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THE SUQUAMISH TRIBE
PO Box 498 Suquamish, WA 98392-0498

October 27, 2011

Keri Weaver
City of Poulsbo Planning Department
200 NE Moe Street
Poulsbo, WA 98370

Re: Poulsbo Shoreline Master Program Update (File 09-21-11-1)

The proposed project area lies within the Suquamish Tribe's ancestral territory and Usual and Accustomed fishing area ("U&A"). The 1855 Treaty of Point Elliot outlined articles of agreement between the United States and the Suquamish Tribe. Under the articles of the treaty the Tribe ceded certain areas of its aboriginal lands to the United States and reserved for its use and occupation certain lands, rights and privileges and the United States assumed fiduciary obligations, including, but not limited to, legal and fiscal responsibilities to the Tribe.

Aboriginal rights reserved under the Treaty includes the immemorial custom and practice to hunt, fish, and gather within the usual and accustomed grounds and stations, which was the basis of the Tribe's source of food and culture. Treaty-reserved resources situated on and off the Port Madison Indian Reservation include, but are not limited to, fishery resources situated within the Suquamish Tribe's U&A which extend well beyond Reservation boundaries and crosses at least five counties in Puget Sound.

Ethnographic and archaeological evidence demonstrates that the Suquamish people have lived, gathered food stuffs, produced ceremonial and spiritual items, and hunted and fished for thousands of years in the area now known as Kitsap County (Barbara Lane, Identity, Treaty Status and Fisheries of the Suquamish Tribe of the Port Madison Indian Reservation, 1974). Liberty Bay and the town site of Poulsbo are within Suquamish Ancestral Territory. An ethnographic period Suquamish village was at the mouth of Dogfish Creek at the head of Liberty Bay. Four ethnographic place names identify landforms in the Poulsbo vicinity, including boulders, a trail between Old Man House and the Dogfish Creek village, and a campsite on the Poulsbo shoreline used for fishing and clamming.

The Suquamish Tribe seeks protection of all treaty-reserved natural resources through avoidance of impacts to habitat and natural systems. The Tribe has taken a leadership position in efforts to protect, restore, and enhance the marine and fresh waters of Kitsap County to ensure protection of the Tribe's treaty and cultural resources. The Tribe reviews proposed projects that might affect the

health and sustainability of Tribal resources. The Tribe has reviewed the above referenced documents and has the following comments. These comments are in addition to previously submitted comments. Some of the comments below have been submitted previously and have not been addressed to date.

General Comments

1. The Suquamish Tribe requests review of all shoreline applications when deemed complete by the City regardless if they qualify for shoreline exemptions, reasonable use exceptions/variances or shoreline substantial development permits.

2. The definition of the "reasonable use/variance process" needs to reference and be consistent with WAC 173-37-170 and not constitute an impact to tribal treaty resources and/or fishery activities.

Inventory and Characterization Document

Page 21. Archaeological is spelled incorrectly in 2 places. Not "archeological"

Page 61. Cultural Resources

- Please add the following language: that although there are no documented archaeological sites within Poulsbo city limits the Suquamish People intensively utilized the Poulsbo shoreline over the past several thousand years. The Suquamish People used the Poulsbo shoreline for villages, campsites, and specialized resource gathering and other activities; and there may be significant, unrecorded, subsurface archaeological materials in the area."

Cumulative Impacts Analysis & No Net Loss Summary Document

Approximately how many variances/reasonable use exceptions has the City processed in past years? What are the effects of those on shoreline functions? How much habitat has been lost?

Approximately how many dock, bulkhead, overwater structure permits have been processed in past years?

Where is the greatest development pressures expected?

Page 45. Archaeological is spelled incorrectly in "G. Archaeological and Historical Resources".

Draft Restoration Plan Document

- The goals are fairly broad. Please provide specific objectives/performance standards against which we can judge progress/success. The Fish Park project is the only project that has any reference to timeline or benchmarks.

- The plan lacks a "link" between cumulative impacts and other stressors to the current condition of the Poulsbo shoreline environment. Identifying this "link" is important when developing and describing a restoration plan because it places the plan within a physical/environmental context and makes connecting planned actions to specific stressors in the environment. Without this piece the restoration plan appears to be a random list of projects.

- This plan would read better and make more sense with a more distinct link to the shoreline inventory and characterization.

- There needs to be more discussion regarding redevelopment and potential opportunities for improvement/restoration. Identify criteria that the City would use to prioritize target areas that if redeveloped/retrofitted could make significant positive changes (i.e. problematic outfalls, slide areas, inadequate stormwater, problematic road segments, failing bulkheads that could be removed or repaired/cleaned up, locating needed stabilization above OHW etc.).

- Provide inventory and discussion of fish passage barriers (in addition to those associated with Fish Park) and any that are/could potentially be addressed (provide timeframe or reference to capital facilities plan and/or potential grant opportunities).

Draft Shoreline Master Program Policy Document

Please add general policy which states: Nothing in the City of Poulsbo Shoreline Master Program or action taken there under shall affect Suquamish tribal treaty rights to which the United States is a party.

Page 14. In-Water and Nearshore Environment

- "alternative methods……shall be considered"

Page 20. Archaeological and Historical Resources

- "The Suquamish People intensively utilized the Poulsbo shoreline…" "the" was omitted.

- Policy NE-8.2: "sites" and "archaeology" are spelled incorrectly.

- Policy NE-8.3: "archaeological" is spelled incorrectly.

Draft Shoreline Master Program Regulations – PMC 16.08

Minimum buffers presume that vegetation will remain intact. However, it appears from the text that a certain amount of development is allowed within the buffer. This does not seem to provide adequate protection to shoreline functions nor lead to a no net loss outcome. The SMP lacks an adequate requirement for a fully vegetated buffer.

Toxics enter Puget Sound, rivers and streams via point and nonpoint source pollution. Point source pollution is any type of contaminant discharge with one known and controllable source (i.e. sewage from a municipal treatment plant). Nonpoint source pollution comes from many sources. Nonpoint source pollution is created when rain, snowmelt, irrigation water and other water sources run overland collecting pollutants and transporting them to waterbodies. Oil spills, leaks from cars, pesticides, and fertilizers are all small individual sources that add up and are much more difficult to control. Nonpoint source pollution has a major impact on Washington States surface and groundwater quality and is the reason that a significant number of local rivers, streams and lakes do not meet state water quality standards. Local water bodies that do not meet state water quality standards include Dyes Inlet, Liberty Bay, Union River, Dogfish Creek, etc.) (Toxics in the Puget Sound Food Web, Schmidt and Johnson, 2001).

Use of vegetation to filter pollutants is a widely used practice. While bioswales are not effective at removing large quantities of pollutants (industrial and commercial development) they are appropriate for uses such as residential development. In addition to the impervious surfaces of roofs and driveways one must consider lawns as well. Lawns are not much better than impervious surfaces as they have shallow roots and offer limited erosion control. Research done by Beyerlein (1996. Effective Impervious Area: The Real Enemy. Presented at the Impervious Surface Reduction Research Symposium, The Evergreen State College. Olympia, WA.) found a 117% increase in annual volume of surface runoff and interflow when land is converted from forest to grass. During periods of heavy rain, lawns often become saturated, surface water pools, and runoff occurs. Sheetflow is most easily recognized as a thin layer of water flowing over smooth paved areas. Sheet flow is common across parking areas, driveways, and large sloping expanses of lawn. Sheet flow can concentrate into rills and small channels. Sheetflow can lead to substantial erosion. Over time the water can erode away soil and vegetation (http://www.ecy.wa.gov/programs/sea/pubs/95-107/intro.html).

Aquatic resources such as wetlands and streams are subject to disturbances that originate in adjacent upland areas. These disturbances result in changes in the biological, chemical and physical properties of aquatic resources. Aquatic resources may then be exposed to higher levels of noise, light, temperature, pollutant loading, stormwater runoff, invasive species establishment and human activity. A common method for reducing or eliminating impacts to aquatic resources from adjacent land uses is to maintain adequate buffers *(Wetland and Stream Buffer Size Requirements – A Review*, A. J. Castelle, 1994*)*.

Literature indicates that buffers reduce impacts by moderating the effects of stormwater runoff including stabilizing soil to prevent erosion; filtering suspended solids, nutrients and harmful or toxic substances. Buffers also provide essential habitat for various species for use in feeding, roosting, breeding and rearing of young, and cover for safety, mobility, and thermal protection. Buffers reduce the adverse impacts of human disturbance including blocking noise and glare; reducing sedimentation and nutrient input; reducing direct human disturbance from dumped debris, cut vegetation, and trampling. Buffers less than 50 feet in width are generally ineffective in

protecting wetland functions (Wetland Buffers Use and Effectiveness, EPA, February 1992). While we recognize that only a portion of Poulsbo shorelines include wetlands the water quality improvement functions apply to all shorelines both freshwater and marine.

- The Tribe does not support a minimum 25' buffer as proposed for Liberty Bay and the estuarine portion of Dogfish Creek. This may be protective for some functions but does not include water quality. There is no compelling information supporting this 25' minimum width. This may be protective for some functions but does not include water quality.

Page 16. 18.08.120 General

- Sections A and C should also identify that sequencing should first be avoid then minimize.

Page 17. 16.08.180 Shoreline Use Table

- Assessory structures within the shoreline area should be conditional use and be evaluated on site specific conditions.

- Non water oriented commercial uses should be prohibited.

Page 25. 16.08.260 Marinas, Ports, Other Boating Facilities, and Boat Maintenance and Service Uses

- Please add the following language: "All Marinas, Ports, Boating Facilities, Boat Maintenance and Services Uses shall require inspection of onboard toilet facilities to bolster compliance with state and federal laws to ensure boaters have taken appropriate steps to prevent overboard discharge of untreated sewage. Information on no discharge laws as well as pump out opportunities and disposal options should also be available."

Page 32. 16.08.310 Archaeological Areas and Historic Sites

- Check spelling of "archaeological" and "archaeologist"- misspelled in three places.

- Sections A and B: Correct name is the "Washington State Department of Archaeology and Historic Preservation" not the "state Office of Archaeology and Historic Preservation" or "State Historic Preservation Office"

- Please revise language to state that in areas with high probability for archaeological resources shall require a site inspection or evaluation by a professional archaeologist in coordination with the Suquamish Tribe (WAC 173-26-221). As the text currently states it is only for those that have already had documented resources. This does nothing to protect those developing sites that may be high risk but do not have previously documented resources. The Suquamish Tribe has a probability model that has high probability areas identified.

Page 41. 16.08.380

- Section B(1) Please revise text to state: Necessary to support or protect an allowed primary structure, or a legally existing shoreline use not located in a structure (such as roads, utilities

and parks), that is in immediate danger of loss or substantial damage from shoreline erosion caused by tidal action, currents or waves.....

Page 44. 16.08.400 Shoreline Stabilization Measures

- Section D(2) as written precludes the use of other "softer" stabilization alternatives.

- Stabilization (if deemed necessary) should only be allowed landward of the ordinary high water mark.

Page 51. 16.08.470 Conditional Uses and Variances

- See General Comment 2.

Final Shoreline Management Strategy 6/24/10

Page 6-7. 1. Archaeological and Historic Resources

- Correct name is the "Washington State Department of Archaeology and Historic Preservation" not the "state Office of Archaeology and Historic Preservation" or "State Historic Preservation Office"

- The third bullet in this section should be completely removed. The locations of archaeological sites can NOT be depicted on any map that will be included in the SMP and available to the public.

The Tribe appreciates the opportunity to work with the City of Poulsbo to develop a shoreline plan that satisfies the goals and requirements of the comprehensive plan, SMA, and that protects treaty reserved resources. Please keep us informed of project status and any relevant project related actions. We would like the opportunity to review and provide additional comments as revisions are made and additional information is made available. If you have questions or concerns regarding the comments above please contact me at (360) 394-8447.

Sincerely,

Alison O'Sullivan
Biologist, Environmental Program

cc: Joe Burcar, Washington Department of Ecology
Doris Small, Washington Department of Fish and Wildlife
Gretchen Kaehler, Washington Department of Archaeology and Historic Preservation