

[REDACTED]

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Sent: Monday, August 18, 2014 8:01 AM
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Subject: SMP UPDATE - SIX YEARS OF FRUSTRATION

Follow Up Flag: Follow up
Flag Status: Completed

SMP UPDATE - SIX YEARS OF FRUSTRATION

I submit this as a Clallam County SMP Update Public Comment
August 18, 2014
Pearl Rains Hewett
Member of the Clallam County SMP Update Committee

Jul 20, 2013 THE BELLEVUE **PLANNING COMMISSION** HAS BEEN WORKING ON SHORELINE ISSUES FOR MORE THAN FIVE YEARS.

FROM Aug 23, 2008 TO Aug. 2014 - SIX YEARS

This is a applicable, cautionary, documented historical summary and it is, my PUBLIC Clallam County SMP COMMENT on the pitfalls and frustration that ONE WA State city council and **PLANNING COMMISSION** has been experiencing for OVER 6 YEARS in **attempting** to update their DOE SHORELINE MANAGEMENT PLAN.

THE BOTTOM LINE AFTER SIX YEARS OF SMP UPDATE FRUSTRATION

WHETHER ALL OF THE EFFORT BEING PUT INTO THE PLAN WILL SATISFY HOW THE DOE DEFINES "NO NET LOSS" MAY ONLY BE KNOWN ONCE THE SHORELINE MASTER PLAN IS SUBMITTED.

documented history

ECOLOGY CONDUCTED AN INFORMAL REVIEW AND SENT A LETTER TO THE CITY CONTAINING COMMENTS ON THE COMMISSION'S RECOMMENDATIONS.

Jul 20, 2013 THE BELLEVUE **PLANNING COMMISSION** HAS BEEN WORKING ON SHORELINE ISSUES FOR MORE THAN FIVE YEARS.

Jul 16, 2014 BELLEVUE Shoreline plan set for August 2014 public hearing

The purpose of the **August 4, 2014 PUBLIC HEARING** is to provide an opportunity to make written and oral comments regarding Council-requested variations that are being considered to the Planning Commission's draft Shoreline Master Program.

Please continue reading for the documented history

THE BOTTOM LINE AFTER SIX YEARS OF SMP UPDATE FRUSTRATION

WHETHER ALL OF THE EFFORT BEING PUT INTO THE PLAN WILL SATISFY HOW THE DOE DEFINES "NO NET LOSS" MAY ONLY BE KNOWN ONCE THE SHORELINE MASTER PLAN IS SUBMITTED.

According to Richard Settle, an attorney specializing in environmental and land use law with foster pepper PLLC, "NO NET LOSS" IS A NEW AND AMBIGUOUS CONCEPT FOR WASHINGTON.

WHO IS ATTORNEY RICHARD SETTLE ? (I have added this information)

- See more at: <http://www.foster.com/profile.aspx?id=97#sthash.Vh8jPovg.dpuf>

Richard L. Settle

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While the DOE requires **NO NET LOSS** of existing ecological functions, Settle said that implies a tradeoff of development and restoration. He said there's also an assumption that restoration doesn't have to be immediate, and could take as long as 20 years depending on the development.

He added there's also confusion as to how far back in time restoration is supposed to match up with shoreline conditions.

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- http://www.bellevuewa.gov/pdf/land%20use/07-122342-AC-NOPH_Draft_Shoreline_Master_Plan.pdf
- August 4, 2014 [Public Hearing](#) Council-[requested variation to Draft SMP](#)

The purpose of the **August 4, 2014 PUBLIC HEARING** is to provide an opportunity to make written and oral comments regarding Council-requested variations that are being considered to the Planning Commission's draft Shoreline Master Program.

The Planning Commission SMP Update recommendation was the subject of a prior public hearing that was held on **May 5, 2014**.

During the July 14, 2014 Study Session, staff presented additional information requested by the Council during the course of its in-depth review. This additional information was Council to identify variations to the Planning Commission Recommendation that they wished to be considered **during the second Public Hearing, and prior to development of the Final SMP Update package for submittal to the Department of Ecology. Variations requested by the Council for consideration by the public are described below.**

1. Public Access

The Council-requested variation to the Planning Commission recommendation would require public access (either physical or visual) to be provided as a component of new or expanded private recreation uses (such as yacht clubs, marinas and community clubs). This variation would build on the Planning Commission recommended requirement to provide public access to public uses (including parks, and transportation and utility infrastructure). A description of the Public Access variation under consideration by the City Council is included in

Attachment A.

2. Park Development.

The Council-requested variation to the Planning Commission recommendation would permit all beach parks to be developed through an administrative permit approval process when a Master Plan had been previously adopted by the City Council.

Under this variation, Meydenbauer Bay Park would be permitted in the same manner as other parks with Master Plans. A description of the Park Development variation under consideration by the City Council is presented in

Attachment B.

3.

Determination of Ordinary High Water Mark.

The Council-requested variation to the Planning Commission recommendation would allow for the measurement of setbacks from a fixed elevation as a default, with the ability for applicants to obtain a site-specific determination if desired.

The fixed elevation would be

3 based on a lake study such as the one conducted for Lake Sammamish in 2004. This variation would also include clarification that the fixed elevations would not be used for the purpose of establishing shoreline jurisdiction or determining the location of ordinary high water mark (OHWM) for the purpose of properly locating a new dock or bulkhead. A description of the variation under consideration by the City Council for Determination of OHWM is presented in.

Attachment C.

4. Setbacks and Vegetation Conservation. The Council-requested variation to the Planning Commission setback

recommendation would include a 50-foot structure setback with the flexibility to reduce the setback and move toward the water through a series of menu options (or incentives). Existing structures on the site receive the benefit of a footprint exception to legally retain setbacks established by existing residential structures. A string test, allowing for setbacks to be reduced based on the location of structures on abutting properties, would also be included. Mitigation for potential loss of vegetation and vegetation retention would also be required. A description of the Setback and Vegetation Conservation variation under consideration by the City Council is presented in Attachment D.

5. Residential Moorage.

The Council-requested variation to the Planning Commission residential moorage recommendation would increase the allowed moorage walkway width from four feet to five feet in the first 30 feet waterward of OHWM. Variations to the balance of the Planning Commission recommendation on this topic were not considered.

City Council

The [City Council](#) has held study sessions to consider the Planning Commission's draft Shoreline Master Program. Refer to the links below for council agenda materials and minutes on the topic.

- August 4, 2014 [Public Hearing](#) Council-requested variation to Draft SMP
- July 14, 2014 [Study Session](#)- Development of Council SMP Package for Public Hearing
- June 23, 2014 [Extended Study Session](#)
- June 9, 2014 [Extended Study Session](#)
- May 27, 2014 [Extended Study Session](#)
- May 12, 2014 [Extended Study Session](#)
- May 5, 2014 [Public Hearing](#) on [Draft Shoreline Master Program](#) package
- April 28, 2014 [Study Session](#), [Process for Completion](#)
- April 14, 2014 [Extended Study Session](#)
- March 10, 2014 [Study Session](#)
- July 15, 2013 [Study Session](#), Strategy for moving the SMP update forward to the Department of Ecology for review and final approval [Minutes](#)
- May 28, 2013 [Study Session](#), [Planning Commission Transmittal](#) [Minutes](#)

Planning Commission

Residents and other stakeholders had multiple opportunities to provide feedback on the shoreline management update through Bellevue's [Planning Commission](#), residents who served as an advisory panel for the City Council. The Planning Commission reviewed work products, provided input and guidance related to the development of goals, policies and regulations, and served as a preliminary approval board. Agendas for Planning Commission meetings in which the shoreline management update was addressed are available below.

- [December 11, 2013](#) Public Hearing
- [November 13, 2013](#) Conformance Amendments-Critical Areas Overlay LUC 20.25H continued
- [October 23, 2013](#) Conformance Amendments- Critical Areas Overlay LUC 20.25H [Minutes](#)
- [October 9, 2013](#) Conformance Amendments and Overview of the Remaining SMP Process [Minutes](#)
- [Jan. 16, 2013](#) [Minutes](#)
- [Dec. 12, 2012](#) [Minutes](#) [Informational materials provided by WSSA](#)
- [Nov. 28, 2012](#) [Minutes](#) [Informational materials provided by WSSA](#)
- [Nov. 14, 2012](#) [Minutes](#)
- [Sept. 26, 2012](#) [Minutes](#)
- No meetings in August
- [July 25, 2012](#) [Minutes](#)
- [June 27, 2012](#) [Minutes](#) PC to review re-draft
- [April 11, 2012](#) [Minutes](#) Shoreline Master Plan Update
- [Mar. 28, 2012](#) [Minutes](#) Use Charts, Meydenbauer Park Plan, Meydenbauer Yacht Club
- [Feb. 22, 2012](#) [Minutes](#) Nonconformities, dock, stabilization, public access
- [Jan. 25, 2012](#) [Minutes](#) Nonresidential
- [Dec. 14, 2011](#) [Minutes](#) Setbacks
- [Nov. 16, 2011](#) Cancelled for lack of quorum
- [Oct. 26, 2011](#) [Minutes](#) Vegetation conservation issue
- [Sept. 14, 2011](#) [Minutes](#) PC to discuss Draft SMP section 20.25E.060
- No meetings in August
- [July 27, 2011](#) [Minutes](#)
- [July 13, 2011](#) [Draft SMP Section 20.25E.060 comments and responses](#) (July 8, 2011)
- [June 22, 2011](#) [Minutes](#)
- [May 25, 2011](#) Public Hearing - Draft SMP
- [April 20, 2011](#) Open House, [Shoreline Property Owner Mailer](#)
- [Mar. 23, 2011](#) [Minutes](#)
- [Mar. 9, 2011](#) [Minutes](#)
- [Jan. 26, 2011](#) [Minutes](#)
- [Jan. 12, 2011](#) [Minutes](#)
- [Dec. 8, 2010](#) [Minutes](#)
- [Nov. 17, 2010](#) [Minutes](#)
- [Nov. 3, 2010](#) [Minutes](#)
- [Oct. 20, 2010](#) [Minutes](#)
- [Sept. 22, 2010](#) [Minutes](#)
- [Sept. 8, 2010](#) [Minutes](#)
- No meetings in August
- [July 28, 2010](#) [Minutes](#)
- [July 14, 2010](#) [Minutes](#)
- [June 9, 2010](#) [Minutes](#)

- [May 12, 2010 Minutes](#)
- No Planning Commission April 28. SMP is next scheduled May 12.
- [Mar. 24, 2010 Minutes](#)
- [Feb. 24, 2010 Minutes](#)
- [Dec. 9, 2009 Minutes](#) [Part I Video Presentation](#) [Part II Video Presentation](#) [Agency Panel Participants](#) (PDF )
- [Nov. 18, 2009 Minutes](#) [Video presentation - Roger Tabor, U.S. Fish & Wildlife and Jose Carrasquero, Herrera Environmental Consultants](#)
- [Nov. 4, 2009 Minutes](#) [Video presentation - David St. John and Hans Berge, King County Department of Natural Resources and Parks](#)
- [Oct. 28, 2009 Minutes](#) [Video presentation - Tessa Francis, NOAA Fisheries](#)
- [Oct. 14, 2009 Minutes](#) [Video presentation - Denny Vidmar, Bellevue Utilities Department](#)
- [Sept. 23, 2009 Minutes](#)
- No meetings in August
- [July 22, 2009 Minutes](#)
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- [May 27, 2009 Minutes](#)
- [Feb. 25, 2009 Minutes](#)
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- [Sept. 10, 2008 Minutes](#)
- [July 23, 2008 Minutes](#)
- [Mar. 12, 2008 Minutes](#)

[Response to Questions by the Washington Sensible Shoreline Alliance](#)

[Responses to questions & requests collected between May & December of 2009](#)

In **2003** the state revised its shoreline management guidelines to emphasize ecologically appropriate development and to reinforce the other goals of the act.

by **2010**. As a consequence, Bellevue has to update its shoreline regulations by 2010.

Bellevue has been Updating their SMP plan since 2008

Aug 23, 2008 Boat tour to focus on shoreline issues The boat will sail promptly from Newport Shores Yacht Club (81 Skagit Key) at 1 p.m. on

Saturday, Sept. 20, 2008, with boarding beginning at 12:30. Members of the Bellevue City Council, city boards and commissions and staff from permitting agencies and local Indian tribes are also expected to attend.

The three-hour tour is open to the public, but space is limited. (To inquire about the tour or to RSVP, please call 425-452-4392 or e-mail sltaylor@bellevuewa.gov.)

Jul 20, 2013

BELLEVUE SHORELINE PLAN ADVANCES

Jul 20, 2013 The Bellevue City Council agreed on a two-prong strategy for updating the city's Shoreline Master Program, and, ultimately, forwarding the plan to the state Department of Ecology for final review and approval.

The shoreline plan is required by state law and provides a regulatory framework for managing shorelines in Washington. Local plans must be consistent with Ecology guidelines.

THE BELLEVUE PLANNING COMMISSION HAS BEEN WORKING ON SHORELINE ISSUES FOR MORE THAN FIVE YEARS.

In May, the commission recommended that the council consider several components of the plan update that had been completed and posted online for review.

ECOLOGY CONDUCTED AN INFORMAL REVIEW AND SENT A LETTER TO THE CITY CONTAINING COMMENTS ON THE COMMISSION'S RECOMMENDATIONS.

On Monday, the council directed city staff to work with Ecology on the content of the commission's recommendations and possibly narrow the range of issues that need to be resolved. **COUNCIL MEMBERS ALSO DIRECTED STAFF TO BEGIN WORK TO FINALIZE THE REMAINING ELEMENTS OF THE SHORELINE PLAN UPDATE PRIOR TO FORMALLY SUBMITTING IT TO ECOLOGY.** The council plans to review and discuss the plan update during a study session later this year.

Mar 13, 2014

COUNCIL TO DIGEST SHORELINE PLAN

Mar 13, 2014 Bellevue city council members emphasized the importance of a strong public process Monday

as they move through a series of presentations on the planning commission's update to shoreline management regulations over the next four months.

WITH THE PLANNING COMMISSION UNANIMOUSLY SUPPORTING ITS UPDATED REGULATIONS AND RESTORATION PLAN,

The council now will be briefed on the contents of the SMP over the next four months,

with a review of recommended policies for shoreline overlay set for April 14, 2014

Apr 30, 2014

Council has more questions about shoreline plan

Apr 30, 2014 Bellevue council members had more questions than answers by the end of Monday's third round of informational sessions provided by staff about the progress of creating a shoreline master plan the city hopes will pass state muster.

The City Council was updated Monday on the cumulative impact analysis and **HOW BELLEVUE'S PLAN WILL ATTEMPT TO SATISFY A REQUIREMENT THAT NO NET LOSS OF ECOLOGICAL FUNCTIONS** occur during future development and redevelopment along the city's jurisdictional shorelines. **THIS CAME AHEAD OF A MAY 5 PUBLIC HEARING** for the city's shoreline master plan, which will eventually go to the Washington Department of Ecology for final approval.

Sarah Sandstrom, fisheries biologist for the Watershed Company, told council members "NO NET LOSS" goes further than just ecological functions of a shoreline, and includes also preserving shoreline views for residents and assessing the amount of reasonable development that could occur in the next 20 years along Lake Washington and Lake Sammamish.

With a majority of Bellevue's shorelines already developed, Sandstrom said residential redevelopment will likely be the most common occurrence and some new single-family development.

The plan involves taking a qualitative look at the issue of **NET LOSS**, she said, as it's hard to quantify restoration when a dock, for example, requires a certain amount of native vegetation to offset its impact as part of an "**ECOLOGICAL TRADEOFF**."

"Shoreline residential development falls under an exemption," said Sandstrom of **the no net loss requirement**. "**So, individual demonstration of no net loss is not required for shoreline** residential development or for most permits that are issued as shoreline substantial development permits."

That does not mean the city will not need to ensure there is **no net loss** of ecological function, she told council, but that it will not need to be proven independently by the permit applicant. The project would be checked against current regulations that should result in no net loss.

Bulkheads — vertical concrete barriers along shorelines — will not be allowed to be replaced under the shoreline plan, which instead favors a rocky slope. Bulkheads, said Sandstrom, negatively affects wave reflection. Bulkheads would need to be determined the only feasible option to be used.

Sandstrom said another concern is that the plan proposes **residential setbacks of 25 feet**, which is less than the existing median setback of 50 feet for Lake Sammamish and Lake Washington.

"The potential for houses moving closer to the shoreline has potential impacts in terms of water quality, moving pollutant generating surfaces closer to the shoreline," she said.

Should redevelopment of properties occur using a 25-foot setback, Sandstrom said there is also the potential of obstructing the views from other properties than are 50 feet from the shoreline.

One option proposed to prevent this is a common line or streamline setback, which would require a new or redeveloped property to use the average setback of the two properties adjacent to it.

Whether all of the effort being put into the plan will satisfy how the DOE defines "NO NET LOSS" may only be known once the shoreline master plan is submitted. According to Richard Settle, an attorney specializing in environmental and land use law with foster pepper PLLC, "NO NET LOSS" IS A NEW AND AMBIGUOUS CONCEPT FOR WASHINGTON.

(I have added this information)

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While the DOE requires **NO NET LOSS** of existing ecological functions, Settle said that implies a tradeoff of development and restoration. He said there's also an assumption that restoration doesn't have to be immediate, and could take as long as 20 years depending on the development.

He added there's also confusion as to how far back in time restoration is supposed to match up with shoreline conditions.

"It's definitely not pre-European discovery," he said.

Councilmember Kevin Wallace expressed his irritation that the council has been briefed three times on shoreline master plan development, however, confusion about meeting DOE standards remains. He added there also needs to be more done to address private property rights in the plan.

"That is not helpful in deciding how to regulate someone's private property, whether there is a net loss of ecological functions," he said. "So, I just want to lodge my personal frustration. I'm just stunned that every

jurisdiction in the state has to go through this and do this and in 2014 the state of the law on this is so unclear. ... What we're basically looking at is someone's opinion," he said.

Jul 16, 2014

Shoreline plan set for August public hearing

Jul 16, 2014 at 3:10PM Bellevue Mayor Claudia Balducci made it clear to City Council on Monday they had precious little time left to approve options for a draft shoreline management plan **AHEAD OF AN AUGUST PUBLIC HEARING.**

COUNCIL MEMBERS PASSED IT BACK TO STAFF, CONFIDENT PUBLIC OPINION WILL CHANGE IT AGAIN.

Public access

The council passed forward direction to have the SMP expand public access to commercial shoreline properties that expand more than 20 percent, such as marinas and yacht clubs.

LAND USE DIRECTOR CAROL HELLAND TOLD COUNCIL MEMBERS — CAUTIOUS OF VIOLATING PRIVATE PROPERTY RIGHTS — access can be limited if security risks are present, and may also only apply to visual access in some cases.

Siding with yacht clubs and marinas, Councilmember Jennifer Robertson pointed out they do offer public access — as long as people pay for it.

Park development options

Council members have heard public comment asking them to side with the city's planning commission's recommendation that Meydenbauer Beach Park — slated to be Bellevue's most expensive park redeveloped at more than \$40 million — **REQUIRE** a conditional use permit ahead of construction. The Meydenbauer Bay Neighborhood Association argues it would require a public hearing and allow residents to be more involved in its development.

The City Council decided since a master plan exists for Meydenbauer Bay Park, future construction would be dealt with through administrative permitting and does not require a CUP.

High water mark

Robertson told council members they were making the wrong decision when they voted to set the high-water mark at a static elevation using the Bellevue Lake Study, which sets it at 31.8 feet, but allows for individualized assessment.

She said she spoke to a scientist who told her the study was flawed, using two standard deviations. Councilmember John Chelminiak said the state Department of Ecology will make the ultimate decision on the SMP, and the council can choose differently, but the plan may not be accepted.

"It is the latest study that has been done, and it is consistent, at least with what Sammamish set," Chelminiak said. "I'm ready to vote,"

ROBERTSON SAID. "I'M GOING TO BE AN EMPHATIC 'NO' "

Setbacks, buffers and vegetation conservation

Council members passed through an option to allow flexible setbacks of 50 feet, which property owners can buy down to 25 feet if they follow a string test and provide adequate vegetation conservation using set menu options.

Balducci said the planning commission recommendation for 50-foot setbacks with greenscape options would result in net loss of native vegetation, and that replacing it with lawns is not what SMP regulations should encourage.

Robertson said the commission's option should be considered, but require greenscape only be allowed for two-thirds of the area required for vegetative conservation. She said string tests and menu options requiring unsightly native vegetation goes too far.

Council members agreed to move forward with the 50-foot setbacks, string test and menu options, **WITH THE UNDERSTANDING PUBLIC COMMENT WILL MODIFY THOSE OPTIONS** to lessen vegetation requirements and allow greenscape where appropriate.

"I would agree, this goes overboard," Chelminiak said.

A draft of the SMP will be developed by city staff ahead of an Aug. 4 public hearing, after which the council WILL DIRECT STAFF AGAIN on Sept. 8, 2014 on what regulations should be submitted to the DOE for review.

- BRANDON MACZ, Bellevue Reporter Staff Writer

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as they move through a series of presentations on the planning commission's update to shoreline management regulations over the next four months.

Mar 13, 2014 WITH THE PLANNING COMMISSION UNANIMOUSLY SUPPORTING ITS UPDATED REGULATIONS AND RESTORATION PLAN,

The council now will be briefed on the contents of the SMP over the next four months,

with a review of recommended policies for shoreline overlay set for April 14, 2014

and review of the cumulative impact analysis and light rail component on April 28 2014 .

April 30, 2014 Updating the SMP plan — mainly unchanged since 1974 — also has been an

**AN AREA OF FOCUS BY THE BELLEVUE PLANNING COMMISSION
FOR MORE THAN FIVE YEARS,**

a process that was slated for completion in 2011. (2010?)

April 30, 2014 Monday's City Council study session laid out the progress of the planning commission,

including fixes to a number of COMPLIANCY ISSUES within the SMP's May 2013 draft FOLLOWING AN UNSOLICITED REVIEW BY the (DOE) Washington Department of Ecology, which has final say on approving the program.

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The Clallam County SMP Update will have a significantly LARGER NEGATIVE impact on the economic development of private property on the shorelines statewide significance rivers, lakes and streams IN OUR UNDEVELOPED COUNTY.

Related Stories

- [Bellevue shoreline plan advances](#)
- [Council to digest shoreline plan](#)
- [Council has more questions about shoreline plan](#)
- [Council takes comments on shoreline plan](#)