

**ISLAND COUNTY  
PLANNING COMMISSION SUMMARY MINUTES**

**OF**

**PUBLIC HEARING  
May 17, 2021 at 2:00 PM**

**– VIDEO ONLY via STARLEAF –**

**CALL TO ORDER:**

(Approximate recording timestamp: 00:00:00/02:42:10)

Meeting was called to order at 2:00 p.m. by Vice Chair, Steve Schwalbe.

**ROLL CALL:**

(Approximate recording timestamp: 00:00:17/02:42:10)

**Present:**

District 1 – Commissioners Margaret Andersen, William Criswell, Kristi Lovelady

District 2 – Commissioner Joseph Busig

District 3 – Commissioners Tracy Gilroy, Beth Munson, Steve Schwalbe (Vice Chair)

**Absent:**

District 2 - Commissioners Darin Hand (Chair)

**Planning & Community Development Staff Present:**

Jonathan Lange, Assistant Planning Director; Meredith Penny, Planning Manager;

Grant Johnson, Long Range Planner

**APPROVAL OF MINUTES:**

(Approximate recording timestamp: 00:01:13/02:42:10)

Vice Chair Schwalbe initiated approval of minutes for the April 26, 2021 Regular Meeting.

Commissioner Andersen asked about two (2) follow up items listed within the minutes:

1) Whether staff was able to attain a response from the Board of Commissioners regarding the Planning Commission's recommendation on mooring buoy compliance

Penny stated the Board of County Commissioners agreed with the recommendation of the Planning Commission. They also agreed that educational outreach would be beneficial.

2) Whether staff was able to confirm that the County has met the requirements for No Net Loss.

Penny stated for the record that No Net Loss was evaluated in the last Comprehensive Update of the SMP via the Cumulative Impacts Analysis and the Characterization and Inventory Report. Based on changes proposed, consultants will evaluate whether an addendum to the previous analysis is needed. Once complete, staff will present the findings to the Planning Commission.

Commissioner Andersen moved to approve said minutes as written. Commissioner Lovelady seconded the motion. Motion passed 7-0-0.

### **ITEMS FROM THE PUBLIC– UNRELATED TO TOPICS ON THE AGENDA**

(Approximate recording timestamp: 00:06:14/02:42:10)

Vice Chair Schwalbe asked for public comment for topics not on today's agenda. No public comments were brought forth.

### **DIRECTOR'S REPORT**

(Approximate recording timestamp: 00:06:46/02:42:10)

Assistant Planning Director Jonathan Lange stated there is nothing new to report on the ADU revision as it is still in the County legal department. However, he will let the Commission know once there is news.

Commissioner Gilroy asked if there was a specific reason this question is asked each meeting. Commissioner Andersen stated she does not have any personal interest or conflict with this topic. Rather, she simply wants to know the outcome given the timing of such a heavy lift.

Lange shared that the department went live with electronic submissions for building permits. Work is being done to move land use applications online as well to improve efficiencies.

Commissioner Criswell asked if building plans will be able to be submitted electronically. Lange stated they could.

Commissioner Schwalbe asked Lange about the possibility of converting agenda packet dissemination to electronic documents. Lange was supportive of a discussion on this suggestion. Commissioner Lovelady and Commissioner Criswell stated they prefer paper copies. Commissioner Busig did not have a preference. The topic was tabled.

Lange shared that, with new planners comes additional training needs. Therefore, where one planner should have 25-30 permits each, a number of planners have 60-70 permits. Staff is working to move through these as efficiently as possible. Lange stated the same is true for the building permits. He shared that the department is looking to contract with an outside consultant to do some more plans examining work to help with this backlog. Staff recently interviewed for a new plans examiner/building inspector. Building plans are still approximately 3 months out when the goal is to be 4-6 weeks out.

Commissioner Criswell asked Lange to think about any opportunities for the building community to assist the planning department. Lange will pass this along to Director Engle.

Lange reported that the City of Oak Harbor Planning Department approached the County to begin discussions on the proposed expansion of the Oak Harbor Joint Planning Area. This will likely be coming to the Planning Commission next year if it's added to the work plan.

### **PUBLIC HEARING**

(Approximate recording timestamp: 00:20:44/02:42:10)

Vice Chair Schwalbe commenced the Public Hearing on the County's Shoreline Management Program. Penny reminded everyone that this is a Public Hearing and shared some background information to add context and information for anyone newly joining these meetings.

Penny outlined today's process stating the Planning Commission is considering a recommendation to the Board of County Commissioners to adopt a resolution formally transmitting the DRAFT to Ecology for their initial review.

Penny outlined several changes made to the DRAFT since the April 26, 2021 Planning Commission Meeting based on discussions from that meeting as well as staff recommended changes. Areas with proposed changes include:

1. Incorporating Wetland Regulations into the SMP.  
(Approximate recording timestamp: 00:27:19 /02:42:10)

Questions regarding processes and timelines were asked by Commissioner Andersen and Commissioner Gilroy.

2. Landscaping in Shoreline Setbacks and Buffers Blocking View Corridor.  
(Approximate recording timestamp: 00:35:06/02:42:10)

Penny presented the following proposed language to address previously raised concerns:

“Within shoreline residential canal and historic beach communities, solid landscaping hedges of native or non-native plants that obstruct the water view corridor of adjacent waterfront primary residences shall not be permitted within the shoreline setback or buffer. Plantings within the shoreline buffer shall be installed in accordance with...” followed by a reference to the Island County buffer enhancement code section.

Discussions ensue

- Commissioner Lovelady raised concern regarding the subjectivity of this language. And, therefore, code enforcement becomes difficult.
  - Commissioner Gilroy asked to have a definition of water view corridor added to Exhibit A. She is also concerned the County is stepping into an area they don't have adequate funding to enforce.
  - Commissioner Andersen stated she is a proponent of adding some type of language to prevent vegetation be planted and maintained as a fence.
  - Penny stated staff would recommend that this provision not be include within the draft given infrequency of the issue and lack of funding for enforcement of such issues. However, if the Commission would like to include such language, staff has provided it for consideration.
  - Commissioner Andersen referenced Exhibit D suggests this language puts a baseline in to define a view corridor
  - Commissioner Criswell suggests including a landscaping term along with hard surfaces.
  - Commissioner Busig asked for clarification on whether ICC 17.05A.090.G includes height requirement. Penny read this code showing it does not include a height requirement.
  
  - Penny suggested the language be changed to the following:  
“Within shoreline residential canal and historic beach communities, landscaping vegetation shall not be permitted to grow above 30 inches in height within the shoreline setback and buffer when within the water view corridor.”
  
  - Commissioner Schwalbe suggested all corridor and subset terminologies be defined.
  
  - Commissioner Andersen inquired how those with new designations for residential and historic beach communities will be notified of this. Penny stated, per the BOCC, this type of notification would not be appropriate at this time since it's a change that's been in place, just not mapped. Rather, BOCC recommended educational outreach to appropriate community groups.
3. Other Items For Consideration Brought Up Since April 26, 2021 Meeting.  
(Approximate recording timestamp: 01:03:46/02:42:10)

- A. ICC 17.050A.090.E.1.e: Replacement and expansion of existing residential structures in shoreline setbacks and buffers. Staff does not recommend any change. The general consensus among the Planning Commission was in agreement with Staff's recommendation.

A request was made by a Planning Commissioner that Planning Commission Findings be reworked and more detail provided. Staff suggested they work to provide more detail in the findings before final adoption of the SMP and provide them to the Planning Commission ahead of time for review. Penny stated staff would be happy to rework this document if so directed. She also noted that the Findings are for submitting the draft for Ecology's initial review. Penny suggested utilizing the Findings as drafted for the transmittal process to Ecology. Then, after Ecology has provided comments and these comments have been incorporated and discussed, a reworked version will be provided to the Planning Commission prior to the Public Hearing to officially adopt the SMP.

4. Changes Recommended by the Planning Commission to include within today's motion:  
(Approximate recording timestamp: 01:14:30/02:42:10)

A. **ICC 17.05A.110.A.8.I.**

**Current Draft:**

I. When a new or replaced hard structural shoreline stabilization measure is proposed on a site where legally established hard structural shoreline stabilization measures exist on adjacent properties, the proposed stabilization must tie in flush with those stabilization measures as feasible. The new stabilization measure shall not extend waterward of the OHWM, except in those locations where the structure connects to the adjoining stabilization measure. The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible and shall not extend onto adjacent property.

**Proposed:**

I. When a new or replaced hard structural shoreline stabilization measure is proposed on a site where legally established hard structural shoreline stabilization measures exist on adjacent properties, the proposed stabilization must tie in flush with those stabilization measures as **physically** feasible. The new stabilization measure shall not extend waterward of the OHWM, except in those locations where the structure connects to the adjoining stabilization measure. The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible and shall not extend onto adjacent property.

B. **ICC 17.05A.110.A.4.a.**

**Current Draft:**

New structural shoreline stabilization shall be prohibited in or adjacent to lakes.

**Proposed:**

New structural shoreline stabilization shall be prohibited in or adjacent to lakes, **except that softshore stabilization may be permitted for those properties abutting Deer Lake in cases where a demonstration of need, consistent with the provisions of section 17.05A.110.A.3 ICC, can be provided.**

**C. ICC 17.05A.040**

**Current Draft:**

Infrastructure means facilities and services needed to sustain industry, residential, commercial, and all other land-use activities, including water, sewer lines, and other utilities, streets and roads, communications, and public facilities such as fire stations, parks, schools, etc.

**Proposed addition:**

**Infrastructure, public means infrastructure owned or available for use by the public.**

**D. ICC 17.05A.090.C.17.d**

**Current Draft:**

The normal repair and maintenance of public infrastructure. For culvert repair or replacement, no BSA is required unless there is proposed expansion of conveyance capacity, configuration, or size.

Minor utility repair within the improved right-of-way, provided that relocation of utility lines, equipment, or appurtenances shall occur as far as feasible from shoreline-associated critical areas, their buffers and/or the shoreline buffer. For culvert repair or replacement, no BSA is required unless there is proposed expansion of conveyance capacity, configuration, or size.

**Proposed addition:**

The normal repair and maintenance of public infrastructure, **consistent with the definition of repair in 17.05A.070 ICC.** For culvert repair or replacement, no BSA is required unless there is proposed expansion of conveyance capacity, configuration, or size.

Minor utility repair within the improved right-of-way, **consistent with the definition of repair in 17.05A.070 ICC,** provided that relocation of utility lines, equipment, or appurtenances shall occur as far as feasible from shoreline-associated critical areas, their buffers and/or the shoreline buffer. For culvert

repair or replacement, no BSA is required unless there is proposed expansion of conveyance capacity, configuration, or size.

**E. ICC 17.05A.080 Table 1 – Footnote 16**

**Current Draft:**

16. Legally established single-family residences that do not meet current standards and which are enlarged or expanded within the shoreline setback beyond that which is allowed by ICC 17.05A.090.E.11, shall be reviewed as a conditional use permit in accordance with section ICC 17.05A.140.C.

**Proposed addition:**

Legally established single-family residences that do not meet current standards and which are enlarged or expanded within the shoreline setback beyond that which is allowed by ICC 17.05A.090.E.11, shall be reviewed as a **shoreline variance** as a conditional use permit in accordance with section ICC 17.05A.140.C. **ICC 17.05A.130.G.**

Penny stated there would need to be two motions from the Planning Commission and, for the sake of time, has provided possible language for consideration when making these motions.

**TOPIC SPECIFIC PUBLIC COMMENT PERIOD –  
SPECIFIC TO ISLAND COUNTY SHORELINE MASTER PROGRAM**

(Approximate recording timestamp: 01:28:19/02:42:10)

Vice Chair Schwalbe opened the meeting up for public comments on the Island County Shoreline Master Program Public Hearing.

Barbara Bennett, 2755 Sun Vista Circle, suggested Island County begin an adaptive process of reviewing regulations to close gaps that she feels should be addressed sooner than 8 years.

Bennett proposes a mid-term review to be able to respond adaptively and close gaps in the public trust.

Jim Norton, 3740 Shorewood Avenue, Greenbank, extended comments of work well done.

Commissioner Schwalbe opened the floor to accept Commissioner's comments:  
(Approximate recording timestamp: 01:33:02/02:42:10)

Changes recommended by the Planning Commission to include within today's motion:

**F. ICC 17.05A.090.D.13**

**Proposed addition:**

**Within Shoreline Residential Canal and Historic Beach Communities, landscaping vegetation above 30 inches in height shall not be permitted within the water view corridor. Plantings within the shoreline buffer shall be installed in accordance with ICC 17.05A.090.G.**

**G. ICC 17.05A.100.G.6.a**

**Current Draft:**

Forest practices, including construction of logging roads, on slopes that exceed thirty-five (30) percent shall require a conditional use permit;

**Proposed:**

Forest practices, including construction of logging roads, on slopes that exceed thirty-five (~~30~~) **(35)** percent shall require a conditional use permit;

**H. Exhibit D**

**Current Draft:**

Historc Beach Community

**Proposed:**

Historic Beach Community

**I. Exhibit B, Page 21, Chapter V, Section A, Policy 7**

**Current Draft:**

If, during the course of development, and particularly during actual construction, human remains or archaeological resources are encountered, the project should be immediately halted and the property owner or project proponent should be required to contact the affected Native American Tribe, the County and the DAHP

**Proposed:**

If, during the course of development, and particularly during actual construction, human remains or archaeological resources are encountered, the project ~~should~~ **shall** be immediately halted and the property owner or project proponent should be required to contact the affected Native American Tribe, the County and the DAHP.

**J. ICC 17.05A.130.C.4**

**Current Draft:**

Unless the underlying approval is classified as a Type III decision, shoreline substantial development permits, shoreline conditional use permits, and shoreline variances, are Type II applications and shall be processed and subject to the land use review process outlined in chapter 16.19, except that shoreline substantial development permits, shoreline conditional use permits, and shoreline variances shall all require a preliminary application meeting prior to application submittal. The Shoreline Administrator may refer a shoreline substantial development permit application, shoreline conditional use application, or shoreline variance application to the Hearing Examiner for a public hearing and decision when requested by the Applicant or when the Shoreline Administrator determines that such action is prudent based on the significance of public comments received, or based on the scale and scope of the proposal.4.Determinations of the Shoreline Administrator regarding applicability of the SMP, exemptions and application requirements shall be processed as Type I decisions pursuant to chapter 16.19.

**Proposed:**

Unless the underlying approval is classified as a Type III decision, shoreline substantial development permits, shoreline conditional use permits, and shoreline variances, are Type II applications and shall be processed and subject to the land use review process outlined in chapter 16.19, except that shoreline substantial development permits, shoreline conditional use permits, and shoreline variances shall all require a preliminary application meeting prior to application submittal. The Shoreline Administrator may refer a shoreline substantial development permit application, shoreline conditional use application, or shoreline variance application to the Hearing Examiner for a public hearing and decision when requested by the Applicant or when the Shoreline Administrator determines that such action is prudent based on the significance of public comments received, or based on the scale and scope of the proposal.

Determinations of the Shoreline Administrator regarding applicability of the SMP, exemptions and application requirements shall be processed as Type I decisions pursuant to chapter 16.19.

**K. ICC 17.05A.100.E.2.s**

**Current Draft:**

When reviewing proposals for new or expanded marina facilities, the county shall require the proponent to prepare and implement appropriate technical

studies and plans that are not already required via another regulatory review process. Examples of studies and plans that may be required include, but are not limited to:

(i) A maintenance plan for maintaining pump-out and waste/sewage disposal facilities and services.

(ii) A spill response plan for oil and other spilled products. Compliance with federal or state law may fulfill this requirement.

(iii) An operational plan that, at a minimum, describes procedures for fuel handling and storage; measures, including signage, for informing marina users of applicable regulations; measures for collecting garbage and recyclables; measures and equipment for ensuring public safety.

(iv) A visual assessment of views from surrounding residential properties, public viewpoints, and the view of the shoreline from the water surface.

(v) An assessment of existing water-dependent uses in the vicinity including but not limited to, navigation, fishing, shellfish production and harvest, swimming, beach walking, and picnicking and shall document potential impacts and mitigating measures. The county shall evaluate impacts on these resources and impose specific conditions to mitigate impacts as necessary.

**Proposed:**

When reviewing proposals for new or expanded marina facilities, the county shall require the proponent to prepare and implement appropriate technical studies and plans that are not already required via another regulatory review process. Examples of studies and plans that may be required include, but are not limited to:

(i) A maintenance plan for maintaining pump-out and waste/sewage disposal facilities and services.

(ii) A spill response plan for oil and other spilled products. Compliance with federal or state law may fulfill this requirement.

(iii) An operational plan that, at a minimum, describes procedures for fuel handling and storage; measures, including signage, for informing marina users of applicable regulations; measures for collecting garbage and recyclables; measures and equipment for ensuring public safety.

(iv) A visual assessment of views from surrounding residential properties, public viewpoints, and the view of the shoreline from the water surface.

(v) An assessment of existing water-dependent uses in the vicinity including but not limited to, navigation, fishing, shellfish production and harvest, swimming, beach walking, and picnicking and shall document potential impacts and mitigating measures. The county shall evaluate impacts on these resources and impose specific conditions to mitigate impacts as necessary.

**(vi) New or expanded marina facilities shall be located and designed to prevent traffic hazards and minimize traffic impacts on nearby access streets.**

**L. ICC 17.05A.090.A**

**Current Draft:**

No lot segregation, land division, or boundary line adjustment shall create a lot which does not include an adequate building site outside of critical areas and their associated buffers unless the resulting lot is being created solely for conservation purposes and a conservation easement encompassing the lot is established and recorded which prohibits all future development.

**Proposed:**

No lot segregation, land division, or boundary line adjustment shall create a lot which does not include an adequate building site outside of critical areas and their associated buffers unless the resulting lot is being created solely for conservation purposes and a conservation easement encompassing the lot is established and recorded which prohibits all future development.

**M. Dumping of yard waste over shoreline bluffs or at road ends shall not be allowed.**

*(Copied from Exhibit B, Page 21, Chapter V, Section A, Policy 7 changed "should" to "shall" added)*

The following items were discussed:

1. Commissioner Busig:
  - a. Asked why Exhibit B, Policy 10, Page 8 has language stricken regarding the monitoring of sea levels and water pH and ask for follow up.
2. Various topics were raised and addressed for clarification.
3. Several items were identified to be placed on a future To Do List.
4. Processes and procedures suggestions

Commissioner Busig moved to include the proposed amendments discussed on slides 10, and slides 16 through 20, as well as the Commission proposed changes as read into the record, into the Draft proposed code amendments to Chapters 17.03 and

17.05A of Island County Code, Exhibit A. Commissioner Andersen seconded this motion. Motion passed 6-0-1 with Commissioner Gilroy abstaining.

Commissioner Lovelady moved to recommend that the Board of County Commissioners formally transmit the Draft Proposed Code Amendments to Chapters 17.03 and 17.05A of Island County Code, Element 3 of the Comprehensive Plan, and the Shoreline Environment Designation Map, enclosed as Exhibits A through F, to the Washington State Department of Ecology for initial review, as part of the periodic update of the Island County Shoreline Master Program in accordance with the optional joint review process of WAC 173-26-104. Commissioner Busig seconded this motion. Motion passed 6-0-1 with Commissioner Gilroy abstaining.

### **ADJOURNMENT**

(Approximate recording timestamp: 02:41:15/02:42:10)

Vice Chair Schwalbe entertained a motion to adjourn.

Commissioner Gilroy motioned to adjourn the meeting. Commissioner Lovelady seconded the motion. Motion carried 7-0-0.

Meeting adjourned at approximately 4:42 p.m.

*Respectfully submitted by: Jana Raasch*