

# **Jefferson County Preliminary Draft SMP (STAC & SPAC Courtesy Copy - November 2008)**

## **Summary of major changes from the May 22, 2008 revised Committee Working Draft (rCWD)**

The following is a summary of the major changes to the draft Shoreline Master Program since the revised Committee Working Draft published in May 2008. Chapters are now called Articles in accordance with the standard convention in Jefferson County Code (JCC). This is just a summary; further discussion will occur at the November joint committee.

### **Article 1 – Introduction and Purpose**

Minor wording change in Applicability section- “*This program ~~regulates~~ applies to ....”*

### **Article 2 – Definitions**

- Many changes to the definitions section to delete unused terms, clarify conflicts between similar terms, and make more consistent with the SMA. Most changes were in direct response to comments from Jeffree Stewart (July comment letter).
- Key terms that have been added include, but are not limited to:
  - Appurtenance
  - Aquaculture facility/farm
  - Beach access structure
  - Bottom culture
  - Community dock
  - Experimental aquaculture
  - Floating aquaculture
  - Live-aboard
  - Net pen
  - Pier

### **Article 3 – Master Program Goals**

Made fairly minor changes (wording and re-ordering) to Goals 1B, 4B, 5B, 7B, and 8B.5. Changes were based on comments from Jeffree Stewart from his July comment letter.

### **Article 4 – Shoreline Jurisdiction and Environment Designations**

Section 1:

- Added requirement that undesignated and unmapped shoreline are automatically designated Conservancy (per WAC 173-26)
- Added restoration to the Conservancy and Aquatic designation criteria.
- Added low-intensity water-oriented commercial and industrial uses to the Conservancy criteria.

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#### Section 3:

- Included the Allowed Use Table (formerly appended to the document) in this section, showing the permitted, conditional, and prohibited uses by shoreline environment designation. Note that conditional uses are now split into two categories: C(a) – Administrative and C(d) – Discretionary consistent with JCC 18.40. Both of these CUPs require notice of application and Ecology approval. The main differences are that for C(d) permits the Administrator has the discretion to require an open record public hearing and the final decision is by the Hearing Examiner not the Administrator. Both decisions are appealable.

#### **Article 5 – Shorelines of Statewide Significance**

No changes.

#### **Article 6 – General Policies and Regulations**

##### Section 1:

- Clarified that buffer averaging/reduction allowances in the CAO would not require a shoreline variance as long as the criteria in the CAO are met. This is consistent with Ecology and Attorney General's Office (AGO) interpretation of the Whatcom County SMP.
- Clarified that buffer reduction allowance via the Critical Area Stewardship Plan (CASP) provisions in the CAO would require a shoreline variance if the buffer being modified is an SMA waterbody.
- Building setback is changed from 5 ft to 10 ft.
- Clarified that mitigation sites must be "nurtured to success."
- Moved some of the mitigation language that formerly resided in the Shore Stabilization section (Article 7, section 5 of the May 2008 version) to this section.
- Included incentive clause to allow County to recognize beneficial actions as "advance mitigation."
- Added a requirement that lot consolidation options be pursued prior to allowing single-family residences on nonconforming lots without a variance.
- Clarified that to qualify for the administrative approval of single-family development on nonconforming lots, the lot had to have been created prior to 1976 (the date of the original SMP).
- Changed the dimensional requirements for single-family development on nonconforming lots to allow up to 1,100 sq. ft. of driveway in addition to a 2,500 sq. ft. building footprint without a variance.
- Added a minimum buffer of 30 ft from ordinary high water mark (OHWM) for residential structures on nonconforming lots without a variance per Ecology comments (Note - Ecology may not approve our proposal to allow single-family residences on nonconforming lots without a variance, but they are more likely to do so if we specify a minimum shore buffer).
- Referenced the 'common line setback' approach in the standards for nonconforming lots (to be consistent with Ecology's required changes to the Whatcom County SMP).

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- Clarified that the height of boathouses within shoreline buffers is limited to 15 ft.
- Added a requirement that boathouse also require a notice on title that the structure may not be used for or converted to a residence.
- Clarified that boathouse and other structures accessory to single-family residential development require a conditional use permit (CUP) - see Table 1 in Article 4.
- Removed allowance for essential public facilities and utilities in shoreline buffers without a variance (refer to Article 8 and Table 1 in Article 4 for which ones are permitted, CUP, etc.)
- Moved Dredging and Filling/Excavation policies and regulations to Article 7.

Section 4:

- Revised policy # 6 to be clearer
- Added a limit on limbing and windowing to 25% of any tree and/or 25 % the overall the canopy
- Revised limits on clearing for trails to 5 ft on either side of a 5-ft-wide trail unless otherwise recommended by an arborist for safety reasons

**Article 7 – Shoreline Modification Policies and Regulations**

Shoreline Environment Regulations have been moved up so they come between the policies and regulations.

Section 1:

- Pedestrian Beach Access Structures changed to Beach Access Structures
- Added policy #2
- Reworded policy #3
- Noted that some properties would have only view access (access structures not allowed in some cases). See policy#5.
- Added a new criterion to when beach access structures are allowed: when no other access is available within 300 ft. See regulation #5.
- Updated Shoreline Environment regulations to differentiae public v. private access structures.
- Added that private residential access structure prohibited in Priority Aquatic designation.
- Added that access structures require a CUP.

Section 2:

- Removed provision that prohibited shore defense associated with marinas. Soft shore approached are required unless a geotechnical report specified otherwise.
- Added boat/jet ski lifts as a type of boating facility.
- Added a dimensional standard for docks not to exceed 60 ft (same as Whatcom County) per Ecology comments.
- Cleaned up allowed use table (see Table 1 in article 4) for all boating facilities.

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Section 3:

- Modified dredging regulations so they are more focused on local shoreline management issues and less on issues regulated by state and federal agencies – see regulation #C5 for example.
- Maintenance dredging is allowed but must conform to permitted hydraulic capacity of streams (per Whatcom County).

Section 4:

- Added requirement that review will focus on issues that are not fully addressed via other permit processes.

**Article 8 – Use-specific Policies and Regulations**

Aquaculture:

- Many changes to this section made based on input from Ecology.
- Clarified that existing and permitted uses do not need a new permit until/unless the facility is substantially modified, expanded or new species are cultivated.
- Clarified which forms of aquaculture are considered development per the AGO opinion.
- Changed permit requirements so that geoduck and floating/hanging aquaculture require a CUP - either a C(a) or C(d) depending on environment designation- see Table 1 in Article 4.

Forest Practices:

- Clarified that non harvest related development activities are regulated by the County and require a shoreline permit.

**Article 9 – Permit Criteria and Exemptions**

No major changes.

**Article 10 – Administration and Enforcement**

Included language about different types of CUPs – C(a) and C(d) from JCC 18.40.