

From: Doug

Re: Comments on Chapter 19.400 General Regulations (SMP) (3 pages)

A general comment: Please number pages and date the strike through versions so we can stay current.

1. **Redline explanation regarding "nonconforming" and section 19.400.100.A.1 & B.1.a:** The act and Ecology allow these existing legally constructed structures and uses to be called "conforming" or "legally conforming". I do not see the rationale for calling them "nonconforming". The County Legal Dept has stated that they can go either way. There is not a legal reason to call the structures or uses "nonconforming". The explanation given for calling the legally constructed structures "nonconforming" is because it is widely used in Thurston County Code and you want to maintain consistency. However, these structures are not "nonconforming", because they can be rebuilt in the same footprint without restriction by the SMP. In the other codes you have to bring the structure up to current standards and make them conforming. There is a big difference. You do not need to call these legally constructed structures "nonconforming". Other jurisdictions have made allowances for this and been approved by Ecology. I consider these comments to apply everywhere the SMP uses the word "nonconforming".
2. **19.400.100.A.2:** All legally existing uses, structures and parcels should be allowed to exist, be maintained, expanded or modified consistent with the Act and this program. Parcels are left out of this statement and could be misled in Table 19.400.140.A, footnote 1 & 2. The table should only apply to new parcels/lots...Not existing.
3. **19.400.100.A.4:** The discontinued use should be 24 months vs. 12 months. 12 months is too short and should be in line with 19.400.B.g, which is 24 months.
4. **19.400.100.B.1.d:** The 500/1000 square foot landward expansion within the buffer is not needed. This standard came from the Spokane SMP and has been copied by many jurisdictions. Ecology stated in the Stakeholder Meeting that it is not an Ecology requirement and they would allow expansion within the buffer the whole width of the structure, landward because it does not increase shoreline or riparian degradation and does not interfere the wildlife corridor. We should allow expansion the whole width of the structure landward in single or two story construction. See Figure 19.400.120.C.1. This diagram shows expansion across the entire landward width of the structure.
5. **19.400.100.B.4:** Please explain ", new in/or over water structures are prohibited". Give examples...Docks are in and over water structures. Observation decks can be over water, etc. However, docks can be replaced, repaired and with a SDP constructed from scratch. In addition, docks provide the means for a preferred use. The Legislature, I believe clarified the definition of prohibited over water structures as house boats.
6. **19.400.110.A.2:** What about the positive impact of voluntary actions? How are those taken into consideration. Such as, moving the house back from the shoreline on a remodel. Doing this, according the "Draft" would negate the legally conforming /conforming/grandfathered status of the structure...Or, moving your septic 200 ft from the shoreline or at least further than it is now...ect.

What does "not have significant adverse impact on other functions..." mean. *Please have someone from the planning department give us an interpretation of how this would be addressed.*

7. **19.400.110.B.4:** "Activities...result in adverse impact.." Change to "net adverse". There could be voluntary mitigation that must be taken into account even if the action is required by other code jurisdictions.
8. **19.400.110.B.5:** Why the 3 year limitation? A procedure should be included to meet the "Documented restoration". This looks like a buyer beware kind of situation...Oh, darn didn't you know that? Sorry, now you pay! There should be no time limit because we want to encourage property owners to take action now vs waiting until they are going to do something that will require a permit just so they can count this voluntary mitigation. Why would we want the citizen to wait to make the improvement to shoreline ecological function? This needs to be in a booklet that the citizens of Thurston County can use.
9. **19.400.120:** People using the shoreline is a preferred use and vegetation on the shoreline can create a safety hazard for children swimming in the near shore. In addition, vegetation can cause the acceleration of the eutrophic state of our Thurston County lakes. What if the vegetation didn't exist prior to the effective date of the Act? What if there is more vegetation than was present on the parcel 100 years ago?
10. **19.400.120.A.1:** "human Health and Safety" should be the primary criteria for the shoreline. As used here it is confusing. Also, the existing use is protected by the Act. Shoreline vegetation limits that use. *Please provide examples of where shoreline vegetation provides human health and safety and how it provides for continuation of the existing use.*
11. **19.400.120.B.4:** For a new structure on an undeveloped lot, the 15 ft setback actually makes the building lot line at 65 ft. But, then the setback goes away when the structure is completed. If an existing structure is built at the current 50 ft setback, how do you perform maintenance on the front of the structure without infringing on the setback? If an existing structure is built in the buffer and the addition is built at 51 ft...What happens to the setback? On existing structures, like in Aquaculture, any disruption in the buffer or setback for maintenance, remodel, etc would be very short lived and can be returned to original within a short period of time. I prefer not having a buffer setback for existing housing as it is not effective. *Please provide examples of how the setback will be applied by the planning department.*
12. **19.400.120.D.1.b:** Please explain "Deck" vs. "Platform". A 200 sq ft storage shed or boat house can be constructed within 25 ft of the shoreline. If you put an observation deck/platform on the shed/boat house, why would it be limited to 100 square feet? *Please provide an explanation and how this would be applied by the Planning Dept.*
  
13. **19.400.120.D.1.e.iv:** I suspect this whole section was written based on the marine environment vs the fresh water environment. (1) This section is for storage sheds and boat houses...Why are docks included in this paragraph? Docks are water word of the shoreline. What about shared docks (2) I assume the 10 ft setback referred to here is between the side yard lot line and the development not

from the shoreline. The SMP should address setbacks from the high water mark. The building code should deal with side yard setbacks. *Please provide examples of how the setback will be applied by the planning department.*

14. **16.400.120.D.2:** "Hand removal or spot spraying of invasive or noxious weeds is permitted within the vegetation buffers." Why is this in the SMP? It is covered by other codes and best practices.
15. **19.400.135:** General comment on view blockage. The construction line should be the Buffer plus the setback except. View should not be a criteria. View should only be considered within the buffer. Other aspects that should be included is elevation of the property and trees within the buffer.
16. **Figure 19.400.135.A.3:** I think the setback requirement for the new structure is excessive. At the least the front right corner of the new house should be allowed on the diagonal line. There is a reason the existing structure on the left is set back so far and the new structure shouldn't be penalized for his neighbors decisions. How would elevation of lots affect this situation? How would view blocking trees impact the approved setbacks? Even in San Francisco, with view at a premium they don't make this requirement. Please provide examples of how this would be administered in the field.
17. **Figure 19.400.135.A.4:** Same comment as A.3 above.
18. **Table 19.400.140.A:** Development Standards:
  - a. Note 2: This implies the lot width is either 40 ft or 80 ft. This doesn't fit with reality except for new developments being platted.
  - b. Note 3: Don't understand a 35 ft setback for animal housing. On a 50 ft wide yard you couldn't have a dog house. I assume it is 35 ft from the shoreline?
  - c. Note 4: I don't understand this footnote. Section 19.400.124 is on water quality.