

Theresa Rice

From: Alicetaw@aol.com
Sent: Tuesday, September 13, 2011 6:20 PM
To: PCD
Subject: Input for 9/15 meeting
Attachments: letter to PC 9-13.doc; Vegetation Management Standards.pdf

Please distribute to the planning commission members prior to the 9/15 meeting. It is important that they read this before they vote on the language to send up to the City Council, that is why it can't wait until the public comment period, which occurs after they will make their decisions on the language.

Best Regards,

Alice

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Bainbridge Shoreline Homeowners Association
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City of Bainbridge Island, Planning Commission
pcd@ci.bainbridge-isl.wa.us

RE: SMP Update

September 13, 2011

Since public comment will occur after you will have voted on your recommended changes to the SMP Update draft, it is very important that you read this letter and look over the suggested changes on the attachment.

The Bainbridge Shoreline Homeowners have the signatures of over 800 shoreline property owners on a petition that has among others the following principle regarding vegetation management:

2. Any new regulations, including vegetation buffers, must apply to future development only, as per state SMP guidelines. (WAC 172-26-221(5)(a))

The staff/citizens' committees draft for vegetation management goes beyond No Net Loss for existing residences and uses and will cause unnecessary citizen outrage and potential lawsuits. A few changes, suggested in the yellow dialogue boxes on pages 1,2,3,4 and 14 of the staff/committee draft will allow for peaceful continuation of the status quo and no net loss.

Further, the petition contains the following principle:

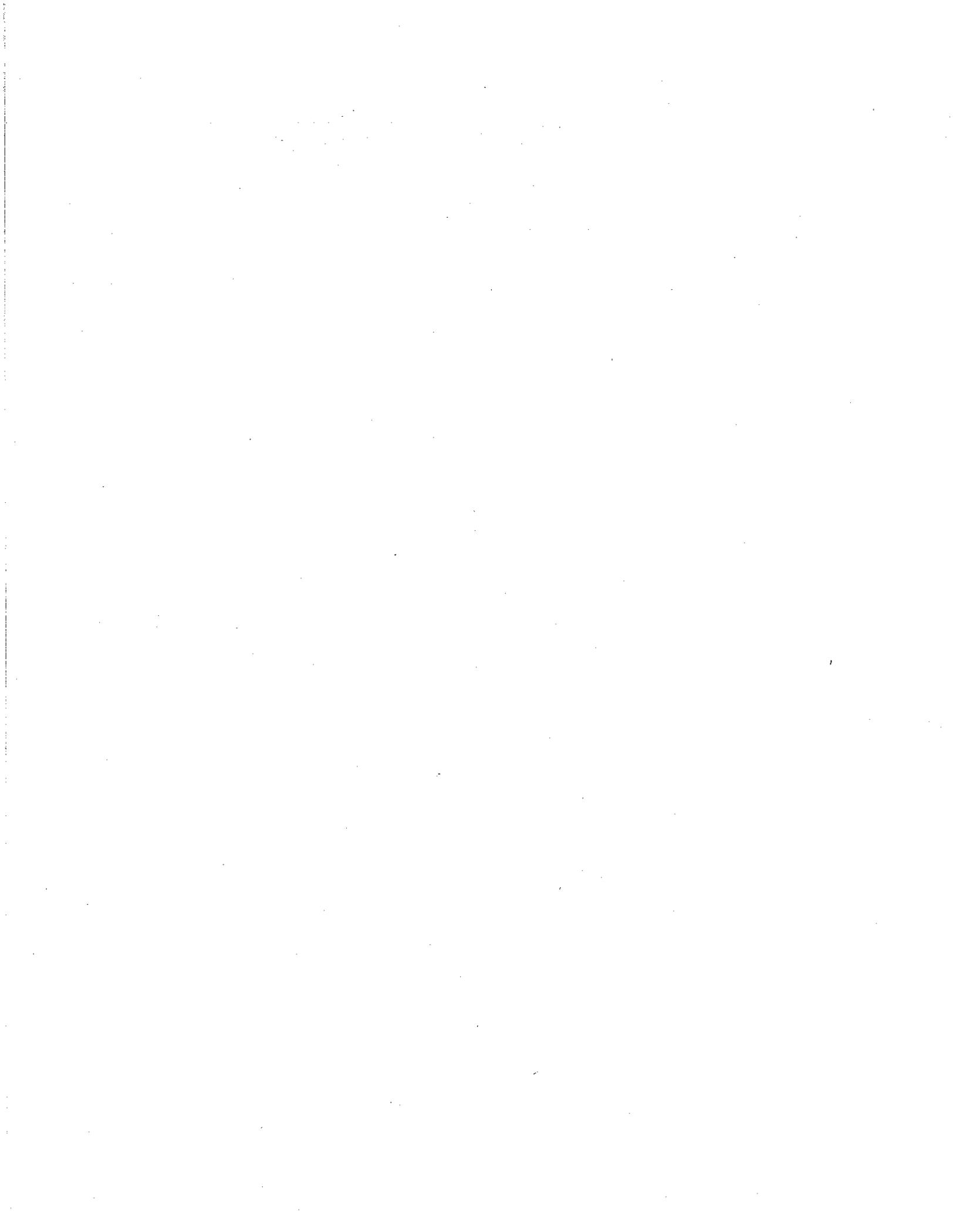
8. Properties containing existing, lawfully built residential structures must not be included in a "shoreline residential conservancy" designation since state law clearly states that new regulations are intended to apply to future development and changes in land use. (WAC 173-226-191(2)(a)(iii)(A))

To implement this change to the staff/committee draft, only a change to the map is required. Reserve the "Residential Conservancy" status for properties where owners have requested that designation voluntarily or for undeveloped residential properties that contain the characteristics listed in the designation criteria.

If you have questions or would like to discuss this in person (this is a legislative matter and contact with citizens is allowed) please call or email me.

Sincerely,

Alice Tawresey, Chair
Bainbridge Shoreline Homeowners



Bainbridge Shoreline Homeowners suggested language shown in yellow margin boxes to achieve the concept that vegetation standards shall not apply to existing residential uses.

Draft 2011 SMP
Planning Commission Study Session #6 September 8, 2011

**Environmental Impacts
Vegetation and Conservation Workgroup**

E. Native Vegetation Zone

4.1.3 Vegetation Conservation and Management Zones and Land Modification

4.1.3.1 Applicability

Vegetation and Conservation Management zones are areas that are required for protection and management areas which including buffers, ~~encompassing and~~ shoreline uplands within the Shoreline Jurisdiction. Dimensional and other standards are established for these management zones based on site specific development and conditions or as specified for that particular shoreline environment. The purpose of these management zones is to protect and enhance the Island's natural character, water quality, native plant communities, and wildlife habitat along the shoreline. Management of this area may also be reviewed under BIMC Chapter 16.20, Critical Areas, and BIMC Chapter 15.18, Land Clearing, when applicable.

Comment [j1]: Staff insertion 5/11/11

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

The Vegetation Conservation and Management Zones provisions apply to all shoreline development, regulated uses, and activities, ~~including those which do not require a shoreline permit~~, and existing development only when changes or alterations occur. As with all master program provisions, ~~vegetation conservation provisions~~ regulations apply even to those shoreline uses and development that are exempt from the requirement to obtain a permit. Like other master program provisions, vegetation conservation standards do not apply retroactively to existing uses and structures.

Comment [k2]: ~~Duplicative to sentence below~~

Standards for the Vegetation Conservation and Management Zones 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 environment designation and are provided in Section IV, Environment Designations, Table 4-2. In some cases, the standards are further refined by regulations in Section V, Specific Use Policies and Regulations. (See specifically Section V, subsection K, Residential Development.)

4.1.3.2 Goal

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

4.1.3.3 ~~Vegetation Conservation~~ **Management Policies**

1. Maintain existing shoreline vegetation and marine riparian zones to protect ecological functions and/or processes from adverse impacts of uses, activities and developments within the shoreline jurisdictions.
2. Emphasize the use of native plant species to maintain the ecological function and/or processes and mitigate the direct, indirect and/or cumulative impacts of shoreline uses, activities and developments.
3. Provide alternative dimensional standards for shoreline buffers and building setbacks that are based on performance standards designed to protect shoreline ecological functions and ecosystem-wide processes, including considering alternatives to planting native species if it can be demonstrated that the same ecological functions can be provided.
4. Use monitoring programs to ensure the protection of shoreline ecological functions within the ~~Vegetation Conservation and~~ Management Zones, particularly when non-native plant species are used as an alternative to native plants.
5. Encourage the restoration or enhancement of shoreline vegetation through incentive programs.
6. Establish shoreline ~~Vegetation Conservation and~~ Management Zones immediately upland of OHWM for each shoreline use and shoreline characterization, 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).
7. Site-specific dimensional standards within ~~Vegetation Conservation and~~ Management Zones should be established for shoreline use, activity or development at the time of a proposal. Standards must protect ecological functions of the shoreline and should consider land use patterns to minimize the number of existing structures that would not conform to standards of the management zones.
8. Implement a public education program emphasizing the importance of shoreline vegetation management.
9. Selective vegetation clearing for views should be allowed for new development and to maintain views from existing residences when slope stability and ecological functions are not compromised. Trimming and pruning are generally preferred over removal of native shoreline vegetation.
10. Develop specific regulations for Point Monroe, based on geomorphic appropriate vegetation communities and management practices.

Add New # 2
2. Protect private property rights as articulated in the Shoreline Management Act.

4.1.3.4 ~~Regulations—~~**Exceptions**

1. Vegetation conservation standards shall not apply retroactively to existing legally established uses and developments, including maintenance of existing residential landscaping, such as lawns and gardens. Property owners are strongly encouraged to

Comment [LH3]: 8/25/11 Workgroup: Added regulations to implement this policy to allow removal of vegetation for views pursuant to this policy. Regulation should be included in 4.1.3.7 Regulations- General Vegetation Alterations Standards, Reg # 2.

Comment [Js4]: Staff changed "exemptions" to "exceptions" 5/11/11 Moved 1,4-7 to new vegetation alteration section

Comment [RE5]: Staff – added exemption section to clarify what does not need to meet vegetation conservation (buffer) requirements 3/31/11

Add new # 3

3. The City will recognize and adhere to existing buffers and setbacks that were established in the 1997 SMP Update. When redevelopment results in a larger footprint, mitigation will be required in proportion to the additional footprint area.

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voluntarily improve shoreline vegetation conditions over the long term.

Comment [RE6]: Staff – Jefferson County 3/31/11

2. The City shall recognize and adhere to existing buffers and setbacks that have been established through previously approved subdivisions and are indicated on the face of the plat.

4.1.3.5 Regulations—General

1. A vegetation buffer, called a native vegetation zone, A Shoreline Buffer (SB), located within the 200-foot shoreline jurisdiction, shall be maintained immediately landward of the OHWM and managed according to provisions of this section. The SB shall be composed of two zones: Zone 1, an inner protective buffer area located immediately adjacent to the OHWM; and Zone 2, the remaining portion of the buffer located immediately adjacent to the inner zone. The dimensions of the zone shall be those established for the particular shoreline use and shoreline environment designation and listed in Table 4-2. The SB shall meet the location and design standards of section 4.3.6, below.

Comment [LH7]: 8/25/11 Workgroup: Agreed to include thresholds for when the SB regulations would become effective and replanted would be restricted or required.

Comment [LH8]: 8/22/11 Workgroup: Amended this section to clarify that the standard buffer is located within the 200-foot jurisdiction and that there are two zones within the standard buffer, renamed as Zone 1 and Zone 2.

Staff Question: Along with the 'thresholds', do we want to add a purpose section for the SB and the two zones?

a. Alternative buffer widths may be allowed for if an applicant of a shoreline use, development, or activity proposes to use alternative buffer width requirements of an SMA-regulated water body using through the Habitat Management Plan standards prescribed in Appendix B, provided such buffer modifications are protective or more protective than the Shoreline Buffer. The alternative buffer proposal shall be reviewed by the Administrator, who may approve, approve with conditions, or deny the request. The Administrator may, at his/her discretion, have the request reviewed by an independent third party, the cost of which will be borne by the applicant.

Comment [I9]: Staff added for consistency with CAO section of SMP7/6/11

2. Tree retention outside the SB, but within the shoreline jurisdiction, shall meet the vegetation management standards of No Net Loss of ecological function. Section 4.3.12. See Table 4-2. (See Section IV, Environment Designations, specifically Table 4-2.) The Administrator may require site plan alterations to retain significant trees, including minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways, easements or utilities.

Comment [R10]: Staff, Moved to beginning of section. 9/1/11

Comment [RE11]: Staff – added for clarification of hazard 3/31/11

3. The SB shall be maintained in a predominantly natural, undisturbed and vegetated condition except as otherwise allowed within this section. Existing native vegetation within the SB this zone shall remain unless specifically allowed to be altered or removed under the provisions of this section or Section V, Specific Shoreline Use. The following shall be exempt from this requirement:

Comment [I12]: Ryan -

Change language:
Delete sentence and substitute:
Existing landscape areas may be retained within the SB and changes from the existing landscape to a different landscaping use or activity are permitted as long as the change meets the standard of No Net Loss.

a. Maintenance of existing residential landscaping, such as lawns and gardens, as defined in Section 4.1.3.6. Existing landscape areas may be retained within the SB; however, any changes from the existing landscape to a different landscaping use or activity will require compliance with the provisions of this section, 4.1.3 Vegetation Management, and the intent of the SB as a predominately native vegetation buffer.

b. Maintenance trimming of vegetation with main stem or supporting structures less than three (3) inches in diameter, except that tree topping or vegetation

to clarify in the SB, as meeting

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removal are not exempt. All other trimming and pruning must meet the Vegetation Alteration standards of section 4.1.3.7, below:

- c. Buffer enhancement by removal of noxious or invasive weeds, based on consultation with the Kitsap County Noxious Weed Board and conducted in a manner consistent with best management practices, and/or planting native vegetation in accordance with section 4.1.2, No Net Loss and Mitigation;
- d. For single-family residential property, construction of one pervious surface trail for non-motorized use, provided the trail is no wider than four (4) feet and the vegetation trimming is limited to four (4) feet on either side of the trail; and further provided that no significant trees are removed and the trail is not constructed in a geologically hazard area;
- e. ~~3.~~ Removal of hazard trees, as defined in Appendix B, where trimming is not sufficient to address the hazard, may be allowed by the Administrator within the SB, subject to a report by an arborist or other approved expert, and approval of the removal by the Administrator.
 - i. The Administrator shall require replacement trees and vegetation be replanted for mitigation as necessary in accordance with Section 4.1.2, No Net Loss and Mitigation, and may require that the downed tree be retained on site to provide wildlife habitat and enhance marine habitat if present.
 - ii. When a hazard tree is located in a geologically hazard area, the applicant shall prepare develop a Bluff Management Plan pursuant to Section xxx; however, the hazard tree may be removed prior to the approval of the plan if it is necessary to protect life and property. The cost and preparation of the plan is the responsibility of the applicant.

Comment [L14]: Moved from Veg Alteration - General section (Reg 2.a).

Comment [L15]:

Comment [L16]:

Delete remainder of sentence and substitute:

Property owner is encouraged to retain downed tree on site to provide wildlife habitat and enhanced marine habitat if present.

~~3.~~ New plantings in this zone, shall be native plant species, or other approved species, similar in diversity, type, density, wildlife habitat value, water quality characteristics and slope stabilizing qualities to the original vegetation:

Comment [LH17]: 8/25/11 Workgroup: Agreed to include Bluff Management section here, Ryan

Comment [L18]: Moved to design section below. 8/22/11

4. When vegetation mitigation is required for new development pursuant to the No Net Loss and Mitigation requirement Section 4.1.2, the mitigation plan shall include new plantings in proportion to the identified impact in the following order of preference and in accordance with Section 4.1.3. Plantings shall be located in the following areas:

Comment [LH19]: 8/25/11 Workgroup: Agreed to move to the Mitigation Section; clarify 'a.'; recognize diversity in shoreline vegetation appropriate to specific site conditions does not always include trees and shrubs.

- a. Within Zone 1, provide plantings that are designed to obtain achieve, over time, a minimum 65% native vegetation coverage within 10 years, consisting of a mix of native trees and shrubs or other approved native vegetation appropriate to the specific site conditions; 65% site appropriate native vegetation coverage within 10 years in the area being planted.
- b. In the portion of Zone 2, amend plantings to increase canopy coverage with a mix of site-appropriate native vegetation in a manner that promotes contiguous vegetation of areas nearest the shoreline;
- c. In the SB, planted in a manner that promotes a contiguous native vegetated corridor connecting to the shoreline;
- d. Outside of the SB, planted in a manner that promotes a contiguous vegetated corridor to the shoreline;

Comment [LH20]: 8/25/11 Workgroup: Agreed to recognize diversity in shoreline vegetation appropriate to specific site conditions.

insert:

provided that view blocking vegetation will not be required.

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- e. Outside of the SB; or
- f. At an offsite location approved by the Administrator, within Zone 1, planted to meet the standard of either a. and b. above.

- 4. ~~Removal of nonnative plants and plants on the State noxious weed list shall be allowed within the native vegetation zone.~~
- 5. ~~Within the native vegetation zone, normal nondestructive pruning and limbing of native vegetation for maintenance and view shall be allowed provided it does not threaten the health of the vegetation. Individual tree cutting to remove a hazard may be allowed by the Director, subject to a report by an arborist or other approved expert.~~
- 6. ~~No clearing, grading, or construction may be undertaken within the SB native vegetation zone unless specifically provided for in this section or in Section V, Specific Shoreline Use Policies and Regulations.~~
- 7. ~~A path to the shoreline not more than four (4) feet in width, constructed by hand and designed to minimize environmental impacts, shall be allowed. The path may be wider when required for handicapped access.~~
- 8. ~~Accessory utility lines determined by the Director to be necessary or required to reduce an impact (for example, a stormwater tightline to the water to protect a slope or a sewer line to a marina) may be allowed. (See BIMC, Chapter 16.20.080 Geologically Hazardous Areas, for additional regulations which may apply.~~
- ~~D. To allow flexibility when required because of site limitations, the depth of the native vegetation zone (measured from OHWM) may be altered by averaging the depth, provided that:~~
 - a. ~~The total area of the native vegetation zone shall not be less than otherwise required.~~
 - b. ~~All portions of the native vegetation zone shall be contiguous.~~
 - c. ~~The depth of the zone shall not be reduced more than twenty-five (25%) percent and shall be a minimum of twenty-five (25) feet, (measured from OHWM) at any point.~~
 - d. ~~At least seventy-five (75) percent of the resulting zone shall be located within the area that would otherwise be required.~~
 - e. ~~Any area altered shall be compensated for by a substitute area. Any area used as a substitute for an altered area must contain vegetation of comparable or better quality than the area being deleted.~~

Comment [RE21]: Staff – removed & language better meeting policies put in exemptions 3/31/11

Comment [RE22]: Staff – moved to exemptions & modified to better meet policies 3/31/11

Comment [RE23]: Staff – removed for clarity 3/31/11. Regulation #6 moved to New Vegetation Alteration Section 6-29-11

Comment [M24]: Staff – removed & item listed in allowed uses within the buffer in alteration section 3/31/11

Comment [M25]: Staff – removed & item listed in allowed uses within the buffer in alteration section 3/31/11

Comment [M26]: Staff – removed due to inconsistency with policies 3/31/11

4.1.3.6 Regulations - Location and Design Standard Shoreline Buffer

- 1. The SB consists of two zones. See figure [XX].
 - a. Zone 1 shall extend to the limit of existing native vegetation (trees, shrubs and native groundcover, excluding invasive / noxious species), to a maximum distance of the SB as determined through a site-specific analysis of existing vegetation conditions.

Comment [I27]: Need diagram.

Comment [I28]: This paragraph revised for clarity 8/9/11

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- b. Zone 2 shall be established immediately landward of the Zone 1 and extend no further than the established SB.
- 2. The total area of the Standard Shoreline Buffer (SB) shall be the consist of an area equivalent of to the length of the property along the shoreline, multiplied by the required buffer depth as prescribed for the specific shoreline environment designation in which the property is located.
- 3. The minimum and maximum SB will be determined by the Administrator according to criteria and distance found in Table 4.2. The city shall maintain a geographic information system (GIS) database to determine the extent of existing vegetation. The database shall be utilized by staff to provide the preliminary extent of the minimum and maximum boundaries of the SB (including the depth of Zone 1). Site-specific review will be necessary to verify SB at the time of any development application.

Comment [I29]: Staff renumbered for clarity. Former number 1. 9/1/11

Comment [M30]: Staff – moved from residential section 3/31/11

Comment [js31]: Staff edit to reflect new terminology 5/11/11

Comment [K32]: Staff added 8/4 Moved for clarity from 2.a. 9/1/11

4. The following design standards shall apply except as otherwise provided in Section x, Alterations to Buffers, Section x, Mitigation or elsewhere in the Shoreline Master Program:

- a. All native shrubs and significant trees within the SB shall be retained.
- b. All activities shall be performed in compliance with the applicable standards contained in this section, unless the applicant demonstrates that alternate measures or procedures are equal or superior to the provisions of this section, including no net loss of ecological function, in accomplishing the purpose and intent of this section.
- c. If an applicant of a shoreline use, development, or activity proposes to use alternative buffer width requirements of an SMA-regulated water body using the Habitat Management Plan standards prescribed in Appendix B, such buffer modification shall be reviewed by the Administrator, who may approve, approve with conditions, or deny the request. The Administrator may, at his/her discretion, have the request reviewed by an independent third party, the cost of which will be borne by the applicant.

Comment [M33]: Staff – added for clarity 3/31/11

Comment [M34]: Staff – added to allow for alternate buffers, partially based on Jefferson County 3/31/11

Comment [I35]: Staff added for consistency with CAO section of SMP7/6/11

Comment [R36]: Staff, Moved to beginning of section. 9/1/11

4. For new development, or To alter or reduce the SB required depth, Zone 1 must be restored in accordance with the provisions of Section 4.1.2, No Net Loss and Mitigation, and the following:

- a. Zone 1 shall be planted to obtain 65% native vegetation coverage within 10 years, consisting of a mix of native trees and shrubs or other approved native vegetation appropriate to the specific site conditions as specified in this section;
- b. If Zone 1 is impacted and the existing depth of Zone 1 is greater than 30 feet from OHWM, then an area equal to the total square footage disturbed by the building foot print shall be replanted in the Zone 2 such that a contiguous Zone 1 is created. See Figure XX.

Comment [LH37]: 8/25/11 Workgroup: Agreed to recognize diversity in shoreline vegetation appropriate to specific site conditions.

5. ~~3.~~ All new plantings in the SB this zone, unless provided for in zone-specific requirements, shall meet the requirements of No Net Loss and Mitigation requirements, Section 4.1.2, and shall include a shall be native plant community approach of multi-

Comment [RE38]: Staff, add to clarify plant community.

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storied, diverse species native to the Central Puget Sound, or other approved species

Comment [M39]: Staff – clarifying 3/31/11

a. Other plant species, similar to the associated native species in diversity, type, density, wildlife habitat value, water quality characteristics and slope stabilizing qualities to the original vegetation, may be approved provided it is demonstrated to the satisfaction of the Administrator that the selected ornamental plants can serve the same ecological function as native plant species, provided:

Comment [R40]: People for Puget Sound. Noxious Weed List. 8/6/11

b. The following zone specific planting regulations are required:

Comment [RE41]: Staff, added to allow grass lawns and gardens in water quality buffer.

i. New lawns are not permitted in Zone 1.

ii. In Zone 1, one-third (1/3) of the total square footage may be planted in certain grass lawns and/or contain structures as allowed in XX below, provided no significant native trees are removed to establish such use; the remaining two-thirds (2/3) of Zone 2 area shall be retained or maintained in a native vegetative state, with preference given to native species as provided in section 4.1.3.6 Regulations – General. Planted areas in which fertilizers and/or pesticides might be applied, as allowed in Water Quality and Stormwater Section 4.1.6, shall be located as far landward of Zone 1 as feasible.

Comment [LH42]: 8/25/11 Workgroup Agreed to the following:
1) Remove "left in a native vegetative state" to address conditions that include no existing vegetation;
2) Add provision to address that areas in Zone 2 that are developed as allowed in these provisions, are not established through the removal of existing significant trees (using similar language as used in 4.1.3.6.3 a, page5);
3) Get input from environmental consultant regarding fertilizer and pesticide use in the SB and whether the proposed language is adequate to provide appropriate protection in the SB and account for home use.

6. Buffers are not required to extend beyond an existing public paved road or an area which is determined by the City to be functionally isolated from the shoreline or critical area. In these limited instances the no net loss of shoreline ecological function and processes shall apply to properties within the shoreline jurisdiction.

Comment [M43]: Check all citations

Comment [RE44]: Moved to 10 from 11, 5/10/11

7. Shoreline Structure Setback Line. For the purpose of protecting existing views and accommodating shoreline views for a new single-family residential primary structure that is comparable to views from adjacent existing residences, but not necessarily equivalent, the Administrator may allow the standard shoreline buffer to be reduced or averaged provided that restoration of the SB shall be required according to this section, in addition to required mitigation pursuant to Section 4.1.2 No Net Loss and Mitigation. The setback line buffer shall be based on the location of the adjacent properties primary building(s), provided that in no case shall Zone 1 be decreased Zone 2 shall not be reduced below Zone 1 30 feet in depth, and the standard shoreline structure set back line buffer shall be determined according to the following:

Comment [M45]: Staff – Jefferson County but with a minimum dimension and including the City's determination 3/31/11

Comment [M46]: Staff – modified existing setback for residences to instead determine buffer 3/31/11

Moved from zoning (18.78.060)

a. No Existing Primary Buildings. Where no existing primary residential buildings are located within 100 feet of property lines of the subject property, the shoreline structure setback line does not apply. (See Figure 4.1.a) below)

Comment [LH48]: 8/25/11 Workgroup: Agreed to clarification of this section regarding properties located within 100' on adjacent properties.

b. Existing Primary Building Located on One Side. Where the nearest primary residential building side setback is 50 feet or less on an abutting property to one side, is located on a neighboring property within 100 feet from the property line for which a new primary residential development (new construction or expansion of existing development) is proposed, the shoreline structure setback line on the subject property shall be no further waterward than that of the point closest to the shoreline of the adjacent primary building.

Comment [R49]: Staff Reworded regulation 8/4/11

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the distance from OHWM to that portion of the neighboring primary residence that is over five feet in height, provided:

- i. If the SB on the subject property is landward of the most waterward point of that portion of the neighboring primary residence that is over five feet in height, the shoreline structure setback line on the subject property shall be established as follows:
 - A. The line shall be drawn from the most waterward point of that portion of the neighboring primary residence that is over five feet in height to the point at which the line intersects with Zone 1 of the SB for the subject property along the far property line which is perpendicular to the shoreline and located furthest from the neighbor. If the neighboring primary residence is located within Zone 1, then the most waterward point of the neighboring primary residence shall be the intersection of the subject property and the neighboring property's Zone 1. existing primary building is within the SB then the shoreline structure line shall extend to the closest point of the Standard Shoreline Buffer on the opposite adjacent lot (See Figures 4.1.b and 4.1.c. below)

Comment [R50]: Staff, added Jefferson County. 6-30-11

- c. Existing Primary Building. Where a primary residential building is located within 100 feet of the subject property, the shoreline structure setback line shall be as follows:
 - i. Existing Primary Buildings on Both Sides. Where existing primary residential buildings side setbacks are 50-100 feet or less and are abutting both sides and of the proposed primary residential building on a regular shoreline. If the nearest primary residential building side setback is 50 feet or less on an abutting property to one side, is located on a neighboring property within 100 feet from the property line for which a new primary residential development is proposed (including new construction or expansion of existing development), the shoreline structure setback line shall be determined by a line drawn between the points closest to the shoreline of each abutting neighboring primary buildings. If the neighboring primary residence is in Zone 1 then the most waterward point of the neighboring primary residence shall be the intersection of the subject property and the neighboring property's Zone 1. Setbacks are based on primary buildings existing at the time a new primary residential building permit is submitted. A primary building constructed in compliance with the required shoreline setback is not made nonconforming by the later construction or replacement of a primary residential building in a different location on an adjacent lot. (See Figures 4.1.d and 4.1.e. below)
 - ii. Existing Primary Residential Buildings on Both Sides on a Shoreline Forming a Cove or Headland. Where existing primary residential

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buildings side setbacks are 50-100 feet or less and are located on abutting properties to both sides of the proposed primary residential building. If the nearest primary residential building side setback is 50 feet or less on an abutting property to one side, is located on a neighboring property within 100 feet from the property line for which a new primary residential development is proposed (including new construction or expansion of existing development), and situated on a shoreline forming a cove or headland, the shoreline structure setback line shall be determined by averaging the setback lines of the two adjacent primary buildings. (See Figures 4.1.f and 4.1.g, below) If the neighboring primary residence is in Zone 1 then the most waterward point of the neighboring primary residence shall be the intersection of the subject property and the neighboring property's Zone 1.

Figure 4.1.a

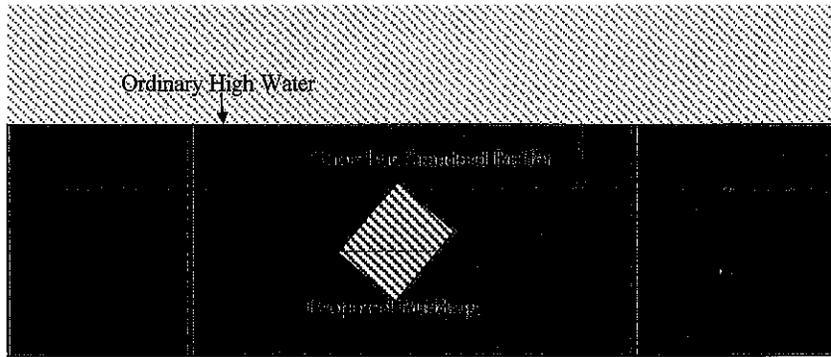


Figure 4.1.b

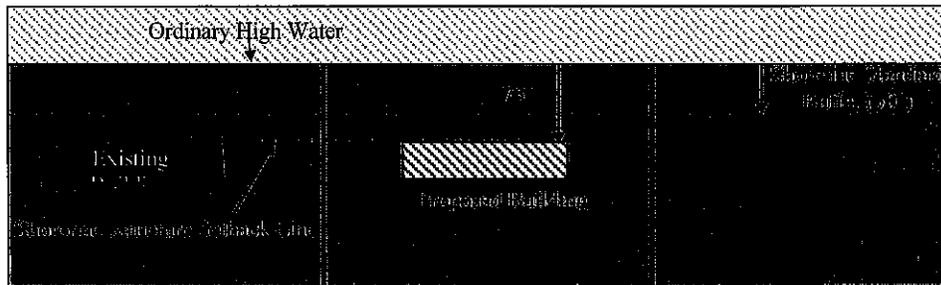


Figure 4.1.c

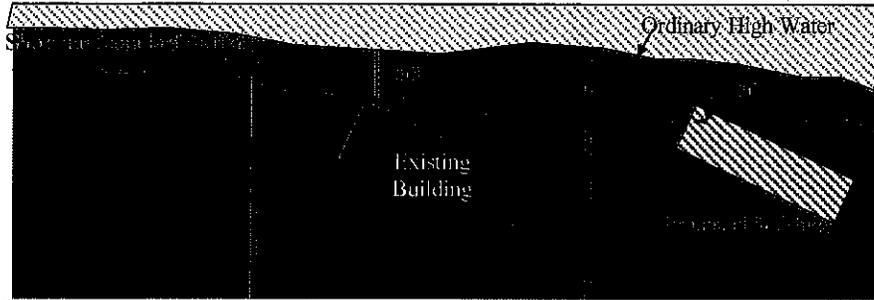


Figure 4.1.d

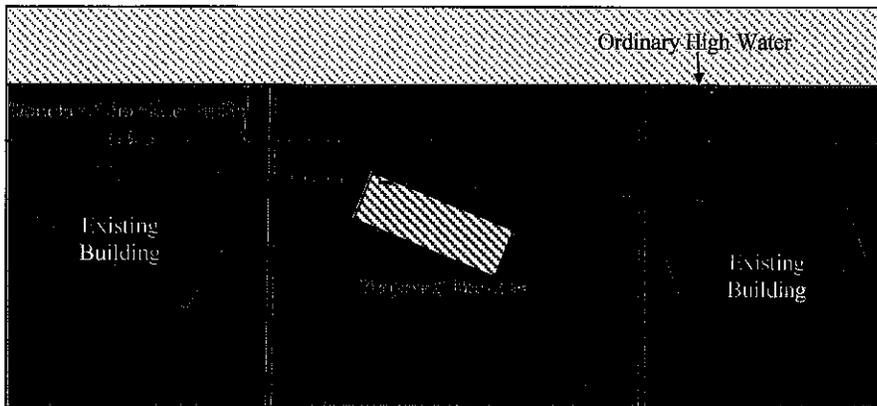


Figure 4.1.e

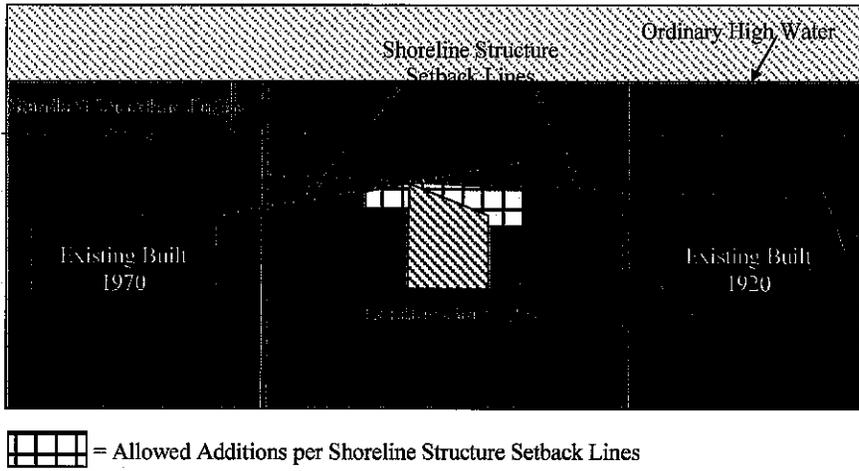


Figure 4.1.f

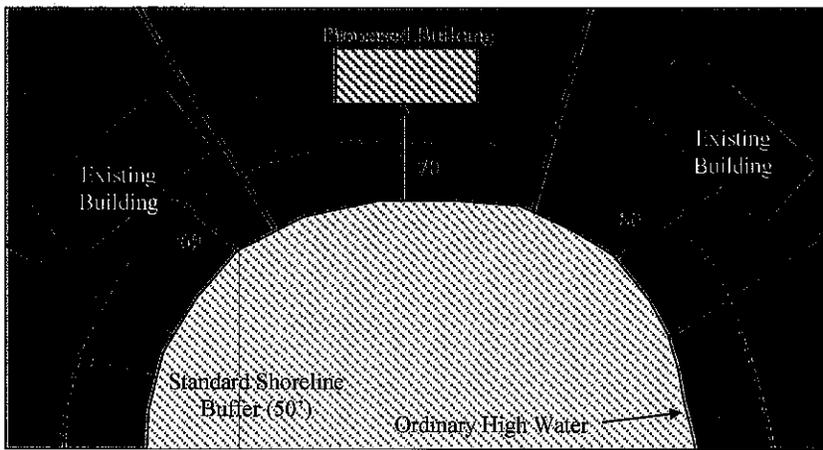
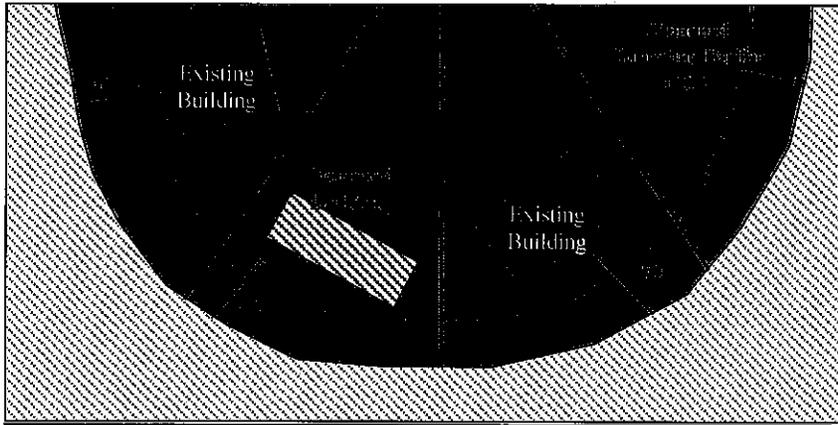


Figure 4.1.g



4.1.3.7 Regulations—General Vegetation Alteration Standards

1. ~~10. Native vegetation zones~~ When the prescriptive buffer depth is reduced or altered, the applicant shall record a Notice on Title, or other similar document subject to the approval of the Administrator, with the County Auditor prior to permit issuance, and related restrictions required by the City for a preliminary plat shall be written on the face of the final plat, and for all other land shall be included in a separate covenant, easement or other similar document. The separate document shall be recorded with the County Auditor within one month of the imposition of the requirement.

Comment [R51]: Staff reworded 8-4-11

2. ~~4. No clearing, grading, or construction may be undertaken within the SB native vegetation zone unless specifically provided for in this section or in Section V, Specific Shoreline Use Policies and Regulations except the following activities as prescribed below and pursuant to Section B, Clearing and Grading. Such activities may also require a clearing permit pursuant to BIMC Chapter 15.18, as provided for in this section~~

Comment [LH52]: Stormwater??? Ryan - Please make revision and notes in this Section as agreed at the 8/25 meeting. Also, connect to thresholds or place thresholds here

Comment [RES3]: Staff - removed for clarity 3/31/11

a. ~~Standard Shoreline Buffer enhancement which includes removal of noxious or invasive weeds and/or planting native vegetation in accordance with section xxx. Mitigation Sequencing, is allowed.~~

Comment [LH54]: Check name and cross reference citation.

a. ~~A vegetation clearing and tree removal request shall be submitted in writing to the City prior to any vegetation or tree removal within the Standard Shoreline Buffer. The request shall include the location, number, type and size of tree(s) and vegetation being removed and the proposed replacement tree(s) and a riparian vegetation planting plan meeting the standards required in Section xxx. The City shall inspect the tree replacement once installation is complete.~~

Comment [I55]: Moved to exception section in general regs, page 3.

Comment [I56]: Kirkland

b. ~~a. Tree pruning, including thinning of lateral branches to enhance views, or trimming, shaping, thinning or pruning of a tree necessary for plant health and~~

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growth and which is not intended to harm the health of the plant, is allowed consistent with the following standards:

Comment [RE57]: Staff – combination of Jefferson & Anacortes 3/31/11

- i. All pruning shall meet the American National Standards 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;
 - iii. Pruning shall retain branches that overhang the water, to the maximum extent feasible.
- c. Tree or vegetation removal associated with either reconstruction of a primary structure (within the same footprint), or 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, must meet in accordance with the requirements of Section (Mitigation), including planting native vegetation;
- i. Removal of vegetative obstructions required for visual clearance at street intersections provided in the Public Works Design and Construction Standards and Specifications;
 - ii. 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. Unless otherwise stated, the vegetation conservation regulations of this Program do not apply to commercial forest practices as defined by this Program when such activities are covered 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 and BIMC 16.20, and shall be limited to the minimum necessary to accommodate an approved use;
- d. View maintenance. Shoreline uses or developments shall use all feasible techniques to maximize retention of existing native shoreline vegetation within the SB.
- i. Limited removal of existing trees or vegetation on the same property as a single-family residence may be allowed to maintain a pre-existing view from the primary structure, or establish a view for a new primary structure provided that the following are met:
 1. The applicant demonstrates to the satisfaction of the Administrator

Comment [RE58]: Staff – copied from tree code 3/31/11

Comment [RE59]: Staff – Jefferson County 3/31/11

Comment [LH60]: 8/25/11 Workgroup: Agreed to provided implementing language for Policy #9 to allow limited removal of vegetation for views pursuant to this policy.

This need work and research. And discussion with Current Planners

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that the tree removal is the minimum necessary to re-establish or establish a view of the water enjoyed by other residences in the area and that pruning methods will not provide an adequate view of the water enjoyed by other residences in the areas; and

2. Existing significant native trees are not removed within ~~SB Zone~~ except when determined to be a hazard tree pursuant to section 4.1.3.5(3) of this section; and
3. In no instance shall vegetation removal exceed twenty (20) percent of the required SB area or fifteen (15) linear feet of the water frontage, whichever is greater, and shall not reduce the canopy to less than 65% coverage; and
4. The applicant obtains an approved Bluff Management Plan pursuant to Section 4.1.5, for any vegetation alteration in a geologically hazardous area, the cost and preparation of the plan is the responsibility of the applicant; and
5. 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) and the no net loss standard for vegetation in Section 4.1.2 No Net Loss and Mitigation.

Change:
fifteen (15) linear feet to forty (40) linear feet

ii. 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:

1. Slope stability;
2. Habitat value;
3. Health of surrounding vegetation;
4. Risk of wind damage to surrounding vegetation;
5. Nearby surface or ground water; or
6. Water quality of a nearby water body.

Delete existing language and insert:
result in a Net Loss of existing ecological function such as:

- e. Underground utilities, where they 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, provided that disturbance is minimized, the buffer is revegetated after construction. (See No Net Loss and Mitigation Section 4.1.2, Critical Areas Section 4.1.5 and Water Quality and Stormwater Section 4.1.6, for additional regulations which may apply);
- f. Potable water wells;
- g. Shoreline stabilization in accordance with Section 6.0 and
- h. Construction of one (1) approved tram, provided this development is approved pursuant to section x, Shoreline Modifications.

Comment [M61]: Staff – items allowed in other buffers 3/31/11

Comment [M62]: Staff – identifying limitation on tram & moved from residential section 3/31/11

Comment [k63]: Staff, inserted “and”. 7/25/11

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4.1.3.8 **Vegetation Alteration Standards—Residential Development**

No clearing, grading, or construction may be undertaken within the SB for a residential development except the following activities as prescribed below and pursuant to Section 4.1.3.4. Clearing and Grading may be allowed:

Comment [I64]: Added section specific to Residential appurtenant structures and buffer regs. 7/6/11

1. One (1) hand installed pervious path to the shoreline, which may include hand installed steps, not more than four (4) feet in width, and designed to minimize environmental impacts, shall be allowed. The path may be wider when required for handicapped or public access. Staircase design shall follow residential building standards for staircase construction BIMC 15.04 for:

Comment [M65]: Staff – moved from residential section & clarified 3/31/11

Comment [R66]: Discuss slope requirements

- a. Handrails; and
- b. Tread depth and riser height; and
- c. When feasible, safety landings.

2. 6. Primary appurtenant structures to a residential use and non-habitable structures, 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 I upland of an Aquatic Conservancy environment.

Comment [M67]: Staff – moved from residential section and modified to better meet policies 3/31/11

- a. The total square footage of all buildings or structures must not exceed 400 square feet or 10% of the SB area, whichever is less.
- b. Only 10% of the total allowed square footage or 300 square feet, whichever is less, can be located in Zone I.
- c. All structures must be designed to not significantly impact views from adjacent property primary buildings, pursuant to Section 4.1.3.6 (7), Shoreline Structure Setback. All structures must meet the following standards:
 - i. Only water-related structures are allowed in Zone I, including a boathouse, permeable deck, boat storage, or staircase;
 - ii. Buildings shall not exceed 12 feet in height above existing grade;
 - iii. Stairways shall not exceed 250 square feet. Stairways shall conform to the standards of the International Residential Building Code as adopted in BIMC Chapter 15.04. If a larger staircase is required to obtain access to the beach, a tram will be required, unless a staircase design is demonstrated to the satisfaction of the Administrator to provide greater protection of slope stability and ecological function; and
 - iv. Decks and/or patios shall be permeable and shall not exceed 30 inches in height above existing grade.

4.1.3.9 **Vegetation Alteration Standards – Commercial and Industrial Development**

No clearing, grading, or construction may be undertaken within the SB for a commercial or industrial development except the following activities as prescribed below and pursuant to Section B. Clearing and Grading may be allowed:

Comment [I68]: Staff, Added section specific to Commercial structures and buffer regs. 7/6/11

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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 upland of an Aquatic Conservancy environment.
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

No clearing, grading, or construction may be undertaken within the SB for a public park development except as followings:

Comment [I69]: Staff, Added section specific to Public Parks structures and buffer regs. 7/6/11

1. The size and extent of proposed disturbed areas within the SB have been determined as part of a park development plan or master park plan, with due consideration of the intended park use; and all proposed disturbance areas meet the no net loss standards pursuant to in accordance with Section 4.1.2. (No Net Loss and Mitigation); and appropriate permits are obtained including those pursuant to Section B, Clearing and Grading;
2. Activities as prescribed below and pursuant to Section B, Clearing and Grading may be allowed without an approved park development plan or master park plan:
 - a. Public pathways to the shoreline shall be allowed within the standard shoreline buffer as part of a public park development proposal, provided it is demonstrated that the size and extent of public pathways have been determined as part of a park development plan or master park plan, with due consideration of the intended park use. Primary appurtenant structures to a public park and recreation use that either support public access or are necessary to support a water-dependent recreational use shall be allowed within the buffer when a need for the shoreline location is demonstrated, except that all structures are prohibited in Zone 1 upland of an Aquatic Conservancy environment. 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.
 - b. The total square footage of all buildings or structures must not exceed 6000 square feet or 10% of the SB area, whichever is less.
 - c. Only 10% of the total allowed square footage or 1000 square feet, whichever is less, can be located in Zone 1.
 - d. All structures must be designed to not significantly impact views from adjacent property primary buildings. All structures must meet the following standards:
 - i. 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;

Comment [LH70]: 8/25/11 Workgroup: Agreed to provide that the Park District can establish SB site disturbance specific to a particular park through a master park plan process; however the park development must also meet standards of the SMP as required by law, including no net loss and limited disturbance of required SB.

Comment [LH71]: Check title and citation.

Comment [LH72]: Check title and citation.

- ii. 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;
- iii. Stairways may exceed 250 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.
- iv. Boat ramps and other boating facilities may be allowed pursuant to Boating Facilities Section 5.4.

4.1.4-B. Clearing and Grading (will be combined with NVZ regs) (Land Modification)

4.1.4.1 Applicability

All shoreline uses and activities must conform to the clearing and grading provisions herein, including development which does not require a shoreline permit. (See also Water Quality and Stormwater Section 4.1.6 for related provisions.)

4.1.4.2 Land Surface Modification Policies

1. Allow alteration of the natural landscape only in association with existing legal uses or new permitted or allowed shoreline use/or development. Prohibit speculative clearing, grading, or vegetation removal.
2. Avoid and minimize potential adverse impacts from land surface modification activities through proper site planning, construction timing practices, and use of erosion and drainage control methods. Generally, these activities should limit alteration of the natural landscape to the extent necessary to accommodate the proposed use, or to remove invasive vegetation, and should be designed and located to protect shoreline ecological functions and ecosystem-wide processes.
3. Assure clearing and grading activities are consistent with the Stormwater Manual to prevent adverse impact to wildlife habitat, streams, lakes, and wetlands from erosion.
4. For clearing and grading proposals, provide a clearing and grading plan addressing native species removal, erosion and sedimentation control, and protection of critical areas and shoreline vegetation ~~conservation and~~ management zones. Use low impact development techniques to minimize adverse impacts to natural hydrologic conditions, such as soil compaction and transpiration.
5. Promptly replant disturbed areas following project completion. Replanting with native shoreline vegetation should be a priority, however, flexible planting plans that incorporate non-native plant species which provide similar functions can be considered.

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4.1.4.3 Regulations – ~~Prohibited~~

1. ~~All clearing and/or grading not associated with an approved development is prohibited. Clearing and/or grading within shoreline jurisdiction, shall only be permitted upon approval of a detailed landscape plan for vegetation, in accordance mitigation requirements in requirements in Section 4.1.2 and vegetation management section 4.1.3 BIMC Chapter 18.15 (pick which tree plan).~~

Comment [k73]: No applicability section. Also reference water quality section.

Comment [M74]: Staff – added to meet policies 3/31/11

4.1.4.4 Regulations – General

6. Clearing and grading shall be ~~permitted landward of the native vegetation zone when~~ associated with a permitted shoreline use, provided that upon completion of construction, remaining cleared areas shall be replanted within the first applicable planting season. Replanted areas shall be ~~fully reestablished within three (3) years of completion of construction and shall be properly maintained.~~ established in accordance with Section 4.1.3 (Vegetation Management).

Comment [M75]: Staff – changed to refer to new restoration standards 3/31/11

2. ~~Except as provided for in this program, existing native vegetation between the OHWM and the top of any bank ten (10) feet or higher that is waterward of the development shall be retained.~~

Comment [M76]: Staff – inconsistent with policies 3/31/11

7. ~~3.~~All vegetation that is ~~intended to be retained but may within the native vegetation zone or other buffer and which is likely to be disturbed by the clearing and grading activity shall be protected by a temporary fence or other marking determined by the City to adequately protect the vegetation in accordance with the standards of BIMC Chapter 15.18. This also includes root zones of trees which must remain. The temporary fencing/markings shall be installed and approved by the City before any clearing and grading begins, and maintained until construction is completed.~~

Comment [M77]: Staff – updated to meet better protection standards in BIMC 18.15 3/31/11

8. ~~4.~~Land alteration (clearing, grading, filling) shall be limited to the minimum necessary for development. ~~All land alteration must meet the standards of BIMC Chapter 15.20. Surface drainage systems or substantial earth modifications involving greater than five hundred (500) cubic yards of material shall be designed by a licensed engineer to prevent maintenance problems or adverse impacts to shoreline features.~~

Comment [M78]: Staff – modified to refer to BIMC 15.20 instead 3/31/11

Draft 2011 SMP

Planning Commission Study Session #6 September 8, 2011

**Land Modification
Vegetation and Conservation Workgroup**

4.1.4 B. ~~Clearing and Grading (will be combined with NVZ regs) (Land Modification)~~

4.1.4.1 Applicability

All shoreline uses and activities must conform to the clearing and grading provisions herein, including development which does not require a shoreline permit. (See also Water Quality and Stormwater Section 4.1.6 for related provisions.)

4.1.4.2 Land Surface Modification Policies

9. Allow alteration of the natural landscape only in association with existing legal uses or new permitted or allowed shoreline use/or development. Prohibit speculative clearing, grading, or vegetation removal.
10. Avoid and minimize potential adverse impacts from land surface modification activities through proper site planning, construction timing practices, and use of erosion and drainage control methods. Generally, these activities should limit alteration of the natural landscape to the extent necessary to accommodate the proposed use, or to remove invasive vegetation, and should be designed and located to protect shoreline ecological functions and ecosystem-wide processes.
11. Assure clearing and grading activities are consistent with the Stormwater Manual to prevent adverse impact to wildlife habitat, streams, lakes, and wetlands from erosion.
12. For clearing and grading proposals, provide a clearing and grading plan addressing native species removal, erosion and sedimentation control, and protection of critical areas and shoreline vegetation conservation and management zones. Use low impact development techniques to minimize adverse impacts to natural hydrologic conditions, such as soil compaction and transpiration.
13. Promptly replant disturbed areas following project completion. Replanting with native shoreline vegetation should be a priority, however, flexible planting plans that incorporate non-native plant species which provide similar functions can be considered.

4.1.4.3 Regulations – ~~Prohibited~~

2. All clearing and/or grading not associated with an approved development is prohibited. Clearing and/or grading within shoreline jurisdiction, shall only be permitted upon approval of a detailed landscape plan for vegetation, in accordance mitigation requirements in requirements in Section 4.1.2 and vegetation management section 4.1.3 BIMC Chapter 18.15 (pick which tree plan).

Comment [k79]: No applicability section 4.1.3 reference water quality section 4

Comment [M80]: Staff – added to meet policies 3/31/11

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4.1.4.4 Regulations – General

14. Clearing and grading shall be permitted landward of the native vegetation zone when associated with a permitted shoreline use, provided that upon completion of construction, remaining cleared areas shall be replanted within the first applicable planting season. Replanted areas shall be fully reestablished within three (3) years of completion of construction and shall be properly maintained, established in accordance with Section 4.1.3 (Vegetation Management).

Comment [M81]: Staff – changed to refer to new restoration standards 3/31/11

~~2. Except as provided for in this program, existing native vegetation between the OHWM and the top of any bank ten (10) feet or higher that is waterward of the development shall be retained.~~

Comment [M82]: Staff – inconsistent with policies 3/31/11

~~3. All vegetation that is intended to be retained but may within the native vegetation zone or other buffer and which is likely to be disturbed by the clearing and grading activity shall be protected by a temporary fence or other marking determined by the City to adequately protect the vegetation in accordance with the standards of BIMC Chapter 15.18. This also includes root zones of trees which must remain. The temporary fencing/markings shall be installed and approved by the City before any clearing and grading begins, and maintained until construction is completed.~~

Comment [M83]: Staff – updated to meet better protection standards in BIMC 18.15 3/31/11

4. Land alteration (clearing, grading, filling) shall be limited to the minimum necessary for development. All land alteration must meet the standards of BIMC Chapter 15.20. Surface drainage systems or substantial earth modifications involving greater than five hundred (500) cubic yards of material shall be designed by a licensed engineer to prevent maintenance problems or adverse impacts to shoreline features.

Comment [M84]: Staff – modified to refer to BIMC 15.20 instead 3/31/11