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**COMMUNITY PLANNING &
ECONOMIC DEVELOPMENT DEPARTMENT**

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Creating Solutions for Our Future

MEMORANDUM

TO: Planning Commission

FROM: Andrew Deffobis, Senior Planner

DATE: June 28, 2022

SUBJECT: Thurston County SMP Update – Agriculture Options In Draft Planning Commission Recommendation

Introduction

This information is being distributed for the July 6, 2022, Planning Commission meeting in anticipation that the Planning Commission may discuss Shoreline Master Program (SMP) draft Chapter 19.600.

Background

The public expressed significant interest in the topic of agriculture regulation during the Planning Commission's SMP public hearing draft comment period. The Planning Commission also requested to revisit this topic in meetings following the SMP public hearing. Since then, staff have reviewed public comments and held internal discussions and meetings with Ecology related to agriculture in the SMP.

The Shoreline Management Act (SMA, [90.58 RCW](#)) and shoreline guidelines ([WAC 173-26](#)) provide that SMPs shall not require modifications or limit agricultural activities already occurring on agricultural land. This state-wide exception for existing agricultural operations was based on economic concerns and concerns about farmland loss and was developed through negotiations with agricultural interest groups. The SMA does require that new agriculture on non-agricultural lands is subject to the provisions of SMPs that are updated after June 2002 ([RCW 90.58.065\(1\)](#); [WAC 173-26-241\(3\)\(a\)\(ii\)](#)). New agricultural uses are required to result in no net loss of ecological function, as are other shoreline uses (WAC 173-6-241(3)(a)(v)). There are no specific carve-outs that exempt new agricultural activities from meeting the requirements of the SMA.

Thus, the SMP update currently in development will apply to new agricultural activities occurring on lands not already in agricultural production. Statements to this effect are included in Section 19.600.110 of the draft SMP update. Agricultural development standards in the draft SMP are based upon and designed to be consistent with the SMA and state shoreline guidelines. The draft SMP also includes Substantial Development Permit exemptions for new agricultural activities required by WAC 173-27-040.

Options in Draft SMP – Agricultural Buffers

Public comments were received regarding the width of agricultural buffers of new agricultural operations on non-agricultural lands. As drafted, the SMP update requires the same buffers for new agriculture as for other new land uses in shoreline jurisdiction. There is no specific carve-out for reduced agricultural buffers in state law or guidelines. In general, the SMA requires vegetation conservation standards such as buffers for new shoreline uses, including agriculture (WAC 173-26-241(3)(a)(v)). Staff reviewed available information to determine how flexibility and clarity on buffer reductions for new agricultural activities may be increased in the SMP draft.

Staff is proposing to rearrange paragraph 19.600.110(B)(2) - agricultural development standards - so it begins more generally and then discusses buffers. Staff also proposes removing the requirement for a shoreline variance for select SEDs when new agriculture seeks the reduced standard buffer, provided the applicant submits an approved Farm Management Plan. Other shoreline uses seeking the reduced standard buffer require a shoreline variance, so this would represent increased flexibility in the draft for new agricultural operations on new agricultural lands.

Department of Ecology staff have indicated support for this concept, provided the draft retains the requirement to develop an approved farm plan. If the Planning Commission supports this option, accompanying changes will also be made to paragraph 19.400.120(B)(3), which discusses standard buffer reductions in general.

The following text shows how these changes would be implemented based on the [clean copy draft dated May 18, 2022](#). Please note that strike-through/underline changes in the language below represent language rearranged for clarity from the May 18, 2022, clean copy draft. The highlighted text is the new proposed language since that date.

OPTIONAL REPLACEMENT FOR PARAGRAPH 19.600.110(B)(2) & CREATING NEW PARAGRAPH 3.

- ~~New agricultural practices below the Standard Buffer and above the Reduced Standard Buffer shall require an approved Farm Management Plan in accordance with United States Department of Agriculture standards. New agricultural structures that impact critical areas will follow requirements in Chapter 24 TCC as included in Appendix E of this Program.~~ New agricultural activities are subject to the following:

- a. New agricultural activities proposed on land not currently in agricultural use, and any modifications in support of such use, shall comply with the following:
 - i. The use or modification is consistent with the environment designation in which the land is located, and
 - ii. The use or modification is located and designed to assure no net loss of ecological functions and in such a way as to not have a significant adverse impact on other shoreline resources and values.
- b. A native vegetation buffer, consistent with that of the Environment Designation in which the use is occurring shall be permanently maintained between new agricultural activities and the OHWM of the shoreline or wetlands. A fence shall be installed at the outer buffer edge to separate water bodies from livestock pastures. Buffers may be reduced as provided for in 19.400.120(B) of this Program. New agricultural practices below the Standard Buffer and above the Reduced Standard Buffer shall require an approved Farm Management Plan in accordance with United States Department of Agriculture standards, but shall not require a shoreline variance.
- c. Confined Animal Feeding Operations, retention and storage ponds for feed lot wastes, and stock piles of manure solids shall not be allowed within shoreline jurisdiction, unless shoreline ecological functions are mitigated through an approved Farm Management Plan.
- d. Soil conservation measures, including but not limited to erosion control, crop rotation, mulching, strip cropping, contour cultivation, and best management practices, shall be utilized to minimize soil erosion.
- e. Aerial spraying of fertilizers, pesticides, or herbicides over waterbodies is prohibited.
- f. No fertilizers, pesticides or herbicides shall be used in agricultural practices unless the applicant can demonstrate that the application of such substances will not result in the direct runoff of contaminated waters into water bodies or aquifer-recharge areas.
- g. The applicant may be required to submit a soil study and drainage plan in order to determine that the agricultural practices meet the regulations set forth above.

3. New agricultural structures that impact critical areas will follow requirements in Chapter 24 TCC as included in Appendix E of this Program.

OPTIONAL LANGUAGE TO REPLACE PARAGRAPH 19.400.120(B)(3)

3. Reduced Standard Buffer. Utilizing the *Mitigation Options to Achieve No Net Loss for New or Re-Development Activities* table (Appendix B) to achieve no net loss of shoreline ecological functions, the Standard Buffer may be reduced down to the Reduced Standard Buffer with an Administrative Variance as specified below for approved development in shoreline jurisdiction. New agricultural uses on new agricultural lands shall not require a variance to achieve the Reduced

Standard Buffer in the Rural and Urban Conservancy SEDs if the applicant submits an approved Farm Management Plan (in accordance with United States Department of Agriculture standards) which demonstrates there will be no net loss of ecological function. The mitigation sequence outlined in paragraph 19.400.110(A) shall apply, and mitigation options shall be reviewed and approved by the County for applicability to the project site commensurate with project impacts. The *Shoreline Restoration Plan* (Appendix C) shall serve as an initial review source. The Reduced Standard Buffers for each environment designation are as follows:

- a. Shoreline Residential: 50 feet (no reduction without a Shoreline Variance)
- b. Urban Conservancy: 90 feet; 75 feet where a net gain in shoreline ecological functions can be achieved. Applications for reductions below 90 feet shall include information documenting: a) mitigation necessary to achieve no net loss of shoreline ecological functions for the reduced 90-foot buffer; b) additional mitigation necessary to achieve no net loss for any reduction **below** 75 feet; and c) additional actions proposed to achieve a net gain in shoreline ecological functions. Proposed restoration activities shall not include projects previously identified for public funding, except that public-private partnerships may be utilized. A minimum five-year monitoring plan shall be required to demonstrate project success, in accordance with Section 19.400.110(C), Mitigation Compliance.
- c. Rural Conservancy: 110 feet, consistent with paragraph 3 below.
- d. Natural: 150 feet, consistent with paragraph 3 below.
- e. Shoreline jurisdictional freshwater streams and rivers: buffers may be reduced pursuant to the standards in Section 19.400.120(C) below.

Dormancy of Agricultural Operations

The Planning Commission and the public have voiced concerns about how and when Thurston County would consider an agricultural operation to be abandoned. Under the draft SMP, the County may generally consider a use to be abandoned after it has ceased for two years, and that subsequent resumption of that use will trigger the requirements of the SMP update.

Paragraph 19.600.110(B)(4) of the SMP explicitly states that the purposeful suspension of agricultural operations to allow land to lay fallow does not constitute abandonment. The Planning Commission suggested adding the words “or dormant” to that paragraph. County and Ecology staff support this inclusion, as dormancy is included in the definition of agricultural activities in the SMA ([RCW 90.58.065\(2\)\(a\)](#)). Ecology staff has indicated this concept is intended to be interpreted broadly. Staff proposes the following change to the draft SMP to capture the dormancy provisions authorized by the SMA definition of agricultural activities:

OPTIONAL REPLACEMENT FOR PARAGRAPH 19.600.110(B)(4)

4. The purposeful suspension of agricultural activities in order to allow land to lay fallow **or dormant** shall not constitute an abandonment of agricultural activities.