

Planning Commission Recommended Amendments to the September 2006 Planning Commission Review Draft Shoreline Management Program

*September 2006 Draft SMP text amendments are identified by single underline and ~~single strikethrough~~.

**Additional text amendments recommended by the Whatcom County Planning Commission on October 26, 2006 are identified by double underline and ~~double strikethrough~~ text.

1) SMP 23.10.03.C Governing Principles

2. By including policies and regulations that require mitigation of significant adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in SMP 23.90.03 and the Whatcom County Critical Areas Ordinance (WCC 16.16). This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of the date of adoption of this Program, XXXXXXXX XX, 2006.

2) SMP 23.10.03.H Governing Principles

H. Consistent with the policy and use preferences of RCW 90.58.020, Whatcom County should balance the various policy goals of this Program giving consideration to ~~In light of other relevant local, state, and federal regulatory and non-regulatory programs, Whatcom County should balance the policy goals of this Program to the extent consistent with the policy of the Act, per RCW 90.58.020, and these Governing Principles.~~

3) 23.20.08.B Archaeological, Historical and Cultural Resources Objectives

1. ~~Sites should be p~~Protected sites in collaboration with appropriate tribal, state, federal and local governments. Encourage P~~public agencies and private parties should be encouraged~~ to cooperate in the identification, protection and management of cultural resources.

4) 23.20.10.B.5 Restoration and Enhancement Objectives

5. Integrate R~~restoration and enhancement should be integrated~~ with other parallel natural resource management efforts such as the WRIA 1 Salmonid Recovery Plan, Drayton Harbor and Portage Bay Shellfish Protection District plans, WRIA 1 Watershed Management Plan, ~~and the~~ Whatcom County Comprehensive Plan and the Puget Sound Salmon Recovery Draft Plan.

5) 23.30.03.5 Urban Shoreline Area, Conditional Uses:

E. Regional U~~tility development consisting of transmission facilities~~ not serving adjacent uses such as sewage trunk lines, desalination facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.

6) 23.30.04.5 Urban Resort Shoreline Area, Conditional Uses:

E. Regional Utility development ~~consisting of transmission facilities~~ not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.

7) 23.30.05.5 Urban Conservancy Shoreline Area, Conditional Uses:

~~GE.~~ Regional Utility development ~~consisting of transmission facilities~~ not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.

~~F.~~ and ~~Sewage outfalls and treatment plants, over-water communication or power lines, and fuel pipelines.~~

8) 23.30.06.5 Shoreline Residential Area, Conditional Uses:

E. Regional Utility development ~~consisting of transmission facilities~~ not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.

9) 23.30.07.5 Rural Shoreline Area, Conditional Uses:

E. Regional Utility development ~~consisting of transmission facilities~~ not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.

10) 23.10.08.5 Resource Shoreline Area, Conditional Uses:

F. Regional Utility development ~~consisting of transmission facilities~~ not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.

11) 23.30.09.5 Conservancy Shoreline Area, Conditional Uses:

~~GE.~~ Regional Utility development ~~consisting of transmission facilities~~ not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.

~~F.~~ and ~~Sewage outfalls and treatment plants, over-water communication or power lines, and fuel pipelines.~~

~~HFG.~~ Surface mining.

12) 23.50.07 Non-conforming Development

- F. Non-conforming structures that are destroyed by fire, explosion, flood, or other casualty may be restored or replaced in kind if there is no feasible alternative that allows for compliance with the provisions standards of this Program chapter; provided that, the following are met:
1. The reconstruction process is commenced within eighteen (18) months of the date of such damage; and
 2. The reconstruction does not expand, enlarge, or otherwise increase the non-conformity, except as provided for in subsection (E) above or (H) and (I) below.

13) 23. 50.07.K Non-conforming Development

1. Non-conforming lots with a building area of 2,500 square feet or more available for a single family residence and normal appurtenances and unrestricted by setbacks or buffers from shorelines or critical areas shall comply with the provisions standards of this Program. The building area means the entire area that will be disturbed to construct the home, normal appurtenances, and landscaping.

14) 23.60.05 Minimum Application Requirements

6. Operation and maintenance plan(s) as required pursuant to other applicable sections of this Program.

15) 23.90.04.B Regulations (Water Quantity and Quality)

4. To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards; provided that, an operation and maintenance plan is developed and implemented by the property owner to ensure that such systems are examined every one (1) to three (3) years, depending on the system design, to ensure that such systems are functioning properly.

16) 23.100.04.A Boating Facilities – Policies

11. Location and design of Bboating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as fishing, shellfish gathering, pleasure boating, commercial aquaculture, swimming, beach walking, picnicking and shoreline viewing.

17) 23.100.05.B.1.e Allowed Use (Commercial Regulations)

- (2) If no water-oriented commercial uses are located on or adjacent to the water as part of the a mixed use development, eighty percent (80%) of the shoreline and associated buffers shall be preserved or restored to provide shoreline ecological functions that approximate the functions provided by the site in natural conditions.

18) 23.100.07.A Industrial and Port Development – Policies

5. Industrial and port development in the shoreline should be located and designed to avoid significant adverse impacts to other shoreline uses, resources, and values, including shoreline geomorphic processes, water quality, fish and wildlife habitat, commercial aquaculture, and the aquatic food chain.

19) 23.100.07.B.1.c.5 Purpose and Need (Industrial and Port Regulations)

- (b2) If no water-oriented uses are located on or adjacent to the water as part of ~~the a~~ mixed use development, eighty percent (80%) of the shoreline and associated buffers shall be restored to provide shoreline ecological functions that approximate the functions provided by the site in natural conditions.

20) 23.100.09.A Moorage: Docks, Piers and Mooring Buoys – Policies

5. Moorage should be spaced and oriented ~~perpendicular to shore~~ in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating, as well as private riparian rights of adjacent land owners.

21) 23.100.11.B.1.k Location and Design (Residential Regulations)

- (3) New or expanded subdivisions ~~and short subdivisions, except those for lot line adjustment, and lot consolidation, and purposes of subdividing land into four (4) or fewer lots,~~ and all multi-unit residential developments shall provide a community recreation and/or open space area for the benefit of all residents or property owners in the development; provided that, such provisions shall not apply to lot line adjustment, lot consolidation, and subdivision of land into four (4) or fewer lots.

22) 23.100.14.B Signs – Regulations

1. Unless otherwise prohibited by zoning regulations or this Program, shoreline developments are permitted to maintain a total of three (3) on-premise signs; ~~provided that, only one (1) may be a free-standing, roof, or projecting sign; further provided, that if this sign is double-faced, then only one (1) other wall sign is permitted. Further provided that this provision does not apply to private informational signs posted on private property by the owner for reasonable purposes such as address, home occupation signs, No Trespass, and temporary signs such as For Sale, Rent and political campaign signs within the campaign season;~~ provided, no sign exceeds four (4) square feet in area. All signs proposed for a development requiring a substantial development permit shall be designated on application and approval documents.

23) 23.100.14.C Signs – Shoreline Area Regulations

8. Natural: Sign development is prohibited, except for trail marking, hazard warnings, or interpretive scientific or educational purposes and personal signs provided for in SMP 23.100.14.B.1. Such permitted signs shall be limited in size and number to those required to affect their purpose.

24) 23.110.N Definitions

5. “No Net Loss” means the maintenance of the aggregate total of the County’s shoreline ecological functions. The no net loss standard requires that the impacts of shoreline development and/or use, whether permitted or exempt, be identified and mitigated such that there are no resulting significant adverse impacts on shoreline ecological functions or processes. Each project shall be evaluated based on its ability to meet the no net loss goal commensurate with the scale and character of the proposed development.

Proposed Planning Commission Agency Report Recommendation

Based upon the above findings of fact, reasons for action and conclusions, the Whatcom County Planning Commission recommends approval of the proposed Whatcom County Code amendments attached hereto as Exhibits 1 and 2. The Commission further recommends approval of the proposed amendments to the Official Whatcom County Shoreline Management Program Map attached hereto as Exhibit 3; provided that, the addition of Jorgensen Lake shall be contingent upon review and verification by the Department of Ecology to determine if the lake is in fact twenty acres or greater in size and is in fact a Shoreline of the State.