Conducting a Comprehensive SMP Update "Hot Topics: Public Access"

Instructor: Margaret Clancy, ESA Adolfson

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Public Access

Presentation objectives

- Describe issues that make public access a hot topic
- Explore misconceptions about public access requirements
- Provide guidance on how concerns can be addressed
- Present sample code language and examples of public access standards

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What makes public access a hot topic?

- Misunderstanding about the intent of the policy
- Fears about ‘takings’
- Concerns about safety and security of private property
- Confusion about ‘nexus and proportionality’
- Concerns that access will damage fragile habitats
- Trespass & liability concerns

Public access quiz

- The public has access to most of the beaches in Washington state – True or False?
- Public access means that you must provide physical access to the waters' edge – True or False?
- Single family residences are required to provide public access to/on/across their property – True or False?
- Development on public lands or by public agencies should include public access – True or False?
- A requirement to provide public access is a requirement to build something – True or False?
- Local governments should balance the need for public access with other issues such as ecological protection, public safety, and property rights – True or False?
- Height limits, setbacks, and vegetation conservation standards are relevant components of a public access strategy – True or False?

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Identify specific areas for access

"Areas identified for establishment or enhancement of shoreline public access may include but should not be limited to:

- *Central Avenue Waterfront and historic Georgia Pacific campus;*
- *Colony Wharf;*
- *Pocket beach at the head of the I & J Waterway;*
- *Pocket beach at the foot of Cornwall Avenue and around the perimeter of the Cornwall Avenue Landfill;*
- *etc…"*

Customize policies for different shoreline environments

"Visual and physical public access should be required as master plans in Urban Maritime shoreline areas are developed. Planning for the acquisition of land for permanent public access to the water in the Urban Maritime environment should be a priority. Where desirable and possible, industrial and commercial facilities should be designed to facilitate pedestrian waterfront activities."

City of Bellingham

Give special consideration to access requirements in residential developments

- Redmond:
  - Required *physical* public access for subdivisions of more than 10 lots;
  - Smaller subdivisions only have to provide *visual* access only.

Include provisions to mitigate impacts

When public access is required to be provided… and is intended to be within a required shoreline buffer area, said access shall be designed and sited to minimize the amount of native vegetation removal, soil disturbance and disruption to existing habitat corridor structures and functions.

City of Bellingham

Don’t require access when:

- An adopted public access plan indicates that public access is not required;
- Unavoidable health or safety hazards exist that cannot be prevented by any practical means;
- Inherent security requirements cannot be satisfied through the application of alternative design features or other solutions;
- The cost of providing access or an alternative amenity is unreasonably disproportionate to the long-term cost of the proposed development;
- Significant ecological impacts will result which cannot be mitigated; or
- Significant undue and unavoidable conflict between access provisions and the proposed use and/or adjacent uses cannot be mitigated.

Do require public access when:

- Development or use will create increased demand for public access;
- Development or use will interfere with an existing public access way (blocking access or discouraging use of existing on-site or nearby accesses);
- Where a use which is not a priority shoreline use locates on a shoreline of the state;
- Where a use or development will interfere with a public use of lands or waters subject to the public trust doctrine;
- Where the development is proposed by a public entity or on public lands.

Liabilities are limited by state law

- **RCW 4.24.210 Liability of owners or others in possession of land and water areas for injuries to recreation users -- Limitation.**

Legend

- Jefferson County Boundary
- County Boundary
- Reach Breaks
- Proposed Shoreline Planning Area (Lakes, Streams)

Shoreline Features

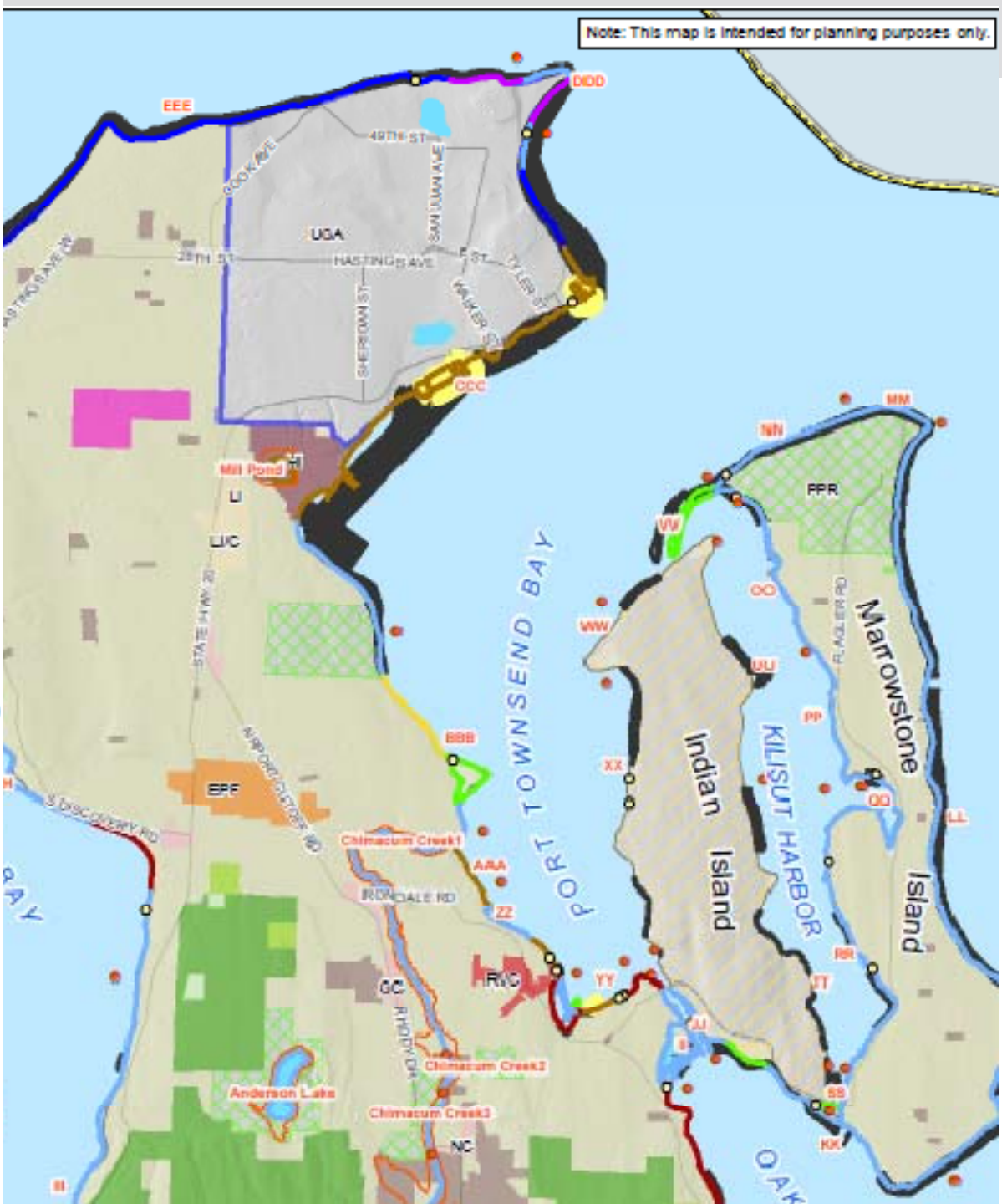
- Boat Launch
- Marina

Current Shoreline Environment Designations (1989 SMP)

- Natural
- Conservancy
- Suburban
- Urban
- Natural and Conservancy
- Conservancy and Suburban
- Natural and Suburban

Zoning

- , Military Reservation
- , National Wildlife Refuge
- , Olympic National Forest
- , Water
- A, Agriculture (Local, Commercial)
- CC, Crossroad (Convenience, General, Neighborhood,Visitor)
- EPF, Airport Essential Public Facility
- EPF, Waste Management Essential Public Facility
- HI, Heavy Industrial
- LI, Light Industrial (Commercial, Manufacturing)
- MPR-MF, Master Planned Resort
- PPR, Parks, Preserves, and Recreation
- IF, Inholding Forest
- CF, Commercial Forest
- RF, Rural Forest
- RR, Rural Residential
- RVC, Rural Village Center
- UGA, Port Townsend Urban Growth Area
- Publicly Owned Tidelands
- Roads
- Waterbodies



Involve the community

- Have citizens help Identify existing and potential access opportunities and needs
- Be clear about the goals and get community buy-in
- Show that you've considered effects on private property
- Allow for a mixture of physical and visual access based on site conditions
- Include standards to mitigate impacts of access to meet 'no net loss'

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Thank you!

Margaret E. Clancy, PWS
Director, Biological Resources
ESA Adolfson
5309 Shilshole Avenue NW, Suite 200
Seattle, WA 98107
206.789-9658 | 206.789-9684 fax
206.794-1548 cell
mclancy@esassoc.com
www.esassoc.com
www.adolfson.com