CITY OF BLACK DIAMOND
PLANNING COMMISSION MEETING AGENDA
December 6, 2011 7:00 PM
25510 Lawson Street, Black Diamond, Washington

1) CALL TO ORDER, ROLL CALL

2) PUBLIC COMMENTS: Individuals wishing to address the Planning Commission regarding any item not on this meeting's agenda may do so at this time.

3) APPROVAL OF MINUTES – October 18 and November 1 , 2011

4) WORKSESSION ON DRAFT SHORELINES MASTER PROGRAM

5) DEPARTMENT REPORT

6) ADJOURN

CITY OF BLACK DIAMOND

Interoffice Memorandum

TO: PLANNING COMMISSION MEMBERS

FROM: AARON NIX, PARKS/NATURAL RESOURCES DIRECTOR

SUBJECT: SHORELINE MASTER PROGRAM

DATE: DECEMBER 6, 2011

DEAR PLANNING COMMISSION MEMBERS,

THE MATERIALS BEHIND THIS COVER SHEET INCLUDE THE CULMINATION OF TWO YEARS WORTH OF WORK IN THE DEVELOPMENT OF A DRAFT SHOREINE MANAGEMENT PROGRAM FOR WATERS OF THE STATE WITHIN THE CITY OF BLACK DIAMOND. LAKE SAWYER IS CONSIDERED WATERS OF THE STATE OF WASHINGTON AS IT IS OVER THE 20 ACRE MINIMUM IMPOSED BY STATE LAW. BECAUSE OF THIS, WE HAVE DEVELOPED A DRAFT SHORELINE MASTER PROGRAM WITH THE HELP OF A $70,000 GRANT FROM THE DEPARTMENT OF ECOLOGY, A CITIZEN ADVISORY COMMITTEE AND A PRIVATE CONSULTANT, AHBL.

INCLUDED IN THE PACKET IS A FOCUS SHEET ON SHORELINE MASTER PLANNING IN WASHINGTON STATE, A DRAFT SHOREINE DESIGNATION MAP AND DRAFT SHORELINE MASTER PROGRAM WITH ECOLOGY REVISIONS INCLUDED. ADDITIONAL, SUPPORTING MATERIALS INCLUDE AN INVENTORY AND ANALYSIS OF THE LAKE SAWYER SHORELINE AND CUMULATIVE IMAPCTS ANALYSIS. ALL THESE MATERIALS CAN BE FOUND ON THE CITY'S WEBSITE UNDER THE NATURAL RESOURCES SECTION OF THE WEB PAGE AT WWW.CI.BLACKDIAMOND.WA.US.

AS YOU READ THROUGH THE MATERIALS, YOU WILL PROBABLY HAVE QUESTIONS AND I'LL DO MY BEST TO ANSWER THEM. PLEASE FEEL FREE TO CONTACT ME DIRECTLY AT 360.886.2560 X220 OR EMAIL AT ANIX@CI.BLACKDIAMOND.WA.US. THANKS IN ADVANCE FOR YOUR TIME AND I LOOK FORWARD TO MEETING WITH YOU AT YOUR DECEMBER 6 MEETING.

AARON NIX, PARKS/NATURAL RESOURCES DIRECTOR

CITY OF BLACK DIAMOND

Shoreline master programs: Making sense of tough issues

Introduction

To promote a healthy dialogue with the public and our local government partners, the Washington Department of Ecology (Ecology) has crafted this document to help answer an array of tough questions that have come up as we work together to manage Washington's shorelines for future generations. The state Shoreline Management Act, adopted by voters in 1972, ensures that all of us – the public, interest groups, local, state and tribal governments – work together to ensure our shorelines:

- Are kept safe and unpolluted.
- Are developed and managed fairly.
- Give our children and future generations that special "sense of place" we cherish in Washington.

The mechanism for putting new shoreline development regulations and policies in place is called a "shoreline master program." Many people have questions and concerns about how changes to a local shoreline program might affect their homes, the environment, access to public waters and shorelines, and future development in their community.

With more than 30 updated shoreline master programs now in place, we have some on-the-ground experience regarding many issues people are concerned about – and how cities and counties have dealt with them including:

- Home repair and expansion within shoreline buffers and setbacks.
- The impacts of "no net loss of shoreline ecological functions" requirements.
- Shoreline erosion and potential impacts to property and the shoreline environment.

WHY IT MATTERS

Across Washington, about 260 local governments have or soon will be crafting new shoreline development policies and regulations that may affect you.

Many people have raised questions and concerns about how changes to their local "shoreline master program" might affect them, their homes, and future shoreline development in their community.

Ecology and local governments work together to update each shoreline program under an open public process. We want to help address some of the tough issues citizens have raised about shoreline master programs and the updating process.

Contact information

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Special accommodations

To ask about the availability of this document in a version for the visually impaired, call the Shorelands and Environmental Assistance Program at 360-407-6600.

Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

- Public access requirements and private property.
- Use of scientific information for shoreline master program regulations.

Newly updated shoreline programs address these issues by recognizing and responding to local conditions and needs while fulfilling the statewide vision for shoreline development, protection, and uses set forth by the people of Washington.

Updating local shoreline master programs

Voters adopted the state Shoreline Management Act (SMA) in 1972. More than 260 Washington towns, cities and counties have marine, lake, and stream shorelines that fall under SMA jurisdiction. The Act requires local governments to regularly review and revise their shoreline regulations and policies. However, most jurisdictions haven't done a thorough update of their shoreline master programs since the 1970s. Many changes have occurred along Washington's lakes, rivers, and marine waters in the last 40 years.

In the late 1990s, the Washington Legislature and Ecology recognized that most local shoreline plans, policies and regulations are a generation out-of-date. These old shoreline master programs need to be modernized, reviewed, and updated to:

- Address current shoreline conditions.
- Apply new scientific information about managing and protecting our shorelines.
- Accommodate future development while protecting the ecological functions of our shorelines.
- Align better with current environmental and land-use laws such as salmon recovery and watershed management plans, state Growth Management Act and critical areas ordinances, port development plans, park and trail systems, etc.

As the result of a 2003 negotiated settlement between Ecology and business interests, ports, environmental groups, shoreline user groups, and cities and counties, Ecology revised its legally- binding guidelines that outline the essential elements each local shoreline master programs must address (www.ecy.wa.gov/programs/sea/SMA/guidelines/index.html).

The 2003 Legislature set up a timetable for all 260 local governments to update their shoreline programs by December 2014. Each shoreline master program then must be reviewed every seven years to ensure it still complies with state law. To help local governments meet the 2014 goal, state lawmakers have provided about $12 million to towns, cities, and counties to modernize their individual shoreline programs. When Ecology approves a local shoreline master program, it becomes part of the overall statewide shoreline master program.

Shoreline master programs benefits

Shoreline master programs contribute to local and statewide economic vitality by:

- Protecting lives and property by keeping development out of unstable or unsafe areas.
- Helping communities fulfill their vision for future waterfront development and uses in our shoreline areas.
- Providing more certainty to the development community through more consistent shoreline building ordinances and permitting requirements.
- Providing for public access and recreational opportunities in shoreline areas.
- Giving preference to water-dependent uses that rely on shorelines for economic viability.

Master programs also contribute to local and statewide environmental vitality by:

- Helping protect our marine waters, lakes, and stream systems from pollution.
- Protecting the overall health and functions of shorelines and public waters for both public and private use.
- Protecting critical fish and wildlife habitat.
- Restoring unhealthy shorelines and increasing the health of public waters.

Roles and responsibilities: Shoreline master programs

Under the comprehensive shoreline master program update process currently under way, local governments:

- Provide shoreline planning leadership within their jurisdictions and ensure all interests are brought to the table.
- Prepare, adopt, oversee, and enforce their locally-crafted shoreline master programs.
- Send minor and comprehensive shoreline master program updates to Ecology for approval.
- Periodically review and keep their shoreline master programs current.

Under the shoreline program update process, Ecology:

- Provides state guidelines outlining the essential elements that local shoreline master programs must address.
- Provides grants and technical assistance to local governments.
- Reviews and approves local shoreline master programs to confirm consistency with state law and rules.
- Once approved, individual local shoreline master programs become part of the overall state shoreline master program.

Shoreline master programs do not:

- Take away constitutional protections for private property rights.
- Require existing shoreline homes to be relocated.
- Try to return our shorelines to pre-settlement conditions.

Responding to public concerns

A number of issues have come up during efforts to update local shoreline master programs. Here are some responses we hope address these issues of public concern.

Issue 1: Updating a shoreline master program will impact existing homes

A number of shoreline property owners are concerned that updating local shoreline master programs will put their existing home in peril, because their home could be "out-of-compliance" or "non-conforming" under new shoreline regulations.

Important things to know about new shoreline master programs and your existing shoreline home:

- Updated shoreline master programs are not retroactive.
- Existing single-family homes are "grandfathered." Expansions of existing single-family structures are reviewed on a case-by-case basis.
- Shoreline programs must be designed and put in place so they are consistent with constitutional protections of private property.

Similar to most land-use laws, provisions of new shoreline master programs are not "retroactive." This means existing homes are not "out of compliance" with new shoreline master program regulations. New regulations only apply to new development and uses. In Washington, residential lots created and homes built under older land use laws are "grandfathered in" under those laws so that new standards do not apply retroactively – if no new development is proposed.

Shoreline homeowners can make improvements, and can enlarge or expand their current homes under most conditions. For instance, Whatcom County updated their shoreline master program in 2008 using Ecology's new shoreline guidelines. Since then, the county has received more than 56 applications to make improvements to existing homes, including making additions and building garages. Every homeowner's permit request was approved and issued in a timely manner.

Issue 2: Protecting a house from erosion by armoring the shoreline is no longer allowed

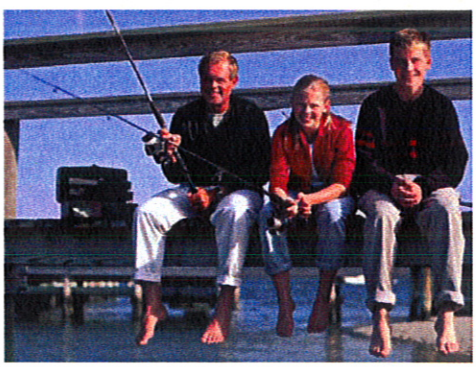
In the past, shoreline erosion threatening a home or business was fought by armoring the shoreline with concrete bulkheads and seawalls, riprap and "revetments" such as sandbags or cement, and other structures designed to harden a shoreline. We now know that hardening a shoreline can endanger neighboring properties and threaten valuable resources, such as salmon, and is best used as a last resort.

The best way to safeguard homes and businesses is to leave enough room between the shoreline and new structures. That way if erosion occurs, it doesn't threaten those structures. During the past 40 years, we've learned that shoreline erosion is much more a process of nature we need to learn to live with. Eroding marine bluffs feed the growth of beaches that protect existing homes. When we try to stop erosion in these places, it robs existing homes of their natural protection. In some cases, armoring pushes the force of waves and water to nearby properties, hastening erosion there. Our approach to managing shoreline erosion needs to be done thoughtfully and carefully.

Important things to know about shoreline armoring and new shoreline master programs:

- Armoring is expensive and may only provide a short-term solution. We need to have a better set of policies and regulations that don't put properties and homes in harm's way.
- Updated shoreline programs are designed to reduce the need for armoring.
- Private property owners can protect their houses or business structures but are asked to use approaches that respect other people's properties and the natural shoreline.

Issue 3: What "no-net-loss of ecological functions" means to homeowners



It's clear that development along our beaches and shorelines can affect their long-term health and prevent people from using and enjoying them. To insure this doesn't happen in the future, new shoreline policies and regulations must meet a standard of "no net loss of ecological functions."

This means existing shoreline functions should be protected and maintained over time while properly sited shoreline development goes on. This is accomplished by modifying development designs to avoid the loss, or making up for – or "mitigating" – adverse impacts.

The no-net-loss standard doesn't mean that your house needs to be removed. You can continue to live in, maintain and repair your house. The no-net-loss of ecological functions goal helps ensure one person's shoreline development doesn't decrease the overall benefits of our shorelines for everyone – while still allowing development to move forward.

Important things to know about no-net-loss

- It ensures that the economic and environmental benefits of healthy shorelines are preserved for future generations. The first step is good planning for future land use and development. It does not stop shoreline development. Local governments must review proposed projects during the permitting process to see if they interfere with shoreline ecological functions.
- It does not mean returning to a pre-settlement environment. Today is the starting point for measuring no-net-loss. It is defined by a shoreline inventory and characterization prepared by the town, city, or county updating their shoreline master program – a critical part of any shoreline program update.

Issue 4: Public access to shoreline areas

Some shoreline homeowners are concerned that public access means allowing strangers to cross their property to get to the beach, river or lake. That's not the case. The Shoreline Management Act and Ecology's shoreline guidelines focus on access to public waters from publicly-owned property. Public access may also be required at large private shoreline developments such as hotels, marinas, and mixed-use projects as part of the original design.

Unlike Oregon and some other coastal states, Washington's tidelands and beaches are not all in public ownership. From 1889 statehood until the 1972 Shoreline Management Act was adopted, the state sold off many of its tidelands and beaches. It's estimated that 60-70 percent of our tidelands are privately owned. According to data from Ecology's Marine Shoreline Public Access Project, only 37 percent of all of Washington's marine shorelines – including those in Puget Sound and our coastal shores – are publicly accessible. This doesn't include information about public access to any freshwater water bodies such as lakes and streams.

Important things you should know about public access to public waters and shorelines:

- State waters – Washington's lakes, streams, rivers, Puget Sound, Pacific Ocean – belong to us all. We have a right to boat, swim, and fish in these waters and enjoy their associated public shorelines.
- The people of Washington want to see, touch and enjoy the shorelines of the state. They embodied this desire in the 1972 voter-approved Shoreline Management Act (SMA).
- One of the primary goals of the SMA is to protect the public's right to access public waters and shorelines.
- They help ensure that both the public's right to access and private property rights are respected. Local shoreline programs help communities plan the best locations for public access to public waters and shorelines.

Issue 5: What shoreline buffers and setbacks mean to homeowners

Shoreline property owners have voiced concern about new buffer and setback standards under updated shoreline master programs. Some worry they will have to tear out existing landscaping or their garden, or lose waterfront views because they'll be forbidden from pruning their trees and shrubs. Ecology has adopted more than 30 shoreline programs under the 2003 guidelines. All have included allowances for tree trimming and maintaining natural views, as well as provisions for accessing the water. New shoreline master programs do not require homeowners to remove their existing landscaping.

Buffers are intended to protect homes from erosion, filter polluted run-off, provide shade, and protect other ecological functions. They protect our water quality by helping filter out toxic and other pollutants in stormwater runoff, help stabilize slopes, and provide organic material to both the land and water food webs. Buffers also provide shade and habitat for critical fish and wildlife species.

Shoreline setbacks are the minimum distance between a structure and the shoreline, or the structure and the buffer. They are not retroactive so they won't affect existing homes. Setbacks keep new homes and developments out of harm's way and prevent the future need for shoreline armoring. Setting a new home back from the shoreline in a low bank area can reduce the need for armoring when sea levels rise over time or unusual floods come. Setbacks also keep homes from being built too close to the water's edge, making our residences safer and less expensive to maintain.

Important things you should know about shoreline buffers and setbacks:

- Shoreline master programs do not necessarily set rigid "one-size-fits-all" standards. Buffer and setback sizes can be tailored based on environmental conditions, current development patterns, and future planned development.
- Buffers and setbacks help protect environmental and economically important shoreline resources.
- Shoreline buffers and setbacks offer opportunities for unique landscaping, screen nearby developments from view, and block noise and glare from adjacent properties and water-based activities.

Issue 6: Science and shoreline master program updates

It's important to remember that at the core, shoreline master programs are a planning process informed by community input, science and many other factors. It is not a process driven solely by science.

In some areas, shoreline homeowners have questioned whether Ecology uses credible science to help local jurisdictions update their shoreline master programs. On the surface, it may be difficult to assess the quality of the methods and statistics reported in a document. Technical documents that Ecology uses include a clear description of the methods used and undergo a rigorous review by reputable experts in the field. This ensures that proper scientific methods, research procedures, and review protocols were used.

Local experience and anecdotal evidence provided by interested parties also may offer valuable information to supplement scientific information. However, nonscientific information can't substitute for valid, available scientific information. Local governments should carefully and objectively review the relative merits of all information.

Ecology's 2003 shoreline master program guidelines require local governments to "make use of and, where applicable, incorporate all available scientific information." This includes reports, documents and materials such as inventory, monitoring, research and survey data, technical assistance materials, mathematical and computer modeling, manuals and services from reliable scientific sources, and aerial photography.

Important things you should know about scientific information:

- Local governments and Ecology use science to inform the policies and regulations that protect and restore shorelines. Scientific information based on reputable methods and reviewed by scientists from the same fields of study, logical conclusions and reasonable deductions, context, and references is considered the most credible.
- Ecology and local governments also consider residents' knowledge about our shorelines to be valuable.
- A document that contains a lot of numbers and statistics is not always based on credible science. Technical documents should always include a clear description of the methods used and undergo a rigorous review by other experts in the field. This ensures proper scientific methods, research procedures, and review protocols were used.

For more information

Shoreline Master Programs
http://www.ecy.wa.gov/programs/sea/shorelines/smp/index.html

Citizen Guide to Shoreline Master Programs
http://www.ecy.wa.gov/programs/sea/shorelines/smp/citizen.html

Shoreline Management Data and Information
http://www.ecy.wa.gov/programs/sea/sma/data/index.html