

SMP Issues Summary Table - WA Sensible Shorelines Association - May 2014

The following table summarizes key issues surrounding the draft SMP. It encompasses topics considered during adoption by the Planning Commission. In some instances issues which were considered by the PC have been raised again, so they are included here.

The reader is supplied a list of **resources** for further understanding of WSSA and resident concerns and recommendations. References are made to WSSA's **[Tabbed]** Shoreline notebook of information provided the Council on April 14, 2014. Links are supplied to other pertinent online resources in the electronic version of this document.

Basic Information

Topic	Description	Position/Findings	Resources
Dwelling Patterns	Is the median dwelling distance from shore as quoted at 53 ft?	Patterns vary based on terrain and reach. As will be shown, using averages is dangerous. Further, the City study incorrectly used an OHWM of 32 ft. rather than the Corps' historic 30 ft. NAVD88	See accompanying WSSA submission for 5-27-14 Council session
Endangered Species/Habitat	The need for SMP regulations is based on a <i>presumption</i> that endangered species require some action.	Chinook spawning areas are not on lake shores. Kokanee are mentioned but are not ESA listed and don't inhabit City shorelines either.	Tab 4 - Fish Compendium
Science Conclusions	Shoreline Analysis Report Inventory and science inaccuracies.	Errors and omissions were reported by WSSA. No rebuttal was received; just the statement, "Science won't make a difference."	Tab 4 - Pg 20
No Net Loss	What is its baseline? How can improvements be achieved?	The baseline is from existing conditions. Significant restoration will require city-wide efforts. The Restoration Plan should include City as well as efforts by others impacting our lakes.	Tab 1 - Pg 5 Also Note A, below



Setbacks

Topic	Description	Position/Findings	Resources
Depth of Setback/ Buffer	A "more is better" approach has been suggested, since science is not definitive.	The PC Greenscape Concept is consistent with other jurisdictions where reductions are allowed to as low as 20 ft. The draft recognizes the developed nature of shoreline properties.	See Note B, below Tab 2 - Item #51
Views	Blockage of views has been speculated if development moves toward shore.	The Greenscape plan discourages moving forward. And, forcing homes further back than their neighbors would preclude views. More serious would be the impact on views if trees & tall shrubs are required.	See accompanying WSSA submission for 5-27-14 Council session

Vegetation

Topic	Description	Position/Findings	Resources
Restoration	What actions are required, by whom, and to what state or condition.	Efforts should "... address adverse cumulative impacts and <u>fairly allocate the burden of addressing cumulative impacts among development opportunities.</u> " [WAC]	Tab 1 - Pg 3
Type	Use of grass versus no touch native vegetation & trees	Recent science shows grass is effective for filtration even at 15 ft. Phosphorus levels are acceptable and improving. There's been no identification or monitoring of its sources or for Nitrogen compounds on these lakes.	Tab 2 - Pg 16 #39 See Note C
Amount	Suggestions range from 50 to 100% vegetated buffers along the shoreline from depths of 20 to 50 ft.	Any requirement must be sensitive to existing uses. The PC deliberated and found that 50% Greenscape PLUS 1:1 additional square footage would meet nexus and proportionality .	Tab 1 - Pg 11 Tab 2 - Items 46-49
Restricted Area	A Critical Areas approach would require a "no touch" restricted area, assurance	This would eliminate use of one's property and be a taking if applied under the SMP. All	See 5/5/14 CC Hearing Minutes (Speaker -

	bonds, and deed/title restrictions.	shorelines are not critical areas.	B.Hodges)
Bond/Title Restriction	The CAO requires posting a bond (to assure replacement of vegetation that dies) and deed/title restrictions.	This would greatly impact property values and result in lost tax base.	See UW Study
Off-site Mitigation	Some have suggested applicants could participate in projects that are not on their immediate property.	Required actions must alleviate a condition on the applicant's property. Requiring participation off-site might violate findings in the recent US Supreme Court's Koontz decision.	See 5/5/14 CC Hearing Minutes (Speaker - B.Hodges)

Stabilization

Topic	Description	Position/Findings	Resources
Type	Angled rip-rap, recommended by the PC, has been criticized as subject to erosion. Soft stabilization is advocated instead, with the City held harmless.	Rip-rap is a treatment preferred over vertical bulkheads by WAC/DoE. Design would be by an engineer to ensure no erosion. Wind, wave, wake action and fluctuating water levels make soft stabilization unacceptable. It would create safety and liability issues.	See - WAC 173-26-231(3)(a)(i)
Repair	It's suggested that greater than 50% damage to an existing bulkhead would require replacement with soft shorelines.	Bulkheads were placed for a reason and should not be casually removed. Modified designs have been recommended in the draft.	Tab 5 - Pg 2

Docks

Topic	Description	Position/Findings	Resources
Control	The Corps of Engineers & State have <u>recommended</u> limitations for dock dimensions, materials, etc.	These are agency "suggestions" that change and thus, should not be hard coded in the SMP. The PC added an ability for an applicant to get letters of approval from them, using their expertise..	See - Corps RGP Description

Related Issues

Topic	Description	Position/Findings	Resources
Impervious surface	Concern has been expressed that the draft would allow "paving to the shoreline".	The PC specifically tailored the draft so that removal of hardscape would result. The general City-wide impervious limits (50%) for each site should apply and no expansion allowed forward of the 50 ft. mitigation line that would allow more than 50% hardscape in the area 10-25 ft. from shore. Note: The PC imposed a 15% limit in the first 10 ft. from shore. Also, lakeshore properties are well below the 50% limit as reported in the City Inventory at ~ 40%.	Tab 2 - Pg 16 Items #38 & 50
Measuring Ecologic Functions and Goal Achievement	Measures are essential to: (A) show underlying need (i.e., baseline condition) for imposed actions/limits, and (B) to monitor progress and achievements.	Only subjective values of ecologic function have been determined. Water quality values are only reported for lakes as a whole. It is essential to differentiate between shore property and municipal storm drainage impacts, and, that we track ESA salmon progress.	See accompanying WSSA submission for 5-27-14 Council session
Floodplains/ FEMA	Application of flood regulations - allowing FEMA's special provisions; not precluding them.	Various provisions of flood regulations should be allowed (e.g., compensatory storage, flow-through basement, elevated structures). Other jurisdictions accommodate these provisions, which are specifically authorized by FEMA.	See - PC Transmittal Letter 5-8-14 (pg 11)
Water levels- OHWM	The draft SMP has "administrative" OHWM levels for setbacks on Lake Sammamish and Phantom Lake.	This somewhat mitigates concerns of "property takings" but broader management efforts are needed to sustain lake water levels on both lakes	See - Note D
Water level- Management	Outflow management is an issue on Lake Sammamish and Phantom Lake.	City efforts & assistance are needed on both lakes. On Lk Sammamish, King County reports possible reduced outflow. Phantom residents fear an LMD would place the financial burden on them while inflow from them is minimal.	See - Note D

Cumulative Impacts

Topic	Description	Position/Findings	Resources
Report	The (draft) Cumulative Impacts report's purpose is to estimate loss of ecologic function going forward...	... but it fails to effectively address the Restoration Plan's potential contributions. The draft CIA shows no update since a 2005 Inventory or consideration of facts provided by WSSA and relied upon by the Commission. It should also cite other regional efforts.	See - Note E

NOTES:

A - It may be helpful to review the WAC provision that includes the requirement for the CIA: [WAC 173-26-186](#) Part (8)

The reader is also referred to testimony by R.Settle, Atty, found on page 4 of [Council meeting minutes of 4/14/2014](#). He notes "...that **no net loss implies there can be tradeoffs. However, the Shoreline Guidelines do not define ecological function or the potential tradeoffs...**"

B - Example local setbacks - Redmond: 35 ft. reducible to 20 ft. | Sammamish: 50 ft. reducible to 20 ft. | Issaquah: 50 ft reducible to 25 ft

C - Ecology, in Chapter 11 at page 4 in its [SMP Handbook](#), does not list lakes as requiring buffers. Quite to the contrary, it states - "... buffers developed for the CAO are a starting point but may not be adequate or appropriate shoreline buffers under the SMA for several reasons: ... freshwater habitat calls for 'Regulating uses and development within the stream channel, associated channel migration zone, wetlands, and the floodplain, to the extent such areas are in the shoreline jurisdictional area, as necessary to assure no net loss of ecological functions associated with the river or stream corridors.' " **No mention is made of lakes** AND shorelines are not critical areas simply because they're shorelines. Also, one should not confuse buffers required for wetlands versus those for freshwater habitat. See [WAC 173-26-221](#) and compare subsections (2)(c)(i)(D) with subsection (2)(c)(iv).

As reported at the Council hearing on May 12th, a recent study of buffer effectiveness provides more recent science.

["Major Factors Influencing the Efficacy of Vegetated Buffers on Sediment Trapping: A Review and Analysis"](#), by Liu, et al (2008) reported buffers (including grasses) effective with widths as low as 4.6 m (~ 14 ft). The CIA failed to consider this recent science.

D - See submission to Council by M. Nizlek for May 12, 2014 Study Session.

E - Ecology's [Shoreline Handbook \[Chapter 17\]](#), page 7] specifically states that the CIA should consider mitigation measures including restoration activities: "*Identify measures that will mitigate for impacts from new shoreline development. These include shoreline environment designations, policies, regulations, and restoration activities.*"