

THURSTON COUNTY SHORELINE MASTER PROGRAM

PLANNING COMMISSION REVIEW 3/20/19

PREPARED FOR:

Thurston County Board of County Commissioners

PREPARED BY:

Thurston County Resource Stewardship



_____, 2018

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Chapter 19.100 Introduction

19.100.105 Title

The goals, policies and regulations herein shall be known as the Thurston County Shoreline Master Program, and may be referred to as the “Master Program”, “Program”, or the “SMP”.

19.100.110 Purpose and Intent

The Thurston County Comprehensive Plan explains that Thurston County’s shorelines provide valuable habitat for fish and wildlife, economic diversity, and recreational opportunities used by residents of all ages. Shorelines play an important role in enhancing the quality of life for our County’s citizens. Therefore, the purpose of the Master Program is to guide the future development of the shorelines in Thurston County in a manner consistent with the Shoreline Management Act of 1971, hereinafter the “Act.” The Act and this Program comprise the basic state and county law regulating use of shorelines in the county and is the regulating document for critical areas within shoreline jurisdiction.

Thurston County utilizes a variety of other regulations, policies, plans, and programs to supplement the goals and regulations contained within the Shoreline Master Program, and to manage shoreline resources and regulate development near the shoreline. All development projects are reviewed for compliance with the Thurston County Code (TCC) including but not limited to: Thurston County Comprehensive Plan, Zoning Ordinance (TCC 20, 21, 22, and 23); Critical Areas Ordinance (TCC 24); Thurston County Stormwater Standards (TCC 15.05); Platting and Subdivisions (TCC 18); and the State Environmental Policy Act (SEPA) Ordinance (TCC 17.09.). The County works with other entities such as the Thurston Conservation District, Stream Team, South Sound Salmon Recovery Group and watershed lead entities to promote awareness of shoreline issues. In addition, the County has developed Shellfish Protection Districts, Basin Plans, and Capital Facilities Plans to further the goals and the policies of the Shoreline Master Program and promote wise shoreline usage.

Although critical areas in shoreline jurisdiction are identified and designated under the Growth Management Act (GMA), they must also be protected under the Shoreline Management Act (SMA). The Washington State Legislature has determined that local governments must adopt Programs that protect critical areas within shorelines at a level that assures no net loss of shoreline ecological functions (ESHB 1653 Sec. 2(4)). Although Washington’s shorelines may contain critical areas, the shorelines themselves are not critical areas by default as defined by GMA.

The provisions of this title for regulating critical areas [in shoreline jurisdiction](#) shall apply to all land, all water areas and all structures, and all uses irrespective of lot lines in the unincorporated territory of Thurston County, Washington, except for existing and on-going agricultural activities. Agricultural activities meeting the requirements of TCC Section 17.15.110 shall be regulated by Chapter 17.15 TCC (as updated) or by the Voluntary Stewardship Program (VSP) ~~once a VSP Workplan is adopted.~~

19.100.115 Adoption Authority

This Master Program is adopted pursuant to the authority granted under the Shoreline Management Act of 1971, Chapter 90.58 Revised Code of Washington (RCW) and Chapter 173-26 of the Washington Administrative Code (WAC).

19.100.120 Applicability

- A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Act, this Master Program and Thurston County Code (TCC), whether or not a permit is required. This Master Program applies to every person, firm, corporation, government agency, or department who or which:
 - 1. Proposes any new use, activity, development or structure within the unincorporated area of Thurston County subject to the Act, as now or hereafter amended; or
 - 2. Proposes a change, modification, addition or alteration to a legally existing use, activity, development or structure within the unincorporated area of Thurston County subject to the Act, as now or hereafter amended.
- B. Direct federal agency activities affecting the uses or resources subject to the Act must be consistent to the maximum extent practicable with the enforceable provisions of the Act and with this Master Program as required by WAC 173-27-060.
- C. The Act and this Program, including the permit system, shall apply to all non-federal developments and uses undertaken on federal lands and on lands subject to non-federal ownership, lease or agreement, even though such lands may fall within the external boundaries of a federal ownership.
- D. This Master Program shall apply to all unincorporated rural and urban lands within Thurston County until such time as a city incorporates land into their city boundaries through annexation and an SMP amendment.

19.100.125 Relationship to Other Plans and Regulations

- A. Uses, developments, and activities regulated by the Master Program may be independently subject to the Thurston County Comprehensive Plan, the Washington State Environmental Policy Act, the Thurston County Code (TCC) Zoning (Title 20, 21, 22, and 23), Platting and Subdivisions (Title 18), Environment (Title 17), the Critical Areas Ordinance (Title 24), and various other provisions of federal, state, and county laws. The applicant must comply with all applicable laws prior to commencing any use, development, or activity.
- B. Should a conflict occur between the provisions of this Program or between this Program and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within Thurston County, the more restrictive requirements shall apply, except when constrained by federal or state law, or where specifically provided otherwise in this Program.
- C. When achieved in accordance with Title 20, 21, 22, or 23 TCC (Zoning), building and lot dimension flexibility may be allowed on shorelines within Urban areas or Limited Areas of More Intensive Rural Development (LAMIRDs) when consistent with the Act and all other applicable

requirements of this Program, including the requirement to achieve no net loss of shoreline ecological functions.

Further, in order to preclude fragmentation of review and the necessity for individual shoreline permits, a combined shoreline permit is encouraged for proposed activities within the shoreline jurisdiction where feasible. For example, if a programmatic shoreline restoration project is proposed, such as multiple property owners proposing to remove shoreline armoring, the Department may determine to review the projects under one project review.

- D. Consistent with RCW 36.70A.480, the goals and policies of this Master Program approved under Chapter 90.58 RCW shall be considered an element of the County's comprehensive plan, including Chapter 19.300 (General Goals and Policies). All regulatory elements of this Program, including, but not limited to Chapter 19.100 (Introduction), Chapter 19.150 (Definitions), Chapter 19.200 (Shoreline Jurisdiction and Environment Designations), Chapter 19.400 (General Regulations), Chapter 19.500 (Permit Provisions, Review and Enforcement), Chapter 19.600 (Shoreline Use and Modification Development Standards), Chapter 19.700 (Special Reports), Appendix A (Shoreline Environment Designations Map), Appendix B (Mitigation Options to Achieve No Net Loss for New or Re-Development Activities), and Appendix D (Channel Migration Zone Maps) shall be considered a part of the County's development regulations. Certain non-regulatory elements of this Master Program, including, but not limited to Appendix C (Shoreline Restoration Plan), may be updated and amended at any time without requiring a formal Master Program amendment.
- E. Where this Program makes reference to RCW, WAC, or other state or federal law or regulation, the most recent amendment or version shall apply.
- F. This Program will be applied consistent with all applicable federal, state and local laws affecting tribal rights.
- G. Coastal Zone Management Act Consistency reviews for sites within federal jurisdiction shall apply the Environment Designation criteria in Chapter 19.200 that most closely correspond to the project site in order to determine applicable Program policies.
- H. When a site contains more than one regulated critical area, each area will be regulated by the appropriate critical area code, with the more protective requirements being applied.

19.100.130 Governing Principles

The following governing principals, along with the policy statement of RCW 90.58.020, the principles of WAC 173-26, and purpose statements in Title 24.01.010 & 24.01.015 TCC, establish the basic concepts of this Program.

- A. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.
- B. The policies of this Program may be achieved by diverse means, one of which is regulation. Other means authorized by the Act include, but are not limited to: acquisition of lands and/or easements by purchase or gift, incentive programs, and implementation of capital facility and/or non-structural programs. Groups performing these types of restoration/protection activities in Thurston County are listed in Appendix C.

- C. Protecting the shoreline environment is an essential statewide policy goal. Permitted and/or exempt development, actions taken prior to the Act's adoption, and/or unregulated activities can impair shoreline ecological processes and functions. This Program protects shoreline ecology from such impairments in the following ways:
1. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines.
 2. By including policies and regulations that require mitigation of all adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of the date of adoption of this Program.
 3. By including policies and regulations that ensure that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.
 4. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such opportunities have been identified, consistent with the Shoreline Restoration Plan (Appendix C) developed by Thurston County.
- D. Regulation of private property to implement Program goals, such as public access and protection of ecological functions and processes, must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to the protections afforded by the federal and state constitutions, and federal, state and local laws.
- E. Regulatory or administrative actions contained herein must be implemented with consideration to the Public Trust Doctrine, regulatory takings, and other applicable legal principles as appropriate.
- F. Regulatory provisions of this Program are limited to Shorelines of the State, **shorelines of statewide significance, and associated shorelands and their buffers**, whereas the planning functions of this Program may extend beyond the designated shoreline boundaries.
- G. Consistent with the policy and use preferences of RCW 90.58.020, Thurston County should balance the various policy goals of this Program along with giving consideration to other relevant local, state, and federal regulatory and non-regulatory programs.

19.100.135 Liberal Construction

As provided for in RCW 90.58.900, the Act is exempted from the rule of strict construction. Therefore, the Act and this Program shall be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted, respectively.

19.100.140 Severability

Should any section or provision of this Program be declared invalid, such decision shall not affect the validity of this Program as a whole.

Chapter 19.150 Definitions

Where terms, phrases and words are not defined, they shall have their ordinary accepted meanings within the context with which they are used. The most current version of the English Webster's Dictionary shall be considered as providing ordinary accepted meanings. In addition, where available, the definitions provided in WAC 173-26-020, WAC 173-27-030, Chapter 90.58 RCW, TCC 20.03, or TCC Title 24.03 shall be applied in the interpretation and administration of this Program. ~~The definition of Various terms as presented in this section does not necessarily represent the same definitions as may be found for the same terms~~ may be defined differently in other chapters of the Thurston County Code.

19.150.100 Abandonment: cessation or vacation of a permitted use or structure through non-action for a period of ~~one~~ two years ~~or longer~~.

19.150.105 Accessory use or accessory structure - any use or structure customarily incidental and accessory to the principal use of a site or a building or other structure located upon the same lot.

19.150.110 Accessory Structure -View Blockage: as it relates to view blockage, buildings and other structures encompassing less than 200 square feet and less than twelve feet in height from grade level, and fences which are six feet, or less, in height from grade level do not constitute view blockage.

19.150.115 Accretion: the growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, and hooks.

19.150.120 Adaptive Management: a process of evaluating data acquired through project monitoring relative to a developed plan with goals or benchmarks, and taking action based on the results in order to reduce uncertainty with regard to adverse ecological impacts and improve outcomes over time.

19.150.125 Adjacent Principle Building: a principle building on a lot abutting the applicant's lot.

19.150.130 Agriculture: uses and practices, primarily commercial in nature, which are in support of agricultural activities, agricultural products, agricultural equipment and facilities, and agricultural land, as defined in WAC 173-26-020(3). This excludes activities typically associated with single-family residences, such as gardening activities primarily for on-site consumption. Such uses may still be subject to other provisions of this Program, Title 24 TCC, or Title 17.15 TCC.

19.150.135 Amendment: a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

19.150.140 Anchor: a device used to secure a vessel

19.150.145 Appurtenance: structures and development necessarily connected to the use of a single family residence, and located within contiguous ownership of the primary residential use: Common appurtenances include a garage, deck, driveway, fences, utilities, septic tanks, wells, and drain-fields, officially registered historic structures, and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM. Appurtenances do not include bulkheads and other shoreline modifications or over-water structures, including ~~tower~~ stair towers with landings at or below the ordinary high water ~~line~~ mark.

19.150.150 Aquaculture: the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state and tribal co-managed wild-stock geoduck fishery.

19.150.155 Aquatic Lands: the bed-lands (submerged at all times) and tidelands (submerged lands and beaches that are exposed and submerged with the ebb and flow of the tides) beneath the waters of lakes, rivers and marine waters and along their shores.

19.150.160 Associated Wetlands: those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Act.

19.150.165 Barrier Structure: any shoreline or in-water structure that has the primary purpose of diverting, capturing or altering the natural flow or transport of water or sediment. These include breakwaters, jetties, groins and weirs.

19.150.170 Best Management Practices: those practices determined to be the most efficient, practical and cost-effective measures identified to reduce or control impacts to water bodies from a particular activity, most commonly by reducing the loading of pollutants from such sources into stormwater and water bodies.

19.150.175 Boat House: a structure built for and with a continued primary purpose to store ~~aquatic vessels-watercraft~~ and usually associated with a single-family residence.

19.150.180 Boat Launch or Ramp: a ~~solid~~ ramp, usually made of concrete, used for the purpose of placing watercraft in and out of the water.

19.150.185 Boating Facilities: ~~public and private~~ mooring structures and related services serving five or more ~~boats-watercraft~~, including piers, docks, buoys, floats, marinas, and facilities for the use of ~~boat watercraft~~ launching, ~~boat watercraft~~ storage, or for the service and maintenance of pleasure or commercial ~~watercraft~~.

19.150.190 Breakwater: a protective structure usually built off-shore to protect beaches, bluffs, or harbor areas from wave action.

19.150.195 Buffer: a non-clearing area established to protect the integrity, functions and values of the affected critical area or shoreline, so that no net loss of critical area or shoreline ecological functions occurs. Under optimal conditions, buffers are composed of intact native vegetation. Buffer widths are measured horizontally.

19.150.200 Building: any structure used or intended for supporting or sheltering any use or occupancy.

19.150.205 Building Line: the perimeter or that portion of a primary building closest to the ordinary high water mark (OHWM), including (but not limited to) decks, balconies, open steps, architectural features (such as cornices), utilities, and roof overhangs.

19.150.210 Bulkhead: a “normal protective” bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.

19.150.215 Buoy: an anchoring device with a float used to secure a vessel. For the purposes of this program, the term “buoy field” refers to more than one buoy per parcel.

19.150.220 Census-Defined Urban Areas: Territories that consist of areas of high population density and urban land use resulting in a representation of “urban footprint”. The territories include residential, commercial and other non-residential urban land uses. Defined by U.S. Department of Commerce and the U.S. Census Bureau Tigerline Shapefile 2012:

<http://www.census.gov/geo/www/ua/2010urbanruralclass.html>.

19.150.225 Certified Local Government: a local government that establishes a historic preservation program meeting federal and state standards, and is eligible to apply to the State Historic Preservation Officer (SHPO) and the National Park Service for certification.

19.150.230 Clearing: the destruction, removal, or disposal of vegetation by manual, mechanical, or chemical methods. Clearing includes logging, even when the understory of vegetation is not being removed.

19.150.235 Commercial, Commercial Development: a use that involves wholesale or retail trade, or the provision of services.

19.150.240 Compensatory Mitigation: ~~compensatory mitigation~~ is the stage of mitigation sequencing where unavoidable impacts to shoreline ecological functions are offset by restoring, creating, enhancing, or preserving critical habitat within a specific watershed or geographic area.

19.150.245 Conditional Use Permit (CUP): a permit for a use, development, or substantial development that is classified as a conditional use or is not a listed use in the Use and Modifications Matrix in Chapter 19.600.

19.150.250 Critical Areas: As defined in Title 24 (Critical Areas) of the Thurston County Code which is adopted by reference as though set forth herein in full, (as amended) provided that the reasonable use provisions set forth in TCC 24.45, and 24.17, shall not be available within the shoreline jurisdiction. Instead, applicants may apply for a shoreline variance when seeking relief from critical areas regulations within shorelines.

19.150.255 Critical Habitat: Habitat areas within which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified herein with reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or WAC 232-12-014; in the Priority Habitat and Species (PHS) program by the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations.

19.150.260 Critical Freshwater Habitats: includes those portions of streams, rivers, wetlands, lakes and their associated channel migration zones and flood plains that provide habitat for priority species at any stage in their life cycles, and provide critical ecosystem-wide processes, as established in WAC 173-26-221(2)(c)(iv). This is distinguished from the term “Critical Habitat” as utilized in relation to the Endangered Species Act.

19.150.265 Critical Saltwater Habitats: as defined in WAC 173-26-221(2)(c)(iii), include all kelp beds; eelgrass beds; spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association. See this chapter for definitions of each type of critical saltwater habitat. This is distinguished from the term “Critical Habitat” as utilized in relation to the Endangered Species Act.

19.150.270 Cumulative impacts or cumulative effects: the impact on the environment or other shoreline functions or uses which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a long period of time. See WAC 173-26-186(8)(d).

19.150.275 Department: for the purposes of this program, means the Thurston County ~~Resource Stewardship~~ Community Planning and Economic Development Department (or as amended).

19.150.280 Development: ~~means~~ any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, clearing, paving, excavation or drilling operations, storage of equipment or materials, bulkheading, driving of piling, placing of obstructions, or any project of a permanent or temporary nature which interferes with the normal public use of the surface waters overlying lands subject to the Act at any stage of water level.

19.150.285 Development Regulation Standards: controls placed on development or land uses, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

19.150.290 Dock: the collective term for a moorage structure that typically consists of a nearshore fixed-pile pier, a ramp (or gangway), and a float that is used as a landing place for marine transport or for recreational purposes. It does not include recreational decks, storage facilities or other accessory structures.

19.150.295 Dredge: the removal of earth, gravel, sand or other mineral substances from the bottom of a stream, river, lake, bay, or other waterbody, including wetlands.

19.150.300 Ecological Functions: the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

19.150.305 Ecologically Intact: those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

19.150.310 Eelgrass: a flowering plant adapted to the marine environment that roots in sand or mud in shallow waters where waves and currents are not too severe. Eelgrass beds require high ambient light levels. ~~Where eelgrass beds are disputed as a critical saltwater habitat, appropriate state agencies and co-managing tribes shall be consulted in order to assist with the determination.~~

19.150.315 Emergency: an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this program. All

emergency construction is construed narrowly and shall be consistent with the SMA and this Program (RCW 90.58.030 (3eiii)). See also emergency exemption procedures in WAC 173-27-040(2)(d).

19.150.320 Endangered Species Act (ESA) - a federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

19.150.325 Enhancement: to improve the ecological functions at the site or landscape scale. This includes physical, biological and chemical processes which contribute to the maintenance of the aquatic and terrestrial environments.

19.150.330 Environmental Limitations: limiting factors to new modifications or development, such as floodplains or unstable slopes.

19.150.335 Excavation: the mechanical removal of earthen material.

19.150.340 Exemptions: uses and development, set forth in WAC 173-27-040 and RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515, that are not required to obtain a Substantial Development Permit, but which must otherwise comply with applicable provisions of the Act and this Program. Certain exemption developments must obtain a letter of exemption (see Section 19.500.100(C)(4)).

19.150.345 Existing Lots: lots, tracts, parcels, sites or other fractional part of divided land that was legally established in accordance with local and state subdivision requirements prior to the effective date of this Program.

19.150.350 Existing Structures: structures that were legally constructed prior to the effective date of this Program in accordance with the requirements in effect at the time of construction.

19.150.355 Existing Uses: uses that were legally established prior to the effective date of this Program in accordance with the applicable regulations at the time established.

19.150.360 Facilities: defined per 19.600.115(3)

19.150.365 Feasible: an action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:

- A. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- B. The action provides a reasonable likelihood of achieving its intended purpose; and
- C. The action does not physically preclude achieving the project's primary intended legal use.

The burden of proving infeasibility is on the applicant. In determining infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

19.150.370 Fill: the addition or redistribution of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, within a one-hundred year floodplain; or within an important habitat, lake, pond, stream, wetlands, or shorelands (and their associated buffers) in a

manner that changes the elevation or creates dry land. Large woody debris or other native materials approved as a part of a habitat restoration project shall not be considered fill.

19.150.375 Float: an anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming or diving. Floats may stand alone with no over-water connection to shore or may be located at the end of a pier or ramp.

19.150.380 Forage Fish: small, schooling fishes that are key prey items for larger predatory fish and wildlife in a marine food web. Puget Sound species include, but are not limited to, Pacific herring, surf smelt, Pacific sand lance and northern anchovy. Each species has specific habitat requirements for spawning, such as sediment grain size, tidal heights, or vegetation types. Known spawning and holding areas have been mapped by the Department of Fish and Wildlife.

19.150.385 Forest Practices: any activity conducted on or directly pertaining to forestland and relating to growing, harvesting or processing timber, including, but not limited to:

- A. Road and trail construction;
- B. Harvesting, final and intermediate;
- C. Pre-commercial thinning;
- D. Reforestation;
- E. Fertilization;
- F. Prevention and suppression of diseases and insects;
- G. Salvage of trees; and
- H. Brush control.

Forest practices shall not include preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

19.150.390 Groin: barrier-type structures extending waterward from the back shore across the beach to interrupt and trap sand movement.

19.150.395 Guidelines (WAC): those standards adopted by the Department of Ecology pursuant to RCW 90.58.200 to assist in the implementation of Chapter 90.58 RCW for the regulation of shorelines of the state. The standards may be referenced at WAC 173-26 and 173-27.

19.150.400 Hard Surface: An impervious surface, a permeable pavement, or a vegetated roof.

19.150.405 Impervious Surface: A non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are

not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

19.150.410 Industrial, Industrial Development: facilities for processing, manufacturing, and storing finished or partially finished goods; heavy vehicle dispatch and maintenance facilities; and similar facilities.

19.150.415 In-lieu Fee (Fee In-Lieu): a fee paid to a sponsor (e.g., Thurston County,) to satisfy compensatory mitigation requirements when mitigation is precluded from being completed on-site due to site development or physical constraints, ~~is~~ **as** part of a habitat conservation plan, or when the permitting agencies determine that ILF is more environmentally preferable over proposed permittee responsible mitigation.

19.150.420 Invasive exotics/non-native vegetation: see Chapters 17.10.010 RCW and WAC 16-750-003

19.150.425 In-stream Structure: structure placed by humans within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

19.150.430 Jetty: barrier-type structures designed to modify or control sand movement and usually placed at inlets to improve a navigable channel.

19.150.435 Kelp: a plant generally attaching to bedrock or cobbles in shallow waters, especially in areas with moderate to high waves or currents. Kelp beds generally require high ambient light levels. Kelp includes both floating and non-floating species. Where kelp beds are disputed as a critical saltwater habitat, appropriate state agencies and co-managing tribes shall be consulted in order to assist with the determination.

19.150.440 Landscaping/Landscape materials: Reserved

19.150.445 Land-disturbing Activity: Any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land-disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

19.150.505 Limited Area of More Intense Rural Development (LAMIRD): locally designated rural areas authorized to accept more intense, urban-like development under RCW 36.70A.070(5)(d) and Title 20 TCC.

19.150.510 Live Aboard: use of a vessel as a residence, meaning full time occupancy in a single location, for an uninterrupted period exceeding 60 days in any calendar year.

19.150.515 Lot: a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts, or

parcels. Where the context so indicates, lots, tracts or parcels may refer to subdivided lands not conforming to, or in violation of, zoning or subdivision regulations.

19.150.520 Lot Coverage: the percent or square footage of a lot that will be covered by a modification to impervious or hardened surfaces.

19.150.525 Low Impact Development (LID): a stormwater management strategy ~~that~~ that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

19.150.530 Low-intensity: activities which do not adversely alter natural ecosystem functions.

19.150.535 Macroalgae: Marine algae visible to the naked eye, such as kelp or other seaweeds.

19.150.540 Marina: a ~~public or private~~ water dependent wet moorage and/or dry boat storage facility for 10 or more pleasure craft and/or 10 or more commercial craft, and generally including goods or services related to boating. Marinas also include wet moorage facilities where boat moorage slips may be leased or rented to individuals who are not a member owner of an associated residential development. Launching facilities may also be provided. Marinas may be open to the general public or restricted on the basis of property ownership or membership.

19.150.545 Marine rail system: a pair of sloping tracks which extends into the tidelands, used for the purpose of placing watercraft in and out of the water.

19.150.550 May: a permissive term that means the action is acceptable, provided it satisfies all other provisions of this Program.

19.150.555 Mining: the removal of sand, soil, minerals, and other naturally occurring materials from the earth for commercial or economic use.

19.150.560 Mitigation Sequencing: Mitigation actions associated with development proposals impacting critical areas shall adhere to the following mitigation sequence:

- A. Avoiding the impact altogether by not taking a certain action or parts of an action;
- B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- E. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
- F. Monitoring the impact and taking appropriate corrective measures.

19.150.565 Modification: those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other structure. They can include other actions, such as clearing, grading, or application of chemicals.

19.150.570 Mooring Structures: includes piers, docks, floats and buoys and their associated pilings, ramps, lifts and railways, as well as modifications that support boating facilities and marinas. Any mooring structure or grouping of structures that provide docking space for 10 or more boats is considered a marina.

19.150.575 Mudflats: a low-lying land of fine sediments and silt that is exposed at low tide and covered at high tide.

19.150.580 Must: ~~a mandatory term that~~ means an action is required or mandatory.

19.150.585 Natural hydrographic conditions: the natural conditions for a particular time of year of water delivery and movement through a system.

19.150.590 No Net Loss: the maintenance of the aggregate total of the County's shoreline ecological functions. The no net loss standard requires that the impacts of shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated such that there are no resulting adverse impacts on ecological functions or processes. Each project shall be evaluated based on its ability to meet the no net loss requirement. The no net loss standard applies at multiple scales, starting at the project site. Compensatory mitigation standards include sequencing guidelines to ensure the most appropriate mitigation type and site are selected, as close to the impacted location as possible.

19.150.595 Normal Maintenance: those usual acts necessary to prevent a decline, lapse or cessation from a lawfully established condition.

19.150.600 Normal Repair: to restore a development to a state comparable to its original condition, including, but not limited to, its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to a shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

19.150.605 Noxious Weeds: see Chapters 17.10.010 RCW and WAC 16-750-003.

19.150.610 Ordinary High Water Mark (OHWM): the mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition existed on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the County or Ecology provided, that in any area where the OHWM cannot be found, the OHWM adjoining salt water shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be the line of mean high water.

19.150.615 Pervious Surface: Any surface material that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, native vegetation areas, and permeable pavements.

19.150.620 Pier: a rigid structure built over the water and typically constructed on piles, attached to the shore and used as a landing place for marine transport or for recreational purposes.

19.150.625 Platted: land that has been divided following the applicable laws for divisions of land under Title 18 TCC, including land subject to a current application for such division.

19.150.630 Predator Exclusion: an object or activity used to implement pest management in aquaculture practices with the intent of deterring or excluding predators such as moon snails, sea star, crabs, diving ducks, burrowing shrimp or sand dollars. Common methods include, but are not limited to, large canopy nets, mesh, PVC tubes with net caps, flexar plastic tunnels, oyster bags and suspended culture systems.

19.150.635 Principle Building: the primary structure on a lot closest to the ordinary high water mark excluding accessory structures.

19.150.640 Priority Species: species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

- A. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened [WAC 232-12-011(1)], or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the Washington Department of Fish and Wildlife (POL-M 6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
- B. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
- C. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
- D. Species listed by the National Marine Fisheries Service or the U.S. Fish and Wildlife Service under the federal Endangered Species Act as either proposed, threatened, or endangered.

19.150.645 Prohibited: not permitted to occur in a particular designation.

19.150.650 Public Access: the ability of the general public or, in some cases, a specific community, to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

19.150.655 Qualified Professional or Qualified Consultant: in accordance with WAC 365-195-905(4), a qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, geomorphology or related and relevant field to the subject in question, have related work experience and meet the following criteria:

- A. A qualified professional for wetlands must have a degree in biology, ecology, soil science, botany, or a closely related field and a minimum of five years of professional experience in wetland identification and assessment associated with wetland ecology in the Pacific Northwest or comparable systems.
- B. A qualified professional for habitat management plans or shoreline mitigation plans must have a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of five years professional experience related to the subject species/habitat type.
- C. A qualified professional for geologically hazardous areas, geotechnical and hydrogeological reports must be a professional engineering geologist or geotechnical engineer, licensed in the state of Washington. In designing soft armoring techniques, a qualified professional may also have similar qualifications as that required for habitat management plans.
- D. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydrogeologist, geologist, or an engineer qualified in experience and training in aquifer recharge.

19.150.660 Ramp (or gangway): a structure between a pier and float which adjusts its angle based on the tidal elevation, allowing access to the float at all times.

19.150.665 Recreation: the use and enjoyment of the shoreline by the public, including but not limited to fishing, hiking, swimming and viewing.

19.150.670 Recreational Development: development that provides opportunities for the use and enjoyment of the shoreline by the public, including but not limited to fishing, hiking, swimming and viewing. This includes both commercial and public recreational facilities.

19.150.675 Residential Development: development for the purpose of human habitation. Residential development includes the construction or modification of one- and two-family detached structures, multi-family structures, condominiums, townhouses, mobile home parks, and other similar group housing, together with accessory dwelling units, accessory uses and structures common to residential uses. Residential development also includes the creation of new residential lots through the subdivision of land. Residential development does not include hotels, motels, bed and breakfasts, or any other type of overnight or transient housing or camping facilities.

19.150.680 Resource-based Uses: low-intensity uses, which may include agriculture, aquaculture, forestry, recreation and designated open-space.

19.150.685 Restoration: the reestablishment or upgrading of impaired ecological shoreline processes and functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

19.150.690 Revision: the modification or change to a permit authorized under this Program.

19.150.695 Setback: the distance a use or development must be from the edge of a buffer to prevent construction and other activities from intruding into the buffer.

19.150.700 Shall: ~~a mandatory term that~~ means an action is required or mandatory.

19.150.705 Shellfish Beds: a general area of shoreline, both intertidal and subtidal, where shellfish congregate. This includes natural subsistence, recreational and commercial beds. Shellfish include, but are not limited to, abalone, hardshell clam, subtidal clam, dungeness crab, geoduck clam, manila clam, oysters, razor clam, pandalid shrimp and red urchin. Where disputed as a critical saltwater habitat, appropriate state agencies and affected tribes shall be consulted in order to assist with the determination.

19.150.710 Shorelands: those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.

19.150.715 Shoreline Management Act (Act): the Washington State Shoreline Management Act, Chapter 90.58 RCW.

19.150.720 Shoreline Stabilization: actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action.

These actions include structural and nonstructural methods. Nonstructural methods, for example, include approaches such as building setbacks, structure relocation, groundwater management, and land use planning. Structural methods can be “hard” or “soft”. “Hard” structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while “soft” structural measures rely on less rigid materials, such as bioengineering vegetation measures or beach enhancement. “Hybrid” structures are a composite of both soft and hard elements along the length of the armoring. Generally, the harder the construction measure, the greater the impact on shoreline processes including sediment transport, geomorphology, and biological functions.

There are a range of measures for shoreline stabilization, varying from soft to hard that include, but are not limited to:

A. Soft

1. Vegetation enhancement;
2. Beach enhancement;
3. Bioengineering measures;
4. Anchor logs and stumps; and
5. Gravel placement/beach nourishment.

B. Hard

1. Rock revetments;
2. Gabions;
3. Groins;
4. Bulkheads; and
5. Seawalls.

19.150.725 Shoreline Structure Setback Line: the closest distance measured on a horizontal plane between the ordinary high water mark and the building line (includes the buffer and building setback).

19.150.730 Shorelines of the State: includes all “shorelines” and “shorelines of statewide significance” within the state, as defined in RCW 90.58.030.

19.150.735 Shorelines: means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;

19.150.740 Shorelines of Statewide Significance: shorelines in Thurston County designated as shorelines of statewide significance are:

- A. Puget Sound – seaward from the line of extreme low tide.
- B. Nisqually Delta – from DeWolf Bight to Tatsolo Point, between the ordinary high water mark and the line of extreme low tide, together with shorelands associated therewith per RCW 90.58.030(2)(f)(vi).
- C. Lakes, whether natural or artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark.
- D. Natural rivers or segments thereof downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more.
- E. Shorelands and wetlands associated with AB through D above.

19.150.745 Should: a term that means a particular action is required unless there is a demonstrated, sufficient reason, based on a policy of the Act or this Program, for not taking the action.

19.150.750 State Environmental Policy Act (SEPA): An environmental review process designed to work with other regulations to provide a comprehensive review of a proposal. Most regulations focus on particular aspects of a proposal, while SEPA requires the identification and evaluation of probable impacts for all elements of the environment. See Chapter 197-11WAC.

19.150.755 Streams: means those areas of Thurston County where surface waters flow sufficiently to produce a defined channel or bed. A "defined channel or bed" is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses unless they are used by salmon or used to convey streams naturally occurring prior to construction.

"Stream and water body types" means as follows:

1. **Type S waters** include all aquatic areas inventoried as "shorelines of the state," in accordance with Chapter 90.58 RCW, including segments of streams where the mean annual flow is more than twenty cubic feet per second, marine shorelines and lakes twenty acres in size or greater.
2. **Type F waters** include all segments of aquatic areas that are not type S waters and that contain fish or fish habitat including waters diverted for use by a federal, state or tribal fish hatchery from the point of diversion for one thousand five-hundred feet or the entire tributary if the tributary is highly significant for protection of downstream water quality.

3. **Type N waters** include all segments of aquatic areas that are not type S or F waters and that are physically connected by an above-ground channel system, stream or wetland to type S or F waters.

19.150.760 Stormwater Facility: A constructed component of a stormwater drainage system designed or constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales. An engineered or natural dispersion area that is dedicated to stormwater use is also considered a stormwater facility for purposes of this Program.

19.150.765 Structure: a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except vessels.

19.150.770 Substantial Development: any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold must be adjusted for inflation every five years, as defined in WAC 173-27-040(2). On September 15, ~~2012~~ 2017, the amount was increased to ~~six thousand four hundred and sixteen~~ seven thousand and forty-seven dollars (\$~~6,416~~ 7,047).

19.150.775 Substantial Development Permit: a permit for any substantial development.

19.150.780 Transportation: systems for automobiles, public transportation, pedestrians, and bicycles. This includes, but is not limited to, roads, parking facilities, bridges, sidewalks and railroads.

19.150.785 Urban Growth Area (UGA): those areas designated by Thurston County pursuant to RCW 36.70A.110 for urban development.

19.150.790 Use: the end to which a land or water area is ultimately employed.

19.150.795 Utilities: services and facilities that produce, convey, store or process electric power, gas, sewage, water, communications, oil, stormwater, and waste. This includes drainage conveyances and swales.

19.150.800 Variance: granting relief from specific bulk, dimensional or performance standards set forth in this Master Program and not a means to vary a use of a shoreline.

19.150.805 Vascular Plants: all seed-bearing plants that have vascular tissue (xylem and phloem).

19.150.810 Vegetation, Native: Vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include, but are not limited to, trees such as Douglas Fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

19.150.815 WAC: Washington Administrative Code.

19.150.817 Watercraft: includes (but not limited to) kayaks, canoes, paddle boards, boats, floats, and other personal water craft used for water enjoyment.

19.150.820 Water-Dependent Use: a use or portion of a use that cannot exist in a location that is not adjacent to the water and that is dependent on the water by reason of the intrinsic nature of its operations.

19.150.825 Water-Enjoyment Use: a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

19.150.830 Water-Oriented Use: a use that is water dependent, water-related, or water-enjoyment, or a combination of such uses.

19.150.835 Water-Related Use: a use or portion of a use that is not intrinsically dependent on a waterfront location, but whose economic viability is dependent upon a waterfront location because:

- A. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- B. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

19.150.840 Weir: a structure that impounds, diverts or uses water for hydraulic generation and transmission, flood control, irrigation, water supply, recreational or fisheries enhancement.

19.150.845 Wetlands: areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Comments received from Planning Commissioners for March 20th Meeting

From Jennifer:

On page 1, the last paragraph beginning "the provisions" should probably be moved to the beginning of the Applicability subsection 120. I also think it would be more clear if section 120 applicability began with a clear definition of shoreline jurisdiction.

I like the addition of the language to paragraph 2 on page 3.

For the new language of "H" on page 3, beginning "When a site", it would be helpful to have a graphic illustrating this. You may have one later in the chapter so a reference to it would be great here.

On page 5, I would like to know the source of the change from one year to two years for the definition of abandonment.

On page 6 I am a little concerned with the addition of the word "primary" to the definition of building line. How does that change how this line was previously regulated, or does it? I feel like a garage or shed, even if not the primary building, would define the building line, since the impacts are the same (land clearing, impervious surfaces, etc).

Curious on page 11 about the "reserved" statement for landscaping and landscape materials. What is planned for here? What are the determining factors for what goes here?

I thinking bringing a map/graphic to the next meeting illustrating jurisdiction, building line, buffer, and shoreline setback line would be great.

From Doug:

19.100.110 Purpose and Intent - 4th paragraph: "The provisions of this title for regulating, critical areas shall apply to all land, water areas and all structures, and all uses irrespective of lot lines and the unincorporated territory of Thurston County, Washington, except for existing and on-going agricultural activities. Agricultural activities meeting the requirements of TCC Section 17.15.110 shall be regulated by chapter 17.15 TCC or by the ...(VSP)"

1. Why are all shorelines regulated as critical areas? Paragraph 3 states that "the shorelines themselves are not critical areas by default as defined in the GMA".
2. Why is agricultural activities excluded? Without proper provisions and oversight, agricultural property can contribute to ecological loss of shoreline function. The use of nitrogen fertilizers on large forested lands can significantly impact water quality and shoreline function from creek to river to lake to sea. Cattle and other livestock contribute pollutants and disturb the soil along the shoreline.

19.100.125 - 1st paragraph: The Critical Areas Ordinance places shorelines and their adjacent wetlands under the SMP jurisdiction.

1. Why does the more restrictive code apply?
2. Yes, a higher authority such as the state or federal could trump the SMP
3. At the June 7, 2017, PC meeting Work Session, Brad presented slides that said "Critical areas in shoreline jurisdictions will now be covered under the Shoreline Master Program"; Critical area protections 'transfer' to updated SMPs"; Updated SMPs are to provide 'sole' regulation of critical areas in shoreline jurisdiction"; and "A local SMP is essentially a shoreline-specific combined comprehensive plan, zoning ordinance, and development permit system all in one."
4. This also raises questions about the "conforming" vs. "nonconforming" issue which comes later. Why should the SMP align itself with other codes when it (the SMP) is the sole governing entity or at least the overriding entity, within the shoreline jurisdiction?

Chapter 19.150 Definitions:

19.150.145 Appurtenance:

1. While I am unable to locate this document, I remember reading that over-water structures as modified or explained by the legislature in the 2011 update was for houseboats like we see on Lake Union.
2. Why do you use stair towers as an exclusion? They are definitely connected to the use of a single family residence as access to their property. The County taxes the owner for this access so it should be an appurtenance.

19.150.185 Boating Facility:

1. Many single family residents have 5 or more watercraft (ski boat, kayak, rowboat, paddleboat, jet ski, canoe, etc.
2. Need to differentiate between commercial and residential.

19.150.195 Buffer:

1. As used throughout the SMP the "buffer" is the lake, marine or river front yard or space landward of the OHWM. A buffer at the typical residence (98% of shoreline residential) may well be all lawn, whether it is politically correct or not, it is still the buffer for that property.
2. "Standard" and "Reduced" buffers are discussed in Appendix B...but there are no definitions of these terms in chapter 19.150.

19.150.210 Bulkhead:

1. Why is commercial and Gov't bldg. structures excluded from this definition?
2. Where is the science that says a bulkheads does not protect the shoreline ecological function on all shorelines? On some shorelines a bulkhead is needed to provide for no net loss of shoreline function.

19.150.280 Development:

1. I will reserve comment on this definition until we discuss exclusions in chapter 19.500.

19.150.300 Ecological Function:

1. There needs to be a chart in subsequent chapters or appendices listing the functions for the three different shorelines - Rivers, Marine and Lakes.
2. There are also differences between urban environments and rural environments.

19.150.310 Eelgrass:

1. The Planning Commission was told on Dec. 5th by Micah Horwith, Ph.D., that our marine waters are becoming more acidic over time. Dr. Horwith showed how Eelgrass significantly reduces the acidity and increases the Ph. Therefore, native Eelgrass should be protected. The introduction of non native Eelgrass, also discussed by Dr. Horwith should be the one for which consultation should be sought and encouraged because it is not native.

19.150.400 Hard Surface:

1. What is a vegetated roof?
2. Why is it impervious?
3. See 19.150.405..."A non-vegetated surface".

19.150.405 Impervious surface:

1. What if the surface impedes the natural infiltration but contains it enough to allow the stormwater to be absorbed rather than run off?
2. What about a surface that may not absorb across its full surface but does dispose of the water over the natural absorbent soil below?

19.150.440 Landscaping/Landscape Materials: Reserved...What is the plan here?

19.150.587 Net Gain...New definition

1. Why have we not included a definition for "Net Gain" ? We want to encourage property owners to improve the shoreline ecological function without being forced to do so. You have provided for this in later chapters so there should be a definition here.

19.150.595 Normal Maintenance

2. Why not include safety as another reason?

19.150.630 Predator Exclusion

1. Predator Exclusion is not a "required definition" and it is not a scientific concept.
2. Why do we have this definition? It is only for Aquaculture.
3. This is an environmentally disruptive process of poisoning, digging up, placing nets and tubes and otherwise excluding marine and shore animals from aquaculture areas.
4. Such practices have no place in government regulations that are specifically designed to protect and preserve natural ecological conditions unless it is being used to forbid the practice.
5. If these tactics were used on any other type of shoreline they would be forbidden.
6. Only non native & non migratory/invasive creatures should be considered for exclusion.

19.150.640 Priority Species

1. According to Dr. Horwith Eelgrass should be included here. Is it included in one of the referenced documents/WACs?

19.150.675 Residential Development

1. Why doesn't this definition include the provision listed under Recreational Development? The private property owner should have the opportunity, just like the public, to use their shoreline for activities such as fishing, swimming, viewing, etc.

19.150.720 Shoreline Stabilization

1. This definition needs to include a statement regarding the different types of shorelines and the differing needs for each.

2. Most references in the SMP for shoreline stabilization are based on the marine and river environments.
3. Lakes, rivers and Marine have different shoreline characteristics and should not be combined into one.

19.150.770 Substantial Development:

1. A section in subsequent chapters needs to have examples of what maintenance/repair projects can be done within this dollar limit.
2. As stated by Ecology in the STAG meeting: We need to make it easy for the property owner to voluntarily comply.
3. As suggested by stakeholder groups, there should be a booklet that covers these maintenance/repair, etc projects that can be done without an administrative permit and with an administrative permit. Then make this booklet available to the property owners to either download or order.

19.150.810 Vegetation Native:

1. Why not add "Vegetation Non-Native"?
2. There are many non native or highbred plants that can perform the functions of native plants.
3. This is not excluded by the act
4. Rain gardens approved by the County and other groups include non native plants.

Chapter 19.200 Shoreline Jurisdiction and Environment Designation

1. Will you be adding "Educational" as shoreline environment Designation?
2. Will this be Rural Conservancy?

19.200.105.A: Shorelines of Statewide Significance:

1. Why is the Deschutes River excluded?

19.200.110 Shoreline Environmental Designations (4th paragraph):

1. "does not disrupt or destroy the character of..." This is very subjective. Either delete it or be more objective/specific.
2. I assume this paragraph depends on later chapters to further define this. I am not sure they do.

19.200.115 Shoreline Residential:

1. Need to include reference to urban vs. rural environments. Requirements should be different.
2. Under "A" it states "to provide appropriate public access and recreational uses."
Are homeowners required to provide "public access" to their shoreline?
3. Under "C.4. "Commercial development should..." Why is commercial development allowed in the Shoreline Residential Designation?

From Donna:

The draft SMP relies on mitigation. The 'No Net Loss' principal has always been difficult to implement successfully in the field. Under this policy over the years we have seen the reduction of, among others, forage fish (Sand Lance, Surf Smelt, Pacific Herring) and Salmon, that are key indicators of Puget Sound's health. Governor Jay Inslee has made Puget Sound recovery an important priority for our state.

The 'No Net Loss' principle is not a viable solution to improve the Sound. It has been policy for a long time while the Sound has continued to become less healthy over time. It is now at a crossroads. Mitigation and restoration are expensive and often results in a lesser level of ecological production than the original undeveloped area. What we could try to achieve in this SMP is one that recognizes reality and addresses the solutions for actually improving the Sound. Perhaps instead of applying only the 'No Net Loss' principal, the County could take leadership by offering waterfront owners an alternative to actually improve the health of Puget Sound. That could be established perhaps under a voluntary program in the County's SMP under a section that might be called 'Significant Net Gain' as the principal or goal. This could be implemented through property tax reductions or other incentives to willing waterfront landowners that significantly increase their buffers, restore native vegetation, etc.

Comments received from Planning Commissioners for April 3rd Meeting

From Doug:

General Questions:

1. How will we incorporate the comments from the comment summary? Is it up to each Commissioner to do this or will Brad include them in our discussion? Most are marked "Pending/item for Discussion". There is a lot of material here and some additional organization/management is needed.
2. What is the process going forward? Will the Commissioners finish their review, then a second "Red Line" version, then ask for public comment on the second red line version, Commissioners consider/evaluate the comments and put together a final document for public hearing?

Chapter 19.200 Shoreline Jurisdiction and Environment Designation

1. Will you be adding "Educational" as shoreline environment Designation? And, will this be Rural Conservancy?

3. 19.200.100.A.5 Shoreline Jurisdictions

- a. Why did you change the term "shorelands" to "flood hazard area"? It is not defined in chapter 19.150 but is used here.
- b. The way this is written all areas attached to shorelines would be a flood hazard area.
- c. How are flood hazard area and 100 year flood areas different and what areas of Thurston County are not in the 100 year flood areas?

19.200.110 Shoreline Environmental Designations (4th paragraph):

1. Why do you use "net loss of shoreline ecosystem functions" vs net loss of shoreline ecological function as used throughout the SMP?

19.200.115 Shoreline Residential: (This jurisdiction represents only 3.5% of the shoreline SEDs and close to 95% is already developed with a large portion of this developed since 1969 under the SMP)

1. **200.115.A** - it states "to provide appropriate public access and recreational uses." Are homeowners required to provide "public access" to their shoreline? Are communities required to provide public access to their community property? **This needs rewording.**
2. **200.115.C.2** - Multi-family and multi-lot - Requires public access and if not feasible then off site options should be paid for. On community property access sites for neighborhood developments this wording means that they have to let the general public in or pay. **Needs to be reworded.**
3. **200.115.C.3** - This is a zoning issue. Why is it in the SMP?

19.200.120 - Urban Conservancy: (This jurisdiction represents 1.1% of the shoreline SED's)

19.200.120.A: Shouldn't the purpose include vulnerable fish and wildlife habitat?

19.200.120.B.4: Why is there an "or" at the end of this sentence?

19.200.125 - Rural Conservancy: (This jurisdiction represents 63.5% of the shoreline SED's)

19.200.125.A - Why is historical and cultural resources included in the SMP? This is covered in the CAO and there is no reference to handling these areas later in the SMP.

19.200.130 - Natural (This jurisdiction represents 31.9% of the shoreline SED's)

19.200.135 Aquatic -

- Designation criteria:

1. As written, this is confusing and looks like it only covers freshwater shorelines. Needs rewording to include Marine as well. Why not use the word "shorelands"? This is defined and covers both marine and fresh water.

Aquatic Management Policies:

1. Why the use of "and" after each criteria?
2. Why is there no mention of Aquaculture, recreation, etc? These policies basically only references docks.
3. C.6 finally mentions "saltwater".
4. The whole section needs rewording to differentiate between saltwater/marine vs freshwater vs rivers.

19.200.145 - Map Boundaries and Errors

19.200.145.B.3 -

1. The phrase "more protective" should be replaced by "the appropriate" designation ... There are situations where the more protective is not the appropriate designation. It would be up to the Planning Department to make this determination based on a site visit.
2. There should be a reference to this "appropriate designation" in 19.200.110

Comments received from Planning Commissioners for April 17th Meeting

From Jennifer:

General: I think the Futurewise memo of comments on the SMP dated March 6, 2019 includes many salient comments and corrections. I recommend that staff respond in a point-by-point manner to that comment letter.

19.300.110 Vegetation Conservation. I support policies that favor native vegetation in shorelines and limit clearing. But can you clarify where these policies apply? The policies say “on...shorelines”- the definition of shorelines (19.150.735) excludes shorelines of statewide significance, but the beginning of this chapter says the policies apply to all shorelines covered by the SMP. Maybe this is sufficiently clear?

I am concerned that vegetation conservation policies are moot/cannot be implemented in the case of expansions of nonconforming structures within shoreline jurisdiction (currently proposed to allow landward expansion). Just something to keep in mind.

19.300.120(B) and 19.300.130 (E) are problematic policies. Section .120(B) seeks to encourage aquaculture without a net loss of ecological function. New aquaculture will result in a net loss of ecological function, period, unless there is pretty dramatic restoration performed as mitigation. .130(E-L) defines aquaculture as a preferred use and go into significant detail about aquaculture. Are these policies required by the SMA? Can we get a little more context around the cited Washington Shellfish Initiative and what it really calls for in Thurston County? As public commenters have pointed out, there is a conflict between aquaculture and shoreline protection. I think we need to spend a bit more time discussing what the state expectations are for how our SMP is to balance these issues. What authority does the county have to deny new aquaculture projects or expansions of existing projects in light of these proposed policies? Even if we don't change the policies, I recommend we carve out a policy section devoted just to aquaculture (starting at 300.130E through L) since this is such a hot button issue.

Section 19.300.140 Restoration and Enhancement are critical policies if we seek to achieve no net loss while still allowing more shoreline development and redevelopment (and, in the case of this draft, if we reduce existing shoreline buffers). Does the Shoreline Restoration Plan cited here include tracking through time/annual reporting on restoration and enhancement projects? Otherwise how will we really know if we are achieving no net loss if we don't understand what improvements are actually being achieved on the ground?

From Doug:

19.300.100 Shorelines of Statewide Significance

3. Policy SH3 Result in the long term over short term benefit.

- e. This focuses on the voluntary stewardship of the shoreline residential owners...What about government and commercial owners?

4. Policy SH4 Protect the resources and ecology of the shoreline

- a. Change Project to Developments and ecosystem to ecological for consistency.
- b. Change improvements to developments for consistency.
- c. Change to read Public or commercial access shall be limited....

d. Add...Herbicides & insecticides should only be allowed to respond to non native pest and invasive vegetation infestations.

5. Policy SH-5...This policy seems to be in conflict with SH4. How do you reconcile this policy with the ADA requirements?

19.300.105 Critical Areas and Ecological Protection

F. Policy SH-12...The impact of the listed items vary by water body. Rivers are not just freshwater, they are a separate category. In some cases it is good to reduce and in others it is better to increase. I do not understand this policy as it relates to the three types of shorelines. I need clarification

H. Policy SH-14...Add item 6 or delete item 1 - 5 and use CAO as reference only.

6. Shorelands/tidelands/bed lands

19.300.110 Vegetation Conservation:

A. Policy SH-15... In general, this needs to be treated differently for rivers, lakes & marine. Vegetation needs vary by water type. This policy primarily applies to Rivers but has been expanded to lakes and marine. Where is the science to justify this? Even Theresa Nation, DFW in her presentation to the Planning Commissioners in December 2018 focused only on rivers. There are very logical reasons for shading on rivers and streams.

1. Insert the word variable to read "...shoreline edge to provide variable shading..." The sun moves and therefore, the term "variable shading" has emerged. Docks are permanent shading, vegetation is variable shading unless it is on a river or stream.

B. Policy SH-16... There needs to be a provision for non-native plants. What is wrong with ornamental plants? Where is the science? Many non native and ornamental plants are excellent and should not be ruled out just because there is a convenient list of native plants to use.

19.300.115.C - Policy SH-20...second line: Change the word could to would. "Could" is too vague.

19.300.130 Shoreline Use and Site Planning

We need an additional policy here for residential property owners. Clallam County has this in their SMP. That policy might read:

1. To respect the rights of private property owners and the rights of citizens at large to use and enjoy shorelines of the state.
2. To provide property owners with clear guidelines and requirements for future shoreline development and provide fair and reasonable allowances for the continued use and enjoyment of private property.

F. Policy SH-31...This policy should be eliminated. This is vetted by the Corp of engineers and Ecology permits. It is not needed in the SMP and as written is confusing as the industry is well established and not experimental or in a formative state. All business evolve as new technology is invented or implemented. How would you monitor or control this?

H. Policy SH 33...Change the 3rd line to read: significantly conflict with navigation, public access and

1. Change "are not likely to" to "...will not negatively..."

I. Policy SH 34...

B. Change the words "...significant ecological impacts." to negative ecological...

D. Insert: "impact on native species of marine....."

M. Policy SH 38... Is this where you add the mitigation bank? This is the first reference to moving your legally conforming structure back and not having to have a Substantial Use Permit. However, the way this is written you can't just improve ecological function a little, you have to go

to the maximum. Moving your structure back 10 feet is not good enough. Improving a little is better than nothing.

19.300.135 Public Access and Recreation

D. Policy SH-40...I do not like this policy and I doubt if you asked our governing officials if they really meant to require public access on developments of more than 4 parcels they would say of course not. Also, If the County/State does not protect the HOA from personal liability, this would be a significant financial burden to the development/homeowners.

19.300.145.C. South Puget Sound Policies: The Alliance for a Healthy South Sound. I object to codifying the AHSS. They can do their work without being included here. 19.300.145.C should be removed from the SMP. In addition:

1. There are too many open position on the AHSS
2. Why is an industry represented on the AHSS and no other private/commercial representation?

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 rational 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 mislead in Table 19.400.140.A, footnote 1 & 2. The table should only apply to new parcels/lots...Not existing.
3. **19400.100.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.

From: Doug Karman

Re: Comments on Chapter 19.500 General Regulations (SMP)

I need help with the permits. It looks like we are redefining standard permits and adding some, such as Administrative. Why not use standard terminology? That was your rationale for not wanting to call existing legal structures conforming.

- **19.500.075.E:** Does this mean a TYPE 5 permit requires a public hearing and Ecology review? And, a Type 5 is an SDP?
- **19.500.100.A.2:** If a structure of more than 35 ft in height is proposed and no views or views of less than a substantial number of residences are unaffected will the permit be approved? Or, is this an absolute dictated by state law.
- **19.500.100.C.3.a:** There needs to be a booklet put together that details what development can be done within the \$7047 allowable. There is precedence for this set by other governing agencies and would reduce confusion, time and cost to both the resident and the Planning Department without negatively impacting shoreline ecological function. How will this be administered? At the November 7, 2018 Planning Commission Meeting the Planning Department stated that an administrative permit would be required if just one board on a Pier, float or wharf needs to be replaced. In fact, according to the draft, any work "development" in the buffer or on the shoreline would need an Administrative Permit. If taken literally, home owners would even need to get a Letter of Exemption (a defacto Administrative permit) to mow their lawns, or plant/transplant native trees or bushes. See 19.500.100.A.5. If they didn't get the permit, they would be committing a misdemeanor and could be arrested.

This paragraph focuses on Single Family. What about 2, 3 & 4+ unit housing? Does this need to be included here or elsewhere?

- **19.500.100.C.3. b:** This exemption needs to include "Remodel" and "Reconstruction" within the original footprint. What happens within the footprint of the home should be governed by the Building Code not the SMP.
- **19.500.100.C.3.c:** This paragraph needs to be expanded for lakes to include protection of the shoreline. If the waves wash away the shoreline the result is a significant loss of shoreline function which would not meet the "No net loss of shoreline function" required of the SMP.

- **19.500.100.C.3.g:** Shouldn't this section include a disclaimer relative to the buffer/setback requirement?
- **19.500.100.C.3.h.i:** This should be eliminated. The permit fees would exceed \$2500 let alone the cost of a consultant and contractor.
- **Chapter 19.500.100.C.3.h.ii:** The act allows a \$10,000 for a new freshwater float, or pier and \$20,000 for a replacement float or pier. Please revise this section to conform with the act.
- **19.500.100.D.2:** This paragraph is confusing. Please explain
- **19.500.105.H.4:** Why is the effective date the date of filing vs the date of approval? The second part of the paragraph seems to move the effective date to after approval. Which is it?

From: Don DeHan:

SMP, 19.400.120, B-4. Is there a difference between items a & b ?

August 27, 2019

To: Polly Stoker
Copy: Brad Murphy
Andrew Deffobis

From: Doug Karman

Re: Comments on Chapter 19.600 General Regulations (SMP)

Chapter 600 gets a little convoluted as it references back and forth to different chapters and regulations. Also, much of the chapter is written as if the requirements for the marine environment should be applied to rivers and lakes. This is not justifiable and needs to be changed. Each environment is different with different needs and approaches. Both the DFW and Ecology recognizes this but chapter 600 does not. The chapter needs be rewritten before the planning commissioners spend a lot more time both on their own as well as during the meeting reviewing the chapter.

- **19.600.105 Matrix:**
 - Legend: E= Exempt if.... This should be “Administrative Permit”. See my comment from the last meeting. Exempt is confusing and misleading.
 - Legend: AD=Administrative CUP. What is this...an “E” or an Administrative Permit or a Type I? What is the difference between an E and Ad?
 - Please explain the note under Aquaculture.
 - Boating facilities: Why use the term General? Aren’t we really talking about residential? Even in the referenced section 125 the term General is not used.
 - Dredging: Isn’t all dredging done in the Aquatic designation? If so, then the adjoining upland designation applies, Note 2. However, what happens when one side of a channel is shoreline residential and the opposite side is wetland? Based on the matrix Natural is prohibited but shoreline residential is a CUP.
 - Residential: Rural and Urban Conservancy and Shoreline Residential are listed as “E” with footnote 15 which says it is an SDP if the exemption criteria are not met. I think it would be clearer and straight forward to designate it a P with a footnote that says it’s an “E” if exemption criteria are met?
- **19.600.110:** The first sentence should be deleted. You don’t need to specifically exclude existing agriculture here. The second sentence is adequate since the paragraph is about proposed or new agriculture.
- **19.600.110.B.1:** Please explain. This is confusing when compared to 19.600.110.B. 3. Existing Agricultural Activities.

- **19.600.110.B.2. b:** For expanded Agricultural activities - should be **required, not just encouraged** to comply with vegetation conservation standards.
- **19.600.110.B.3.c:** All of these operations should not be allowed in shoreline jurisdictions period. There is no mitigation that can compensate for the negative impacts to the shoreline or water quality degradation that is caused by these facilities.
- **19.600.115:** I still do not understand why Aquaculture which is performed in the Aquatic designation goes by the upland designation. The impact of development is totally different in the two designations.
- **19.600.115:** There has been significant testimony regarding the PVC pipe used in the first 2 years of growing geoducks. I would like to see us:
 - Encourage initiative and experimental replacements for this PVC pipe. There is an ABS mesh which is being used by some that doesn't require a screen over the top of the field. This alone would reduce the total weight/volume of plastics used per acre by 80% +(?)
 - Require the geoduck farmers to put their name and phone number on the tubes. Then when they are washed away and found, the company responsible can be called. Again, I have a sample of this. See 19.600.C.1.i. We should remove the words "where feasible".
 - As with all people/business, some are responsible and some are not. We should reward the ones who are always trying to do things better for the environment.
- **19.600.115:** Questions from the July 3 meeting that we have not received answers to:
 - What proportion of potentially cultivatable shoreline are currently in operation. From a prior meeting we asked for a map showing what shoreline could be cultivated and that which is already under cultivation.
 - Permit fees – You provided a list of fees. Please give an example of the fees to be paid for a new geoduck farm.
- **19.600.115.A.1:** The courts have already determined that Aquaculture is substantial development and Ecology requires an SDP. Also, this paragraph conflicts with A.3.a. Therefore, this paragraph should simply state, "Except as otherwise stated in this section, an SDP shall be required for new Aquaculture activities." Delete the rest of the paragraph.
- **19.600.115.A.3.a & b:** I am confused by these two paragraphs. A CUP is required for new, and an Administrative CUP for a conversion. Then an SDP is required in (b) for essentially the same thing. This conflicts with (A.1) above.

- **Chapter 19.600.115.B.2.j:** Impacts to items B.1. - B.9. I only see B.1. – B.4. Is this a typo or am I missing something?
- **19.600.115.B.3.i:** All of these chemicals should be forbidden. Please explain why any of these would be needed in a marine aquatic environment.
- **19.600.115.C.1.a,b & c:** These apply to Shoreline Residential in general and should be added to that designation. The Ecology SMP Handbook, Ch 4 pg 3 bullet 8 gives the SMP the ability to recommend actions for properties outside the SMP Jurisdiction but have impact on shorelands. This should also include stormwater. According to the Stream Team, 75% of the pollutants in the marine environment comes from storm water. However, Ecology's Stormwater standards only require sediment controls. They do not have chemical requirements. We should have this. Stormwater outfalls deliver nutrients and pollutants to the shoreline/lakes, rivers, streams and marine environments. Shoreline Residential property owners are expected to carry the burden for all other uses and activities.
- **19.600.115.C.3:** I assume this is on hold until Ecology get the fish pen thing figured out.
- **19.600.120.A.3:** Why does this only require an SDP? I would think a public hearing for this type of structure would be required. The impact to adjacent properties could be great.
- **19.600.125.A.1:** Why are Boating Facilities prohibited in the Natural Environment. Placing a pier over the natural/wetland to clear water should be an option with mitigation. This would provide access with minimal impact the Natural environment.
- **19.600.125.A.2.a:** This paragraph uses 9 vessels less/more as the break point. In 19.150.185 you use 5 as the break point. Please explain.
- **19.600.125.C:** Please explain littoral drift" in general and as it relates to boating facilities.
- **19.600.125.C.2.d.v:** I find it interesting that restrooms for men only need one wash basing but women need 2.
- **19.600.130.B.2:** Please give an example of a Non-Water oriented commercial development that would be allowed here. Is B.8 a list of these?
- **19.600.135.A:** Please discuss a mixed designation request i.e., a channel between a wetland and shoreline residential when the channel is the water access for the shoreline residents. Is C.2. & 4. the answer?

- **19.600.135.C.7:** Is disposal of dredge material allowed in an adjacent wetland under any conditions? Dredging is close to 90% water and should minimally impact the wetland at certain times of the year.
- **19.600.145:** I am not sure that commercial forestry should be allowed in the shoreline designation (within 200 ft of the shoreline). We should discuss this.
- **19.600.145.C.9b:** What is the science for a 3 to 1 tree replant requirement?
- **19.600.160: Mooring Structures and Activities.** Most of the paragraphs in this section are water body dependent and need to be tailored to be effective. I am not sure I caught all of the differences in my comments.
- **19.600.160.A.1:** Why are mooring structures prohibited in the natural designation? This is an upland designation and mooring buoys could have no effect.
- **19.600.160.B:** There should be a booklet for this. In most cases piers and floats need to be different for each type of shoreline (river, lake and Marine).
- **19.600.160.B.6:** This would only apply to the marine environment. Therefore, change it to read “If for marine residential moorage...” It can’t apply to a lake or river as there are no alternatives in Thurston County other than a marina in the marine environment. This implies, as written that a resident on Black lake could be required to moor his boat in downtown Olympia rather in front of his house on Black Lake.
- **19.600.160.B.8:** What if the neighbors say no joint dock or they already have a dock? This seems excessive. It should be in the booklet/pamphlet to be provided later. What is the “; and” at the end of the sentence?
- **19.600.160.B.9:** Why is a habitat survey required? Isn’t this designation sensitive such as urban/rural or lake/river/marine? Also, development density dependent? This sounds like something that costs a lot of time & money and should be limited to only where it is needed.
- **19.600.135.C.**
 - **1.a:** Docks are not only for boat access. They are for boat access, moorage, swimming, fishing and other recreation. This should be added to this paragraph.
 - **1.b & e –** How is the minimum size required to meet the water dependent use determined?

- **1.f:** This is a marine environment requirement. Should say “Buoys shall be preferred in the marine designation over...”
- **1.g:** Is this a repeat of f? You can’t mean this for all shoreline residential and others designations.
- **1.h:** Is this practical? It is getting confusing.
- **1.i:** Please explain. Give examples where this would apply
- **1.j:** Give example of where this is an issue. It certainly does not apply to all docks and moorage facilities let alone all types of water bodies.
- **1.o:** Does this apply to all water bodies? Why is the 7 ft depth important?
- **1.p:** Does this apply to all water bodies? Where is the science?
- **1.r:** Grating is a marine environment requirement only. Ecology and WDFW have confirmed this. Please insert this reference.
- **1.s:** This is not practical in the marine environment. Storage lockers etc are needed in this environment.
- **1.t:** Should state this is for marine.
- **19.600.160.C.2:** Critical Saltwater Habitats Standards – Please refresh us on this designation and what characteristics would it have?
- **19.600.160.C.3:** Confusing wording – change to “untreated wood or treated wood that is approved...” Remove the word where.
- **19.600.160.C.3.b:** This is a marine environment requirement. The beam required to span 20 ft on a lake would be costly and excessive. 40 ft is even more out of the park. Pilings for lakes are 8 – 10 ft.
- **19.600.C.3.c & d:** These are for marine also.
- **19.600.160.C.4:** Piers - It looks like what is written here is all for the marine environment.

- **19.600.160.C.4.a:** 6 ft width should be allowed for all piers. Who knows when they may need a wheelchair or have guests that need wheelchairs? Why the differentiation?
- **19.600.160.C.4.c:** Why is north south so important. Please explain.
- **Figure 19.600.160(1 & 2):** We are mixing marine and fresh water again. Needs to be separated.
- **19.600.160.C.5, 6, 7:** These are for marine not fresh water. Where is the science that justifies grating and transparent covering? Why only one mooring buoy per residence
- **19.600.160.C.8:** Delete the reference to Lakes. This section only addresses rivers and streams.
- **19.600.165.A.1.c:** Please explain the exception.
- **19.600.165.C.1:** Please explain “ecosystem-wide processes”?
- **19.600.170.B.3:** Why is remodeled residential included in this paragraph? It only should apply if the remodel is outside the existing footprint.
- **19600.175: Shoreline Stabilization** - This section should be separated by water body. The needs/requirements are different.
- **19600.175.B.1:** In section 19500.100.C.3.c exemptions...A prudent person would assume if they are exempt from an SDP they are also exempt from a CUP. This paragraph doesn't make sense.
- **19.600.175.B.2:** What about protecting the shoreline ecological function? I realize Ecology only wants to protect the structure...But, the act says no net loss of ecological function. We need to find a way around this. The science is different for different water bodies – river/lake/marine.
- **19.600.175.C:** It looks like all of these paragraphs are for the marine environment. Rivers and Marine are the most volatile and have the greatest impact on fish. The lakes in Thurston County do not have salmon.
- **19.600.175.D:** Please provide examples of soft shoreline stabilization for the three types of water bodies. This is the type of thing that should go in the booklet. Geotechnical analysis sounds costly and time consuming. Again, most of these conditions/remedies apply primarily to rivers and marine environments. Lakes are different.

- **19.600.175.D.3.b:** Why require the geotechnical report to replace an existing shoreline stabilization? Time and \$\$\$\$.
- **19.600.175.D.3.f:** What are long term stabilization measures