not apply, only that a permit is not required.

Q. Isn't there a dollar value maximum on the exemption?

A. Yes, it is \$5,718 and is adjusted for inflation.

Q. Will an SSDP be needed for the City's 42" stormwater outfall project?

A. Yes.

Q. Would the multi-modal facility (dock) at Flintstone Park require an SSDP?

A. Yes.

Agenda Item V. - Chapter 2: Environment Designation Provisions

Mr. Snedeker informed the Committee that the state Guidelines set up a system of shoreline environments. Cities may use this system verbatim or customize it to fit local circumstances. Many communities use the state environment designations as a starting point and then customize accordingly. Mr. Pater added that Ecology won't accept designations with no relationship to the Guidelines.

Q. Concerning urban parks, does jurisdiction only apply to the first 200 feet?

A. Yes. Areas outside of the 200 feet that aren't wetland aren't subject to the SMP.

Shoreline Designations are organized from most to least intensive. Each designation has a purpose statement, criteria for applying the designation, geographic limits of the designation, and management policies for areas within the designation. The following are proposed designations and their features as drafted:

A. The Maritime Environment is patterned on the high intensity designation in the Guidelines. Maritime emphasizes water-dependent uses for non-federal actions on the Seaplane Base.

B. The Urban Mixed Use Environment is meant to provide for a variety of water-oriented commercial, residential, and private recreational uses in areas where the shoreline has already been developed at urban intensities while protecting existing ecological functions. These are areas not suitable for water-dependent uses due to shallow moorage depths and the shoreline gradient.

There was discussion about the boardwalk in reach 3c on the Shoreline Environment Designations map as relates to Urban Mixed Use environment designation management policy number 4 which reads as follows:

"Multi-family and multi-lot residential and recreational developments should provide public access to the shoreline and joint use facilities for community recreational needs. Where such development is located near the Waterfront Trail, pedestrian connections should be provided to the trail to the greatest extent feasible."

A committee member asked if future development on private property near the Waterfront Trail would have to provide access to the boardwalk. Mr. Snedeker said that policy number 4 can be reworded. More detail on public access is provided in the public access regulations (Chapter 3).

In summary, public access is required where impacts from development diminish existing visual or physical access. The current SMP requires development of the Waterfront Trail concurrent with development.

Committee members were concerned about the prescriptive nature of the above policy and that additional public access would be redundant given adjacency to the Waterfront Trail. Mr. Pater indicated that some SMP's make accommodations for existing public access systems. Mr. Spoo suggested revised language eliminating need for access when adjacent to the Waterfront Trail. Mr. Pater suggested including a linear distance value to the Waterfront Trail. Mr. Pater noted that this policy would only apply when there is a new development or re-development.

Mr. Snedeker asked if the City should promote interior shoreline private access inside of new developments. Committee members commented that waterfront developers would, of course, provide access to the beach without being prompted to do so. Mr. Snedeker said that's not always the case. In his experience, developers promote unobstructed views above all else. Condominium developments tend to emphasize privacy above access. The Committee suggested that text say, "The City should encourage interior private access".

- C. The Shoreline Residential Environment designation is meant for single-family residential uses where adequate facilities can be provided. Dillard's Addition is proposed to fall under this designation. Additionally, the purpose is to provide appropriate recreational uses. These areas are relatively free of development constraints when compared with the high bank. Mr. Snedeker pointed out Residential Environment designation management policy number 4 which reads:

"The City should require connection to the sanitary sewer system when existing properties using on-site sewage systems (OSS), commonly referred to as septic systems, are developed, redeveloped or substantially modified and a sanitary sewer system is available."

Mr. Snedeker pointed out that City regulations already require septic systems connect to city sewer system at the time of development. (*Staff notes that connection to City sanitary sewer cannot be required under the City's code until the septic system has failed.*)

- D. Residential Bluff Conservancy Environment - The purpose of this designation is to accommodate existing and future residential development near to slopes along Scenic Heights where appropriate, while preserving the ecological functions of natural bluff areas. Voluntary restoration/enhancement of modified/degraded shoreline areas is a secondary purpose.

Committee members discussed reach 07 (Maylor Point wetland fill) The shoreline was armored to retain the fill and there was once a tide gate. Committee members wondered about the impact of the filled wetlands on siltation in the bay and if this could be addressed. Mr. Snedeker said that problem would require additional study outside of the Shoreline Inventory and Characterization. The draft SMP can include a policy encouraging that such a study be conducted.

Mr. Snedeker discussed the management policies for the Residential – Bluff Conservancy environment designation noting that they encourage the design and location of new uses to avoid slope failure and structural damage. The stabilization policies in Chapter 3 help address the slope stability and promote alternative stability techniques such as gravel berms, beach augmentation or vegetation. The Guidelines are specific with regard to stabilization and require that applicants analyze hard armoring alternatives. Hard armoring is allowed in instances when structures are threatened.

Mr. Spoo pointed out that the City's Critical Areas Ordinance (CAO) already applies required setbacks to the bluff. Mr. Snedeker noted that Ecology may require changes to the CAO to meet the Guidelines.

Q. A Committee member asked about damaged and dangerous stairways in the shoreline and the process to identify and repair them.

A. Yes, there is a process. These stairways are repaired when building permits are submitted.

E. Urban Public Facility Environment– The purpose is to provide for water-oriented public recreational facilities and public access. A secondary purpose is to provide necessary water-oriented public facilities, such as wastewater treatment plants and stormwater outfalls. Mr. Spoo said it was not the purpose of this committee to decide or limit the location options for the wastewater treatment plant. That is a decision of the City Council.

F. The Urban Conservancy Environment – the purpose of this environment designation is to improve function by removing fill, improving wetland habitat and improving the interface between the fresh and salt water. There has been some modification, such as fill, in this area. This designation strikes a balance between the natural and conservancy designations in the Guidelines. Mr. Spoo added that the City has had preliminary discussions with the Navy about this area. The Navy indicated no change in plans for the use of this area over the long-term.

Q. Should the bluffs on Maylor Point be designated "Bluff Conservancy?"

A. There may be a reason to do finer designations on federal property. We haven't done that because the extent of residential development is limited within 200 feet of the shoreline. Additionally, the City's authority is limited to non-federal actions on federal land such as wastewater treatment plants, Nichols Brothers and other uses we can't foresee. Navy residential development does not fall under the authority of the SMP.

Agenda Item VI - Chapter 3: General Provisions

Gabe Snedeker gave an overview of Chapter 3 prior to next month's discussion.

The regulations in Chapter 3 apply everywhere in shoreline jurisdiction. Some of the keys elements are:

- Economic development – the importance of economic development is reflected as a priority in other City documents.
- Archaeological and historic resources – the draft text is from the Bellingham SMP. Further refinement will be necessary to adapt this language to local circumstances.
- Critical areas – The new SMP will regulate critical areas within the shoreline environment. Ecology will likely comment on critical areas regulations within the shoreline prior to adoption of the SMP. Mr. Pater indicated that DOE is not approving SMPs with inadequate critical areas ordinance standards and is focusing on two areas: wetland buffers and buffer reductions.
- Mr. Snedeker requested they understand the concept of mitigation sequencing on page 25.
- Public Access and Shoreline Vegetation Conservation will be discussed in depth at the next meeting.

Public Comment

Mr. Bill Massey asked how no net loss applies in upland areas?

Mr. Snedker explained there are a variety of functions that vegetation provides (slope stability, habitat, inputs from leaf litter drop, stormwater retention) and our task is to make sure that those functions are not diminished.

Bill Massey commented that there is only about 300 feet of undeveloped property in the 3c (reach) area and that if additional connections between the street and the beach were made on the undeveloped property, the residents in the surrounding existing structures would be very concerned. Mr. Massey said he thought that there is sufficient public access in that area.

Bill Massey agreed with the earlier suggestion to recognize areas of Maylor's Point as bluff-conservancy, because the Navy might be more willing to discuss future activities there. Mr. Snedeker suggested talking with the Navy representative as to what their preference is for the designation.

Bill Massey suggested the Committee recommend the wastewater treatment plant be left out of the Urban Public Facility environment if the Committee felt that that wasn't an appropriate shoreline activity in that particular location (Windjammer Park). Mr. Spoo indicated that if the Committee felt that it was appropriate they could make that recommendation. The only pitfall is later on if the discussion gravitates back toward using that site for whatever reason it wouldn't be open if we close off that option.

Committee members commented that the Committee doesn't have the information to decide where the treatment plant should go and it is not a good idea to close the door to looking at all options. Mr. Spoo suggested that the Committee is best served by keeping options open and leaving that decision to the City Council. If there are areas of particular concern about the treatment plant with regard to shoreline planning, then those can be brought forward.

Meeting Scheduling

The Committee agreed to schedule meetings for the first Wednesday of each month and to have hard copies of the materials mailed to them.

Next meeting: Wednesday, November 2nd at 5:30 p.m.

Meeting adjourned at 8:00 p.m.