

1 CITY OF BELLINGHAM PLANNING STAFF REPORT

3	Agenda Topic:	Introduction to the City's Shoreline Master Program and the
4		planned SMP update during the remainder of 2021 as required by
5		the Department of Ecology.
7	For:	Planning Commission Work Session
9	Staff Contact:	Steven Sundin, Senior Planner, 360-778-8359 / ssundin@cob.org

12 I. SUMMARY

14 The Planning and Community Development Department intends to introduce the Planning
15 Commissioners to the City's update of its Shoreline Master Program. (SMP) An update is more
16 commonly referred to as a "periodic review." The SMP is codified in our Municipal Code in Title
17 22, Shorelines. This introduction also includes a "short-course" on the SMP itself to ensure that
18 the commissioners understand:

- 20 ✓ What shorelines are;
- 21 ✓ Where they are located;
- 22 ✓ How they became "shorelines";
- 23 ✓ What is the purpose of the SMP;
- 24 ✓ How is the SMP organized;
- 25 ✓ What are its basic concepts and objectives; and
- 26 ✓ How it is implemented

28 This introduction is necessary because the PCDD intends to perform its required update to the
29 Shoreline Master Program during the remainder of 2021. This will include work-sessions and
30 public hearings before the Planning Commission and the City Council. The Planning
31 Commissioners will benefit from a baseline understanding of the SMP before reviewing
32 proposed revisions to it.

34 Please note that the Washington State Department of Ecology is the responsible state agency
35 for reviewing and issuing the FINAL approval of updates to local SMPs. The Department of
36 Ecology requires all city and county municipalities to update their SMPs on a rotating schedule,
37 approximately every eight years. The City performed a comprehensive amendment from 2007-
38 2009. The Department of Ecology approved our current version of the SMP in February 2013.

40 II. PLANNING COMMISSION ROLE

42 Prior to the introductory work-session the Planning Commission should review the following
43 materials:

- 45 ✓ This staff report;
- 46 ✓ The power point presentation; and
- 47 ✓ Chapter 2 from the DOE SMP Handbook titled "Shoreline Management Overview."

49 The overview provides an excellent executive summary of the Shoreline Management Act and
50 its relationship to local SMPs. It also includes details on other elements such as the shoreline
51 guidelines, relationship to the Growth Management Act and critical areas AND the required
52 components of an SMP and how those are applied to shoreline developments.

1 Staff recommends that while reading the “Overview” the commissioners open up BMC Title 22,
2 Shorelines which can be found here: [Title 22 Shoreline Master Program | Bellingham Municipal
3 Code](#)

4
5 The overview will include notations (in red lettering) that reference the reader to the chapter and
6 subsection where a concept in the handbook can be found in the City’s SMP. This will help the
7 commissioners understand the organization of the SMP and how the elements of the Shoreline
8 Management Act are implemented in Bellingham’s SMP.

9
10 **III. BACKGROUND**

11 The Department of Ecology approved the City’s comprehensive amendment in 2013. This was
12 an intensive process that included a shoreline characterization and inventory, consultation with
13 local, state and federal agencies and Lummi Nation, 17 meetings with the Planning Commission
14 and 17 meetings with the City Council. Extensive public comment was submitted during this
15 process and both bodies worked through every single one of them via a “public comment
16 tracker.” Review and coordination with the Department of Ecology took nearly 3 years and
17 included additional back and forth with the City Council and the Port of Bellingham up to its
18 approval and adoption.

19
20 Comprehensive amendments were required by Department of Ecology for ALL municipalities in
21 order to implement the “Shoreline Guidelines” which were revised and then codified in WAC
22 173-26 in 2004. Essentially, the Guidelines required several key elements:

23
24 Conduct a shoreline characterization and inventory. This paved the way for establishing goals,
25 policies and regulations that addressed future development within individual stretches or
26 ‘reaches’ of shoreline based largely upon their physical and ecological characteristics. These
27 reaches of shoreline were categorized into “shoreline designations” which function similar to
28 how zoning works across the city. Within a shoreline designation, allowed uses are specified
29 and they have associated set of development regulations.

30
31 Implement the “no net loss of existing shoreline ecological function” standard. Local
32 governments were required to develop regulations and assign mitigation to shoreline
33 designations and the specific uses that are allowed within them.

34
35 Develop a “restoration plan.” The purpose of the restoration plan is to provide a resource that
36 identifies areas where shoreline ecological function is lacking and establish goals, priorities and
37 objectives that could be applied to such areas.

38
39 Perform a “cumulative impacts analysis.” The purpose of the CIA was for the PCDD to
40 demonstrate – via an analysis of the proposed amended SMP – that implementation of it would
41 result in no net loss of existing shoreline ecological function over time.

42
43 The Department of Ecology reviewed these required elements in the City’s SMP as part of their
44 approval process in 2013.

45
46 An UPDATE is different from a comprehensive amendment. An update is not required to
47 perform the activities specified above.

48 An update is intended to achieve several key objectives:

49
50 ✓ Incorporate amendments to state and local laws since a local comprehensive update;
51 ✓ Address emerging issues such as sea level rise and coastal storm surges;

1 ✓ Incorporate updates to best available science;
2 ✓ Develop new goals, policies, objectives and regulations where appropriate;
3 ✓ Clarify and revise existing goals, policies, objectives and regulations;
4 ✓ Fix minor errors, labelling, inconsistencies, incorrect and outdated cross references.

5 Examples:

6 ✓ The Department of Ecology clarified several of its rules in WAC 173-27 that the City will
7 incorporate into its updated SMP;
8
9 ✓ The City may add sea level rise and coastal storm surges and flooding topical fields to
10 the existing shoreline characterization and inventory and add associated goals / policies
11 and objectives;
12
13 ✓ The 2014 wetland rating system (for wetlands within shorelines) will replace the 2004
14 rating system;
15
16 ✓ The City will maintain the “no net loss” standard; and
17
18 ✓ Intends on updating the existing restoration plan to incorporate the most recent science,
19 specific restoration projects, plans and objectives and a perform an update to the
20 existing list of specific restoration projects.

22
23 The previous SMP was adopted in 1989 and was largely similar to the original 1974 edition. The
24 result of the 1989 SMP was a significant amount of development within approximately 25-feet of
25 a shoreline. This is most recognizable along Whatcom Creek downstream of I-5 and around
26 Lake Whatcom. Please note that the current SMP cannot be retroactively applied.

27
28 Hence, the current SMP was developed to maintain shoreline ecological function via
29 redevelopment and improve shoreline ecological function via restoration actions while continuing
30 to preserve areas for water-dependent uses and improving public access opportunities as
31 appropriate.

32 **IV. ISSUES**

33
34 Planning staff anticipates several issues that will emerge as the SMP update proceeds through
35 the public process.

36
37 1. Buffer widths should be increased. The existing SMP is protective of shoreline ecological
38 function. The Department of Ecology would not have approved our SMP in 2013 if they
39 concluded that the SMP did not meet the “no net loss” standard. Planning staff does not
40 intend to propose increases to any of the existing buffer widths. The following current
41 buffer widths, described generally, are provided below and at the time they were
42 established. These were based upon best available science and the ecological
43 characteristics of each reach or ‘segment’ of shoreline.

44
45 LAKE WHATCOM:

46
47 • 100' buffer along the shoreline developed with single-family residences; and
48 • 200' buffer along Scudder's Pond, Bloedel Donovan Park and Old Mill Village

49 LAKE PADDEN:

50
51 • 200' buffer along entire the shoreline

1 BELLINGHAM BAY:

2

3 • 200' buffer along Chuckanut Bay and Clarks Point;

4 • 100-150' buffers along the shoreline of Edgemoor neighborhood, Marine Park

5 and the 3 pocket estuaries along the BNSF railroad, Padden Lagoon and along

6 shoreline between Taylor Dock and the Cornwall Avenue Landfill;

7 • 25' buffers along Cornwall Avenue landfill (future park site);

8 • 45' buffer around Bellwether Peninsula; and

9 • Zero-foot buffers along working waterfront areas of Waterfront District, Squalicum

10 Harbor and Marina and the Fairhaven Marine Industrial Park.

11 CHUCKANUT CREEK:

12

13 • 100' buffers from the mouth to the southerly City limits.

14 PADDEN CREEK:

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16 • 100' buffers from the mouth at Harris Avenue upstream to McKenzie Avenue

17 (behind the Bellingham Tennis Club). This is the portion of the creek that is tidally

18 influenced. The rest of Padden Creek (upstream to the outlet of the Lake) is

19 regulated by the Critical Areas Ordinance.

20 WHATCOM CREEK:

21

22 • 50' buffers at the mouth – which is located between Holly Street and Roeder

23 Avenue and along the Boardwalk between Holly Street and the Fish Hatchery;

24 and

25 • 100' buffers from the Dupont Street bridge upstream to Woburn Street. 100-150'

26 buffers from Woburn Street upstream to Scudder's Pond

27 SQUALICUM CREEK:

28

29 • 75' buffers from the mouth upstream to the Eldridge Avenue bridge;

30 • 100' buffers from the Eldridge bridge upstream to Interstae-5 and from Hannegan

31 Road to the northeastern City Limits; and

32 • 150' buffers from I-5 upstream to Hannegan Road

33

34 2. Nonconforming structures should be required or provided with incentives to relocate or

35 minimize their footprint in shoreline buffer areas. Structures and development footprints

36 that are now located in buffer areas (which were expanded as part of the 2013

37 comprehensive update) are now considered nonconforming.

38 The SMP specifies that the portions of a property where nonconformities exist may

39 continue to exist and can be repaired and maintained but not *expanded* within the

40 required buffer area. The majority of nonconforming structures are within the required

41 buffers of Whatcom Creek and along the single-family portions of Lake Whatcom.

42 (Buffers in along both shorelines are 100-feet in width.) Property owners hold on to their

43 nonconforming developments because they realize that if they choose to redevelop the

44 existing buffer standards would be applied. Planning staff does not intend to propose

45 any 'retroactive' requirements for relocating or minimizing development footprints within

46 existing buffers.

1 Planning staff are likely to propose policy and regulatory language that would allow a
2 property owner to add stories or height to a nonconforming structure provided it is within
3 the existing building footprint. This would allow underutilized and/or underdeveloped
4 properties to continue to develop and add capacity without encroaching further into
5 buffer areas.

6

7 3. Address sea level rise. Incorporate goals, policies and regulations that address sea level
8 rise and coastal storm surges and coastal flooding. (SLR and CSSF) The City has
9 developed a framework or, “guidebook” for conducting a future vulnerability assessment
10 as it relates to SLR and CSSF. The City – in partnership with other local municipalities
11 such as the Port of Bellingham and Whatcom County – have commissioned the United
12 States Geological Survey agency to produce a model that can anticipate the frequency,
13 depth and duration of upland flooding that occurs as a result of coastal storm surges and
14 flooding in concert with SLR scenarios over time. The model will cover most of the
15 marine shorelines in Whatcom County including all the marine shoreline within the City
16 of Bellingham.

17

18 A future vulnerability assessment will not be completed until approximately 2023. The
19 coastal storm model may not be completed until later this year or, after the SMP update
20 is finalized. The City cannot wait to finish or delay its update of the SMP in order to
21 incorporate the results of the assessment and model. The City does intend on including
22 broad goals and policies relating to these topics as part of the update.

23

24 During development of the scope of work for the SMP update, the City has been clear
25 with the Department of Ecology that Planning staff intend to complete the update – or as
26 much of it as possible – by the end of 2021 . Planning staff specified that the City would
27 undergo a “limited amendment” in order to incorporate the findings and results of the
28 assessment and model – and any associated adaptation planning – into the SMP once
29 those are known. This would include specific goals, policies and regulations that would
30 facilitate and implement such an assessment and adaptation planning. The Department
31 of Ecology concurs with this approach.

32

33 A “limited amendment” is the mechanism that local governments may utilize to amend or
34 revise very specific sections of its SMP. In this case, as it relates to SLR and CSSF the
35 City would add shoreline goals, policies and regulations that implement the SLR and
36 CSSF findings and results and could also facilitate specific actions relating to adaptation
37 such as shoreline reinforcement, elevation of structures and relocation of buffer areas.

38

V. NEXT STEPS

40

41 After this introductory work session, staff will utilize the Engage Bellingham “SMP Update” site
42 to solicit interest from the general public and special interest groups on this process. PCDD staff
43 have set up a “Quick Poll” and a “Guestbook” on the Engage page so staff can get a better
44 understanding from the public about their expectations, issues and concerns regarding the
45 update BEFORE staff present their proposed revisions. Staff would then have the ability to
46 summarize those inputs and potentially, frame the proposed revisions in a manner that
47 incorporates and/or addresses public comment.

48

49 A document that achieves both objectives would be presented to the Planning Commission in a
50 follow-up work-session in approximately mid-August. The proposed revisions would be
51 presented in a ‘narrative’ type format where the revision is introduced, shown and then
52 explained. For example:

1
2 **1. Do not apply buffers across developed rights-of-way or established private**
3 **roads.** BMC 22.08.010 B should be revised to include a new subsection 1. a, which
4 should read:

5
6 Buffers may not include areas that are functionally and effectively disconnected from
7 the shoreline by an existing public or private road, as determined by the Director.
8 Functionally and effectively disconnected means that the road blocks the protective
9 measures provided by a buffer or it disrupts the life cycle of wildlife documented to
10 be using the area.

11
12 Rationale: The city's critical areas ordinance includes this provision as it relates to
13 creek and wetland buffers and the CAO and SMP are meant to be synonymous with
14 one another in terms of protection and regulation of habitats as well as application of
15 buffer standards. In certain circumstances property owners have had to apply for
16 variances for encroachment into "buffer areas" that are comprised of developed city
17 rights-of-way.

18
19 **2. Allow minor residential features / appurtenances in buffer areas** that have been
20 previously developed such as sheds / garages / fences / arbors / decks / solar panel
21 arrays, etc., as determined by the Director to be legally classified as "conforming"
22 provided there is no net loss of existing shoreline ecological function.

23
24 This proposed revision is required based upon state law in RCW 90.58.620
25 established in 2011.

26 Planning staff believe that a "narrative" format which includes the intended revision and the
27 rationale for it will make it easier for the commissioners to understand it and to formulate
28 questions and discussion more effectively *rather than* trying to labor through a legislatively
29 formatted draft ordinance.

30
31 Specific dates for additional work sessions and public hearings should not be scheduled until
32 the Planning Commission has worked through the narrative styled revisions and public input.
33 When that work is complete it should lead to a recommendation for Planning staff to prepare a
34 draft ordinance. This is when staff would show the proposed revisions in legislative format, i.e.,
35 in strikeout and underline and present those in a public hearing.

36
37 **VI. LIST OF ATTACHMENTS**

38
39 A Staff Report
40 B Power-point presentation including notes sections
41 C "Shoreline Management Overview"