

Hi Teren,

Comments received – thank you.

As we are now in an open public comment period (12/3/08 – 1/30/09) on our [Preliminary Draft Shoreline Master Program](#) proposal for Comprehensive Plan and Development Regulation amendments, your comments will be forwarded to the Planning Commission for their consideration.

In regards to your attached letter, please find our responses to your questions below:

1) We understand there was a comprehensive look at shoreline parcels. As it pertains to the changes being proposed, a) what percentage of undeveloped land is there in the various "designations" and, b) what percentage of all parcels affected will have an increase or change in development restriction?

A Cumulative Impacts Analysis (CIA) is being prepared to assess the potential effect of the Preliminary Draft SMP (PDSMP) on future development. The CIA is intended to satisfy the requirements of WAC 173-26-201(3)(d)(iii) and the WA Dept. of Ecology grant contract, and will help answer these questions about undeveloped lots. This document is pending completion, will not be proposed for adoption as code, and will be made available to the public.

It would seem appropriate and necessary that the CIA would have been completed and made available to the Planning Commission (PC) as part of the information needed to fully deliberate on the changes being proposed – as well as made available to the public so all affected citizens could understand fully the impacts on the county, and on their property values. We, and the PC should also be hearing from the county assessor on how these proposed changes will affect property tax values and revenues.

2) Criteria has been established for lakes and streams - what criteria has been established for when and how wetlands will be recognized as coming under the SMP jurisdiction? How will that be determined? Will this trigger landowners having to have wetland delineations performed, and if so, what would be the circumstances requiring that? Will the current wetlands mapping be used in any way?

PDSMP Article 1.2 Applicability, and Article 6.1 Critical Areas, Shoreline Buffers & Ecological Protection: The PDSMP does not change or affect the number or extent of wetlands under shoreline jurisdiction. Associated wetlands have been regulated by the state Shoreline Management Act since its inception. The treatment of wetlands described in Article 1 is no different than under the existing SMP. Some wetlands are included in SMP jurisdiction as Shorelands because they are 'associated features' as per WAC 173-22-030(1) and are proposed for regulation as consistent with WAC 173-26-221(2)(c)(i). As described in the Shoreline Inventory & Characterization Report: *"These typically include wetlands that physically extend into the shoreline jurisdiction, and*

wetlands that are functionally related to the shoreline through a hydrologic connection or other factors." All provisions of the SMP would apply within the jurisdictional area as defined in the program, including wetland buffers described in the Critical Areas Regulations (JCC 18.22.270). However, as described in PDSMP Article 6.D, buffers would not be applied additively, but rather the landward most edge of all buffers/setbacks would apply. Current wetland mapping may be considered during permit review, but additional on-site data such as delineations may be required on a case-by-case basis.

3) How was the 50' distance between homes determined as a requirement for the common line prescriptive option? What is the purpose of this or the impact the SMP is trying to divert? How many waterfront subdivisions have been approved since Oct. 1998?

PDSMP Article 6.7: The 50' lateral separation distance between homes described as part of the Common Line Setback prescriptive buffer option is similar to other jurisdictions that have fully-adopted, updated SMPs, including City of Port Townsend. Because the buffer adjustment is allowed only for single family residential development and for the purpose of not having the standard buffer substantially impairing neighboring views. Because the standard buffers/setbacks and other provisions are intended to collectively meet the State requirement for "no net loss of ecological function" and because there is no mandate or guarantee for an unobstructed view of the shoreline, the purpose is to allow some accommodation for site-specific conditions when they meet the given criteria. The current SMP uses 300' lateral separation distance for such a buffer option. The number of waterfront subdivisions since 1998 is not known without further research. Please note that subdivisions approved after Oct '98 should be vested to the code at that time and show the setback lines on the plat.

I had understood that Whatcom county was the only county that had adopted an SMP to date – what other counties have been included in this analysis? What are the property densities in those counties that have been considered for this option? If you are using Port Townsend as a guide, how do you rationalize the 50x100' parcels to the larger parcels in the county? And, again – how many waterfront subdivisions have been approved since 1998?

4) You indicated that most of the shoreline is in very good shape, and that the purpose of the SMP changes are to achieve no net loss. What is the 110 or 160 foot setback meant to accomplish, and what is the science to show the added degree of impact to the shorelines with the setbacks as they are in the current SMP ?

Overall, part of the purpose of the SMP Update is to reflect current conditions, make use of new available data and comply with the State SMP Guidelines, which include the requirement of "no net loss of ecological functions" (WAC 173-26-186(8)(b)). No Net Loss is identified as a Governing Principle in Article 1 of the PDSMP. The *Shoreline Inventory & Characterization Report* addresses preliminary buffer recommendations in Chapter 5 and cites numerous sources. Chapter 6 is a bibliography of several hundred technical/scientific references

consulted in preparation of this document. The inventory report is not anticipated for adoption as code. Also, the State requires the SMP to provide protection of shoreline resources that is equal to (or exceeds) that provided by the Critical Areas Regulations (JCC 18.22). Standard buffers of 150' for streams, 100' for lakes over 20 acres, and 150' for fish & wildlife habitat along marine shores are currently in effect (JCC 18.22). Standardized buffers allow development without requiring a detailed, site-specific environmental analysis at the permit level.

The science you have used that shows the impact to the shoreline should be clearly provided in addressing why these measures are necessary. If the SMP is to reflect current conditions, and we are told the shoreline is in good shape with the level of development we have in Jefferson County, what science applies here. 114 homes per shoreline mile as compared to 5-6000 is a significant difference in the potential for impact. Please define the problem.

5) Ag lands are exempt as we understand it, if they are zoned as ag land and active. The trend in new ag is niche farming and much of this is being done on rural residential parcels. There is also likely to be a need for people to grow food in the future - for themselves and to support community food cooperatives. Please define the ag exemption, how is it applied, where and what are the criteria if RR zoning is included?

PDSMP Article 9: Agricultural activities as defined in Article 2 are exempt from a Shoreline Substantial Development Permit - as described in Article 9.2 and 9.3 - as per RCW 90.58.030(3)(e)(iv) and in compliance with WAC 173-26-241(3)(a)

Again – our ag trend is on rural residential lands – you have not answered my question as it relates to this draft and our opportunities here in Jefferson County.

6) What active uses are allowed in the 20% of the buffer that is not required to be "well vegetated and predominately natural condition." Are kitchen gardens an allowable use?

PDSMP Article 6: Requirements for buffer condition are found in Article 6.1 and the policies and regulations that apply to vegetation conservation are found in Article 6.4, including a list of activities exempt from the requirements such as agriculture, buffer enhancement, 3" stems, landscaping, non-motorized trails, berry picking, and hazard tree removal.

7) With DCD staff cut back and many of the program changes requiring more of staff, permitting authority and action, what can we expect will be the time frames needed for a buyer to work through the development approval options under a Feasibility contingency? Will we need 18 months in the future to determine if and how a parcel can be developed, and what tests/professional assessments may be required in that process?

In this case, you are proposing several phases of investigation and options to be considered – do each allow for 120 days review? It is imperative that the options be clearly defined, and the DCD be subject to more stringent performance requirements. How do we, as Realtors, advise our clients as to timing for a feasibility study?

PDSMP Article 9 and 10: It depends on what the existing structure is. Existing structures may be 'grandfathered' as a non-conforming development if it was legal prior to the adoption of the new SMP. Replacement due to fire/flood damage, and enlargement and/or expansion of a non-conforming development is addressed in Article 10.6 with criteria for when a permit may be required. New use/development of that existing structure must comply with all provisions of the new SMP, regardless of the need for a permit. Exemptions from a Shoreline Substantial Development Permit are listed in Article 9 including fair market value, normal maintenance & repair, etc.

Have a great weekend,
Michelle

Web: <http://www.co.jefferson.wa.us/commdevelopment/ShorelinePlanning.htm>

NOTE: All e-mail sent to this address will be received by the Jefferson County e-mail system and are subject to Public Disclosure under Chapter 42.56 RCW.

From: Teren MacLeod [mailto:teren@ptproperty.com]
Sent: Friday, January 09, 2009 3:12 PM
To: Michelle McConnell
Subject: Letter - with questions on the SMP draft

Michelle - attached is a pdf file with a letter and a list of questions for you regarding the SMP draft.

We are asking for your response by the end of day on the 14th. Feel free to send responses by e-mail so that I can share with our committee.

Thanks very much,
Teren MacLeod