

MANAGEMENT OPTIONS FOR THE HOLIDAY HIDEAWAY ASSOCIATION'S COMMON PROPERTIES (COOK'S COVE, LONG BAY, AND THE DEADMAN'S BAY PARCELS)

REPORT IS FROM THE HOLIDAY HIDEAWAY ASSOCIATION'S "COMMONS" COMMITTEE DECEMBER 6, 2006

Commons Committee membership: Bob Anderson - Chairman, Hal Forsey, Roz Glasser, Kirsten Harma, Bill Rainwater, Fred Wintermantel

SECTION I – INTRODUCTION

This report describes the options available for managing the vegetation at the Holiday Hideaway Association's (HHA) owned properties at Long Bay and Cook's Cove, for purpose of view enhancement. It also describes the regulatory agency requirements and laws applicable to vegetation removal or modification. Plus it discusses the cleanup of the pond at Cook's Cove. And finally, it covers the HHA member access to Deadman's Bay through or adjacent to the HHA property there.

We agreed on the general philosophy that we in the Holiday Hideaway subdivision, are first and foremost a community which does not wish to harm common amenities belonging to us all. And that our three common properties ("commons") are for the benefit of all present and future members of the community and not just members abutting our "commons". The majority of the committee also agreed that we must follow all applicable laws and regulations so as not to incur liabilities to the HHA board and its members.

There are some landowners close to or adjacent to the Long Bay and Cook's Cove properties who desire a view (or may feel they have a right to a view) through these "commons". This would require the cutting of vegetation on these areas. If any trees or other vegetation is cut without the necessary permits and approvals, it is important that enforcement actions are taken. So we are at the beginning of a discussion on possible future problems, repercussions, liabilities, enforcement, and penalties.

We recognize that any cutting program at all, however minimal, will require a long-term maintenance plan and effort, either volunteer or contracted. Questions arise on our ability to recruit adequate volunteers for long-term maintenance, or to vote dues that would sustain a contracted maintenance program. (Example: nettles are already investing the Long Bay trail due to greater sunlight, and the dense self-generated brushy area to the right of that trailhead/parking area, the result of earlier clearing, is more demanding of annual maintenance [and possibly less attractive] than original treed shade cover.)

Commons Committee Roles – accomplished to date

1. Evaluate alternative approaches to vegetation management for the Long Bay and Cook's Cove properties, that both protect the ecological values of the common areas and improve views to the water to the extent possible.
2. Present several vegetation management options for Long Bay and Cook's Cove, to the HHA board.
3. Develop a plan for cleaning storm debris from the Cook's Cove Pond and shoreline.
4. Develop a plan to improve access to Deadman's Bay and coordinate this with the adjacent neighbors.
5. Determine the regulatory requirements that apply to the management options for all properties.

Commons Committee Roles – possible future assignments as determined by the HHA board

1. Prepare appropriate community education information for the various management alternatives.
2. Further research a management option for the HHA board as desired.
3. Assist in the implementation of whatever plan is adopted, in accordance with regulatory requirements.

SECTION II – APPLICABLE STATE AND COUNTY CODES

The Commons Committee met with the following agency staff at Long Bay to discuss the requirements that apply to clearing vegetation, including tree cutting and brush removal:

Skagit County Planning and Development Services, July 30, 2006 - John Cooper, Natural Resource Planner (360)336-9410 ext. 5962, and Barbara Graf, Code Compliance Officer (360) 336-9410 ext. 5655.

Washington Department of Natural Resources, August 2, 2006 – Loren Wheeler, DNR Forest Practices Forester (360) 856-3500

All lands in the Commons are regulated under the Skagit County Critical Areas Ordinance (CAO). The CAO addresses several critical area categories, as required by state law (Growth Management Act). The following Critical Area categories apply to the Commons:

Long Bay

1. **SHORELINE MANAGEMENT PROGRAM (SMP):** The SMP covers all lands (measured horizontally) within 200 feet from the ordinary high water of Puget Sound. Based on the state Shorelines Management Act, all marine shorelines are considered shorelines of statewide significance due to the important role they play in supporting fish and marine-dependent wildlife. Hence, the CAO designates all marine shorelines of Guemes Island as Critical Fish and Wildlife Areas. The SMP applies to 100% or very close to 100% of the Long Bay property. Any proposal for clearing in the shoreline area would require a Shoreline Management Permit. (Daniel Downs, at (360) 336-9410 ext.5588, is the County Shoreline Planner.)
2. **EROSION HAZARD AREA:** Any lands within 200 feet of a 40% slope or greater, are included in the areas regulated by the CAO. This appears to include 100% of the Long Bay property. Coupled with the SMP above, 100% of the property is definitely subject to the requirements of the CAO.
3. **STREAM AND WETLAND HABITAT:** This is a potential issue, although the wetland would possibly be exempt because of its small size. There is also an intermittent (seasonal) stream present on the site.
4. **WASHINGTON FOREST PRACTICES ACT (FPA):** According to Loren Wheeler, the Long Bay property is considered forest land, and the FPA regulates all forest areas until they are officially converted to a noncommercial forest status by the Department of Natural Resources (DNR). Thus, the FPA and its permitting process apply to this property.

Cooks Cove

1. **SHORELINE MANAGEMENT PROGRAM (SMP):** The SMP covers all lands (measured horizontally) within 200 feet from the ordinary high water of Puget Sound. Also, because there is a wetland connected with Puget Sound, the measurement begins at the inland edge of the wetland and therefore it includes the vast majority if not all of the Cook's Cove property.
2. **EROSION HAZARD AREA:** Portions of this property appear to be subject to these requirements also, as there are some slopes exceeding 40% within 200 feet of the property.
3. **STREAM AND WETLAND HABITAT:** See the SMP above. (See also the attached Cooks Cove report.)
4. **WASHINGTON FOREST PRACTICES ACT (FPA):** We believe the Cooks Cove property will also be considered forest land; therefore the same requirements and permitting process would apply.

Deadman's Bay Access

1. **SHORELINE MANAGEMENT PROGRAM (SMP):** Since the SMP covers all lands (measured horizontally) within 200 feet from ordinary high water of Puget Sound. This would include the entire property, as it is slightly less than 200 feet deep.

SECTION III – HOW THE CODES APPLY TO US

If we want to do any tree cutting, brush clearing, etc., we must formalize our proposal with a consultant report. That involves us hiring one or more consultants to assess site conditions to describe the effects of our proposal on vegetation (particularly larger trees that support raptors), wildlife, slope stability, and water features; and to identify mitigation measures to protect fish and wildlife, manage erosion, etc. We also need to prepare a SEPA (State Environmental Policy Act) checklist. One or more consultants are expected to cost over \$1000, and could likely be in the thousands of dollars. The shoreline permit application and consultant report would be submitted to Daniel Downs, phone (360) 336-9410, ext.5588, along with a \$217 submittal fee. He is the shoreline administrator at the Skagit County Planning and Development Center.

In the shoreline permit process, the County and state agencies conduct a “critical areas review” to determine if the consultant report recommendations are adequate to protect the natural resources, including wetland functions, and erosion hazards, and eagle and falcon nest and perch sites. (The HHA had some consulting work done by Oscar Graham at Cook’s Cove a few years ago on shoreline and wetland to help us decide where to put boat trailers there.) Also, the Long Bay parcel is less than mile from an eagle’s nest, and relatively close to the peregrine falcon nest area (near Square Harbor). Hence, eagle and falcon management plans would be required by the Washington Dept. of Fish and Wildlife (WDFW). Julie Stoffel, phone (425)379-2301 is the person granting approval on the eagle management plan provisions, and Mike Davison (phone?) grants the approval on the falcon management plan.

The County will be changing the Critical Areas Ordinance (CAO) in January 2007. If we want to submit a proposal under the current CAO, it would need to be submitted and the work completed by the end of 2006. The new CAO may be more stringent and the submittal fee is expected to increase. However, if we waited to apply until 2007 and operate under the new rules, this would give us more time to prepare our proposal, and have more time to complete the work.

Since the state DNR considers Long Bay and Cook’s Cove as “forest land”, we need to complete a Forest Practices Application, and our land will fall into the most restrictive category, a “class 4 special” classification. If our proposal is to maintain the site as forest land and cut/harvest trees, the same review requirements as the Shoreline Permit apply, plus we will need to reforest the site.

However, if the plan is to convert it to another use, generally this means some sort of development, but in our case, it’s whatever we intend to use it for ... like a park, common open space, etc. In this case the conversion could be as simple as a picnic bench or night light.

What Can We Do Without Permit(s)?

We are allowed to prune shrubs or trees as long as we do not kill the plant. We are also allowed to continue to maintain the existing trails at the three sites, including the removal of plants growing in the trail, because the trail is “grandfathered in”. But it was pointed out to us that we cannot widen the trail or even cut one tree without going thru the permit process.

The penalties are quite severe if we work outside of the regulations since we would still need to go through the time and expense of the permit process described above, pay penalties, and mitigate for damage done.

SECTION IV - OPTIONS FOR VIEW ENHANCEMENT AT LONG BAY AND COOKS COVE

SUMMARY OF OPTIONS FOR VEGETATION MANAGEMENT

Option	Objective/Vision	Regulatory Steps	Cost	Management Issues	Equity Issues
1) Clear-cut and remove all view-impairing vegetation to the extent permitted.	a) Leave desired shrubs and just the required trees. b) Manage weed species and new view impairing growth.	a) Critical Area Review b) Shoreline Permit c) Forest Practices d) SEPA checklist	\$\$\$\$	Significant & costly	Significant
2) Selectively cut less than the maximum number of trees allowed by permits.	a) Remove some view impairing trees. b) Leave some trees that may affect views. c) Manage weed species and new view impairing growth.	a) Critical Area Review b) Shoreline Permit c) Forest Practices d) SEPA checklist	\$\$\$\$	Significant but slightly less costly	Significant
3) Selective limbing.	a) Selectively limb or top certain view obscuring trees. b) Manage new limb and top growth.	a) Possibly none	\$\$\$\$	Limited	Limited
4) Minimum action needed to maintain existing amenities.	a) Conduct no view enhancement practices. b) Maintain only the existing roadway, trails, boat access, and other existing amenities.	a) None	No added costs if using volunteers	None, except those related to existing improvements	None, except those related to existing improvements

DESCRIPTION OF VEGETATION MANAGEMENT OPTIONS

Option 1. Clearcut and remove all view-impairing vegetation to the extent permitted.

Regulatory Steps

- ♣ Hire consultant(s) to conduct a Critical Area Review. We also have the Cook’s Cove Shoreline report that Oscar Graham did for us to help us decide where to put the boat trailer parking area. *See the appendix at the end of this report for more information on Oscar Graham’s report and the wetlands at Cook’s Cove.*
- ♣ Submit an application for a shoreline management action permit and an environmental (SEPA) checklist.
- ♣ Submit a Forest Practices conversion application to the DNR.

Costs:

- ♣ \$1,000 and up - Critical Areas Assessment
- ♣ \$217 – Shorelines permit
- ♣ \$\$\$\$? – Initial vegetation removal, cleanup, and replanting
- ♣ \$\$\$\$? – Annual maintenance

Management Issues:

Assuming we are permitted to make extensive cuts:

- ♣ First of all, recognize that this will not give everyone a satisfactory view, in that the permits will likely require the retention of various existing vegetation throughout, including most or all vegetation within 50 feet of the water. Keep in mind that the depth of the property (at Long Bay) requires considerable vegetation removal to see through almost 200 feet of land to the water. Also note that to gain a view, some landowners need to remove the lower portions of closer trees, the middle portion of trees further out, and the top portions of trees close to the water. Other landowners at different elevations need to remove other parts of the same trees. Also keep in mind that most trees are growing from 2 to 5 feet in height per year. Even if everything was clear-cut (at Long Bay), except for the trees within 50 feet of the water, those trees (mostly alder) at maturity commonly reach 80 to 130 feet in height, which will eventually block the view of many landowners. (The elevation of the road at Long Bay is generally lower than the height of mature alders and other species of trees, growing within 50 feet of the shoreline). A successful view enhancement project needs to look at the vegetation as an ever changing view blocker. Whatever plan is agreed to, if any, needs to accomplish its goal in the long run, not just for two or three years.
- ♣ It needs to be recognized that when a stand of trees is heavily thinned, there is a significant chance that many of the remaining trees will blow down, as they have been growing in a protected environment and have not developed the necessary wind resistance.
- ♣ The Association would need to develop & commit to a vegetation removal and site conversion plan in accordance with the requirements of the permits.
- ♣ Complete the initial work including cleanup, with volunteers or more likely a paid contractor (considering that it will be a very big job).
- ♣ Also recognize that there will be a substantial reinvasion of other species of less desirable vegetation, such as nettle, blackberries, thistle, and alder resprouts. This will require considerable annual or semiannual maintenance to attempt to remove the weed species and convert/retain the desired vegetation. This could also be done with volunteers but more likely a paid contractor, again being aware that it will require a considerable number of hours to complete the work. Without this continuing maintenance, we will lose our investment in the site conversion and suffer a significant loss in aesthetic values of the property.

Equity Issues

- ♣ How much is too much for the Association to pay for the project?
- ♣ It is recognized that there will be disproportionate benefits from view creation. So would all members of the Holiday Hideaway Association pay for the project or just those benefiting from view creation? If just those benefiting, will it be split equally or in proportion to each person's benefit? How would such a benefit be determined? And what happens when someone's actual view enhancement does not measure up to their expectations?

Option 2. Cut less than the maximum number of trees allowed by the permits, retaining more of the species that we consider desirable.

Regulatory Steps: Same as above

Costs:

Same as above for assessment and permits, but a little less for the initial conversion and a little less for maintenance, depending on how much area is opened up to the sun.

Management Issues:

- ♣ View enhancement will be further reduced from the above option. Also recognize that thinned trees tend to grow larger and wider branches and some species tend to lean out into an opening when there is more sunlight available, so the longevity of the view enhancement will be reduced also.
- ♣ Aesthetics would be significantly improved from the above option, in that more of the desirable species could be retained, however blowdown of remaining trees will still be a significant risk.
- ♣ A vegetation removal and site conversion plan must still be developed as above as well as the initial work and cleanup.
- ♣ Annual or semiannual maintenance will still be just as important as the option above.

Equity Issues: Same as above

Option 3. Selectively limb or top, view obscuring trees.

Regulatory Steps

There may not be any regulatory steps, unless we want or need to submit a Forest Practices conversion application to the DNR.

Costs:

No cost for permits

Management Issues:

- ♣ In most cases, limbing alone will not enhance views of the water, due to the depth and slope of the property. There may be a few situations where it might marginally improve views in the short term.
- ♣ The topping of trees would improve the views of a few homeowners who live at elevations significantly above the elevation of the community property. However, topping is a very short term solution, because topped trees tend to bush out and form multiple leaders which eventually block views more than if the tree retains a single leader. Topping is a practice that is rarely recommended by forestry professionals. Topping reduces aesthetic qualities of a tree because it permanently deforms the tree.
- ♣ A vegetation management plan would be needed to specify and describe what work is to be completed. Then tree trimming specialists would need to be hired to complete the work. Debris would need to be cleaned up.

Equity Issues:

Same as above. With this option, there is a greater potential for the view creation to be significantly less than peoples expectations. In the long term, views would generally be reduced over what they are at present.

Option 4. Conduct no view enhancement practices; only maintain the existing roadways, trails, boat access, and other existing amenities.

Regulatory Steps

There are no permits required as these facilities are grandfathered in and maintenance is allowed.

Costs

In the past, trail, road, and boat access maintenance have been done primarily on a volunteer basis, so costs would be relatively minimal.

Management issues:

No view enhancements would result from this option, and over time, existing views could be reduced as both young and old trees grow taller and wider. Also no vegetation management plan is needed. We would only maintain our present facilities. This option does the best job of protecting the environment, the shoreline, the steep slopes, wildlife and fish habitat, etc, in that disturbance is substantially minimized especially from the first two options.

SECTION V - COOKS COVE CLEAN-UP

A lot of Styrofoam and other floating trash blew into the Cook's Cove wetland last winter. The clean-up on September 9th 2006 was a good start, but more work is needed. It is recommended that another cleanup day and time be planned in the late summer or early fall of 2007 when water levels are low, as it is much easier to get the material out with low water levels. Adequate pickup trucks and/or trailers are needed to haul the material away.

Kit Harma has also been in contact with Jenkins Dossen from the Port of Anacortes (Cap Sante Marina) both in the spring and also the fall of 2006. He requested that they come and remove pieces of floating docks (consisting of wood, Styrofoam and concrete) that are too heavy and bulky for us to deal with. There are several pieces of these docks in the Cooks Cove area and the shoreline to the east. Cap Sante Marina was pulling out some old docks back in January of 2006 before the storm and high water that flooded the Cooks Cove area. Cap Sante's contractor was suppose to come over and remove this material, but we are not aware if this ever happened. Our committee needs to confirm this one way or the other, when water levels permit us to get in there, and make additional contacts if necessary.

SECTION VI - DEADMAN'S BAY PROPERTY AND ACCESS

HHA owns a 20 foot wide mostly forested lot on Channel View Drive allowing access to Deadman's Bay. To the west of this lot is a privately owned lot with a beach access path that just borders our strip of land. To the east is a 60 foot wide undeveloped county road right-of-way property open to the public. This county property is cleared and even has beach access via a trail with steps immediately east of the HHA lot. The vegetation on HHA's lot serves both as a habitat for wildlife and a welcomed screen between the homes to the west and east of the lot.

A prudent and cost effective solution may be to "leave well enough alone", as HHA members (and others) already have good public access to the beach on county property. We might just mark the corners, and clarify the boundaries with adjacent neighbors and HHA members, along with developing a maintenance plan for the trail and steps to the beach on county property.

SECTION VII - SUMMARY OF OBSERVATIONS AND PROCEDURES ADOPTED BY THE COMMITTEE

We are not making a specific recommendation of a plan. We feel that should come from the Board or the membership. We presented a range of options based on our research and learnings.

We have entertained suggestions within the Board and from members at large that we should just "go ahead and do what we want" without involving public agencies. We rejected this option by majority agreement, because implementing such a plan would eventually be observed and reported by someone within or outside the Association who did not agree with our plan. This would ultimately involve jurisdictional agencies and be accompanied by requirements to meet their standards and permits after the fact, along with fines levied on the entire membership. We did not feel we could, in good conscience, incur such liabilities and punitive measures for all our members.

We believe any plan adopted should be for the long term, and meet these criteria:

1. Work through public agencies and follow legal steps under proper permits.
2. Identify specific changes: removals, site work, replacements of vegetation under a defined budget using realistic cost estimates.
3. Spell out a workable and enforceable long-range maintenance plan that details use of volunteers, expected annual budget, contracted services etc.
4. Obtain from the membership the required personal and financial commitments necessary to accomplish steps one through three.
5. Involve some sort of enforceable accountability and restoration of damage provisions for any Association members who decide to proceed with view enhancements outside of any adopted plan (ie: illegal, non-permitted clearing), that would bring fines or incur common property damage that would affect us all. (IE: provisions for retroactive permits, Association approval, cleanup and restoration costs born by homeowner(s) involved, including property liens if necessary.)

The four options listed go from the most extensive to the minimum action needed, with some cost and personnel implications outlined.

The board might want to consider taking any or all options to the entire membership for final vote.

If a program of view enhancement is undertaken, it will only benefit a relatively small percentage of homeowners in the Holiday Hideaway Association. However, those beneficiaries might increase their property value by many thousands of dollars. The Board might want to consider having those who request the vegetation removal pay the full cost of the project (consultant and regulatory agency fees, implementation costs, maintenance, etc.)

We suggest all members of the committee meet with the Board initially. If desired, the committee is available to appear before the membership to clarify our report and answer questions.

This committee feels its initial work is done with the submission of this report. However, the majority of committee members agree to continue on as an oversight committee for whatever option(s) are decided on, if requested by the Board or membership. This might include further detailing of specific options for the Board, and any other reasonable implementation and oversight. We do not see our committee as "project managers" of any large scale projects.

In conclusion: This committee truly wishes we were able to present a less ambiguous or less problematic solution, or more optimistic conclusion. As we delved into the realities, using our member's skills in forestry practices, shorelines preservation, wetlands, and general landscaping expertise, it became clear that the situation involving all our common areas was very complex and overlaid by many agency jurisdictions. We learned that any changes short of maintaining "grandfathered in amenities" would be time-consuming and costly. And that the steep slopes, view perspectives, layering of forest canopies, and regrowth patterns, would make any view enhancement option a short-term solution, and unlikely to make all or any of adjacent property owners happy in the long run. We have done extensive research and run many scenarios, and we believe that if there were one single optimal plan that would have benefited homeowners, we would have discovered it, and would be recommending it to the Board.

APPENDIX

COOK'S COVE WETLAND: SITE EVALUATION AND MANAGEMENT RECOMMENDATIONS

The Holiday Hideaway Association (HHA) property at Cook's Cove consists largely of a wetland: the familiar "lagoon" and a stream and associated forested wetland that feed it.

The lagoon and vegetation at its fringes have a great diversity of marsh and salt-marsh species and provide habitat for migrating and resident birds. This "coastal lagoon", as it is called by the Department of Ecology, is a relatively rare habitat type in Washington. As well as providing aesthetic value to Association members, it is greatly deserving of their stewardship and protection.

The inland stream and wetland also provides wildlife habitat and purifies the water that flows into the lagoon. The stream is seasonal and may support fish that swim upstream from the lagoon in the winter. Both stream and wetland are subject the regulation by Skagit County Codes.

Prior to the expansion of the boat parking area in 2000, a wetland delineation was conducted by Graham-Bunting and Associates and a report was produced intended to provide guidance for meeting County Code requirements. Some information from this report could be used by the HHA, should further work be proposed. However, if significant work (any vegetation or soil-disturbing activities other than pruning and trail maintenance) is proposed in or around this area, another analysis should be performed for the following reasons:

- 1) The delineation did not determine the wetland edge east of the stream. This edge will need to be known should any work be proposed in this area.
- 2) The site map in the report shows the stream coming from the west, under the road leading to the boat launch, while its actual route is from the east, under Holiday Blvd. Any action on the north end of the parcel should take into consideration the actual stream and associated buffers.
- 3) The delineation drew a rough line for the wetland edge on the west, when in fact the system has a slow transition from wetland to upland conditions along a meandering edge.
- 4) The wetland assessment was based on the 1993 Washington State Department of Ecology (DOE) rating system. The County is currently in the process of updating its rating system and regulations, and will likely adopt the DOE's 2005 rating system. This means that the overall categorization of the wetland and thus the required setbacks around it may change shortly.

Finally, since the County is updating its Critical Areas Ordinance (based on new available science and local input), it will most likely revise all required buffers around wetlands, streams and shorelines.