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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: July 14, 2021

SUBJECT: Shoreline Master Program (SMP) Policy Items for Planning Commission Consideration and Public Outreach

The following is intended to guide discussion at the July 21, 2021 Planning Commission meeting. At that time, staff will ask for final guidance on these items for the public hearing draft.

Industrial Uses in the SMP

At a previous meeting, the Planning Commission requested that staff provide policy options related to industrial uses in shoreline jurisdiction. This resulted from questions raised about proposed standards by the Department of Ecology (Ecology) and members of the public. Staff have reviewed the proposed standards, relevant state law, and the inventory and characterization.

The draft SMP currently contains the following permit requirements for industrial uses (19.600.150(A)):

1. Natural and Rural Conservancy: Prohibited
2. Urban Conservancy and Shoreline Residential: CUP for water-oriented industries. Non-water-oriented industrial development shall be prohibited.
3. Aquatic: Prohibited, unless water-dependent or allowed in the adjoining upland designation, then a CUP.

Ecology staff have suggested that future industrial uses may be better suited for the Rural Conservancy SED rather than the Shoreline Residential or Urban Conservancy SEDs. The Shoreline Residential SED is intended for residential uses, and the Urban Conservancy SED is prescribed to shorelines within the urban growth area, which may already contain a higher level

of residential development than the Rural Conservancy or Natural SEDs. Industrial uses may conflict with residential uses.

What do the state's Shoreline Guidelines say?

The following is a summary of language from the state's SMP guidelines relevant to industrial uses in various SEDs (WAC 173-26-211):

- **Natural SED:** New industrial uses should not be allowed.
- **Rural conservancy SED:** Except as noted, industrial uses should not be allowed. Low-intensity, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the use.
- **Urban conservancy SED:** This designation may be appropriate for industrial LAMIRDs (Limited Areas of More Intensive Rural Development).
- **Shoreline residential SED:** There is no mention of industrial uses in this section. The stated purpose of this SED is to accommodate residential development and appurtenant structures that are consistent with Chapter 173-26 WAC. Additional stated purposes of this SED are provision of appropriate public access and recreational uses.
- **Aquatic SED:** There is no specific mention of industrial uses in this section, however the language does state the following management policy for this SED: Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

Section 173-26-241(3)(f) WAC contains standards for industrial uses. Proposed development standards for industrial uses in the draft SMP (19.600.150(B)) are based on this language.

What does the current SMP say?

Industrial uses are prohibited in the Shoreline Residential, Urban Conservancy and Rural Conservancy SEDs. Certain industrial uses are permitted in the Urban SED, though this SED is proposed to be discontinued in this update. The Aquatic SED follows the rules for the corresponding upland designation.

Policy Decisions

The Planning Commission should provide guidance on which shoreline environment designations (SEDs) should permit industrial uses. Section 19.600.150(B) contains development standards which will apply in any SEDs where industrial uses are permitted.

- Permit or prohibit industrial uses in the Shoreline Residential SED: Draft currently **permits**
- Permit or prohibit industrial uses in the Urban Conservancy SED: Draft currently **permits**
- Permit or prohibit industrial uses in the Rural Conservancy SED: Draft currently **prohibits**

Net Pen and Mussel Raft Aquaculture Standards

The draft SMP contains development standards for net pen and mussel raft aquaculture in section 19.600.115(C)(3). Based on discussion with Ecology, staff want to ensure that development standards in this section are based on local circumstances. The County does not currently have any net pen aquaculture operations, but does have some mussel raft operations in Totten Inlet.

Staff have researched a permitted mussel raft operation in Totten Inlet to review what conditions were placed on the permit by the Thurston County Hearings Examiner and Shoreline Hearings Board, and to determine which conditions may be applicable to future mussel raft operations.

Any new net pen or mussel raft operations would also be subject to the general development standards in draft section 19.600.110(C)(1) of the SMP, as well as the requirements of state and federal permits.

Net Pen Aquaculture

The draft states that net pen aquaculture must meet, at a minimum, state approved administrative guidelines for management of net pen cultures. Ecology is currently accepting public comment on draft net pen guidance. The draft contains additional standards for net pens (19.600.110(C)(3)), which could be modified or removed based on Planning Commission or public input.

Mussel Raft Aquaculture

Based on review of a past permit, there are additional development standards that could be applied to new mussel raft operations. Some may apply more generally, and others may be case-specific.

Some general standards that could be added to the draft, summarized from the reviewed case, include:

- Arrange raft arrays parallel to tidal currents to minimize distance over which water currents are affected.
- Employ BMPs to maintain water quality (such as for siting, configuration, pen set-up and cleaning, harvest timing and techniques).
- Minimize disturbance of marine mammals during maintenance and harvest.
- Store plastic disks on land, not on water craft or rafts. Install nets to catch disks that fall off.
- Do not store nets on beach. Take measures to prevent marine mammals from using rafts as rookeries. Keep rafts clean, especially of odor causing substances.
- During maintenance and harvest operations, due care will be taken to minimize disturbance of marine mammals, particularly seals and sea lions, in compliance with the Marine Mammal Protection Act.

Some case-specific standards or conditions that could be added to the draft, summarized from the reviewed case, include:

- Separate rafts and access via workboat. Relocate rafts within site every few years.
- Keep rafts neat and orderly.
 - Provide contact information to any property owners who request it to allow for complaints to be received.
 - Respond promptly to such complaints and take measures to comply with this provision.
 - If any person believes applicant is not complying, they may request that the County or DOE take action.
- Submit a monitoring plan for any issues of concern that are identified during application review process.

Policy Decisions

The Planning Commission should review the permit conditions and provide guidance on:

- whether to modify the proposed standards for net pen aquaculture
- whether to include additional standards for mussel raft aquaculture in the draft SMP.

Another alternative is to remove this section entirely, and let the general proposed development standards for aquaculture found in section 19.600.110(C)(1) apply to net pen and mussel raft operations.

Property Line Fencing

The draft SMP allows fences associated with recreational development to be installed in shoreline jurisdiction (19.400.145(Q)(4) and 19.600.165(C)(10)(d)). They are considered a residential appurtenance at the state level (WAC 173-27-040(2)(g)) and in the draft SMP (19.150.145). However, the draft does not contain any language with respect to property line fencing, and how this land use is regulated with respect to shoreline buffers. (Allowances in shoreline buffers are found in draft section 19.400.120(D).) Staff want to ensure there is adequate language in the draft to guide the public and planners as to allowances for fencing in shoreline jurisdiction.

One consideration here is for parcels in shoreline jurisdiction that also contain critical areas, such as wetlands. These will be subject to fencing standards from the Critical Areas Ordinance (CAO), which may be found in 24.60 TCC. Those standards only allow fencing of property lines within critical areas for the purpose of protecting critical area functions.

Policy Decisions

The Planning Commission should provide guidance on property line fencing in the SMP. Some considerations include:

- Whether allowances should vary by SED
- Whether fences should be allowed extend to the ordinary high water mark (OHWM)

- Should the draft include height limits or specify materials to be used to reduce impacts to shoreline views.

Virtual Open House Postcard Notification

The Planning Commission requested an update on the planned postcard notification for the SMP virtual open house. As previously briefed to the Planning Commission in 2020, the use of a direct mailing postcard is one of several public outreach tools being used once a public hearing draft is released. The postcard is intended to provide a direct notice and invitation to join a virtual open house to property owners who may be most impacted by proposed SMP changes.

The following landowners will be mailed a postcard:

- Landowners of property where an SED is changing to a more protective designation (e.g., from shoreline residential to rural conservancy),
- Landowners whose SED is remaining the same but for whom shoreline buffers may increase based on the options proposed in the draft,
- Landowners whose property may be coming into SMP jurisdiction for the first time based on updated data.

Note: Shoreline jurisdiction mapping is based on the best available information. Actual jurisdiction is determined at the time of land use application review. The extent of proposed SMP jurisdiction has changed over time as the county’s data layers for wetlands, water bodies and floodplains have been updated. As new information emerges and data is analyzed, some properties for which postcards are mailed may ultimately not end up in shoreline jurisdiction.

Draft postcard language was reviewed by the Planning Commission at its November 18 and December 2, 2020 meetings. Based on guidance provided by the PC at the December 2 meeting, the following language will appear on the postcard:

Shoreline designations are changing.

Thurston County is updating its Shoreline Master Program, and shoreline rules and designations are proposed to change. You are receiving this postcard because your property will be directly affected by these changes. Your future plans to use or develop your property could be affected.

To find out more, please join us for a Virtual Open House, where you can see how these changes may affect your property, weigh in on the changes, and get your questions answered by planning staff. {LINK TO OPEN HOUSE MATERIALS}

Next Steps for SMP Update

Following the work session on the remaining policy items at the July 21 meeting, staff will request the Planning Commission set a public hearing for September 15, 2021. This will be the first formal opportunity for the Planning Commission to set a public hearing on the SMP update.

Once a public hearing has been set, the complete public hearing draft will be published online. This draft will include an updated SED map (Appendix A), critical area standards being

incorporated into the SMP (Appendix E), and supplements to the Shoreline Environment Designations report and Inventory & Characterization report. It will also include a clean copy version of documents for public review with editing marks removed.

The next phase of public outreach will begin once the public hearing is set. This includes a virtual open house which will run for 4-6 weeks before the public hearing, and will include two 'rapid response' periods for the public to have their questions answered about the SMP update. Staff will send out media alerts regarding the virtual open house and public hearing, and conduct targeted outreach to interested parties.