



CITY OF
BAINBRIDGE ISLAND

**CITY OF BAINBRIDGE ISLAND
PLANNING COMMISSION MEETING
THURSDAY, MARCH 24, 2016
6:00 PM - 7:45 PM
CITY COUNCIL CHAMBER
280 MADISON AVE N
BAINBRIDGE ISLAND, WASHINGTON**

- 6:00 PM CALL TO ORDER
Call to Order, Agenda Review, Conflict Disclosure
- 6:05 PM REVIEW AND APPROVAL OF MINUTES
December 17, 2015
- 6:10 PM PUBLIC COMMENT
Accept public comment on off agenda items
- 6:15 PM GENERAL LTD. SHORELINE MASTER PROGRAM AMENDMENT
Study Session
- 7:15 PM AQUACULTURE LTD. SHORELINE MASTER PROGRAM
AMENDMENT
Study Session
- 7:40 PM NEW/OLD BUSINESS
- 7:45 PM ADJOURN

**** *TIMES ARE ESTIMATES****

Public comment time at meeting may be limited to allow time for Commissioners to deliberate. To provide additional comment to the City outside of this meeting, e-mail us at pcd@bainbridgewa.gov or write us at Planning and Community Development, 280 Madison Avenue, Bainbridge Island, WA 98110

For special accommodations, please contact Jane Rasely, Planning & Community Development
206-780-3758 or at jrasely@bainbridgewa.gov



**CITY OF BAINBRIDGE ISLAND
REGULAR PLANNING COMMISSION MEETING
THURSDAY, DECEMBER 17, 2015
6:00 p.m.-9:00 p.m.
CITY COUNCIL CHAMBER
280 MADISON AVE N
BAINBRIDGE ISLAND, WASHINGTON**

CALL TO ORDER - Call to Order, Agenda Review, Conflict Disclosure
REVIEW AND APPROVAL OF MINUTES – November 12, 2015 Planning Commission Meetings
PUBLIC COMMENT - Accept public comment on off agenda items
ORDINANCE 2016-01 Tree and Landscaping Regulations – Study Session
PUBLIC COMMENT ON COMPREHENSIVE PLAN UPDATE
2016 COMPREHENSIVE PLAN UPDATE
TRANSPORTATION ELEMENT: REVIEW GOALS AND POLICIES 5-15
PUBLIC COMMENT ON COMPREHENSIVE PLAN UPDATE
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER - Call to Order, Agenda Review, Conflict Disclosure

Chair J. Mack Pearl called the meeting to order at 6:01 PM. Planning Commissioners in attendance were Jon Quitslund, Lisa Macchio, Maradel Gale, Michael Lewars, William Chester and Michael Killion. City Staff present were Engineering Manager Chris Hammer, Senior Planner Jennifer Sutton and Administrative Specialist Jane Rasely who monitored recording and prepared minutes. City Consultant Joe Tovar attended. The agenda was reviewed and no conflicts were disclosed.

REVIEW AND APPROVAL OF MINUTES – November 12, 2015 Planning Commission Meetings

Motion: I move we approve the minutes from November 12, 2015.

Killion/Quitslund: Passed unanimously 6-0

PUBLIC COMMENT - Accept public comment on off agenda items

Tom Dreiling, Citizen – Stated he was the chair of the Planning Commission years ago, thanked the Commissioners for their service and understood about the late night meetings. Mr. Dreiling continued saying he was there to address an upcoming Conditional Use Permit (CUP) application for a zip line in an R-5 residential area in Lynwood Center just south of the Manor House facility. It would be surrounded on three sides by residences in an R-5 zone and his goal was to preview to them and request the Commissioners treat the application as a major CUP application and NOT a minor one. He stated there had been some confusion about the notices given out to the community.

There was a brief meeting of 15 or so of the neighbors and many had not received any notice whatsoever. They were fearful this application would be treated as a minor CUP. Mr. Dreiling said he had sent electronic letters to both Planning Director Kathy Cook and Planning Manager Joshua Machen about it and hoped the letter would be circulated to them at some point. He quoted BIMC 2.16.110 saying there were certain criteria for a CUP to be treated as a major CUP and he felt the application fit almost all of those criteria listing the access roads as Pleasant Beach Drive, Dodson and Woodson stating it would certainly exceed 36 round trips per day. He described “3 of the 8 platforms of screamers” as exceeding the 35’ limit for an R-5 zone. He felt the project was not harmonious and compatible with the adjacent residential vicinity and could not possibly meet the noise requirements if they operated a fun zip line referencing BIMC 16.16.020. He asked the Commissioners to please allow for public input by making the project a major CUP. He mentioned others from the neighborhood were in attendance and knew of at least one that wanted to speak.

Commissioner Gale asked Planner Sutton if the Planning Commission would be seeing the project Mr. Dreiling spoke about. Planner Sutton stated that minor CUP on their face would not go to the Planning Commission just as minor Site Plan Reviews (SPR) would not. She further explained that the code had a provision that if substantial public comment was received on a minor CUP or SPR, the Director may opt to bring it to the Planning Commission for a Public Meeting. Chair Pearl asked Mr. Dreiling exactly where the site was located. Ms. Sutton stated Director Cook felt the volume of public comment she had already received about the project was going to meet that threshold of sending a minor CUP to the Planning Commission for a public meeting. She stated it was uncertain what the date of that meeting would be but confirmed that anyone who had provided written comment would receive notice of when that meeting would be scheduled. Commissioner Gale asked what the difference between a “minor” and a “major” Conditional Use Permit were. Ms. Sutton stated that in the Code there were different thresholds for what could be processed as a minor CUP or SPR compared to a major CUP or SPR. She felt the parameters were pretty clear, but as she was not very familiar with the project, but project manager, Planning Manager Josh Machen must have thought the project description met the requirements for being processed as a minor CUP. She did state that one of those criteria was that the use was specifically listed as a conditional use in the zone which outdoor recreation was. Chair Pearl felt there should be a little more definition of what an outdoor recreation was. Ms. Sutton stated there was a definition of “outdoor recreation” in BIMC 18.36. Mr. Dreiling recommended Code Provision 2.16.110 (d) saying it set forth the criteria for consideration as to whether a project was a major or minor CUP and going on to say he felt it was within the parameters of subpart (d). Commissioner Lewars asked where the project was in the review period. Ms. Sutton stated based on the notice date, the project is still in the middle of review. Commissioner Killion asked Mr. Dreiling what his most serious concern about the zip line was. Mr. Dreiling responded it was noise. He reiterated he felt this project was not compatible with a residential neighborhood. He felt it would be better suited to a more rural part of the Island listing the Grand Forest or Gazzam Lake. He stated the Manor House held weddings and asked the Commissioners to imagine a screamer going down the zip line during a wedding. He stated he lived in the area and did not look forward to those noises. He went on to say he felt the applicant was not making an accurate representation of what the traffic would be. He went on to say he did not feel the parking would be where the developer stated but that it would be along Pleasant Beach Drive and parking there was already unworkable and maxed out. He felt the project needed to have a public hearing. He told the Commissioners that if it came before them as a minor CUP, one of their options would be to make it a major CUP and have a full public hearing with the Hearing Examiner which would allow for two opportunities for public input. Commissioner Chester asked how big the zip line was and where it went. Mr. Dreiling

stated it went from the top of the property to the bottom with 5 zip lines and 8 elevated stations along the way.

Joe Rochelle, Citizen – Stated he lived next to the estuary in Lynwood Center on Point White Drive in a house built just a few years ago. He hoped when they drove by the Commissioners did not notice it because they tried to really blend in with the area that was there. He said he was a 21 year resident of Bainbridge Island raising both of his kids here. He went on to say that they lived in the apartments above Lynwood Center while building their retirement home and that during that time, Pleasant Beach Village restarted up again. They watched the construction of that being completed and one of the things he really liked was feeling as though it was compatible with the neighborhood. He felt Lynwood Center was a beautiful neighborhood center now and all the locals really enjoyed the sense of community and neighborhood that was there. He continued by saying while he had no particular objections to zip lines, he did not think it was appropriate for this neighborhood setting. He said the grants being applied for emphasize its touristy nature, bringing people outside to come in and have a great time at this particular destination kind of event. He felt like from a traffic, noise, community and neighborhood standpoint, this was not the place to do that. He did not question the applicants' integrity, intentions or experience having never met them, but did not feel Lynwood Center was an appropriate place for a zip line. He was encourage that the Planning Commission seemed to be moving in the direction of this project getting a full blown public hearing because he thought a lot of people in the neighborhood had significant concerns about this development. After looking at the criteria for a major CUP, he felt this application really fit that and not what he saw on the notice as a minor CUP without a public meeting. He hoped the Commission would ask staff to treat this application as a major CUP and give it the full public hearing it deserved.

Ron Byron, Citizen – Stated he lived on Blakely Heights Drive and his property bordered part of the proposed zip line property and had sent some questions to Planning Manager Josh Machen and that Mr. Machen had only answered one (the nearest distance from the property would be 100 feet.) He said he saw a map of the proposed area and it looked like some of the stations went right up against the property. He also mentioned one of the things it was okay to do there was to have tourist activities and that issue had been skirted. He felt since it bordered a residential property, if that tourism was something where buses where coming in with large groups of people, he would really like to have a full hearing and find out what was fact and what was fiction on this project.

ORDINANCE 2016-01 TREE AND LANDSCAPING REGULATIONS – Study Session

Planner Sutton gave an overview of the process the Tree Ad Hoc Committee had been going through since January 2014 to review all City Tree Ordinances. She stated the Committee had poured over the current regulations in depth. Discussion began with single family residences (SFR) and how far ordinances should go in regulating existing SFRs as opposed to just new SFRs. Commissioner Lewars suggested SFRs have their own third category and not be lumped in with subdivisions and larger development. Commissioner Pearl then went on to ask for more specific language to protect the root zone even if the tree is on the edge of the buffer. He also asked for fines at 1 ½ times in addition to replacing illegally removed trees. Ms. Sutton asked everyone to mark their calendars for Tuesday, January 12, 2016 at 6:30 for Part II: Community Conversation on Water.

PUBLIC COMMENT ON COMPREHENSIVE PLAN UPDATE

Ron Peltier, Citizen – Watched a little of the work the Tree Ad Hoc Committee was doing and felt it seemed to be going rather slowly. It occurred to him when he was listening to the conversation and having watched the review of the Environmental Element of the Comprehensive Plan was that there needed to be more strongly stated policies in the Environmental Element. He hoped they could take a serious look at that citing the statements regarding trees were not particularly strong but more recommendations. He was interested in seeing these things as work continued.

Charles Schmid, Citizen – Passed out “Some Suggestions on Transportation Element” (see attached). Mr. Schmid reviewed each suggestion giving his rationale.

2016 COMPREHENSIVE PLAN UPDATE

TRANSPORTATION ELEMENT: REVIEW GOALS AND POLICIES 5-15

The Commissioners agreed the Drafting Committee should look at the suggestions Mr. Schmid made because they felt they all made sense. Planner Sutton then began the dialogue stating the Commission had reviewed TR1 through TR4 at their last meeting and picking up the discussion with TR5. Definitions of “collector” and “arterial” were discussed with Engineering Manager Hammer suggesting the Commission might want to change the definitions of these street types to correspond with protecting residential streets/neighborhoods. The idea of having an additional road type like “horse, bike, walk” was proposed by Commissioner Macchio as a way to encourage drivers to use the main arterials. That idea furthered discussion of means to slow and redirect traffic back to the main arterials. The idea of a vision for State Highway 305 was also reconsidered and how to work with the Washington State Department of Transportation in order to see that the Island’s vision was secured.

PUBLIC COMMENT ON COMPREHENSIVE PLAN UPDATE

Ron Peltier, Citizen – Wanted to speak again about level of service requirements for bicyclists and pedestrians. He stated there was plenty of support for these because people had come and spoken about it but he did not feel it was getting any traction with the Planning Commission or the Drafting Committee. He encouraged the Commissioners to think about it more because he thought level of service requirements for bicyclists and pedestrians could help further some of the other things they were talking about like making the roads friendlier for bikes and pedestrians. He thought it would also help inform some of the development patterns. He referenced TR 6.5 as touching on this quoting, “enforce the City’s concurrency ordinance and monitor the expected transportation impact and propose development on the available capacity of the roadway system before issuing development approval. Ensure there are adequate transportation facilities or that improvements are scheduled and funded within six years.” He said there were similar statements about level of service TR 6.10 going on to say the difference between levels of service for bikes and pedestrians and for cars was that with cars, the focus was mostly on intersections. There needed to be a good definition of level of service for bicyclists and pedestrians which had a lot to do with the roads in between the intersections, the shoulders and how safe it is for them to coexist with cars. He strongly encouraged they not discard the idea of levels of service for bicyclists and pedestrians and asked for a possible tool to limit growth on the interior of the Island feeling that contributed to the traffic on the Island’s roads.

Chair Pearl thought they had been talking about levels of service for bicyclists and cars and if they could find the right place to put that into the Transportation Element, they would like to do that.

NEW/OLD BUSINESS

None.

ADJOURN

Meeting was adjourned at 8:27 PM.

Accepted by:

J. Mack Pearl, Chair

Jane Rasely, Administrative Specialist

DRAFT



CITY OF
BAINBRIDGE ISLAND

PLANNING & COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Planning Commission

FROM: Christy Carr, AICP
Senior Planner

DATE: March 24, 2016

RE: Study Session on Shoreline Master Program Limited Amendment

I. INTRODUCTION

At the February 25, 2015 Planning Commission meeting, staff proposed that the Planning Commission review proposed revisions to the SMP within several topic areas. The following topic areas are being presented tonight:

- **Consolidate and simplify regulations related to shoreline buffer:** The 1996 SMP referred to a “native vegetation zone.” This term was replaced in the 2014 SMP with a two-zone (Zone 1 and Zone 2) shoreline buffer. The lion’s share of SMP regulations address structures and vegetation within the shoreline buffer. Two sections – Section 4.1.2.5 (Regulations – Revegetation Standards) and Section 4.1.3 – Vegetation Management – contain similar and sometimes conflicting regulations about vegetation in the shoreline buffer. These two sections need to be consolidated and simplified to improve consistency and ease of use and eliminate unintended consequences of conflicting code.
- **Vegetation Alteration and Maintenance:** Revisions are needed to clarify when revegetation standards apply, what is allowed without City review (e.g.; landscape maintenance), the differences between vegetation within and outside the shoreline buffer, and what (if any) regulations apply to pruning/thinning/limbing of existing vegetation for general and/or view maintenance. Regulations related to significant tree and hazard tree removal need to be clarified.

II. OVERVIEW OF PROPOSED REVISIONS

Revisions are proposed to two sections – Section 4.1.2, Environmental Impacts and Section 4.1.3 – Vegetation Management. The primary purpose of the revisions is to simplify and clarify these two sections, which requires significant reorganization of the sections. To facilitate review and dialogue, the revisions are not presented in strikethrough/underline format; rather, two versions of each section are provided: one is the existing section, the other is the proposed, revised section (attached). The strikethrough/underline format would be too cumbersome for review purposes since large portions of text have been “cut and paste” from each section.

As titled and presented, the two sections lack clarity as to their purpose and intent. Section 4.1.2 is presently titled, “Environmental Impacts.” “Environmental Impact Mitigation” is a basic concept or principal provided in Ecology’s shoreline master program guidelines (guidelines) (WAC 173-26-201(2)(e)). The basic principal is that all proposed shoreline development, uses and activities require an analysis of environmental impacts, the analysis of environmental impacts shall be conducted consistent with the preferred mitigation sequence listed in WAC 173-26-201(2)(e) and the proposal must result in no net loss of shoreline ecological functions and processes. **This section was revised to better reflect the intent of the basic concept provided in Ecology’s shoreline master program guidelines, remove any language that does not apply and improve clarity of implementation of the regulations.**

Section 4.1.3 is titled, “Vegetation Management.” The corresponding general master program provision in the guidelines is titled, “Shoreline Vegetation Conservation” (WAC 173-26-221(5)). Its purpose is to conserve and protect shoreline vegetation through a variety of measures such as clearing and grading regulations, setback and buffer standards and mitigation requirements. This section establishes the shoreline buffer standards. The majority of the section deals with vegetation alteration in the shoreline buffer. **This section was revised to improve clarity regarding exceptions and existing landscaping, consolidate all shoreline buffer reduction provisions and mitigation requirements, and clarify that vegetation management regulations apply only to new development, uses and activities.**

Revisions to Table 4-3 are also proposed (attached) only to improve clarity.

Planning Commission Action: The Commission should ask questions of staff about the information presented. The Commission should provide input to staff on the proposed revisions.

III. NEXT STEPS

Staff is developing additional text amendments and a summary and narrative of proposed changes and will complete other submittal requirements for the limited amendment as the process proceeds.

Commission members should read the current SMP regulations in anticipation of reviewing proposed changes. Particular sections of focus include:

- Section 4.1.5.8 and Appendix B-9
- Section 4.2.1
- Shoreline Single Family Residence Mitigation Manual

The Planning Commission will continue to review proposed revisions at its April 21, 2016 meeting.

Existing SMP

4.1.2 Environmental Impacts

4.1.2.1 Applicability

All shoreline development and activity shall be located, designed, constructed, and managed in a manner that avoids, minimizes and/or mitigates adverse impacts to the shoreline environment. The preferred mitigation sequence (avoid, minimize, rectify, reduce, or compensate for the environmental impact) shall follow that listed in WAC 173-26-201(2)(e). See definition of “Mitigation” listed in this Master Program, in Section 8.0, Definitions.

In approving shoreline development, the City shall ensure that shoreline development, use, and/or activities will result in no net loss of ecological functions and ecosystem-wide processes necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time consistent with constitutional and statutory limitations on the regulation of private property. To this end, the City may require modifications to the site plan and/or adjustments to proposed project dimensions, intensity of use, and screening, as deemed appropriate. If impacts cannot be avoided through design modifications, the City shall require compensatory mitigation commensurate with the project’s adverse impacts.

4.1.2.2 Goal

Minimize impacts of shoreline development, uses and activities on the environment during all phases of development (e.g. design, construction, and management).

4.1.2.3 Policies

1. Ensure all shoreline uses, activities and developments are designed and located in a manner that prevents or mitigates adverse impacts to shoreline ecological functions and ecosystem-wide processes, including the use of the mitigation sequence (avoid, minimize, rectify, reduce, compensate); and make available flexible alternatives to accommodate preferred shoreline uses.
2. Ensure, through appropriate monitoring and enforcement measures that all required conditions are met, and improvements are installed and properly maintained.
3. Promote shoreline uses and activities within critical areas which do not cause significant adverse impacts to ecological functions and ecosystem-wide processes, such as public access on publicly owned lands.
4. In assessing the potential for new uses, activities and developments to cause adverse impacts, take into account all of the following:
 - a. Effects on ecological functions and ecosystem-wide processes, including temporal loss of functions; and
 - b. Effects that occur on-site and effects that may occur off-site; and
 - c. Direct and indirect effects and long-term effects of the project; and

- d. Effects of the project and the incremental or cumulative effects resulting from the project added to other past, present, and reasonably foreseeable future actions; and
 - e. Compensatory mitigation actions that offset adverse impacts of the development action and/or use.
5. To provide for comprehensive management strategies for shoreline areas, integrate planning and regulatory measures, such as those within the comprehensive plan, regional watershed plans, or state and federal regulations.

4.1.2.4 Regulations-Impact Analysis and No Net Loss Standard

1. All shoreline development, use and activities, including preferred uses, and uses that are exempt from a shoreline substantial permit, shall be located, designed, constructed, and maintained in a manner that protects ecological functions and ecosystem-wide processes. All proposed shoreline development, uses and activities shall:
- a. Utilize the required mitigation sequence of Section 4.1.2.6, Regulations – Mitigation; and
 - b. Utilize effective erosion and scour control methods during project construction and operation; and
 - c. Minimize adverse impacts to critical salt water habitat, fish and wildlife conservation areas, and/or other ecological functions and ecosystem-wide processes, such as those provided by shoreline vegetation; and
 - d. Minimize interference with beneficial natural shoreline processes, such as water circulation, sand and gravel transport movement, erosion, and accretion; and
 - e. Avoid hazards to public health and safety; and
 - f. Minimize the need for shoreline stabilization measures and flood protection in the future; and may require a geotechnical analysis to ensure that the proposed activity meets this regulation (See Section 6.2, Shoreline Stabilization); and
 - g. Result in no net loss of ecological functions and processes necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time.
2. In reviewing and approving shoreline development, use or activity, regardless of whether a permit is required the following shall apply:
- a. The Administrator shall condition the shoreline development, use, and/or activities such that it will:
 - i. Meet provisions in subsection 1 above; and
 - ii. Employ measures to mitigate adverse impacts on shoreline functions and processes, if necessary; and
 - iii. Modify the site plan and/or adjust the project dimensions, intensity of use, or screening as deemed appropriate to address impacts. If impacts cannot be avoided through design modification, the Administrator shall require compensatory mitigation, pursuant to regulations in Sections 4.1.2.5,

Regulations – Revegetation Standards, and 4.1.2.6, Regulations – Mitigation; and

- b. If a proposed shoreline development, use or activity is determined by the Administrator to result in significant short-term, long-term, or cumulative adverse environmental impacts lacking appropriate compensatory mitigation, it shall be sufficient reason for the Administrator to deny a permit.
3. To assure that development activities contribute to meeting the no net loss provisions pursuant to subsection 1 and 2 above, an applicant is required to submit a site-specific analysis of potential impacts and a mitigation plan that includes compensatory mitigation measures when determined necessary as a result of the analysis. The site-specific analysis shall be prepared in accordance with Section 4.1.2.9, Submittal Requirements – Site-Specific Impact Analysis and Mitigation Plan.
4. To mitigate anticipated impacts and meet the no net loss standards in subsection 1 and 2 above, an applicant for a single family residential development or accessory structures may choose to use the Standard Residential Mitigation Manual in Appendix D in lieu of a site-specific impact analysis and mitigation plan. If an applicant uses the Single Family Residential Mitigation Manual, compensatory mitigation requirements provided in the manual shall be included in the project submittal.

4.1.2.5 Regulations – Revegetation Standards

1. Vegetation replanting is required for all development, uses or activities within the 200-foot shoreline jurisdiction that either alters existing native vegetation or any vegetation in the required Shoreline Buffer or Vegetation Management Areas, whether a permit is required or not. This includes invasive species removal. Minimum requirements for planting plans can be found in the City’s Administrative Vegetation Management Manual. The following information shall be submitted for approval prior to vegetation disturbance as part of a project proposal or clearing permit pursuant to BIMC 15.18, Land Clearing:
 - a. Residential, Industrial and Commercial Development.
 - i. Vegetation disturbance of 200 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.
 - ii. Vegetation disturbance-greater than 200 square feet requires that the planting plan shall be completed by a qualified professional or the applicant may use the single-family residential mitigation manual.
 - b. Public Park and City Maintained Areas.
 - i. Vegetation disturbance of 2,500 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.
 - ii. Vegetation disturbance greater than 2,500 square feet requires that the planting plan shall be completed by a qualified professional.
2. For vegetation mitigation in the Shoreline Buffer or Site-specific Vegetation Management Areas, all new plantings shall meet the provisions in Section 4.1.3.5(5), except for the Point Monroe District which shall meet special provisions in subsection 6,

3. If the Shoreline Buffer is altered or reduced pursuant to provisions of Section 4.1.3, Vegetation Management or Section 4.2.1, Nonconforming Uses, Non-Conforming Lots, and Existing Development, the following shall occur in Zone 1:
 - a. Retain existing native vegetation; and
 - b. Plant the entire area of Zone 1. Obtain 65% vegetation canopy coverage within 10 years.
4. When vegetation mitigation is required for new upland development, uses, or activities the mitigation plan shall include new plantings that are protective of views from the primary structure of the subject property and in proportion to the identified impact. Mitigation shall be located in the following sequence, except for the Point Monroe District which shall meet special provisions in subsection 6,
 - a. Within Zone 1, plant vegetation-to obtain a minimum of 65% native vegetation canopy coverage;
 - b. In Zone 2, plant to increase canopy coverage, in a manner that promotes contiguous native vegetation or in areas nearest the shoreline;
 - c. In the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor that connects to the shoreline;
 - d. Outside of the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor to the shoreline;
 - e. Outside of the Shoreline Buffer; or
 - f. At an off-site location approved by the Administrator, within Zone 1, plant to meet the standard of subsection a.
5. When mitigation is required for shoreline stabilization projects due to site disturbance, the required planting plan shall also include the following, unless an alternative planting plan is approved by the Administrator:
 - a. Replant 75% of the shoreline area located along the upland edge of the shoreline stabilization structure to a minimum depth of ten (10) feet, unless demonstrated to be infeasible to the Administrator;
 - i. The depth may be reduced to five (5) feet to allow for landscape design variation, provided that the total square footage of the area planted equals the required 75% of the shoreline;
 - b. Planting plans shall meet provisions in Section 4.1.3.5(5), and shade bearing plants shall be provided at suitable-fish spawning sites; and
 - c. Include plantings equivalent to one tree per ever 20 linear feet of shoreline and one shrub per ever five linear feet, which may be planted with due consideration of views from the primary structure of the subject property.
6. Special Mitigation Provisions for Point Monroe District. When vegetation mitigation is required for new development, uses, or activities in the Point Monroe District, the mitigation plan shall include new vegetation communities appropriate for dune, sand spit, barrier beach, barrier estuary, or barrier lagoon,

including salt marsh that shall be installed within the spit-specific vegetation management area (SVMA) as defined in Section 4.1.3.5(9), thirty (30) foot setback between the OHWM and the primary structure, or where area is available on the site.

4.1.2.6 Regulations – Mitigation

1. Mitigation Sequence: Mitigation shall include the following actions in order of priority (a-e), and (f) is required for all mitigation activities:
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
2. When compensatory mitigation is necessary to offset impacts, mitigation measures in the immediate vicinity of the impact shall be the preferred mitigation option. Property owners may be required to perform the balance of compensatory mitigation off-site if the property cannot support required mitigation or when off-site mitigation can be demonstrated to the satisfaction of the Administrator to be more beneficial to shoreline ecological functions and processes. For example, off-site mitigation may be the better choice if large, cohesive areas are available off-site while only small fragmented areas are available on-site for mitigation.
3. Mitigation actions shall not have a significant adverse impact on other preferred shoreline uses promoted by the policies of the Shoreline Management Act.
4. When compensatory mitigation measures are required, all of the following shall apply:
 - a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources; and
 - b. The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities can grow and mature over time; and
 - c. Unless the Single-family Residential Mitigation Manual is being used for single-family residential development and accessory structures pursuant to Section 4.1.2.4(4), the mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory and

Characterization Report, the Shoreline Restoration Plan and other background studies prepared in support of this Program; and

- d. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values, pursuant to Section 4.1.2.7, Surety Regulations.
5. To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment, the City may give mitigation credit to any beneficial restoration action that occurred within 10 years of the proposed development/redevelopment activity provided that:
 - a. The applicant/property owner declares the intent of the restoration or enhancement project as mitigation credit at the time of the restoration permit application; and
 - b. The City can confirm via site inspection, photographs, or other evidence that the restoration actions have improved shoreline conditions.
6. Where feasible, replacement compensatory mitigation should be required prior to impact and, if applicable, prior to final inspection and approval of building occupancy; and to ensure no net loss, the mitigation shall replace the functions as quickly as possible following the impact.

4.1.2.7 Regulations – Surety

1. The applicant/property owner shall provide assurance to the satisfaction of the Administrator, that the restoration area (including off-site mitigation) will be maintained in perpetuity. The assurance can be in the form of notice on title, conservation easement, or similar mechanism as approved by the City Attorney.
2. Except for projects undertaken by public entities, performance and/or maintenance bonds or other security shall be required by the City to assure that work is completed, monitored, and maintained. The bond/surety shall be refunded to the depositor upon completion of the mitigation activity and any required monitoring.

4.1.2.8 Regulations – Monitoring and Maintenance

1. When mitigation is required, a periodic monitoring program shall be included as a component of the required mitigation plan. To ensure the success of the required mitigation, monitoring shall occur for a minimum duration of five years from the date of the completed development. The monitoring plan may also require that periodic maintenance measures be included as recommended by a qualified professional. The duration of monitoring may be extended if the project performance standards set forth in the approved mitigation plan fail to be accomplished, or, due to project complexity, the approved mitigation plan requires a longer period of monitoring.
2. Monitoring programs may be forwarded for review and comment to state and/or federal resource agencies and affected tribes with jurisdiction.
3. Monitoring programs shall meet the requirements established in Monitoring Requirements, Appendix B, B-6(C)(2)(e).

4. All new and replacement shoreline stabilization projects shall complete and submit a minimum five-year monitoring and maintenance program that addresses the shoreline stabilization mitigation measures, and shall at a minimum include:
 - a. An annual site visit by a qualified professional for each of the five (5) years to assess the effectiveness of the mitigation; and
 - b. A progress report submitted to the Administrator annually, which includes any monitoring or maintenance recommendations of the qualified professional.

4.1.3 Vegetation Management

4.1.3.1 Applicability

Vegetation management is required for protection and conservation within the shoreline jurisdiction. Dimensional and other development standards, including buffers, are established based on site-specific development and conditions or as specified for that particular shoreline designation. The purpose of vegetation management is to protect and enhance the Island's natural character, water quality, native plant communities, and wildlife habitat within the shoreline jurisdiction. Vegetation management activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

Vegetation management includes conservation activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions and processes of shoreline areas. Vegetation management provisions include vegetation restoration, the prevention or restriction of plant clearing and earth grading, and the control of invasive weeds and nonnative vegetation species.

The Vegetation Management provisions apply to all shoreline development, and regulated uses and activities, including those that do not require a shoreline permit. Similar to other master program provisions, vegetation standards do not apply retroactively to existing uses and structures unless changes or alterations are proposed. Standards for vegetation management are established using current scientific and technical information pursuant to WAC 173-26-221(5)(b) and 173-26-201(2)(a), and are based on the use category, shoreline characterization and the designation. Standards are provided in Section 4.0, and Tables 4-2 and 4-3.

4.1.3.2 Goal

Protect and restore shoreline vegetation to maintain and enhance ecological functions and processes, shoreline views and vistas, human safety, and personal property.

4.1.3.3 Policies

1. Maintain existing shoreline vegetation to protect ecological functions and/or processes from adverse impacts of uses, activities and developments within the shoreline jurisdiction.

2. Emphasize the use of native vegetation species to maintain the ecological functions and/or processes and mitigate the direct, indirect, and/or cumulative impacts of shoreline development, uses and activities.
3. Provide flexible dimensional standards for buffers and setbacks that are based on performance standards designed to protect ecological functions and ecosystem-wide processes, including considering alternatives to planting native vegetation species if it can be demonstrated that the equivalent ecological functions can be provided.
4. Use monitoring programs to ensure the protection of shoreline ecological functions and ecosystem-wide processes, particularly when non-native vegetation species are used as an alternative to native vegetation.
5. Encourage the restoration or enhancement of shoreline vegetation through incentive programs.
6. Establish buffers immediately upland of OHWM for each shoreline designation, recognizing the pattern of development, shoreline ecological functions and ecosystem-wide processes, and using current science and technical information, as described in WAC 173-26-201(2)(a). In establishing buffers, consideration should be given to the land use patterns to minimize the number of existing structures that would not conform to buffer dimensional standards.
7. At the time of a proposal, allow site-specific dimensional standards for vegetation management areas for shoreline development, use or activity. Dimensional standards must protect shoreline ecological functions and ecosystem-wide processes.
8. Implement a public education program emphasizing the importance of shoreline vegetation management.
9. Allow selective vegetation clearing for views for new development and to maintain views from existing residences when slope stability and ecological functions and ecosystem-wide processes are not compromised. Trimming and pruning are generally preferred over removal of native shoreline vegetation.
10. Develop specific regulations for Point Monroe, based on vegetation and management practices appropriate for dune communities, sand spits, barrier beaches, barrier estuaries or barrier lagoons.

4.1.3.4 Regulations – Exceptions

1. Vegetation management standards shall not apply retroactively to existing lawfully established conforming and nonconforming uses and developments, including maintenance of existing residential landscaping, such as lawns and gardens. Property owners are strongly encouraged to voluntarily improve shoreline vegetation conditions over the long term.
2. Existing buffers and setbacks that have been established through previously approved subdivisions and indicated on the face of an approved plat shall be recognized and adhered to.
3. The following shall be exempt from the provisions of Section 4.1.3.

- a. Maintenance trimming of vegetation that has a main stem or supporting structure which is less than three (3) inches in diameter; except that tree topping or other vegetation removal is not exempt.
- b. Buffer enhancement through the removal of noxious or invasive weeds, provided the following are met:
 - i. The vegetation removal is based on consultation with the Kitsap County Noxious Weed Board or the species being removed are on the Washington State Noxious Weed List (WAC 16-750, or its successor); and
 - ii. The vegetation removal is conducted in a manner consistent with best management practices (BMP); and
 - iii. Replanting occurs in the disturbed area in accordance with Section 4.1.2.5, Revegetation Standards.
- c. Removal of hazard trees, as defined in Appendix B, where a report by an arborist or other qualified professional demonstrates to the satisfaction of the Administrator that trimming is not sufficient to address the hazard provided:
 - i. Mitigation is provided in accordance with Section 4.1.2, Environmental Impacts, including:
 - A. Requiring that the downed tree be retained on the site to provide or enhance wildlife or marine habitat; and/or
 - B. When possible, require that the hazard tree be topped for safety and remain as a wildlife snag; or
 - ii. When a hazard tree is located in a geologically hazardous area, the applicant shall submit a Bluff Management Plan pursuant to Section 4.1.5, Critical Areas. The hazard tree may be removed prior to the approval of the plan if it is necessary to protect life and property.
- d. Commercial forest practices and the removal of trees pursuant to a Forest Practices Permit (Class II, III and IV-S only) issued by the Washington State Department of Natural Resources under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, including Appendix B, and shall be limited to the minimum necessary to accommodate an approved use.

4.1.3.5 Regulations - General

1. Development within the shoreline jurisdiction shall be located and designed to protect existing native vegetation from disturbance to the fullest extent possible, to mitigate impacts to existing vegetation, and to meet the standard of no net loss of ecological functions and processes, Section 4.1.2, Environmental Impacts.
2. Vegetation clearing, or grading, may not be undertaken within the shoreline jurisdiction without prior review and approval by the Administrator, unless otherwise exempt under Section 4.1.3.4, Regulations – Exceptions, or as provided in subsection 7 below, with an

approved Standard Operation Procedure (SOP) manual. Clearing and grading may be subject to Section 4.1.4, Land Modification.

3. Two alternative methods may be used to meet the goals and policies of the Vegetation Management Section, as provided below, except the Point Monroe District shall meet the special provisions provided in subsection 9:
 - a. Site-Specific Vegetation Management Areas
 - i. As an alternative to the Shoreline Buffer dimensions provided in subsection b, below, an applicant may propose specific dimensional standards that meet the Vegetation Management goals and policies as determined through a Habitat Management Plan prescribed in Appendix B, Section B-4, provided that the plan demonstrates the following:
 - A. The proposed development is for a residential use.
 - B. The site-specific proposal assures there is no net loss of the property's specific shoreline ecological functions and associated ecosystem-wide processes pursuant to Section 4.1.2, Impact Analysis and No Net Loss; and
 - C. The site-specific proposal uses the scientific and technical information* compiled to support the Shoreline Buffer standards of Section 4.1.3.5(3)(b), and/or other appropriate technical information which, as determined by a qualified professional, demonstrates how the proposal protects ecological functions and processes and how it meets the goals and policies of this Section.
 - ii. The Habitat Management Plan shall be reviewed by the Administrator in accordance with provisions in Appendix B. The Administrator may approve, approve with conditions, or deny the request. The Administrator shall have the Habitat Management Plan reviewed by an independent third party, the cost of which will be borne by the applicant.
 - iii. If the Site-specific Vegetation Management Area is approved, prior to permit issuance, the applicant shall record with the County Auditor a notice on title, or other similar document subject to the approval of the Administrator.

*Footnote: Scientific and technical information supporting the Shoreline Buffer standards is provided in the following documents available at the City of Bainbridge Island's Department of Planning and Community Development: *Documentation of Marine Shoreline Buffer Recommendation Discussions*, Memorandum, 2011, Herrera Environmental; *Addendum to Summary of Science*, 2011, Herrera Environmental; *Bainbridge Island Current and Historic Coastal Geomorphic/Feeder Bluff Mapping*, 2010, Coastal Geologic Services, Inc.; *Best Available Science*, 2003, Battelle; *Bainbridge Island Nearshore Habitat Characterization and Assessment*, 2004 Battelle.

7. Vegetation clearing and maintenance activities, except those which are part of new construction, are allowed consistent with an approved SOP manual for vegetation maintenance and management of public parks, public trails, public rights-of-way or easements, publicly-owned property, and/or other areas normally maintained by the City. A shoreline substantial development permit may be required for the SOP manual. The SOP manual shall include the following prescriptive elements:
 - a. Procedures for maintaining vegetation on shoreline properties, shoreline trails or shoreline rights-of-way and easements, including procedures for noxious weed removal;
 - b. Procedures for maintaining vegetation in Critical Areas, Shoreline Buffers, or Site-specific Vegetation Management Areas, or other sensitive land areas, including areas with cultural resources;
 - c. Procedures for mitigation and vegetation replanting including appropriate species list; and
 - d. Procedures for review and approval of allowed activities occurring under the scope of the SOP, including procedures for documenting activities.
8. Minor vegetation removal outside the shoreline buffer or site-specific vegetation management area on a developed property not associated with new construction may be allowed, as provided in this program with an approved clearing permit provided:
 - a. The Administrator may grant approval of minor vegetation clearing if it meets the provisions of this Program and the following:
 - i. The minor vegetation clearing allowed within a three (3) year period will include an area no greater than 200 square feet in area and/or no more than 3 non-significant trees per 20,000 square feet up to a maximum of six (6) trees; and
 - ii. Native vegetation will not be removed from the Shoreline Buffer or Vegetation Management Area; and
 - iii. All applicable standards of an approved Vegetation Management Plan are met; and
 - iv. The replanting is performed pursuant to Section 4.1.2.5, Revegetation Standards; and
 - v. A Bluff Management Plan is provided pursuant to Section 4.1.5, Critical Areas for any vegetation alteration in a geologically hazardous area.
 - b. Proposed clearing must meet the provisions of Sections 4.1.2, Environmental Impacts and 4.1.4, Land Modification.
9. **Special Provisions for Point Monroe District.** Shoreline Buffers or Site-specific Vegetation management Areas are not required for properties located in the Point Monroe District;-the following specific vegetation provisions shall apply:
 - a. All properties in the Point Monroe District shall retain existing native vegetation and shall be subject to a Point Monroe vegetation management area (PVMA).
 - b. The PVMA shall include areas that are:
 - i. Within thirty (30) feet of the OHWM and within the required side yard and the salt marsh fringe; and

- ii. Outside any designated development area as approved pursuant to Section 5.9.6(2).
- c. The PVMA shall be managed and maintained in vegetation communities appropriate to dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh.
- d. Developed properties shall retain existing native vegetation (including dune grass and salt marsh plant communities) in those areas that are not developed with legally established impervious surfaces.
- e. Any new development or alterations and expansion of existing development shall assess impacts to existing vegetation and meet the no net loss standard pursuant to Section 4.1.2, Environmental Impacts.

4.1.3.6 Regulations – Shoreline Buffer – Location and Design Standard

1. The total depth of the Shoreline Buffer is based on the shoreline designation and the physical and most predominant geomorphic characteristics of the property. The depth of the Shoreline Buffer will be determined by the Administrator according to criteria below.
 - a. Property-specific physical and geomorphic characteristics of the particular lot will determine the maximum width (Category A) or minimum width (Category B) of the Shoreline Buffer, as follows:
 - i. Shoreline Buffer Category A: The property contains or abuts a spit/barrier/backshore, or marsh, or lagoon; or
 The property contains or abuts a low bank and the existing native tree and shrub vegetation cover is at least 65% of the area of Shoreline Buffer Zone 1.
 - ii. Shoreline Buffer Category B: The property is shallow (200 feet in depth or less, as measured landward), or located on a high bluff, or does not meet any of the characteristics of Category A.
 - b. Shoreline Buffer standard depth in Table 4-3
 - c. As determined by the Administrator, buffers do not extend beyond an existing public paved street or an area which is determined by the Administrator to be functionally isolated from the shoreline or critical area. In these limited instances the no net loss of shoreline ecological function and processes still apply to properties within the shoreline jurisdiction.
2. The total area of the Shoreline Buffer shall be the equivalent of the length of the property along the shoreline, multiplied by the required buffer depth as prescribed for the specific shoreline designation in which the property is located. See Figure 4-1.
3. The Shoreline Buffer consists of two zones. The depth of each of the two zones within the Shoreline Buffer is determined as follows:
 - a. Zone 1 shall extend from the ordinary high water mark (OHWM) a minimum of 30 feet, or to the limit of existing native vegetation whichever is greater. The native vegetation limit is determined through a site-specific analysis of existing

conditions, and in no case shall Zone 1 be greater than the depth of the Shoreline Buffer.

- b. Zone 2 shall be established immediately landward of the Zone 1 and extend no further than the depth of the Shoreline Buffer.
4. The following zone specific planting regulations apply to the Shoreline Buffer:
- a. New lawns are not permitted in Zone 1.
 - b. In Zone 2, one-third (1/3) of the area may be planted in a combination of grass lawns and approved structures provided:
 - i. Significant native trees are not removed to establish such use, or
 - ii. The buffer has been reduced through view provisions of Section 4.1.3.11.
 - c. The remaining two-thirds (2/3) of Zone 2 shall be maintained in a native vegetative state.
 - d. Planted areas in which fertilizers might be applied shall be located as far landward of Zone 1, as feasible.

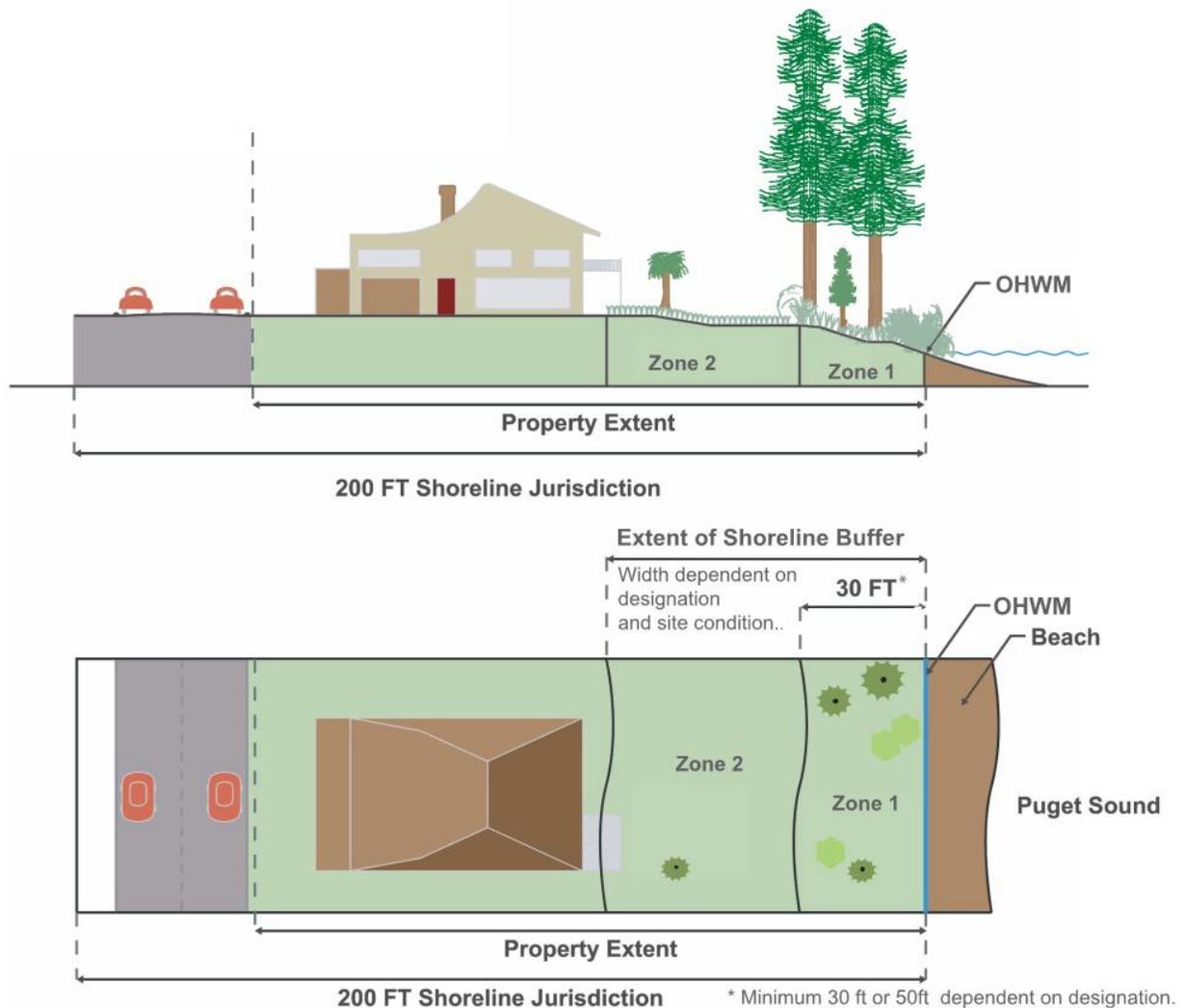


Figure 4-1 Dual Shoreline Buffer

4.1.3.7 Regulations – General Vegetation Alterations in Shoreline Buffers or Site-specific Vegetation Management Areas

1. The following activities are allowed within the Shoreline Buffer and Site-specific Vegetation Management Area with an approved clearing permit. Such activities shall meet the standards of Section 4.1.4, Land Modification.
 - a. Existing landscape areas may be retained within the Shoreline Buffer or Site-specific Vegetation Management Area. However, any changes from the existing landscape to a different landscaping use or activity will require that the modified area comply with the provisions of 4.1.3, Vegetation Management, and the intent of providing native vegetation to maintain ecological functions and processes.

- b. **Minor Pruning.** Tree pruning, including thinning of lateral branches to enhance views, or trimming, shaping, thinning or pruning necessary for plant health and growth and which does not harm the plant, is allowed consistent with the following standards:
 - i. All pruning shall meet the American National Standard Institute (ANSI) tree pruning standards;
 - ii. In no circumstance shall removal of more than one-fourth (1/4) of the original crown be permitted within a three year period;
 - iii. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy; and
 - iv. Pruning shall retain branches that overhang the water.
 - c. **Vegetation Removal Related to Construction.** Tree or vegetation removal within the Shoreline Buffer or Site-Specific Vegetation Management Area that is associated with new construction may be allowed, but must retain significant trees and shall meet the requirements of Section 4.1.2, Environmental Impacts, including replanting provisions.
 - d. **Vegetation Removal Related to Public Facility Maintenance.** Tree or vegetation removal within the Shoreline Buffer or Site-specific Vegetation Management Area that is associated with maintenance of existing public facilities (including: roads, paths, bicycle ways, trails, bridges, sewer infrastructure facilities, storm drainage facilities, fire hydrants, water meters, pumping stations, street furniture, potable water facilities, and other similar public infrastructure), may be approved by the Administrator if no significant trees are removed, the requirements of Section 4.1.2, Environmental Impacts are met, and the maintenance is measures meet the goals and policies of Section 4.1.3, Vegetation Management, or as approved in a SOP manual as provided in Section 4.1.3.5(7). The following activities are exempt from this requirement:
 - i. Removal of vegetative obstructions required for sight distance and visual clearance at street intersections provided in the Public Works Design and Construction Standards and Specifications.
 - e. **Underground Utilities.** Utilities that run approximately perpendicular to the buffer (for example, a stormwater tightline to the water to protect a slope or a sewer line to a marina), may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Area, provided that disturbance is minimized and the disturbed area is revegetated after construction; and
 - f. **Other Approved Development in the Shoreline Buffer or Site-specific Vegetation Management Area.**
 - i. Potable water wells; and
 - ii. Approved shoreline stabilization;
2. **Shoreline Buffer Reductions.**

- a. When the prescriptive buffer depth is reduced or dimensions altered through provisions of this Program, the applicant shall record a notice on title, or other similar document with the County Auditor prior to permit issuance, subject to the approval of the Administrator.
 - b. If the required depth of a Shoreline Buffer for a single-family residential property is reduced in accordance with the Shoreline Structure Setback provisions of Section 4.1.3.11 or other reductions allowed through this Program, Zone 1 must be restored in accordance with provisions of Section 4.1.2.5.
- 3. Stairways to the shoreline shall not exceed 300 square feet for private use, the minimum necessary for public use and are not included in the total square footage allocations prescribed in subsections 4.1.3.8(3) of this Program.
 - a. Larger stairways serving a single-family residence may only be allowed through approval of a Shoreline Variance.
 - i. As an alternative to a stairway larger than 300 square feet and to reduce environmental impacts, a tram may be allowed without a variance.
 - b. Stairway design shall meet the following minimum criteria:
 - i. International Codes for:
 - A. Hand Railings;
 - B. Stairway width; and
 - C. Tread Depth.
 - ii. Landings are required, unless demonstrated not to be necessary, and shall be determined by:
 - A. Existing site topography;
 - B. Personal safety; and
 - C. Slope stability.

4.1.3.8 Vegetation Alterations Standards – Residential Development

Minor clearing, grading or construction may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Plan for a residential development with approval of the Administrator pursuant to Section 4.1.3.7(1)(a), and only for the following activities as prescribed below and pursuant to Section 4.1.4, Land Modification:

1. Maintenance of existing residential landscaping is allowed subject to Sections 4.1.3.5(8) and 4.1.3.7. 2. One (1) hand installed pervious trail to the shoreline not more than four (4) feet in width, which may include hand installed steps, and shall be designed to minimize environmental impacts. No significant trees shall be removed. The trail may be wider when required for handicapped or public access. For single-family residential development vegetation trimming is limited to two (2) feet on either side of the trail.
3. Non-habitable structures appurtenant to a single-family use, such as a boat house, deck/patio and/or stairway may be allowed consistent with the following standards, except

that all structures are prohibited in Zone 1 when upland of a Priority Aquatic –_Category A designation.

- a. For Site-specific Vegetation Management Areas, the total square footage of all buildings or structures must not exceed 300 square feet in area.
- b. For Shoreline Buffer areas, the total square footage of all buildings or structures must not exceed 400 square feet or 10% of the Shoreline Buffer area, whichever is less.
- c. For Shoreline Buffer areas, only 10% of the total allowed square footage or 300 square feet, whichever is less, can be located in Zone 1, except when upland of Priority Aquatic B, the total allowable square footage is 5% of Zone 1 or 150 square feet, whichever is less.
- d. All structures must be designed to not significantly impact views from adjoining property primary buildings.
- e. All structures must meet the following standards:
 - i. Only water-related structures are allowed within 30 feet of the OHWM or in Zone 1, including a boathouse, permeable deck, boat storage, or staircase.
 - ii. Shall not exceed 12 feet in height above existing grade.
 - iii. Decks and/or patios shall be permeable and shall not exceed 30 inches in height above existing grade.

4. View Maintenance – Single-family Residential Only.

Shoreline residential use and development shall use all feasible techniques to maximize retention of existing native shoreline vegetation within the Shoreline Buffer and the Site-specific Vegetation Management Area.

- a. Limited removal of existing trees or vegetation located on the same property as a single-family residence may be allowed for maintenance of a pre-existing view from the primary structure, or to establish a view for a new primary structure provided the following are met:
 - i. The applicant demonstrates to the satisfaction of the Administrator that the vegetation removal is the minimum necessary to re-establish or establish a view of the water similar to that enjoyed by other residences in the area and that pruning methods are not sufficient to provide an adequate view of the water similar to that enjoyed by other residences in the area; and
 - ii. Existing significant native trees are not removed within the Shoreline Jurisdiction, unless exempt; and
 - iii. In no instance, including accounting for other approved alterations as provided in Section 4.1.3, shall vegetation removal exceed twenty (20) percent of the required Shoreline Buffer area or Site-specific Vegetation Management Area or reduce the vegetation canopy coverage to less than 65% in the Shoreline Buffer or Vegetation Management Area.

- A. Vegetation removal occurring adjacent to the shoreline shall also be limited to fifteen (15) linear feet of the water frontage; and
 - iv. The applicant shall obtain an approved Bluff Management Plan pursuant to Section 4.1.5, Critical Areas for any vegetation alteration in a geologically hazardous area. The cost and preparation of the plan is the responsibility of the applicant; and
 - v. All vegetation removal complies with other applicable requirements of this Program (such as clearing and grading, forest practices, and protection standards for fish and wildlife habitat), including the no net loss and/or revegetation standards in Section 4.1.2.
- b. The Administrator may deny a request or condition approval for vegetation alteration proposals for view maintenance if it is determined that the action will result in an adverse effect to any of the following:
- i. Slope stability;
 - ii. Habitat value;
 - iii. Health of surrounding vegetation;
 - iv. Risk of wind damage to surrounding vegetation;
 - v. Nearby surface or ground water; or
 - vi. Water quality of a nearby water body.

4.1.3.9 Vegetation Alteration Standards – Commercial and Industrial Development in Shoreline Buffers

Minor clearing, grading, or construction may be approved within the Shoreline Buffer for a commercial or industrial development with approval of the Administrator pursuant to Section 4.1.3.7(1)(a) and only for the following activities as prescribed below and pursuant to Section 4.1.4, Land Modification:

1. Primary appurtenant structures to a commercial use that either support public access or are necessary to support a water-dependent use shall be allowed within the buffer when the applicant has demonstrated a need for the shoreline location, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic designation.
2. When appurtenant structures are allowed they must be the minimum necessary to meet the needs of the water-dependent use or public access requirements of Section 4.2.4, Public Access.

4.1.3.10 Vegetation Alteration Standards – Public Park Development in Shoreline Buffers

Minor clearing, grading, or construction may be allowed within the Shoreline Buffer for a public park development with approval of the Administrator consistent with the following or pursuant to Section 4.1.3.7:

1. Vegetation clearing and maintenance is allowed in accordance with an approved SOP manual that meets Section 5.1.3.5(7) and the standards of this Program.
2. Maintenance of existing public trails, provided the vegetation trimming is limited to four (2) feet on either side of the trail and no significant trees are removed.
3. Alterations that are included in a Park Development or Concept Plan. Minor clearing, grading, or construction for which the size and extent of proposed disturbed areas located within the Shoreline Buffer have been determined as part of a park development plan or concept park plan, with due consideration of the intended park use; and provided all proposed disturbance areas meet the no net loss standards pursuant to in accordance with Section 4.1.2. Environmental Impacts; and provided appropriate permits are obtained, including those pursuant to Section 4.1.4, Land Modification;
4. Alterations that are not part of a Park Development or Concept Plan. The following minor clearing, grading, or construction activities may be allowed without an approved park development plan or conceptual park plan:
 - a. Maintenance of existing public trails is allowed, provided maintenance is limited to the existing size of the trail, any vegetation trimming is limited to four (4) feet on either side of the trail, and no significant trees are removed.
 - b. New public pathways or trails to the shoreline provided it is demonstrated that the size and extent of the public pathways has been determined with due consideration of the intended park use.
 - c. Structures.
 - i. Primary appurtenant structures to a public park and recreational use that either support public access or are necessary to support a water-dependent recreation use shall be allowed within the Shoreline Buffer when a need for the shoreline location is demonstrated, except that all structures are prohibited in Zone1 when upland of a Priority Aquatic designation. When appurtenant structures are allowed, they must be the minimum necessary to meet the needs of the water-dependent use or public access requirements of Section 4.2.4, Public Access.
 - ii. The total square footage of all buildings or structures must not exceed 6,000 square feet or 10% of the Shoreline Buffer area, whichever is less.
 - A. Only 10% of the total allowed square footage or 1,000 square feet, whichever is less, can be located in Zone 1.
 - iii. All structures must be designated to not significantly impact views from adjoining property primary buildings.
 - iv. All structures must meet the following standards:
 - A. Only water-related recreational furniture, amenities and structures are allowed in Zone 1, including but not limited to, picnic tables, benches, interpretive kiosks, viewing platforms, boardwalks, pervious trails or staircases, recreational furniture, signs, pervious

trails, and staircases are not included in the maximum square footage allocations prescribed in subsection 4.c.ii, above;

- B. Accessory recreation buildings, including restrooms, picnic pavilions and service roads that serve such structures may be allowed in Zone 2 and buildings shall not exceed 12 feet in height above existing grade;
- C. Stairways may exceed 300 square feet, provided that it is demonstrated that a greater area is necessary to meet public access and public use demands. Stairways shall conform to the standards of the Building Code as adopted in BIMC Chapter 15.04.; and
- D. Boat ramps and other boating facilities may be allowed pursuant to Section 5.4, Boating Facilities.

4.1.3.11 Regulations – Shoreline Structure Setback View Requirement

1. To protect existing predominate shoreline views and accommodate shoreline views for a new single-family primary residential structure or addition to a primary residential structure, the Administrator may allow Zone 2 of the Shoreline Buffer to be altered when there is an existing primary residential structure located within 100 feet of the property line of the subject property and topographical or other relevant information indicates that the view of the shoreline from the subject property or the adjacent residence would be impacted by existing or proposed development. The shoreline structure setback line may also require that new structures be set farther away from the shoreline to preserve existing views enjoyed by an adjoining single-family primary structure that was established earlier. These provisions apply to single-family residences only, except in the Point Monroe District.
 - a. Setbacks for the purpose of this subsection are based on the location of primary residential structure(s) existing at the time a new primary residential building permit is submitted. A primary residential structure constructed in compliance with the required shoreline setback is not made nonconforming by the later construction of a primary residential structure in a different location on an adjoining lot.
 - b. The shoreline structure setback provisions apply only to primary single-family residential structures located within the 200-foot shoreline jurisdiction, where an existing primary single-family residential structure is located within 100 feet of the subject property line. All measurements are to the closest primary residential structure on either side of the subject property as measured parallel to the shoreline.
 - c. In determining the shoreline structure setback line, the Administrator may also consider topography or other physical property constraints in addition to the provisions of subsection 4 and 5, below. Applicants may submit detailed information regarding how property constraints impact the predominate shoreline views from either the subject property's proposed primary residential structure or adjoining properties' primary residential structure(s).

2. The Shoreline Buffer on the subject property may be reduced below the depth requirements identified in Table 4-3 to allow a new primary residential structure to be located within Zone 2 provided the conditions in Section 4.1.3.7(2) are met.-Mitigation of proposed residential development shall be required pursuant to Section 4.1.2, Environmental Impacts.
3. In no case shall the subject property be permitted to locate a new primary residential structure within the site's specified Zone 1 of the Shoreline Buffer, unless a Shoreline Variance is granted.
4. Adjoining Development Located Within Shoreline Buffer. The setback requirement for the subject property shall be based on the location of the adjoining properties' primary residential structure(s) as described in subsections (a) through (d) below.
 - a. Primary Residential Structure Located on One Side. When an existing primary residential structure is located on one side of the subject property, the shoreline structure setback line shall be determined as follows:
 - i. If the adjoining primary residence is partially or wholly located within Zone 2, the shoreline setback line is determined by drawing a line from the most waterward point of the adjoining primary residential structure to the point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 4.1.a below).
 - ii. If the adjoining primary residence is located partially or wholly in Zone 1, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property and the adjoining property's Zone 1 boundary, to the point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 4.1.b, below).
 - b. Primary Residential Structure Located on Both Sides. When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined as follows:
 - i. If both the adjoining primary residential structures are located partially or wholly in Zone 2, then the shoreline structure setback line shall be determined by drawing a line between the most waterward points of each of the adjoining primary residential structures. (See Figure 4.1.b, below)
 - ii. If one of the adjoining primary residences is partially or wholly in Zone 1, and the other adjoining primary residence is partially or wholly in Zone 2, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property and the adjoining property's Zone 1 boundary (for that adjoining residence located in Zone 1), to the most waterward point of the other adjoining primary residential structure located in Zone 2. (See Figure 4.1.b, below).
 - iii. If both of the adjoining primary residences are located partially or wholly within Zone 1, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property's Zone 1 boundary and the adjoining property's Zone 1 boundary to the same

intersection point on the subject property's opposite property line. (See Figure 4.1.c. below)

- c. **Primary Residential Structure Located on a Shoreline Forming a Cove or Headland.** The Administrator shall make the determination whether a shoreline forms a cove or headland. When existing primary residential structures are located on a cove or headland, the shoreline structure setback line shall be determined as follows:
 - i. If there is a primary residential structure on only one side of the subject property, then the shoreline structure setback line for the subject property shall be either the distance from the OHWM to the most waterward portion of the primary residence structure of the adjoining property, or the subject property's Zone 1, whichever is greater.
 - ii. If there are adjoining primary residential structures located on both sides of the subject property, the shoreline structure setback line shall be determined by averaging the distance from OHWM to the most waterward portion of the two adjoining property's primary residential structures. (See Figure 4-1(c) ii, below)
5. **Adjoining Development Located Outside the Shoreline Buffer.** The setback requirement for the subject property shall be based on the location of the adjoining properties' primary residential structure(s) as described in subsections (a) and (b) below.
 - a. **Primary Structure Located on One Adjoining Property, Outside Shoreline Buffer.** When an existing primary residential structure is located on one side of the subject property, the shoreline structure setback line shall be determined by drawing a line from the most waterward point of the primary residential structure of the adjoining property to a point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 5-1(a), below).
 - b. **Primary Structures Located on Both Adjoining Properties, Outside the Shoreline Buffer.** When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined by drawing a line between the most waterward points of each of the adjoining primary residential structures. (See Figure 5-1(b), below).
 - c. **Primary Structures Located on Both Adjoining Properties, Outside the Shoreline on a Cove or Headland.** When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined by averaging the distance from OHWM to the most waterward portion of the two adjoining property's primary residential structures. (See Figure 5-1(c), below).

Table 4-3 Shoreline Buffer Standards Table

Additional Use restrictions for BIMC Titles 17 and 18 may apply

SHORELINE USE	UPLAND DESIGNATION				
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban
<p>The shoreline buffer consists of two management areas Zone 1 and Zone 2. Zone 1 is located closest to the water; it is a minimum of 30 feet in all designations, except in Natural and Island Conservancy the minimum is 50' and expands to include existing native vegetation. Zone 2 is the remaining area of the shoreline buffer. See figure XXX</p>					
<p>Category A: Low bank lots with 65% Canopy Area in Zone 1, OR spit/barrier/backshore, marsh lagoon, or rocky shores. Category B: Low bank with less than 65% Canopy Area in Zone 1, or lots with a depth < 200' or High Bluff. Geomorphic Class (i.e. low bank, High Bluff) shall be determined by Battelle 2004 Nearshore Characterization and Inventory.</p>					
Developed lots					
Category A	200'	150'	115'	75'	30'
Category B	200'	100'[1]	75'[1]	50'[1]	30 [1]
Undeveloped lots					
	200'	150'	150'	75/150'[2]	30'
<p>1. For High bluff properties the greater distance of 50' from the top of the bluff or the standard shoreline buffer. 2. If adjacent to the Priority Aquatic designation then 150' is required.</p>					

Proposed SMP Revisions – March 24, 2016

4.1.2 Environmental Impact Mitigation

4.1.2.1 Applicability

All proposed shoreline development, uses and activities require an analysis of environmental impacts of the proposal and shall include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with this Program and other applicable regulations. The analysis of such environmental impacts shall be conducted consistent with the preferred mitigation sequence listed in WAC 173-26-201(2)(e).

In approving new shoreline development, uses and activities the City shall ensure that shoreline development, uses and activities will result in no net loss of ecological functions and ecosystem-wide processes necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time consistent with constitutional and statutory limitations on the regulation of private property. To this end, the City may require modifications to the site plan and/or adjustments to proposed project dimensions, intensity of use, and screening, as deemed appropriate. If impacts cannot be avoided through design modifications, the City shall require compensatory mitigation commensurate with the project's adverse impacts.

4.1.2.2 Goal

Minimize environmental impacts of shoreline development, uses and activities during all phases of development (e.g. design, construction, and management).

4.1.2.3 Policies

1. Ensure all shoreline development, uses and activities are designed and located in a manner that prevents or mitigates adverse impacts to shoreline ecological functions and ecosystem-wide processes, including the use of the mitigation sequence (avoid, minimize, rectify, reduce, compensate); and make available flexible alternatives to accommodate preferred shoreline uses.
2. Ensure, through appropriate monitoring and enforcement measures that all required conditions are met, and improvements are installed and properly maintained.
3. Promote shoreline uses and activities within critical areas which do not cause significant adverse impacts to ecological functions and ecosystem-wide processes, such as public access on publicly owned lands.
4. In assessing the potential for new uses, activities and developments to cause adverse impacts, take into account all of the following:
 - a. Effects on ecological functions and ecosystem-wide processes, including temporal loss of functions; and
 - b. Effects that occur on-site and effects that may occur off-site; and

- c. Direct and indirect effects and long-term effects of the project; and
 - d. Effects of the project and the incremental or cumulative effects resulting from the project added to other past, present, and reasonably foreseeable future actions; and
 - e. Compensatory mitigation actions that offset adverse impacts of the development action and/or use.
5. To provide for comprehensive management strategies for shoreline areas, integrate planning and regulatory measures, such as those within the comprehensive plan, regional watershed plans, or state and federal regulations.

4.1.2.4 Regulations-Impact Analysis and No Net Loss Standard

1. All shoreline development, uses and activities, including preferred uses, and uses that are exempt from a shoreline substantial permit, shall be located, designed, constructed, and maintained in a manner that protects ecological functions and ecosystem-wide processes. All proposed shoreline development, uses and activities shall:
- a. Utilize the required mitigation sequence of Section 4.1.2.5, Regulations – Mitigation; and
 - b. Utilize effective erosion and scour control methods during project construction and operation; and
 - c. Minimize adverse impacts to critical salt water habitat, fish and wildlife conservation areas, and/or other ecological functions and ecosystem-wide processes, such as those provided by shoreline vegetation; and
 - d. Minimize interference with beneficial natural shoreline processes, such as water circulation, sand and gravel transport movement, erosion, and accretion; and
 - e. Avoid hazards to public health and safety; and
 - f. Minimize the need for shoreline stabilization measures and flood protection in the future; and may require a geotechnical analysis to ensure that the proposed activity meets this regulation (See Section 6.2, Shoreline Stabilization); and
 - g. Result in no net loss of ecological functions and processes necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time.
2. In reviewing and approving shoreline development, use or activity, regardless of whether a permit is required the following shall apply:
- a. The Administrator shall condition the shoreline development, use, and/or activities such that it will:
 - i. Meet provisions in subsection 1 above; and
 - ii. Employ measures to mitigate adverse impacts on shoreline functions and processes, if necessary; and
 - iii. Modify the site plan and/or adjust the project dimensions, intensity of use, or screening as deemed appropriate to address impacts. If impacts cannot be avoided through design modification, the Administrator shall require

compensatory mitigation, pursuant to regulations in Sections 4.1.2.5, Regulations – Mitigation and 4.1.3, Vegetation Management.

- b. If a proposed shoreline development, use or activity is determined by the Administrator to result in significant short-term, long-term, or cumulative adverse environmental impacts lacking appropriate compensatory mitigation, it shall be sufficient reason for the Administrator to deny a permit.
3. An applicant for any shoreline development, use or activity must demonstrate compliance with the no net loss provisions pursuant to subsection 1 and 2 above, as follows:
 - a. Demonstrate use of applicable mitigation measures in the Single Family Residence Shoreline Mitigation Manual provided in the City’s Administrative Manual. Proposed mitigation measures and the manual’s “Checklists for Mitigation Approval” must be included in the application; or
 - b. If the project site or proposal does not qualify for use of the Single Family Residence Shoreline Mitigation Manual, submit a site-specific impact analysis in accordance with the guidance provided in the City’s Administrative Manual. A mitigation plan must be included when determined to be necessary as a result of the analysis.

4.1.2.5 Regulations – Mitigation

1. To ensure the no net loss standard is met, any adverse impacts must be mitigated in accordance with mitigation sequencing pursuant to WAC 173-26-201(2)(e):
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
2. Unless the Single Family Residence Shoreline Mitigation Manual is being used, mitigation sequencing must be documented in a site-specific impact analysis. If mitigation is necessary as a result of the site-specific impact analysis, a mitigation plan meeting the applicable provisions in Appendix B-6, including a periodic monitoring program, is required.
3. When compensatory mitigation is necessary to offset impacts, mitigation measures in the immediate vicinity of the impact shall be the preferred mitigation option. Property owners

may be required to perform the balance of compensatory mitigation off-site if the property cannot support required mitigation or when off-site mitigation can be demonstrated to the satisfaction of the Administrator to be more beneficial to shoreline ecological functions and processes. For example, off-site mitigation may be the better choice if large, cohesive areas are available off-site while only small fragmented areas are available on-site for mitigation. Mitigation shall be located and designed in the following order of priority, except for the Point Monroe District, which shall meet special provisions in subsection 3.

- a. Within Zone 1, plant vegetation to obtain a minimum of 65% native vegetation canopy coverage;
 - b. In Zone 2, plant to increase canopy coverage, in a manner that promotes contiguous native vegetation or in areas nearest the shoreline;
 - c. In the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor that connects to the shoreline;
 - d. Outside of the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor to the shoreline;
 - e. Outside of the Shoreline Buffer; or
 - f. At an off-site location approved by the Administrator, within the Shoreline Buffer or Site Specific Vegetation Management Area, plant to meet the standard of subsections a through c.
3. Special Mitigation Provisions for Point Monroe District. When vegetation mitigation is required for new development, uses, or activities in the Point Monroe District, the mitigation plan shall include new vegetation communities appropriate for dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh that shall be installed within the spit-specific vegetation management area (SVMA) as defined in Section 4.1.3.5(9), thirty (30) foot setback between the OHWM and the primary structure, or where area is available on the site.
4. When compensatory mitigation measures are required, all of the following shall apply:
- a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources; and
 - b. Unless the Single-Family Residence Shoreline Mitigation Manual is being used, the required mitigation plan shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory and Characterization Report, the Shoreline Restoration Plan and other background studies prepared in support of this Program; and
 - c. All mitigation activities shall be monitored and maintained to ensure that they achieve their intended functions and values, pursuant to Section 4.1.2.7, Mitigation Monitoring and Maintenance; and
 - d. Mitigation actions shall not have a significant adverse impact on other preferred shoreline uses promoted by the policies of the Shoreline Management Act; and
 - e. Any new plantings shall be in proportion to the identified impact and may be protective of views from the primary structure of the subject property.

5. For vegetation mitigation in the Shoreline Buffer or Site-specific Vegetation Management Area, all new plantings shall meet the provisions in Section 4.1.3.10.2, except for the Point Monroe District which shall meet special provisions in subsection 3.
6. Where feasible, mitigation should be required prior to impact and prior to final inspection and approval of building occupancy and shall replace the functions as quickly as possible following the impact.
7. To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment, the City may give mitigation credit to any beneficial restoration action that occurred within 10 years of the proposed development/redevelopment activity provided that:
 - a. The applicant/property owner declares the intent of the restoration or enhancement project as mitigation credit at the time of the restoration permit application; and
 - b. The City can confirm via site inspection, photographs, or other evidence that the restoration actions have improved shoreline conditions.
8. When mitigation is required for shoreline stabilization projects due to site disturbance, the required planting plan shall also include the following, unless an alternative planting plan is approved by the Administrator:
 - a. Replant 75 percent of the shoreline area located along the upland edge of the shoreline stabilization structure to a minimum depth of ten (10) feet, unless demonstrated to be infeasible to the Administrator;
 - i. The depth may be reduced to five (5) feet to allow for landscape design variation, provided that the total square footage of the area planted equals the required 75% of the shoreline;
 - b. Planting plans shall meet provisions in 4.1.3.10.2 and shade bearing plants shall be provided at suitable-fish spawning sites; and
 - c. Include plantings equivalent to one tree per ever 20 linear feet of shoreline and one shrub per ever five linear feet, which may be planted with due consideration of views from the primary structure of the subject property.

4.1.2.6 Regulations – Mitigation Surety

1. When mitigation is required, the applicant/property owner shall provide a notice on title, conservation easement, or similar mechanism as approved by the City Attorney and recorded with the County Auditor, that the mitigation area (including off-site mitigation) will be maintained in perpetuity.
2. When mitigation is required, except for projects undertaken by public entities, performance and/or maintenance bonds or other surety shall be required by the City to assure that work is completed, monitored, and maintained. The bond/surety shall be refunded to the depositor upon completion of the mitigation activity and any required monitoring.

4.1.2.7 Regulations – Mitigation Monitoring and Maintenance

1. When mitigation is required as demonstrated either by a site-specific impact analysis or use of the Single-Family Shoreline Residence Mitigation Manual, a periodic monitoring program is required to ensure that proposed mitigation actions achieve their intended functions and values.
2. Monitoring programs shall meet the requirements established in Monitoring Requirements, Appendix B, B-6(C)(2)(e).
3. To ensure the success of the required mitigation, monitoring shall occur for a minimum duration of (5) five years from the date of the completed development. The duration of monitoring may be extended if the project performance standards set forth in the approved mitigation plan fail to be accomplished, or, due to project complexity, the approved mitigation plan requires a longer period of monitoring.
4. Monitoring programs may be forwarded for review and comment to state and/or federal resource agencies and affected tribes with jurisdiction.
5. The monitoring program may also require that periodic maintenance measures be included as recommended by a qualified professional to ensure the mitigation site and associated vegetative planting is nurtured and maintained such that healthy native plant communities can grow and mature over time.
6. Monitoring programs for all new and replacement shoreline stabilization projects shall include:
 - a. An annual site visit by a qualified professional for each of the five (5) years to assess the effectiveness of the mitigation; and
 - b. A progress report submitted to the Administrator annually, which includes any monitoring or maintenance recommendations of the qualified professional.

4.1.3 Vegetation Management

4.1.3.1 Applicability

The intent of vegetation management provisions is to protect and restore the ecological functions and ecosystem-wide processes performed by vegetation along shorelines and to protect human safety and property, increase the stability of marine bluffs, reduce the need for structural shoreline stabilization measures, improve the visual and aesthetic qualities of the shoreline, protect plant and animal species and their habitats, and to enhance shoreline uses.

The vegetation management provisions apply to all new shoreline development, uses and activities, including those that do not require a shoreline permit. Similar to other provisions of this Program, vegetation standards do not apply retroactively to existing uses and structures. Standards for vegetation management provisions are established using current scientific and technical information pursuant to WAC 173-26-221(5)(b) and 173-26-201(2)(a), and are based on the use category, shoreline characterization and the designation. Standards are provided in Section 4.0, and Tables 4-2 and 4-3.

4.1.3.2 Goal

Protect and restore shoreline vegetation to maintain and enhance ecological functions and processes, shoreline views and vistas, human safety, and personal property.

4.1.3.3 Policies

1. Maintain existing shoreline vegetation to protect ecological functions and/or processes from adverse impacts of uses, activities and developments within the shoreline jurisdiction.
2. Emphasize the use of native vegetation species to maintain the ecological functions and/or processes and mitigate the direct, indirect, and/or cumulative impacts of shoreline development, uses and activities.
3. Provide flexible dimensional standards for buffers and setbacks that are based on performance standards designed to protect ecological functions and ecosystem-wide processes, including considering alternatives to planting native vegetation species if it can be demonstrated that the equivalent ecological functions can be provided.
4. Use monitoring programs to ensure the protection of shoreline ecological functions and ecosystem-wide processes, particularly when non-native vegetation species are used as an alternative to native vegetation.
5. Encourage the restoration or enhancement of shoreline vegetation through incentive programs.
6. Establish buffers immediately upland of OHWM for each shoreline designation, recognizing the pattern of development, shoreline ecological functions and ecosystem-wide processes, and using current science and technical information, as described in WAC 173-26-201(2)(a). In establishing buffers, consideration should be given to the land use patterns to minimize the number of existing structures that would not conform to buffer dimensional standards.

7. At the time of a proposal, allow site-specific dimensional standards for vegetation management areas for shoreline development, use or activity. Dimensional standards must protect shoreline ecological functions and ecosystem-wide processes.
8. Implement a public education program emphasizing the importance of shoreline vegetation management.
9. Allow selective vegetation clearing for views for new development and to maintain views from existing residences when slope stability and ecological functions and ecosystem-wide processes are not compromised. Trimming and pruning are generally preferred over removal of native shoreline vegetation.
10. Develop specific regulations for Point Monroe, based on vegetation and management practices appropriate for dune communities, sand spits, barrier beaches, barrier estuaries or barrier lagoons.

4.1.3.4 Regulations – Exceptions

1. Vegetation management standards shall not apply retroactively to existing lawfully established conforming and nonconforming uses and developments, including maintenance of existing residential landscaping. Property owners are strongly encouraged to voluntarily improve shoreline vegetation conditions over the long term.
2. Existing buffers and setbacks that have been established through previously approved subdivisions and indicated on the face of an approved plat shall be recognized and adhered to.
3. The following shall be exempt from the provisions of Section 4.1.3.
 - a. Removal of noxious or invasive plants, provided:
 - i. Noxious weed removal is based on consultation with the Kitsap County Noxious Weed Board or the species being removed are on the Washington State Noxious Weed List (WAC 16-750, or its successor);
 - ii. The vegetation removal is conducted in a manner consistent with best management practices (BMP); and
 - iii. Any bare ground over 200 square feet is replanted in accordance with a list of proposed native plants and their spacing and size approved by the City prior to noxious or invasive plant removal.
 - b. Removal of hazard trees, as defined in Appendix B, where a report by an arborist or other qualified professional demonstrates to the satisfaction of the Administrator that trimming is not sufficient to address the hazard provided:
 - i. When possible, require that the hazard tree be topped for safety and remain as a wildlife snag;
 - ii. Replanting is provided to ensure the no net loss standard is met pursuant to Section 4.1.2.4;
 - iii. When a hazard tree is located in a geologically hazardous area, the applicant shall submit a geotechnical engineering report providing a geotechnical analysis of slope stability and addressing vegetation management for slope stability and ecological functions and processes for a ten year period. Replanting shall be provided to ensure the no net loss standard is met

pursuant to Section 4.1.2.4. The hazard tree may be removed prior to the approval of the plan if it is necessary to protect life and property.

- c. Commercial forest practices and the removal of trees pursuant to a Forest Practices Permit (Class II, III and IV-S only) issued by the Washington State Department of Natural Resources under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, including Appendix B, and shall be limited to the minimum necessary to accommodate an approved use.

4.1.3.5 Regulations – Existing Landscaping

1. Existing landscape areas are areas of living plants including trees, shrubs, flowers, herbs, groundcovers and fruits and vegetables for personal consumption. Existing landscape areas may be retained in their size and configuration existing prior to adoption of this Program.
2. Vegetation management standards do not apply to normal and routine maintenance, tending and cultivating of landscape areas and gardens.
3. Vegetation management standards do not apply to maintenance trimming or limbing of vegetation. Such maintenance is limited to the removal of branches or limbs that are less than three (3) inches in diameter and does not include tree topping. Dead plants may be removed for maintenance purposes.
4. Existing landscape areas may be altered provided that:
 - a. There is no change in the location, size at the ground level, and configuration; and
 - b. Any alteration is entirely inside the existing boundaries at ground level of the landscape area.
5. Any expansion of existing landscape areas will require that the modified area comply with the provisions of Section 4.1.3, Vegetation Management, and the intent of providing native vegetation to support shoreline ecological functions and processes.
6. Minor pruning, including thinning of lateral branches to enhance views, or trimming, shaping, thinning or pruning necessary for plant health and growth and which does not harm the plant, is allowed consistent with the following standards:
 - i. All pruning shall meet the American National Standard Institute (ANSI) tree pruning standards;
 - ii. In no circumstance shall removal of more than one-fourth (1/4) of the original crown be permitted within a three year period;
 - iii. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy; and

- iv. Pruning shall retain branches that overhang the water.

4.1.3.6 Regulations – General Standards

1. Development within the shoreline jurisdiction shall be located and designed to protect existing native vegetation from disturbance to the fullest extent possible, to mitigate impacts to existing vegetation, and to meet the standard of no net loss of ecological functions and processes, Section 4.1.2, Environmental Impacts.
2. Vegetation clearing or grading may not be undertaken within the shoreline jurisdiction without prior review and approval by the Administrator, unless allowed under Section 4.1.3.4, Regulations – Existing Landscaping and Section 4.1.3.5, Regulations – Exceptions. Clearing and grading may be subject to Section 4.1.4, Land Modification.
3. Vegetation replanting is required for all development, uses or activities within the 200-foot shoreline jurisdiction, whether a permit is required or not, that either:
 - a. Alters existing native vegetation; or
 - b. Alters any vegetation in a required Shoreline Buffer or Site-Specific Vegetation Management Area.
4. Vegetation replanting is required for invasive species removal in accordance with Section 4.1.3.4.3.a.
5. When vegetation replanting is required, the following information shall be submitted for approval prior to vegetation disturbance as part of a project proposal or clearing permit:
 - a. Residential, Industrial and Commercial Development.
 - i. Vegetation disturbance of 200 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.
 - ii. Vegetation disturbance greater than 200 square feet requires a planting plan completed by a qualified professional.
 - b. Public Park and City Maintained Areas.
 - i. Vegetation disturbance of 2,500 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.
 - ii. Vegetation disturbance greater than 2,500 square feet requires a planting plan completed by a qualified professional.
6. Significant tree removal shall only be permitted to allow for locating a single-family residence and normal appurtenances. The Administrator may require alterations of a site plan in order to retain significant trees. This may include adjustments to the location of building footprints, the location of driveways and access ways, or the location of walkways, easements or utilities.

7. Non-native_vegetation removal outside the shoreline buffer or site-specific vegetation management area on a developed property not associated with new construction may be allowed with an approved clearing permit provided:
 - a. Vegetation removal does not exceed:
 - i. An area greater than 200 square feet within a three (3) year period; and
 - ii. More than 3 non-significant trees per 20,000 square feet up to a maximum of six (6) trees.
 - b. No significant trees are removed; and
 - c. Replanting is provided pursuant to Section 4.1.3.10.2; and
 - d. A Bluff Management Plan is provided pursuant to Section 4.1.5, Critical Areas for any vegetation alteration in a geologically hazardous area.

4.1.3.7 Regulations – Establishment of Shoreline Buffer or Site-Specific Vegetation Management Area

1. Two alternative methods may be used to meet the goals and policies of the Vegetation Management Section, as provided below, except the Point Monroe District shall meet the special provisions provided in subsection 2:
 - a. Alternative 1: A Shoreline Buffer shall be maintained immediately landward of the OHWM and managed according to provisions of this Program and shall meet the location and design standards of Section 4.1.3.8, Regulations – Shoreline Buffer – Location and Design Standard.
 - b. Alternative 2: As an alternative to the Shoreline Buffer dimensions provided in subsection a, above, an applicant may propose specific dimensional standards for a Site-Specific Vegetation Management Area that meets the Vegetation Management goals, policies and applicable regulations as determined through a Habitat Management Plan prescribed in Appendix B, Section B-4, provided that the plan demonstrates the following:
 - A. The proposed development is for a residential use.
 - B. The site-specific proposal assures there is no net loss of the property's specific shoreline ecological functions and associated ecosystem-wide processes pursuant to Section 4.1.2, Impact Analysis and No Net Loss; and
 - C. The site-specific proposal uses the scientific and technical information* compiled to support the Shoreline Buffer standards of Section 4.1.3.5(3)(b), and/or other appropriate technical information which, as determined by a qualified professional, demonstrates how the proposal protects ecological functions and processes and how it meets the goals and policies of this Section.
 - ii. The Habitat Management Plan shall be reviewed by the Administrator in accordance with provisions in Appendix B. The Administrator may approve, approve with conditions, or deny the request. The Administrator

shall have the Habitat Management Plan reviewed by an independent third party, the cost of which will be borne by the applicant.

- iii. If the Site-specific Vegetation Management Area is approved, prior to permit issuance, the applicant shall record with the County Auditor a notice on title, or other similar document subject to the approval of the Administrator.

*Footnote: Scientific and technical information supporting the Shoreline Buffer standards is provided in the following documents available at the City of Bainbridge Island's Department of Planning and Community Development: *Documentation of Marine Shoreline Buffer Recommendation Discussions*, Memorandum, 2011, Herrera Environmental; *Addendum to Summary of Science*, 2011, Herrera Environmental; *Bainbridge Island Current and Historic Coastal Geomorphic/Feeder Bluff Mapping*, 2010, Coastal Geologic Services, Inc.; *Best Available Science*, 2003, Battelle; *Bainbridge Island Nearshore Habitat Characterization and Assessment*, 2004 Battelle.

2. **Special Provisions for Point Monroe District.** Shoreline Buffers or Site-specific Vegetation management Areas are not required for properties located in the Point Monroe District; the following specific vegetation provisions shall apply:
 - a. All properties in the Point Monroe District shall retain existing native vegetation and shall be subject to a Point Monroe vegetation management area (PVMA).
 - b. The PVMA shall include areas that are:
 - i. Within thirty (30) feet of the OHWM and within the required side yard and the salt marsh fringe; and
 - ii. Outside any designated development area as approved pursuant to Section 5.9.6(2).
 - c. The PVMA shall be managed and maintained in vegetation communities appropriate to dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh.
 - d. Developed properties shall retain existing native vegetation (including dune grass and salt marsh plant communities) in those areas that are not developed with legally established impervious surfaces.
 - e. Any new development or alterations and expansion of existing development shall assess impacts to existing vegetation and meet the no net loss standard pursuant to Section 4.1.2, Environmental Impacts.

4.1.3.8 Regulations – Shoreline Buffer – Location and Design Standard

1. The total depth of the Shoreline Buffer is based on the shoreline designation and the physical and most predominant geomorphic characteristics of the property. The depth of the Shoreline Buffer will be determined by the Administrator according to criteria below.
 - a. Property-specific physical and geomorphic characteristics of the particular lot will determine the maximum width (Category A) or minimum width (Category B) of the Shoreline Buffer, as follows:

- i. Shoreline Buffer Category A: The property contains or abuts a spit/barrier/backshore, or marsh, or lagoon; or
The property contains or abuts a low bank and the existing native tree and shrub vegetation cover is at least 65% of the area of Shoreline Buffer Zone 1.
 - ii. Shoreline Buffer Category B: The property is shallow (200 feet in depth or less, as measured landward), or located on a high bluff, or does not meet any of the characteristics of Category A.
 - b. Shoreline Buffer standard depth in Table 4-3
 - c. As determined by the Administrator, buffers do not extend beyond an existing public paved street or an area which is determined by the Administrator to be functionally isolated from the shoreline or critical area. In these limited instances the no net loss of shoreline ecological function and processes still apply to properties within the shoreline jurisdiction.
2. The total area of the Shoreline Buffer shall be the equivalent of the length of the property along the shoreline, multiplied by the required buffer depth as prescribed for the specific shoreline designation in which the property is located. See Figure 4-1.
3. The Shoreline Buffer consists of two zones. The depth of each of the two zones within the Shoreline Buffer is determined as follows:
 - a. Zone 1 shall extend from the ordinary high water mark (OHWM) a minimum of 30 feet, or to the limit of existing native vegetation whichever is greater. The native vegetation limit is determined through a site-specific analysis of existing conditions, and in no case shall Zone 1 be greater than the depth of the Shoreline Buffer.
 - b. Zone 2 shall be established immediately landward of the Zone 1 and extend no further than the depth of the Shoreline Buffer.

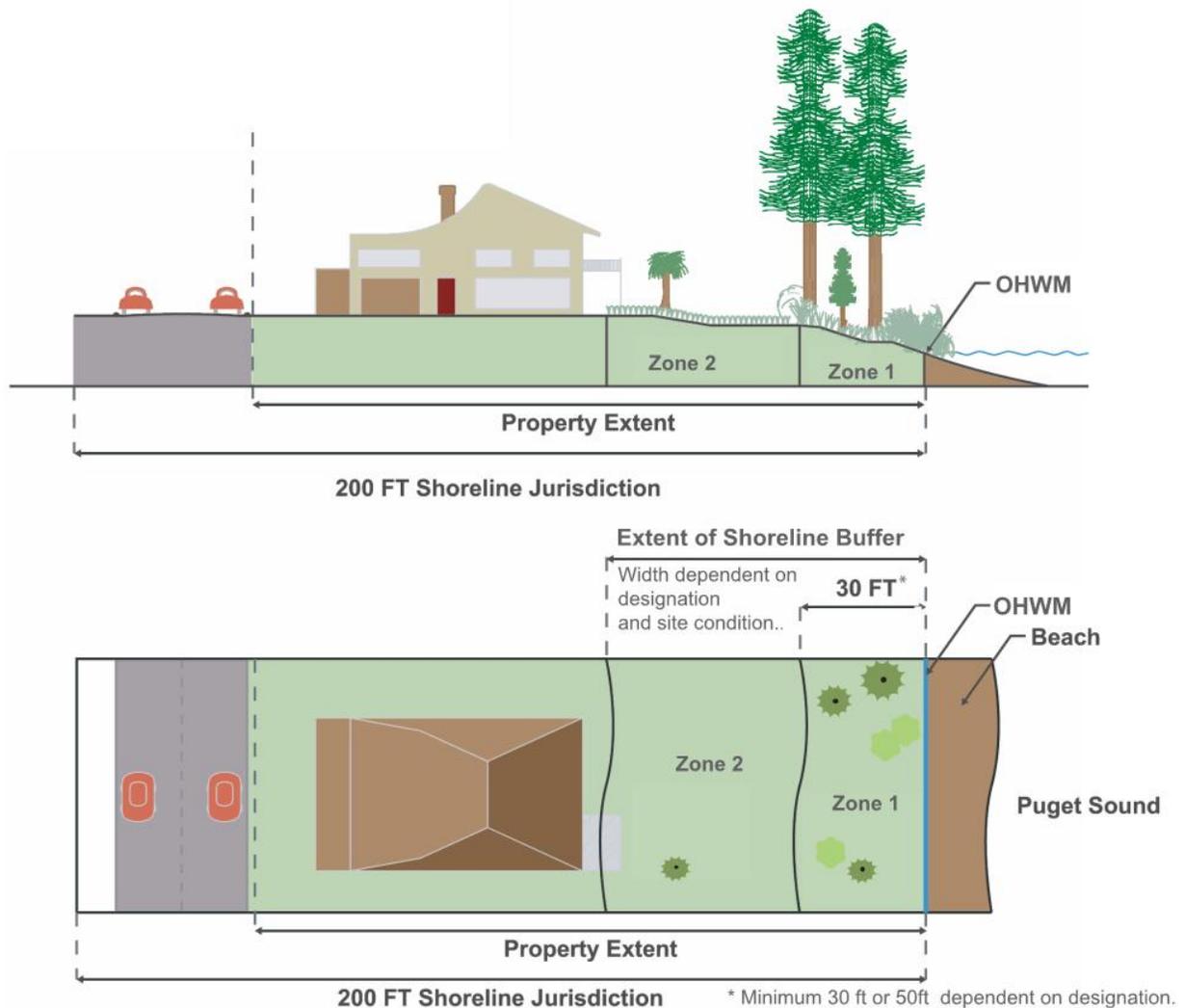


Figure 4-1 Dual Shoreline Buffer

4.1.3.9 Regulations – Shoreline Buffer Reductions

1. When the prescriptive buffer depth provided in Table 4-3 is reduced or dimensions altered through provisions of this Program, the applicant shall record a notice on title, or other similar document with the County Auditor prior to permit issuance, subject to the approval of the Administrator.
2. Any shoreline buffer reduction must be approved by the Administrator prior to any development, use or activity and must demonstrate compliance with the no net loss standard pursuant to Section 4.1.2.4 either through a site-specific impact analysis or use of the Single Family Residence Shoreline Mitigation Manual.

3. The total area of Zone 2 of the Shoreline Buffer may be reduced to accommodate shoreline views in accordance with Section 4.1.3.14 for a new single family primary residential structure or addition to a primary residential structure as follows:
 - a. There is an existing primary structure located within 100 feet of the property line of the subject property; and
 - b. Up to one-third (1/3) of the area of Zone 2 may be comprised of non-native vegetation and an approved primary structure. The remaining two-thirds (2/3) of Zone 2 must be established and/or maintained in native vegetation. If less than one-third (1/3) of the area of Zone 2 is reduced to accommodate views, the Administrator may reduce the required area of native vegetation to less than two-thirds (2/3); and
 - c. Significant trees are not removed to allow for the buffer reduction.
4. If the prescriptive buffer depth for a single-family residential property pursuant to Table 4-3 is reduced in accordance with this section, Section 4.2.1, Nonconforming Uses, Non-Conforming Lots, and Existing Development, or a shoreline variance, the following shall occur in Zone 1:
 - a. Retain existing native vegetation; and
 - b. Plant the entire area of Zone 1 with native vegetation. Obtain 65% vegetation canopy coverage within 10 years.
5. Zone 1 and Zone 2 of the Shoreline Buffer may be reduced in overall size to allow for those minor clearing, grading and construction activities permitted in Section 4.1.3.10 through Section 4.1.3.13. In no case may the area of Zone 2 be reduced over one-third (1/3) of its total area without a shoreline variance.

4.1.3.10 Regulations – General Vegetation Standards in Shoreline Buffers and Site-specific Vegetation Management Areas

1. The Shoreline Buffer or Site-specific Vegetation Management Area shall be maintained in a predominantly natural, undisturbed and vegetated condition. Unless specifically allowed by this program, the following standards shall apply:
 - a. All existing native groundcover, shrubs and significant trees located within the Shoreline Buffer or Site-specific Vegetation Management Area shall be retained;
 - b. New lawns are not permitted in Zone 1.
 - c. All activities shall be performed in compliance with the applicable standards contained in the Vegetation Management section, unless the applicant demonstrates that alternate measures or procedures are equal or superior in accomplishing the purpose and intent of the Vegetation Management Section, including no net loss of ecological functions and ecosystem-wide processes.
 - d. The use of pesticides are prohibited unless specifically allowed in Section 4.1.6, Water Quality and Stormwater Management.

- e. Planted areas in which fertilizers might be applied shall be located as far landward of Zone 1 as feasible.
2. New vegetation planted in the Shoreline Buffer or Site-specific Vegetation Management Area, unless otherwise provided for in zone-specific requirements Section 4.1.3.9, shall be:
 - a. Native species using a native plant-community approach of multi-storied, diverse plant species that are native to the Central Puget Lowland marine riparian zone.
 - b. Other plant species may be approved that are similar to the associated native species in diversity, type, density, wildlife habitat value, water quality characteristics, and slope stabilizing qualities, excluding noxious/invasive species provided that, as submitted by a qualified professional, it is demonstrated to the satisfaction of the Administrator that the selected ornamental plants can serve the same ecological function as native plant species.
3. The following activities are allowed within the Shoreline Buffer and Site-specific Vegetation Management Area with an approved clearing permit. Such activities shall meet the standards of Section 4.1.4, Land Modification.
 - a. Vegetation Removal Related to Public Facility Maintenance. Tree or vegetation removal within the Shoreline Buffer or Site-specific Vegetation Management Area that is associated with maintenance of existing public facilities (including: roads, paths, bicycle ways, trails, bridges, sewer infrastructure facilities, storm drainage facilities, fire hydrants, water meters, pumping stations, street furniture, potable water facilities, and other similar public infrastructure), may be approved by the Administrator if no significant trees are removed, the requirements of Section 4.1.2, Environmental Impacts are met, and the maintenance is measures meet the goals and policies of Section 4.1.3, Vegetation Management. The following activities are exempt from this requirement:
 - i. Removal of vegetative obstructions required for sight distance and visual clearance at street intersections provided in the Public Works Design and Construction Standards and Specifications.
 - b. Underground Utilities. Utilities that run approximately perpendicular to the buffer (for example, a stormwater tightline to the water to protect a slope or a sewer line to a marina), may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Area, provided that disturbance is minimized and the disturbed area is revegetated after construction; and
 - c. Other Approved Development in the Shoreline Buffer or Site-Specific Vegetation Management Area:
 - i. Potable water wells; and
 - ii. Approved shoreline stabilization.
 - d. Stairways to the shoreline shall not exceed 300 square feet for private use, or the minimum necessary for public use, and are not included in the total square footage allocations prescribed in Section 4.1.3.11.

- a. Larger stairways serving a single-family residence may only be allowed through approval of a Shoreline Variance.
- b. As an alternative to a stairway larger than 300 square feet and to reduce environmental impacts, a tram may be allowed without a variance.
- c. Stairway design shall meet the following minimum criteria:
 - i. International Codes for:
 - A. Hand railings;
 - B. Stairway width; and
 - C. Tread depth.
 - ii. Landings are required, unless demonstrated not to be necessary, and shall be determined by:
 - A. Existing site topography;
 - B. Personal safety; and
 - C. Slope stability.

4.1.3.11 Vegetation Alteration Standards – Residential Development

Minor clearing, grading or construction may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Area associated with a residential development with approval of the Administrator as follows:

- 1. One (1) hand installed pervious trail to the shoreline not more than four (4) feet in width, which may include hand installed steps, and ~~shall be~~ designed to minimize environmental impacts. No significant trees shall be removed. The trail may be wider when required for handicapped or public access. For single-family residential development, removal and/or maintenance of vegetation is allowed only within two (2) feet of either side of the trail.
- 3. Non-habitable structures appurtenant to a single-family use may be allowed consistent with the following standards, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic – Category A designation.
 - a. For Site-specific Vegetation Management Areas, the total square footage of all buildings or structures must not exceed 300 square feet in area.
 - b. For Shoreline Buffer areas, the total square footage of all buildings or structures must not exceed 400 square feet or 10% of the Shoreline Buffer area, whichever is less.
 - c. For Shoreline Buffer areas, only 10% of the total allowed square footage or 300 square feet, whichever is less, can be located in Zone 1, except when upland of Priority Aquatic B, the total allowable square footage is 5% of Zone 1 or 150 square feet, whichever is less.
 - d. All structures must be designed to not significantly impact views from adjoining property primary buildings.
 - e. All structures must meet the following standards:

- i. Only water-related structures are allowed within 30 feet of the OHWM or in Zone 1, including a boathouse, permeable deck, boat storage, or staircase.
- ii. Shall not exceed 12 feet in height above existing grade.
- iii. Decks and/or patios shall be permeable and shall not exceed 30 inches in height above existing grade.

4. View Maintenance – Single-family Residential Only.

Shoreline residential use and development shall use all feasible techniques to maximize retention of existing native shoreline vegetation within the Shoreline Buffer and the Site-specific Vegetation Management Area.

- a. Limited removal of existing trees or vegetation located on the same property as a single-family residence may be allowed for maintenance of a pre-existing view from the primary structure, or to establish a view for a new primary structure provided the following are met:
 - i. The applicant demonstrates to the satisfaction of the Administrator that the vegetation removal is the minimum necessary to re-establish or establish a view of the water similar to that enjoyed by other residences in the area and that pruning methods are not sufficient to provide an adequate view of the water similar to that enjoyed by other residences in the area; and
 - ii. Existing significant native trees are not removed within the Shoreline Jurisdiction, unless exempt; and
 - iii. In no instance, including accounting for other approved alterations as provided in Section 4.1.3, shall vegetation removal exceed twenty (20) percent of the required Shoreline Buffer area or Site-specific Vegetation Management Area or reduce the vegetation canopy coverage to less than 65% in the Shoreline Buffer or Vegetation Management Area.
 - A. Vegetation removal occurring adjacent to the shoreline shall also be limited to fifteen (15) linear feet of the water frontage; and
 - iv. The applicant shall obtain an approved Bluff Management Plan pursuant to Section 4.1.5, Critical Areas for any vegetation alteration in a geologically hazardous area. The cost and preparation of the plan is the responsibility of the applicant; and
 - v. All vegetation removal complies with other applicable requirements of this Program (such as clearing and grading, forest practices, and protection standards for fish and wildlife habitat), including the no net loss and/or revegetation standards in Section 4.1.2.
- b. The Administrator may deny a request or condition approval for vegetation alteration proposals for view maintenance if it is determined that the action will result in an adverse effect to any of the following:
 - i. Slope stability;
 - ii. Habitat value;

- iii. Health of surrounding vegetation;
- iv. Risk of wind damage to surrounding vegetation;
- v. Nearby surface or ground water; or
- vi. Water quality of a nearby water body.

4.1.3.12 Vegetation Alteration Standards – Commercial and Industrial Development in Shoreline Buffers

Minor clearing, grading, or construction may be approved within the Shoreline Buffer for a commercial or industrial development with approval of the Administrator pursuant to Section 4.1.3.7(1)(a) and only for the following activities as prescribed below and pursuant to Section 4.1.4, Land Modification:

1. Primary appurtenant structures to a commercial use that either support public access or are necessary to support a water-dependent use shall be allowed within the buffer when the applicant has demonstrated a need for the shoreline location, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic designation.
2. When appurtenant structures are allowed they must be the minimum necessary to meet the needs of the water-dependent use or public access requirements of Section 4.2.4, Public Access.

4.1.3.103 Vegetation Alteration Standards – Public Park Development in Shoreline Buffers

Minor clearing, grading, or construction may be allowed within the Shoreline Buffer for a public park development with approval of the Administrator consistent with the following or pursuant to Section 4.1.3.7:

1. Vegetation clearing and maintenance is allowed in accordance with Best Management Practices and the standards of this Program.
2. Maintenance of existing public trails, provided the vegetation trimming is limited to four (4) feet on either side of the trail and no significant trees are removed.
3. Alterations that are included in a Park Development or Concept Plan. Minor clearing, grading, or construction for which the size and extent of proposed disturbed areas located within the Shoreline Buffer have been determined as part of a park development plan or concept park plan, with due consideration of the intended park use; and provided all proposed disturbance areas meet the no net loss standards pursuant to in accordance with Section 4.1.2. Environmental Impacts; and provided appropriate permits are obtained, including those pursuant to Section 4.1.4, Land Modification;
4. Alterations that are not part of a Park Development or Concept Plan. The following minor clearing, grading, or construction activities may be allowed without an approved park development plan or conceptual park plan:
 - a. Maintenance of existing public trails is allowed, provided maintenance is limited to the existing size of the trail, any vegetation trimming is limited to four (4) feet on either side of the trail, and no significant trees are removed.

- b. New public pathways or trails to the shoreline provided it is demonstrated that the size and extent of the public pathways has been determined with due consideration of the intended park use.
- c. Structures.
 - i. Primary appurtenant structures to a public park and recreational use that either support public access or are necessary to support a water-dependent recreation use shall be allowed within the Shoreline Buffer when a need for the shoreline location is demonstrated, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic designation. When appurtenant structures are allowed, they must be the minimum necessary to meet the needs of the water-dependent use or public access requirements of Section 4.2.4, Public Access.
 - ii. The total square footage of all buildings or structures must not exceed 6,000 square feet or 10% of the Shoreline Buffer area, whichever is less.
 - A. Only 10% of the total allowed square footage or 1,000 square feet, whichever is less, can be located in Zone 1.
 - iii. All structures must be designated to not significantly impact views from adjoining property primary buildings.
 - iv. All structures must meet the following standards:
 - A. Only water-related recreational furniture, amenities and structures are allowed in Zone 1, including but not limited to, picnic tables, benches, interpretive kiosks, viewing platforms, boardwalks, pervious trails or staircases, recreational furniture, signs, pervious trails, and staircases are not included in the maximum square footage allocations prescribed in subsection 4.c.ii, above;
 - B. Accessory recreation buildings, including restrooms, picnic pavilions and service roads that serve such structures may be allowed in Zone 2 and buildings shall not exceed 12 feet in height above existing grade;
 - C. Stairways may exceed 300 square feet, provided that it is demonstrated that a greater area is necessary to meet public access and public use demands. Stairways shall conform to the standards of the Building Code as adopted in BIMC Chapter 15.04.; and
 - D. Boat ramps and other boating facilities may be allowed pursuant to Section 5.4, Boating Facilities.

4.1.3.14 Regulations – Shoreline Structure Setback View Requirement

1. To protect existing predominate shoreline views and accommodate shoreline views for a new single-family primary residential structure or addition to a primary residential structure, the Administrator may allow Zone 2 of the Shoreline Buffer to be altered when

there is an existing primary residential structure located within 100 feet of the property line of the subject property and topographical or other relevant information indicates that the view of the shoreline from the subject property or the adjacent residence would be impacted by existing or proposed development. The shoreline structure setback line may also require that new structures be set farther away from the shoreline to preserve existing views enjoyed by an adjoining single-family primary structure that was established earlier. These provisions apply to single-family residences only, except in the Point Monroe District.

- a. Setbacks for the purpose of this subsection are based on the location of primary residential structure(s) existing at the time a new primary residential building permit is submitted. A primary residential structure constructed in compliance with the required shoreline setback is not made nonconforming by the later construction of a primary residential structure in a different location on an adjoining lot.
 - b. The shoreline structure setback provisions apply only to primary single-family residential structures located within the 200-foot shoreline jurisdiction, where an existing primary single-family residential structure is located within 100 feet of the subject property line. All measurements are to the closest primary residential structure on either side of the subject property as measured parallel to the shoreline.
 - c. In determining the shoreline structure setback line, the Administrator may also consider topography or other physical property constraints in addition to the provisions of subsection 4 and 5, below. Applicants may submit detailed information regarding how property constraints impact the predominate shoreline views from either the subject property's proposed primary residential structure or adjoining properties' primary residential structure(s).
2. The Shoreline Buffer on the subject property may be reduced below the depth requirements identified in Table 4-3 to allow a new primary residential structure to be located within Zone 2 provided the conditions in Section 4.1.3.7(2) are met. Mitigation of proposed residential development shall be required pursuant to Section 4.1.2, Environmental Impacts.
 3. In no case shall the subject property be permitted to locate a new primary residential structure within the site's specified Zone 1 of the Shoreline Buffer, unless a Shoreline Variance is granted.
 4. Adjoining Development Located Within Shoreline Buffer. The setback requirement for the subject property shall be based on the location of the adjoining properties' primary residential structure(s) as described in subsections (a) through (d) below.
 - a. Primary Residential Structure Located on One Side. When an existing primary residential structure is located on one side of the subject property, the shoreline structure setback line shall be determined as follows:
 - i. If the adjoining primary residence is partially or wholly located within Zone 2, the shoreline setback line is determined by drawing a line from the most waterward point of the adjoining primary residential structure to the point at

which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 4.1.a below).

- ii. If the adjoining primary residence is located partially or wholly in Zone 1, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property and the adjoining property's Zone 1 boundary, to the point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 4.1.b, below).
- b. Primary Residential Structure Located on Both Sides. When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined as follows:
- i. If both the adjoining primary residential structures are located partially or wholly in Zone 2, then the shoreline structure setback line shall be determined by drawing a line between the most waterward points of each of the adjoining primary residential structures. (See Figure 4.1.b, below)
 - ii. If one of the adjoining primary residences is partially or wholly in Zone 1, and the other adjoining primary residence is partially or wholly in Zone 2, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property and the adjoining property's Zone 1 boundary (for that adjoining residence located in Zone 1), to the most waterward point of the other adjoining primary residential structure located in Zone 2. (See Figure 4.1.b, below).
 - iii. If both of the adjoining primary residences are located partially or wholly within Zone 1, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property's Zone 1 boundary and the adjoining property's Zone 1 boundary to the same intersection point on the subject property's opposite property line. (See Figure 4.1.c. below)
- c. Primary Residential Structure Located on a Shoreline Forming a Cove or Headland. The Administrator shall make the determination whether a shoreline forms a cove or headland. When existing primary residential structures are located on a cove or headland, the shoreline structure setback line shall be determined as follows:
- i. If there is a primary residential structure on only one side of the subject property, then the shoreline structure setback line for the subject property shall be either the distance from the OHWM to the most waterward portion of the primary residence structure of the adjoining property, or the subject property's Zone 1, whichever is greater.
 - ii. If there are adjoining primary residential structures located on both sides of the subject property, the shoreline structure setback line shall be determined by averaging the distance from OHWM to the most waterward portion of the two adjoining property's primary residential structures. (See Figure 4-1(c) ii, below)

5. Adjoining Development Located Outside the Shoreline Buffer. The setback requirement for the subject property shall be based on the location of the adjoining properties' primary residential structure(s) as described in subsections (a) and (b) below.
 - a. Primary Structure Located on One Adjoining Property, Outside Shoreline Buffer. When an existing primary residential structure is located on one side of the subject property, the shoreline structure setback line shall be determined by drawing a line from the most waterward point of the primary residential structure of the adjoining property to a point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 5-1(a), below).
 - b. Primary Structures Located on Both Adjoining Properties, Outside the Shoreline Buffer. When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined by drawing a line between the most waterward points of each of the adjoining primary residential structures. (See Figure 5-1(b), below).
 - c. Primary Structures Located on Both Adjoining Properties, Outside the Shoreline on a Cove or Headland. When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined by averaging the distance from OHWM to the most waterward portion of the two adjoining property's primary residential structures. (See Figure 5-1(c), below).

Table 4-3 Shoreline Buffer Standards Table

Additional Use restrictions for BIMC Titles 17 and 18 may apply

SHORELINE USE	UPLAND DESIGNATION				
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban
Developed lots					
Category A	200'	150'	115'	75'	30'
Category B	200'	100'[2]	75'[2]	50'[2]	30 [2]
Undeveloped lots					
	200'	150'	150'	75/150'[3]	30'

1. Geomorphic class (i.e. low bank, high bluff) shall be determined by Battelle 2004 Nearshore Characterization and Inventory.
2. For high bluff properties, the buffer is the greater distance of 50' from the top of the bluff or the prescriptive shoreline buffer. Zone 1 is still measured from OHWM and extends to the limit of existing vegetation.
3. If adjacent to the Priority Aquatic designation then 150' is required.

Property-specific physical and geomorphic characteristics[1] of the particular lot will determine the maximum width (Category A) or minimum width (Category B) of the Shoreline Buffer, as follows:

Shoreline Buffer Category A:

- The property contains or abuts a spit/barrier/backshore, marsh/lagoon, rocky shore; or
- The property contains or abuts a low bank and the existing native tree and shrub vegetation cover is at least 65% of the area of Shoreline Buffer Zone 1.

Shoreline Buffer Category B:

- The property is shallow (200 feet in depth or less, as measured landward from OHWM); or
- The property is located on a high bluff, or
- The property does not meet any of the characteristics of Category A.

The Shoreline Buffer consists of two zones (See figure 4.1). The depth of each of the two zones within the Shoreline Buffer is determined as follows:

- a. Zone 1 shall extend from the ordinary high water mark (OHWM) a minimum of 30 feet (50 feet in the Natural and Island Conservancy designations), or to the limit of existing native vegetation whichever is greater. The native vegetation limit is determined through a site-specific analysis of existing conditions, and in no case shall Zone 1 be greater than the depth of the Shoreline Buffer.
- b. Zone 2 shall be established immediately landward of the Zone 1 and extend no further than the depth of the Shoreline Buffer.



CITY OF
BAINBRIDGE ISLAND

PLANNING & COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Planning Commission

FROM: Christy Carr, AICP
Senior Planner

DATE: March 24, 2016

RE: Study Session on Shoreline Master Program Limited Amendment -- Aquaculture

I. INTRODUCTION

Tonight's study session introduces proposed revisions to both policies and regulations of SMP Section 5.2, Aquaculture, to be processed as a Shoreline Master Program (SMP) limited amendment.

II. OVERVIEW OF PROPOSED REVISIONS

Proposed revisions are shown in strikethrough/underline format. As a reminder, while the City is continuing settlement discussions, staff received direction from the City Council to move forward a limited amendment whether or not it resolves all of the issues presented in the pending Growth Management Hearings Board appeal. It is unknown at this time if the appeal will be resolved through the limited amendment as proposed; however, the City anticipates additional discussion with the settlement group. Further, the limited amendment will be presented at a public hearing wherein comments from the general public and stakeholders will be received. Finally, while Ecology has been assisting the City with the limited amendment, final comments regarding consistency with SMA and SMP Guidelines have not been received.

Highlights of proposed revisions include:

- Prohibition of new finfish net pens
- Proposed cap on total area of permitted aquaculture operations
- Prohibition on City-owned tidelands
- Changes to use table
- Improved eelgrass protections
- List of potential permit conditions
- Additional operational regulations
- New regulations for upland structures
- New advisory map of prohibited/limited areas (Appendix F, to be provided at meeting)

Planning Commission Action: The Commission should ask questions of staff about the information presented. The Commission should provide input to staff on the proposed revisions.

III. NEXT STEPS

Pending input from the Planning Commission and additional discussions with the settlement group and Ecology, staff will prepare a draft limited amendment to present at a public hearing.

PROPOSED USE TABLE:

Table 4-1 Shoreline Use and Modification Table									
"P" = Permitted Use		"X" = Prohibited Use			"A" = Accessory Use				
"C" = Conditional Use		"#" = Same as Upland Property			"CA" – Conditional Accessory Use				
SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Natural Resource Management									
Aquaculture, Commercial	C[1]	C[1]	C	C	C	#	X	X	
Aquaculture, Commercial Geoduck	X	X	C	C	C	#	X	X	
Aquaculture, Non-Commercial	P[1]	P[1]	P[1,2]	P[1,2]	P[1,2]	#	P[1]	P[1]	

- Formatted: Highlight
- Formatted: Highlight
- Formatted: Not Highlight

[1] Allowed if less than 500 square feet and using native species or as part of an approved shoreline restoration or native species recovery project.
 [2] A conditional use permit is required for non-commercial aquaculture with a cultivation area over 500 square feet.

EXISTING USE TABLE:

Aquaculture	C[1]	X	C	C	C	C	C[1]	C[1]
Aquaculture, Shellfish Garden	X	P	P	P	P	P	P[1]	P[1]

[1] Allowed if using native species and part of an approved shoreline restoration project.

Table 4-2 Dimensional Standards Table									
Greyed out setback boxes or letter X indicate prohibited uses									
SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION		Use Specific Standards	
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A		B
Natural Resource Management									
Aquaculture									
Setbacks									
Water-dependent	X	0'	0'	0'	0'	DOES NOT APPLY TO DEVELOPMENT BELOW OHWM			
Water-related	X	3025'	3025'	3025'	3025'				
Nonwater-oriented	X	150'	115'	100'	100'				
Height Limit									
Overwater Structures	DOES NOT APPLY TO DEVELOPMENT ABOVE THE OHWM					3'	3'	3'	
Accessory use on overwater structures						3'	3'	3'	
Overwater Structure Predator Control						6'	6'	6'	
Upland	X	30'	30'	30'	30'	DOES NOT APPLY TO DEVELOPMENT BELOW OHWM			

Table 4-2 Dimensional Standards Table									
Greyed out setback boxes or letter X indicate prohibited uses									
SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION		Use Specific Standards	
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A		B
Aquaculture, Non-commercial for Recovery of Native Population									
Setbacks									
Water-dependent	X	0'	0'	0'	0'	DOES NOT APPLY TO DEVELOPMENT BELOW OHWM			
Water-related	X	25'	25'	25'	25'				
Nonwater-oriented	X	150'	115'	100'	100'				
Height Limit									
Overwater	DOES NOT APPLY TO DEVELOPMENT ABOVE THE OHWM					3'	X	3'	
Upland	X	30'	30'	30'	30'	DOES NOT APPLY TO DEVELOPMENT BELOW OHWM			

5.2 Aquaculture

Formatted: Font: Bold, Font color: Auto

5.2.1 Applicability

These provisions apply to the commercial cultivation and harvesting of fish, shellfish or other aquatic animals or plants, and also to non-commercial harvesting, ~~and to the incidental preparation~~ of fish and shellfish for human consumption, or cultivation for restoration purposes. Aquaculture is dependent on the use of the water, and when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. ~~When properly managed, aquaculture can result in long term over short term benefit and can protect the resources and ecology of the shoreline.~~ Aquaculture activities may be subject to the regulations found in Section 6.4, Dredging and Dredge Material Disposal, depending on site-specific circumstances. Aquaculture activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; and Appendix B, when applicable. Other portions of this Program may also apply.

Formatted: Strikethrough

Formatted: Strikethrough

5.2.2 Policies

1. Identify and encourage aquaculture activities which may provide opportunities for creating ecosystem improvements and result in no net loss of ecological functions.
2. Allow experimental forms of aquaculture involving the use of new species, new growing methods, or new harvesting techniques, when they are consistent with applicable state and federal regulations and this Program. Experimental aquaculture projects ~~should~~ shall be limited in scale and ~~should~~ shall be approved only for a limited period of time. When feasible, limit or restrict new development and uses in areas that affect existing experimental aquaculture.
3. Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, structure and processes; adversely impact eelgrass or macroalgae; forage fish or salmonid species; or significantly conflict with navigation and other water dependent uses.
4. New commercial aquaculture shall be located to avoid or minimize conflicts with public use and access of the shoreline.
5. Aquaculture facilities should be designed and located to not spread disease to native aquatic life, establish new non-native species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.
6. Impacts to ecological functions ~~should~~ shall be mitigated according to WAC 173-26-201(2)(e) and Section 4.1.2, Environmental Impacts.
7. Give preference to those forms of aquaculture that have less environmental and/or visual impacts. Preference is given to those projects that require fewer submerged or intertidal structures, fewer land-based facilities, limited substrate modification, and that don't rely on artificial feeding.
8. Ensure aquaculture does not cause cumulative impacts.

Formatted: Strikethrough

9. In reserving shoreline areas for aquaculture, the City should first give preference to reserving appropriate areas for protecting and restoring ecological functions and next give preference to water-dependent uses (RCW 90.58.020, WAC 173-26-201(2)(d), WAC 173-26-251(2)).
10. The City shall consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions (WAC 173-26-241(3)(b)).
11. The City shall identify where commercial aquaculture may occur and where it should be excluded based on potential use conflicts, consistency with environmental designation management policies, ecological considerations, local conditions, input from interested parties and reasonable and foreseeable aquaculture use.
12. Until the City's scheduled periodic review of this Program under RCW 90.58.080, the City shall limit where commercial aquaculture may occur based on estimated future demand for shoreline space, potential use conflicts, current shoreline use patterns and projected trends. During the period review, the City shall make amendments deemed necessary to reflect changing local circumstances, new information or improved data, relevant environmental and ecological conditions and any applicable guidelines issued by the Department of Ecology.
13. Until the City's scheduled periodic review of this Program under RCW 90.58.080, the City shall prohibit new commercial marine finfish net pen aquaculture operations to provide time for updated guidance addressing the protection of ecological functions and use conflicts. The City will revisit policies and regulations regarding marine finfish net pens to address new guidance during scheduled periodic reviews of this Program under RCW 90.58.080.

5.2.3 Regulations - Prohibited

1. Aquaculture is prohibited in the Natural, Island Conservancy, and Priority Aquatic designations, except as provided in Section 5.2.4 (1), below.
2. Aquaculture uses and/or operations on City-owned public tidelands.
3. New commercial net pen aquaculture.
4. Aquaculture that uses or releases herbicides, pesticides, antibiotics, fertilizers, parasites, pharmaceuticals, or genetically modified organisms, ~~feed or other materials known to be potentially harmful~~ into surrounding waters is prohibited, unless:
 - a. When conducted for native population recovery in accordance with government/Tribal approved plan and all state and federal regulations; or
 - b. If approved by all appropriate state and federal agencies and proof thereof is submitted to the City; and
 - c. If all regulations of SMP 4.16, Water Quality and Stormwater Management, are met.

- 5.4. Mechanical and/or hydraulic harvesting or other activities that involve substantial substrate modification ~~shall be prohibited~~ in existing kelp beds, ~~or in~~ beds of native eel grass (*Zostera marina*), mixed beds of native and non-native eelgrass (*Zostera japonica*) and areas adjacent to existing eelgrass beds that are suitable for reintroduction or natural colonization of native eelgrass beds as identified in the City's shoreline restoration plan. These restoration areas include: Milwaukee Dock Eelgrass Project, Port Madison Shoreline Restoration Project, Rolling Bay Walk Acquisition and Demolition and West Bainbridge Shoreline Protection Project.
6. Aquaculture that involves significant risk of cumulative adverse effects on water quality, sediment quality, benthic and pelagic organisms and/or wildlife and wild fish populations through habitat modification, or other disturbances and alteration.

5.2.4 Regulations ~~--~~ General

1. Aquaculture may be allowed as follows:

- a. ~~Aquaculture as a conditional use in Shoreline Residential, Urban, and adjacent Aquatic designations.~~ Commercial aquaculture, including geoduck, as a conditional use in the Shoreline Residential Conservancy, Shoreline Residential, Urban and adjacent Aquatic designations.
- b. Commercial aquaculture, excluding geoduck, as a conditional use in the Natural, Island Conservancy and adjacent Aquatic designations if using native species or as part of an approved shoreline restoration project or native species recovery project.
- c. ~~Individual Shellfish Gardens are allowed in the Island Conservancy, Shoreline Residential Shoreline Conservancy, Shoreline Residential and Urban shoreline designations and in adjacent Aquatic designation Priority B. They also are allowed in Aquatic Priority A when for the recovery of native populations, restoration, or personal use.~~ Non-commercial aquaculture is a permitted use in the Shoreline Residential Conservancy, Shoreline Residential, Urban and adjacent Aquatic designations. It is a permitted use in the Natural, Island Conservancy, Priority Aquatic A and Priority Aquatic B designations if using native species or as part of an approved shoreline restoration project or native species recovery project.
- d. Non-commercial aquaculture with a cultivation area of greater than 500 square feet requires a shoreline conditional use permit.
2. ~~Shellfish Gardens~~ Non-commercial aquaculture that does not constitute substantial development is not subject to the regulations of Section 5.2. and is allowed pursuant to Section 5.2.4.c provided the following can be met:
- a. ~~They comply~~ It complies with all state and federal regulations, including transfer and harvest permits required by WDFW;
- b. The cultivation and harvesting is limited to ~~native~~ species of shellfish acquired from a licensed source consistent with state law;

Formatted: Normal

Formatted: Underline

- c. The operation may utilize bottom culture or off-bottom culture bags if in accordance with best management practices and it does not significantly alter the tidal bed;
 - d. All materials shall be marked with owners' contact information to provide identification after storm disturbance;
 - e. Any use or activity meets the no net loss standard of Section 4.1.2.4; and
 - e. The cultivation is limited to an area of 500 square feet.
- ~~2. When a shoreline conditional use permit is issued for a new aquaculture use or development, that permit shall apply to the initial siting, construction, and/or planting or stocking of the facility or farm, and shall be valid for the period specified in the permit.~~
3. Aquaculture shall avoid:
- a. A net loss of ecological functions or processes;
 - b. Adverse impacts to ~~eelgrass and macro algae~~; critical saltwater habitat as defined in WAC 173-26-221(2)(c)(iii), including all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association;
 - c. Significant conflicts with navigation, public access, and other water-dependent uses;
 - d. The spread of disease to native aquatic life;
 - e. Establishing new non-native species that cause significant ecological impacts;
 - f. Significant impacts to shoreline aesthetic qualities; ~~and/or~~
 - g. Significant modifications of the substrate; and/or
 - f. A detectable level of reduction of presence of existing animals such as sea stars, moon snails, sand dollars, etc.
4. When a shoreline permit is issued for a new commercial aquaculture use or development, that permit shall apply to the initial siting, construction, and/or planting or stocking of the facility, and shall be valid for a period of five (5) years. For commercial geoduck aquaculture, this five (5) year term does not include the time during which a use or development was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the use or development that authorize the use or development to proceed, including all reasonably related administrative legal actions on any such permits or approvals. Permits must take into account that operators have a right to harvest product once planted. After the aquaculture use or development is established under the shoreline permit, all subsequent cycles of planting, maintenance, and harvest shall not require a new, renewed or revised permit unless otherwise provided as follows:
- a. Permit revisions shall proceed in accordance with WAC 173-27-100. A new permit is required when any of the following occurs:

Formatted: Underline, Font color: Auto, Not Highlight

Commented [A1]: See RCW 90.58.143.

- i. The physical extent of the use or development or associated overwater coverage is expanded by more than ten percent compared to the permitted use or development. If the amount of expansion or change in overwater coverage exceeds ten percent, the revision or sum of the revision and any previously approved revisions shall require the applicant apply for a new permit;
 - ii. The applicant proposes to cultivate a species not previously cultivated within the City's jurisdictional waters; or
 - iii. New chemicals not previously approved as part of the existing permit are proposed for use.
- 5. The City may adopt different time limits from those set forth in subsections (2) and (3) of RCW 90.58.143 as part of action on a substantial development permit.
- 6. As a condition of permit approval, the Administrator may apply the following conditions:
 - a. All permitted aquaculture operations shall be reviewed by the City after the first 12-month period of operation to confirm compliance with the terms and conditions of the permit. The City may revoke the permit if it determined by the Administrator that aquaculture operations are not consistent with the terms and conditions of the permit and/or the aquaculture operations are not within the original scope and intent of the original permit.
 - b. Permit applications for aquaculture operations including floating aquaculture structures shall include sufficient detail on construction materials to determine that the floating structures and/or equipment – including any items stored upon such structures – will avoid or minimize adverse impacts that can be caused by overwater structures.
 - c. At least once every three months beaches in the project vicinity shall be patrolled by crews who will retrieve aquaculture debris (e.g.: predator nets, tubes, tube caps, stakes) that escape from the project area. Crews are not required to patrol privately owned tidelands where it can be demonstrated that owners have refused to authorize such activity. Within the project vicinity, locations shall be identified where debris tends to accumulate due to wave, current, or wind action, and after weather events these locations shall be patrolled by crews who will remove and dispose appropriately of aquaculture debris. Operators shall maintain a record with the following information and the record shall be made available upon request: date of patrol, location of areas patrolled, description of the type and amount of retrieved debris, and other pertinent information.
 - d. Where any proposed structure has the potential to constitute a hazard to the public, the City may require the posting of a bond commensurate with the cost of removal or repair. Following notice to the owner, the City may abate an existing abandoned or unsafe aquaculture structure if the owner fails to respond within 30 days. The City may also impose a lien on the related shoreline property or other assets in an amount equal to the cost of the abatement. Bonding requirements shall not duplicate requirements of other agencies.

- e. Aquaculture facilities are required to identify and use best management practices to minimize impacts from the construction and operation of the facilities.
 - f. Materials that are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the ordinary high water mark.
 - g. All tubes, mesh bags, and area nets used on the tidelands below the line of mean higher high water shall be clearly, indelibly and permanently marked to identify the permittee name and contact information. On the nets, identification markers will be placed with a minimum of one identification marker for each 50 feet of net.
 - h. All floating and submerged aquaculture structures and facilities in navigable waters shall comply with all applicable state and federal requirements.
 - i. Use of motorized vehicles, such as trucks, tractors and forklifts is prohibited below the ordinary high water mark.
 - j. Aquaculture operators shall periodically monitor and report on noise, odor, water quality, aquatic and benthic organism types and densities, current pattern and flows, flushing rates, prevailing storm wind conditions, impacts to wetlands, fish and wildlife and shoreline habitats and other relevant environmental and ecological conditions to the City on a schedule specified in the permit relating to the aquaculture activity. The permit may be rescinded by the City for failure to monitor and fully report, or if monitoring reveals unanticipated impacts that cannot be mitigated.
 - k. The operators of aquaculture developments shall control odor through the proper storage and disposal of feed and other organic materials and by maintaining a clean operation.
 - l. Aquaculture operations must comply with noise regulations in BIMC 16.16 and avoid or minimize noise impacts to the extent possible.
 - m. Overhead wiring or plumbing is not permitted on overwater structures.
 - n. Bulk storage for gasoline, oil and other petroleum products for any use or purpose on piers and docks is prohibited. Bulk storage means non-portable storage in fixed tanks.
7. In addition to the minimum application requirements in BIMC 2.16.165, applications for commercial aquaculture operations shall include the submittal requirements provided in the Administrative Manual. Some of these submittal requirements may be waived by the Administrator based on site-specific environmental and ecological conditions.

Formatted: Font: Times New Roman, Underline

5.2.5 Regulations –Location and Design Standards

- ~~1. Floating and submerged aquaculture structures shall be located to avoid or minimize interference with navigation and the normal public use of the surface waters. Floating structures shall remain shoreward of principal navigation channels. Other restrictions on the scale of aquaculture activities to protect navigational access may be necessary based on the size and shape of the affected water body. Revised and moved to 5.2.5.2.e~~
- ~~1. Shellfish Gardens Non-commercial aquaculture is allowed provided the following can be met:~~

- ~~a. They comply It complies with all state and federal regulations, including transfer and harvest permits required by WDFW;~~
- ~~b. The cultivation and harvesting is limited to native species of shellfish acquired from a licensed source consistent with state law;~~
- ~~c. The cultivation and harvesting does not result in the destruction of other species such as eelgrass, sea stars, etc.;~~
- ~~e. The operation may utilize bottom culture or off bottom culture bags if in accordance with best management practices and it does not significantly alter the tidal bed;~~
- ~~e. All materials shall be marked with owners' contact information to provide identification after storm disturbance; and~~
- ~~f. The cultivation is limited to an area of 500 square feet.~~

Revised and moved to 5.2.4

- ~~2. Aquacultural structures and activities that are not water dependent (e.g., warehouses for storage of products, parking lots) shall be located landward of the OHWM, upland of water dependent portions of the project, and shall avoid or minimize detrimental impacts to the shoreline. Revised and moved to 5.2.7.3~~

1. Location standards for commercial aquaculture operations include:

- a. The total area of all permitted commercial aquaculture operations shall not exceed 5 acres or 5 percent of the linear footage of the shoreline (13,992 linear feet) measured parallel to OHWM, whichever is achieved first. Acreage shall include the area of cultivation and harvest on the tidelands. Linear footage shall include the total length of shoreline of the parcel(s) on which aquaculture operations are taking place.
- b. Aquaculture operations may be prohibited and/or limited in areas of critical saltwater habitat as defined in WAC 173-26-221(2)(c)(iii), shellfish closure areas and areas of known water quality contamination. These areas are shown in Appendix F, which is advisory in nature and does not represent area where aquaculture operations are prohibited or limited. Location and extent of these features must be documented at time of permit review.
- c. Aquaculture operations located on parcels abutting or nearby City-owned tidelands shall be located so as to not unduly restrict pedestrian access or circulation along public beaches.
- d. Aquaculture use and development shall not significantly interfere with navigation, or access to adjacent waterfront properties, or public recreation areas. Mitigation shall be provided to offset such impacts where there is a high probability that adverse impact would occur. This provision shall not be interpreted to mean that an operator is required to provide access across owned or leased tidelands at low tide for adjacent upland property owners.
- e. Aquaculture use and development shall be located in areas where biophysical conditions, such as tidal currents, water temperature and depth are suitable for the form of aquaculture proposed. Individual aquaculture uses and developments shall be

- separated by sufficient distance to ensure that significant adverse cumulative effects do not occur.
- f. Floating and submerged aquaculture structures shall be located to avoid or minimize interference with navigation and the normal public use of the surface waters. Floating structures shall remain shoreward of principal navigation channels. Other restrictions on the scale of aquaculture activities to protect navigational access may be necessary based on the size and shape of the affected water body. Netting and fencing shall be the minimum necessary to deter targeted predators and shall not exceed six (6) feet in height, as measured from water surface.
 - g. For aquaculture projects within Pacific herring spawning locations documented and/or verified by WDFW, in-water activities that would affect herring spawn that take place outside May 1 through January 14 require that a Pacific herring spawn survey be conducted prior to commencing such activities. If Pacific herring spawn is present, these activities are prohibited in the areas where spawning has occurred until such time as the eggs have hatched and Pacific herring spawn is no longer present. The City may consider alternative methods that are contained in federal and/or state aquaculture permits for reducing impacts to herring spawning habitat and other forage fish spawning habitat.
 - h. For aquaculture projects within sand lance and surf smelt spawning locations documented and/or verified by WDFW, no harvesting or any activity which disturbs the substrate may occur during the surf smelt or sand lance spawning seasons until a spawning survey is conducted. If surf smelt or sand lance spawn are present in the growing area to be harvested, then no aquaculture activities may occur until the eggs are hatched. Extreme caution should be taken to avoid impact and minimize disturbance of sand lance and surf smelt larvae that are present.
 - i. Property Line Setbacks. The perimeter of an aquaculture operation shall be set back a minimum of ten feet (10') from side property lines. Aquaculture operations that include multiple parcels require side yard setbacks only at the outer edge of the operation and not from internal property lines.
 - j. Aquaculture operations require a minimum buffer of 25 feet from the outside edge of an activity or structure to native aquatic vegetation attached to or rooted in substrate, including native and mixed beds of eelgrass. The City may require a larger buffer based on consultation during permit review with Ecology, Department of Natural Resources and the U.S. Army Corps of Engineers to determine appropriate buffers based on the most current and applicable science and proximity of bed to the project, current and tidal flow direction, anticipated turbidity and anticipated frequency and intensity of operation. Buffers will be determined based on site-specific conditions and survey data submitted with the permit application.
 - k. Mixed beds of native and non-native eelgrass shall be protected as critical saltwater habitat in order to protect native eelgrass and the species that depend upon both types of eelgrass. This regulation does not preclude hand removal of non-native eelgrass pursuant to WAC 16-750-015.
- ~~3. Hatchery and other aquaculture operations shall be required to maintain a vegetated buffer zone along the affected stream as prescribed in Appendix B, provided that clearing of vegetation shall be permitted for essential water access points. Revised and moved to 5.2.7.4~~

- ~~4. Onshore support structures shall meet the height and setback standards established in Table 4-2, Site Development Dimensional Standards Table, except that reduced setbacks may be permitted through a shoreline variance where necessary for the operation of hatcheries and rearing ponds. Revised and moved to 5.2.7.3.~~
- ~~25. The following shall be limited to the minimum size or number necessary for approved aquaculture development, uses, and activities:
 - a. Submerged or intertidal structures.
 - b. Land-based facilities.
 - c. Structures which modify substrate.~~
- ~~36. Floating/hanging aquaculture facilities and associated equipment, except navigation aids, shall use colors and materials that blend into the surrounding environment in order to minimize visual impacts. All materials, including those used for incidental aquaculture for personal consumption, shall be marked with owners' contact information to provide identification after storm disturbance. All floating and submerged aquaculture facilities in navigable waters shall comply with all applicable state and federal requirements. Floating/hanging aquaculture facilities require a visual impact analysis consisting of information comparable to that found in the Department of Ecology's Aquaculture Siting Study (1986), as updated. Such analysis may be prepared by the applicant without professional assistance, provided that it includes an adequate assessment of impacts, as determined by the Administrator.~~
- ~~7. Floating aquaculture facilities may require a visual impact analysis consisting of information comparable to that found in the Department of Ecology's Aquacultural Siting Study (1986), as updated. Such analysis may be prepared by the applicant without professional assistance, provided that it includes an adequate assessment of impacts, as determined by the Administrator.~~
- ~~48. For aquacultural projects using over water structures, storage of necessary tools and apparatus waterward of the OHWM shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock, provided that, in locations where the visual impact of the proposed aquaculture structures will be minimal, the City, based upon written findings and without requiring a variance, may authorize storage containers of greater height. In such cases, the burden of proof shall be on the applicant. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the ordinary high water mark. A temporary sanitation station may be allowed on fixed overwater pier structures when utilities are not available within a reasonable distance. Overwater structures and/or equipment, and any items stored upon such structures such as materials, garbage, tools, or apparatus, shall be sited and maintained to minimize visual impacts. Over-water structures, storage of necessary tools and apparatus waterward of the OHWM shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock unless shoreline conditions serve to minimize visual impacts as demonstrated through a visual impacts study. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the OHWM. Impacts of~~

overwater structures (e.g.; shading) shall be evaluated based on the maximum surface coverage including any items stored upon such structures.

9. ~~Shellfish Gardens for personal consumption are allowed on private lands provided the following can be met:~~
- a. ~~They comply with all state and federal regulations, including transfer and harvest permits required by WDFW.~~
 - b. ~~The cultivation and harvesting is limited to native species of shellfish acquired from a licensed source consistent with state law; and~~
 - e. ~~The operation may utilize bottom culture or off bottom culture bags if in accordance with best management practices and it does not significantly alter the tidal bed.~~

Revised and moved to 5.2.5.1

5.2.6 Regulations – Operational Standards

All commercial aquaculture operations shall comply with the following standards:

1. Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner. ~~Aquaculture operations that do not conform with this master program are considered discontinued if the use has ceased for a period of more than five (5) years.~~
2. Operational monitoring may be required if and to the extent that is necessary to determine, ensure, or confirm compliance with predicted or required performance, including periodic benthic analysis or noise pollution monitoring in accordance with BIMC Chapter 16.16. Such monitoring requirements shall be established as a condition of the permit and shall be conducted at the applicant's (operator's) expense.
3. Aquaculture operations that do not conform with this master program Program are considered discontinued if the use has ceased for a period of more than five (5) years.
4. No processing of any aquaculture product, except for the sorting and culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, shall occur in or over the water unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be governed by these provisions and the policies and regulations of other applicable sections of the Master Program, in particular, provisions addressing commercial and industrial uses.
5. Aquaculture wastes shall be disposed of in a manner that will ensure compliance with all applicable governmental waste disposal standards. No garbage, wastes, or debris shall be allowed to accumulate at the site of any aquaculture operation, except for in proper receptacles [BIMC Chapter 8.16].

Formatted: Font: Times New Roman

Formatted: Normal

Formatted: Font: Times New Roman, Underline

Formatted: Font: Times New Roman, Underline

65. Predator control shall not involve the killing or abusive harassment of birds or mammals. Approved controls include, but are not limited to, double netting for seals, overhead netting for birds, fencing or netting for otters. The use of other nonlethal, non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required. Aquaculture use and development shall employ non-lethal, non-harmful measures to control birds and mammals.

Formatted: Font: Times New Roman, Underline

76. All nets shall be maintained in accordance with all applicable state and federal requirements. If a state or federal permit is not required, cleaning of nets and other apparatus shall be accomplished by air drying, spray washing or hand washing, rather than chemical treatment and applications.

8. Predator exclusion devices shall:

- a. Be firmly attached or secured so as to not become dislodged or trap animals underneath.
- b. Blend with the natural environment
- c. Be routinely inspected and maintained
- d. Be removed as soon as they are no longer needed to perform protective functions

9. When determined necessary to minimize aesthetic and habitat impacts of large-scale projects, the City may require a phased approach to operation. This includes planting and harvesting on a rotational basis within the same tideland parcel.

Formatted: Indent: Left: 0.3", Hanging: 0.33"

10. Aquaculture operations shall avoid adverse proximity impacts from light and glare and glare and satisfy the provisions of BIMC 18.15.040.

11. Property corner markers that are visible at low tide during planting and harvesting must be installed.

12. The City shall determine appropriate identification/marketing of floating and submerged aquaculture structures and facilities in navigable waters to provide identification after storm disturbance.

Formatted: Underline, Not Highlight

13. On-site work is allowed during low tides, which may occur at night or on weekends. Measures to reduce impacts to adjacent existing uses, from such sources as noise from equipment and glare from lighting, shall be identified in an operational plan submitted with the permit application.

Formatted: Indent: Left: 0.31", Hanging: 0.25"

Formatted: Font: Times New Roman, Underline

Formatted: Font: Times New Roman, Underline

Formatted: Font: Times New Roman, Underline

5.2.7 Regulations – Upland Structures

1. When upland structures are allowed they must be the minimum necessary to meet the needs of the water-dependent use.

2. Upland water-related aquaculture development, uses and activities shall be set back from the OHWM a sufficient distance to avoid disturbance of the Shoreline Buffer or Shoreline Vegetation Management Area. (See and Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.3 Vegetation Management; and Tables 4-1 through 4-3, for dimensions.)

3. Upland aquaculture development which does not require a location at or near the water's edge shall be located upland of the water-dependent portions of the operation, and outside of the Shoreline Buffer or Vegetation Management Area as established in Section 4.0. General (Island-wide) Policies and Regulations and Table 4-3.
4. Upland structures shall be designed, constructed and maintained to include vegetative screening for parking, and upland storage areas and facilities consistent with landscaping standards for parking lots as prescribed in BIMC Section 18.15.010, Development Standards and Guidelines; Landscaping, Screening, and Tree Retention, Protection, and Replacement.
5. A temporary sanitation station may be allowed on fixed overwater pier structures when utilities are not available on the same parcel(s) as the aquaculture operation.

5.2.87 Regulations – Specific – Commercial Geoduck Requirements Aquaculture

1. In addition to other provisions in Section 5.2, commercial geoduck aquaculture will be administered consistent with WAC 173-26-241(3)(b)(ii), (iii), and (iv). Where there is inconsistency between the provisions in 5.2.1, 5.2.2., 5.2.3, 5.2.4, 5.2.5, 5.2.6 or 5.2.7 and the geoduck provisions, the specific commercial geoduck provisions apply.
2. A conditional use permit (CUP) is required for all new commercial geoduck aquaculture and conversions from existing non-geoduck aquaculture to geoduck aquaculture. CUPs for new commercial geoduck and conversions will be administered consistent with WAC 173-26-241(3)(b)(ii), (iii), and (iv).

Definitions:

Aquaculture – The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state-managed wildstock geoduck fishery. ~~Upland finfish rearing facilities are included in the definition of agriculture and are not considered aquaculture for the purpose of this SMP. Aquaculture activities include, but are not limited to, the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals, and the maintenance and construction of necessary equipment and buildings. Cultivation methods include, but are not limited to, fish pens, shellfish rafts, racks and long lines, seaweed floats and nets, and the planting and harvesting of clams and oysters.~~

Aquaculture, Shellfish Garden – The cultivation, harvesting, and incidental preparation of shellfish for personal human use and consumption on public and private tidelands

Aquaculture, Commercial: Commercial Aquaculture is the cultivation of fish, shellfish or other aquatic plants and animals for sale.

Aquaculture, Non-commercial: The cultivation of fish, shellfish or other aquatic plants and animals for personal consumption, research, or restoration or enhancement of native species.

Formatted: Font: Times New Roman

Formatted: List Paragraph