

**MASON COUNTY  
PLANNING ADVISORY COMMISSION**

January 28, 2013

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

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**1. CALL TO ORDER**

The meeting was called to order at 6:04 pm by Chair Jim Sims.

**2. ROLL CALL**

Members present: Jim Sims, Kristy Buck, Ken VanBuskirk and Cathi Bright.

Staff present: Barbara Adkins, Allan Borden and LaJane Schopfer.

**3. ELECTION OF CHAIR AND VICE CHAIR**

Jim Sims was nominated as Chair. Ken VanBusKirk was nominated as Vice Chair.

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## 4. NEW BUSINESS

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

Ken added that before the hearing start that he knows the applicant, Patrick Venglar, but will not have any bearing on the case. There was no objection to Ken remaining at the hearing.

Allan Borden presented the staff report for the public hearing on a rezone request from Patrick Venglar to correct a mapping error. Map correction and rezone for existing use as landscape nursery located at 6500 NE North Shore Rd, Belfair. Applicant is requesting that one parcel be rezoned within the Rural Area from Rural Residential 5 zone to Rural Commercial 2 zone to correct a 2002 mapping error by Mason County. Parcel is located within the Rural Area, as shown on 2000 Development Areas maps prepared by county staff during the designation of the Resource Lands and Rural Areas.

Parcel No. 22209-54-00084 (including tracts 84, 85, 86, and 87 of Clifton Beach Uplands Addition) had existing retail improvements on the 6.0 acres at that time, but only tract 84 (0.50 ac.) was mapped as Rural Commercial 2 zone in 2002.

The Department of Community Development zoned lands in the Rural Area using maps available in that time from 2000 to 2002, the subject parcel ending in 00084 was zoned Rural Commercial 2, because there was a Commercial Nursery on the property. When the mapping was done, it was not realized that the parcel number was composed of 4 tracts, and the other 3 tracts were zoned Rural Residential 5.

Request submitted as a corrective rezone to address Mason County mapping error zoning designations were approved and mapped in March 2002. In the case of zoning and map correction, two rezone review criterion were used for evaluation for the rezone request. Criterion 2: Comprehensive Plan and Criterion 8: Corrective Rezone of Lands.

Staff recommends that it be rezoned to Rural Commercial 2 would be consistent with Comprehensive Plan, Development Regulations and other Ordinances. Staff said it fit Criterion 8 and that the zoning map of the county should be changed to Rural Commercial 2.

Five letters of comment were submitted in to testimony by staff. Ken VanBuskirk asked staff to summarize the testimonies.

- 1) Elizabeth Corless-Clark was concerned about the request, she wants to be sure that an error was made. And that a land use that was not conforming to the surrounding residential area could be done on this property.

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2) LaVerne Thorneycroft is an adjacent land owner to the east and she speaks in opposition to the request. She is concerned that Mr. Venglar does not state what he intends to do with the property and concerned with the contamination of the creek that runs through on the west side of the property.

3) Bonnie Ruff states that it was a nursery and it was an acceptable commercial enterprise, but certain that Mr. Venglar is not a good steward to the land. Concerned about gas leaking in to the stream, the property is dilapidated and an eye-sore and that people are really concerned about potential health hazards from the way the nursery/landscape business is being operated.

4) Kristi Booth objects to the rezone request and the land should remain rural residential 5. A petition was also attached with 5 signatures. Also stated health concerns, unsightliness concerns and what land uses will be allowed on the property.

End of Public Comments.

Ken asked if the fee had been waived because it was a map correction. Staff concluded that if it is an error by the county (mapping), then the fee's are waived. Ken also questioned the contour lines of the map and that the placement of the stream was located incorrectly. Staff explained that the blue line (stream) was the line in error, and that the contour lines were correct. The error with the blue line is just an idiosyncrasy in the GIS. Ken commented that he just wanted to bring it to the applicants attention because if he ever goes to develop it, he can get it corrected now. He just wanted to point it out that the stream is not shown in the correct place. Staff stated that staff only looks at contour lines, and not the hydro layer.

Cathi Bright asked where the creek was located. Staff explained where it was located along the contour lines.

Kristy Buck asked if parcel No. 84 was embedded in No. 85, 86 and 87 for tax purposes. Staff confirmed. She also asked if the same parcel No. 82 through 83 had been zoned Residential and that the business had been operating at that time, much as it is now. Staff confirmed, much as it is now, and added that if you look at the aerial photo it shows the business over the four tracts.

Cathi asked if commercial activity was currently on-site. Staff explained that Mr. Venglar operates his landscape business from property.

There were no direct questions or comments from the public.

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Applicant Patrick Venglar, owner of North Shore Landscaping stated that he has been operating at the site for 35 years as a nursery. All he wants is a boundary line adjustment and to keep the 2 acres of tracts 84, 85, 86, and 87 and split the lots in half the other way. He wants 2 lots in the front, so he can sell as a nursery. The back lot will remain the same.

Ken VanBusKirk moved to recommend approval of application to correct the mapping error and Kristy Buck seconded.

Vote called and was unanimous in favor of the rezone.

Jim Sims explained that the Commissioners decided in December to have two public hearings on the subject of the Shoreline Master Plan, tonight (Jan. 28) and again on February 11, 2013. And if necessary, if the public had more comments, that PAC would also convene on the 25<sup>th</sup> of February.

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

Lajane Schopfer, Mason County Community Development, Planner III, presented the first draft of the Shoreline Master Program workshop. The purpose of the first workshop is focusing on Chapter IX of the Mason County Comprehensive Plan (Policies); and the MCC 17.50 (Regulations); including the Application of Policies and Regulations, Shorelines of Statewide Significance; General Uses including Ecological functions, Critical Areas, No Net Loss, Non-Conforming Development, and Property Rights; and Shoreline Environmental Designations; and Title 15, Administrative Code.

She explained that all copies of tonight's meeting are listed on the county website in PDF format.

## CHAPTER 9

First topic of discussion was Chapter 9 of the Shoreline Management Program (SMP).

It was explained that the draft shows black and red print. The red print has been either stricken or underscored. Black print is original language from the Shoreline Management Program (SMP); red stricken print is original language that has struck through; and red underscored print is new language.

Items highlighted were:

### IX-I THE SHORELINE MANAGEMENT PROGRAM

- A. Introduction
- B. Application of Policies
- C. Shorelines of Statewide Significance
- D. Shoreline Use Preferences

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## IX-2 SHORELINE MANAGEMENT PROGRAM POLICIES – General

This was explained that this is all new to the SMP Comprehensive Plan section for policies.

- A. Ecological Protection, Critical Areas and No Net Loss of Ecological Functions
- B. Vegetation Conservation
- C. Flood Hazard Reduction
- D. Views and Aesthetics
- E. Ecological Restoration
- F. Water Quality and Quantity
- G. Public Access

Specific Uses in Chapter IX would not be discussed at tonight's meeting, There will be no discussion or briefing since it was not advertised.

### I. Property Rights

Cathi Bright wanted it noted for the public that was not at the last meeting that one of the Commissioner's is employed in the aquaculture industry and requested that the material be postponed until he could attend. Cathi expressed, in her opinion, that they (PAC) would be at a disadvantage, as they do not have the level of expertise as he does, but that should not necessarily prevent the public from asking questions or being obligated to come to the next meeting because we did not have it on the agenda.

### Title 17.50

#### MCC 17.50 (Regulations)

Application of Policies and Regulations, Shorelines of Statewide Significance; General Uses including Ecological functions, Critical Areas, No Net Loss, Non-Conforming Development, and Property Rights.

Staff explained the 17.50.015 Adoption Authority with the purpose and intent.

This Program is adopted under the authority granted by the Shoreline Management Act of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

Maps were distributed to the PAC and around the room showing the proposed Shoreline Environment Designations.

#### 17.50.050 Environment Designations (pg. 26)

##### 1. Purpose and Criteria

- A. "Natural" Shoreline Environmental Designation

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- B. "Conservancy" Shoreline Environmental Designation
- C. "Rural" Shoreline Environmental Designation
- D. "Residential" Shoreline Environmental Designation
- E. "Urban Commercial" Shoreline Environmental Designation
- F. "Aquatic" Shoreline Environmental Designation

Staff explained that the "Aquatic" Designation is new for Mason County. Department of Ecology recommends the Aquatic Shoreline Environmental Designation.

## 2. Environment Designation Map

- A. Mapping Boundaries
- B. Mapping Errors

Ken asked who inventoried the maps. LaJane explained that a consultant, ESA, designated the shoreline and the Citizen's Advisory Committee (CAC) as a group, worked collectively on them.

## 17.50.055 General Regulations

This section describes general regulations, which apply to all shorelines of the state that are located in Mason County. The General Regulations section is used in conjunction with more specific use regulations.

- A. No Net Loss and Mitigation

Staff summarized Items 1 – 9

### *Item 9 reads:*

Land that is constrained by critical areas and buffers shall not be subdivided to create parcels that are not only buildable through a shoreline variance or would be considered non-conforming.

LaJane stated that we consider every lot buildable if you can meet all local, state and federal requirements, you should be able to build on that lot. She recommends that we should consider striking over and be considered non-conforming. She then asked if there were any questions to No Net Loss. Ken had questions on Item 7 of A. No Net Loss and Mitigation

### *Item 7 reads:*

Compensatory mitigation measure shall occur in the vicinity of the impact or at an alternative location within the same watershed or marine shoreline reach that provides greater and more sustainable ecological benefits. When determining whether offsite mitigation provides great and more sustainable benefits, the County shall consider limiting

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factors, critical habitat needs, and other factors identified by a locally adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan. The County may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved and sanctioned by the Department of Ecology and other applicable state and federal agencies.

Ken wants to have a discussion about the in-lieu fee program, as listed in Item 7, prior to it going to the County Commissioners. It was agreed that Item 7 be discussed when Bill Dewey was present. LaJane will add Item 7 to be discussed in further detail to the next agenda. It was then agreed that the PAC would ask questions during the briefing after each section was defined by LaJane. Cathi was concerned that if items were put off until the next meeting then items might be identified today that could be corrected for the next meeting.

Cathi wanted to know who makes the determination of no net loss?

Tim Gates, Department of Commerce, working on Assignment to the Department of Ecology and has worked for the last 2-1/2 years with the CAC on this project. Tim explained that No Net Loss is a guide and standard that's in the Dept. of Ecology's Guidelines. They inform how this entire Master Program is written. If you want to know how No Net Loss is achieved, you follow the regulations. If you have a project, and you can't do what you want to do, following the buffer standards, for example, you can apply for a variance. If you don't like the answer to that, you can go to the Shoreline Hearings Board. So all the questions about No Net Loss, that are abstract, are meaningless, it's what's in the regulations that matter. So, you are not coming up with the question, does this project achieve No Net Loss as if you don't have all these regulations. You follow the regulations.

Jim questioned that there was an appeal process through the Shoreline Hearings Board? In which Tim agreed, absolutely. Tim also stated that there is a lot more than that, there are a lot of preferred uses which have special treatment under the act, so that not all uses are treated the same. Ken asked Tim if he could help him understand who determines ecological protection. A new policy required a current ecological function be identified. Who identifies that function?

Tim's response: Again, that informs all these regulations. What is that application asking you to do? It says, describe the property, what are the existing conditions of the property, etc, etc. In some cases, depending on what you want to do, if you can avoid, entirely the impact, by following a buffer, if you can do that, you've met the regulations – you've achieved No Net Loss of functions, because you said that if you follow these buffers everything is good. It is a sight specific case. In some things there are sight specific studies that are required. This Master Program, to meet the No Net Loss Standard, for the most part, has adopted your existing Resource Ordinance by reference; most of those standards will not change. The question is not abstract, how do I know No Net Loss when I see it? It's in the regulations. Jim noted that it is a tremendous amount of new underscored text. Ken agreed.

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Cathi asked LaJane for an example of what Item 9 was.

*Item 9 reads:*

Land that is constrained by critical areas and buffers shall not be subdivided to create parcels that are not only buildable through a shoreline variance or would be considered non-conforming.

LaJane explained that that is an area that you would have on a very tiny lot with wetlands and steep slopes, the buffers are such that you would have to develop in to a buffer or a set back which you can't do unless you get a shoreline variance. You can't build on a lot that is so small that is so restricted. Jim asked about subdividing under five acres and it was confirmed that it would have to be rezoned. In theory our process would prevent that from happening, because if it was buildable through a shoreline variance that would non-conforming we can't approve a rezone that doesn't have access, for example, commented Kristy. Cathi made the comment that she agrees with LaJane in removing Item 9 as it could be a problem for PAC. LaJane asked if they wanted to cross it out. Cathi wants to hear what Allen Borden has to say before they consider striking it out.

Allen Borden commented on Item 9 policy stating that it reiterates what happens in the subdivision process in Title 16. You can't create a lot in which you have to seek a variance to develop it. It's for emphasize in the sense that it's another point in the regulations that brings up the fact that you can't create lots in which development has to seek a variance to develop.

Jim noted to leave Item 9 as is.

## B. Critical Areas

### 1. Applicability

Jim asked if a definition of critical areas can be added to the beginning of the section for the reader. Staff agreed. He also asked for Shoreline Variances to be defined. Staff explained that there is a chapter on Shoreline Variances in Permits and Exemptions where it is already listed.

### 2. Buffers and Setbacks

*Ken asked about #5 which reads:*

In accordance with RCW 90.58.065, this Program shall not restrict existing or ongoing agricultural activities occurring on agricultural lands.



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Items submitted in December meeting and sent to the Citizens Advisory Committee (CAC) and wording in #5 is different now than it was then. Original document sent to the CAC said it was exempt. Wording now states "shall not restrict". Why was it changed from "exempt" to "shall not restrict"? LaJane will get an answer at next meeting.

Changes to the Buffer and Dimensional Standards for Shoreline Development were discussed. Cathi questioned the 150' stream buffer setbacks on Urban Commercial. Tim Gates explained that the SMP did not regulate Shelton jurisdiction. Cathi confirmed that the buffers were applicable to Allyn, Union and Hoodspout saltwater areas. In which, Tim agree that they were reduced to 150'.

3. Wetlands
4. Landslide Hazard areas
5. Fish and Wildlife Conservation Areas
6. Frequently Flooded Areas
7. Dimensional Standards for Shoreline Development

- E. Vegetation Conservation
- F. Views and Aesthetics
- G. Water Quality and Quantity
- H. Public Access

Ken asked about I. Archaeological Areas and Historic Sites. Staff responded that she did not have it marked in for this discussion. Ken agreed to save it for the next meeting.

### J. Existing Residential Structures

Staff explained that existing residential structures are considered legal even though they do not meet regulatory standards for setbacks, buffers or yards. They were built with permits at a time that we did not have these, so they are considered legal established residential structures. This is in response with a lot of people who were having problems with insurance or with mortgages, this was something that went to legislation, so if it's legally established, and built in a time they weren't required. Jim asked if you could consider this as "grandfathered"? Staff affirmed.

Marley Young, a gentleman in the audience noted that the word "permit" had been added to the explanation. Staff stated that if it was built during a time that there were no permitting allowed, that it was not required. Marley stated that it may have been permitted but, Jim intervened and stated that "allowed" was probably a better term. Staff agreed and stated that it was not in the definition. Jim noted that we should add it if its not in the definition.

Marley stated that if the regulations can be interpreted one way and be intended to be the other way, it's going to be interpreted the wrong way. Staff explained that is it considered a legally established residential structures, so that it

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means that if it was built at a time before permitting was allowed / created, then it's legal. If it was built at a time after permitting, and the people did not get a permit for it, then that would be a problem, that would be illegal.

Jim asked for staff to please talk to counsel and to please add a definition of "legally established" to ensure that we don't have confusion over "permitting" and/or "allowing".

Cathi had a question on Item #2. She stated, If she had a house built on pilings, and she wanted to remodel it or to bring it up to code, she will not be allowed to expand the square footage of that house?

Concerned with wording "expansion is prohibited", and asked for clarification.

*Item #2 reads:*

Expansion of legally established residential structures located over water or in hazardous area, such as floodways, floodplains or geologically hazardous areas is prohibited. Redevelopment or replacement of such structures may be considered as a conditional use and subject to limitations that ensures public health and safety.

LaJane explained that she cannot expand the structure, as it's not allowed. Tim Gates clarified that the Master Program currently prohibits residential overwater and the SMP maintains it, the language is straight from the 2011 Legislature which authorized the creation of this new legal category to say that your existing legally established structures are considered legally conforming. But this says that if you are over water you shouldn't expand it. Jim asked, should not or cannot? Tim explained, cannot. Tim also said that the overwater section was consistent with the existing Master Program.

Jim asked Tim Gates to provide PAC with specifics from legislation that would back this up? Tim agreed to. Mr. Sims stated that if you can only remodel within the existing frame as opposed to enlarging the living room or kitchen, then it's a difficult proposition.

Marley Young made a statement: You bring up the piling as a good example. I read as what paragraph 2 is: If your house is on a foundation in a floodplain, that footprint is out of service for a floodplain because it's on a foundation. If you're on piles the only thing that's in the floodplain are the piling. So your arguments of a whole over the water on Hood Canal on pilings, why wouldn't that be allowed to expand because you are only taking out of service the volume of the circumference of the piling?

Jim stated that the title read: It says located overwater or in a floodway, floodplains or geologically hazardous areas.

LaJane stated that there was a representative from the Department of Ecology that may be able to answer the question. She asked Rick Mraz to step forward.

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Rick Mraz, Washington Dept. of Ecology, Shoreline Permit Specialist assigned to Mason County and five other Counties testified. He provides technical assistance and reviews conditional use and variance permits that come from Mason County and make recommendations to his supervisor.

Mr. Mraz states that the residential structure built over water has been disfavored by the Mason County Master Shoreline Program since its inception in 1975. They are existing, and they are allowed to persist. The regulation allows you to repair and maintain them. But they do occupy a space over the water and they arguably displace habitat in that area. Repairing and maintaining seems consistent with the idea of No Net Loss. Allowing the expansion, if the County chooses to allow expansions of existing overwater structures, they'll need to figure out how to balance that in the No Net Loss equation. How does that show you're achieving No Net Loss through the regulation?

Jim suggested that the PAC reserve for further discussion. Rick offered to submit some case examples of county shoreline variances that were denied for expansion and county shoreline variances that were approved for remodel within the existing footprint. Rick explained that they don't have the existing regulation in the floodplain or floodway regulations. Overwater is the only piece that has existed in the Master Program since its inception. Floodplain is additional. Staff explained that it was subject to be stricken.

A five-minute break was taken.

Jim explained that the process is that Mason County, with the blessing of the County Commissioner's, has to submit their plan to the Dept. of Ecology by the end of June. PAC needs to have a final product to the County Commissioner's by the 1<sup>st</sup> of May so they have a chance to go through it. PAC must be finished by the middle/end of March to work out all of the questions and concerns that the public may have. What we are working on now is a draft developed by the Citizen's Advisory Committee. This is not the final product, this is the basis in which we are going to ask for a lot of your input tonight and again in February. We want to hear what you have to say, what your concerns are.

Jim Sims opened public hearing up for public testimony

Bill Cappellette of Allyn testified. His questioned who was in charge here? Are we as a County going to be in charge of our County, or is it going to be the Dept. of Ecology? When we put in all this information, what are they going to approve? Is it going to be us in charge of our own area or is it going to be these guys telling us what we've going to do?

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Jim Sims commented that as best we can, that the answer is the citizens of Mason County to decide what's best for Mason County. A public comment was made if it was possible to have a State Representative at the next meeting.

Phil Wolff of Allyn testified on the need for public access. He commented that the details were very restrictive. Concerned with the regulations and the ease of improving a boat ramp or adding a float. Commented that the regulations were written for aquaculture industry and activities and not for the waterfront homeowner. Talked about scenic views and asked if we were in to a Columbia River Gorge situation. Hopes that given the amount of shoreline that we have, and tourism and economic viability, the items are closely looked at.

Jim asked LaJane to comment on how many miles of shoreline we had in Mason County. 703 miles of shoreline was noted.

Constance Ibsen of Union testified. She was questioning the marine shoreline designation of the Commercial Urban areas designated which was proposed on the map. Commented that it looked like the entire rural activity center of Union was highlighted. She felt it inappropriate that the whole shoreline be part of the Commercial Urban area. She commented that there are a couple of centralized areas for commercial now and the rest is now compact dense residential development, with all new commercial development and services that are needed for the community to be on one side of Dalby Street that goes up to McCreavy. She wants to propose some boundaries and feels it is not appropriate to add new development of residential areas into commercial. Said it would be a real change in their rural character. She asked if the PAC would like a letter from the Hood Canal Improvement Club. Jim said yes to the letter.

Cathi asked LaJane about the commercial zone property to residential zone property in Union, are these designations based on what the shoreline lot is zoned as, or is it blanketed like the Urban Growth Area. LaJane explained that the whole shoreline is blanketed and going off the definition of the RAC and the UGA that those are areas of commercial activity that can and should occur. Constance stated she is concerned about the entire shoreline being designated as Urban Commercial when it is primarily residential. The fact that in the planning process for that RAC in Union, and the boundaries got smaller, and we agreed, as a community, to put new commercial development away from the water on Dalby. In her opinion she felt it was a step backward.

Eric Schallon of Green Diamond Resource Company. He submitted a letter for the record. He summarized the letter acknowledging that a lot of work being done by Tim, LaJane, Rick and the members of the Citizens Advisory Committee (CAC).

He summarized additional issues: 1) On Draft SMP and the policy choices and options that have not been identified. Concerned how the PAC and the Commissioners consider what other policies choices can be made. 2) CAC was supposed to be the venue for this process to hear what the citizens of this community wanted to do, over the course of the meetings there began to be a healthy participation from state agency representatives. The purpose

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was to get the citizens input, not multiple people from the same agency, taking up time and resources, irrelevant to the CAC process. 3) Request that the Commission adopt a schedule that publishes well in advance each specific item.

Pat VanDeHey of Fawn Lake commented on global warming and infiltration of saltwater into our aquifers and felt it should be considered. Also concerned that there is no mention of critical aquifer recharge areas, only mention of it is on page 46 (under G. Water Quality and Quantity) – 1. Shoreline use and development shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws. Where is the designation of mapping of all critical areas? She commented about the one map by the County and another map by the City of Shelton, they were both drawn by the same source, and they are both exactly opposite. She doesn't know how any permitting can be done on anything until we know where the mapping is, where are these critical areas?

Ken commented on Pat's concerns and stated that he had just looked at the critical aquifer recharge area map in the County Comprehensive Plan. Pat stated that they still don't know which is the correct map. Pat claimed she was very familiar with that map.

Teri King with Washington State Sea Grant Program. She is preparing for the next session and interested in the boating and recreation section. She stated that she is concerned with the statement of boat houses and that it is not approved in a natural designation. She uses these structures for education and research facility on Cranberry Lake. Concerned that children will be carrying a canoe for 200 yards will be difficult, especially for third graders. She didn't understand how this may not be allowed under a Conditional Use for certain instances. She is struggling where she is going to teach people and where she will place a viewing cabin for Osprey. Trying to preserve ecological function – where does a non-profit fit in?

Jerry Richert of Shelton questioned why the Skokomish Valley was added under the Shoreline Master Plan. Staff explained that it was added because it was in a floodplain. It was confirmed that everything in the floodplain in Mason County was included in the SMP and is a recommendation and is not statute – this was recommended by the Dept. of Ecology, FEMA and consultants.

Jerry explained that he had all of his property in the Skokomish Valley put in to Long Term Ag., and that's driving us out of business, there will be no agriculture in the Skokomish Valley in 10 - 20 years. It will be gone. Cathi asked why he made this comment and Jerry said it was because of the regulations. He commented how the regulations won't let him build a barn for the future. He wants to put a barn on his property that will last 50 to 100 years, and he can't do it, they won't allow it. Why can't we operate new agriculture out of the Skokomish Valley?

Ken asked staff that consideration be given to owners of agricultural resource land in the county and asked the Conservation District to send notice to those folks that we will be talking about agricultural use regulations and let them

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be aware. Jim added that our County Assessor knows who has agricultural resource lands. Ken added that he had questions himself but wanted to wait until we had more of the agricultural community represented.

Constance added that the Conservation District needs to get out the information as well since the Voluntary Stewardship Program was passed.

There were no additional comments from the public. Jim asked if there were any further questions.

Cathi added that on page 52 under No. 2 had concerns on the language regarding floodplains, floodways and geologically hazardous areas. Ask that staff take a closer look at Numbers 3, 4, 5 and 6 under J. Existing Residential Structures (see attached pages 52 and 53). She would like it reworked and have some new language proposed for the next workshop.

Jim noted that another Workshop will take place on February 11.

Tim Gates wanted to clarify the question on floodplains – that is very clearly an option that is authorized by the statute. Jim clarified that it is not a requirement. Tim explained that it is an option, the minimum jurisdiction on the Skokomish River would be the floodway plus 200’.

Committee requested a copy of RCW and WAC as to determine or where codes are listed as required vs. optional and that they be identified, so they can make the best decision based on facts.

Staff requested from the PAC to confirm if a February 25 meeting will take place in order to get news release out. PAC confirmed.

Adjournment at 8:54 pm.

- e. Site- and resource-specific conditions, including hours of operation, interpretive or directional signage, lighting, pedestrian access, and traffic and parking.

## **I. EXISTING RESIDENTIAL STRUCTURES**

1. Legally established residential structures and appurtenances that are landward of the ordinary high water mark as of the date of adoption of this SMP shall be considered legal conforming structures even if they do not meet regulatory standards for setbacks, buffers, or yards; area; bulk; height; or density.
2. Expansion of legally established residential structures located overwater or in hazardous areas, such as floodways, floodplains or geologically hazardous areas is prohibited. Redevelopment or replacement of such structures may be considered as a conditional use and subject to limitations that ensures public health and safety.
3. Requests for expansion of a residential structure shall utilize the mitigation sequence and mitigation strategies set forth in this SMP to satisfy no net loss requirements.
4. If expansion of a nonconforming structure will result in better management of shoreline resources, expansion shall be approved.
5. Expansion to the main structure or the addition of a normal appurtenance shall only be accomplished by addition of space above the building footprint of the main structure; and/or by addition of space onto or behind that side of the main structure which is farthest away from the ordinary high-water mark and/or critical area.
  - a. Applications for expansions upward shall demonstrate that impacts to existing views are minimized to the greatest extent practical.
  - b. Applications for expansions outside the existing footprint in a buffer shall submit a Habitat Management Plan that identifies measures to protect habitat and mitigates for unavoidable impacts.
6. For the replacement of manufactured homes, a greater building footprint than existed prior to replacement may be allowed in order to accommodate the conversion of single-wide manufactured homes to double-wide manufactured homes. Applications for such replacements shall submit a Habitat Management Plan that identifies measures to protect habitat and mitigates for unavoidable impacts. Any increase greater than 50% of the existing home shall require a Variance.
7. Nothing in this regulation affects application of other federal or state requirements related to residential structures.
8. Floating homes legally established prior to January 1, 2011, are conforming preferred uses under this Program and may be remodeled, rebuilt (home torn down to the float and rebuilt in place), or replaced (existing home and float removed and a new home and float towed in) in situ, provided there is no increase in the surface water area covered by the floating homes and accessory structures including cantilevered portions that extend beyond the float.

## **K. -NONCONFORMING USES AND STRUCTURES**

This section on nonconforming structures is from MCC 15.09.055(B) and Ecology WAC 173-27-080.

1. Nonconforming structures and nonconforming uses are those that were lawfully constructed or established prior to the effective date of this Master Program but which do not conform to present regulations or standards of the Program. See special considerations under MCC 17.50.055 (J) "Existing Residential Structures."
2. Structures that were legally established prior to this Program and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards, area, bulk, height or density may be maintained and repaired. Such structures may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses. Expansion or enlargement of such structures into areas prohibited by current bulk, dimensional or performance standards shall require a variance.
3. A use which was legally established but is nonconforming with regard to the use regulations of this program may continue as a legal nonconforming use. Such uses shall not be enlarged or expanded.
4. A use which is classified as a conditional use but which existed prior to adoption of this Program or any amendment thereto, and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.
5. A structure for which a variance has been issued shall be considered a legal nonconforming structure, and the requirements of this section shall apply as they apply to preexisting nonconformities.
6. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use upon the approval of a shoreline conditional use permit, provided that:
  - a. The proposed use will be as consistent with the policies and provisions of this Program and as compatible with uses in the area as the preexisting use; and
  - b. Conditions may be attached to the permit that the County deems necessary to assure compliance with the requirements of this Program and to assure that the use will not become a nuisance or hazard.
7. A nonconforming structure which is moved any distance must be brought into conformance with the Program to the maximum extent practicable.
8. This program shall not restrict the reconstruction of a nonconforming structure which is damaged or destroyed by fire, accident or the elements, provided that nonconformance with the standards and regulations of this program shall not be increased by such reconstruction and provided applications for permits are submitted within two (2) years of the date of change.
9. If a nonconforming use is discontinued for twelve (12) consecutive months or twelve (12) months during any two (2) year period, the nonconforming rights shall expire and any subsequent use shall be conforming.

#### **L. DEVELOPMENT ON LEGAL LOTS OF RECORD**

Any legal lot of record, regardless of size has the potential to be developed provided that it can meet all requirements of the Program, Mason County, State and Federal Regulations or obtain a variance.