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Memorandum

TO: Planning Commission
FROM: Cliff Strong, Senior Planner
DATE: June 5, 2018
FILE NO. PLN2017-00005 – Marine Resource Lands
SUBJECT: Proposed Amendment to the Whatcom County Comprehensive Plan, Chapter 8, Marine Resource Lands

Via CompPlan Policy 8T-1, the County Council directed staff to develop a new section of the CompPlan entitled "Marine Resource Lands."

The attached staff report explains the background for this amendment, the process used to develop it, and reviews its consistency with the Comprehensive Plan.

Staff recommends that the Planning Commission review and discuss the attached staff report and Exhibit A showing the proposed amendments to the Whatcom County Comprehensive Plan and development regulations, hold a public hearing on June 28th, and recommend that the County Council adopt these provisions.



Staff Report to the Planning Commission

Whatcom County Comprehensive Plan Amendment to Chapter 8, Marine Resource Lands

File # PLN2017-00005

File Name: Whatcom County Comprehensive Plan Amendment to Chapter 8, Marine Resource Lands

Applicants: Whatcom County Planning and Development Services (PDS)

Summary of Request: An ordinance amending the Whatcom County Comprehensive Plan, Chapter 8, Marine Resource Lands.

Location: Countywide.

Staff Recommendation: Staff recommends that the Planning Commission review and approve the proposed Marine Resource Lands section of the CompPlan as shown in Exhibit A. This language would replace the current Marine Resource Lands section (as shown below). Your and the Marine Resources Committee, Birch Bay Watershed and Aquatic Resources Management Committee, and Portage/Drayton Shellfish Protection Districts recommendations will be forwarded to the County Council when they consider this project.

I. BACKGROUND

When the Council amended the CompPlan in 2016 they included a new section that reads:

Marine Resource Lands – Introduction

Purpose

This section contains policies to guide Whatcom County in the creation of a new section for this chapter to ensure the conservation of functioning marine resource lands of long-term commercial and recreational significance, and to ensure that both industries requiring functioning marine lands, and the cultural heritage that use of our marine lands represent, thrive in the years to come.

GMA Requirements

Goal 8 of the GMA (RCW 36.70A.020) guides the County to *“Maintain and enhance natural resource based industries, including productive timber, agricultural, and fisheries industries.”* Marine lands have a clear nexus regarding maintenance of fisheries industries, including commercial and recreational shellfish harvest. While the GMA does not require specific designation of marine resource lands that support aquatic based industries, functioning marine lands are so intrinsically necessary for production of historical fish and shellfish production that these lands are identified on our GMA required critical areas maps, shoreline inventory and analysis, and integral in the State/County approved 2008 Shoreline Restoration Plan.

Goal 8T: Conserve and enhance Whatcom County’s marine land base for the long-term and sustainable production of commercial and recreational economic activities.

Policy 8T-1: Whatcom County will work with committees including but not limited to the Marine Resource Committee, the Shellfish Protection Advisory Committee, and other local marine land experts to create a new section of this chapter to support Goal 8T to be docketed and processed for consideration no later than 2017.

This section was proposed by then-Councilmember Weimer after having worked with the Marine Resources Committee (MRC). The MRC's (and CM Weimer's) original proposal was much longer (text of which is found in Exhibit B). However, concern was raised that the Planning Commission had not considered this amendment, a requirement of the County Code for CompPlan amendments. Thus, CM Weimer substituted the above text as a placeholder.

At one of the committee meetings where staff introduced this project—at which CM Weimer was present—one of the members commented that the proposed policies seemed quite similar to those in our Shoreline Management Program (SMP), and asked if this was really necessary. CM Weimer suggested that if that's the case—that if the SMP already does what this section is attempting to do—then perhaps it's not really needed after all.

This set staff on a path to review the proposed policies against our current SMP and other CompPlan policies. The result of that analysis is attached as Exhibit A¹. It turns out that almost all the originally proposed policies are indeed already addressed through the SMP. (And remember, the goals and policies of the SMP are considered a component of the CompPlan pursuant to RCW 36.70A.480.) Therefore, most of the ideas proposed in CM Weimer's original proposal are already covered². And next year we will start on an update of the SMP, due in 2020, so it can be amended at that time to cover any new ideas.

With this, staff convened a Working Group comprised of members of the listed committees and “other local marine land experts” per Policy 8T-1. Members included:

- Amy de Vera, Environmental Resources Management
- Jim Hansen, Marine Resources Committee
- Pat Alesse, BBWARM
- Shannon Moore, WRIA 1 Planning Unit's Fisheries Caucus and commercial fisherman
- Steve Seymour, Drayton Harbor Shellfish Advisory Committee
- Jim Verburg, BP Cherry Point Refinery Senior Environmental Engineer

This Working Group met recently to review the staff work presented herein and develop a final draft of the Marine Resource Lands section to move forward. They decided that policies already covered by the SMP don't need to be repeated in the MRL section, but did want to cover some basics, such as describing what Marine Resource Lands are, why they're important, and why we'd want to protect them. Their recommended language is shown in Exhibit A.

On June 14th the Planning Commission will hold a workshop on this proposal, with a public hearing planned for June 28th. Staff is concurrently presenting this proposal to the MRC, BBWARM, and the Portage/Drayton Shellfish Protection Districts to obtain their recommendations.

1 To read the entire SMP, go to <http://www.codepublishing.com/WA/WhatcomCounty#!//WhatcomCounty23/WhatcomCounty23.html>.

2 Only five are not, highlighted by red text in the Staff Comments column of Exhibit A.

II. PROPOSED AMENDMENTS

The proposed ordinance would amend the Comprehensive Plan, Chapter 8, Marine Resource Lands section as shown in Exhibit A.

III. COMPREHENSIVE PLAN EVALUATION

Below are listed all the pertinent Comprehensive Plan goals and policies regarding land use along the marine shorelines:

Chapter 2, Land Use

Policy 2D-6: Review and update the Whatcom County Shoreline Management Program in accordance with the schedule in the Shoreline Management Act (RCW 90.58.080). Updates should improve the integration of the Shoreline Program with Growth Management and with the Cherry Point Aquatic Reserve Management Plan in order to provide predictability and consistency in regulation, and eliminate regulatory redundancy.

Chapter 9, Recreation

Goal 9E: Recognize the shoreline as one of Whatcom County's unique assets and provide adequate physical and visual access for present and future generations.

Policy 9E-1: As economically feasible, acquire for public use as much of the saltwater shoreline as possible. Public and private resources should be explored to further this policy. A reasonable goal is to acquire for public access a minimum of 15% of the saltwater shoreline and adjacent tidelands in Whatcom County.

Chapter 10, Environment

Goal 10B: Simplify and harmonize regulations relating to the identification, delineation, and protection of environmental features.

Policy 10B-8: Recognize the policies of the Whatcom County Shoreline Management Program as constituting a "Shoreline Element" of this plan. The shoreline program regulations and policies shall be considered to be consistent with this plan.

IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action: *(Note: "X's" will be filled in with dates once they are known)*

1. Through Comprehensive Plan Policy 8T-1, the County Council directed staff to "work with committees including but not limited to the Marine Resource Committee, the Shellfish Protection Advisory Committee, and other local marine land experts to create a new section of this chapter to support Goal 8T to be docketed and processed for consideration no later than 2017."
2. Working with these committees, staff convened a working group to develop a new Marine Resource Lands section of the Comprehensive Plan, as shown in Exhibit A.
3. The working group's proposal was reviewed by the Marine Resources Committee, Birch Bay Watershed and Aquatic Resources Management Committee, and Portage/Drayton Shellfish Protection Districts.

4. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on X, 2018; and,
5. In accordance with RCW 36.70A.106, Whatcom County Planning and Development Services notified the Department of Commerce of the proposed amendments contained herein on X, 2018; and,
6. The Planning Commission held a public hearing on this ordinance on June 28, 2018, notice of which was published in the Bellingham Herald on June X, 2018;
7. The County Council held a duly noticed public hearing on this ordinance on X, 2018;

V. PROPOSED CONCLUSIONS

1. The amendment to the Whatcom County Comprehensive Plan fulfills the direction Council gave staff in Policy 8T-1.
2. The amendment is consistent with the Comprehensive Plan goals and policies listed in Section III of this staff report.
3. The amendment is in the public interest.
4. The amendment is consistent with the Whatcom County Comprehensive Plan.

VI. RECOMMENDATION

Staff recommends that the Planning Commission review and discuss the proposed amendment, hold a public hearing on June 28, 2018, and make recommendations to the County Council to adopt the amendments shown in Exhibit A.

VII. ATTACHMENTS

- Exhibit A – Proposed amendment to Chapter 8 of the Whatcom County Comprehensive Plan
- Exhibit B – Comparison of CM Weimer’s Original Proposal to Existing Goals & Policies

Exhibit A: Proposed Amendment to Chapter 8 of the Comprehensive Plan

Working Group's Marine Resource Lands Recommendation

Marine Resource Lands

Purpose

Marine resource lands, for the purpose of this plan, are defined as those marine areas waterward of the ordinary high water mark, together with their underlying lands and their water column, within the jurisdiction of the Whatcom County Shoreline Management Program (WCC Title 23). Marine resource lands have the physical conditions and habitat required to generate and maintain fisheries of all types, including the commercial and recreational harvest of finfish, shellfish algae, and other invertebrates including but not limited to mollusks, crab, and shrimp, etc. This section is intended guide Whatcom County in the conservation of functioning marine resource lands of long-term commercial, ecological, cultural, and recreational significance, and to ensure that all water-dependent, water-related and water-enjoyment uses requiring use or access to marine resource lands thrive in the years to come.

GMA Requirements

Goal 8 of the GMA (RCW 36.70A.020) guides the County to “*Maintain and enhance natural resource based industries, including productive timber, agricultural, and fisheries industries.*” While the GMA does not require specific designation of marine resource lands that support aquatic-based uses and industries, functioning marine resource lands are so intrinsically necessary for the creation and sustainability of historical fish and wildlife production that Whatcom County wishes to acknowledge them here.

Process

Per County Council direction, staff convened a working group comprised of members of “the Marine Resource Committee, the Shellfish Protection Advisory Committee, and other local marine land experts.” This working group developed a draft of this section of the Comprehensive Plan, as well as drafts of the goals and policies contained herein. The draft was then presented to the full membership of the Marine Resource Committee and Shellfish Protection Advisory Committee for review and recommendation to the County Planning Commission and Council.

Background Summary

The marine resource lands of Whatcom County have historically been one of the most important natural resources in the region. For thousands of years the shores of Whatcom County provided an important shellfish resource, sustaining our local tribes. More recently the tideland of Drayton Harbor supported one of the earlier commercial oyster-farming businesses in the Salish Sea. The shore and nearshore lands of the County provided spawning, rearing, and forage areas for a diverse array of finfish and shellfish species which together formed an incredible food web for ancestral tribes and early commercial fisheries. The County's marine resource lands are located along the coastal areas bordering the Salish Sea as well as the rivers, streams, and lakes that drain the upland areas of western Whatcom County. Marine resource lands include more than 130 miles of marine shoreline.

Marine resource lands in the area of Cherry Point are designated in the Shoreline Management Program as the Cherry Point Management Area to support adjacent Heavy Impact Industrial (HII) zoned industrial uses that require deep water access, such as the two existing refineries and an aluminum smelter. The

harbor area and waterways in Bellingham Bay are designated for preservation of commerce and navigation along the Bellingham shoreline. The tidelands of Drayton Harbor are designated to support a small commercial wharf, marinas, residential shoreline development, shellfish production, and natural areas.

The majority of marine resource lands in Whatcom County are owned by the State of Washington (managed by Department of Natural Resources [DNR]), the Lummi Nation and the Port of Bellingham (via a Port Management Agreement with DNR). These include many of the tidelands and subtidal lands in the County, most of the Nooksack River, much of Lake Whatcom, and some of the smaller navigable streams.

Marine resource landowners also include some private entities that were sold tidelands prior to 1971, and who manage their marine resource lands for a variety of uses, including recreational, commercial, and industrial.

Historically, marine resource lands have been managed for natural and farmed shellfish production and harvest, fishing, transportation, utility corridors (oil/gas/natural gas pipelines; sewer and stormwater outfall pipes; communication lines (phone/fiber optic); power (electric) lines),, and commercial, recreational and subsistence/cultural fishing and food gathering. Historic uses also included commercial and industrial uses, marinas (Bellingham, Blaine), municipal garbage dumps, public parks, etc.

With a growing population, there is increasing interest in improving public access to marine resource lands through the addition of boat ramps and access points for both motor-powered and wind and human-powered craft. Over the last 20 years the desire to harvest more and diverse aquatic resources, particularly from tidelands, has driven a number of significant efforts to improve water quality as well as innovative culturing techniques such as intertidal geoduck seeding, nori farming, etc.

Conservation efforts have resulted in protection of several areas including the Cherry Point Aquatic Reserve and two areas withdrawn from leasing in Bellingham Bay. These areas are valuable due to their high productivity of aquatic life that contributes to the economy and greater ecosystem of Whatcom County. Twenty years of effort and millions of dollars in public investment have kept Drayton Harbor a viable commercial and recreational shellfish growing area for future generations to enjoy.

Marine resource lands provide a huge economic benefit to the County, and the health of our stream, river, estuarine environments, and marine resource lands is the foundation of a critical tribal and non-tribal finfish and shellfish industry. In 2006, non-tribal commercial fish landings from Washington fisheries totaled nearly 109.4 million pounds, generating \$65.1-million in ex-vessel value (i.e., the price received by commercial fishers for fish). Whatcom County was the State's second-largest commercial port area that year (after Grays Harbor County), with an ex-vessel value of commercial fish landings of more than \$13.5-million, accounting for nearly 21 percent of the total value of landings from Washington fisheries. Additionally, the North Puget Sound Region—which the Washington Department of Fish and Wildlife defines as including San Juan, Skagit, Snohomish and Whatcom counties—is also the most popular location for recreational shellfishing in the State. In 2006, the combined recreational shellfish catch in those four counties included more than 3.3-million pounds of Dungeness crab, 23,520 pounds of shrimp, 93,038 pounds of clams and more than 19,000 individual oysters.¹ In 2016, the marine trades provided 6,033 jobs, or 7% of the County's workforce.²

¹ Whatcom County, March 2015. *Whatcom County Comprehensive Economic Development Strategy*, prepared by the Whatcom Council of Governments.

² Center of Economic and Business Research, Western Washington University, July 2016. *Whatcom County Marine Trades Impacts*.

Whatcom County marine shorelines continue to provide income to over 250 Lummi Nation registered shellfish harvesters. Many other Lummi and Nooksack tribal members depend on finfish and crab harvest for a substantial part of their yearly family income. The Lummi Nation shellfish enterprise is highly productive and provides clam, oyster, and geoduck seed to a large part of the northwest shellfish industry. To the extent that the environmental health of these lands impacts the ability of Tribal Nations to practice fish and wildlife harvests and conduct ceremonial activities for their cultural, economic, and spiritual welfare, protection of these lands is a Treaty trust resource supporting Treaty reserved rights to take fish.

Other direct and indirect benefits to the County are even more substantial given the multiplier effect from marina-related boat works, electronics, fuel and supplies, charter and whale watching businesses, the Alaska Ferry service, sporting goods, kayaking, rowing, sailing, wind surfing, power boating, and all the sales, repair, maintenance and provisioning that goes with these type of activities. Whatcom County's marine resource areas are not only an international destination for water-dependent, water-related, and water-enjoyment activities, such as bird and wildlife watching, sailing and cruising, fishing and gathering, but they are also a gateway to the San Juan Islands, Gulf Islands, the greater Salish Sea environs, and international waters. Whatcom County's marine resource lands are a renewable and sustainable economic driver that will serve this region well into the future.

Issues, Goals, and Policies

The following goals and policies apply to marine resource lands and address the issues of conserving productive aquatic land and meeting the goals of the Growth Management Act.

Marine Resource Land Base

Tidelands, marine waters, major lakes and navigable rivers were owned by the State of Washington at the time of statehood unless reserved for other uses such as federal facilities or Indian reservations. Between 1889 and 1971, the State sold many of its tidelands to railroads, timber companies and shellfish growers as a way to finance the State. As a result, the State owns only about 30% of the tidelands. The bulk of tidelands and many shoreland areas are owned or managed by ports, industries, tribes, and private property owners. The State retains ownership of most all of the subtidal lands which were not sold.

Since their adoption, the marine resource land base in Washington State and in Whatcom County has largely been protected by the Washington State Shoreline Management Act, as well as Whatcom County's Shoreline Management Program (SMP), Critical Areas Ordinance, and other land use regulations such as stormwater, land disturbance, zoning, and other regulations.

Historically, shoreline modification, including filling, hardening and diking of many natural shorelines, has resulted in a significant reduction in acreage of functioning marine resource lands in many areas of the County. These modifications came as a result of transportation improvements (roads, railroads, barge landings, and ferry terminals), utilities of all types (electrical, communications, sewer, stormwater, etc.), hydropower, water-dependent uses (marinas, fish processing, ship yards), non-water dependent uses (large industrial facilities), flood control efforts, residential development (including bulkheading, armoring, and docks), and parks. (Since adoption of the SMP, shoreline armoring, filling, and bulkheading is only allowed for the purpose of protecting existing structures.)

The Washington State Legislature passed the State Shoreline Management Act (SMA) in June 1971. Under the SMA, each county and city is required to adopt and administer a local shoreline management plan to carry out the provisions of the Act. The Whatcom County Shoreline Management Program (SMP) is the document that implements the goals and policies of the SMA at the local level. The SMP was

originally adopted by the County Council in May 1976 in accordance with the SMA and the shoreline guidelines issued by the Washington Department of Ecology. The SMP is implemented in coordination with other chapters of the Comprehensive Plan and the Whatcom County Code to protect and manage shorelines throughout the county. It is important to note that Whatcom County and Ecology share joint authority and responsibility for the administration and enforcement of the SMP. In addition, numerous other local, state and federal regulations, permits, and approvals apply to development or use in, on or above the County's marine resource lands. Some of the most common permits and approvals include:

Agency	Permit(s)
<u>Whatcom County</u>	<ul style="list-style-type: none"> • <u>Shoreline statement of exemption</u> • <u>Substantial development permit</u> • <u>Shoreline conditional use permit</u> • <u>Shoreline variance</u> • <u>State Environmental Policy Act (SEPA) determination</u>
<u>Washington Department of Ecology</u>	<ul style="list-style-type: none"> • <u>Clean Water Act Section 401 Water Quality Certification</u> • <u>Coastal Zone Management Consistency Determination</u>
<u>Washington Department of Fish and Wildlife</u>	<ul style="list-style-type: none"> • <u>Hydraulic project approval (HPA)</u>
<u>Washington Department of Natural Resources</u>	<ul style="list-style-type: none"> • <u>Aquatic use authorization</u> • <u>Aquatic lands lease agreements</u>
<u>U.S. Army Corps of Engineers</u>	<ul style="list-style-type: none"> • <u>Clean Water Action Section 404 Permit</u> • <u>Rivers and Harbors Act Section 10 Permit</u>

Goal 8T: Conserve and enhance Whatcom County's marine land base for the long-term and sustainable use and operation of water-dependent, water-related and water-enjoyment activities.

Policy 8T-1: Coordinate with public agencies, tribal governments, landowners, and private organizations to protect and maintain an appropriate, productive, and sustainable marine resource land base adequate to support marine-dependent commercial, industrial, recreational, and cultural needs.

Aquaculture, Fishing, and other Marine Resource Lands Activities

Goal 8U: Support measures to increase the viability and sustainability of Whatcom County's aquatic biodiversity and production.

Policy 8U-1: Help improve the efficiency, effectiveness, and flexibility of environmental regulations affecting marine resource lands in order to support environmental protection and improve predictability.

Policy 8U-2: Consider developing a range of non-regulatory programs, options, and incentives that owners of marine resource lands can employ to meet or exceed County environmental goals.

Policy 8U-3: Support the efforts of people in Whatcom County to operate in a long-term, sustainable manner as part of a stable, broad-based economy.

Policy 8U-4: Work cooperatively with the Washington State Departments of Natural Resources, Ecology, and Fish and Wildlife to protect productive and appropriate use of State marine resource lands within Whatcom County.

Policy 8U-5 Continue cooperation and funding for a comprehensive Pollution Identification and Correction (PIC) program as needed to reduce bacterial pollution to levels that meet National Shellfish Sanitation Program Growing waters criteria to allow reopening of closed shellfish beds, and to maintain the operation of those beds in a commercially viable manner.

Reducing Land Use Impacts

Different land owners have different goals for their property and employ different practices when using it, whether it be for their business, home, recreation, or personal enjoyment. But oft times, the practices one property owner employs can have detrimental effects on another property owner's use or enjoyment of their property, or the public when using public lands, which can lead to conflict amongst users. One of the most cited is how poorly managed agriculture or failing septic systems can cause bacterial pollution of rivers and streams, causing closure of important shellfish production areas. Other adverse upstream inputs include, but are not limited to, excess nutrients, heavy metals, and aromatic hydrocarbons. But there have been other such actions as well, such as piers placed in fish habitat, use of pesticides in shellfish farming, loading/unloading practices, etc. One the flip side, many such users are employing new practices and technologies to alleviate such impacts, yet the public many not be aware. Improved communication and education between these groups would be beneficial for each to understand what the other is doing, how their actions affect one another, and how they plan to avoid such impacts.

Goal 8V: Aim to reduce land use conflicts between Whatcom County's Marine Resource Lands operations and upland property owners.

Policy 8V-1: Support improved communication and understanding between aquatic land landowners and the public through such mechanisms as community forums and educational programs.

Policy 8V-2: Work cooperatively with local, State, Federal and Tribal agencies, adjacent upland property owners, and the general public, as applicable, to address community concerns and land use conflicts that may affect the productivity of marine resource lands.

Policy 8V-3 Implement land use, building, and transportation planning policies, regulations, and practices that help minimize adverse water quality inputs into water bodies.

Fish and Wildlife

Land use practices on marine resource lands can impact tidelands and other shallow and deepwater habitats that are important to a wide variety fish and wildlife.

Goal 8W: Ensure that operations associated with marine resource lands strive to avoid adverse impacts to the survival and habitat of aquatic species, particularly to threatened and endangered fish and wildlife species and shellfish resources.

Administration and Regulation

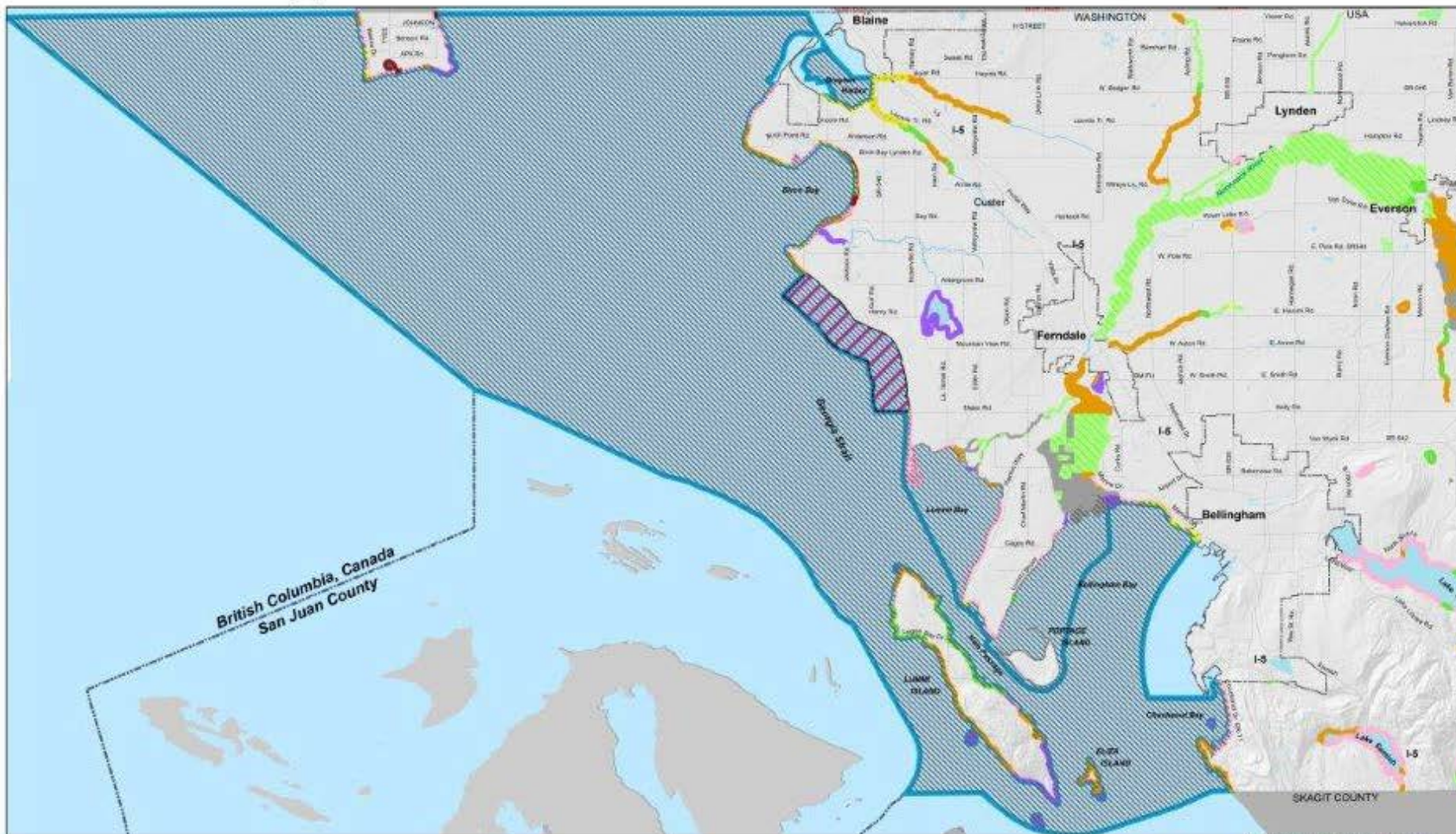
Goal 8X: Recognize the Shoreline Management Program (WCC Title 23) and Zoning Code (WCC Title 20) as the primary regulations used to implement this section.

Policy 8X-1: Pursuant to RCW 36.70A.480 and Comprehensive Plan Policy 10B-8, the Whatcom County Shoreline Management Program is an element of this Comprehensive Plan, and the goals and policies therein are recognized as additional goals and policies of this section.

Policy 8X-2: Those coastal lands that fall within the jurisdiction of the Shoreline Management Program (“shoreline jurisdiction”) are hereby designated as Marine Resource Lands, as shown on Map 8-5.

Policy 8X-3 Regulate land use on Marine Resource Lands within the County through the Shoreline Management Program, Zoning Code, and other appropriate means.

Policy 8X-4 When updating the Shoreline Management Program, consider new or amended policies to further these goals.



- Marine Resource Lands - 200' inland from MHW, waterward to County line
- Shoreline Area Designations**
- Urban
- Urban Resort
- Urban Conservancy
- Shoreline Residential
- Resource
- Conservancy
- Natural
- Tribal
- Cherry Pt. Management Area
- Aquatic



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Scale: 1" = 0.75 Miles

Exhibit B: Comparison of CM Weimer’s Original Proposal to Existing CompPlan/SMP Goals & Policies

Proposed MRL Goal/Policy		Existing CompPlan Policy	Existing SMP Goal/Policy	Staff Comments
No.	Proposed Text	C/P Ref	WWC/SMP Reference	
Marine Resource Land Base				
G8T	Conserve and enhance Whatcom County’s marine land base for the long-term and sustainable production of commercial and recreational economic activities.	G10N, P10N-1, G10P, P10P-1 – 18	<ul style="list-style-type: none"> • 23.20.020 Economic development goals and objectives • 23.20.040 Recreation goals and objectives • Ch. 23.30 Shoreline Jurisdiction and Area Designations • Ch. 23.90 General Policies and Regulations • Ch. 23.100 Shoreline Use Policies and Regulations 	Whatcom County’s marine land base is already protected by the cited policies in the CompPlan and the SMP. In the SMP the County has identified and designated appropriate marine lands for commercial and recreational economic activities (see below). The SMP also contains numerous policies to ensure their use for such.
P8T-1	Regulate land use on marine resource lands within the County through the designation of Marine Resource Conservation Zone or other appropriate means.		<ul style="list-style-type: none"> • 23.30.022 Shoreline area designations 	The SMP uses a set of 10 shoreline area designations to provide a systematic, rational, and equitable basis upon which to guide and regulate development within specific shoreline reaches. Development and use within each designated shoreline area shall occur consistent with this program.
P8T-2	Apply the following general criteria for Marine Resource Land comprehensive plan designations and zones: <ul style="list-style-type: none"> • <i>Commercial Marine Resource Lands:</i> Lands mostly devoted to the commercial production of aquatic organisms, e.g. shellfish or algae. Land parcels are generally 0.5 acres or greater in size. • <i>Industrial Marine Resource Lands:</i> Lands primarily devoted to large industrial water-dependent shipping consistent with the Shoreline Management Program and fossil fuel reduction goals of this comprehensive plan. Land parcels are generally 20 acres or 		<ul style="list-style-type: none"> • 23.30.030 Urban shoreline area • 23.30.040 Urban resort shoreline area • 23.30.071 Rural shoreline area • 23.30.070 Rural shoreline area • 23.30.080 Resource shoreline area • 23.30.120 Cherry Point management area 	The SMP contains the following designations for commercial and industrial shoreline uses: <ul style="list-style-type: none"> • Urban – Provides for intensive development of water-oriented <i>commercial</i>, transportation, and <i>industrial</i> uses and accommodate mixed use developments, while protecting existing shoreline ecological functions and processes and restoring shoreline ecological functions and/or processes in areas that have been previously degraded. • Urban Resort – Provides for intensive residential and <i>commercial</i> uses geared to the needs of tourists and day visitors while protecting existing shoreline ecological functions and processes.

Proposed MRL Goal/Policy		Existing CompPlan Policy	Existing SMP Goal/Policy	Staff Comments
No.	Proposed Text	C/P Ref	WWC/SMP Reference	
	greater in size.			<ul style="list-style-type: none"> • Rural – Protects shoreline ecological functions in areas having a rural character characterized by open space and low density development including, but not limited to: residences, agriculture, forestry and <i>outdoor recreation</i>. • Resource – Protects shoreline ecological functions and processes in areas designated in the Whatcom County Comprehensive Plan as agriculture resource lands, rural forestry, commercial forestry and mineral resource lands and to <i>protect the economic base</i> of those lands and limit incompatible uses. • Cherry Point management area – Recognizes and balances the special port, industrial and natural resource needs associated with the development of this marine resource. <p>It doesn't seem to staff that adding additional land use designations would enhance protection beyond what is already available.</p>
P8T-3	Protect an appropriate commercial, industrial, and recreational aquatic land base through cooperation between tribal governments, public agencies, landowners and private organizations.	P10B-4, P10C-1, P10F-3	<ul style="list-style-type: none"> • 23.90.020 Land use (A)(3) • 23.90.070 Archaeological, historic and cultural resources • 23.100.030 Aquaculture (A)(7 & 8); (B)(1)(u) • 23.100.070 Industrial and Port Development (A)(4)(a) 23.100.100 Recreation (10) • 23.100.120 Restoration and Enhancement (A)(1) • 23.100.170 Cherry Point Management Area (A)(1)(d) 	The CompPlan already contains 3 policies, and the SMP contains a myriad of policies, calling for and/or requiring cooperation between governments, agencies, landowners, and the public in protecting marine resource lands.

Proposed MRL Goal/Policy		Existing CompPlan Policy	Existing SMP Goal/Policy	Staff Comments
No.	Proposed Text	C/P Ref	WWC/SMP Reference	
P8T-4	<p>Do not allow conversion of aquaculture lands if the proposed use is incompatible with the maintenance of long-term aquaculture and ecological management. Incompatible uses include those that:</p> <ul style="list-style-type: none"> • Cause water pollution (of all types, including sedimentation, temperature changes, etc.) that impacts the opportunity to grow healthy shellfish and other organisms; • Permanently (defined as more than 6 months) alter or remove greater than 20% of a parcel from production of aquaculture; • Create a financial hardship for adjacent aquatic landowners; • Lead (as determined by a County-approved study) to land use conflicts with adjacent aquatic landowners. 	G10P, P10P-1 – 18	<ul style="list-style-type: none"> • 23.100.030 Aquaculture • 23.100.020 Agriculture • Ch. 20.36 Rural (R) District • Ch. 20.40 Agriculture (AG) District • Ch. 20.34 Rural Residential-Island (RR-I) District • 20.69 Rural Industrial and Manufacturing (RIM) District 	<ul style="list-style-type: none"> • Per the zoning code, aquaculture is allowed in: <ul style="list-style-type: none"> ○ Rural District (20.36.054, permitted use) ○ Agriculture District (20.40.154, conditional use) ○ Rural Residential-Island District (20.34.053, permitted use) ○ Rural Industrial and Manufacturing District (20.69.051(25), permitted use) • The 18 policies in the CompPlan and the 11 policies in 23.100.030 address each of these proposed policies, and would be duplicative.
P8T-5	Maintain a productive commercial, industrial, scientific, and sustainable marine resource land base to support productive, viable marine resource land resources. Measures that can be taken to support sustainable marine resource lands may include:		<ul style="list-style-type: none"> • 23.10.030 Governing principles (C)(2, 3) • Ch. 23.90 General Policies and Regulations • Ch. 23.100 Shoreline Use Policies and Regulations 	
	<ul style="list-style-type: none"> • Land use policies that encourage active management plans that support sustainable marine resource lands resources; 			This is one policy that doesn't already have a counterpart in the SMP. There are no requirements that uses have "active management plans."
	<ul style="list-style-type: none"> • No net loss of marine resource 	P10H-10,	<ul style="list-style-type: none"> • Throughout 	The standard of "no net loss" of ecological

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	lands productivity;	P10K-15 & 16		functions is scattered throughout the SMP and the CAO, and the CompPlan contains 3 such policies. There are too many in the SMP/CAO to list, but suffice it to say that all uses must show that they will meet this standard. However, there are no policies regarding no net loss of marine resource lands productivity.
	<ul style="list-style-type: none"> Land use policies that recognize the multiple values of marine resource lands and the waters above them and provide basic life-giving properties that are and can only be public for all people to enjoy; 			The SMP's policies recognize the multiple values of marine resource lands and strive to balance these sometimes competing uses and values.
	<ul style="list-style-type: none"> Education programs that emphasize the importance of marine resource production in Whatcom County; 	P10A-7, P10F-6		While the County doesn't have specific education programs that emphasize the importance of marine resource production, we do contribute to organizations that do.
	<ul style="list-style-type: none"> Public and institutional education programs that promote the benefits of marine resource lands; 			While the County doesn't have specific education programs that emphasize the importance of marine resource production, we do contribute to organizations that do.
	<ul style="list-style-type: none"> Discourage conversion of any marine resource lands to non-compatible uses. 			The SMP already discourages the conversion of any marine resource lands to non-compatible uses by maintaining shoreline designations. Changing them requires a public process and a decision by the County Council.
Aquaculture, Fishing, and other Marine Resource Lands Activities				
G8T	Support measures to increase the viability and sustainability of Whatcom County's aquatic biodiversity and production.	P10K-6, G10N, G10P, P10P 1 – 18	<ul style="list-style-type: none"> 23.100.030 Aquaculture 	The CompPlan contains multiple goals and policies aimed at protecting the viability and sustainability of Whatcom County's aquatic biodiversity and production. The SMP contains multiple policies aimed at ensuring that aquaculture projects are located

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				in the right place, are implemented in such a way as to minimize impacts (to both people and the environment, and that the appropriate lands are reserved for such uses.
P8T-1	Improve the efficiency, effectiveness, and flexibility of State and local environmental regulations affecting marine resource lands in order to assure environmental protection and improve predictability.	G10B, P10B 1 – 8	<ul style="list-style-type: none"> • Chapter 23.80 Legal Provisions 	The State requires periodically updating the SMP so as to review the program’s effectiveness in achieving its goals. Furthermore, 23.80.010(D) requires that the Shoreline Administrator submit an annual report to the County Council reviewing the effectiveness of the program in achieving its stated purpose, goals, and objectives, and to propose amendments if not.
P8T-2	Develop a range of non-regulatory programs, options, and incentives that landowners with marine resource lands can employ to meet or exceed County environmental goals.	P10B-1		Though the CompPlan already contains a similar policy, the County has not yet developed such programs specifically for marine resource land owners.
P8T-3	Support the efforts of people in Whatcom County to operate in a long-term, sustainable manner as part of a stable, broad-based economy.	G10C, P10C-2, G10D, P10D-1 – 3, G10K, P10K-13, P10M-3	<ul style="list-style-type: none"> • 23.100.020 Agriculture (A)(1) • 23.100.070 Industrial and port development (A)(2) • 23.100.080 Mining (B)(2 & 4) 	Both the CompPlan and SMP recognize the importance of economic growth, and contain policies to balance the protection of environmental resources (including marine resource lands) with economic benefits.
P8T-4	Work cooperatively with the Washington State Departments of Natural Resources, Ecology, and Fish and Wildlife _____ the most productive and appropriate use of State marine resource lands within Whatcom County.	P10F-3	<ul style="list-style-type: none"> • 23.20.030 Public access (B)(3) • 23.20.040 Recreation (B)(4) • 23.20.080 Archaeological, historical and cultural resources (B)(1) 	The CompPlan already contains 3 policies, and the SMP contains a myriad of policies, calling for and/or requiring cooperation between governments, agencies, landowners, and the public.
Land Use Conflicts				
G8U	Reduce land use conflicts between Whatcom County's marine resource lands operations and upland property owners.			

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P8U-1	Before a development permit or a rezone is approved, the applicant should demonstrate to the satisfaction of the County that adequate protection of aquatic lands will be implemented for the residents and adjacent properties, and that adjacent properties are protected from adverse effects.	P10B-8	<ul style="list-style-type: none"> • 20.100.020 Agriculture (A)(2) • 23.100.030 Aquaculture (A)(1, 5, 6, 7, 9); (B)((1)(d, e, i); (B)(2)(a)(viii, xi); (B)(2)(b)(ii) • 23.100.040 Boating facilities – Marinas and launch ramps (A)(2, 7, 10, 11, 12); (B)(1)(h, n); (B)(10)(a, c(ii)) • 23.100.050 Commercial use (A)(3); (B)(5)(b) • 23.100.060 Flood control works and instream structures (A)(2)(b, d); (B)(1)(e) • 23.100.070 Industrial and port development (A)(5) • 23.100.080 Mining (A)(1, 6(b), 7); (B)(1, 8(b)), 9(a), 10(c, d, e)) • 23.100.090 Moorage – Docks, piers and mooring buoys (A)(4, 5, 11); (B)(5, 6, 7(c)) • 23.100.110 Residential (A)(11); (B)(1)(b, i) • 23.100.130 Shoreline stabilization (A)(10); (B)(1)(a); (B)(3)(b, c) • 23.100.150 Transportation (A)(8); (B)(1)(a, e, i); (B)(2)(e) • 23.100.160 Utilities (B)(1)(a)(i, ii); (B)(1)(b)(ii); (B)(1)(c)(ii); (B)(2)(d) • 23.100.170 Cherry Point management area (A)(5, 6, 7(a)); (B)(1)(a)(ii); (B)(4)(a)(ii, iv); (B)(4)(d)(i); (B)(5) • Ch. 23.60 Shoreline Permits and Exemptions (multiple instances in the permit processing criteria) 	The CompPlan recognizes the SMP, with its goals and policies, as the “shoreline element” of the CompPlan.
P8U-2	Support improved communication and understanding between aquatic land landowners and the public through such mechanisms as management plans, community forums,			There are no such policies in the CompPlan or the SMP.

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	environmental testing/monitoring stations, and educational programs.			
P8U-3	Work cooperatively with State agencies such as the Washington State Departments of Ecology, Fish and Wildlife, and Natural Resources, and adjacent upland property owners and the general public to address community concerns and land use conflicts that may arise as a result of marine resource land practices.	P10B-4, P10C-1, P10F-3	<ul style="list-style-type: none"> • 23.90.020 Land use (A)(3) • 23.90.070 Archaeological, historic and cultural resources • 23.100.030 Aquaculture (A)(7 & 8); (B)(1)(u) • 23.100.070 Industrial and Port Development (A)(4)(a) 23.100.100 Recreation (10) • 23.100.120 Restoration and Enhancement (A)(1) • 23.100.170 Cherry Point Management Area (A)(1)(d) 	The CompPlan already contains 3 policies, and the SMP contains a myriad of policies, calling for and/or requiring cooperation between governments, agencies, landowners, and the public to address community concerns and land use conflicts.
P8U-4	Continue cooperation and funding for a comprehensive Pollution Identification and Correction (PIC) program as needed to reduce bacterial pollution to levels that meet National Shellfish Sanitation Program Growing waters criteria to allow reopening of closed shellfish beds, and to maintain the operation of those beds in a commercially viable manner.			The CompPlan, while it describes the PIC Program, does not contain any policies regarding its continuation. Nor is the PIC program a land use/shoreline regulation, and is thus not addressed in the SMP.
Fish and Wildlife				
G8V	Ensure that operations associated with marine resource lands avoid adverse impacts to the survival and habitat of aquatic species, particularly to threatened and endangered fish and wildlife species and shellfish resources.	P10A-9, P10K-2, P10L-8	<ul style="list-style-type: none"> • 20.100.020 Agriculture (A)(2) • 23.100.030 Aquaculture (A)(1, 5, 6, 7, 9); (B)((1)(d, e, i); (B)(2)(a)(viii, xi); (B)(2)(b)(ii) • 23.100.040 Boating facilities – Marinas and launch ramps (A)(2, 7, 10, 11, 12); (B)(1)(h, n); (B)(10)(a, c(ii)) • 23.100.050 Commercial use (A)(3); (B)(5)(b) • 23.100.060 Flood control works and 	Both the CompPlan and SMP contain policies similar to this.

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			instream structures (A)(2)(b, d); (B)(1)(e) <ul style="list-style-type: none"> • 23.100.070 Industrial and port development (A)(5) • 23.100.080 Mining (A)(1, 6(b), 7); (B)(1, 8(b)), 9(a), 10(c, d, e)) • 23.100.090 Moorage – Docks, piers and mooring buoys (A)(4, 5, 11); (B)(5, 6, 7(c)) • 23.100.110 Residential (A)(11); (B)(1)(b, i) • 23.100.130 Shoreline stabilization (A)(10); (B)(1)(a); (B)(3)(b, c) • 23.100.150 Transportation (A)(8); (B)(1)(a, e, i); (B)(2)(e) • 23.100.160 Utilities (B)(1)(a)(i, ii); (B)(1)(b)(ii); (B)(1)(c)(ii); (B)(2)(d) • 23.100.170 Cherry Point management area (A)(5, 6, 7(a)); (B)(1)(a)(ii); (B)(4)(a)(ii, iv); (B)(4)(d)(i); (B)(5) 	
P8V-1	Implement the Whatcom County Shoreline Management Plan with appropriate regulations within the context of the Critical Areas Ordinances.			Staff is unsure of what this means exactly. Nonetheless, the CAO is adopted as part of the SMP and are thus consistent.
P8V-2	Take action to reduce stormwater impacts on the marine food web and contaminant loads affecting the abundance and productivity of finfish and shellfish species.	G10F P10F-1, G10H, P10H-1 – 12, P10P-6, P10P-19	<ul style="list-style-type: none"> • Too many to list 	The CompPlan contains policies addressing stormwater, though it itself does not create programs (i.e., take action); that is done through the County’s budget and work plan. The SMP contains a myriad of policies and requirements that permit applicants address the impacts of stormwater.