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**COMMUNITY PLANNING &
ECONOMIC DEVELOPMENT DEPARTMENT**

Creating Solutions for Our Future

Joshua Cummings, Director

MEMORANDUM

TO: Planning Commission

FROM: Andrew Deffobis, Interim Senior Planner

DATE: June 29, 2021

SUBJECT: Shoreline Master Program (SMP) – Remaining Policy Items for Planning Commission Consideration

The following is intended to guide discussion at the July 7, 2021 Planning Commission meeting. At that time, staff will ask for final decisions on these policy items to be included in the public hearing draft.

Construction Setbacks

The Planning Commission asked for options related to the 15' building setback that is proposed landward of the shoreline buffer. These setbacks are not specifically required by state law, but the County must demonstrate how its proposed buffers are supported by science and adequate to achieve no net loss of ecological function. If the Planning Commission prefers removing building setback requirements from the draft, language should be added that the site plan for any proposed development must show the extent of construction activities and any planned vegetation removal or conversion. These areas must be located landward of the buffer required by this program, or mitigation must be required for impacts authorized below the buffer.

Another option would be to keep the construction setback but add language giving the approval authority the ability to reduce or waive this setback if it can be demonstrated the project will not impact the buffer.

If the Planning Commission proposes to remove the construction setback, the effects of that removal on shoreline buffers will be analyzed and discussed in the cumulative impacts analysis.

It is also important to note that the Critical Areas Ordinance provisions that require a 15-foot construction setback are being adopted into this program by reference. Removal of the 15-foot setback would not apply to those areas where shoreline jurisdiction also includes critical areas, such as steep slopes or wetlands.

Accessory Dwelling Units (ADUs) Update

The Planning Commission previously asked staff to look into exempting ADUs from a Substantial Development Permit (SDP) in the Shoreline Residential shoreline environment designation. Staff has been informed by Ecology that ADUs cannot be considered exempt from SDP requirements in [WAC 173-27-040](#). Ecology pointed out that the SDP exemption is for a single family home for their own use or the use of their family, and that ADUs do not meet the definition of appurtenance under that regulation. Staff has made the other changes regarding ADUs requested by Planning Commission.

One remaining policy item here is whether the Planning Commission wishes to place any additional development standards on ADUs, which must already meet buffer and mitigation requirements, as well as the requirements of the underlying zone. Staff would like guidance from the Planning Commission whether to include additional development standards designed to reduce the cumulative impacts of ADUs in shoreline jurisdiction. (A cumulative impacts analysis of the draft SMP must be provided to Ecology as part of the overall submittal package.)

Such standards could include requiring ADUs in shoreline jurisdiction to be placed landward of the existing structure, attached on the side of an existing structure (if not encroaching on the buffer), or added above an existing garage or home. ADUs that are placed outside of shoreline jurisdiction would not require a shoreline permit.

View Protection Standards

At a previous meeting, the Planning Commission questioned if view blockage standards are required by state law. Staff has determined that while they are not required, these standards are often included in SMPs to strike a balance between rights of existing property owners and new property owners and avoiding future conflicts between neighbors. Given that these standards are not required by state law, staff would like to confirm if the Planning Commission wishes to remove them from the draft document at this time.

Length of Piers and Docks

The current (1990) SMP prescribes lengths for recreational docks. For fresh and marine water, new recreational docks are limited in the current SMP to the average length of existing docks within 100 feet of the property lines. If there are no docks within 100 feet, the length cannot exceed 50 feet waterward of the ordinary high-water mark (OHWM) for fresh water, and 100 feet waterward of the mean higher high-water mark for marine water. The current SMP does not set limits on the size of commercial piers and docks, but the applicant must show the proposed size is the minimum necessary to allow the use proposed (Section III, IV. Boating Facilities, C. General Regulations in the [current SMP](#)).

The proposed SMP does not currently contain these standards. In a previous meeting, the Planning Commission requested language that enabled a dock to be constructed at a length that would allow appropriate depth for mooring (at least 3-4 feet), or to allow longer docks if the location and configuration of a neighboring dock present a conflict.

Staff wanted to return to Planning Commission to confirm this guidance in light of the question about length standards for piers and docks. Staff is not aware of prescriptive lengths of docks in

shoreline WACs and RCWs, though there is ample language aimed at reducing extent and impacts of shoreline modifications ([WAC 173-26-231\(2\)](#); WAC 173-26-231(3)(b), [RCW 90.58.020](#)). It is worth noting here that that other agencies with approval authority over mooring structures will have their own requirements for applicants.

Use of Transparent Decking on Floats

At a recent meeting, the Planning Commission discussed whether floats on marine waters and salmon-bearing lakes should be required to use grating to increase light transmission to the water below the float. A question was raised as to whether the float material would obscure the light (See sections 19.600.160(C)(5)(e-h) of [the draft SMP](#)). Staff raised this item with Ecology, who responded that floats should be designed to avoid this outcome. Staff would like to revisit this item with the Planning Commission.

New and Expanded Moorage Structures Standards in Critical Saltwater Habitats

Questions were raised about whether standards related to new and expanded moorage structures found in draft SMP section 19.600.160(C)(2) originated from state law. Some of the language in the current proposed draft originates from Ecology's SMP Handbook. The standards in this section of the draft are only applicable to critical saltwater habitats, which require a higher degree of protection according to [WAC 173-26-221\(2\)\(c\)\(iii\)](#). However, these specific standards do not appear to have come from shoreline management WACs or RCWs. The WAC does require that new dock and pier construction avoid critical saltwater habitat unless there is no other feasible location. The proposed standards in draft SMP section 19.600.160(C)(2) are intended to achieve avoidance of critical saltwater habitats. Staff would like to confirm the Planning Commission's direction regarding this language.

Use of 'Marine Rail System' Language

At the June 16, 2021 meeting, the Planning Commission asked whether 'marine rail system' is an industry term, and if it can be applied to marine and freshwater shoreline environments. Staff consulted with Ecology, who stated that this term can be used to describe a boat launch system for either shoreline environment. They recommended replacing 'marine rail system' with 'boat launch rails' or something similar, to avoid confusion. Staff recommends making this change in draft Chapter 19.600, as well as updating the definition to reflect the change.

Joint Moorage Facilities Legal Instruments

The draft SMP requires a legal instrument be recorded for new development where shared moorage, such as a community dock, is proposed (19.600.160(C)(1)(h)). Planning Commission asked to remove requirements related to joint agreements from the application requirements for moorage structures. Staff would like to confirm if the Planning Commission wishes to remove the requirement that applicants for shared moorage facilities file a legal instrument at the time of plat recordation.

Conditional Use Permit (CUP) Requirement for Buoy Fields

At a recent meeting, the Planning Commission asked staff to amend the requirement that new marinas (more than 10 vessels) obtain a CUP. The draft now requires a Substantial Development Permit instead. However, it was unclear how the Planning Commission wishes to address buoy fields (for more than 10 vessels). Like marinas, buoy fields had also previously required a CUP.

Staff would like to confirm which permit the Planning Commission wishes to require for buoy fields in the public hearing draft.

In addition to the items contained in this memo, staff will prepare policy options on the following topics for the July 7, 2021 meeting:

- Aquaculture: net pens and mussel raft standards
- Industrial uses in shoreline jurisdiction
- Fences in shoreline jurisdiction

When the next version of the Planning Commission's draft is published (estimated on July 21, 2021), there will be new language that addresses several additional topics that the Planning Commission has already provided guidance on, including but not limited to public access standards, permit requirements and development standards for shoreline uses and modifications, and amended or proposed definitions.