DATE: JULY 16, 2013

TO: SAN JUAN PLANNING COMMISSION

FROM: PLANNING, COLIN MAYCOCK, AICP, PLANNER IV

SUBJECT: SHORELINE RESTORATION PLAN

FOR MEETING OF: JULY 19, 2013

ISSUES:

Review and consideration of the proposed shoreline restoration plan as part of the Shoreline Master Program.

BACKGROUND:

Washington State passed the Shoreline Management Act (SMA) in 1971 as a means of protecting the public’s interest in the coast’s fragile natural resources and coordinating the piecemeal development of the shorelines of the state. The SMA sets forth shoreline management goals and directs local governments to develop specific Shoreline Master Programs (SMP) to meet those goals. To assist local governments in creating their SMP’s, the SMA designated the Department of Ecology (DOE) as the organization responsible for publishing SMP guidelines and designated the DOE as an equal partner in each jurisdiction’s SMP.

The guidelines were revised in 2003 and the County’s updated SMP is expected to meet the standards set forth in WAC 173-26.

WAC 173-26-201(2)(f) directs the County to develop a restoration plan as part of the SMP update.

The draft restoration plan was published for public review and consideration on March 8, 2013 and since then has generated few questions or comments.
ANALYSIS:

WAC 173-26-020 (31) defines “restore, restoration or ecological restoration” as:

the reestablishment or upgrading of impaired ecological shoreline processes or 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.

WAC 173-26-201(2)(f) in its entirety reads:

(f) Shoreline restoration planning. Consistent with principle WAC 173-26-186 (8)(c), master programs shall include goals, policies and actions for restoration of impaired shoreline ecological functions. These master program provisions should be designed to achieve overall improvements in shoreline ecological functions over time, when compared to the status upon adoption of the master program. The approach to restoration planning may vary significantly among local jurisdictions, depending on:

• The size of the jurisdiction;
• The extent and condition of shorelines in the jurisdiction;
• The availability of grants, volunteer programs or other tools for restoration; and
• The nature of the ecological functions to be addressed by restoration planning.

Master program restoration plans shall consider and address the following subjects:

(i) Identify degraded areas, impaired ecological functions, and sites with potential for ecological restoration;

(ii) Establish overall goals and priorities for restoration of degraded areas and impaired ecological functions;

(iii) Identify existing and ongoing projects and programs that are currently being implemented, or are reasonably assured of being implemented (based on an evaluation of funding likely in the foreseeable future), which are designed to contribute to local restoration goals;

(iv) Identify additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources for those projects and programs;

(v) Identify timelines and benchmarks for implementing restoration projects and programs and achieving local restoration goals;
(vi) Provide for mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals.

The decision in the case of the Swinomish Indian Tribal Community vs. WWGMHB 161-WN.2d 415 2008 made it clear that restoration or enhancement of ecological functions could not be required of landowners as a condition of development, and only avoidance, minimization and mitigation of the project’s impacts is required. This decision effectively renders the provision at WAC 173-26-201(2)(f)(vi) moot.

The County is compelled to complete a restoration plan that is consistent with the requirements above, however, the County is not required, and cannot require others to undertake any of the identified restoration projects and opportunities set forth in the plan.

The draft Restoration Plan meets the provisions of the WAC.

1. It identifies areas, degraded functions and sites with potential for restoration throughout, however, on pages 11-46; areas, opportunities and habitat benefits are identified for each of the county’s 20 shoreline management areas.
2. Table 1 on pages 12 -14 lists specific restoration projects that private or other non-governmental entities have identified. While some of the projects are funded and are expected to be carried out, others are more conceptual in nature.
3. Pages 4 and 5 set forth the restoration plan’s objectives and policies, none of which tie the County to specific actions in the future. The objectives and policies are couched in broad terms and emphasize voluntary and incentive based actions.
4. Beginning on page 47, the draft plan sets forth some restoration project priorities based on studies already carried out in San Juan County that are primarily geared toward salmon restoration.
5. As there is no requirement to implement the plan, the timelines and benchmarks are defined broadly on page 67.

As noted above, the County is required to develop and adopt a restoration plan as part of the SMP update. The implementation of the plan is entirely voluntary and the draft plan, as it stands, does not tie the County to specific project hierarchies or priorities. If, at some point in the future, the County decides to pursue shoreline restoration projects, the restoration plan will provide directions and context for future decisions but will not mandate specific actions.

STAFF RECOMMENDATION:

APPROVING THE ADOPTION OF THE PROPOSED RESTORATION PLAN TO THE SAN JUAN COUNTY COUNCIL.