Staff Report

Date: January 21, 2016

To: Planning Commission

From: Tim Crose, Planning Director

RE: Pacific County Shoreline Master Program Update

Subject: Planning Commission Public Hearing: SMP Section 6 and applicable components of Section 5.1

The purpose of this document is to provide an overview of relevant information for the Planning Commission's second public hearing on the Pacific County Shoreline Master Program (SMP), to be held on January 21, 2016. For an overview of the SMP update process and hearing schedule, please refer to the staff report for the first public hearing, held on December 3, 2015.

This document provides a brief summary of each of the SMP sections to be addressed at the January 21st hearing, including purpose and applicability, major changes from the 2000 SMP, and outstanding issues for consideration by the Planning Commission.

Section 6: Coastal Ocean Uses and Modifications

Purpose and applicability

- Each section within Chapter 6 contains policies and regulations that address a specific coastal ocean use, development, or modification. The list of uses is guided by WAC 173-26-360, Ocean Management.
- Provisions in this chapter apply to all areas within the Coastal Ocean, Coastal Ocean High Intensity, and Willapa Bay Estuary environments.

Major changes from Existing Shoreline Master Program

- Existing SMP includes policies for ocean resources and provisions for ocean uses in Sections 3.B.42 and 27, respectively. Both sections refer to the Ocean Management Guidelines (WAC-16-060), which have been recodified as WAC-26-360. Revised provisions in the draft SMP reflect updated guidelines and enhanced specificity of language.
- Ocean Use Activity Matrix in existing SMP has been revised with more specificity and incorporated into Table 5-1 of the draft SMP (Use, Development and Modifications Matrix) for consistency across all of County shoreline jurisdiction.

Outstanding Issues

1. General Ocean Use Policies: Ecology has expressed concern over the drafted broad prohibitions for fixed structures in the Coastal Ocean, Coastal Ocean High Intensity, and Willapa Bay Estuary environments. To address the County's concerns while ensuring the flexibility needed for consistency with the goals of the SMA and for future consideration of the results of marine spatial planning, a policy has been added to Section 6.2, General Ocean Uses (6.2A.10.; see TWC memo dated 11/17/2015). Ecology suggested revisions to that policy language, shown below with underline and strike-through *(p.108)*:

   "The County shall adopt a broad prohibition on fixed structures in its coastal areas, including a strict prohibition on permanent fixed structures in the Coastal Ocean environment, to provide time for updated information regarding potential significant adverse impacts from new ocean uses to ~~addressing the protection of~~ ecological functions and existing resource-based uses in these environments and recommendations for avoiding, minimizing, and mitigating these impacts. The County will revisit policies and regulations regarding fixed structures in the Coastal Ocean, Coastal Ocean High Intensity, and Willapa Bay Estuary environments to address new information and technology, including analyses and recommendations resulting from the marine spatial planning process per RCW 43.372, during scheduled periodic reviews of this Program under RCW 90.58.080."

2. Permit Review Criteria.

   a. 6.2.B.3.a: "There is demonstrated significant local, state, or national need for the proposed use or activity." The SPC has suggested more clearly defining "significant" here. This is a subjective metric and allows the County flexibility. *(p.108)*

   b. 6.2.B.3.f: "Compensation is provided to mitigate adverse impacts to coastal resources or uses that maintains the county wellbeing. If impacts to the county wellbeing are contested, the Board shall make the determination." Permit criteria should be measurable in order to serve as effective, implementable review criteria. Consider how "county wellbeing" would be evaluated; is it possible to use more explicit or quantifiable language? *(p.109)*

3. Permit Submittal Requirements. 6.2.B.4.b: "A phasing plan for the staging of development that utilizes a precautionary approach to ensure no net loss of ecological and ecosystem functions or existing uses." "No net loss of ecological functions" is commonly referenced in the SMA, and is achieved using specific standards, including mitigation sequencing. Consider clarifying the intent of "no

net loss of existing uses," including how it would be achieved, or revising to use different language. *(p.109)*

4. Ocean Energy Production: 6.7.B.2: "Fixed structures associated with ocean energy production that interfere with existing ocean uses, including fishing or navigation, are prohibited." SPC has suggested conditionally allowing fixed structures in the Coastal Ocean High Intensity environment; however, this environment may be one of the most critical areas to protect existing uses from navigation. Fixed structures associated with ocean energy are currently coded as "X" (with a footnote allowing temporary and single-anchor structures) in the Coastal Ocean High Intensity environment. *(p.116)*

Section 5.1: Use, Development and Modifications Matrix

This section includes outstanding issues in Section 5.1 that apply to coastal ocean uses and modifications. These issues were raised at the previous hearing and tabled for discussion at this hearing.

Outstanding Issues

1. In-water structures in Coastal Ocean: Ecology has expressed concern at broad prohibition of fixed structures (see TWC memo 11/17/15). Per conversations with SPC and Ecology, "X" is retained, and proposed revision includes a footnote specifying that temporary structures may be permitted as a conditional use for a period of up to two years, with an option for a one year extension; also, single-anchor systems are coded as "P" in all aquatic environments. *(p.58)*

2. Utilities: Per conversations with SPC and Ecology, prohibition on utility cables/conduits/corridors in the Coastal Ocean and Willapa Bay Estuary environments is retained. Added footnote allows temporary structures as a conditional use (same approach as for in-water structures, above). *(p.59)*

3. Ocean disposal: Allowances for specific dredge disposal methods (e.g. belly dump, Alamo) moved out of body of table and into footnote. Definitions of these technical terms are needed. *(p.60)*

4. Ocean transportation: Ocean transportation uses, other than transport of petroleum products, are coded as "C" in the Coastal Ocean and Coastal Ocean High Intensity environments. SPC recommends revision to "P" for added flexibility. For PC consideration. *(p.60)*

5. Oil and gas uses: Table prohibits pipelines associated with ocean use in all aquatic environments. However, Section 6.4.B.2 (Ocean Transportation) permits the

transport of oil and gas via pipeline as a conditional use. Consider revising to "C" for Coastal Ocean High Intensity environment. *(p.60)*

6. Ocean energy production: Draft table prohibits fixed structure uses in all applicable aquatic environments ("NA" in Freshwater Aquatic and Columbia River Estuary environments). Per conversations with SPC and Ecology, "X" is retained, and proposed revision includes a footnote allowing temporary structures as a conditional use (same approach as for in-water structures and utility cables/conduits/corridors, above). *(p.60)*

7. Applicability: "Coastal Ocean Uses and Modifications," included in the table and covered under Section 6 of the draft SMP, applies to Willapa Bay as well as Pacific Ocean. Accordingly, entries for Willapa Bay Estuary environment have been added to this section of the table. *(pp.56-61)*

Miscellaneous Outstanding Issues

The following is a list of changes and issues that have not yet been discussed by the Planning Commission, but that are located in SMP sections already addressed at a previous public hearing.

1. The Oceans Subcommittee met on Thursday, January 14th to address a set of proposed revisions to the draft SMP. Several revisions were recommended for Planning Commission consideration, including additions and revisions to Section 2, Definitions; Section 3.2, Shoreline Environment Designations; Section 4.6, Water Quality; and Sections 5 and 6, Shoreline and Coastal Ocean Uses and Modifications. Revisions that align with the intent of the SMP were included, and have been provided electronically to the Planning Commission for review. In addition, a correction was proposed for the eastern boundary of the Coastal Ocean High Intensity environment designation (see maps in Google Earth).

2. Several property owners with properties that currently support aquaculture uses have expressed concern that the Willapa Bay Conservancy designation may not be appropriate and/or does not allow the flexibility needed to support those uses. These property owners have requested redesignation of their shoreline parcels as High Intensity (see maps in Google Earth).

Outstanding Issues from Testimony

The following is a list of issues and questions received through written or verbal testimony over the course of the hearing process.

1. The Washington State Parks and Recreation Commission (State Parks) submitted a letter containing several recommendations for revisions to the draft SMP. Please see letter for details.

    a. The revisions primarily address needed clarifications for definitions (Section 2), vegetation management (Section 4.5), and mining (Section 5.16), as well as a request to revise shoreline environment designations for certain areas of Cape Disappointment State Park from Natural to Coastal Conservancy to reflect existing developments.

    b. The letter also includes a list of several recommendations for revisions to Table 5-1, Permitted Uses and Modifications by Environment Designation, to ensure consistency with existing State Parks uses and facilities. Partly in response to these recommendations, "Outdoor advertising and signs" has been moved in Table 5-1 out of "Commercial development" and into its own section, with added allowances for signs associated with permitted recreational development.

2. Written testimony was received from representatives of the aquaculture industry, containing several recommendations for revisions to the draft SMP. The revisions primarily address added flexibility for aquaculture uses. In particular:

    a. Revisions to the definition of new and existing aquacultural activities;

    b. Allowances for fixed structures associated with aquaculture in the Coastal Ocean environment; and

    c. Allowances for clam and oyster shellpiles in the Natural, Shoreline Residential, and Coastal Conservancy environments (currently permitted only in Rural Conservancy, High Intensity, and Willapa Bay Conservancy environments); and inconsistency with allowances for "placement of gravel/shell material for aquaculture," included in the table under Fill and Excavation.

3. The County addressed a question from a representative of the aquaculture industry regarding shellfish processing facilities in overwater structures. As drafted, such facilities are considered water-related and are permitted over water only when associated with a water-dependent overwater use.