



ISLAND COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA BILL

MEETING DATE: 8/13/24

Agenda Item No. 11

CONSENT AGENDA  
 REGULAR AGENDA  
 PUBLIC HEARING/MTG

Resolution/Ordinance No:

C-13-24 PLG-004-24

DEPARTMENT: PLANNING AND COMMUNITY DEVELOPMENT

DIVISION: LONG RANGE PLANNING

STAFF CONTACT: John Lanier

DEPT. HEAD: Jonathan Lange, Director

AGENDA SUBJECT: 2020 Shoreline Master Program Periodic Update

BACKGROUND/SUMMARY: WORK SESSION DATE: *(If applicable)* 5/8/2024

Final local approval of Island County's 2020 Shoreline Master Program Periodic Update. Amendments to the local Shoreline Master Program will be in effect following approval by the Department of Ecology.

FISCAL IMPACT/FUNDING SOURCE: NA

RECOMMENDED ACTION:

Approve/Adopt  
 Schedule Public Hearing/Meeting  
 Continue Public Hearing/Meeting  
 Information/Discussion  
 Other *(describe)* \_\_\_\_\_

SUGGESTED MOTION: Approve Ordinance C-13-24 PLG-004-24.

***[BELOW TO BE COMPLETED BY CLERK OF BOARD]***

BOCC ACTION:

APPROVED

DENIED

TABLED/DEFERRED/NO ACTION TAKEN

CONTINUED TO DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_ TIME: \_\_\_\_\_

OTHER \_\_\_\_\_

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING AND TRANSMITTING THE  
REVISED AMENDMENTS TO CHAPTERS 17.03 AND 17.05A OF  
ISLAND COUNTY CODE, ELEMENT 3 OF THE COMPREHENSIVE  
PLAN, AND THE SHORELINE ENVIRONMENT DESIGNATION  
MAP TO THE WASHINGTON DEPARTMENT OF ECOLOGY FOR  
REVIEW AND APPROVAL, AS A PART OF THE PERIODIC  
UPDATE OF THE ISLAND COUNTY SHORELINE MASTER  
PROGRAM IN ACCORDANCE WITH THE STANDARD REVIEW  
PROCESS OF WAC 173-26-100

ORDINANCE NO.  
C-13-24  
PLG-004-24

**WHEREAS**, the State of Washington Shoreline Management Act of 1971, Chapter 90.58 RCW (Act), requires counties and cities to prepare shoreline master programs (SMPs) to prevent the uncoordinated and piecemeal development on shorelines of the state; and

**WHEREAS**, pursuant to RCW 90.58.050, Island County and the Washington State Department of Ecology (Ecology) are to work together cooperatively, with the local government having the primary responsibility for initiating the planning required and Ecology acting primarily in a supportive and review capacity; and

**WHEREAS**, in 2003, Ecology adopted new rules pursuant to RCW 90.58.200, which gave procedural and substantive direction to local jurisdictions for updating shoreline uses and regulations, which became effective January 17, 2004; and

**WHEREAS**, the SMP Guidelines (Chapter 173-26 WAC) are the standards and guidance that establish minimum standards for updating local shoreline master programs; and

**WHEREAS**, RCW 90.58.080(2) required counties and cities to develop or amend a master program for regulation of uses of the shorelines of the state consistent with the required elements of the guidelines adopted in Chapter 173-26 WAC; and

**WHEREAS**, on December 15, 2015 Island County adopted Ordinance C-107-15, In the Matter of Updating and Adopting Amendments to the Shoreline Management Element of the Island County Comprehensive Plan and Adoption of Chapter 17.05A ICC to Replace Chapters 16.21 and 17.05 ICC; and

**WHEREAS**, January 19, 2016, Ordinance C-107-15 became effective establishing Island County's Shoreline Master Program under the new guidelines of Chapter 173-26 WAC; and

**WHEREAS**, WAC 173-26-090 requires that following the comprehensive updates required by RCW 90.58.080(2), each local government conduct a review of their master program at least once every eight years on a schedule established in the act; and following the review, local governments shall, if necessary, revise their master programs; and this review and revision is referred to as a periodic review; and

**WHEREAS**, an agreement was entered into on February 7, 2020 between the State of Washington, Department of Ecology, and Island County, Washington to provide state funds of up to \$84,000 for the County to review and prepare associated updates to the locally adopted Shoreline Master Program consistent with the conditions of Agreement No. SEASMP-1921-IsCo-00005; and

**WHEREAS**, the Island County Planning and Community Development Department established a Scope of Work for the periodic review and update, which focused on staff-initiated revisions,

changes to address amendments to state law, rules, and guidelines, corrections to shoreline mapping, and changes to address sea level rise; and

**WHEREAS**, the Island County Planning and Community Development Department prepared proposed amendments to the Island County Shoreline Master Program, consisting of amendments to the goals and policies of the Shoreline Management Element of the Comprehensive Plan (attached to this Ordinance as Exhibit C) and amendments to Chapters 17.03 and 17.05A ICC, the implementing shoreline regulations (attached to this Ordinance as Exhibits A, and B, respectively); and

**WHEREAS**, in consideration of prior policy clarifications issued regarding shoreline environment designation changes at Beverly Beach, Soundview Drive, Race Road, and Surfcrest Drive, (attached collectively to this Ordinance as Exhibit E), and in consideration of other data and input, the Island County Planning and Community Development Department prepared a revised Shoreline Environment designations map, correcting inaccuracies to the mapping of shoreline jurisdictional and shoreline associated wetlands as well as applying the criteria of ICC 17.05A.070 to map all Historic Beach Communities (Attached to this Ordinance as Exhibit D); and

**WHEREAS**, the Island County Planning and Community Development Department prepared guidance for individual property owners and shoreline communities on planning for Sea Level Rise; and

**WHEREAS**, Island County formed a Technical Review Committee (TRC) consisting of property owners, stakeholders, development professionals, land use consultants, and representatives from environmental organizations , the conservation districts, and ports to gather input on the proposed updates; and

**WHEREAS**, the TRC held 6 advisory group meetings during the course of the update, the Planning Commission held 10 public meetings, and the Board of Island County Commissioners (BOCC) held 11 public meetings; and

**WHEREAS**, the Island County Planning and Community Development Department prepared a completed environmental checklist and issued a Determination of Non-Significance on April 2, 2021 in accordance with WAC 197-11-340; and

**WHEREAS**, Island County and the Department of Ecology held a joint 30-day public comment period from March 26, 2021 through April 25, 2021 during which a joint public comment hearing was held to receive comments on the proposed draft; and

**WHEREAS**, during the 30-day public comment period, Island County received written comments from 13 unique individuals or organizations and six of those individuals or organizations also provided spoken comments during the joint hearing; and

**WHEREAS**, the Island County Planning and Community Development Department prepared a public comment matrix documenting the comments received and any resulting changes made to the draft, which was then presented during a public meeting to the Planning Commission on April 26, 2021 and to the Board of County Commissioners on April 21, 2021; and

**WHEREAS**, the Island County Planning and Community Development Department provided 60 day notice and transmitted the draft regulations to the Washington State Department of Commerce on April 29, 2021, in accordance with RCW 36.70A.106 ; and

**WHEREAS**, the Island County Planning Commission held a public hearing on May 17, 2021 and recommended the Board of County Commissioners to formally transmit to the Department of Ecology

the proposed draft amendments to Chapters 17.03 and 17.05A of Island County Code, Element 3 of the Comprehensive Plan, and the Shoreline Environment Designation Map; and

**WHEREAS**, the Washington State Department of Ecology provided a list of required and recommended changes on December 17, 2021 for Island County to consider; and

**WHEREAS**, the Island County Planning and Community Development Department updated the Shoreline Master Program to incorporate some of the changes provided by the Washington State Department of Ecology and to create an alternate proposal that is consistent with the purpose and intent of the remaining changes provided by the Department of Ecology; and

**WHEREAS** the Department of Planning and Community Development used the opportunity of this Shoreline Master Program update to clarify and reorganize some sections of Chapter 17.05A ICC, to improve its useability by the public; and

**WHEREAS**, amendments to a county's shoreline master program become effective when approved by the Department of Ecology, pursuant to RCW 90.58.090; and

**WHEREAS**, the Island County Board of County Commissioners intends for these revised amendments to become effective immediately upon approval by the Department of Ecology; and

**WHEREAS**, the Island County Board of County Commissioners held a public hearing on February 6, 2024 and resolved to formally adopt and transmit the revised amendments to Chapters 17.03 and 17.05A of Island County Code, Element 3 of the Comprehensive Plan, the Shoreline Environmental Designation Map, four policies regarding environmental designation conflicts.

**NOW, THEREFORE,**

**IT IS HEREBY ORDAINED** that the Board of Island County Commissioners adopts and transmits the revised amendments to Chapter 17.03 ICC and Chapter 17.05A ICC, attached hereto as Exhibits A and B respectively, in which deleted text is depicted in ~~strikethrough~~ format, and added text is displayed in underlined format as follows:

**AMENDING THE FOLLOWING SECTIONS:**

ICC 17.05A.020, 17.05A.035, 17.05A.040, 17.05A.050, 17.05A.060, 17.05A.070, 17.05A.080, 17.05A.090, 17.05A.100, 17.05A.110, 17.05A.130, 17.05A.140, 17.05A.150, 17.05A.170, 17.05A.180.

**AMENDING THE FOLLOWING SUBSECTION:**

ICC 17.03.180.S.8; and

**ADDING NEW SECTION:**

ICC 17.05A.095,

**BE IT FURTHER ORDAINED**, the following Exhibits shall be transmitted to the Washington State Department of Ecology for final review of consistency with RCW 90.58.020 and applicable guidelines, per the standard review process outlined in WAC 173-26-100:

**EXHIBIT C: The Shoreline Management Element of Island County's Comprehensive Plan**

EXHIBIT D: Shoreline Environment Designation Maps  
EXHIBIT E: Shoreline Environment Designation Changes  
EXHIBIT F: State Agency Comments on the Draft SMP  
EXHIBIT G: Table of Amendments to Chapter 17.05A ICC; and

**BE IT FURTHER ORDAINED** that the amendments to Chapter 17.03 ICC and Chapter 17.05A ICC, shall be effective immediately upon approval of the Department of Ecology.

ADOPTED this 12th day of August, 2024

BOARD OF COUNTY COMMISSIONERS  
ISLAND COUNTY, WASHINGTON

Jill Johnson  
JILL JOHNSON, Chair

Janet St. Clair  
JANET ST. CLAIR, Member

Melanie Bacon  
MELANIE BACON, Member

ATTEST:

Jennifer Roll  
Jennifer Roll  
Clerk of the Board



APPROVED AS TO FORM: EXHIBITS A AND B, AMENDING CHS. 17.03 AND 17.05A ICC

Gregory M. Banks  
Gregory M. Banks  
Island County Prosecuting Attorney  
Island County Code Reviser

**EXHIBIT A: AMENDMENTS TO ISLAND COUNTY CODE**  
**Sec. 17.03.180.S.8**

## Chapter 17.03 Island County Zoning Code

### 17.03.180 – Land Use Standards.

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#### S. Site Coverage and Setbacks.

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##### 7. General exceptions to setback requirements:

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##### 8. Special shoreline setbacks. Chapter 17.05A ICC provides for setbacks within shoreline jurisdiction which may differ from those provided above, in which case the most restrictive applies.

- a. ~~The standard shoreline setback for dwelling units shall be fifty (50) feet landward of the OHWM except for the conservancy and natural environments, where the setback shall be seventy-five (75) feet landward of the OHWM.~~
- b. ~~A greater setback may be required if necessary to comply with the grading, geologically hazardous area, erosion control and drainage requirements of chapter 11.02 and chapter 11.03 and/or the critical areas regulations contained in chapter 17.02B.~~
- c. ~~For the purpose of accommodating shoreline views within existing developed areas. Setbacks for residential uses may be reduced consistent with the following:~~
  - (i) ~~Where there are existing principal residences that encroach on the established setback within 240 feet of either side of the proposed building footprint, the required setback for the proposed structure may be reduced by review and approval of the Shoreline Administrator. In such cases, the setback of the proposed residential structures may be reduced to the average of the setbacks of the existing adjacent principal residences.~~
  - (ii) ~~In those instances where only one (1) existing principal residence is within 240 feet of either side of the proposed building site, the setback of the proposed structure may be reduced (with approval of the administrator) to the average of the setbacks for the existing adjacent principal residence and the applicable setback for the adjacent vacant parcel.~~
  - (iii) ~~The reduced setbacks applied above shall not be less than twenty-five (25) feet landward of the OHWM except for the natural and conservancy environments, where the minimum shall be fifty (50) feet, unless required to comply with the setback requirements of this chapter and chapter 17.02B.~~

#### T. Small-scale recreation and tourist uses.

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**EXHIBIT B: AMENDMENTS TO CHAPTER 17.05A OF ISLAND COUNTY  
CODE**

## **Chapter 17.05A – Shoreline Master Program Regulations and Procedures**

### **17.05A.010 - Title.**

This chapter is the Island County Shoreline Master Program Regulations and Procedures.

### **17.05A.020 - Short title.**

This chapter may be referred to as the "Island County Shoreline Master Program," "Shoreline Master Program," "Master Program," "Program," or "SMP," which is comprised of the components described in section ICC 17.05A.040.

### **17.05A.030 - Purpose.**

The purposes of this chapter are:

- A. To carry out the responsibilities imposed on Island County by Chapter 90.58 RCW, the Shoreline Management Act (SMA or Act) of 1971, as now or hereafter amended;
- B. To provide clear, effective goals, policies, shoreline environment designations, development standards, and procedures consistent with the implementing guidelines set forth in WAC 173-26;
- C. To provide for wise and proper management of shorelines, wetlands, and water bodies in a manner that will allow present and future generations of users the opportunity to enjoy marine oriented resources, consistent with the goals, policies, and stated purposes of the Island County Shoreline Master Program;
- D. To implement the Shoreline Master Program goals, policies, and shoreline restoration plan;
- E. To set forth procedures for regulating uses and activities governed by the SMA; and
- F. To protect and enhance the natural shoreline systems and critical areas while at the same time protecting the rights of the private property owners for the timely and reasonable use and enjoyment of their properties, consistent with the protection of the natural systems and the public trust doctrine.

### **17.05A.035 - Caveat disclaimer.**

- A. It is the specific intent of this chapter to place the obligation of complying with its requirements upon the owner of the land within its scope, and no provision or term used in this chapter is intended to impose any duty whatsoever upon Island County or any of its officers or employees running to any specific person or entity. Nothing contained in this chapter shall be construed as

a guarantee or warranty on the part of the county that site development has or will be accomplished in accordance with the provisions of this chapter, nor shall it be construed to create or form the basis for any liability on the part of the county or its officers, employees, or agents for any injury or damages resulting from the failure or consequence of any inspection notice, order, certificate, permission, or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the county related in any manner to the enforcement of this chapter by its officers, employees, or agents.

- B. Further, the administration of this chapter shall not be construed to impose or create a basis for any liability on the part of the county, its appointed and elected officials, officers, agents, or employees, nor shall this chapter be construed to create any special relationship with or otherwise protect any specific person or class of persons.
- C. Island County shall require a written disclosure statement be provided to a prospective buyer or a lessee that specifically notifies them of any recorded covenants, the provisions and acknowledgements contained within the covenants, and that such covenants run with the land.
- D. Island County shall require that the applicant for any variances that are granted sign a statement holding Island County harmless. The signed statement shall be recorded in the Island County Auditor's Office with the property title to inform future owners of the property.
- E. Before the placement of any structures within the shoreline setback or buffer, property owners are encouraged to consult the Projected Sea Level Rise for Washington State, a 2018 Assessment (or as amended) and all related risk assessment and sea level rise planning guidance prepared by Island County.

## **17.05A.040 - Shoreline Master Program.**

The Island County Shoreline Master Program, as adopted pursuant to Chapter 90.58 RCW, shall consist of the following:

- A. The goals, policies, shoreline environment designation management policies and the shoreline restoration plan contained in the shoreline master program element of the Island County Growth Management Act (GMA) Comprehensive Plan; and
- B. The shoreline regulations, administrative procedures, and shoreline environment designations map as contained in this chapter.
- C. The following regulations from Island County Critical Areas Regulations Chapter 17.02B are incorporated into this Shoreline Master Program by reference:
  - 1. 17.02B.040.H Assessment
  - 2. 17.02B.060 Definitions
  - 3. 17.02B.080 General mitigation requirements

4. 17.02B.300 Exempt activities – only to include the exemptions listed below:

- a. 17.02B.300.B.3 Transportation infrastructure repair
- b. 17.02B.300.B.5 Utility repair
- c. 17.02B.300.B.6 Utility construction in improved right-of-way
- d. 17.02B.300.B.7 Existing structures

8. 17.02B.460 Wetlands (Evaluation and Protection Standards)

9. 17.02B.500 Requirements (Mitigation Requirements)

10. 17.02B.510 Wetlands (Mitigation Requirements)

11. 17.02B.520 Surface Water Quality (Monitoring and Adaptive Management)

12. 17.02B.530 Wetlands (Monitoring and Adaptive Management)

- D. The standards for protection of aquifer recharge areas in ICC 8.09.097 are incorporated into this Shoreline Master Program by reference.
- E. If a conflict exists between the development regulations outlined in this Chapter and those of another Chapter of Island County Code, the more restrictive shall apply.

## **17.05A.050 - Applicability.**

- A. Except as exempted in this section, ICC 17.05A.050, this Shoreline Master Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state government agency, public or municipal corporation, or other nonfederal entity which develops, owns, leases, or administers lands, wetlands, or waters subject to this Shoreline Master Program.
- B. Except as exempted in this section, ICC 17.05A.050, this Shoreline Master Program applies to all "development" as defined by this chapter and Chapter 90.58 RCW 90.58, whether or not a shoreline permit or statement of permit exemption is required. All proposed uses, activities, and development occurring within shoreline jurisdiction shall comply with this Shoreline Master Program and Chapter 90.58 RCW 90.58.
- C. Applicability to federal agencies Applicability to lands subject to federal ownership interests or federal control or federal jurisdiction.
  - 1. The policies and provisions of Chapter 90.58 RCW and this Shoreline Master Program shall be applied to federal lands and agencies as provided by the Coastal Zone Management Act (Title 16 United States Code § 1451 et seq.) and Washington Administrative Code (WAC) 173-27-060(1) and (3).

2. The requirements of this chapter shall apply to nonfederal activities undertaken on lands subject to nonfederal lease or easement, even though such lands may be under federal ownership.
3. The shoreline permit system shall apply to substantial developments undertaken on lands not federally owned but under lease, easement, license, or other similar federal property rights short of fee ownership, to the Federal government.
4. The provisions of this program shall not apply to lands held in trust by the United States for Indian Nations, tribes, or individuals.
5. Requirements to obtain a shoreline substantial development permit, shoreline conditional use permit, shoreline variance, shoreline exemption, or other shoreline review to implement the Shoreline Management Act do not apply to lands under exclusive federal jurisdiction.

D. Relationship to comprehensive plan. This SMP provides regulations and development standards to implement the goals and policies of the Island County GMA Comprehensive Plan, Shoreline Master Program Element. These regulations apply to all land and waters of Island County under the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW).

E. Applicability to substantial development.

1. This Shoreline Master Program applies to all "substantial development" as defined by this chapter and Chapter 90.58 RCW 90.58.
2. No substantial development may be undertaken unless a valid shoreline substantial development permit is first issued by the county and unless all work proceeds in compliance with the requirements of the Shoreline Management Act, this Master Program, and other applicable federal, state, and local laws and regulations.
3. This Program applies to all uses and development within the shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required.

F. The Shoreline Master Program does not apply to the following activities:

1. Certain remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70A.305 RCW, or to the department of ecology when it conducts a remedial action under Chapter 70A.305 RCW.
2. Boatyard improvements to meet National Pollutant Discharge Elimination (NPDES) permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356.
4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

5. Projects authorized through the energy facility site evaluation council process, pursuant to Chapter 80.50 RCW.

## **17.05A.060 - Shoreline environment designations and maps.**

- A. Shorelines of the state within Island County shall be designated on official shoreline maps to be kept in the office of the Island County Planning and Community Development Department. (See Appendix: Island County Shoreline Environment Designations Map.)
- B. Shorelines shall be categorized into shoreline environment designations using the following six (6) designations: ~~a~~Aquatic, ~~n~~Natural, ~~r~~Rural ~~e~~Conservancy, ~~u~~Urban ~~e~~Conservancy, ~~s~~Shoreline ~~r~~Residential, and ~~h~~High ~~i~~Intensity. The ~~s~~Shoreline ~~r~~Residential designation includes the sub-designations of ~~s~~Shoreline ~~r~~Residential-~~e~~Canal ~~e~~Community and ~~s~~Shoreline ~~r~~Residential-~~h~~Historic ~~b~~Beach ~~e~~Community. For each shoreline designation, this section establishes the purpose and the criteria that are to be applied in establishing the extent of each designation.
- C. In accordance with WAC 173-26-211, undesignated shorelines shall be automatically assigned an environment designation of Rural Conservancy.
- CD. Whenever there is a conflict between the descriptions of shoreline environment designations, the parcel or other administrative boundaries and the mapped boundaries of the shoreline environment designations the county will rely on criteria contained in Department of Ecology's Shoreline Master Programs Handbook SMP eChapter #13 (shoreline environment designations), RCW 90.58.030, and eChapters 173-22 and 173-26 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map. When the Planning Director finds that a county map is in error, a correction shall be approved through a Shoreline Master Program Amendment.
- DE. Aquatic shoreline environment designation.
  1. Purpose: The purpose of the aquatic designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.
  2. Criteria for designation: Areas designated Aquatic should meet one (1) or more of the following criteria:
    - a. All saltwater areas waterward of the ordinary high water mark, including estuarine channels and coastal lagoons, other than those designated high intensity.
    - b. All SMA jurisdiction freshwater lakes waterward of the ordinary high water mark.
- EF. Natural shoreline environment designation.
  1. Purpose: The purpose of the natural designation is to preserve, protect, and restore areas that are relatively free of human influence or that include minimally degraded natural features and resources.

2. Criteria for designation: Areas designated natural should meet one (1) or more of the following criteria:
  - a. Areas that are generally free from development, including shoreline modifications, structures, roads, high intensity agricultural uses, or that have the potential to regain natural conditions with minimal or no restoration activity.
  - b. Areas critical for the support of priority, threatened, or endangered species.
  - c. Areas of waterfowl and other bird concentration.
  - d. Areas where the shoreline, whether minimally disturbed or intact, represents an ecosystem type or geologic feature that is of particular scientific or educational interest.
  - e. Forested riparian areas predominantly composed of native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.
  - f. Areas of shoreline-associated wetlands with generally intact buffers.
  - g. Salt marsh areas that are intact or, if previously used for agriculture, are capable of being restored.
  - h. Feeder bluffs without existing development above or below the slope, or development that is sufficiently set back from the top of slope so that the slope can function normally without endangering the development.
  - i. Undisturbed estuaries or accretional spits.
  - j. Areas unable to support new development or uses without significant adverse impacts to ecological functions, or that possess serious development limitations or human health and safety risks due to the presence of environmental hazards related to flooding, erosion or landslides and similar occurrences.
  - k. For areas designated due to the presence of specific habitat features, the designated areas should be large enough to protect the value of the habitat resource.

**FG.** Rural conservancy shoreline environment designation.

1. Purpose: The purpose of the rural conservancy designation is to protect, conserve, and manage ecological functions, harvestable natural resources, and aesthetic, cultural, historic, and recreational areas in order to provide for rural residential use and recreational opportunities.
2. Criteria for designation: Areas designated rural conservancy should meet one (1) or more of the following criteria:

- a. The shoreline is generally undeveloped or currently supporting lesser intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170.
- b. The shoreline supports human uses but is subject to environmental limitations, including steep slopes presenting erosion and slide hazards, wetlands, streams, areas prone to flooding, or contains areas that cannot provide adequate water supply or sewage disposal.
- c. The shoreline supports or can support low impact outdoor recreational activities.
- d. The shoreline has aesthetic, cultural, historic, or recreational qualities of regional or statewide importance.
- e. The shoreline is predominantly low density residential use.
- f. The shoreline has low intensity water-dependent uses.

**GH.** Urban conservancy shoreline environment designation.

1. Purpose: The purpose of the urban conservancy designation is to protect and restore ecological functions of open space and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.
2. Criteria for designation: Areas inside urban growth areas and non-municipal urban growth areas, as defined in RCW 36.70A.110, should be designated urban conservancy if any of the following characteristics apply:
  - a. They are suitable for water-related or water-enjoyment uses.
  - b. They include open space, floodplains, or other sensitive areas that should not be more intensively developed.
  - c. They have potential for ecological restoration.
  - d. They retain important ecological functions, even though partially developed.
  - e. They have the potential for development that is compatible with ecological restoration.

**HI.** Shoreline residential shoreline environment designation.

1. Purpose: The primary purpose for designating an area shoreline residential is to allow for residential development and for moderate to high impact recreational uses in appropriate areas of the shoreline.
2. Criteria for designation: Areas inside county-adopted rural areas of more intense development (RAIDs), if they are characterized by predominantly single-family or multi-family residential development or are planned and platted for residential development, but

are not predominantly covered by wetlands, stream corridors, or annually flooded areas shall be designated shoreline residential when any of the following characteristics apply:

- a. Areas that are legally subdivided for residential use at a density of one (1) or more units per acre and are not constrained by inadequate water supply and the inability to dispose of sewage due to soil conditions or lot sizes; or
- b. Areas developed with or planned for moderate to high impact recreational uses.
3. Shoreline ~~r~~Residential-~~e~~Canal ~~e~~Community and ~~s~~Shoreline ~~r~~Residential-~~h~~Historic ~~b~~Beach ~~e~~Community are higher density residential areas adjacent to manmade canals or ~~low~~ ~~bank~~ marine shorelines that have historical platting and development patterns no longer allowed by zoning or the SMP. These waterfront lots are designated and mapped based on approved subdivision limits and are subject to the regulations for ~~s~~Shoreline ~~r~~Residential designated areas, except when regulations specifically state that a regulation applies only to these specific communities.
4. Island County Historic Beach Communities include small parcels and historically dense shoreline neighborhoods ~~the following platted subdivisions and other similarly situated plats~~ meeting the definition of ~~h~~Historic ~~b~~Beach ~~e~~Community set forth in section ICC 17.05A.070. Historic Beach Communities shall be designated and mapped by the county as an overlay of the Shoreline Environment Designation map.

Madrona Beach (auditors file # 3997780 Nov. 1926)

Maple Grove Beach (auditors file # 3997763 Sept. 1930)

Maple Grove Beach No. 2 (auditors file # 3997761 Oct. 1930)

1st Addition Maple Grove Beach #2 (auditors file # 3997741 Oct. 1941)

Sunnyshore Acres (auditors file # 3997776 Aug. 1928)

Tyee Beach (auditors file # 3997748 July 1939)

Juniper Beach (auditors file # 3997784 June 1920)

Pebble Beach Div. 1 (auditors file # 3997764 Aug. 1930)

Utsalady (auditors file # 3997706 Apr. 1881)

Utsalady Beach (auditors file # 3997814 Nov. 1950)

Columbia Beach (auditors file # 3998015 Aug. 1961)

Clinton Beach (auditors file # 3997789 Sept. 1920)

Bush Point Beach (auditors file # 3998106 Sept. 1967)

Pattons Beachwood Manor (auditors file # 3998033 Feb. 1966)

Hidden Beach Lots (auditors file # 3998078 Aug. 1964)

~~Whidbey Shores (auditors file # 3997878 May 1961)~~

~~Saratoga (auditors file # 3997698 June 1907)~~

~~Bell's Beach Waterfront Tracts (auditors file # 3997743 Dec. 1941)~~

~~Moonwink Div 1 (auditors file # 3999017 Oct. 1971)~~

~~Maxwelton Beach (North of Swede Hill Road, Maxwelton Rd. and Mill Beach Lane)~~

~~Possession Beach Walk (R32812-010-0100, R32812-054-0130, R32812-067-0130)~~

~~Sunlight Beach (S8220-01-00038-0, S8220-01-00040-0, S8220-01-00007-0, S8220-00-00004-0, S8220-00-00006-0, S8220-00-00007-0, S8220-00-00008-0, S8220-00-00009-0, S8220-00-00039-0 and S8220-00-00040-0)~~

~~Shore Ave. (R22923-153-3900, S6080-00-00001-0, S6080-00-00001-0, S6080-00-00003-0, & S6080-00-00004-0)~~

~~Sandy Point (lots R32902-458-3820, R32902-459-3950, R32902-460-4020, S8080-00-02001-0, S8080-00-02002-0, S8080-00-02003-0, and S8080-00-02004-0 on west end of Whale Walk)~~

~~West Beach and Seaview (Beachwood Drive/Whitecap Lane S7675-00-00001-0, S7675-00-00003-0, S7675-00-00004-0, S7675-00-00005-0, S7675-00-00006-0, & S7675-00-00007-0; W Crosby Rd., going south along W Beach Rd., starting at S7700-00-0000A-0 and ending at S8385-00-00020-0)~~

I. High intensity shoreline environment designation.

1. Purpose: The purpose of the high intensity designation is to provide for high intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and, where feasible, restoring ecological functions in areas that have been previously degraded.
2. Criteria for designation: Areas designated high intensity should include only areas that currently support water-dependent uses related to commercial boatyards and marinas, transportation or navigation facilities, or are suitable and needed to accommodate similar water-oriented uses in the next twenty (20) years.

## **17.05A.070 - Definitions.**

Words used in this chapter, unless defined herein or the context clearly otherwise implies, shall assume the definitions contained in Chapter 90.58 RCW, as now or hereafter amended, and such guidelines as have been, or may be, adopted pursuant to Chapter 90.58 RCW, including WAC Chapter 173-26 WAC. Definitions that are provided in other titles, chapters, and sections of the Island County Code shall apply in the interpretation and enforcement of this chapter. When not inconsistent with the context, words used in the present tense shall include the future, the singular shall include the plural, and the plural the singular.

**Accretion shoreform** means shoreline with a backshore which has been produced by the long-term deposition of sand or gravel by littoral drift from a feeder bluff or other source. Such shoreforms include barrier beaches, points, spits, and hooks.

**Act** means Shoreline Management Act of 1974, Chapter 90.58 RCW (also SMA or Act).

**Administrator, Shoreline.** See Shoreline Administrator.

**Adverse impact or effect** means the result of a condition that creates, imposes, aggravates, or leads to unsafe, or unhealthy conditions or reduces ecological functions or values.

**Affected tribe** means any tribe recognized by the federal government and subject to established treaty rights whose ancestral villages, campsites, grave sites, fishing sites, or other territory within the county may be impacted by a proposed development project in or near an archaeological site.

**Agriculture** means the cultivation of soil, production of plant crops, or the raising of livestock.

**Agricultural activities** means agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

**Agricultural land** means specific land areas on which agriculture activities are conducted.

**Alteration** means any human activity which results or is likely to result in an impact to existing vegetation, hydrology, wildlife or wildlife habitat. Alterations do not include walking, fishing, or any other passive recreation or other similar activities.

**Appurtenance, normal.** See normal appurtenance.

**Aquaculture** means 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. Aquaculture is of statewide interest.

**Aquaculture, commercial** means commercial aquaculture is the cultivation or farming of fish, shellfish or other aquatic plants and animals for sale.

**Aquaculture, non-commercial** means the cultivation or farming of fish, shellfish or other aquatic plants and animals for personal consumption, research, or restoration or enhancement of native species.

**Archaeology** means the systematic, scientific study of material remains of past human life and activity. In Island County examples include shell middens, lithic sites, earthworks, rock cairns, and burial grounds. While shell middens and burial grounds are strongly associated with shorelines, the other types may also be found within the shorelines of the county.

**Backshore** means a berm, together with associated marshes or meadows on marine shores, landward of the ordinary high water mark which is normally above high tide level and has gradually been built up by accretion.

**Baseline (for no net loss)** means shoreline ecological conditions existing as documented in the Island County Shoreline Master Program Shoreline Inventory and Characterization report dated March, 2012. nm

**Beach access structure** means a permanent or temporary structural pathway/walkway whether installed on, above, or below the surface of the ground or water, for purposes of providing pedestrian access to a beach or shoreline area, not for motorized vehicle access. It often includes a stairway, tram, elevator, stair tower, platform and/or elevated walkway anchored to the ground surface by structural means.

**Beach enhancement or restoration** means process of restoring a beach to a state more closely resembling a natural beach using beach feeding, vegetation, drift sills, or other non-intrusive means, as applicable.

**Beach feeding** means process of replenishing a beach by delivery of materials dredged or excavated elsewhere.

**Berm** means a linear mound or series of mounds of sand or gravel generally paralleling the water at or landward of the line of ordinary high tide.

**Best available science** means current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925. Sources of best available science are included in Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas published by the Washington State Department of Commerce. The term "best available science" as used in this title includes the most current, accurate and complete scientific and technical information available as contemplated under WAC 173-26-201(2)(a). Projected Sea Level Rise for Washington State, a 2018 Assessment (or as amended), is considered the best available science for sea level rise.

**Board or BOCC** means Board of Island County Commissioners.

**Boat** means vessels less than twenty tons which are designed and used as a private pleasure craft for navigation and travel on water, are propelled by paddles, oars, sails, or one or more engine(s) or motor(s).

**Boathouse** means a structure specifically designed or used for the storage of boats.

**Boat launch or ramp** means graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device. A boat launch also includes associated wash station and parking.

**Boat lift** means a mechanical device, with or without a canopy, that can hoist vessels out of the water for storage, commonly located along a pier. A boat lift is to be differentiated from a hoist or crane used for the launching or haul-out of vessels. See also boat lift, drive on floating.

**Boat lift, drive-on floating** means a mooring platform onto which a boat can be driven, for the purposes of storing the boat above the surface of the water. Drive-on floating boat lifts are generally secured to a dock or pier and have no moving parts.

**Boating facility** means any public or private facility for storing or launching vessels or watercraft. This includes marinas, open water moorage and anchorage areas, boat launch ramps, boat lifts, mooring buoys, piers, floats and docks, or any other similar single-user or shared-use facility for public recreational use or private residential use. For purposes of this Program, upland boat storage structures such as boathouses, boat repair shops, and other similar structures, and docks serving four (4) or fewer single-family residences are not considered boating facilities.

**Breakwater** means protective structures which are normally built offshore to protect beaches, bluffs, dunes, or harbor areas from wave action.

**Buffer, marine** means the landward area adjacent to the OHWM (or other feature as designated in Table 3 of ICC 17.05A.090), measured in feet, which protects the SMA waterbody from alterations caused by a development proposal. Buffers are established based on the shoreline environment designation. A buffer is measured horizontally and perpendicular from the ordinary high water mark (or other feature as designated in Table 3 of ICC 17.05A.090), it runs parallel to the ordinary high water mark (or other feature as designated in Table 3 of ICC 17.05A.090), and it includes the three-dimensional airspace above.

**Buffer area** means a parcel or strip of land that is designed and designated to permanently remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, to provide habitat for wildlife, to regulate temperature and microclimate, preserve water quality, and allow for adaptation to sea level rise and environmental change, and to afford limited public access.

**Buffer width** means the horizontal, perpendicular measurement from the ordinary high water mark (or other feature as designated in Table 3 of ICC 17.05A.090). See also Buffer, marine.

**Bulkhead** means a form of structural shoreline stabilization erected parallel to and near the ordinary high water mark for the purpose of stabilizing a slope and preventing natural shoreline erosion to protect adjacent structures from the action of waves or currents.

**Buoy** means a float attached by rope to the seabed to mark channels in a harbor or underwater hazards, or to be used to moor a boat in a harbor or channel. an anchoring system for mooring vessels or navigational aids. Mooring buoys typically include an anchor, anchor line and a white, cylindrical float to mark its location.

**Campground** and **camping facilities** means facilities in which sites are offered for persons using tents or other personal, portable overnight shelters. Campgrounds are for short-term stays and do not include trailer parks.

**Campground, marine** means a campground where camping is restricted to users that access the site by water.

**Canal community** means the communities of Lagoon Point, Sandy Hook, and Mariners' Cove are discrete residential communities developed along engineered canals. The locations and boundaries of the canal communities are designated on official shoreline maps to be kept in the office of the Island County Planning and Community Development Department.

**Canopy, boat lift** means a cover installed as a component of a boat lift.

**Canopy, tree** means the branches, leaves, or other foliage from one (1) or more trees.

**Clearing** means the cutting and removal of vegetation by mechanical or chemical methods.

**Commercial development** means a business use or activity involving retail or wholesale marketing of goods and services as defined in eChapter 17.03 ICC. This definition does not include bed and breakfast inns or country inns, which are named as specific uses in the shoreline use table in section ICC 17.05A.080. This definition does not include home industry and home occupation, as defined in ICC 17.03.040.

**Commercial-industrial pier or dock** means a pier or dock including a gangway and/or float which is intended for any commercial or industrial use other than storage or moorage of boats used for recreational purposes.

**Community beach** means a beach area jointly owned by a homeowners association for use of the neighborhood.

**Community pier or dock** means a pier or dock including a gangway and/or float which is intended for use in common by lot owners or residents of a subdivision, Homeowner's Association (HOA), or residential planned development district.

**Compensatory mitigation** means the restoration (re-establishment or rehabilitation), establishment (creation), and enhancement of an area for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. Mitigation ratios are based on the degree of a proposal's expected impact on regulated marine and near-shore ecosystems as determined by submitted environmental reports.

**Conditional uses, shoreline** means a use or development which requires issuance of a shoreline conditional use permit pursuant to the use table in-section ICC 17.05A.080 or a use which is not classified within the SMP. Conditional uses must be evaluated according to the review criteria established in WAC 173-27-160.

**Consumer price index** means for any calendar year, that year's annual average Consumer Price Index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one (1) month before the new dollar threshold is to take effect.

**Covered moorage** means a pier, or float, or system of floats covered by a roof.

**Critical saltwater habitat** includes the following areas within marine shorelines: mudflats and intertidal habitats with vascular plants; subsistence, commercial and recreational shellfish beds; kelp and eelgrass beds; spawning and holding areas for forage fish, such as herring, smelt, and sand lance; and areas with which priority species, as defined by WAC 173-26-020(2930), have a primary association.

**Development** means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level. Development does not include dismantling or removing structures if there is no other associated development or re-development.

**Dike** means a system of one or more levees or banks, usually constructed of earth to control or confine water and create a protection against tidal or floodwaters.

**Disabled (person)** means a person likely to meet the federal supplemental security income disability standard. In making this determination, the department should give full consideration to the cumulative impact of an applicant's multiple impairments, an applicant's age, and vocational and educational history (RCW 74.62.030).

**Dock** means a structure which abuts the shoreline and is generally used as a landing or moorage place for commercial or pleasure craft. A mooring platform (e.g., pier, ramp, drive-on floating boat lift, or float) that extends waterward of the OHWM but due to topography, critical areas, etc. may also extend landward of the OHWM to provide a connection to land. Waterward of the OHWM they are held in place with pilings/anchors. Pilings located around their perimeter (whether detached or attached) that are not utilized to hold the dock in place but instead utilized for berthing/mooring to that facility (e.g., dolphins) shall be considered part of the dock.

**Dolphin** means a cluster of piles used as a fender, as at the entrance to a dock.

**Dredging** means the removal of earth, sand, gravel, silt, or debris from the bottom of a stream, river, lake, bay, or other water body for the purpose of deepening a navigational channel, or to obtain use of the bottom materials for fill. Dredging includes any harvesting of natural resources by any mechanical or

hydraulic means which involves substrate displacement or disturbance. Dredging does not include removal of obstructions or sediment as part of regular maintenance and repair of infrastructure.

**Drift cell (drift sector or littoral cell)** means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

Drive-on floating boat lift, see boat lift, drive-on floating.

**Dune** means a hill or ridge of sand deposited by wind or wave action.

**Ecological functions** means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

**Ecological processes**, ~~means ecological processes, ecosystem processes, or ecosystem-wide processes~~ means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; the presence of living, functioning organisms; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions. See also ecosystem-wide processes.

**Ecosystem-wide processes**, ~~or ecosystem processes~~, means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions. See also ecological processes.

**Emergency** means an unanticipated and imminent threat to public health, safety, or the environment which requires immediate actions within a time too short to allow full compliance.

**Erosion** means the geological process in which earthen materials are detached and transported away by natural forces such as wind, rain, waves, currents, tidal action, frost wedging, and/or gravity, among others.

**Exceptional feeder bluff** means a shoreline bluff area with substantial sediment input into the netshore drift system with a shorter recurrence interval as compared to a non-exceptional feeder bluff, as identified on a map available from Island County Department of Community Development. Exceptional feeder bluffs can be identified by the general absence of vegetative cover or portions of the bluff face fully exposed. Other indicators include the presence of slide debris, boulder or cobble lag deposits, and fallen trees across the beachface. Exceptional feeder bluff segments lack a backshore, old or rotten logs, and coniferous bluff vegetation.

**Existing lot** means a lot or parcel of land which was legally established and recorded with the County Auditor as a fractional part of divided lands having fixed boundaries prior to adoption of this chapter and consistent with chapter 17.03.

**Expansion** means any structural modification, which increases an existing structure's envelope, footprint, or volume.

**Experimental aquaculture** means an aquaculture project that uses methods or technologies which are unprecedented or unproven.

**Extreme low tide** means the lowest line on the tidelands reached by a receding tide.

**Feasible** means, for the purpose of this Chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
2. The action provides a reasonable likelihood of achieving its intended purpose;
3. The action does not preclude achieving the project's primary intended legal use; and
4. The costs of the action do not substantially outweigh the benefits.

**Feeder bluff** means a coastal bluff that, as a result of its natural erosion, delivers sand and gravel to the beach that is subsequently transported by waves and currents along the shoreline to maintain beaches and accretion shoreforms elsewhere within the local drift cell.

**Feedlot** means an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for livestock feeding or grazing, nor shall it include normal livestock wintering operations.

**Fender** means a device installed adjacent to a dock to lessen shock and prevent chafing. A pile or a row or cluster of piles placed to protect a dock or ferry loading ramp from damage by docking vessels.

**Ferry terminal (includes dolphins, ramp, ticket booths, and waiting structures)** means piers, docks and associated dolphins, ramps, fenders, floats, ticketing structures, and waiting structures associated with the loading and landing of vehicle and passenger ferry vessels.

**Fetch** means the distance across a body of water measured in a straight line from the most waterward point along the ordinary high water line or lawfully established bulkhead on a given stretch of shoreline to the closest point on the ordinary high water line or lawfully established bulkhead on a separate stretch of shoreline.

**Fill** means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

**Finfish facility** means rearing facilities where finfish are hatched, fed, nurtured, held, maintained, or reared for commercial purposes or harvest. This includes fish farms, fish hatcheries, rearing ponds, spawning channels, and other similarly constructed or fabricated facilities. Facilities that discharge or allow the exchange of unfiltered water into waters of the state are "open." Facilities that do not discharge or allow the exchange of unfiltered water into waters of the state are "contained."

**Fish and wildlife habitat conservation areas** means the following critical areas and their associated buffers including the following:

1. Areas with which endangered, threatened, sensitive, and priority species listed by the federal or state government have a primary association;
2. Areas that are priority habitats as listed by the Washington Department of Fish and Wildlife;
3. Streams;
4. Commercial and recreational shellfish beds;
5. Kelp and eelgrass beds;

6. Herring, smelt, and sand lance spawning and holding areas;
7. Priority habitat areas for marine shellfish, including but not limited to pandalid shrimp, Dungeness crab, geoduck, hardshell clam, subtidal hardshell clam, and red sea urchin;
8. Areas with which priority species, as defined by WAC 173-26-020(2931), have a primary association;
9. State natural area preserves;
10. State natural resource conservation areas;
11. Species and habitats of local importance;
12. Flora species' habitat when included in the protected species list; and
13. All areas designated by the Department of Natural Resources ("DNR") through the Washington Natural Heritage Program as high quality wetland ecosystems and high quality terrestrial ecosystems and shown on a map prepared by Island County dated October 11, 1999, or as amended.

14. Lake buffers when the lake is greater than twenty (20) acres in size.

15. The shoreline marine buffers.

**Float** means a floating structure that is moored, anchored, or otherwise secured in the water offshore and that may be associated with a fixed-pile pier, or may be a standalone structure, such as platforms used for swimming and diving.

**Float plane base** means a transportation facility consisting of multiple float plane docks, which is used exclusively by aircraft that take off and land directly on the water.

**Float plane dock** means a structure which abuts the shoreline and is generally used as a landing or moorage place for commercial or pleasure aircraft. A mooring platform (e.g., pier, ramp or float) that extends waterward of the OHWM but due to topography, critical areas, etc. may also extend landward of the OHWM to provide a connection to land. Waterward of the OHWM they are held in place with pilings/anchors. Pilings located around their perimeter (whether detached or attached) that are not utilized to hold the dock in place but instead utilized for berthing/mooring to that facility (e.g., dolphins) shall be considered part of the dock.

**Floating home** means a floating home is a building constructed on a float, used in whole or in part as a dwelling, and not a vessel, and is typically characterized by permanent utilities, a semi-permanent anchorage/moorage design, and by the lack of adequate self propulsion to operate as a vessel.

**Floating home** means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

**Floating on-water residence** means any floating structure other than a floating home that is designed or used primarily as a residence on the water and has detachable utilities, and whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

**Flood control works** means structural techniques for area-wide flood control, including but not limited to berms, rock riprap, sandbags, application of soil cements to slopes, drainage channels, levees, dikes,

dams, and retention or detention basins. Raising single-family residential structures above base flood elevation is not considered flood control works.

**Floodplain (100-year)** means the land area susceptible to inundation with a one-percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

**Flushing capacity** means the ability of a water body to completely renew the volume of water it retains.

**Forest practice permit** means a permit which is required for the removal of five thousand board feet or more of merchantable timber. Class IV—General forest practice permits are administered by the Department of Natural Resources. This permit is often approved as an adjunct to another development permit such as a building permit or residential subdivision.

**Forest practices** means activities conducted on or directly related to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to: road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control. See WAC 222-16-010.

**Gabions** means a form of structural shoreline stabilization composed of masses of rocks, rubble or masonry held tightly together, usually by wire mesh, so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

**Geocoastal analysis** means a scientific study or evaluation conducted by a qualified expert that includes a description of the conditions at the site of proposed development, including the geology, coastal processes, erosion or accretion status of the shoreline, current and future sea level conditions, ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geocoastal reports for shoreline stabilization shall include analysis per ICC 17.05A.095.D and 17.05A.095.E when required by Table 5: Shoreline Stabilization Requirements. Geocoastal reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

**Geologically hazardous areas** means those areas that because of their susceptibility to erosion, sliding, or other geologic events, are generally not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns, including:

1. Erosion hazard areas including areas designated in the Department of Ecology Coastal Zone Atlas dated April 1979, as it may be amended or revised, as land which has had recent or historical slide activity or has unstable slope conditions, including those lands within 100 feet (either top or base) thereof, and other areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils.
2. Landslide hazard areas including:
  - a. Areas with all three (3) of the following characteristics:
    - (i) Slopes steeper than fifteen (15) percent;

- (ii) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
- (iii) Springs or groundwater seepage.

- b. Areas that have shown movement during the ~~h~~Holocene ~~e~~Epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of this epoch;
- c. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
- d. Slopes having gradients steeper than eighty (80) percent subject to rockfall during seismic shaking;
- e. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones; and
- f. Any area with a slope of forty (40) percent or steeper and with a vertical relief of ten (10) or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten (10) feet of vertical relief.

- 3. Seismic hazard areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, surface faulting, or tsunamis.

**Geotechnical analysis** means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

**Grade level (average)** means calculation made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

**Grading** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

**Groin** means structures designed to modify or control water flow and sand movement.

**Ground floor** means the floor of a structure or building that is approximately level with the ground.

**Hazard tree** means any tree, or portion thereof, that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property, damaging utilities, or causing personal injury.

**Hearings Board** means the Shoreline Hearings Board (not the Growth Management Hearing Board(s)).

**Height, building** means the vertical dimension measured from average grade to the highest point of a structure; provided that antennas, chimneys, and similar appurtenances shall not be used in calculating height, unless such appurtenance obstructs the view of a substantial number of adjacent residences.

**High intensity agriculture** shall mean existing and on-going agriculture including dairies, animal feeding operations and concentrated animal feeding operations as those terms are used in federal and state regulations and livestock operations with an animal unit density greater than three (3) per acre.

**Historic beach community** means limited areas within the shoreline of Island County that have been platted in a dense pattern with small lots and greater impervious surface relative to other areas of the county. The existing marine waterfront lots are generally developed with residential structures constructed approximately thirty (30) feet or less from the ordinary high water mark and the original structures were established prior to enactment of the Shoreline Management Act.

**Houseboat** means a vessel used for living quarters but licensed and designed substantially as a mobile structure by means of detachable utilities, anchoring, and the presence of adequate self-propulsion to operate as a vessel.

**Illegal use** means any unapproved use of land or structure which is not compliant with current codes and was not compliant with codes in effect when the use or structure was established. An illegal use is different than a nonconforming use.

**Impervious surface** means a surface area that prevents or impedes infiltration of water into the soil mantle; or retards the infiltration of water into the soil mantle such that it causes water to run off the surface in greater quantities or at a greater rate of flow than under natural conditions. Common impervious surfaces include roof tops including eaves, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled surfaces. Open, uncovered retention or detention facilities are not considered impervious surfaces. Decks with gaps of at least 1/8" between boards located over a pervious surface shall be considered pervious.

**In-water facilities** means boat-launching facilities, marinas, visitor docks, mooring buoys, residential docks, floats, float plane facilities, docking facilities for cruise boats, and waterborne transportation facilities.

**In-water fill** means activities that involve the addition of soil, sand, rock, gravel, earth retaining structure, or other material to an area waterward of the ordinary high water mark in a manner that raises the elevation or creates dry land.

**Industrial** means a use relating to or concerning the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction. This definition does not include home industry and home occupation, which are defined in ICC 17.03.040.

**Infeasible** means not feasible. See also feasible.

**Infrastructure** means facilities and services needed to sustain industry, residential, commercial, and all other land-use activities, including water, sewer lines, and other utilities, streets and roads, communications, and public facilities such as fire stations, parks, schools, etc.

**Jetty** means jetties are structures designed to modify or control water flow and sand movement and are generally employed at inlets for the purpose of improving navigation.

**Joint use pier or dock** means a pier or dock including a gangway and/or float which is intended for private, noncommercial use by two (2) to four (4) waterfront building lots under separate ownership, where at least one (1) boundary of each building lot lies within 1,000 feet of the boundary of the lot on which the joint use pier or dock is to be constructed.

**Lake** means a body of freshwater that occurs in a depression of land or expanded part of a stream that is greater than 6.6 feet in depth at the deepest point at ordinary low water, and has a water salinity of less than 0.5 parts per thousand.

**Landward** means horizontally toward the land and away from the water.

**Legally established use or structure** means any use or structure that complies with current code or is a nonconforming use.

**Littoral drift** means the natural movement of sediment, particularly sand and gravel, along marine or lake shorelines as a result of wave and wind action.

**Live-aboard vessel** means a seaworthy vessel that was designed primarily for navigation but is used as a residence. A boat or other floating structure is a residence if it is occupied thirty (30) out of forty-five (45) days or ninety (90) out of 365 days while moored or anchored in the same area, or if the local government, the marina, or the occupant of the boat defines it as a residence. The phrase "in the same area" means within a radius of one (1) mile of any location where the same vessel previously moored or anchored. A vessel that is occupied and is moored or anchored in the same area, but not for the number of days described in this subsection, is considered a recreational or transient vessel (~~WAC 332-30-106~~).

**Log storage (rafting and stockpiling)** means the management of timber for a commercial forestry industry by means of either, rafting bound logs along the shoreline for transportation, or by stockpiling logs that are ready for transportation via land.

**Low intensity agriculture** shall means existing and on-going agriculture including livestock management with an Animal Unit density of less than one (1) per acre; seasonal hay mowing and related activities and horticulture involving one (1) acre or less of cultivated land.

**Maintenance and repair, normal**, see normal maintenance and repair.

**Marinas**. ~~Marinas are~~ means a facility which provides boat launching, storage, supplies, and services for small pleasure craft. There are two (2) basic types of marinas: open type construction (floating breakwater or open pile work) and solid type construction (bulkhead or fill).

**Marine** means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

**Marine buffer**, see buffer, marine.

**Marine campground** means a primitive, waterfront campground accessible by hand-carried watercraft (e.g., kayak, canoe) with each site in the campground accommodating up to three (3) tents. Overflow may be allowed at the discretion of the land manager.

**May** indicates that the action is within the discretion and authority of the approving agency.

**Moorage structure** means a structure built over or floating upon the water, typically used as a landing place for marine transport or for commercial or recreational purposes.

**Mudflat (marine)** means areas along a shoreline composed of fine sediment often with a high organic material content that are typically exposed during low tides and submerged during high tides.

**Must** means a mandate; the action is required.

**No net loss** means the maintenance of the aggregate total of the county shoreline ecological functions over time. The no net loss standard contained in WAC 173-26-186 requires that the impacts of shoreline use or development, whether permitted or exempt from permit requirements, be identified and mitigated such that there are no resulting adverse impacts on ecological functions or processes.

**Non-structural shoreline stabilization** means shoreline erosion control and restoration practices using ~~only plantings or mostly organic materials and plantings~~ to restore, protect, or enhance the natural shoreline environment. Focus on the use of woody plants and limited structural-mechanical systems that are integrated in a structurally and environmentally sound manner to repair and protect slopes against shallow mass wasting and surface erosion. At least eighty (80) percent of the stabilization project must be constructed of naturally-occurring materials used in ways that are consistent with current nearshore processes. Measures such as live stake, live fascine, brushlayer, live cribwall, vegetated geogrid, branchpacking, and live slope grating are examples of soft shore protection techniques. Also called bioengineering or soft shore stabilization.

**Non-water-oriented use** means those uses that are not water dependent, water related, or water enjoyment.

**Nonconforming development or nonconforming structure** means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

**Nonconforming lot** means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

**Nonconforming use** means an existing shoreline use that was lawfully established prior to the effective date of the Act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

**Normal appurtenance** means a structure that is necessarily connected to the ~~for the use and enjoyment of a single-family residence, including a garage, deck, driveway, utilities, fences, gazebo, septic tank and drainfield, and grading less than 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.~~

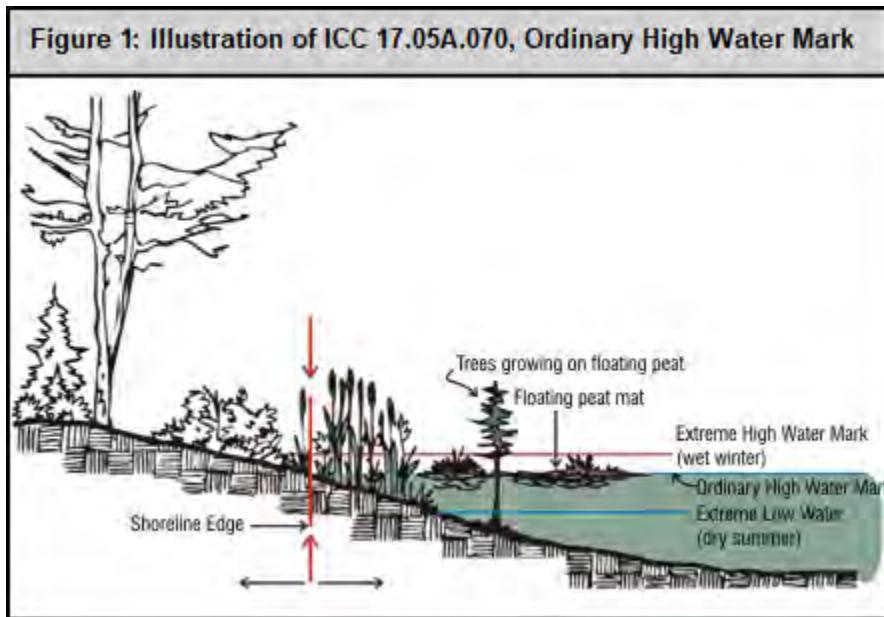
**Normal maintenance and repair** means usual acts to prevent a decline, lapse, or cessation from a lawfully established condition or restores a development to a state comparable to its original condition, including but not limited to maintaining the same size, shape, configuration, location and appearance, ~~except where repair causes substantial adverse effects to shoreline resources or environment. Replacement of a structure is not considered normal maintenance or repair, except where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.~~

**Normal protective bulkhead** means structural and nonstructural shoreline stabilization installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and normal appurtenant structures from loss or damage by erosion.

**Ordinary high water mark (OHWM)** means, on all lakes, streams, and tidal water, ~~is that mark that which~~ will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June

1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining freshwater shall be the line of mean high water. See RCW 90.58.030(2)(c). See Figures 1, 2, and 3.

Figure 1: Illustration of ICC 17.05A.070, Ordinary High Water Mark



**Outfall** means the point where water flows out from a conduit, drain, or stream.

**Parking lot** means an off-street, ground level open area, usually improved, for the temporary storage of motor vehicles. A vista parking lot is a parking lot directly associated with an area established to provide a public view of the shoreline or water.

**Passive recreation** means outdoor activities such as walking, biking, and wildlife viewing.

**Passive recreation** see recreation, passive.

**Permitted uses** means uses which are allowed within the applicable shoreline designation, provided that they must meet the policies, use requirements, and regulations of this eChapter 17.05A ICC and any other applicable regulations of the county or state.

**Pervious pavement** means a low impact development material that promotes storm water drainage, reduces runoff, and improves filtration of water for aquifer recharge. Pervious pavements include, but are not limited to: pervious concrete, pervious asphalt, pervious pavers, and products such as Grasscrete®. Pervious pavement shall be considered as 50% pervious for the calculation of impervious surface area.

**Pervious surface** means a surface area that allows the natural infiltration of water into the soil mantle including pervious pavement.

**Pier** means a structure which abuts the shoreline and is generally used as a landing or moorage place for commercial and pleasure craft. A pier is a fixed platform above the water.

**Pile, pilings and pile driving** means a column of wood or steel or concrete that is driven into the ground to provide support for a structure, a number of piles, and the process of installing piles into the ground.

**Port** means any harbor area under the jurisdiction of a legally constituted port district, as prescribed under Washington State law, or any harbor area which is largely devoted to shipping and cargo handling. A port may include water-dependent uses such as boat building and repair, cargo or passenger facilities, commercial and recreational moorage, float plane facilities, and similar uses. A port may also include water-related uses.

**Primary association** means use of an area by a protected species for rearing young, roosting, breeding, or foraging on a regular basis during the appropriate season, as well as habitats that are used less frequently or regularly but which provide for essential life cycle functions. Areas of primary association for listed salmonids shall include all aquatic environments in which they reside, as well as riparian environments necessary to support the formation and function of the aquatic environment. Areas of primary association for protected flora and fungi include both the immediate area where the species occurs and the contiguous habitat necessary for its long term persistence.

**Primary structure** means the structure associated with the principal use of the property. If more than one (1) structure is associated with the principal use of the property, the one with the highest assessed value shall be considered the primary structure. For purposes of interpreting ~~section 17.05A110 (shoreline modification regulations)~~ this Chapter, the phrases "primary structure or appurtenance" and "primary structures and appurtenances" shall mean the primary structure and those appurtenances which cannot be relocated because they are either (a) structurally attached to the primary structure (such as garages and decks) or, (b) no other suitable location exists for their relocation and the primary structure would become unusable if the appurtenance were damaged or destroyed.

**Priority habitat** means a habitat type with unique or significant value to one (1) or more species per WAC 173-26-020(30). An area classified and mapped as priority habitat must have one (1) or more of the following attributes: comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; important marine mammal haul-out; refugia habitat; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may also be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

**Production facility** means a structure used for or in connection with the generation, production, transmission, or distribution of electricity; the production, manufacture, storage, distribution, transportation, or conveyance of gas, oil, or other fluid substance by pipeline; or the diverting, pumping, impounding, distributing, or furnishing of water.

**Protected habitats** means habitats listed by the federal government, habitats designated by the Washington Department of Fish and Wildlife as Priority Habitats, and those habitats which are determined by Island County to be worthy of a higher level of protection than other habitats and are designated as habitats of local importance under eChapter 17.02B ICC.

**Protected species** means species of flora and fauna listed by the federal government or the State of Washington as endangered, threatened, sensitive, or priority which are present in Island County and those species of flora and fauna which are determined by Island County to be worthy of a higher level of protection than other species and are designated as species of local importance under eChapter 17.02B ICC.

**Public access** means a trail, path, road, or launching ramp by which the general public can reach the public waters from a public road.

**Public boat launching ramps** means boat launching ramps that are used by the public. Ownership of the facilities can be either private or public.

**Public recreational pier or dock** means a pier or dock including a gangway and/or float either publicly or privately owned and maintained intended for use by the general public for recreational purposes, but not to include docks constructed as part of a marine development.

**Ramp.** See boat ramp.

**Recreation** means the exercise and refreshment of body and mind through forms of play, sports, relaxation, amusement, or contemplation. ~~Passive shoreline recreation is light to moderate intensities of recreation, such as hiking, day camping, viewing nature, boating, swimming and fishing. Active recreation is a more intensive and land consumptive use of the shoreline areas, such as sports fields, swimming pools, or indoor recreation centers.~~

**Recreation, active** means more intensive and land consumptive use of the shoreline areas, such as sports fields, swimming pools, or indoor recreation centers. See also recreation, passive.

**Recreation, passive** means outdoor activities such as walking, biking, and wildlife viewing, scientific research activities, water-based recreation, and boating. See also recreation, active.

**Recreational development** means public and private parks and facilities for hiking, camping, indoor and outdoor sports, or similar developments.

**Regulated activity** means:

1. Removing, excavating, disturbing, or dredging soil, sand, gravel, minerals, organic matter, or materials of any kind;
2. Dumping, discharging, or filling;
3. Draining, flooding, or disturbing the water level or water table. In addition, an activity which involves intentional draining, flooding, or disturbing the water level or water table in a wetland or stream in which the activity itself occurs outside the regulated area may be considered a regulated activity;
4. Driving piling or placing obstructions, including placement of utilities;
5. Constructing, reconstructing, demolishing, or altering the size of any structure or infrastructure;
6. Altering the character of a regulated area by destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, shading, or planting;
7. Activities which result in significant changes in water temperature or physical or chemical characteristics of wetland or stream water sources, including changes in quantity of water and pollutant level;
8. Application of pesticides, fertilizers, and/or other chemicals unless demonstrated not to be harmful to the regulated area;
9. The division or redivision of land pursuant to eChapter 16.06 [ICC](#); and

10. The creation of impervious surfaces.

**Repair**, see normal maintenance and repair.

**Replacement** means the construction of a new structure to perform the same function when an existing structure can no longer serve its purpose. In addition, repairs that exceed a certain threshold are also effectively [a] considered to be a replacement. ~~The following are thresholds for considering a repair to be effectively a replacement when: 1) when more than fifty (50) percent of a structure, by volume, is being replaced; or 2) the cost of maintenance or repairs to an existing structure exceeds fifty (50) percent of the value of the existing structure.~~

**Residence** means a structure used as a home or dwelling.

**Residential development** means the development of single-family residences, including appurtenant structures and uses, multi-family development, and the creation of new residential lots through land division.

**Restoration** means to reform, revitalize, or establish the characteristics and natural processes of a degraded shoreline resource back into a persistent, resilient system.

**Retaining wall, upland** means a structure placed behind the landward of the OHWM which acts as a stabilizing mechanism for unstable geologic conditions, foundation support for structures, or to retain land behind the retaining wall.

**Revetment** means a form of structural shoreline stabilization comprising a sloping facing of stone, concrete, or similar material, built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

**Riprap** means a form of structural shoreline stabilization comprising a foundation or sustaining wall of stones or chunks of concrete thrown together without order (as in deep water) or a layer of similar material on an embankment slope to prevent erosion.

**Seaward** means the direction away from land and toward the sea.

**Setback** means the distance a structure is placed behind a specified line or feature.

**Shall** means a mandated action that must be done.

**Shorelines** means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes.

**Shoreline Administrator (Administrator)** means the Island County Planning and Community Development Director (Director) or his or her designee.

**Shoreline buffer** means the lake or marine buffer as designated in Table 3 of ICC 17.05A.090.

**Shoreline development** means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any stage of water level (RCW 90.58.030; WAC 173-27-030).

**Shoreline environment designations** means the categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. WAC 173-16-0060(4). The designation boundaries extend above and below the earth's surface on a vertical plane. WAC 173-26-211.

**Shoreline ecological functions** means shoreline functions or shoreline ecological functions are the work performed or role played individually or collectively within ecosystems by a wide variety of interacting physical, chemical, and biological components that are interdependent in varying degrees and scales, and that produce the landscape and habitats as they exist at any one (1) time. Shoreline ecological functions include, but are not limited to those included in WAC 173-26-201(3)(d)(i)(C).

**Shoreline exemption** means an exemption from the requirement needing to obtain a shoreline substantial development permit, where the proposed development meets the precise terms of one or more exemptions. Exemptions are defined or referenced in ICC 17.05A.130.D.2.e or WAC 173-27-029030(7) and. The exemptions are available for uses and developments set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), RCW 90.58.140(9), RCW 90.58.147, RCW 90.58.355, and elsewhere in Chapter 90.58 RCW. An activity that is. Although exempt from the requiring a substantial development permit, these uses must comply with applicable provisions of the SMA must still be carried out in compliance with policies and standards of the Act this Program and the SMP and obtain a statement of shoreline exemption. A shoreline conditional use permit or a shoreline variance permit may also be required even though the activity does not require a shoreline substantial development permit (RCW 90.58.030(3)(e); WAC 173-27-030(7) and 173-27-040).

**Shoreline jurisdiction** means the following geographic areas regulated by the SMA, related rules, and the applicable master program: all shorelines and shorelines of statewide significance, plus lands extending landward for 200 feet in all directions, as measured on a horizontal plane from the ordinary high water mark of shorelines; associated floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters subject to the SMA. Ordinary high water mark is located at the inland boundary of a tidally influenced wetland area, extending the shoreline jurisdiction 200' from the inland boundary. Shoreline jurisdiction is extended by shoreline associated wetlands only to the extent of the wetland boundary. Any wetland buffer outside of shoreline jurisdiction is subject to Chapter 17.02B ICC. See RCW 90.58.030(2)(f), WAC 173-16-030(17) and WAC 173-22-030(10). Also see the definitions of "See also shorelines" and "shorelines of statewide significance." See Figures 2 and 3.

Figure 2: Illustration of ICC 17.05A.070, Shoreline Jurisdiction

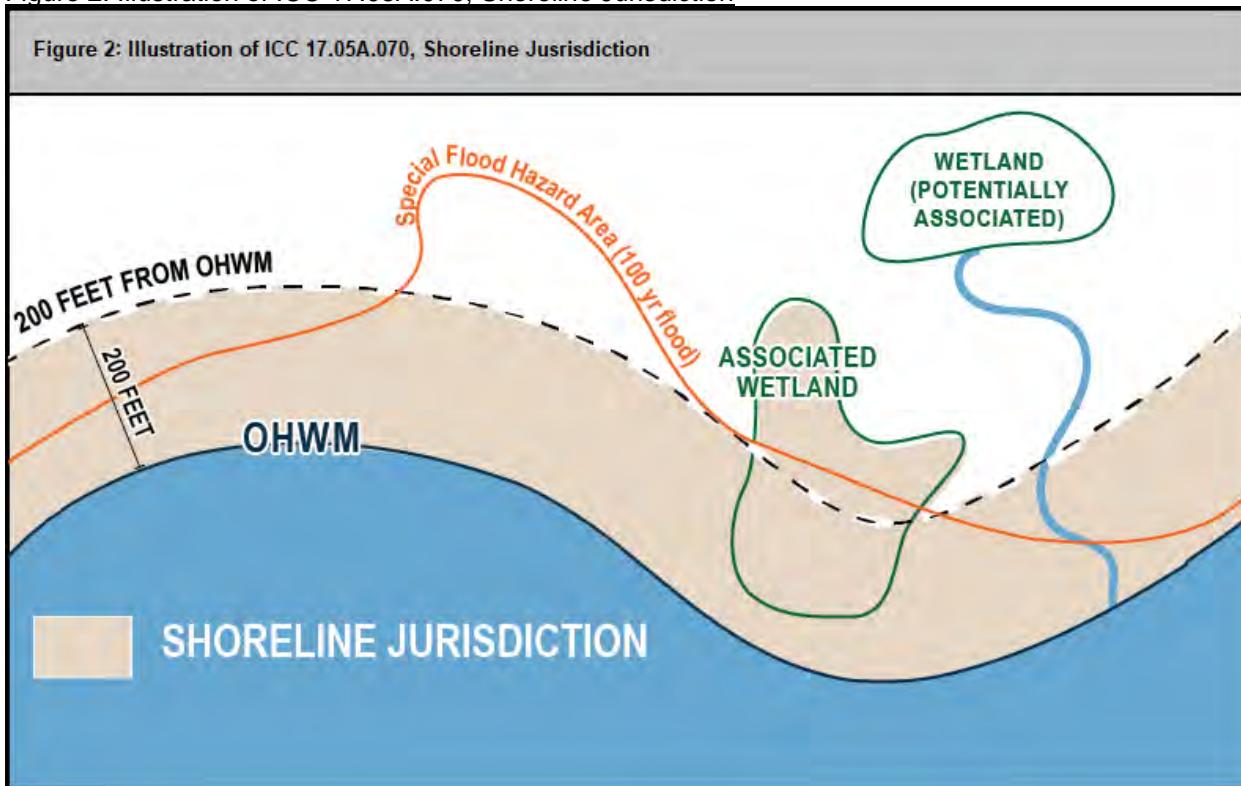
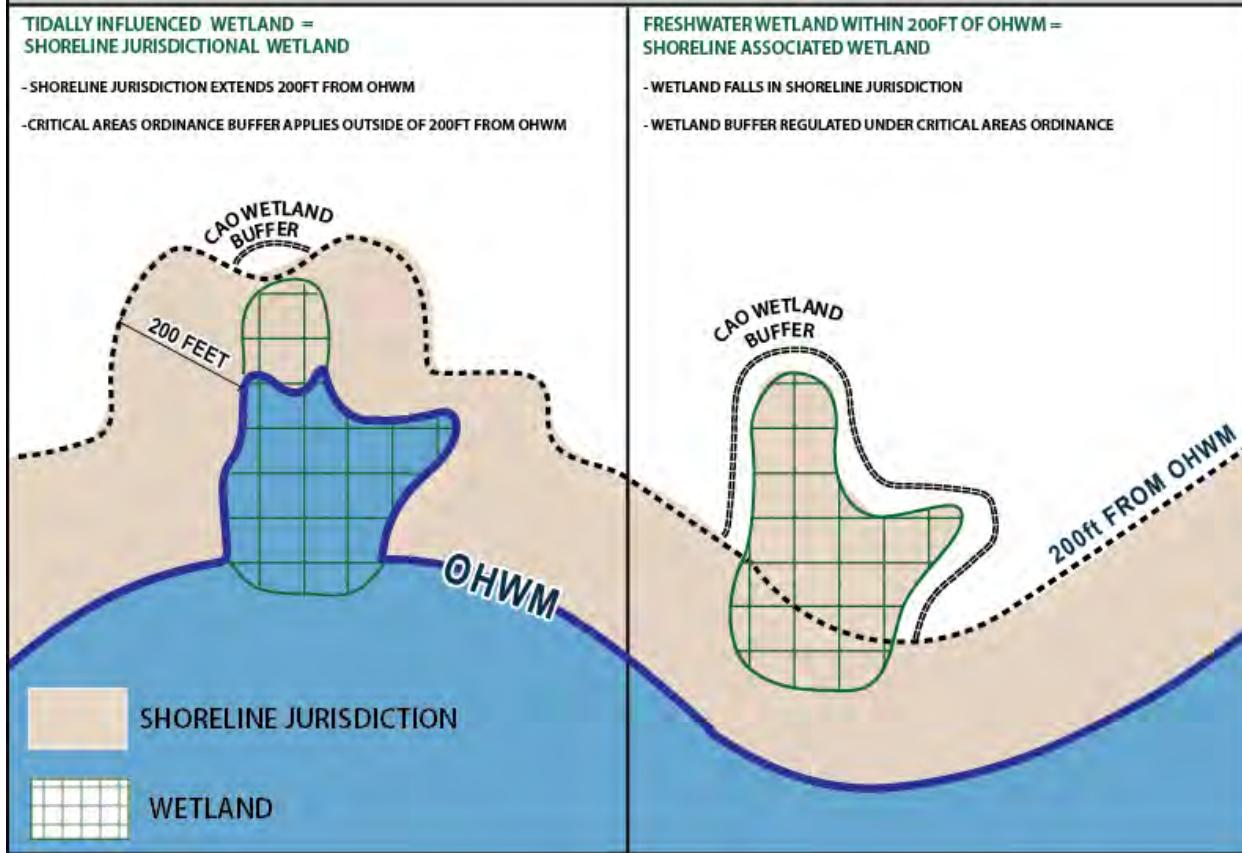


Figure 3: Illustration of ICC 17.05A.070, Shoreline Jurisdiction

Figure 3: Illustration of ICC 17.05A.070, Shoreline Jurisdiction



**Shoreline Management Act (SMA or Act)** means Shoreline Management Act of 1971, Chapter 90.58 RCW.

**Shoreline Master Program (SMP) or Master Program or Program** means the Island County Shoreline Master Program, being the Shoreline Master Program Element of the Comprehensive Plan and Chapter 17.05A. Master programs must be developed in accordance with the policies of the SMA in RCW 90.58.020 and the implementing guidelines in [WAC Chapter 173-26 WAC](#), be approved by the state, and be consistent with the rules (WACs) adopted by the Washington State Department of Ecology.

**Shoreline stabilization** means structures or modifications for the purpose of retarding shore erosion from wave or current action, protecting channels and harbors from wave action, encouraging deposition of beach materials, or preventing shoreline overflow and retaining uplands. Shoreline stabilization may consist of bulkheads, seawalls, dikes, revetments, breakwaters, jetties, groins, gabions, large woody material placement, beach nourishment, vegetation enhancement, biotechnical methods, or similar structures or modifications.

**Shoreline substantial development permit exemption** means certain developments that meet the precise terms of listed exemptions are granted exemptions from the requirements of the substantial development permit process of the Act. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the SMP and obtain a statement of shoreline exemption. A shoreline conditional use permit or a shoreline variance permit may also be required even though the activity does not require a shoreline substantial development permit (RCW 90.58.030(3)(e)); (WAC 173-27-030(7) and -040).

**Shorelines of statewide significance** means those areas of Puget Sound and the Strait of Juan de Fuca and adjacent saltwater north to the Canadian line and lying seaward from the line of extreme low tide; and those additional areas specified in the Act (RCW 90.58.030(2)(ef), which in Island County, includes the Skagit Bay shoreline from Brown Point to Yokeko Point.

**Should** means a particular action is required unless there is a demonstrated, compelling reason, based on policies of the Shoreline Management Act and this eChapter, against taking the action.

**Signs** means publicly displayed messages on signs, billboards, placards, or buildings whose purpose is to provide information, direction, or advertising.

**Single-family residence** means a detached dwelling designed for and occupied by one (1) family, including those structures and developments within a contiguous ownership which are a normal appurtenance. An approved home industry and home occupation, which are defined in ICC 17.03.040, are incidental to and secondary to a single-family residence.

**Soft shore stabilization.** (See non-structural shoreline stabilization).

**Solid waste** means all solid and semisolid wastes including but not limited to garbage and rubbish, pet waste, recyclable materials, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.

**Solar access** means the ability of one property to continue to receive direct sunlight across property lines without obstruction.

**Spit** means an accretion shoreform which extends seaward from and parallel to the shoreline. They are usually characterized by a wave-built berm on the windward side and a more gently sloping muddy or marshy shore on the leeward side. A curved spit is normally called a hook.

**Stormwater** means the flow of water which results from precipitation, and which occurs immediately following rainfall or a snowmelt.

**Structural shoreline stabilization, new** shall be defined as the establishment of shoreline stabilization where legally established stabilization is not present.

**Structural shoreline stabilization** means shoreline stabilization that includes placement of riprap, fitted stone, poured-in-place or precast concrete, driven wood or metal piles, or other similar hard armoring.

**Structure** means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030).

**Structure, overwater** means a structure extending on or over the surface of the water.

**Subdivision** means the division or redivision of land, including short subdivisions, as defined in Chapter 58.17 RCW and Title XVI Chapter 16.06 ICC.

**Substantial development** means any development meeting the definition in RCW 90.58.030(3)(e), now or as hereafter amended, which includes any development of which the total cost, or fair market value, exceeds five thousand seven hundred and eighteen dollars (\$5,718.00) the Substantial Development Dollar Threshold as set by the Office of Financial Management or any development which materially interferes with normal public use of the water or shorelines of the state; except that developments meeting the precise terms of the exemptions specified in RCW 90.58.030(3)(e)(i through xiii) shall not be considered substantial development.

**Tidal/wave energy** means a form of hydropower that converts the energy in the flow of tidal waters or currents into a form that may be transmitted or transported elsewhere, typically as electricity through the use of submerged turbines.

**Tide gate** means a hinged door or panel, or similar structure that serves to drain tidelands, usually for agricultural or other uses.

**Tidelands** means beds and shores of navigable tidal waters lying between the line of ordinary high tide and the line of extreme low tide.

**Tram** means a power-assisted shoreline access device that includes a car or gondola suspended on a cable.

**Transmission, utility** means pipes or lines for sewer, water, electrical, or other utilities.

**Transportation facility** means transportation facilities include roads, trails, airports, barge landings, County docks, float\_plane facilities, ferries and related terminals, and parking areas.

**Tribe** means any Indian tribe, band, nation, or other organized group or community formally recognized by the federal government (See affected tribe).

**Use** means the purpose that land, buildings, or structures now serve or for which they are or may be occupied, maintained, arranged, designed, or intended.

**Utilities** includes major and minor facilities and infrastructure that serve individual home owners as well as area wide populations. Utilities include, but are not limited to, sewer infrastructure, water infrastructure, communications infrastructure, stormwater infrastructure, power infrastructure, etc.

**Utilities, accessory** means those utilities associated with a permitted use, such as single-family residences, and are intended for that uses specific purpose. Accessory utilities include but are not limited to natural gas lines, power lines and other communication lines, sanitary lines, and stormwater outfall pipes.

**View corridor** means the waterside area of a developed section of shoreline, within the Shoreline Setback and Marine Buffer, that shall not be blocked with accessory structures, except for those structures noted in ICC 17.05A.090.J.2.

**Walkway** means the portion of a dock, float, ramp, pier, platform, or beach access structure for use by a person travelling by foot or using a mobility device. Floating devices shall not be included in walkway width.

**Water courses** means streams and manmade surface water conveyance ditches, including portions that are within culverts.

**Water-dependent uses** means a use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

**Water-enjoyment uses** means a recreational use or other use facilitating public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which, through its location, design, and operation assures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are

not limited to, parks, piers, and other improvements facilitating public access to shorelines of the state. General water-enjoyment uses may include but are not limited to, restaurants, museums, aquariums, scientific or ecological reserves, resorts, and mixed-use commercial. Provided, however, that water enjoyment uses conform to the above water-enjoyment specifications and the provisions of the Shoreline Master Program.

**Water-oriented uses** refers to any combination of water-dependent, water-related, or water-enjoyment uses. "Non-water-oriented" serves to describe those uses which have little or no relationship to the shoreline and are not considered priority uses under the Act. Examples of "non-water-oriented" uses include facilities primarily devoted to professional offices, automobile sales or repair shops, mini-storage facilities, multi-family residential development, department stores, and gas stations that serve land based modes of transportation.

**Water-related uses** means a use or a portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

1. Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
2. The use provides a necessary service supportive of water-dependent commercial activities and the proximity of the use to its customers makes its service less expensive or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the product's cost, professional services serving primarily water-dependent activities, and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and log storage.

**Water quality** means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation related, and biological characteristics.

**Wetland** means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

**Wetland identification and delineation** means the process of evaluating vegetation, soils, and hydrology to determine whether a wetland is present, and if so determining the upland boundary of the wetland. Wetlands must be identified and delineated using the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0, 2010 or as revised).

**Wild harvest (shellfish)** means the harvest of shellfish naturally occurring in the open waters or tidelands of Island County or Puget Sound. Wild harvest does not include the harvest of any fish or shellfish that have been cultivated for commercial purposes.

## **17.05A.080 – Shoreline use classification.**

The Shoreline Master Program's shoreline uses and developments shall be classified as follows:

**Permitted uses and developments:** ~~Uses and developments that are consistent with this Program and Chapter RCW 90.58 RCW.~~ Such uses or developments shall require a shoreline substantial development permit, a shoreline conditional use permit, a shoreline variance, or a statement that the use or development is exempt from a shoreline substantial development permit.

**Prohibited uses and developments:** ~~Uses and developments that are inconsistent with this Program or Chapter RCW 90.58 RCW and cannot be allowed through any permit.~~

~~Classification of a use or development as permitted does not necessarily mean the use or development will be allowed in all circumstances. It means the use or development may be permitted subject to review and approval by the county or the Department of Ecology. Many permitted uses or developments, including those that do not require a substantial development permit, can individually or cumulatively affect adjacent properties or natural resources and, therefore, must comply with the Program in order to avoid or minimize such adverse impacts. The county may attach conditions of approval to any permitted use via a shoreline substantial development permit or statement of permit exemption, or may deny a permit, as necessary to ensure consistency of the project with the Shoreline Management Act and the Shoreline Master Program.~~

~~The shoreline use classification table identifies the permitted (P), prohibited (X), and shoreline conditional (C) uses within the designated shoreline environments. Permitted uses apply only to shoreline uses as regulated by this SMP and must comply with all applicable SMP goals, policies, and use regulations and may require a substantial development permit. Residential, commercial, and industrial shoreline uses, densities, and intensities of use are also subject to those specific uses and standards defined in the Island County Zoning Code, chapter 17.03.~~

**Unclassified uses:** ~~Unclassified uses are those uses which are not specified in the definitions or shoreline use classification table in this section. Consistent with WAC 173-27-160(3), such uses shall be reviewed as conditional uses pursuant to the criteria in WAC 173-27-160(1).~~

**Permitted uses and developments:** ~~Uses and developments that are consistent with this Program and Chapter 90.58 RCW. Such uses or developments must comply with all applicable SMP goals, policies, and use regulations and shall require a shoreline substantial development permit, or a statement identifying a specific provision of this Program exempting the use or development from a shoreline substantial development permit.~~

**Conditional uses and developments:** ~~Uses and developments that are consistent with this Program and Chapter 90.58 RCW, but which may require that special conditions be attached to the permit to prevent undesirable effects of the proposed use. Such uses or developments shall require a shoreline conditional use permit, or a statement identifying a specific provision of this Program exempting the use or development from a shoreline conditional use permit.~~

**Prohibited uses and developments:** ~~Uses and developments that are inconsistent with this Program or Chapter 90.58 RCW and cannot be allowed through any permit.~~

**Unclassified uses:** ~~Unclassified uses are those uses which are not specified in the definitions or shoreline use classification table in this section. Consistent with WAC 173-27-160(3), such uses shall be reviewed as conditional uses pursuant to the criteria in WAC 173-27-160(1).~~

### **Additional considerations for permitted and conditional uses.**

~~Classification of a use or development as permitted does not necessarily mean the use or development will be allowed in all circumstances. It means the use or development may be permitted subject to review and~~

approval by the county or the Department of Ecology. Many permitted uses or developments, including those that do not require a substantial development permit, can individually or cumulatively affect adjacent properties or natural resources and, therefore, must comply with the Program in order to avoid or minimize such adverse impacts. The county may attach conditions of approval to any permitted use via a shoreline substantial development permit or statement of permit exemption, or may deny a permit, as necessary to ensure consistency of the project with the Shoreline Management Act and the Shoreline Master Program.

Residential, commercial, and industrial shoreline uses, densities, and intensities of use are also subject to those specific uses and standards defined in the Island County Zoning Code, Chapter 17.03 ICC.

Where some specific dimensional or performance attribute of a project would result in permit denial, even though the use is classified as permitted or conditional, the use or development may be permitted through the shoreline variance process set forth in ICC 17.05A.130.F.

**SEE SHORELINE USE CLASSIFICATION TABLE ON FOLLOWING PAGE**

**TABLE 1: Shoreline Use Classification Table**

The shoreline use classification table identifies the permitted (P), prohibited (X), and shoreline conditional (C) uses within the designated shoreline environments.

Allowed uses (P) in the shoreline must be allowed in the underlying zoning (eChapter\_17.03 ICC) in addition to the shoreline environment designation. All allowed uses are subject to the limitations, conditions, or exceptions as provided in this Shoreline Master Program.

**NOTES:**— P - Shoreline Permitted use      X - Shoreline prohibited use      C - Shoreline conditional use

SHORELINE USES	SHORELINE DESIGNATIONS					
	Aquatic	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity
<b>Residential Uses</b>						
Single-family (and normal appurtenances)	X	P <sup>16</sup>	P <sup>16</sup>	P <sup>16</sup>	P <sup>16</sup>	C
Accessory dwelling units (e.g., guest houses)	X	C	C	P	P	X
Accessory Beach Access Structures on Private Lots	C	P <sup>1</sup> /C	P	P	P	C
Mobile/manufactured home parks	X	X	X	X	X	X
Multi-family	X	X	X	X	P	X

Floating homes, houseboats, <u>Floating</u> on-water residences	X	NA	NA	NA	NA	X
Land subdivision	P <sup>5</sup>	P	P	P	P	P
Accessory structures (e.g., garden house, boat house, etc.)	X	P	P	P	P	C
<b>Commercial Uses</b>						
Water-dependent commercial	X	X	X	P	P	P
Water-related and water-enjoyment commercial	X	X/C <sup>20</sup>	X/C <sup>20</sup>	X/C <sup>20</sup> /P <sup>2</sup>	P	P
Non-water-oriented commercial	X	X	X	X/P <sup>2</sup>	X/P <sup>2</sup>	X/P <sup>2</sup>
<b>Industrial Uses</b>						
Port facilities	C	X	X	X	X	P
Water-dependent industry	C	X	X	X	X	P
Water-related industry	C	X	X	X	X	P
Log storage (rafting and stockpiling)	C	X	X	X	X	C
Non-water- dependent industry	X	X	X	X	X	X
<b>Boating and Related Facilities</b>						
Boat launches	P <sup>3</sup> /C	C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	P <sup>3</sup> /C	P
Private piers, docks, and <u>floats</u>	C/P <sup>13</sup>	C	C	C	C/P <sup>1</sup>	P

Public piers, docks, and floats	C	C	P	P	P	P
Mooring Buoys	P	NA	NA	NA	NA	X
Float plane bases	C	X	X	C	C	P
Float plane docks	C	X	C	C	C	P
Marinas	C <sup>4</sup>	X	C	C	C	P
<u>Boat lift</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C<sup>18</sup></u>	<u>X</u>
<u>Covered moorage</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C<sup>18</sup></u>	<u>X</u>
<b>Scientific, Educational, Historic, or Archaeological Uses (e.g., museums, schools, colleges, research institutes)</b>						
Water-dependent or -related	C	P	P	P	P	P
Non-water-related	X	X	C	C	C	C
<b>Resource Management and Extraction</b>						
Agriculture (low intensity)	NA	C	P	P	P	X
Aquaculture, Commercial, In-water, including mechanical or hydraulic harvest of shellfish	C <sup>15</sup>	NA	NA	NA	NA	C <sup>15</sup>
Aquaculture, Commercial, On-land activities, structures, processing, etc.	NA	X	C <sup>15</sup>	C <sup>15</sup>	X	C <sup>15</sup>



Marine campgrounds, marine trails	P	P	P	P	P	X
Campgrounds, scenic overlooks and RV parks (i.e., private)	X	X	X	C	X	P
Natural preserves/parks (undeveloped)	P	P	P	P	P	P
Non-vehicular trails and paths (unpaved)	P	P	P	P	P	P
Passive recreation	P	P	P	P	P	P
Public parks	C	C	P	P	P	P
<b>Tourist Accommodations</b>						
Hotels and motels	X	X	C	C	C	P
Bed and breakfast Inns, country inns	X	C	C	P	P	P
<b>Signs<sup>8</sup></b>						
Navigational signs	P	P	P	P	P	P
Off-premises identification and directional	X	X	X	X	X	C
On-premises identification and directional	X	P <sup>8</sup>	P	P	P	P
<b><u>Protective Structures and Activities</u></b>						
Breakwaters	C	NA	NA	NA	NA	C
Shoreline stabilization-structural	C	C	C	P	P	P

Shoreline stabilization- Non-structural	P	P	P	P	P	P
Shoreline Restoration/Beach Enhancement	P	P	P	P	P	P
Dikes	C	X	C	C	C	P
Grading (i.e., excavation and filling)	C/P <sup>10</sup>	C/P <sup>10</sup>	C/P <sup>10</sup>	P	P	P
Dredging	C/P <sup>9</sup>	C <sup>9</sup>	C	C	P	P
Groins and jetties	C <sup>9</sup> /P <sup>11</sup>	X/P <sup>10</sup>	X/C <sup>9,11</sup>	C <sup>9,11</sup>	C <sup>9,11</sup>	C <sup>9,11</sup>
Dolphins	P <sup>12</sup>	X	X	X	X	P <sup>12</sup>
Tide gates	C/P <sup>19</sup>	C/P <sup>19</sup>	C/P <sup>19</sup>	C/P <sup>19</sup>	C/P <sup>19</sup>	C/P <sup>19</sup>

**NOTES:** P - Shoreline permitted use X - Shoreline prohibited use C - Shoreline conditional use

1	Permitted use only for public access over private lots, including required public access for a subdivision. All other beach access structures in the natural designation require a conditional use permit.
2	If part of a mixed-use development with a water-dependent use.
3	Public and community boat launches only.
4	Marinas are a conditional use in the aquatic designation. Where the adjacent upland is designated natural, marinas are prohibited.
5	Tidelands for public acquisition or preservation purposes.
6	Conditionally permitted for public transportation projects only.
7	Permitted conditionally only if no feasible alternative exists.
8	Signs identifying public access are exempt. For <u>In</u> natural designation, <u>use table applies only to</u> navigation aids and public information signs only.
9	For restoration or enhancement of natural resources only.
10	As part of an ecological restoration project.

11	As part of an approved marina or for navigational purposes.
12	As part of a permitted water-dependent use.
13	New and replacement docks, piers, and floats located within a designated canal community that are consistent with an approved canal community master plan may be reviewed as a permitted use provided that the approved canal community master plan contains standards applicable to docks, piers, and floats, and provided that these standards, are consistent with the standards enumerated in section <u>ICC 17.05A.110.B.23100.D.27.</u>
14	Non-commercial aquaculture is a permitted use in the aquatic environment unless the adjacent (landward) area is designated as a natural shoreline environment.
15	<u>Any geoduck aquaculture operation that causes substantial interference with normal public use of the surface waters shall require a substantial development permit.</u>
16	<u>Legally established single-family residences that do not meet current standards and which are enlarged or expanded within the shoreline setback beyond that which is allowed by ICC 17.05A.090.J.5. shall be reviewed as a shoreline variance in accordance with ICC 17.05A.130.F.</u>
17	<u>A forest practice that only involves timber cutting is not a development under the Act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the Act and may require a substantial development permit, as required by WAC 222-50-020.</u>
18	<u>Covered moorage and boat lifts are only allowed in Shoreline Residential-Canal Communities</u>
19	<u>Proposals which meet the definition of normal maintenance and repair per ICC 17.05A.070 only</u>
20	<u>Nonconforming, legally established water-related and water-enjoyment commercial uses may be enlarged or expanded upon approval of a conditional use permit per ICC 17.05A.140.C.1.b. All other Shoreline Master Program standards apply.</u>

## **17.05A.090 – Shoreline use and development regulations.**

All developments and uses located within the jurisdiction of this Shoreline Master Program shall comply with all the regulations of this section.

### **A. General shoreline development standards.**

1. All shoreline development shall be located, constructed, and operated so as to protect public health, safety, and welfare.
2. In shoreline areas, access, utilities, and public services are required to be available and adequate to serve existing needs and planned future development.

3. The location, design, construction, and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to applicable water quality management programs and regulatory agencies.
4. No structure within the shoreline shall exceed thirty-five (35) feet in height, except in the following specific circumstances.
  - a. that bridges and ferry facilities may be allowed to exceed thirty-five (35) feet in height when necessary to accommodate navigation and docking requirements.
  - b. In cases where a legally established home must raise its foundation to meet FEMA flood elevations, the height above grade level may exceed 35 feet provided that such a height will not further obstruct the view of any residences on or adjacent to such shorelines, and that the legally established home is not a replacement as defined in ICC 17.05A.070.
5. Land clearing, grading, filling, or alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not developed shall be replanted and maintained in perpetuity. Surface drainage systems or substantial earth modifications shall be professionally designed by a licensed professional to prevent maintenance problems or adverse impacts on shoreline features.
6. All shoreline developments and uses shall be located, designed, constructed, and managed to avoid disturbance of or minimize adverse impacts to fish and wildlife habitat conservation areas including, but not limited to spawning, nesting, rearing and habitat areas, and migratory routes. Where avoidance of adverse impacts is not practicable, the Shoreline Administrator may require that mitigation measures to protect species and habitat functions be developed in consultation with state resource management agencies and federally recognized tribes, as needed.
7. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
8. The release of oil, chemicals, or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been corrected.
9. The use of chemicals to control invasive aquatic weeds is prohibited, except when applied by a licensed pesticide applicator and approved for aquatic use.
10. All shoreline developments and uses shall control erosion during project construction and operation.
11. All shoreline developments and uses shall be located, designed, constructed, and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, erosion, and accretion.

12. All shoreline developments and uses shall be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
13. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties, or substantial site regrading.
14. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water, or other means into any water body.
15. Storage, collection, and handling of solid waste associated with shoreline residences or commercial development shall be conducted so as to create no health hazards, rodent harborage, insect breeding areas, fire hazards, or air or water pollution.
16. Navigation channels shall be kept free of hazardous or obstructing development or uses.
17. Development and use of the shoreline shall be conducted in such a manner that unreasonable levels of noise, light, or glare will not intrude into adjacent areas. Shoreline activities may be restricted to reasonable daylight hours (no earlier than 7:30 am and no later than 8:00 pm) ~~and days~~ of operation when necessary to protect residents and properties from adverse impacts such as noise, light, and glare.
18. Subdivision of property shall be in a configuration that will not require significant vegetation removal or shoreline modification and that will not adversely impact ecological functions. Each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.
19. Subdivision of property for residential development is subject to the density limits in the underlying zone described in Chapter 17.03 ICC and the maximum density limits outlined in ICC 17.05A.100.K, whichever is more restrictive.
20. No lot segregation, land division, or boundary line adjustment shall create a lot which does not include an adequate building site outside of critical areas and their associated buffers unless the resulting lot is being created solely for conservation purposes and a conservation easement encompassing the lot is established and recorded which prohibits all future development.
21. Dumping of yard waste over shoreline bluffs or at road ends shall not be allowed.
22. All debris shall be disposed of properly and legally. Any debris that enters the water shall be removed promptly.

**B. Mitigation Measures.**

1. Mitigation measures shall be applied in the following sequence of steps listed in order of priority:

- 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 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;
  - b. The mitigation site and associated vegetative planting shall be nurtured and maintained such that the healthy native plant communities can grow and mature over time;
  - c. 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 Shoreline Master Program;
  - d. The mitigation shall replace the functions as quickly as possible following the impacts to ensure no net loss; and
  - e. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values. The monitoring timeframes for wetland and wetland buffer mitigation shall be consistent with ICC 17.02B.510.
3. The county shall require the applicant or owner to post a bond or provide other financial surety equal to the estimated cost of the mitigation or restoration in order to ensure the mitigation or restoration is carried out successfully. The bond or surety shall be released to the applicant upon completion of the mitigation or restoration activity and any required monitoring.
4. Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative location within the same watershed sub-basin for impacts to freshwater shorelines or within the same marine shoreline drift cell for marine shoreline impacts, if the off-site location provides greater and more sustainable ecological benefits. When determining whether offsite mitigation provides greater and more sustainable benefits, the

county shall consider limiting factors, critical habitat needs, and other factors identified by the locally adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan. The county may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved and sanctioned by the Department of Ecology, the Department of Fish and Wildlife, the Army Corps of Engineers, and Island County. Mitigation banks shall comply with the standards and procedures in RCW 90.84 and WAC 173-700.

**CB. Archaeological, historic, and cultural resources.**

1. The Shoreline Administrator shall ensure that known or suspected locations of archaeological resources are protected consistent with provisions and procedures in the GMA Comprehensive Plan and Memorandum of Understanding between the county and the state Department of Archaeology and Historic Preservation (DAHP).
2. All shoreline permits shall contain a provision requiring permittees to immediately stop work and notify Island County, DAHP, and affected Native American tribes if human remains or archaeological resources are encountered during site disturbance, excavation, or development.
3. No permit for an application requiring an archaeologist's report will be issued prior to the receipt by the county of the required archaeological report and review and approval of the report by DAHP. All permits issued for development in areas known to be archaeologically significant or having the potential for the presence of archaeological resources shall provide for site inspection and reporting by a professional archaeologist during any development activity that is considered to have a high probability of encountering cultural resources.
4. All developments proposed for locations adjacent to historical sites which are registered on the state or National Historic Register shall be sited and designed so as to be complementary to the historic site. Development which degrades or destroys the historic character of such sites shall not be permitted.

**DC. Environmental protection and critical areas.**

1. All shoreline use and development, including preferred uses and uses that are exempt from shoreline substantial development permit requirements, shall be sited, designed, constructed, conducted, and maintained in a manner that maintains shoreline ecological processes and functions, and protects the natural character of the shoreline.
2. Uses and developments that cause a net loss of ecological functions shall be prohibited, unless accompanied by mitigation that compensates for the ecological function or functions that would otherwise be lost.
3. Uses and developments shall provide a level of protection equal to or better than countywide critical areas regulations and result in no net loss of ecological functions.
4. The county shall consider the cumulative impacts of individual uses and developments, including preferred uses and uses that are exempt from permit requirements, when

determining whether a proposed use or development could cause a net loss of ecological functions.

- a. The county shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts including, but not limited to, impacts on fish and wildlife habitat, public access/use, aesthetics, and other shoreline attributes.
- b. Proponents of shoreline use and development shall take the following factors into account when assessing cumulative impacts:
  - (i) Current ecological functions and human factors influencing shoreline natural processes; and
  - (ii) Future ecological functions and human factors influencing shoreline natural processes; and
  - (iii) Reasonably foreseeable future use and development of the shoreline; and
  - (iv) Beneficial effects of any established regulatory programs under other local, state, and federal laws; and
  - (v) Mitigation measures implemented in conjunction with the proposed project to avoid, reduce and/or compensate for adverse impacts.
5. The applicant for or owner of any new shoreline use or development shall mitigate adverse environmental impacts and impacts to shoreline ecological functions whether or not the use or development requires a shoreline substantial development permit or is exempt from a shoreline permit, consistent with WAC 173-26-201(2)(e).
6. Projects shall be designed to protect hydrologic connections between water bodies, water courses, and associated wetlands.
7. Mitigation measures shall be applied in the following sequence of steps listed in order of priority:
  - 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.
8. 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;~~
  - 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;~~
  - c. ~~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 Shoreline Master Program;~~
  - d. ~~The mitigation shall replace the functions as quickly as possible following the impacts to ensure no net loss; and~~
  - e. ~~The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values. The monitoring timeframes for wetland and wetland buffer mitigation shall be consistent with section 17.02A.070.~~
9. ~~The county shall require the applicant or owner to post a bond or provide other financial surety equal to the estimated cost of the mitigation or restoration in order to ensure the mitigation or restoration is carried out successfully. The bond or surety shall be refunded to the applicant upon completion of the mitigation or restoration activity and any required monitoring.~~
10. ~~Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative location within the same watershed sub-basin for impacts to freshwater shorelines or within the same marine shoreline drift cell for marine shoreline impacts, if the off-site location provides greater and more sustainable ecological benefits. When determining whether offsite mitigation provides greater and more sustainable benefits, the county shall consider limiting factors, critical habitat needs, and other factors identified by the locally adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan. The county may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved and sanctioned by the Department of Ecology, the Department of Fish and Wildlife, the Army Corps of Engineers, and Island County.~~
- 7.14. ~~Land that is constrained by critical areas or buffers shall not be subdivided to create parcels that do not contain a buildable site outside of critical areas and their required buffers, unless the parcel is an open space tract created for the purposes of protecting and managing a critical area, and a conservation easement indicating that the parcel cannot be built upon is recorded with the County Auditor.~~
8. ~~Modifications to wetlands and stream buffers which exceed 25 percent of the original buffer width may only occur if approved through a Shoreline Variance in accordance with the criteria in ICC 17.05A.130.F.7. Projects listed in ICC 17.05A.095.A.3, may exceed this standard without triggering the need for a Shoreline Variance.~~

#### **E. Geologically Hazardous Areas.**

12. ~~Geologically hazardous areas shall be regulated pursuant to the following:~~

- 1a. Development within Erosion hazard areas, landslide hazard areas, and steep slopes shall comply with ~~e~~Chapters 11.02 and 11.03 ICC.
- 2b. Development within seismic hazard areas shall comply with the applicable International Residential Code or the International Building Code.
- 3e. Development within tsunami hazard areas shall comply with ~~e~~Chapter 14.02A ICC.
- 4d. Geologically hazardous areas are hereby declared to be "environmentally sensitive areas" pursuant to WAC ~~197-11-748 and 197-11-908~~.
- 5e. New development that, during the life of the development, would cause foreseeable risk to the structure or the safety of its inhabitants from geological conditions or would require shoreline stabilization is prohibited, except where there is no alternative location for an allowed use and the development would not cause a net loss of ecological functions.

**F.13. Fish and wildlife habitat conservation areas.**

- 1.a Fish and wildlife habitat conservation areas (FWHCAs) are defined in ~~section~~ ICC 17.05A.070 and include their associated buffers.
- 2.b Buffers and use restrictions for each shoreline environment designation (see Table 3) have been developed in consideration of the protection of fish and wildlife habitat conservation Areas (FWHCAs). Buffer restrictions for portions of streams within shoreline jurisdiction are provided in Table 2. Buffers or restrictions on proposed shoreline uses or modifications may be required for the protection of FWHCAs if, through project specific project review, the Administrator finds that a significant impact on a FWHCA would occur as a direct result of the project.
- 3.e Applications for projects ~~located adjacent to~~ within marine waters, marine buffers, their associated wetlands, or any other FWHCA, shall include a complete and accurate biological site assessment (BSA), in accordance with ICC 17.05A.095. Biological site assessments shall be prepared by a ~~professional ecologist, biologist, or similarly qualified professional at the applicant's expense~~, and shall include the following information:
  - ~~(i) A site plan indicating all FWHCAs within shoreline jurisdiction that exist on or within 100 feet of the portion of the subject property proposed for development;~~
  - ~~(ii) Identification of FWHCAs that meet the definition of critical saltwater habitat or critical freshwater habitat as defined in this Program;~~
  - ~~(iii) Descriptions of all FWHCAs shown on the site plan, including qualitative and quantitative information regarding habitat value and condition of each FWHCA, including identification of measures to fully protect nesting sites of the Bald Eagle, Osprey and Heron;~~
  - ~~(iv) Description of the proposed project, including, but not limited to, associated earthwork (grading, excavation, filling), structures, utilities, and existing habitat other than FWHCAs, including wetlands and areas that may act as wildlife corridors;~~

- (v) Regulatory summary, identifying other agencies with jurisdiction, protection measures required by other regulations, and mitigation provided as part of the project;
- (vi) Analysis of impacts to all protected species or habitats designated as FWHCAs, after consideration of compliance with other regulations and the requirements of this Shoreline Master Program;
- (vii) If adverse impacts to protected species or habitats are likely to occur, a conceptual mitigation plan, including an analysis of feasible mitigation alternatives that would mitigate adverse impacts of the project. The effectiveness of the proposed mitigation measures shall be compared to other feasible alternatives. Mitigation sequencing shall be as required in section 17.05A.090.C.7; and
- (viii) Best management practices, including a discussion of on-going maintenance practices that will assure protection of all FWHCAs on-site after the project has been completed. If monitoring is required, this section shall include a description of proposed monitoring criteria, methods, and schedule.
- (ix) The recommendations of the approved biological site assessment, habitat management plan and mitigation plan, if required, shall be included as conditions of approval of the underlying permit.

d. If the biological site assessment (BSA) concludes that protected habitat may be affected by the proposed development, a habitat management plan must be prepared by a professional ecologist, biologist, or similarly qualified professional at the expense of the applicant. The habitat management plan may be combined with the BSA, or a wetland mitigation plan, if required for the project. The habitat management plan must consider management Recommendations adopted by the Washington Department of Fish and Wildlife, and the specific attributes of the affected properties, such as, but not limited to, property size and configuration, surrounding land use, the practicability of implementing the habitat management plan, and the adaptation of the species to human activity.

Habitat management plans shall include:

- (i) An ecological assessment of the fish and wildlife habitat conservation areas present and potential adversely altered, to determine the gross area of loss and the functions, habitat, and types, sizes, and quantities of vegetation affected;
- (ii) Statement of goals. Such statements shall include a discussion of any functions and values lost and the plan for replacement;
- (iii) Methods. Information discussing "what, where, when, and how," i.e., acreage of mitigation, wetland or other habitat types to be constructed or restored, location, dates for beginning and completing the project, methods of construction, and maintenance requirements shall be included;
- (iv) Standards of success. A qualitative and to the extent possible, a quantitative description of what will be considered a successful, functioning wetland or fish and wildlife habitat conservation area shall be provided;
- (v) Monitoring. Same as requirements set forth in section 17.03.260.I;

- (vi) ~~Contingency plan. A contingency plan may be required by the Administrator to outline restorative measures to be taken should the mitigation fail or only partially succeed;~~
- (vii) ~~Standard habitat management plan: In cases when the county has developed a standard habitat management plan for a specific species, the applicant may either accept and sign the standard habitat management plan or prepare his or her own habitat management plan pursuant to this program.~~
- e. ~~Any person may nominate for designation a species or habitat of local importance within shoreline jurisdiction. Nominations for a species or habitat of local importance must meet the following criteria:~~
  - (i) ~~Protection by other county, state or federal policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat in Island County; and~~
  - (ii) ~~Proposed management strategies are supported by best available science; and~~
  - (iii) ~~Proposed management strategies are practicable; and~~
  - (iv) ~~Without protection, there is a likelihood that the species will not maintain and reproduce over the long term; and~~
  - (v) ~~Nominated species must satisfy the following criteria:~~
    - (1) ~~Local populations which are in danger of extirpation based on existing trends; and~~
    - (2) ~~The species is sensitive to habitat manipulation; and~~
    - (3) ~~The species or habitat has commercial, game, or other special value such as locally rare species; and~~
  - (vi) ~~Habitats nominated to protect a particular species must satisfy the following criteria:~~
    - (1) ~~The nominated habitat areas represent either high quality native habitat or habitat that has an excellent potential to recover to a high quality condition and which is either of limited availability or highly vulnerable to alteration.~~
    - (2) ~~Where a habitat is nominated to protect a species, the use of the habitat by that species is documented or is highly likely or the habitat is proposed to be restored with the consent of the affected property owner so that it will be suitable for use by the species; and~~
    - (3) ~~Long term persistence of the species is dependent on the protection, maintenance or restoration of the habitat.~~
- f. ~~Nominations for designation of a species or habitat of local importance within shoreline jurisdiction shall be processed pursuant to chapter 16.26. The burden for providing~~

information required for designation rests with the party nominating the habitat or species. Nominations shall be reviewed and approved as follows:

(i) The nomination shall:

- (1) Indicate the specific habitat features to be protected (for example, nest sites, breeding areas, nurseries, etc.);
- (2) Include management strategies for the species or habitats, supported by best available science; and
- (3) Where restoration or habitat is proposed, include a specific plan for restoration, including a conceptual design and a means of financing of the restoration.

(ii) Pursuant to section 16.19.060, the Planning and Community Development Department shall determine whether the proposal is complete. For nominations that are complete, it shall evaluate the proposal for compliance with the criteria enumerated in section 17.05A.090.C.13.e.i—vi and make a recommendation to the Planning Commission based on those standards.

(iii) The Planning Commission shall hold a public hearing and make a recommendation to the Board of Commissioners.

(iv) Following the recommendation of the Planning Commission, the Board of County Commissioners shall designate a FWHCA if the nomination satisfies the nomination criteria in section 17.05A.090.C.13.e.i—vi.

(v) Approved nominations shall be subject to the provisions of this chapter and may include additional specific restrictions for the protection of the habitat or species designated.

g. Portions of streams within the shoreline jurisdiction of Island County shall be classified using the water type classification system of WAC 222-16-030, which include the following classifications and criteria:

(i) **Type S water** means all waters within their bankfull width, as inventoried as "shorelines of the state," and the rules promulgated pursuant to Chapter 90.58 RCW, including periodically inundated areas and their associated wetlands.

(ii) **Type F water** means segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one (1) of the following four (4) categories:

- (1) Waters, which are diverted for domestic use by more than ten (10) residential or camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F water upstream from the

~~point of such diversion for 1,500 feet or until the drainage area is reduced by fifty (50) percent, whichever is less;~~

(2) ~~Waters, which are diverted for use by federal, state, tribal, or private fish hatcheries, as further defined in WAC 222-16-030(2)(b);~~

(3) ~~Waters, which are within a federal, state, local, or private campground having more than ten (10) camping units, as further defined in WAC 222-16-030(2)(c); or~~

(4) ~~Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat, as further defined in WAC 222-16-030(2)(d).~~

(iii) ~~Type Np water means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.~~

(iv) ~~Type Ns water means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.~~

h. ~~Stream buffers: Protective buffers shall be required to preserve stream and riparian functions within shoreline jurisdiction. Buffer distances shall be measured horizontally from the ordinary high water mark of the stream. The following standard buffers apply to streams regulated under this Shoreline Master Program.~~

**TABLE 2: Stream Buffers**

<b>Water type</b>	<b>Standard Stream Buffer</b>
S—Shoreline of the State <sup>4</sup>	450 feet
F—Known to contain fish habitat	400 feet
Np—Perennial stream, does not contain fish habitat	50 feet

Water type	Standard Stream Buffer
Ns—Seasonal stream, does not contain fish habitat	50 feet

~~+ There are currently no streams classified as shorelines of the state in Island County; streams within shoreline jurisdiction would be classified as F, Np, or Ns.~~

- (i) **Increasing stream buffer widths.** The Director has the authority to increase the standard buffer widths on a case-by-case basis based on the intensity of the proposed use, the functions of the stream and the characteristics of the existing buffer when a larger buffer is determined to be necessary to protect stream water quality or a protected species. However, an applicant may enhance any such buffer (such as by planting native plants) to maintain the standard buffer width following submittal, review, and approval of a biological site assessment, habitat management plan and mitigation plan, when required, which demonstrate that the enhancement will provide a buffer that protects stream water quality or a protected species, as applicable.
- (ii) **Decreased stream buffer widths.** If the lot buildable area is less than 2,200 square feet, after the applicable buffers and setbacks have been deducted from the total lot area, the required stream buffer may be decreased provided that the following standards are met:
  - (1) ~~Decreasing the stream buffer width will not adversely affect fish and wildlife habitat functions and values;~~
  - (2) ~~If a portion of a buffer is reduced, an area of the remaining buffer equal to two (2) times the area removed from the standard buffer shall be enhanced using native vegetation or installed habitat features. For example, if a buffer is reduced by 1,000 square feet, then 2,000 square feet of remaining buffer shall be enhanced;~~
  - (3) ~~The perimeter of the reduced buffer must be screened with dense vegetation or barrier fencing (other measures necessary to provide adequate protection for fish and wildlife habitat should be identified in the Biological Site Assessment or Habitat Management Plan); and~~
  - (4) ~~The standard stream buffer width shall not be reduced by more than twenty-five (25) percent of the standard buffer width.~~
- (iii) **Averaging stream buffer widths.** Buffer widths may be modified by "averaging." Buffer width averaging shall be allowed only where the applicant demonstrates through an approved biological site assessment or habitat management plan that the following criteria are met:

- (1) ~~A decrease in a portion of the buffer is necessary to accomplish the purpose of the proposed project and no reasonable alternative is available;~~
      - (2) ~~Averaging would allow the applicant to establish a corridor of native vegetation between natural systems;~~
      - (3) ~~Decreasing the buffer width will not adversely affect fish and wildlife habitat functions and values;~~
      - (4) ~~If a portion of a buffer is reduced through averaging, an area of additional buffer, contiguous with the existing buffer, shall be designated that is equal in size to the reduced portion of the standard buffer so that the total buffer area remains unchanged; and~~
      - (5) ~~The standard stream buffer width shall not be reduced by more than twenty-five (25) percent.~~
    - (iv) ~~Allowed uses in buffers. Buffers are intended to protect natural resources and shoreline functions. Buffers are typically required to be well vegetated with native plants. Up to twenty (20) percent of the buffer area can be disturbed with a pedestrian (pervious) trail.~~
  - 4.i. Standards: Critical saltwater habitats. The following standards apply to all development adjacent to or containing critical saltwater habitat:
    - a.(i) Development shall not intrude into, over, or within ten (10) feet from eelgrass meadows and kelp beds except when there is no feasible alternative alignment or location and the development would result in no net loss of the plant species and habitat.
    - b.(ii) Except for boat launches, disabled persons/emergency response vehicles, and authorized temporary use of construction equipment, motorized vehicular travel is prohibited on private and public tidelands.
    - c.(iii) New docks, bulkheads, bridges, fill, floats, jetties, and utility crossings shall not intrude into or over critical saltwater habitats below the ordinary high water mark, except when:
      - (i)(1) Public need is clearly demonstrated;
      - (ii)(2) Avoidance of impacts is not feasible or would result in unreasonable cost;
      - (iii)(3) The project includes mitigation as required by this chapter; and
      - (iv)(4) The project is consistent with resource protection and species recovery.
    - d.(iv) Private, non-commercial docks, piers, and floats for individual residential or community use may be allowed pursuant to the requirements of this chapter.

- e.(v) New over-water structures shall only be allowed for water-dependent uses, public access, ecological restoration, or except where otherwise explicitly allowed pursuant to the requirements of this chapter.
- f.(vi) All developments and uses on navigable waters or their beds shall be located and designed to allow for the safe, unobstructed passage of fish, marine mammals, and birds, particularly species dependent on migration.
- h.(vii) Uses that adversely impact the ecological functions of critical saltwater shall be prohibited except uses necessary to achieve the objectives of RCW 90.58.020, and then only when all potential impacts are mitigated as necessary to ensure maintenance of shoreline ecological functions and processes;
- i.(viii) On-site sewage systems. The design of new and the replacement of existing on-site sewage systems shall comply with eChapter 8.07 ICC.
- j.(ix) Stormwater management: Applications for residential subdivisions or for construction of any new non-residential facility shall require preparation, submittal, and approval of a storm water collection, treatment, and disposal system designed by a Professional Engineer and reviewed pursuant to eChapters 11.01 and 11.03 ICC. Infiltration of storm water shall be encouraged, except where this practice would be injurious or potentially injurious to the quality of groundwater in designated aquifer recharge areas, or would potentially destabilize an unstable or steep slope area.
- k.(x) Agricultural facilities and livestock.
  - (i)(1) If construction of new agricultural facilities in the commercial agriculture zone is proposed within shoreline jurisdiction, a county-approved farm management plan will be required.
  - (ii)(2) Construction of new agricultural facilities or activities involving the raising or keeping of livestock in the rural agriculture zone shall require compliance with water quality regulations.

5.j. Protection standards: Nesting sites and territory. The following buffers and standards shall apply to all Heron, Osprey, and Bald Eagle nesting sites within shoreline jurisdiction:

- a.(i) Heron—1,000 feet for non-residential development and 300 feet for residential development.
- b.(ii) Osprey—600 feet for non-residential development and 200 feet for residential development.
- c.(iii) Bald Eagle—Prior to authorizing any development on a site containing a Bald Eagle nesting site, the applicant shall submit documentation demonstrating compliance with all applicable federal laws and regulations. A biological site assessment will not be required by Island County based solely on the presence of a Bald Eagle nesting site.

6.k. Protection standards: Washington Natural Heritage Program Areas.

- a.(ii) For designated significant plant communities dominated by Big Leaf Maple (*Acer macrophyllum*) or Douglas Fir (*Pseudotsuga menziesii*), natural vegetation between the ordinary high water mark and a line fifty (50) feet landward of the top of banks and bluffs ten (10) feet or higher shall be retained, except for removal of ~~hazardous, diseased or damaged~~ trees and to allow for pedestrian waterfront access. Removal of invasive non-native species is authorized. Trimming but not removal for view enhancement is authorized.
- b.(ii) For designated significant plant communities including white-top aster (*Aster curtus*) and golden indian paintbrush (*Castilleja levisecta*), a biological site assessment and habitat management plan shall be prepared to ensure protection of the protected species.
- c.(iii) All other designated Washington Natural Heritage Program Areas. Requests for permit approval by Island County will be acted on only after consultation with the Washington Natural Heritage Program.

7.l. Protection standards: Habitats of local importance. Property owners within these areas are required to comply with ~~e~~Chapter 17.02AB ICC, the Island County Critical Areas Ordinance; ~~e~~Chapter 17.03 ICC, the Island County Zoning Ordinance; ~~e~~Chapter 11.02 ICC, the Island County Clearing and Grading Ordinance; the Island County Shoreline Master Program; and all other applicable federal, state, and county regulations. Variances from any shoreline or critical areas regulations shall specifically address any designated habitats of local importance located on or adjacent to the property proposed for development. Additional protections may be adopted with designation of a habitat of local importance.

8.m. Protection standards: All other fish and wildlife habitat conservation areas shall be protected on a case-by-case basis. A biological site assessment shall be prepared pursuant to section 17.05A.095.AC.13.e, and a habitat management plan, if required, shall be prepared pursuant to section ICC 17.05A.090.BC.13.d.

## **G. Shoreline Species and Habitats of Local Importance.**

1. Any person may nominate for designation a species or habitat of local importance within shoreline jurisdiction. Nominations for a species or habitat of local importance must meet the following criteria:
  - a. Protection by other county, state or federal policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat in Island County; and
  - b. Proposed management strategies are supported by best available science; and
  - c. Proposed management strategies are practicable; and
  - d. Without protection, there is a likelihood that the species will not maintain and reproduce over the long term; and

e. Nominated species must satisfy the following criteria:

- (i) Local populations which are in danger of extirpation based on existing trends; and
- (ii) The species is sensitive to habitat manipulation; and
- (iii) The species or habitat has commercial, game, or other special value such as locally rare species; and

f. Habitats nominated to protect a particular species must satisfy the following criteria:

- (i) The nominated habitat areas represent either high-quality native habitat or habitat that has an excellent potential to recover to a high-quality condition and which is either of limited availability or highly vulnerable to alteration.
- (ii) Where a habitat is nominated to protect a species, the use of the habitat by that species is documented or is highly likely or the habitat is proposed to be restored with the consent of the affected property owner so that it will be suitable for use by the species; and
- (iii) Long-term persistence of the species is dependent on the protection, maintenance, or restoration of the habitat.

2. Nominations for designation of a species or habitat of local importance within shoreline jurisdiction shall be processed pursuant to eChapter 16.26 ICC. The burden for providing information required for designation rests with the party nominating the habitat or species. Nominations shall be reviewed and approved as follows:

a. The nomination shall:

- (i) Indicate the specific habitat features to be protected (for example, nest sites, breeding areas, nurseries, etc.);
- (ii) Include management strategies for the species or habitats, supported by best available science; and
- (iii) Where restoration or habitat is proposed, include a specific plan for restoration, including a conceptual design and a means of financing of the restoration.

b. Pursuant to section ICC 16.19.060080, the Planning and Community Development Department shall determine whether the proposal is complete. For nominations that are complete, it shall evaluate the proposal for compliance with the criteria enumerated in section ICC 17.05A.090.C.13.e.(i) – (vi)G.1.a through f, and make a recommendation to the Planning Commission based on those standards.

c. The Planning Commission shall hold a public hearing and make a recommendation to the Board of Commissioners.

- d. Following the recommendation of the Planning Commission, the Board of County Commissioners shall designate a FWHCA if the nomination satisfies the nomination criteria in section ICC 17.05A.090.G.13.e.(i) – (vi)G.1.a through f.
- e. Approved nominations shall be subject to the provisions of this chapter and may include additional specific restrictions for the protection of the habitat or species designated.

#### **H. Classification of Water Types and Buffer Widths**

1. Portions of streams within the shoreline jurisdiction of Island County shall be classified using the water type classification system of WAC 222-16-030, which include the following classifications and criteria:
  - a. **Type S water** means all waters within their bankfull width, as inventoried as "shorelines of the state," and the rules promulgated pursuant to Chapter 90.58 RCW, including periodically inundated areas and their associated wetlands.
  - b. **Type F water** means segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one (1) of the following four (4) categories:
    - (i) Waters, which are diverted for domestic use by more than ten (10) residential or camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by fifty (50) percent, whichever is less;
    - (ii) Waters, which are diverted for use by federal, state, tribal, or private fish hatcheries, as further defined in WAC 222-16-030(2)(b);
    - (iii) Waters, which are within a federal, state, local, or private campground having more than ten (10) camping units, as further defined in WAC 222-16-030(2)(c); or
    - (iv) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat, as further defined in WAC 222-16-030(2)(d).
  - c. **Type Np water** means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.
  - d. **Type Ns water** means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish

habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

2. Stream buffers: Protective buffers shall be required to preserve stream and riparian functions within shoreline jurisdiction. Buffer distances shall be measured horizontally from the ordinary high water mark of the stream. The following standard buffers apply to streams regulated under this Shoreline Master Program.

**TABLE 2: Stream Buffers**

Water Type	Standard Stream Buffer
S – Shoreline of the State <sup>1</sup>	150 feet
F – Known to contain fish habitat	100 feet
Np – Perennial stream, does not contain fish habitat	5075 feet
Ns – Seasonal stream, does not contain fish habitat	50 feet

<sup>1</sup> There are currently no streams classified as shorelines of the state in Island County; streams within shoreline jurisdiction would be classified as F, Np, or Ns.

a. **Increasing stream buffer widths.** The Director has the authority to increase the standard buffer widths on a case-by-case basis based on the intensity of the proposed use, the functions of the stream and the characteristics of the existing buffer when a larger buffer is determined to be necessary to protect stream water quality or a protected species. However, an applicant may enhance any such buffer (such as by planting native plants) to maintain the standard buffer width following submittal, review, and approval of a biological site assessment, habitat management plan and mitigation plan, when required, which demonstrate that the enhancement will provide a buffer that protects stream water quality or a protected species, as applicable.

b. **Decreased stream buffer widths.** If the lot buildable area is less than 2,200 square feet, after the applicable buffers and setbacks have been deducted from the total lot area, the required stream buffer may be decreased provided that the following standards are met:

- (i) Decreasing the stream buffer width will not adversely affect fish and wildlife habitat functions and values;
- (ii) If a portion of a buffer is reduced, an area of the remaining buffer equal to two (2) times the area removed from the standard buffer shall be enhanced using native vegetation or installed habitat features. For example, if a buffer is reduced by 1,000 square feet, then 2,000 square feet of remaining buffer shall be enhanced;
- (iii) The perimeter of the reduced buffer must be screened with dense vegetation or barrier fencing (other measures necessary to provide adequate protection for fish and wildlife habitat should be identified in the Biological Site Assessment or Habitat Management Plan); and

- (iv) The standard stream buffer width shall not be reduced by more than twenty-five (25) percent of the standard buffer width.

c. **Averaging stream buffer widths.** Buffer widths may be modified by "averaging." Buffer width averaging shall be allowed only where the applicant demonstrates through an approved biological site assessment or habitat management plan that the following criteria are met:

  - (i) A decrease in a portion of the buffer is necessary to accomplish the purpose of the proposed project and no reasonable alternative is available;
    - (ii) Averaging would allow the applicant to establish a corridor of native vegetation between natural systems;
    - (iii) Decreasing the buffer width will not adversely affect fish and wildlife habitat functions and values;
    - (iv) If a portion of a buffer is reduced through averaging, an area of additional buffer, contiguous with the existing buffer, shall be designated that is equal in size to the reduced portion of the standard buffer so that the total buffer area remains unchanged; and
    - (v) The standard stream buffer width shall not be reduced by more than twenty-five (25) percent.

d. **Allowed uses in buffers.** Buffers are intended to protect natural resources and shoreline functions. Buffers are typically required to be well vegetated with native plants. Up to twenty (20) percent of the buffer area can be disturbed with a pedestrian (pervious) trail.

14. Critical areas regulations adopted by reference:

- a. The following critical areas provisions of chapter 17.02A dated July 1, 2008 (Ordinance C-02-08), are incorporated into this Shoreline Master Program by reference:
      - (i) 17.02A.030 Definitions.
      - (ii) 17.02A.040(B) Critical area protection.
      - (iii) 17.02A.040(E) Alteration of critical areas.
      - (iv) 17.02A.040(F) Property assessment.
      - (v) 17.02A.070 Critical area mitigation.
      - (vi) 17.02A.080 Monitoring and adaptive management.
      - (vii) 17.02A.090 Wetlands.

- b. ~~In the event development or performance standards in chapter 17.02A are inconsistent with standards and requirements in this Shoreline Master Program, the standard that is more protective of natural resources in the shoreline shall govern.~~
- c. ~~The standards for protection of aquifer recharge areas in section 8.09.097 are incorporated into this Shoreline Master Program by reference.~~

**ID. Shoreline buffers, building shoreline setbacks, and impervious surface limits.**

1. In order to protect shoreline ecological functions and shoreline scenic quality, minimum shoreline buffers are established as follows for all SMA shorelines in Island County. The minimum required buffer widths for each shoreline environment designation are shown in Table 3.
2. Residential development, including principal primary structures and all associated impervious surfaces, shall be located landward of the shoreline buffer plus building shoreline setback except as specified in this SMP or with the approval of a shoreline variance.
3. In all shoreline environment designations, a building shoreline setback shall be maintained from the landward edge of the required buffer. The minimum required building shoreline setbacks for each shoreline environment designation are shown in Table 3. Without a shoreline variance as provided in ICC 17.05A.130.F. No ~~ne~~ permanent structure or impervious surface may extend within the building setback, except as follows: as outlined in ICC 17.05A.090.J below.
  - a. ~~Impervious surfaces may not cover more than twenty (20) percent of the building setback area; and~~
  - b. ~~Structures less than thirty (30) inches in height may be allowed; and~~
  - c. ~~A single garden or storage structure over thirty (30) inches in height may be allowed as accessory to a single-family residence. Such structures shall be limited to 200 square feet and shall be subject to a maximum height of twelve (12) feet.~~
4. The steep slope buffers in Table 3 below are established to allow the natural erosion of bluffs as an important component of natural shoreline processes, while minimizing threats to structures. For this reason, any structures as defined in ICC 17.05A.070, except for upland retaining walls, when allowed pursuant to ICC 17.05A.110.A.2.f, shall not be allowed within the steep slope buffer without approval of a Shoreline Variance.

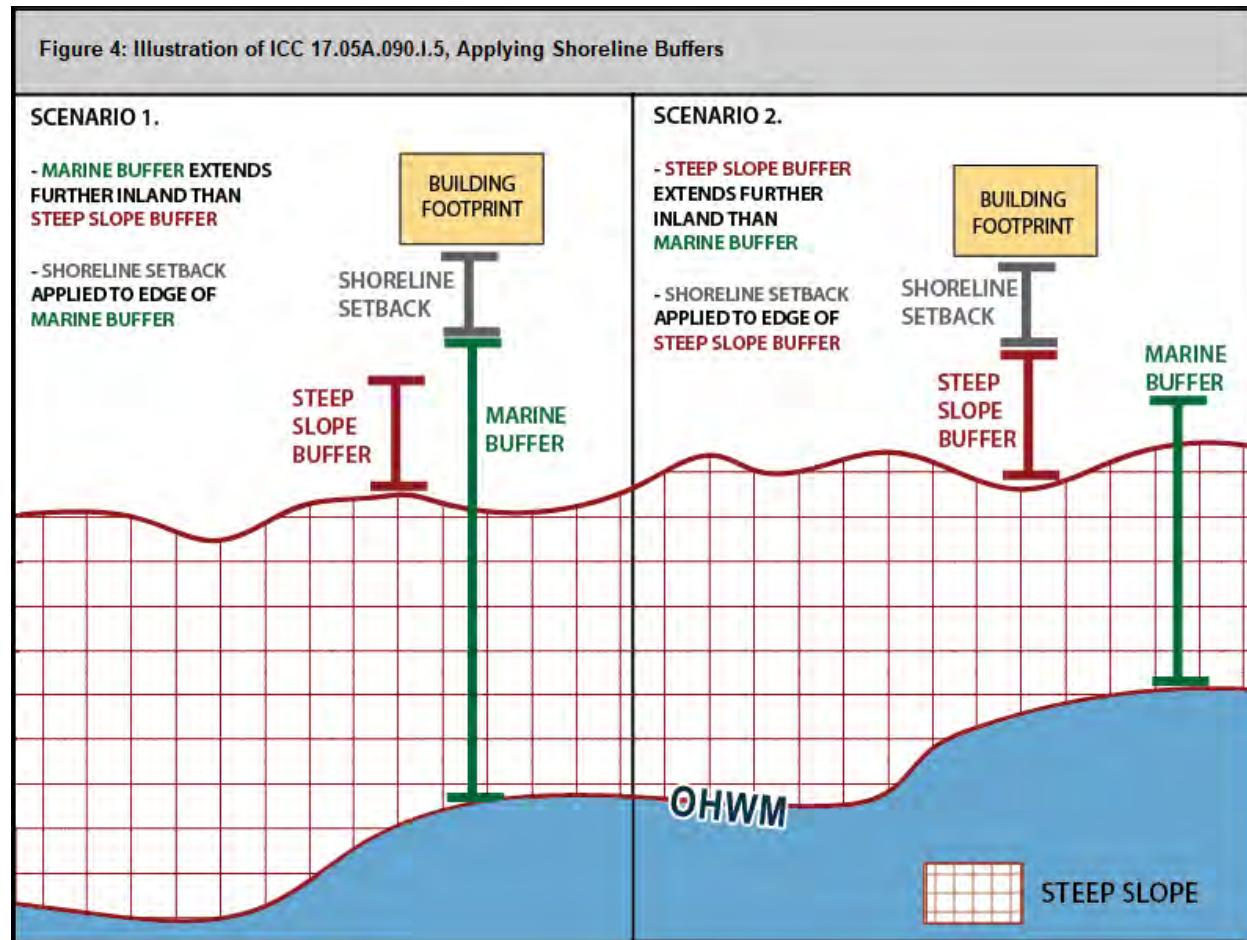
**TABLE 3. Minimum Shoreline Buffers, Setbacks, Lot Widths, & Maximum Impervious Surface Limits**

Shoreline/Resource Type	Shoreline Environment Designation <sup>1</sup>						
	N	RC	UC	SR	SRCC	SRHBC <sup>5</sup>	HI



Note: The Aquatic designation does not have a minimum buffer or building shoreline setback.

Figure 4: Illustration of ICC 17.05A.090.I.5, Applying Shoreline Buffers



5. 4. Buffers shall be measured landward in a horizontal direction perpendicular to the Ordinary High Water Mark (OHWM) of the shoreline water body (or other feature as designated in Table 3 of ICC 17.05A.090), and shall be a three-dimensional space that includes the airspace above. See Figure 4.
6. 5. Native vegetation within shoreline buffers shall be maintained in a predominately natural, undisturbed, undeveloped, and well-vegetated condition. Shoreline buffer vegetation may be modified only as specified in this SMP.
7. 6. Shoreline buffers may be modified to include a trail up to five (5) feet in width that is the minimum length necessary to provide access to the shoreline. Beach access structures may be allowed as provided in section ICC 17.05A.100.C.

- 8.7. Shoreline buffer areas that contain non-native trees, shrubs, and herbaceous vegetation may be maintained in their existing condition until such time as the existing landscaping in the shoreline buffer is removed. At such time, the landscaping shall be replaced with native vegetation in accordance with ICC 17.05A.090.M. or the entire site is developed or redeveloped under these regulations.
8. When development is proposed on a site where the shoreline buffer area does not have native vegetation throughout, the buffer shall be required to be enhanced with native trees and shrubs that contribute to habitat quality and ecological functions, proportionate to the impacts of the proposed development as determined by the Shoreline Administrator. If the site will not support trees and shrubs, the Shoreline Administrator may allow use of native herbaceous plants. As a general guideline, for development outside of any required setback or buffer, the percentage of the buffer to be enhanced should equal the percentage increase in impervious lot coverage on the site. Any enhancement required pursuant to setback or buffer modification provisions of this Program would be in addition to this general guideline.
9. Buffer areas and any required enhancement plantings, shall be shown on the site plan, require approval of the Administrator, and be recorded with the County Auditor as requirements that remain for as long as the approved development remains on the property.
10. The applicant shall monitor the condition of any buffer enhancement required by this Program and report annually in accordance with ICC 17.05A.090.M.1.e. for a period of five (5) years on the condition of any buffer enhancement required by this Program. Monitoring shall include photographs of the plantings and an inventory of plant survival and cover expressed as a percent of the planting area. Buffer enhancement plantings shall have targets for vegetative cover that must be met within or by the fifth growing season. At that time, if the vegetative cover does not meet the target, additional planting or other action may be required and the monitoring period extended. The target for vegetative cover shall be ninety (90) percent unless the Shoreline Administrator modifies the required target after determination that environmental conditions indicate less vegetative cover more nearly matches what a naturally occurring plant community would achieve at the particular location.
11. If buffers for any shoreline or critical areas are contiguous or overlapping, the buffers and setbacks that are most protective of shoreline resources shall apply.
12. Impervious surfaces shall be limited to the greater of the percentage listed in section ICC 17.05A.090.D, Table 3 or, the percentage of impervious surface within shoreline jurisdiction on any existing legal lot as of the date of adoption of this program.

**JE. Shoreline setback and buffer modifications. Developments affecting shoreline setbacks and buffers.**

1. On lots where the area of the lot outside of the standard shoreline buffer and building setback as indicated in Table 3, the required side setbacks in chapter 17.03, and any required critical area buffer is less than 2,200 square feet, development may extend into the building setback provided:

- a. ~~The maximum building footprint (including principal structures and all associated impervious surfaces) shall be no larger than 2,200 square feet;~~
- b. ~~There is no opportunity to consolidate lots under common ownership that will alleviate the nonconformity;~~
- c. ~~The proposed development has utilized the maximum portion of the lot outside of the shoreline buffer, building setback, critical areas, and critical area buffers before extending into the building setback; and~~
- d. ~~Buffer enhancement is provided consistent with section 17.05A.090.G.~~

1. Requirements for all development proposed in the shoreline buffer or shoreline setback.

- a. Buffer enhancement shall be provided consistent with ICC 17.05A.090.L and M.
- b. If the proponent removes impervious surface between the OHWM and the shoreline buffer or setback, the area (square feet) of removed impervious surface may be deducted from the total of new impervious surface area for which enhancement of the buffer is required.
- c. The residence shall be located in the least environmentally damaging location relative to the shoreline and any critical areas as demonstrated by a biological site assessment;
- d. The residence shall be located outside of areas subject to geologic hazards as demonstrated by a geotechnical or geocoastal analysis;
- e. A geotechnical or geocoastal analysis indicates that with the reduced setback or buffer, the proposed structure will not require shoreline stabilization for the life of the single-family residence, typically 100 years;
- f. The applicant has signed and recorded with the county a covenant that meets all the requirements as provided in ICC 11.02.170 and runs with the title of the property that waives any claim against Island County by reason of or arising out of issuance of the permit or approval by Island County for the development of the property and acknowledges that the structure was built in a location on the lot closer than normally permitted on the condition that it would not require future shoreline stabilization over the life of the structure, and that county regulations would not allow stabilization to protect the structure or other improvement should this presumption prove incorrect.
- g. Any septic drainfield shall be located landward of the single-family residence, whenever possible, in compliance with Island County Health regulations;
- h. Measures shall be taken to mitigate all adverse impacts, such as pervious pavement for driveways and other hard surfaces and infiltrating stormwater runoff through bioswales, except where this would threaten slope stability, increase erosion, or potentially degrade groundwater quality;

- i. Copper shall not be used in any exterior finish material; and
- j. Any alteration to the buffer area will not result in a net loss of shoreline ecological function nor increase the risk of slope failure or downslope stormwater drainage impacts as demonstrated by a biological site assessment, and a geotechnical or geocoastal analysis.

2. Requirements for development proposed within the shoreline setback.
  - a. Impervious surfaces may not cover more than twenty (20) percent of the shoreline setback area.
  - b. Structures less than thirty (30) inches in height may be allowed, such as patios, decks, planter beds, or short fences.
  - c. In the Shoreline Residential environment, a single garden or storage structure over thirty (30) inches in height may be allowed as accessory to a single-family residence. Such structures shall be limited to 200 square feet and shall be subject to a maximum height of twelve (12) feet.
  - d. Single-family residential development may be allowed in a shoreline setback per the requirements of ICC 17.05A.090.J.4 through 6 below.
  - e. Beach access structures must meet the requirements of ICC 17.05A.100.C.
3. Requirements for development proposed within the shoreline buffer.
  - a. Beach access structures must meet the requirements of ICC 17.05A.100.C.
  - b. Moorage facilities must meet the requirements of ICC 17.05A.100.D.
  - c. Boating facilities must meet the requirements of ICC 17.05A.100.E.
  - d. Shoreline stabilization must meet the requirements of ICC 17.05A.110.A.
  - e. Breakwaters, jetties, groins, tide gates, and weirs must meet the requirements of ICC 17.05A.110.E.
  - f. Single-family residential development may be allowed in a shoreline setback per the requirements of ICC 17.05A.090.J.4 through 6 below.
  - g. Stormwater outfalls and culverts must meet the requirements of ICC 17.05A.100.L.
4. Development on nonconforming lots. New single-family development on any legal lot in shoreline jurisdiction that is nonconforming with respect to the required buffer and setback standards may be allowed without a shoreline variance when:
  - a. The depth of the lot (distance from the ordinary high water mark to the inside edge of the front yard setback) is equal to or less than the standard shoreline buffer and setback as indicated in Table 3 of this section; or

- b. The buildable area lying landward of the shoreline buffer and interior to required side and front yard setbacks is not more than 2,200 square feet and the driveway is not more than 1,100 square feet. The buildable area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping; and
- c. The maximum footprint (including structures and all associated impervious surfaces) shall be no larger than 2,200 square feet; and
- d. Appropriate measures are taken to mitigate all adverse impacts, including using low impact development measures such as pervious pavement for driveways and other hard surfaces within the buffer and setback; and
- e. Opportunities to vary the side yard and/or frontage setbacks are implemented to reduce the nonconformity when doing so will not create a hazardous condition or a condition that is inconsistent with this program or other chapters of Island County Code; and
- f. The residence is located in the least environmentally damaging location relative to the shoreline and any critical areas; and
- g. The lot is not subject to steep or unstable slopes; and
- h. All structures are as far landward as possible and shall not reduce the buffer by 50 percent; and
- i. At least 80 percent of the buffer area between the structures and the shoreline and/or critical area is maintained in a naturally vegetated condition under a buffer enhancement plan developed in accordance with ICC 17.05A.090.M.1.

5. Replacement and expansion of existing residential structures in shoreline setbacks and buffers.

- 2.a. Expansion of existing residential structures into the shoreline setback. A legally established residential structure (including ~~principal~~primary structures and all associated impervious surfaces) located wholly or partially within shoreline buffer or ~~building~~ shoreline setback may expand into the shoreline building setback provided:

  - (i).a. The maximum building footprint (including ~~principal~~primary structures and all associated impervious surfaces) within shoreline jurisdiction shall be no larger than 2,200 square feet; and
  - b. ~~There is no opportunity to consolidate lots under common ownership that will alleviate the nonconformity;~~
  - (ii).e. The proposed development has utilized the maximum portion of the lot outside of the shoreline buffer, shoreline building setback, critical areas, and critical area buffers before extending into the shoreline building setback; and
  - d. ~~Buffer enhancement is provided consistent with section 17.05A.090.G.~~

3.b. Replacement of existing residential structures. A legally established residential structure (including ~~principal~~primary structures and all associated impervious surfaces) located wholly or partially within shoreline buffer or ~~building~~ shoreline setback may be replaced provided the footprint and height of the replacement structure in the ~~building~~ shoreline setback and shoreline buffer is less than or equal to the footprint and height of the original structure, the replacement structure is placed in the same location or and no closer to the OHWM than as the original structure, and buffer enhancement is provided per section 17.05A.090.G.

4.c. Expansion or modification of existing residential structures in the Rural Conservancy environment. In the rural conservancy environment, an existing legally established or nonconforming residential structure (including ~~principal~~primary structures and all associated impervious surfaces) located wholly within the shoreline buffer may be modified or expanded provided:  
a. A any expansion of the building's footprint or any new impervious surface are located landward of the rear foundation wall (the wall furthest from the water) of the existing structure.

- b. There is no opportunity to consolidate lots under common ownership to alleviate the nonconformity.
- c. Buffer enhancement is provided consistent with section 17.05A.090.G.

5. The following provisions shall apply to any development proposed within a shoreline buffer or building shoreline setback:

- a. The residence shall be located in the least environmentally damaging location relative to the shoreline and any critical areas;
- b. The residence shall be located outside of areas subject to geologic hazards;
- c. A geologic geocoastal analysis indicates that with the reduced setback or buffer, the proposed structure will not require shoreline stabilization for the life of the single-family residence, typically 100 years;
- d. The applicant has signed and recorded with the county a covenant that meets all the requirements as provided in section 11.02.170 and runs with the title of the property that waives any claim against Island County by reason of or arising out of issuance of the permit or approval by Island County for the development of the property and acknowledges that the structure was built in a location on the lot closer than normally permitted on the condition that it would not require future shoreline stabilization over the life of the structure, and that county regulations would not allow stabilization to protect the structure or other improvement should this presumption prove incorrect.
- e. Any septic drainfield shall be located landward of the single-family residence, whenever possible, in compliance with Island County Health regulations;
- f. Measures shall be taken to mitigate all adverse impacts, including using low impact development measures where appropriate, such as pervious pavement for driveways and other hard surfaces and infiltrating stormwater runoff through bioswales except

~~where this would threaten slope stability, increase erosion, or potentially degrade groundwater quality; and~~

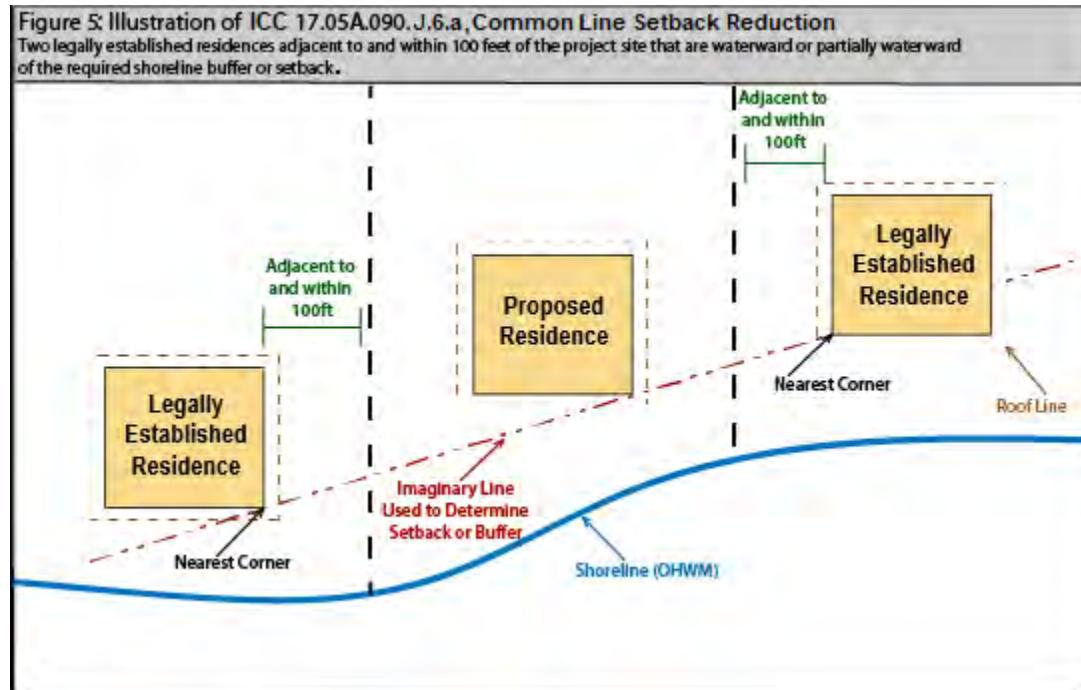
~~g. Copper shall not be used in any exterior finish material.~~

F.6. Commonline Shoreline setback and shoreline buffer reductions (refer to Figures 4 5 through 7 below at the end of this chapter). The common line setback and shoreline buffer reduction procedures described in this section shall only apply to the residence and shall not be used to reduce a steep slope buffer.

a.1. Common line setback reduction. Single-family residential development may be allowed in a shoreline setback, or a marine or lake buffer, where there are legally established residences on adjacent parcels adjacent to and within 100 feet of the proposed residence project site that are waterward or partially waterward of the required shoreline buffer or building shoreline setback. In such cases, a single-family residential structure may be constructed within a marine or lake buffer, or within a shoreline setback provided the proposed structure is set back from the OHWM to a common line drawn between the waterward-side corners of the facades of each adjacent residence, excluding attached appurtenances, residential structure that are nearest to the proposed structure.

- (i) Notwithstanding the rules for determining a common line setback reduction, in no case may a residence encroach in the shoreline buffer by a distance of more than fifty (50) percent of the buffer width.
- (ii) If the common line setback allows the placement or expansion of a residence in the shoreline buffer or shoreline setback the proponent shall enhance the remainder of the buffer that is unaffected by the placement or expansion of the residence.
- (iii) Use of the common line setback shall not allow for upper-story decks or other components of the residence to project beyond the common line, except for eaves which may extend beyond the common line by 18 inches.

Figure 5: Illustration of ICC 17.05A.090.J.6.a, Common Line Setback Reduction



**b.2. Setback averaging reduction.**

**(i).** If a lot proposed for development has:

- (1)** two (2) legally established residences within 100 feet of the proposed residence; and
- (2)** both are waterward or partially waterward of the required marine or lake buffer or shoreline setback; but
- (3)** only one (1) of the legally established residences within 100 feet is on an abutting parcel; then only one (1) residentially developed lot adjacent to and within 100 feet of the project site where there is a legally established residence that is waterward or partially waterward of the required marine or lake buffer or building setback;
- (4)** the minimum building shoreline setback may be reduced to the average of the two (2) nearest residential structures within 100 feet of the proposed residence project site on lots abutting the same shoreline or the required marine or lake buffer width for the shoreline designation in which the proposed structure is located, whichever is the greater distance from the OHWM.

**(ii).** If a lot proposed for development has:

- (1)** only one (1) legally established residence within 100 feet of the proposed residence that is waterward or partially waterward of the required marine or lake buffer or shoreline setback; and

(2) such legally established residence is on an abutting parcel; then

(3) the minimum shoreline setback may be reduced to the average between the setback of the nearest residence within 100 feet of the proposed residence on a lot abutting the same shoreline and the required marine or lake buffer width for the shoreline designation in which the proposed structure is located, whichever is the greater distance from the OHWM.

(iii). Use of setback averaging shall not allow for upper-story decks or other components of the residence to extend beyond the averaged setback line, except for eaves which may extend beyond the averaged setback by 18 inches, provided that eaves shall not extend into the shoreline buffer.

Figure 6: Illustration of ICC 17.05A.090.J.6.b(i), Setback Averaging Reduction

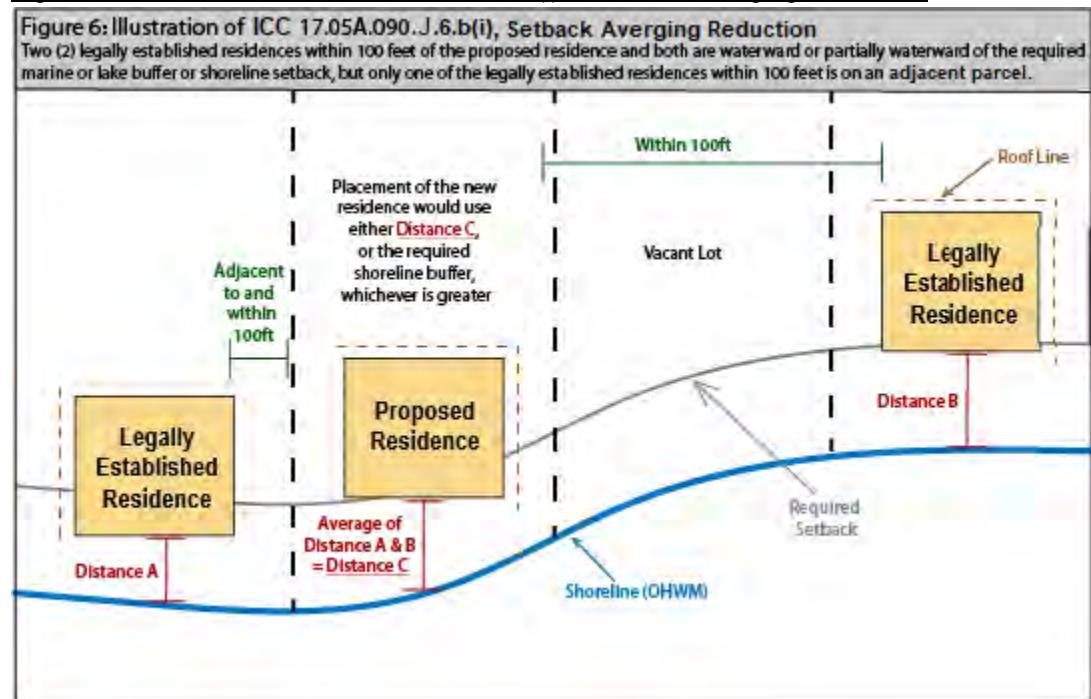
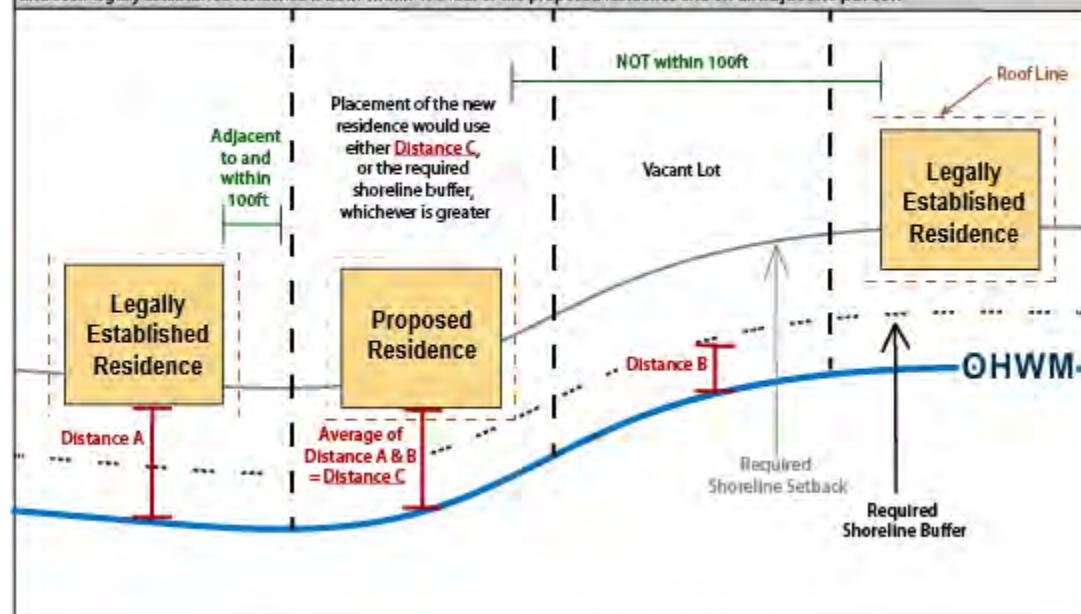


Figure 7: Illustration of ICC 17.05A.090.J.6.b(ii), Setback Averaging Reduction

**Figure 7: Illustration of ICC 17.05A.090.J.6.b(ii), Setback Averaging Reduction**  
Only one (1) legally established residence that is waterward or partially waterward of the required marine or lake buffer or shoreline setback and such legally established residence is both within 100 feet of the proposed residence and on an adjacent parcel.



3. If the common line setback allows the placement of a residential structure in the shoreline buffer, the area of the buffer shall not be reduced by more than fifty (50) percent.
4. If the common line setback allows the placement or expansion of a residential structure in the shoreline buffer or building setback the proponent shall enhance the remaining buffer consistent with section 17.05A.090.G

c. Setback reductions within canal communities. Within canal communities, the shoreline setback may be reduced to 24ft for new residential development or expansion of existing residential development, including the primary structure, all accessory structures and appurtenances and all impervious surfaces under the following conditions:

- (i). The setback may not be reduced less than the amount that would be allowed under the common line setback reduction regulations or setback averaging regulation at ICC 17.05A.090.J; and
- (ii). For any new structure or expansion of an existing structure, in which the footprint of the expansion will increase total impervious surface in the setback, the proponent shall enhance an equal area of the setback with native vegetation meeting the requirements of ICC 17.05A.090.M.

**K. Modification of shoreline buffer and setback requirements to encourage restoration.** If a property owner removes existing structural shoreline stabilization and replaces it with natural soft shore stabilization in accordance with Army Corps of Engineers and National Marine Fisheries Service standards for shoreline restoration, and after such removal of the shoreline stabilization the OHWM shifts inland toward the primary structure on the site, causing the structure to be non-conforming with regards to the shoreline setback or buffer, then the standard shoreline buffer (or setback in the canal communities) may be reduced on site in accordance with the following

standards. Approval of a shoreline buffer reduction for removal of structural shoreline stabilization shall be contingent on Island County approval of a project shoreline restoration plan. The Shoreline Administrator shall make final decisions on approval of buffer reduction requests based on the information provided and compliance with the provisions of this Program.

1. The standard shoreline buffer (or setback in canal communities) may be reduced by a distance not greater than the distance that the OHWM has shifted inland toward the primary structure on the site; and
2. The shoreline buffer shall in no case be reduced by more than fifty (50) percent of the standard buffer width.
3. An earned buffer reduction, if approved, may be applied to a project on the site if a completed application is submitted within five years of the approval of the buffer reduction under this subsection, and used to reduce the standard shoreline buffer (or setback in a canal community) from ICC 17.05A.090 Table 3 only for expansions or modifications of structures which existed at the time the hard armoring was proposed for removal.

LG. Shoreline buffer enhancements required (refer to Figure 2 8 below at the end of this chapter).1. In cases where new, expanded (greater than 200 square feet), or replaced residential structures (including principal structures and all associated impervious surfaces) are permitted in the shoreline building setback or buffer, buffer enhancement shall be provided required in accordance with the table below for residential structures, including primary structures, all accessory structures and appurtenances, and all associated impervious surfaces, when allowed within the shoreline setback or buffer under the provisions of ICC 17.05A.090.L and 17.05A.090.M. as follows:

**TABLE 4: Shoreline Buffer Enhancements Required<sup>1</sup>**

Scope of development within the shoreline setback or buffer (except as noted)	Buffer Enhancements Required/Not Required
<u>New ≤ 50sqft</u>	<u>Not Required</u>
<u>New &gt; 50sqft</u>	<u>Required</u>
<u>Replacement, same footprint</u>	<u>Not Required</u>
<u>Replacement, different footprint</u>	<u>Required<sup>2</sup></u>
<u>Expanded or Modified ≤ 200sqft<sup>3</sup> and adds impervious surface<sup>3</sup></u>	<u>Required</u>
<u>Expanded or Modified ≤ 200sqft<sup>3</sup> and does not add impervious surface<sup>3</sup></u>	<u>Not Required</u>
<u>Expanded or Modified &gt; 200sqft<sup>3</sup> and adds impervious surface<sup>3</sup></u>	<u>Required</u>
<u>Expanded or Modified &gt; 200sqft<sup>3</sup> and does not add impervious surface<sup>3</sup></u>	<u>Required</u>

<u>Expanded upwards, within same footprint</u>	<u>Not Required<sup>4</sup></u>
<ol style="list-style-type: none"><li>1. <u>For residential structures, including primary structures, all accessory structures and appurtenances, and all associated impervious surfaces, in accordance with ICC 17.05A.090.L.</u></li><li>2. <u>Except where the difference between the existing and new footprint is ≤ 200sqft and does not add impervious surface to the shoreline setback or buffer.</u></li><li>3. <u>Within the shoreline setback or buffer.</u></li><li>4. <u>The permit process shall be consistent with the requirements of ICC 17.05A.090.J.1.c.</u></li></ol>	

a. If the expansion or modification is greater than 200 square feet and adds impervious surface to the building setback, including the primary structure and all accessory structures and appurtenances, the proponent shall be required to enhance an equal area of the shoreline buffer with native vegetation.;

b. If the expansion or modification is greater than 200 square feet and adds any new impervious surface within the shoreline buffer, including the primary structure and all accessory structures and appurtenances, the proponent shall be required to enhance an equal area of the shoreline buffer with native vegetation; and

2. Buffer enhancement shall meet the requirements of section 17.05A.090.H.

31. Requirements for vegetation enhancement associated with development in the building shoreline setback or buffer shall apply to the total of all new building area added on a project site after the effective date of this Program.

42. If the proponent removes impervious surface from within the shoreline buffer or building shoreline setback, the horizontal area (square feet) of removed impervious surface may be deducted from the total of new impervious surface area for which enhancement of the buffer is required.

3. For shoreline property owners that have removed structural shoreline stabilization in advance of shoreline development or redevelopment permitting, Island County may give on site mitigation credit to any beneficial restoration action that occurred within five (5) years of the proposed development or redevelopment activity, provided that:

a. The applicant or property owner provides conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, or similar evidence;

b. The county confirms via site inspection, photographs, affidavits or other evidence that the restoration actions have improved ecological functions and shoreline conditions; and

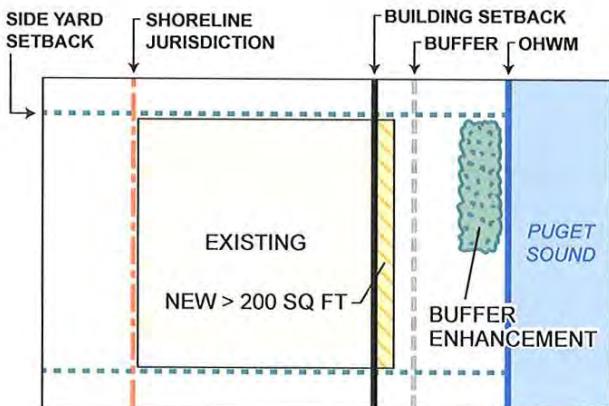
- c. The applicant or property owner provides assurances that the restoration area will be maintained for the life of the development or redevelopment activity. The assurance can be in the form of a notice on title, conservation easement, or similar mechanism.
4. When development involving greater than 200 square feet of new impervious surface creation is proposed on a site where the shoreline buffer area is vegetated with less than fifty (50) percent native vegetation, the buffer shall be required to be enhanced with native trees, shrubs, and herbaceous plants. The applicant shall install native plants based on a standard shoreline buffer enhancement plan adopted by Island County Planning and Community Development. For development outside of any required setback or buffer, the percentage of the buffer to be enhanced shall equal the percentage increase in impervious lot coverage on the site. Any enhancement required pursuant to setback or buffer modification provisions of this Program shall be in addition to this requirement. Shoreline buffer enhancement protects and preserves water quality, wildlife habitat, and human health and safety. All enhancement measures shall be protected in perpetuity and pass an initial inspection and 5-year inspection that meets the following performance standards:

  - a. Greater than 90% survival of native plants at 5 years; and
  - b. less than 10% coverage with invasive species.

Figure 8: Shoreline Buffer Enhancements

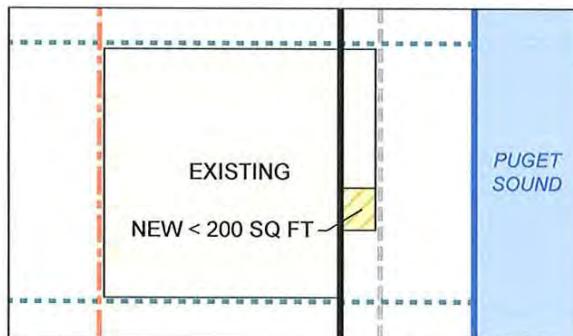
## Expansion of Existing Residential Structures within Shoreline Setback

Development in the shoreline setback may be allowed under ICC 17.05A where the area of a lot outside of the standard shoreline buffer, building setback, side setbacks, and any critical areas or buffer is less than 2,200 square feet. In most cases, buffer enhancement is required with such development.



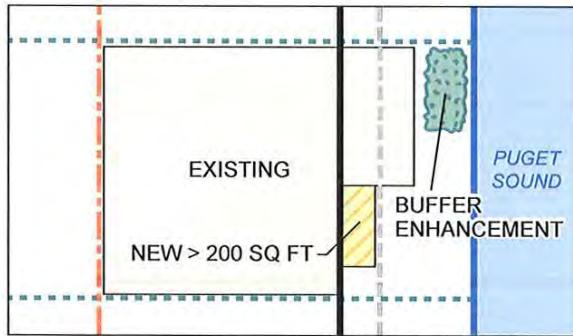
### EXAMPLE 1

- Existing structure outside of shoreline setback
- Buildable area < 2,200 square feet
- Expansion within shoreline setback allowed
- Expansion > 200 square feet
- Buffer enhancement required next to water



### EXAMPLE 2

- Existing structure within shoreline setback
- Buildable area < 2,200 square feet
- Expansion within shoreline setback allowed
- Expansion < 200 square feet
- Buffer enhancement not required



### EXAMPLE 3

- Existing structure within shoreline setback and buffer
- Buildable area < 2,200 square feet
- Expansion within shoreline setback allowed
- Expansion > 200 square feet

### MH. Shoreline buffer enhancement standards.

1. In all cases where shoreline buffer enhancement is a required condition of development in the shoreline buffer or building shoreline setback, the following shall apply:

- a. An approved landscape buffer enhancement plan subject to county approval is required and shall contain the following:
  - (i) ~~A buffer enhancement plan subject to county approval shall be submitted.~~ The plan will describe how the requirements of this section will be met;
  - (ii) The plan shall take into account native growing conditions and specify appropriate plants and planting density for achieving a viable and self-sustaining buffer. If the site will not support trees and shrubs, native herbaceous plants shall be planted; and
  - (iii) Failure to implement the approved landscape enhancement plan is a violation of this chapter and will result in immediate revocation of all issued development permits.
- b. An approved certificate of occupancy and/or final building inspection shall be contingent upon installation of the shoreline buffer enhancement sufficient to meet the target for vegetative cover in ICC 17.05A.090.M.1.e(v) and inspection by Island County staff.
- bc. Enhancement location. For lots that are fifty (50) feet wide or less, the required buffer enhancement shall be located adjacent to the OHWM for at least twenty (20) feet of the width of the lot.
  - (i) For lots fifty-one (51) to 100 feet in width, the required buffer enhancement shall be located adjacent to the OHWM for at least twenty-five (25) feet of the width of the lot.
  - (ii) For lots greater than 100 feet in width, the required buffer enhancement shall be located adjacent to the OHWM for at least twenty-five (25) percent of the width of the lot.
- ed. Vegetation standards.
  - (i) All existing impervious area shall be removed from the enhanced shoreline buffer.
  - (ii) No noxious weeds as listed by the Island County Noxious Weed Board shall be present on the property five (5) years after development approval.
  - (iii) Only native species will be introduced to the enhancement area, except that short lived non-invasive nonnative species may be used to provide temporary vegetative cover while the native species become established.
  - (iv) Enhancement areas shall have ninety (90) percent vegetative cover of native species five years after enhancement begins, unless on-site environmental conditions indicate that the naturally occurring plant community at the particular location would have less vegetative cover, as determined by the Shoreline Administrator.

- (v) Native trees and shrubs shall dominate the enhancement area after five (5) years unless a longer time of up to ten (10) years is necessary to meet this standard as determined by the Shoreline Administrator.
- (vi) If site-specific environmental conditions indicate that trees and shrubs will not survive on the site, or the enhancement area is contiguous to a coastal native prairie or dunes, the enhancement area shall be dominated by native herbaceous species.
- (vii) If these vegetation standards are not met after five (5) years, additional enhancement actions such as planting, seeding, and weed control may be required if in the judgment of the Shoreline Administrator they are necessary to meet these standards.

de. Monitoring requirements.

- (i). Monitoring reports shall be submitted annually to the Shoreline Administrator for at least five (5) years after planting, unless the Shoreline Administrator determines that a longer period or different frequency is appropriate. Monitoring must continue until all vegetation standards are met.
- (ii). Monitoring reports shall include photographs of plantings taken at approximately the same locations and time each year, preferably during the growing season.
- (iii). Monitoring ~~shall~~ reports shall describe the extent and type of vegetation present in the enhancement area as the proportion (percent cover) of the enhancement area they cover. The methods used to determine the cover shall be described and reported for the following categories of plants: native trees, shrubs, and herbaceous plants; non-native trees, shrubs, and herbaceous plants.
- (iv). Buffer enhancement plantings shall have targets for vegetative cover that must be met within or by the fifth growing season. Buffer enhancement shall be inspected by county staff upon installation of plantings and upon completion of the fifth year of monitoring, but inspections may occur throughout the monitoring period. Upon completion of the fifth year, if the vegetative cover does not meet the target, additional planting or other action may be required and the monitoring period extended.
- (v). The target for vegetative cover shall be ninety (90) percent within the enhancement area unless the Shoreline Administrator modifies the required target after determination that environmental conditions indicate less vegetative cover more nearly matches what a naturally occurring plant community would achieve at the particular location.

I. Modification of shoreline buffer and setback requirements to encourage restoration.

- 1. If a property owner removes existing structural shoreline stabilization and replaces it with natural soft shore stabilization in accordance with Army Corps of Engineers and National Marine

~~Fisheries Service standards for shoreline restoration, the standard shoreline buffer (or setback in the canal communities) may be reduced by a distance equal to the distance that the OHWM is moved toward the principal structure on the site following removal of the structural stabilization, up to fifty (50) percent of the required buffer width.~~

- ~~2. Approval of a shoreline buffer reduction for removal of structural shoreline stabilization shall be contingent on Island County approval of a project shoreline restoration plan. The Shoreline Administrator shall make final decisions on approval of buffer reduction requests based on the information provided and compliance with the provisions of this Program.~~
- ~~3. An approved buffer reduction granted by the county as the result of removal of structural shoreline stabilization may be held as a credit for up to five (5) years and used to reduce the standard shoreline buffer (or setback in a canal community) from section 17.05A.090.D (Table 3) for future onsite development.~~
- ~~4. For shoreline property owners that have removed structural shoreline stabilization in advance of shoreline development or redevelopment, Island County may give mitigation credit to any beneficial restoration action that occurred within five (5) years of the proposed development or redevelopment activity, provided that:~~
  - ~~a. The applicant or property owner provides conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, or similar evidence;~~
  - ~~b. The county confirms via site inspection, photographs, affidavits or other evidence that the restoration actions have improved shoreline conditions; and~~
  - ~~c. The applicant or property owner provides assurances that the restoration area will be maintained for the life of the project. The assurance can be in the form of a notice on title, conservation easement, or similar mechanism.~~

J. Shoreline setback modification in canal communities.

- ~~1. New residential development or expansion of existing residential development, including the primary structure, all accessory structures and appurtenances and all impervious surfaces may be placed in the landward forty (40) percent of the shoreline setback under the following conditions:~~
  - ~~a. The setback may not be reduced by an amount greater than would be allowed under the common line setback reduction regulations at section 17.05A.090.F; and~~
  - ~~b. For any new structure or expansion of an existing structure, in which the footprint of the expansion will increase total impervious surface in the setback, the proponent shall enhance an equal area of the setback with native vegetation meeting the requirements of section 17.05A.090.H.~~
- ~~2. Requirements for vegetation enhancement associated with development in the setback shall apply to the total of all new building area added on a project site after the effective date of this Program.~~

3. If the proponent removes impervious surface between the OHWM and the shoreline buffer or building setback, the area (square feet) of removed impervious surface may be deducted from the total of new impervious surface area for which enhancement of the buffer is required.

K. Shoreline vegetation conservation.

1. Unless otherwise specified, all shoreline use and development, including preferred uses and uses exempt from permit requirements, shall comply with the buffer provisions of this Program to protect and maintain shoreline vegetation and habitat.
2. Removal of native vegetation shall be avoided, where feasible. Where removal of native vegetation cannot be avoided, it shall be minimized to protect ecological functions. If non-native vegetation is to be removed, then it shall be replaced with native vegetation within the shoreline jurisdiction.
3. Native plant materials that are equivalent to those which would typically occur with respect to size, structure, and diversity at maturation shall be used in restoration, rehabilitation, or enhancement projects.
4. Natural features such as snags, stumps, logs, drift logs, or uprooted trees shall be left undisturbed to support fish and other aquatic systems, except where they would adversely affect navigation or represent a human health or safety risk.
5. Proponents of all new shoreline uses or developments shall demonstrate that site designs and layouts are consistent with the policies of this section to ensure shoreline functions, values, and processes are maintained and preserved. A shoreline permit or written statement of exemption shall not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water, shoreline, or any specific feature near or far.
6. Topping trees is prohibited.
7. Selective pruning or thinning of trees for safety or view protection or maintenance may be allowed when it is limited to:
  - a. Removal of no more than twenty-five (25) percent of the canopy of any tree or group of trees (calculated based on the area of the crown, or upper portion(s) comprised of branches and leaves or as determined by a certified arborist) in any given five-year period; or
  - b. Pruning of trees that does not affect ecological functions. No more than twenty (20) percent of the limbs on any single tree may be removed and no more than twenty (20) percent of the canopy cover in any single stand of trees may be removed in a given five-year period. Pruning shall comply with the National Arborist Association pruning standards, unless the tree is a hazard tree as certified by an arborist and approved by the Shoreline Administrator.
8. The Shoreline Administrator may deny a request or condition approval of vegetation management or removal proposals for view maintenance if it is determined the action will result in an adverse effect to any of the following:

- a. ~~Slope stability;~~
- b. ~~Habitat value;~~
- c. ~~Health of surrounding vegetation;~~
- d. ~~Risk of wind damage to surrounding vegetation;~~
- e. ~~Nearby surface or ground water; or~~
- f. ~~Water quality of a nearby water body.~~

9. ~~Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on the state noxious weed list is permitted in shoreline locations if provision is made for re-establishment of native vegetation in the disturbed area. Ground based motorized equipment may be used if accompanied by a plan for the re-establishment of native vegetation, and with prior written approval of the Shoreline Administrator.~~

10. ~~Aquatic weed control shall occur in compliance with all other applicable laws and standards. Use of chemical methods of weed control shall only be allowed when done by a qualified professional.~~

11. ~~Subdivision of property shall be in a configuration that will not require significant vegetation removal or shoreline modification and that will not adversely impact ecological functions. Each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.~~

**NL. Flood hazard reduction.**

1. The following flood damage prevention ordinance provisions of ~~e~~Chapter 14.02A ICC, dated August 22, 2005 (Ordinance C-98-05), are incorporated into this Shoreline Master Program by reference:
  - a. ICC 14.02A.030 General provisions.
  - b. ICC 14.02A.040 Administration.
  - c. ICC 14.02A.050 Provisions for flood hazard reductions.
2. Small scale structural flood hazard reduction measures such as raising a building above the base flood elevation, or the creation of underfloor spaces meeting the requirements of FEMA/FIA Technical Bulletin (TB) 11-1 (as amended), are not subject to the regulations of this subsection, ICC 17.05A.090.N.
32. New structural flood hazard reduction measures will be allowed only where demonstrated to be necessary, and when non-structural methods are infeasible and mitigation is accomplished.

43. New structural flood hazard reduction measures will be allowed landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnical analysis.
54. New publicly funded dikes or levees will be required to dedicate and improve public access pathways unless it would cause unavoidable health or safety hazards.
65. All proposed development in the shoreline shall comply with the county's stormwater and surface water standards (eChapter 11.03 ICC).
76. In the event development or performance standards in eChapter 14.02A ICC are inconsistent with standards and requirements in this Shoreline Master Program, the standard that is more protective of natural resources in the shoreline shall govern.
87. New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a stream, floodway, or coastal flood zone shall be prohibited.
98. New flood control works are only allowed in the shoreline jurisdiction if it is demonstrated by analyses prepared by qualified professionals that: ~~Flood control works shall only be allowed in the shoreline if~~
  - a. ~~they~~They are necessary to protect ~~existing~~ development existing prior to the adoption of this chapter;
  - b. ~~The primary use being protected is consistent with this Program;~~
  - c. ~~non~~Non-structural flood hazard reduction measures have been demonstrated to be infeasible.;
  - d. ~~The flood control works can be developed in a manner that is compatible with multiple use of shoreline resources for the long term, including shoreline ecological functions, fish and wildlife management, and recreation;~~
  - e. ~~Impacts to critical areas can be successfully mitigated to result in no net loss of shoreline ecological functions;~~
  - f. ~~Appropriate vegetation conservation actions will be undertaken; and~~
  - g. ~~Work within regulated streams or other fish and wildlife habitat must conform to all environmental protection criteria and provide for enhanced ecological function and fish access.~~
9. ~~Flood control works to protect existing development shall be permitted only when the primary use being protected is consistent with this Program, and the flood control works can be developed in a manner that is compatible with multiple use of shoreline resources for the long term, including shoreline ecological functions, fish and wildlife management, and recreation.~~

10. When allowed, new structural flood hazard reduction measures shall be located landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnicalcoastal analysis.
11. Solid waste shall not be stored in areas subject to flooding unless it can clearly be demonstrated that complete and effective flood-proofing of structures or equipment can be accomplished.
12. All new development proposals must select the least impactful area for development. Where feasible, development shall should be located outside of the Special Flood Hazard Area.
13. The removal of substrate for flood management purposes is prohibited.
14. In addition to other project application requirements, applicants to construct flood hazard control projects must provide the following information:
  - a. Flood hazard area characteristics adjacent to the project area;
  - b. Physical, geological and soil characteristics of the area;
  - c. An analysis of alternative flood protection measures, both structural and nonstructural;
  - d. Shoreline stabilization measures and flood protection works within the area existing at the time of application;
  - e. Predicted impact upon area shore and hydraulic processes, adjacent properties, and shoreline and water uses; and
  - f. Biological resources and predicted impact to fish, vegetation and animal habitat associated with shoreline ecological systems.

#### **OM. Public Access.**

1. Visual access: Where feasible, new development, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual access (including existing views) of the shoreline from public properties or a substantial numbers of residences. Where it can be demonstrated that it is not feasible to avoid such impacts, every effort shall be made to minimize impacts to existing shoreline views.
2. Any unauthorized encroachment of development onto a shoreline public access or easement, including any public street end adjoining public shorelands or tidelands, shall be considered a violation of this chapter and subject to enforcement and penalties as provided in this chapter.
3. Physical access: Existing public physical access shall not be eliminated except in conjunction with a public project which serves a valid purpose, and then only when the applicant shows that there is no feasible alternative and replaces the public access with public access of comparable functions and value at another location in the same vicinity.

4. Opportunities to provide or enhance a system of visual or physical public access shall be considered during the review and conditioning of all proposed commercial shoreline developments, publicly funded dikes or levees, or residential developments involving five (5) or more residential lots or dwelling units.
5. Physical public access shall be incorporated into all development proposals on public lands, all public and private commercial and industrial developments, all publicly funded projects, and all residential subdivisions of five (5) or more lots as required by ICC 17.05A.100.K, unless the project proponent demonstrates that any of the following conditions exist:
  - a. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;
  - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  - c. The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access are unreasonably disproportionate to the total proposed development;
  - d. Significant environmental impacts that cannot be mitigated will result from the public access; or
  - e. Significant undue and unavoidable conflict between public access requirements and the proposed use or adjacent uses would occur, provided that the applicant has first demonstrated and the county determines that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:
    - (i) Regulating access by such means as maintaining a gate or limiting hours of use;
    - (ii) Designing separation of uses and activities (including but not limited to, fences, terracing, use of one-way glazing, hedges, landscaping); and
    - (iii) Provisions for access at a site geographically separated from the proposal such as a street end, vista, or trail system.
6. When physical public access is deemed to be infeasible based on considerations listed in 5a—e of this subsection, the proponent shall provide visual access to the shore or provide physical access or access improvement at an off-site location geographically separated from the proposed developmental (e.g., a public street end, vista, or trail system).
7. Required public access on privately owned land shall be commensurate with the scale and intensity of the proposed use or development.
8. Public access shall be located and designed to be compatible with the natural shoreline character, to avoid adverse impacts to shoreline ecological functions and processes, and to ensure public health and safety.

9. Public shoreline access provided by public road ends, public road rights-of-way, and public utilities rights-of-way shall not be diminished by the county, neighboring property owners, or other citizens.
10. Public access sites shall be directly connected to the nearest public street and shall include improvements that conform to the requirements of the Americans with Disabilities Act (ADA) when feasible and appropriate.
11. Public access shall include provisions for protecting adjacent properties from trespass and other possible adverse impacts to neighboring properties.
12. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations in accordance with county approved standards.
13. Required public access shall be fully developed and available for public use at the time of occupancy of the use or activity or final plat approval.
14. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, kayak or canoe haul-out, boat launching ramp, dock or pier area, or other area serving as a means of view or physical approach to public waters and may include interpretive centers and displays.
15. Public access easements and permit conditions shall be recorded as a separate tract on the deed of title and on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of final plat recording.
16. Maintenance of the public access facility shall be the responsibility of the fee simple owner unless otherwise accepted by a public or non-profit agency through a formal agreement approved by the Shoreline Administrator and recorded with the County Auditor's Office.

**PN. Water quality and quantity.**

1. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site.
2. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all shoreline development.
3. All shoreline uses and activities shall use best management practices (BMPs) for control of erosion and sedimentation during both project construction and operation.
4. All proposed developments and activities in the shoreline shall require compliance with the current edition of the Department of Ecology's Stormwater Management Manual, NPDES General Permit requirements, and the erosion control provisions of ~~section~~ ICC 11.02.330 and the stormwater management provisions of ~~section~~ Chapter 11.03 ICC.
5. To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards.

6. All dock and pier components that may come in contact with the water shall consist of non-toxic materials, such as wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by the Department of Ecology and the Washington Department of Fish and Wildlife for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenate, or pentachlorophenol is prohibited.
7. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a water of the state, except by a qualified professional in accordance with state and federal laws. Further, pesticides subject to the final ruling in Washington Toxics Coalition, et al., v. EPA shall not be applied within sixty (60) feet for ground applications or within 300 feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with state and federal law.
8. Low impact development (LID) techniques, including the use of pervious materials, shall be considered and implemented to the greatest extent feasible throughout the various stages of development including site assessment, planning and design, vegetation conservation, retrofitting, and built-out management techniques.

**Q. Lighting.**

1. Except as necessary to meet federal, state, and local safety or navigation standards, all external lighting fixtures must be shielded, recessed and dark sky rated. Light must be directed downward and away from:
  - a. Wetlands and associated buffers;
  - b. Fish and wildlife habitat conservation areas and associated buffers;
  - c. Adjoining properties; and
  - d. Public roads or rights-of-way.
2. All glare and reflections from external light sources must be contained within lot boundaries.
3. Flashing or blinking lights are prohibited.
4. Dock lighting shall be designed to shine downward but not on the surface of the water, and be of low wattage.
5. For residential docks lighting and shall not exceed a height of three (3) feet above the dock surface and should be turned off when not in use.
6. For marinas and commercial docks, a lighting plan shall be provided in accordance with the biological site assessment to determine when lights will be in use and the appropriate height to minimize ecological impacts.

## **17.05A.095 – Shoreline Reports**

## **A. Biological Site Assessment.**

1. A Biological Site Assessment shall include the following information:

  - a. A site plan indicating all FWHCAs within shoreline jurisdiction that exist on or within 100 feet of the portion of the subject property proposed for development;
  - b. Identification of FWHCAs that meet the definition of critical saltwater habitat as defined in this Program;
  - c. Descriptions of all FWHCAs shown on the site plan, including qualitative and quantitative information regarding habitat value and condition of each FWHCA, including identification of measures to fully protect nesting sites of the Bald Eagle, Osprey, and Heron;
  - d. Description of the proposed project, including, but not limited to, associated earthwork (grading, excavation, filling), structures, utilities, and existing habitat other than FWHCAs, including wetlands and areas that may act as wildlife corridors;
  - e. Regulatory summary, identifying other agencies with jurisdiction, protection measures required by other regulations, and mitigation provided as part of the project;
  - f. Analysis of impacts to all protected species or habitats designated as FWHCAs, after consideration of compliance with other regulations and the requirements of this Shoreline Master Program;
  - g. If adverse impacts to protected species or habitats are likely to occur, a conceptual mitigation plan, including an analysis of feasible mitigation alternatives that would mitigate adverse impacts of the project. The effectiveness of the proposed mitigation measures shall be compared to other feasible alternatives. Mitigation sequencing shall be as required in ICC 17.05A.090.B.1;
  - h. Best management practices, including a discussion of on-going maintenance practices that will assure protection of all FWHCAs on-site after the project has been completed. If monitoring is required, this section shall include a description of proposed monitoring criteria, methods, and schedule; and
2. The recommendations of the approved biological site assessment, habitat management plan and mitigation plan, if required, shall be included as conditions of approval of the underlying permit.
3. The requirement for a biological site assessment for development within the shoreline buffer or shoreline-associated critical area buffers may be waived by the Planning Director in the following circumstances:

  - a. The repair of a legally established single family residence, normal appurtenance, or shoreline stabilization that protects a legally established single family residence.

- b. The replacement of a legally established single family residence or normal appurtenance within the same footprint.
- c. The development of a single family residence located within the shoreline buffer in accordance with the provisions of ICC 17.05A.090.J unless the portion of the development within the shoreline buffer exceeds 1,000 square feet of gross floor area.
- d. The installation of a tight-line for storm water management when permitted as a normal appurtenance to a single family residence.
- e. The normal maintenance and repair of public infrastructure.
- f. The replacement or repair of culverts, provided that there is no increase in conveyance capacity or size of the culvert, and no change in configuration.
- g. Minor utility repair within the improved right-of-way provided that relocation of utility lines, equipment, or appurtenances shall occur as far as feasible from shoreline-associated critical areas, their buffers and the shoreline buffer.
- h. Site investigative work necessary for permit submittals or county-authorized monitoring activities, such as surveys, soil logs, and percolation tests, provided there is no clearing, fill, or use of heavy equipment in a shoreline-associated critical area.
- i. Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on the state noxious weed list in shoreline-associated critical areas if provision is made for re-establishment of native vegetation in the disturbed area per ICC 17.05A.110.C.11.
- j. Provided no gasoline powered boats or equipment are used, conservation, recreation, education and scientific research activities within shoreline-associated critical areas and critical area buffers including fishing, hunting, hiking and bird watching.
- k. Installation of fences to protect habitat in buffers provided best management practices adopted by the county are implemented.
- l. Trail development within shoreline-associated critical areas and buffers when meeting the following criteria:
  - (i) Up to twenty (20) percent of a shoreline-associated critical area buffer can be disturbed with a pedestrian (pervious) trail for private or public use when no supporting structures such as upland retaining walls, boardwalks, bridges, or stairs are proposed.
  - (ii) Replacement of damaged legally established trail structures that cross streams or other FWHCAs for public and private trails, provided that:

- (1) Like-for-like replacement is proposed, unless the design is changed to improve ecological impact as documented by a qualified environmental consultant;
- (2) No further expansion into the shoreline-associated critical areas is proposed;
- (3) A geotechnical analysis is submitted for replacement within steep slopes or other geologically hazardous areas; and
- (4) All temporary disturbance is immediately restored with native plantings at appropriate densities.

**B. Habitat Management Plan.**

1. If the biological site assessment (BSA) concludes that protected habitat may be affected by the proposed development, a habitat management plan must be prepared by a professional ecologist, biologist, or similarly-qualified professional at the expense of the applicant. The habitat management plan may be combined with the BSA, or a wetland mitigation plan, if required for the project.
  - a. The habitat management plan must consider management recommendations adopted by the Washington Department of Fish and Wildlife, and the specific attributes of the affected properties, such as, but not limited to, property size and configuration, surrounding land use, the practicability of implementing the habitat management plan, and the adaptation of the species to human activity.
  - b. Habitat management plans shall include the following information.
    - (i) An ecological assessment of the fish and wildlife habitat conservation areas present and potential adversely altered, to determine the gross area of loss and the functions, habitat, and types, sizes, and quantities of vegetation affected;
    - (ii) Statement of goals. Such statements shall include a discussion of any functions and values lost and the plan for replacement;
    - (iii) Methods. Information discussing "what, where, when, and how," i.e., acreage of mitigation, wetland or other habitat types to be constructed or restored, location, dates for beginning and completing the project, methods of construction, and maintenance requirements shall be included;
    - (iv) Standards of success. A qualitative and to the extent possible, a quantitative description of what will be considered a successful, functioning wetland or fish and wildlife habitat conservation area shall be provided; and
    - (v) Monitoring. Same as requirements set forth in ICC 17.03.260.I.

- c. Contingency plan. A contingency plan may be required by the Administrator to outline restorative measures to be taken should the mitigation fail or only partially succeed;
- d. Standard habitat management plan: In cases when the county has developed a standard habitat management plan for a specific species, the applicant may either accept and sign the standard habitat management plan or prepare his or her own habitat management plan pursuant to this program.

**C. Geocoastal Analysis.**

1. Where required, no shoreline stabilization project shall be permitted unless a geocoastal analysis demonstrates all of the following:
  - a. the primary structure or appurtenance is in danger of damage from shoreline erosion caused by tidal action, currents, or waves;
  - b. That the erosion is not due to landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope;
  - c. A significant possibility that the primary structure or appurtenance will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid adverse impacts on ecological functions;
  - d. That the shoreline stabilization would not adversely affect the property of others by changing rates of sediment, redirection of wave energy, or impoundment of or redirection of floodwater or tidal action; stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited; and
  - e. Include an assessment of on-site drainage and vegetation characteristics and their effects on slope stability.
2. Where a geocoastal analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

**D. Demonstration of Need.** When required, a demonstration of need shall address the following items:

1. Whether the shoreline stabilization is necessary to support a project a material purpose of which includes enhancing or restoring ecological functions.
2. Whether the shoreline stabilization is necessary to remediate hazardous substances pursuant to Chapter 70.105 RCW.
3. Whether the shoreline stabilization is necessary to protect public transportation infrastructure, existing dikes, or essential public facilities and other options are infeasible.

4. Whether the shoreline stabilization is necessary to protect a water-dependent developments, or single family residences, and other options are infeasible.
5. The proposal is the minimum necessary to protect the primary structure or appurtenance consistent with the requirements of ICC 17.05A.110.A.1.b and 17.05A.095.E.
6. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

#### **E. Alternatives Analysis.**

1. In order of priority from least to greatest impact, subject to site-specific conditions, alternatives include but are not limited to:
  - a. Taking no action (allow the shoreline to retreat naturally);
  - b. Upland drainage control;
  - c. Vegetation protection, enhancement, and replacement;
  - d. Relocation of improvements or structures;
  - e. Beach nourishment;
  - f. Large woody material placement;
  - g. Soft shore protection methods—at least eighty (80) percent of the project must be constructed of naturally-occurring materials used in ways that are consistent with current nearshore processes;
  - h. Upland retaining walls placed at least ten feet landward of the OHWM;
  - i. Bulkheads and rock revetments placed landward of the OHWM;
  - j. Individual rock placement located at the OHWM; and
  - k. Bulkheads and rock revetments located at the OHWM.

#### **17.05A.100 - Shoreline specific use regulations.**

##### **A. Agriculture.**

1. This program does not limit or modify existing and ongoing agricultural activities occurring on agricultural lands in cultivation or other agricultural use as of the effective date of this chapter.
2. New agricultural uses and development proposed on land not currently in agricultural use, and conversion of agricultural lands to non-agricultural uses, shall conform to this Program, including but not limited to use restrictions, buffer and setback requirements, vegetation management, and impervious surface coverage limits.

3. Erosion control measures shall conform to guidelines and standards established by the Natural Resource Conservation Service and the U.S. Department of Agriculture.
4. Pesticides shall be used, handled, and disposed of in accordance with provisions of the Washington Pesticide Application Act (RCW Chapter 17.21 RCW) and the Washington Pesticide Control Act (RCW Chapter 15.578 RCW).
5. New agricultural use and development shall be managed to:
  - a. Prevent livestock intrusion into the water;
  - b. Ensure that changes to the quantity and rate of surface water runoff do not harm shoreline ecological functions;
  - c. Prevent water quality degradation caused by manure, fertilizer, or agricultural chemicals;
  - d. Prohibit clearing of riparian areas;
  - e. Prevent shoreline erosion; and
  - f. Ensure no net loss of ecological functions and avoid adverse effects on shoreline resources and values.
6. Livestock waste shall be disposed of in such a manner as to prevent surface or groundwater contamination as specified by Island County Health regulations and Natural Resource Conservation Service (NRCS) guidelines and standards.
7. Watering areas for livestock within required buffers are prohibited except when:
  - a. No other feasible watering method is available;
  - b. Adequate provisions are made to protect existing water quality;
  - c. A water right allowing withdrawals for this purpose has been obtained;
  - d. Adequate provisions are made to prevent the erosion of soil; and
  - e. Measures to protect against impacts to wetlands and wetland buffers is provided through a farm management plan as required in section ICC 17.02A.050.FB.
8. Buffer zones conforming to NRCS guidelines and standards shall be established and maintained between tilled or grazed areas and associated water bodies to retard surface runoff, reduce siltation, filter and remove pollutants, provide habitat for fungi, plants, and wildlife, and provide shade for fish and other wildlife.

**B. Aquaculture.**

1. Aquaculture is an activity of statewide interest. When properly managed, aquaculture can result in long-term over short-term benefit and protect the resources and ecology of the shoreline. Aquaculture is defined as dependent on the use of the water area (WAC 173-

26-241(3)(b)(i)(A) and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

2. Commercial aquaculture operations require a shoreline conditional use permit which outlines uses and monitoring requirements based on site specific conditions and scientific indicators of the proposed operation. When a shoreline substantial development or conditional use permit is issued for a new aquaculture use or development, that permit shall apply to the initial siting, construction, and planting or stocking of the facility or farm. Authorization to accomplish initial siting, construction and planting shall be valid for a period of five (5) years with a possible extension per sectionICC 17.05A.130.C.13. After an aquaculture use or development is established under a shoreline permit, continued operation of the use or development, including, but not limited to, maintenance, harvest, replanting, restocking or changing the culture technique shall not require a new or renewed permit unless otherwise provided in the conditions of approval or if required pursuant to permit revision criteria in WAC 173-27-100 or this Program. Changing the species cultivated shall be subject to applicable standards of this Program.
3. The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the project proponent and the affected tribes(s).
4. The location, design and operation of aquaculture facilities shall not significantly impact the aesthetic qualities of the shoreline, or result in adverse impacts to fish and wildlife habitat conservation areas as required by section ICC 17.05A.090.C.13F.
5. Aquaculture facilities are required to identify and use best management practices from appropriate sources, including those from the Pacific Coast Shellfish Growers Association, to minimize impacts such as light, noise, and odor from the construction and management of the facilities.
6. New aquatic species that have not been previously cultivated in Washington State shall not be introduced into Island County waters without written approval from the Washington Department of Fish and Wildlife.
7. A shoreline conditional use permit is required for any new commercial aquaculture use or development including conversions from non-geoduck aquaculture to geoduck aquaculture. Any geoduck aquaculture operation that causes substantial interference with normal public use of the surface waters shall require a substantial development permit. The following standards and requirements shall apply to commercial geoduck aquaculture:
  - a. All subsequent cycles of planting and harvesting of commercial geoduck shall not require a new conditional use permit.
  - b. A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within county shoreline jurisdiction.
  - c. Commercial geoduck aquaculture shall only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading.

- d. Unless already addressed in other applications, applications for new commercial geoduck aquaculture shall contain:
  - (i). A narrative description and timeline for all anticipated geoduck planting and harvesting activities if not already contained in the federal or state permit application or comparable information mentioned above.
  - (ii). A baseline ecological survey of the proposed site to allow consideration of the ecological effects if not already contained in the federal or state permit application or comparable information mentioned above.
  - (iii). Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in section ICC 17.05A.090.C.7B.
  - (iv). Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.
- e. Island County will provide public notice to all property owners within 300 feet of proposed commercial geoduck project boundaries. The county will also provide notice to tribes with usual and accustomed fishing rights to the area.
- f. Conditional use permits for geoduck aquaculture shall include allowance for work during low tides at night or on weekends but may require limits and conditions to reduce impacts, such as noise and lighting, to adjacent existing uses.
- g. Conditional use permits shall include monitoring and reporting requirements necessary to verify that geoduck aquaculture operations are in compliance with permit limits and conditions and to support cumulative impact analysis. The county shall consider the reporting and monitoring conditions of other permitting agencies before adding additional conditions to a permit.
- h. Conditional use permits shall be reviewed using the best scientific and technical information available. This requirement may be met through review and approval of information provided under federal and state agency permit reviews.
- i. Applicants shall apply best management practices to accomplish the intent of permit limits and conditions.
- j. To avoid or limit impacts from geoduck aquaculture siting and operations and achieve no net loss of ecological functions, permits shall consider the following and place conditions where applicable and not redundant with other agency permit conditions:
  - (i). The practice of placing nursery tanks or holding pools or other impervious materials directly on the intertidal sediments.
  - (ii). Use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark.

- (iii). Specific periods when limits on activities are necessary to protect priority habitats and associated species. The need for such measures shall be identified in the baseline ecological survey conducted for the site.
- (iv). Alterations to the natural condition of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments.
- (v). Installation of property corner markers that are visible at low tide during planting and harvesting.
- (vi). Mitigation measures such as buffers between commercial geoduck aquaculture and other fish and wildlife habitat conservation areas as necessary to ensure no net loss of ecological functions.
- (vii). Use of predator exclusion devices with minimal adverse ecological effects and requiring that they be removed as soon as they are no longer needed for predator exclusion.
- (viii). Use of the best available methods to minimize turbid runoff from the water jets used to harvest geoducks.
- (ix). Number of barges or vessels that can be moored or beached at the site as well as duration limits.
- (x). Public rights to navigation over the surface of the water.
- (xi). Good housekeeping practices at geoduck aquaculture sites, including worker training and regular removal of equipment, tools, extra materials, and all wastes.
- (xii). Where the site contains existing public access to publicly owned lands, consider recommendations from the Washington Department of Natural Resources or other landowning agencies regarding protection of the existing public access.

- 8. Aquaculture uses and developments shall be operated to avoid the spread of disease to native marine or aquatic life. All aquaculture uses and developments shall comply with WDFW's transfer and import policies and requirements, including acquiring state-certified seed, shell, and eggs from a registered source.
- 9. Floating and submerged aquaculture structures shall be located so as to not unduly restrict navigational access to waterfront property or interfere with general navigation, and other water-dependent uses, including normal public use of the surface waters. Floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.
- 10. Aquaculture structures constructed on public tidelands shall be located so as to not unduly restrict pedestrian circulation along public beaches.

11. Aquaculture wastes shall be disposed of in a manner that will ensure compliance with all applicable government waste disposal standards, including but not limited to, the Federal Clean Water Act, Section 401, and Chapter 90.48 RCW, Water Pollution Control. No garbage, wastes, or debris shall be allowed to accumulate at the site of any aquaculture operation.
12. No processing of any aquacultural product, except for the sorting or culling of the cultured organism and the washing or removal of surface organisms, shall occur in or over the water after harvest, unless specifically approved by permit. All other processing shall be located on land and shall be governed in addition by the provisions of eChapter 17.03 ICC.
13. Odors shall be controlled through the proper storage and disposal of feed and other organic materials and by maintaining a clean operation. A specific plan for identifying and controlling odors shall be developed and approved as part of the permit approval process. Odors shall not unreasonably interfere with the enjoyment of life and property of a substantial number of persons.
14. Commercial finfish net pen aquaculture is prohibited in marine waters.
15. Contained finfish facilities are allowed and must use filtration or other methods that assure that any discharged water does not harbor diseases or parasites known to afflict wild fish.
16. Aquaculture proposals that hydraulically, mechanically, or by digging (except traditional low impact hand implement digging), displace, or disturb bottom sediments through dredging, trenching, or excavation shall not be permitted unless consistent with the environmental, critical area, and critical saltwater habitat protection standards of the SMP.
17. Predator control shall not involve the intentional killing or abusive harassment of birds, mammals, or other aquatic species. Aquaculture operations shall comply with the Endangered Species Act, Marine Mammal Protection Act, Department of Fish and Wildlife regulations, and other wildlife protection laws as is determined by applicable federal and state agencies.
18. For aquacultural projects using over-water structures, storage containers of necessary tools and apparatus seaward of the line of ordinary high tide shall be limited to permanent containers of not more than four (4) feet in height as measured from the surface of the raft or dock; provided that in locations where the visual impact of the proposed aquacultural structure will be minimal, the Shoreline Administrator may authorize storage containers of greater height. In such cases, the burden of proof shall be on the applicant. No chemicals, antibiotics, or toxins shall be stored seaward of the ordinary high water mark.
19. For aquaculture which uses antibiotics, an annual report of antibiotic use shall be submitted to the Shoreline Administrator. The report shall indicate the type and amount of antibiotics used during the previous calendar year. In no case will antibiotics use be allowed to impair local habitat or species.
20. In promotion of the Island County solid waste management plan and with the associated goal of eliminating marine debris, aquaculture permit applicants shall submit for approval, a solid waste reduction and recycling plan.

21. Overwater work shelters and sleeping quarters accessory to aquaculture use/development shall be prohibited.
22. Floating/hanging aquaculture structures and associated equipment shall not exceed 10 feet in height above the water's surface. The administrator may approve hoists and similar structures greater than 10 feet in height when there is a clear demonstration of need. The 10-foot height limit shall not apply to vessels.
23. 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.
24. Proposed aquaculture applications shall submit the following information at a minimum:
  - a. Species to be reared;
  - b. Aquaculture method(s);
  - c. Schedule, method, and type of feeding (if applicable);
  - d. Manpower/employment necessary for the project;
  - e. Harvest method and timing;
  - f. Location and plans for any shore-side activities including loading and unloading of the product and processing;
  - g. Methods and quantities of chemicals or antibiotics used for predator control or disease control, or to enhance production;
  - h. Disposal of aquaculture mortalities and other waste products by approved methods;
  - i. Environmental assessments including further baseline studies may be required depending upon existing conditions, the nature of the proposal, and probable adverse environmental impacts. Baseline and periodic monitoring, as required by permit, shall be at the applicant's expense by county approved consultants unless otherwise provided for;
  - j. Existing water quality conditions;
  - k. Other project specific information deemed necessary by the Shoreline Administrator to evaluate the potential effects of the proposal consistent with applicable regulations; and
  - l. Methods proposed for removal of effluent, and by-products for closed system finfish facilities.
  - m. Permit applications for commercial aquaculture shall include a biological site assessment and habitat management plan. The biological site assessment and habitat management plan shall be consistent with the requirements and standards

described in section ICC 17.05A.0950.C.13. In addition, biological site assessments and habitat management plans associated with commercial aquaculture shall specifically address localized water quality effects, impacts to benthic species and habitats, and impacts to native salmonid species.

25. No pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, feed, chemicals or other such materials shall be used until approval is obtained from all appropriate state and federal agencies, including the U.S. Food and Drug Administration, the Washington Department of Agriculture, Washington Department of Health (WDOH), WDOE, and WDFW, and proof of such approvals has been submitted to the department.

**C. Beach access structures.**

1. Beach access structures shall only be allowed where the structure would provide access to a publicly owned beach or where the party proposing the beach access structure has rights of access to the adjoining tidelands.
2. In all shoreline designations beach access structures shall be prohibited on or adjacent to exceptional marine feeder bluffs.
3. In shorelines designated natural:
  - a. On bluffs higher than ten (10) feet in height, beach access structures may be permitted for public access and for new subdivisions when the structure is for public access;
  - b. On banks lower than ten (10) feet in height, beach access structures are prohibited; and
  - c. On banks lower than ten (10) feet in height, beach access for single-family residences may be provided by means of a low impact trail.
4. When permitted, beach access structures shall be located, designed and operated to avoid critical areas and prevent a net loss of shoreline ecological functions or processes, including, but not limited to:
  - a. Habitat;
  - b. Slope stability;
  - c. Sediment transport; and
  - d. Water quality.
5. No portion of a beach access structure shall be constructed waterward of the ordinary high water mark, unless there is no other feasible alternative, in which case the waterward extension shall be the minimum necessary to provide pedestrian access to the beach, shall be designed and located to avoid or minimize adverse impacts to shoreline functions and shall comply with the mitigation sequencing noted in section ICC 17.05A.090.C.7B.

6. When in-water, overwater, or waterward of the OHWM, construction is allowed in accordance with this section, it shall be limited to a small pier or pile-supported pedestrian landing platform of twenty-five (25) square feet or less that is otherwise consistent with the provisions of this Program.
7. Public beach access structures shall conform to applicable Americans with Disabilities Act (ADA) standards.
8. When allowed, one beach access structures may be located per lot within the shoreline buffer, provided that:
  - a. There is no other available public or community (where no membership fee is required for access) beach access within 500 feet-a ¼ mile walk of the lot or lots to be served by the proposed access;
  - b. The structure is the minimum size necessary to provide access;
  - c. Walkways shall not be covered;
  - d. The clear width of any walkway, staircase, tower, or tram shall be at least three (3) feet, and not exceed five (5) feet;
  - e. Landings may not exceed fifty (50) square feet each, except that for public access structures, a mid-slope resting area of up to 100 square feet may be allowed; and
  - f. The structure shall not extend more than twelve (12) vertical feet above the bank or slope.
  - g. A property owner of multiple adjacent lots shall be limited to a total of one beach access structure between all adjacent lots.
9. Where not already required by the provisions of ICC 17.05A.100.K.7, and where communities of five (5) lots or more create a shared community beach access, the following increased size limitations to beach access structures apply.
  - a. The maximum clear width of a shared community walkway, staircase, tower, or tram shall be six (6) feet.
  - b. Landings may not exceed 100 square feet.

10.9. Beach access structures shall be prohibited if any of the following apply:

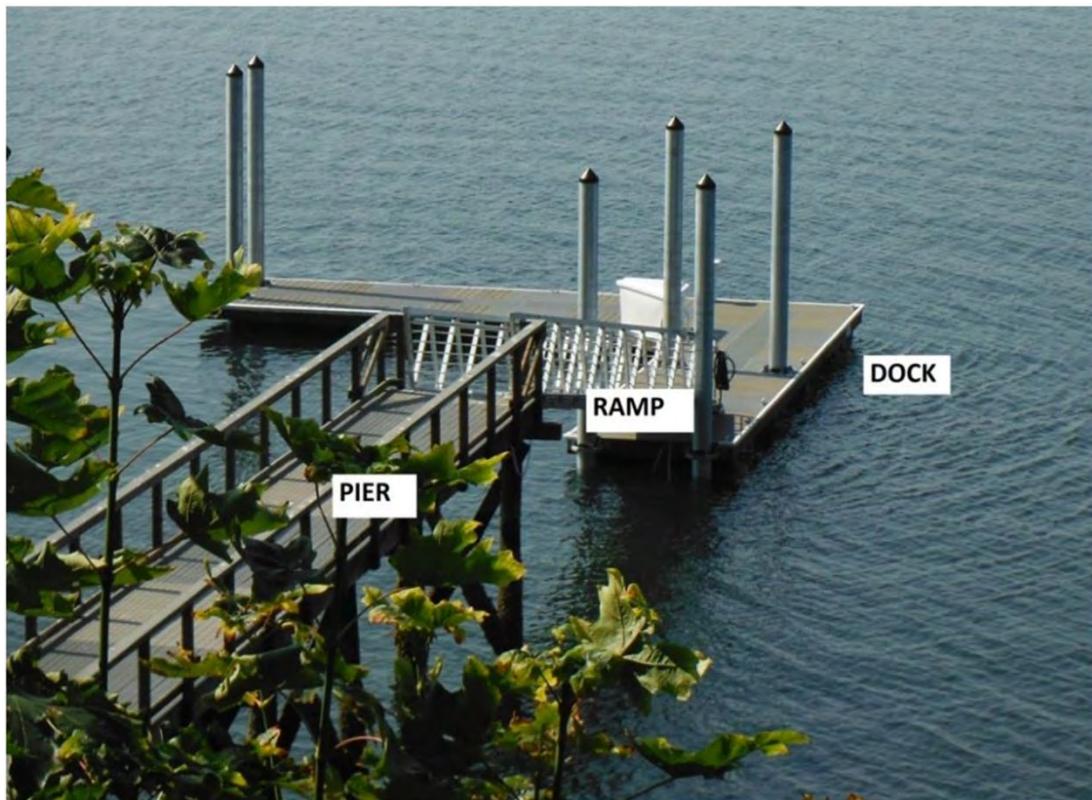
- a. The structure would adversely impact a critical area or marine feeder bluff, or increase landslide or erosion hazards; or
- b. The structure is likely to interfere with natural erosion and accretion processes; or
- c. The bank slope where the structure is placed is likely to require shoreline stabilization/shoreline defense works in the future to protect the beach access structure; or

d. Substantial bank or slope modification is required.

1140. Permit applications for beach access structures shall include adequate geotechnical and biological analysis to determine whether the structure meets the standards of this section.

1244. Existing lawfully constructed nonconforming beach access structures may be repaired or replaced in kind consistent with other provisions of this Program.

**D. Moorage facilities (docks, piers, boat lifts, canopies, covered moorage, mooring buoys and floats).**



1. New docks, piers, and floats shall be limited to the minimum size necessary for the project's intended water-dependent uses, public access, or ecological restoration.
2. New docks, piers, and floats shall be located and designed in a manner so as not to interfere with shoreline processes.
3. The location and design of new or replaced docks, piers, and floats, as well as the subsequent use, shall minimize adverse effects to fish, shellfish, wildlife, and water quality and shall not result in a net loss of shoreline ecological function.
4. New or replaced docks, piers, and floats shall be located, designed, and operated so as not to interfere with rights of adjacent property owners, navigation, or adjacent water uses.
5. All docks, piers, and floats shall be constructed consistent with state and federal requirements.

6. New or replaced docks, piers, and floats associated with single-family residences shall not be approved unless the following information has been provided:
  - a. Demonstrate by submitting documentation including but not limited to a written narrative, photographs, and vicinity maps that existing shared, public or community facilities are not adequate or available for use; and
  - b. Indicate by submitting documentation including but not limited to a written narrative, feasibility studies, photographs, correspondence with neighboring property owners, and vicinity maps that a multiple-owner or multiple-user facility has been thoroughly investigated and is not feasible.
7. Each dock, pier, or float proposal shall be evaluated on the basis of multiple considerations, including but not necessarily limited to the potential and cumulative impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, navigation, scenic views, and public access to the shoreline and the best available background information on tidal currents, wave height, and prevailing storm wind conditions. This information shall be provided in the biological site assessment and/or geocoastal analysis.
8. New docks, piers, and floats associated with residential uses on marine waters shall be the minimum size required to provide for moorage. Single family piers or docks shall not exceed ninety (90) feet in length measured perpendicularly from the OHWM. Shared moorage may extend up to 110 feet in length if demonstrated to be necessary to provide adequate moorage.
9. New piers and ramps on marine waters shall have a maximum width of four (4) feet and a maximum walkway width of four (4) feet for docks and floats.
10. New piers, docks, or floats on lakes shall have a maximum width of four (4) feet, or five (5) feet for shared docks.
11. For new docks, piers, and floats associated with residential uses on lakes, the maximum waterward intrusion of any portion of any pier or dock shall not extend further waterward than the average intrusion of the piers, docks, and floats on lots abutting the location of the new dock as measured perpendicularly from the OHWM unless an alternative dimension is required to prevent impacts to critical habitat or navigation. In no circumstances shall the maximum waterward intrusion of any portion of the pier, dock, or float extend more than sixty (60) feet from the OHWM, or the point where the water depth is eight (8) feet below the OHWM, whichever is reached first.
12. Overwater surfaces shall be constructed of unobstructed grating to provide at least fifty (50) percent open surface area.
13. Pier skirting is prohibited.
14. Repairing existing pilings via encapsulation may be allowed when removal is infeasible.
15. Repair of existing docks, piers, and floats shall be allowed through proper permitting pursuant to ICC 17.05A.100.D. Repair of a dock, pier, or float in which more than fifty (50) percent of the decking is replaced or more than half the existing piles are replaced over a

five-year period shall be considered new construction and shall conform to all substantive and procedural regulations of this SMP.

16. Existing docks, piers, or floats that are non-conforming to the current required dimensional standards may be replaced or reconstructed to the existing dimensions, provided they are consistent with all other performance standards of this section and the standards of the U.S. Army Corps of Engineers and the Washington State Department of Fish and Wildlife and shall include measures that increase light transmission through the deck, maximize the height of piers above the water surface, reduce the overall number or size of piles, enhance the shoreline vegetation, and minimize impacts on shallow-water habitat.
17. For commercial and industrial uses, docks, piers, and floats are only allowed for water dependent uses and shall be the minimum size necessary to accommodate the proposed use.
18. Commercial and industrial docks upon which toxic or flammable materials are handled or stored shall make provisions to minimize the probability of spill. Provision shall be made to control accidental spills that do occur.
19. Docks, piers, or floats associated with marinas shall make adequate provisions for parking, fueling, sewage pump-out, and liquid and solid waste disposal.
20. All new or replaced docks, piers, floats, and similar devices shall be designed and located so as not to be a hazard to navigation and so marked as to prevent a hazard to navigation at any time during the day or night.
21. All floats and floating docks shall include stops to keep the floats off the tidelands at low tide.
22. For waterfront subdivisions, planned residential developments, multi-family residences, and inns permitted on or after January 19, 2016, only joint use docks and piers may be permitted.
23. Unsafe docks, piers, and floats shall be removed or repaired by the owner, at the earliest possible opportunity, not to exceed ninety (90) days.
24. Covered moorage associated with nonresidential docks, piers, and floats shall be prohibited.
25. Covered moorage associated with single-family residential development shall be prohibited.
26. New and replaced docks, piers and floats, with the exception of those in the Canal Communities of Lagoon Point, Sandy Hook and Mariners' Cove, shall comply with the following design standards:
  - a. Designed and constructed to avoid or, if that is not feasible, to minimize shading and other impacts on nearshore habitats and processes;
  - b. Pilings must be structurally sound prior to placement in the water;

- c. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, containment features in the design of the structures shall be required;
- d. Docks, piers, and floats shall be spaced and oriented to shoreline in a manner that minimizes hazards and obstructions to navigation, fishing, swimming, and pleasure boating;
- e. Overhead wiring or plumbing is not permitted on piers, docks, or floats;
- f. Dock lighting shall be designed to shine downward but not on the surface of the water, be of low wattage, and shall not exceed a height of three (3) feet above the dock surface;
- g. Where feasible, floats shall be secured with anchored cables in place of pilings; and
- h. Piles, floats or other members in direct contact with water shall be approved by applicable federal and state agencies for use in water and shall not be treated or coated with biocides such as paint, or pentachlorophenol. Use of arsenate compounds or creosote treated members is prohibited. Steel is preferred.

27. A local canal community dock master plan may be permitted as a shoreline conditional use for a duration of six (6) years for the communities of Lagoon Point, Sandy Hook and Mariners' Cove. Once adopted, new and replaced docks, piers and floats in the Canal Communities that comply with the standards of the master plan and are adjacent to the canal would be allowed as permitted uses. An approved master plan would be required to contain, at a minimum, the following:

- a. Dock, pier and float dimensional standards;
- b. Standards for light penetrating materials (e.g., grating);
- c. Standards for materials that touch the water, specifying that they must be approved by applicable federal and state agencies for use in water and not treated or coated with biocides such as paint, creosote or pentachlorophenol; and
- d. Protections for existing shoreline ecological functions, views, and navigation.

28. Through the conditional use process, dimensional standards may be established as part of an approved canal community dock master plan that differ from those for docks, piers, and floats in other parts of the county as provided in ICC 17.05A.100.D.

29. Private docks, piers, and floats in the canal communities that face the open waters of the Puget Sound shall comply with the general requirements for docks, piers, and floats in ICC 17.05A.100.D.

30. Prior to adoption of a local canal community dock master plan, private docks and piers shall be permitted as conditional uses in the canal communities of Lagoon Point, Sandy Hook, and Mariners' Cove, provided that:

- a. New or replaced docks and piers use materials that touch the water that are approved by applicable state agencies for use in water and are not treated or coated with biocides such as paint, creosote or pentachlorophenol;
- b. Repaired or replaced docks do not increase the total area of overwater coverage and do not extend beyond the average length of the two (2) closest adjacent docks; and
- c. New docks do not exceed the average overwater area of the two (2) closest docks, and the length of the dock, pier, or float does not extend beyond the average length of the two (2) closest adjacent docks, piers, or floats.

31. Boat Lifts and Canopies

- a. Boat lifts and canopies shall be placed as far waterward as possible in water with a depth of six (6) feet or greater, and no less than 30 feet waterward of OHWM. No more than one (1) boat lift shall be located on any residential lot.
  - (i) Replacement boat lifts can be located in the same location, but where feasible should be relocated in water depth six feet or greater.
  - (ii) Feasibility limitations include bathymetry, existing overwater structures, or conflicts with adjacent properties
- b. One canopy per residential lot that is associated with a legally established boat lift may be permitted through a local canal community dock master plan. Canopies established through a local canal community dock master plan must be made of light permeable fabric.

E. D. Boating facilities (marinas, boat launches, mooring buoys, and float planes).

**1. Marinas and float plane bases.**

- a. Marinas are a permitted use in the aquatic designation where adjacent uplands are designated high intensity and as conditional uses where adjacent uplands are designated ~~r~~Rural ~~e~~Conservancy, ~~u~~Urban ~~e~~Conservancy and ~~s~~Shoreline ~~r~~Residential.
- b. Marinas are prohibited adjacent to the ~~n~~Natural designation. Float plane bases are prohibited in the aquatic zone adjacent to the natural and rural conservancy designations.
- c. Float\_plane bases shall comply with all applicable use requirements relating to marinas.
- d. Fill shall only be allowed when necessary to support water dependent portions of the marina facility and not for parking, unless no alternatives exist and such fill would be consistent with this Shoreline Master Program.
- e. Marinas shall be sited to minimize degradation of commercial and recreation shellfish beds, water quality, existing geohydraulic shoreline processes and shall be

consistent with the Washington Department of Health's "Environmental Health Guidelines for Marina Development and Operation."

- f. Where moorage is offered in new, expanded, or renovated marinas, pump-out, holding or treatment facilities shall be provided for sewage contained on boats or vessels. Such facilities shall be located so as to be conveniently accessible to all boats capable of being moored at the marina. The marina operator shall be responsible for adequate and approved collection and disposal of sewage, solid waste, and petroleum waste from the marina.
- g. Marinas shall be located, designed, constructed, and operated so as not to interfere with the rights of adjacent property owners, adjacent water uses, or navigation.
- h. Long term moorage shall not be allowed in areas adjacent to shellfish beds, commercial aquaculture, or shallow water embayments with poor flushing action.
- i. Parking and loading areas shall be located a minimum of 100 feet from the immediate water's edge and beaches, where feasible.
- j. Marinas shall develop and implement a spill prevention, control, and countermeasure plan.
- k. Marinas shall provide adequate on-shore sewage and waste disposal facilities and restrooms. Such facilities shall be adequate to serve transient boaters as well as live-aboard boaters.
- l. Dredging or filling of wetlands for the sole purpose of constructing a marina shall be prohibited.
- m. New marina-related structures or uses that are not in and of themselves water-dependent shall not be located over water.
- n. Adaptive reuse of existing overwater structures for non-water-dependent water-oriented uses, may be permitted as a conditional use when the structure is historically significant but has become functionally obsolete for use by water-dependent uses.
- o. Public access facilities shall be required for all marinas, provided that marinas may restrict access to specific areas and times for safety and security reasons. The design and any operational restrictions of public access shall require approval of the Shoreline Administrator.
- p. Surface runoff from marina areas shall be controlled so that pollutants will not be carried into water bodies.
- q. Parking areas shall be subject to the policies and regulations of section ICC 17.03.180.Q. No over water parking shall be allowed.

- r. Marinas shall be subject to the design standards for docks, piers, and floats in section ICC 17.05A.110.B100.D and the non-residential design, landscape and screening guidelines of section ICC 17.03.180.P.
- s. When reviewing proposals for new or expanded marina facilities, the county shall require the proponent to prepare and implement appropriate technical studies and plans. Examples of studies and plans that may be required include, but are not limited to:
  - (i) A maintenance plan for maintaining pump-out and waste/sewage disposal facilities and services.
  - (ii) A spill response plan for oil and other spilled products. Compliance with federal or state law may fulfill this requirement.
  - (iii) An operational plan that, at a minimum, describes procedures for fuel handling and storage; measures, including signage, for informing marina users of applicable regulations; measures for collecting garbage and recyclables; measures and equipment for ensuring public safety.
  - (iv) A visual assessment of views from surrounding residential properties, public viewpoints, and the view of the shoreline from the water surface.
  - (v) An assessment of existing water-dependent uses in the vicinity including but not limited to, navigation, fishing, shellfish production and harvest, swimming, beach walking, and picnicking and shall document potential impacts and mitigating measures. The county shall evaluate impacts on these resources and impose specific conditions to mitigate impacts as necessary.
  - (vi) New or expanded marina facilities shall be located and designed to prevent traffic hazards and minimize traffic impacts on nearby access streets.

## 2. **Public boat launches.**

- a. Public and community boat launches may be permitted when they are located, designed, and constructed in a manner that avoids or minimizes adverse impacts on coastal or fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation, area aesthetics, or neighboring uses. When permitted, public and community boat launches shall be:
  - (i) Located in areas where there is adequate water mixing and flushing action to ensure that minor discharges from normal operation of marine engines does not harm local shoreline ecology;
  - (ii) Designed so as not to retard or reduce natural shoreline flushing characteristics or littoral drift;
  - (iii) Designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available;

- (iv) Designed so that existing or potential public access along beaches is not blocked or made unsafe, and so that public use of the surface waters is not unduly impaired;
- (v) Designed in accordance with generally accepted coastal engineering principles and boating industry standards; and
- (vi) Developed and maintained to support waterfront access for watercraft. In those limited instances where separate or associated uses are permitted, other than restrooms or septic facilities, only uses that are water-dependent or afford public access uses shall be approved.

- b. Public boat launches shall provide adequate restroom and sewage and solid waste disposal facilities in compliance with applicable health regulations.
- c. When overwater development is proposed in association with a public boat launch facility, it may be permitted only where such use requires direct water access.
- d. Public and community boat launches shall be located and designed to prevent traffic hazards and minimize traffic impacts on nearby access streets.
- e. Public boat launch sites shall include parking spaces for boat trailers commensurate with projected demand and shall comply with the transportation provisions of this Shoreline Master Program.

3. **Private boat launches.**

- a. Private boat launches shall be allowed only when public boat launches are unavailable within one (1) mile of the site.
- b. When permitted, private boat launches including launches accessory to residential development shall be designed and constructed using methods or technology that have been recognized and approved by state and federal resource agencies as the best currently available. Rail and track systems shall be preferred over concrete ramps or similar facilities that may require on-going maintenance or may block sediment transport.
- c. No more than one (1) private boat launch facility or structure shall be permitted on a single parcel or residential lot.
- d. Designed in accordance with generally accepted coastal engineering principles and boating industry standards.

4. **Mooring buoys.**

- a. Commercial or recreational mooring buoys may be permitted provided that they are consistent with this Program and that individually or cumulatively:
  - (i) They do not impede the ability of other landowners to access private property; and

- (ii) They do not pose a hazard to or obstruct navigation or fishing; and
- (iii) They do not contribute to water quality or habitat degradation; and
- (iv) They do not pose a threat to a commercial shellfish growing area classification or reduce the ability to upgrade the classification.

- b. The installation and use of mooring buoys (including commercial and recreational buoys) in marine waters shall be consistent with all applicable state laws, including WAC Chapter 246-282 WAC, the current National Shellfish Sanitation Program standards, and Washington State Department of Fish and Wildlife, Health, and the Department of Natural Resources standards.
- c. Private recreational mooring buoys on state-owned aquatic lands shall not be used for residential (living on the boat) or commercial purposes.
- d. Mooring buoys shall be located to:
  - (i) Avoid eelgrass beds and other critical saltwater habitats; and
  - (ii) Prevent obstruction to navigation.
- e. Mooring buoys shall use neutral buoyancy rope, mid-line float, helical anchors, or other state-approved designs that have minimal adverse effects on aquatic ecosystem and fish.
- f. Mooring buoys shall not be allowed on lake shorelines of the state.
- g. Mooring buoys shall be clearly marked and labeled with the owner's name and contact information and permit number(s).
- h. The Shoreline Administrator shall plan for and coordinate with other agencies to control the placement and number of mooring buoys within bays and other areas to protect water quality and habitat and ensure that transit channels are maintained. Under no circumstances shall mooring buoys exceed the density limits in state Department of Health guidelines and National Shellfish Sanitation Program standards.
- i. The capacity of each mooring buoy may not exceed one (1) boat and its appurtenant shore access craft.

#### **F. E. Commercial development.**

- 1. New water-related commercial development may be allowed in the shoreline jurisdiction within the urban conservancy, shoreline residential, and high intensity designations where allowed by the underlying zone classification according to eChapter 17.03 ICC.
- 2. New commercial development is prohibited in the aquatic, natural and rural conservancy shoreline designations.

3. Water-oriented commercial uses and developments shall be allowed in the shoreline when it is demonstrated that the use or development will not result in a net loss of shoreline ecological functions or processes, or have significant adverse impact on other shoreline uses, resources and values such as navigation, recreation and public access.
4. Commercial uses shall provide public access to the shoreline. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline resources for all water-related and -dependent commercial uses consistent with all relevant constitutional and other legal limitations on the regulation of private property.
5. If there is a change in commercial use to another use, the altered use must comply with the SMP as if it were a new use.
6. Non-water-oriented commercial uses are prohibited in shoreline jurisdiction unless they meet the following criteria:
  - a. The site is physically separated from the shoreline by another property or public right-of-way; or
  - b. The use is part of a mixed-use project that includes an associated water-dependent use; or
  - c. Navigability is severely limited at the proposed site; or
  - d. The commercial use provides a significant public benefit in the form of public access or ecological restoration; or
  - e. The commercial use is a home occupation and is therefore accessory to the use of the property as residential.
7. Existing non-water dependent and non-water related commercial use or development on shorelines that conform to this SMP may be permitted to expand landward, but not waterward of existing structures, provided the expansion otherwise conforms to this Program.
8. Commercial developments shall not interfere with the enjoyment of adjacent recreational or residential uses.
9. In low bank areas, commercial development including parking and loading areas shall comply with the buffer requirements of section 17.05A.090.DH and eChapters 17.02 and 17.02A 17.02B ICC.
10. Water-dependent commercial development in the high intensity shoreline designation shall not be required to maintain a shoreline setback.
11. In geologically hazardous areas or unstable bluff areas, commercial development shall conform with the bluff standards and setback requirements established under eChapters 17.02 and 17.02A as well as chapter 11.02 and 17.02B ICC.

12. Commercial parking and loading areas shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.
13. Legally established existing commercial developments and activities within the shoreline jurisdiction may be maintained or expanded without a shoreline variance subject to the requirements of eChapter 17.03 ICC, and the provisions of this Program. In cases where the existing setback is less than thirty (30) feet from the OHWM, the proposed expansion may not occur any further seaward towards the OHWM, except for water-dependent uses.
14. Design of parking and loading areas shall ensure that surface runoff does not pollute adjacent water or cause soil or beach erosion.
15. Outdoor advertising and signs shall comply with the section on outdoor advertising, signs and billboards, section ICC 17.05A.100.KL.
16. Applications for commercial development shall include a detailed statement explaining the nature and intensity of water orientation of the proposed activity. Such statement shall include the following:
  - a. Nature of the commercial activity;
  - b. Need for shoreline frontage;
  - c. Special considerations being planned to enhance the relationship of the activity to the shoreline and to mitigate adverse effects;
  - d. Provisions for public visual or physical access to the shoreline.
17. Accessory developments and uses such as warehousing, outdoor storage, waste storage and treatment, stormwater runoff control facilities, and utilities that do not require a shoreline location must be located landward of OHWM.

#### **G. F. Forest Practices**

1. To be consistent with WAC 173-26-241(3)(e), the county shall rely on the Forest Practices Act (RCW 76.09), its implementing rules, and the 1999 Forest and Fish Report as adequate management of commercial forest uses within shoreline jurisdiction, except for forest conversion activities, and in shorelines of statewide significance.
2. When forest lands are converted to another use, there shall be no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values such as navigation, recreation, or public access.
3. Within shorelines of statewide significance, only selective commercial timber cutting shall be allowed.
4. Selective commercial timber cutting on shorelines of statewide significance shall not exceed thirty (30) percent of the merchantable trees in any ten-year period as required by

RCW 90.58.150. The Shoreline Administrator may allow exceptions to the thirty (30) percent limit with a conditional use permit in accordance with WAC 173-26-241(3)(e).

5. On shorelines of statewide significance, other timber harvesting methods may be permitted as conditional uses in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental.
6. All allowed forest practices in shorelines shall comply with the following:
  - a. Forest practices, including construction of logging roads, on slopes that exceed thirty-five (35) percent shall require a conditional use permit;
  - b. Forest practices within Island County's shorelines shall maintain critical area buffers consistent with ~~section Chapter 17.02B and ICC 17.05A.090.DH as well as chapters 17.02 and 17.02A;~~
  - c. Disposal or removal of accumulations of slash and other debris shall be conducted in a safe manner and minimize impacts to the environment and to neighboring properties. Slash burning shall be conducted according to best management practices, including compliance with burn bans during high fire hazard conditions;
  - d. For shoreline areas having scenic qualities, such as those providing a diversity of views, unique landscape contrasts or landscape panoramas, the Shoreline Administrator may restrict removal of trees to maintain the quality of scenic views;
  - e. Seeding, mulching, matting, and replanting shall be required where necessary to ensure soil stability on areas that have been logged. Replanted vegetation shall be of native plants appropriate to site conditions; and
  - f. All logging operations shall protect the adjacent and downstream shorelands against erosion, uncontrolled drainage, slides, pollution, excavations and fills and other factors detrimental to the environment.
7. A forest practice that only involves timber cutting is not a development under the Act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the Act and may require a substantial development permit, as required by WAC 222-50-020

#### **H. G. Industry**

1. Port facilities and water-dependent industrial uses are allowed in the high intensity shoreline designation where the proposed use or activity is permitted in the underlying zone by ~~e~~Chapter 17.03 ICC.
2. Non-water-dependent industrial uses are prohibited in all shoreline environment designations.

3. Port and industrial uses are prohibited in the ~~n~~Natural, ~~r~~Rural ~~u~~Conservancy, ~~u~~Urban ~~e~~Conservancy and ~~s~~Shoreline ~~r~~Residential designations.
4. Water-dependent industrial structures may be allowed within required buffers to the minimum extent necessary to support the water dependent use, provided mitigation is provided in the form of buffer enhancement in a degraded buffer on nearby shorelines. Off-site mitigation may be allowed provided that a permanent easement protecting the mitigation area is secured with a record on the title to be approved by the Shoreline Administrator, and that the mitigation claimed has not also been claimed as mitigation for any other development.
5. Industrial development shall be located, designed, constructed and operated in such a manner as to minimize effects on aquatic life.
6. Industrial developments shall comply with all federal, state, regional and local requirements regarding air and water quality.
7. Industrial and port facilities shall be located, designed, constructed, and operated so as to avoid interference with the rights of adjacent property owners, and to minimize interference with the normal public use of the adjacent shoreline.
8. Industrial and port facilities shall not duplicate, but shall share overwater structures such as docks and piers whenever practicable. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved. Best management practices shall be used in the storage and handling of flammable, explosive and hazardous materials in industrial and port facilities.
9. Industrial and port facilities shall make adequate provisions to minimize the probability of spills of fuel or other toxic substances. Provisions shall be made to handle accidental spills that do occur.
10. Noise which is objectionable due to volume, frequency, or beat shall be muffled or otherwise controlled. Emergency warning sirens or alarms and related apparatus used solely for public purposes are exempt from this requirement.
11. Industrial facilities shall ensure that no direct or reflected glare is visible from adjacent properties, streets, or water areas.
12. Port and industrial facilities shall provide public access to shoreline areas when feasible, taking into consideration public safety, public health, and security.
13. Log storage shall only be allowed in high intensity areas and only under the following circumstances:
  - a. Where it will not interfere with navigation or other beneficial water uses; and
  - b. It will not result in a net loss of ecological functions.

14. Whenever feasible, log storage facilities shall be located on land and properly sited to avoid fish and wildlife habitat conservation areas.
15. Log storage facilities shall not be sited where dredging would be required in order to accommodate log storage or transport.
16. In-water log storage shall only be allowed on a temporary basis, and shall be located where natural tidal or current flushing and water circulation are adequate to disperse polluting wastes.
17. Log storage facilities shall be adequately maintained and repaired to prevent log escapement from the storage site.

**I.H. Mining.** Mining is prohibited in all shoreline designations.

**J.I. Recreation.**

1. Water-oriented recreational development may be allowed when the proponent demonstrates that the use will not result in a net loss of shoreline ecological functions or processes or have significant adverse impact on other shoreline uses, resources or values such as navigation and public access.
2. Non-water-oriented recreational facilities including playing fields or similar active uses shall be located outside of the shoreline.
3. Recreational uses that provide access to and use of the county's shorelines shall be preferred.
4. For lands designated natural or rural conservancy that are operated by Washington State Parks, active recreational facilities (e.g., water access facilities, restrooms, parking areas) are an allowed use and activity, including the replacement or upgrading of such facilities, consistent with all permitting requirements.
5. Trailer spaces, camping sites, and similar facilities shall not be located on beaches and tidelands or within required buffers, with the exception of designated camping spots on marine trails.
6. Recreation facilities shall be designed to provide adequate water supply, sewage disposal, and garbage collection.
7. Screening, buffer strips, fences, and signs to prevent park overflow and to protect the value and enjoyment of adjacent or nearby private or public properties may be required when deemed necessary by the Shoreline Administrator.
8. Tree cutting and driftwood removal in public recreational areas shall be prohibited, except when conducted by the agency operating the recreational area in accordance with the vegetation management regulations of this chapter.
9. Signs indicating the public's right to access shoreline areas shall be installed and maintained in conspicuous locations at recreational facility points of access, street ends,

and public viewpoints. Signs shall be kept to the minimum number and size necessary to ensure public awareness of the recreational area and to ensure continued public control of the site.

10. When a public recreation site abuts private property or tidelands, signs and other similar markers shall indicate geographic limits of public access to minimize conflicts with adjacent use and development and to ensure continued public control of the site.
11. All-terrain vehicles for off-road use are prohibited on tidelands and beaches; except when necessary to launch or retrieve boats or to provide access in the course of emergency response.
12. Applicants for shoreline substantial development permits for recreation facilities may be required to provide data to demonstrate the safety of proposed equipment and facilities.

#### **K.J. Residential**

1. All residential use and development should be properly managed to avoid damage to the shoreline environment and prevent cumulative impacts associated with shoreline armoring, overwater structures, stormwater runoff, septic systems, introduction of pollutants, and vegetation clearing.
2. Subdivision of property for residential development is subject to the density limits in the underlying zone described in eChapter 17.03 ICC and the following maximum density limits, whichever is more restrictive:
  - a. **Aquatic.** Subdivision for residential purposes is prohibited, but tidelands may be subdivided for conservation purposes or public acquisition from adjacent uplands, with no limit on lot size;
  - b. **Natural.** One (1) unit per five (5) acres;
  - c. **Rural eConservancy.** One (1) unit per five (5) acres;
  - d. **Urban eConservancy.** Four (4) units per acre;
  - e. **Shoreline rResidential.** Four (4) units per acre;
  - f. **High iIntensity.** Subdivision for residential purposes is prohibited.
3. Those lands waterward of the ordinary high water mark and within the boundaries of any waterfront parcel shall not be used to compute required lot area, and lot dimensions.
4. Lots which are partially located within shoreline jurisdiction may be subdivided at the shoreline jurisdiction boundary or landward thereof as long as the following criteria are met:
  - a. the resulting lot which is outside of shoreline jurisdiction, meets the minimum lot size and density restrictions of Chapter 17.03 ICC; and

- b. the resulting lot which is within shoreline jurisdiction, meets the minimum lot size for the specific environmental designation as outlined in this section, ICC 17.05A.100.K.
- 35. Residential development shall not be permitted seaward of the ordinary high water mark. Live-aboard vessels and houseboats licensed as vessels are restricted to approved marinas only. Floating homes are prohibited.
- 46. Public access to publicly owned shorelines shall be maintained. When properties are subdivided or developed with residential uses, survey markers and signage shall be placed indicating the location of any adjacent public right-of-way or easement providing access to the shoreline.
- 57. Subdivisions containing five (5) or more lots shall provide public access in accordance with section ICC 17.05A.090.MQ.
- 68. Subdivisions and all individual residential structures, appurtenances, and accessory structures shall be designed to ensure that surface runoff does not pollute adjacent waters or cause soil or beach erosion either during or after the construction phase.
- 79. Subdivisions containing marshes, swamps, lagoons, portions of floodplains, or similar wetlands shall use those areas only for the purposes of parks, open space, or recreation facilities as permitted by eChapters 17.02B ICC and 17.02A.
- 810. Construction of residential structures, appurtenances, accessory structures and amenities shall not be detrimental to the geohydraulic processes occurring within the shoreline corridor.
- 911. Residential structures located waterward of the ordinary high water mark are not permitted. Residential structures located in on wetlands or their buffers shall adhere to the provisions of ICC 17.05A.090.B and D. areas or in areas subject to flooding or tidal inundation may be permitted only when the property qualifies for a shoreline variance, and only where complete flood proofing measures have been provided, and then only when the location of such structures will not aggravate flooding possibilities of nearby properties.
- 4012. Residential structures shall only be located upon geologically hazardous areas (as defined in eChapter 17.02B ICCA) if in compliance with the bluff setback standards and conditions contained in eChapter 11.02 ICC or set back fifty (50) feet from the top of a bank greater than 100 feet in height, whichever is more restrictive.
- 4113. The following shoreline setbacks shall be applied to residential development:
  - a. All residential development shall comply with the buffer requirements of section 17.05A.090 ICC and the critical areas buffers established in eChapters 17.02B and 17.02A.
  - b. A greater setback may be required if necessary to comply with the grading, geologically hazardous area, erosion control and drainage requirements of eChapters 11.02 and chapter 11.03 ICC and the critical areas regulations contained in eChapters 17.02B ICC and 17.02A.

4214. Normal appurtenances may be located within the shoreline setback so long as they do not obstruct the water view corridor of adjacent waterfront primary residences and are not located within the standard shoreline buffer.

4315. New residential development shall be designed and built in a manner that avoids the need for structural shore armoring and flood hazard reduction over the life of the development in accordance with ~~section~~ ICC 17.05A.090.LN, flood ~~hazard reduction~~~~control~~~~structures~~, and ~~section~~ ICC 17.05A.110.A, shoreline stabilization, of this Shoreline Master Program and other applicable plans and laws.

4416. Subdivision for residential development shall provide sufficient lot depth for development to occur without the need for shoreline stabilization for the life of the development.

4517. Creation of new residential lots through land division shall be designed, configured and developed to ensure that no net loss of ecological functions and processes occurs from the plat or subdivision, even when all lots are fully built out.

4618. Subdivision of land within the Natural designation shall be restricted to the creation of new parcels with a minimum lot size of five (5) acres and a minimum shoreline frontage of 330 feet within shoreline jurisdiction. The 330 feet lot width standard may be modified to accommodate aliquot sections.

4719. Building buffers and setbacks from shorelines consistent with the requirements of this Shoreline Master Program and ~~e~~Chapters 17.03 and 17.02B ICC shall be established as conditions of preliminary plat approval in all new waterfront subdivisions. A plat restriction shall specify the required setbacks and all building buffers and setbacks shall be shown on the face of the plat.

4820. Septic drainfields which are proposed for lots upon feeder bluffs or within 100 feet of any geologically hazardous areas should be designed and located so as to discharge leachate as far as practically possible away from the bluff face.

4921. Additions to legally established residences shall not be located seaward from the applicable setback and shall conform to applicable shoreline regulations as well as other applicable county and state regulations. For purposes of this section "residence" shall mean the primary residential structure on the property and attached or detached guest cottages.

2022. Natural vegetation between the OHWM and the top of banks and bluffs ten (10) feet or higher shall be retained, except for removal necessary for view enhancement consistent with ~~section~~ ICC 17.05A.090.K100.N110.C.8 and 9 of this Shoreline Master Program, removal of hazardous, diseased or damaged trees when they pose a threat to a permitted structure consistent with ICC 17.05A.400.N110.C.10 and to allow for pedestrian waterfront access. Removal of invasive non-native species is authorized.

2123. In shorelines designated natural, a 150-foot buffer shall be required wherein only limited tree limbing of no greater than twenty (20) percent of the tree crown for view corridor purposes is allowed consistent with ICC 17.05A.400.N110.C.8 and 9. The native vegetation buffer shall be designated on the site plan, approved by the Shoreline Administrator and recorded with the County Auditor.

2224. Beach access structures for residential uses.

- a. Joint use beach access structures shall be preferred in areas of existing residential subdivisions located on unstable slopes, marine feeder bluffs or other geologically hazardous areas. Applications for facilities serving more than one parcel, under the same or different ownership shall include documentation of all parcel property owners that would share the facility. Prior to construction or installation, the owners shall record with the County Auditor a joint-use agreement that will appear on the titles of all parcels sharing the facility. The agreement should address apportionment of responsibilities/expenses, easements, liabilities, and use restrictions.
- b. Beach access structures located adjacent to fish and wildlife habitat conservation areas that include over water structures, landings that require fill or shore protection structures, shall only be allowed as a shoreline conditional use and shall require a complete BSA.
- c. Beach access structures located in the natural designation shall be permitted for public use purposes and allowed as a shoreline conditional use for private access.
- d. Normal appurtenances and beach access structures shall conform to the following criteria:
  - (i). They shall be located and designed in such a manner so as to not require shoreline stabilization over the life of the structure, including the installation of bulkheads solely for the purpose of protecting new appurtenances.
  - (ii). They are designed and located to avoid unstable slopes, eroding bluffs and other geologically hazardous areas.
  - (iii). They are designed and located in such a manner to minimize the loss of existing vegetation.
  - (iv). Beach access structures which require any land disturbing activity within the shoreline setback area must comply with the requirements of the county's land development standards.
  - (v). They shall be designed in such a manner to minimize their impact on shoreline functions and so as to not interfere with normal littoral drift and movement of sediments to and along the shore and shall be located as far landward of the OHWM as practical.
  - (vi). Beach access structure landings shall be limited in size to that necessary for minimum safe access to the beach and shall not constitute a deck.

25. Deck structures, uncovered, for residential uses.

- a. Decks are considered accessory structures which can allow for stormwater runoff to seep into the soil, however, they are structures which also impact the shoreline environment.

- b. Decks with at least 1/8" gap between boards, with pervious surface underneath, are considered pervious.
- c. Replacement Decks: A legally established existing deck that is located within the marine or steep slope buffer and/or shoreline setback may be replaced within the same footprint and elevation off grade; such replacement will not require buffer enhancement per ICC 17.05A.090.L and M.
- d. Expansions to Existing Decks:
  - (i) Within the shoreline setback (landward of the marine buffer), any proposed expansion to an existing deck, not exceeding thirty (30) inches in height, shall not be located seaward of the existing deck.
  - (ii) Expansion of an existing deck exceeding thirty (30) inches in height requires a shoreline variance.
  - (iii) Any expansion greater than 200 square feet shall require an enhancement area equal to the area of the expansion with native vegetation within the marine buffer per ICC 17.05A.090.L and M.
- e. New decks:
  - (i) Within the marine buffer or steep slope buffer new decks are not allowed unless approved as part of a Shoreline Variance.
  - (ii) Within the shoreline setback (landward of the marine buffer), new decks shall require the applicant to enhance an area of the marine buffer with native vegetation that is equal to the total square footage of the deck per ICC 17.05A.090.L and M.
  - (iii) Within the shoreline setback new decks over thirty (30) inches in height are prohibited.
  - (iv) Within the geologically hazardous area (within 100ft landward of the top of the slope) new or expanded decks shall comply with Chapter 11.02 ICC.
    - (1) Within the shoreline setback (landward of the steep slope buffer) new decks shall meet the requirements of Chapter 11.02 ICC and shall enhance an area equal to the deck size.
    - (2) Within the shoreline setback (landward of the steep slope buffer) buffer enhancement for new decks shall be planted within the steep slope buffer, within the area 15-25ft landward from the top of the slope. Buffer enhancement shall comply with the requirements of ICC 17.05A.090.L and M, (excepting ICC 17.05A.090.M.1.c) and may also be placed partly or wholly within the marine buffer if deemed appropriate and feasible.

2326. Public access for residential development shall be required as follows:

- a. New multi-unit residential development, including subdivision of land into five (5) or more parcels, shall provide public access or open space for use by development residents and the public. The county may alter the recommended area threshold per constitutional limits or waive this requirement if public access is infeasible due to incompatible uses, safety, impacts to shoreline ecology or legal limitations. The county may require alternatives to on-site physical access if on-site physical access is infeasible for the reasons noted.
- b. When required for multi-lot or multi-unit residential development, the amount of public access, open space area, and improvements required shall be proportional to the scale of the proposed development and of appropriate character to the shoreline environment designation, as determined by the Shoreline Administrator. The Administrator may waive the public access requirement if public access is infeasible due to incompatible uses, risks to health or safety, impacts to shoreline ecology or legal limitations. In such cases, the Administrator may require alternatives to on-site physical access if on-site physical access is infeasible for the reasons noted.

**L.K. Signs.**

1. Recognized or officially delineated vistas or viewpoints shall not be blocked or obstructed by signs, unless required for public safety or to identify public access.
2. Signs identifying shoreline public access are allowed in shoreline jurisdiction and are exempt from obtaining a shoreline substantial development permit.
3. Off-premises outdoor advertising, signs, and billboards shall not be permitted in the shoreline jurisdiction.
4. On-premises advertising signs shall be constructed against, or painted on buildings to minimize visual or access obstruction to or of the shoreline.
5. On-premises signs shall not extend in height above the highest exterior wall of the building to which the sign relates. Signs shall not be erected upon the roofs of structures.
6. Artificial lighting for signs shall be directed or beamed downward where feasible and away from the water, public street, or adjacent premises so as not to cause glare or reflection that may constitute a traffic or boating hazard or nuisance.
7. In addition to the above requirements, the standards of 17.03.180.R shall apply.

**M. L. Roads and transportation.**

1. Roads other than those providing access to approved shoreline uses shall be located outside of the shoreline jurisdiction, except when no reasonable alternate location exists.
2. New roadways, arterials, and railways, including expansions of these systems, should be designed and located to assure no net loss of shoreline ecological functions.

3. Transportation shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies where adverse impact to the shoreline can be minimized by doing so.
4. New transportation facilities should be designed and located to avoid or minimize the need for structural shoreline protection measures.
5. When roads are permitted within shoreline jurisdiction, they shall include development of scenic view parking areas, pedestrian trails or bicycle trails. The extent of the requirement shall be proportional to the extent of roadway development in the shoreline.
6. In instances where water crossing is required, roads shall cross shoreline areas and water bodies by the shortest, most direct route feasible unless such route would cause more damage to the environment.
7. Roads shall be designed so as to control the dispersal of surface runoff from roads and exposed soils in order to minimize turbid water from draining into waterways.
8. Culverts and similar devices shall be designed consistent with WDFW fish passage guidelines and with regard to the highest annual storm frequencies and shall be designed in conformance with the requirements of eChapter 11.03 ICC (stormwater).
9. Roads, bridges, culverts and similar devices shall afford maximum protection for fisheries resources and shall be designed in conformance with WDFW guidance to protect shoreline ecological functions and processes as well as grading and stormwater runoff control features required under eChapters 11.02 and 11.03 ICC.
10. Transportation facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Elements within or over water shall be constructed of materials approved by applicable state agencies for use in water for both submerged portions and other components to avoid discharge of pollutants from splash, rain or runoff. Wood or pilings treated with creosote, pentachlorophenol or other similarly toxic materials are prohibited. Preferred materials are concrete and steel.
11. Excess material shall be deposited in stable locations and not into shoreline corridors where such materials degrade water quality, impede flood waters, or alter naturally occurring geohydraulic processes.
12. When allowed, road and driveway alignments shall be designed to fit the topography of the shoreline and accommodate riparian buffers so that alterations to the natural site conditions are minimized.
13. Roads shall be set back a safe distance from the top of unstable marine bluffs and other geologically hazardous areas in accordance with the requirements of eChapter 11.02 ICC.
14. Design of proposed roads and driveways within or adjacent to a geologically hazardous area as defined in this SMP shall be subject to the requirements of eChapter 11.02 ICC.
15. Parking as a primary use shall be prohibited within shoreline jurisdiction.

16. Parking (other than parking associated with a public beach access point) shall only be permitted in shoreline jurisdiction when necessary to support an authorized use where it can be demonstrated that there are no feasible alternative locations away from the shoreline. Parking facilities shall be buffered from the water's edge and less intense adjacent land uses by vegetation, undeveloped space, or structures developed for the authorized primary use to the maximum practicable extent.
17. Parking areas shall be developed using low impact development techniques whenever possible including but not limited to the use of permeable surfacing materials.

#### **N.M. Utilities**

1. The following utilities are prohibited within the shoreline jurisdiction:
  - a. Electric power substations.
  - b. Recycling centers.
  - c. Solid waste transfer stations.
2. Utility lines shall be located outside of the shoreline wherever feasible, unless the utilities are necessary to serve shoreline uses, and should be so located as to avoid the need for shoreline stabilization.
3. When it is infeasible to locate utilities outside of the shoreline, utilities shall be located as far as feasible from the shoreline and shall be installed underground whenever feasible.
4. Utilities are required to be located in existing rights-of-ways whenever possible.
5. Utility corridors within shorelines shall be designed to provide for multiple uses such as shoreline access or recreational trails or pathways, or other utilities, unless the applicant demonstrates that shared use is not feasible or would have greater adverse impacts on the shoreline.
6. Utilities installed on beaches or upon tidal areas shall be installed in such a manner as to ensure that water quality and marine life will not suffer degradation and that no net loss of ecological function will result.
7. Utility discharges and outfalls shall be located, designed, constructed, and operated so that degradation of water quality, marine life and general shoreline ecosystems is kept to an absolute minimum, and mitigation for any unavoidable impacts is provided.
8. Utilities located in flood prone areas shall be provided adequate flood protection and shall be installed so as not to increase flood hazard or other damage to life or property.
9. Utilities shall not be installed in areas subject to geologic hazards unless a geotechnical report demonstrates that the utilities would not pose a threat to the shoreline environment in the event of a slope failure, earthquake, or other natural geologic event.

10. Sewage treatment, water reclamation, desalination, and power plants shall be located where they do not interfere and are compatible with recreational, residential, or other public uses of the water and shorelands unless no feasible alternative exists.
11. Desalination plants, including for residential use, may be allowed only if they do not cause a net loss of ecological function, including cumulative impacts from discharge of effluent.
12. Pipelines carrying hazardous materials and petroleum operations shall conform to the following requirements:
  - a. Pipelines carrying hazardous materials or petroleum shall be constructed outside of the shoreline wherever feasible, and may be allowed within the shoreline only as a conditional use;
  - b. The design, construction, operation, and maintenance of pipelines carrying hazardous materials and petroleum products in liquid form shall conform to all regulations established by the United States Department of Transportation;
  - c. In order to prevent spills and other forms of pollution, owners, and operators of facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, or consuming oil shall conform to established procedures, methods and equipment, set forth by statutory and other requirements of the United States Environmental Protection Agency and the State Department of Ecology;
  - d. Offshore drilling, processing or refining of petroleum is prohibited.
13. Desalination or reverse osmosis water production processing equipment, service lines, and utility connections must be approved by the Island County Health Department or the State Department of Health.
14. Sanitary landfills or the location of solid waste disposal sites are prohibited in all shoreline designations.

## **17.05A.110 - Shoreline modification regulations.**

### **A. Shoreline stabilization.**

1. **Regulations for all shoreline stabilization.** Shoreline stabilization may be permitted only when the application demonstrates all of the following, ~~based on a geotechnical analysis and biological site assessment~~:
  - a. The erosion creating the need for shoreline stabilization is not caused by upland conditions on the project site, such as the loss of vegetation or modification of drainage;
  - b. The proposed shoreline stabilization is designed to minimize interruption of fish and wildlife habitats through the use of the least impacting alternative type of shoreline stabilization practicable per Alternatives Analysis in ICC 17.05A.095.D. In order of

~~priority from least to greatest impact, subject to site-specific conditions, alternatives include but are not limited to:~~

- (i) ~~Taking no action (allow the shoreline to retreat naturally);~~
- (ii) ~~Upland drainage control;~~
- (iii) ~~Vegetation protection, enhancement, and replacement;~~
- (iv) ~~Relocation of improvements or structures;~~
- (v) ~~Beach nourishment;~~
- (vi) ~~Large woody material placement;~~
- (vii) ~~Soft shore protection methods—at least eighty (80) percent of the project must be constructed of naturally occurring materials used in ways that are consistent with current nearshore processes;~~
- (viii) ~~Upland retaining walls;~~
- (ix) ~~Bulkheads and rock revetments placed landward of the OHWM;~~
- (x) ~~Individual rock placement located at the OHWM; and~~
- (xi) ~~Bulkheads and rock revetments located at the OHWM.~~

- c. The proposed shoreline stabilization will minimize interference with hydrological and geomorphological processes normally acting in natural conditions.
- d. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is prohibited.
- e. Adequate mitigation measures will be provided to maintain existing shoreline processes and critical fish and wildlife habitat, and ensure no net loss of ecological functions.
- f. Shoreline stabilization will not be used for the direct or indirect purpose of creating land waterward of the OHWM. When replacement fill is required behind an existing shoreline stabilization structure, it shall not extend beyond the OHWM unless otherwise permitted in compliance with this Program.
- g. On marine feeder bluffs, shoreline stabilization may be permitted only when it is demonstrated by a professional engineer or geologist that construction will not substantially disrupt the beach feeding action or littoral drift.
- h. Shoreline stabilization is prohibited for the purposes of leveling or extending property or creating or preserving residential lawns, yards, or landscaping.

- i. ~~Construction of shoreline stabilization to protect a platted lot where no primary use or structure presently exists shall be prohibited except as provided in section 17.05A.110.A.3.c.(vi).~~
- j. — Public access, consistent with section ICC 17.05A.090.MO, is required, where feasible, as part of any shoreline stabilization construction or replacement project on public land or using public funds.

**TABLE 5: Shoreline Stabilization Report Requirements**

	<b><u>Structural (Hard) Shoreline Stabilization</u></b>			<b><u>Soft Shoreline Stabilization</u></b>		
	<b><u>New<sup>1</sup></u></b>	<b><u>Replacement<sup>2,8</sup></u></b>	<b><u>Repair<sup>3</sup></u></b>	<b><u>New<sup>1</sup></u></b>	<b><u>Replacement<sup>2,9</sup></u></b>	<b><u>Repair<sup>3</sup></u></b>
<b><u>Biological Site Assessment<sup>4</sup></u></b>	Required	Required	Not Required	Required	Required	Not Required
<b><u>Geocoastal Analysis<sup>5</sup></u></b>	Required	Required <sup>8</sup>	Not Required	Required	Required <sup>9</sup>	Not Required
<b><u>Demonstration of Need<sup>6</sup></u></b>	Required	Required	Not Required	Required	Not Required	Not Required
<b><u>Alternatives Analysis<sup>7</sup></u></b>	Required	Required	Not Required	Required	Not Required	Not Required

1. New shoreline stabilization shall be defined as the establishment of shoreline stabilization where legally established stabilization is not present or expansion of existing shoreline stabilization. Additionally, replacement of shoreline stabilization shall be permitted as new when:  
(a) replacement is not the common method of repair for the stabilization; or  
(b) the replacement stabilization is not comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance; or  
(c) the replacement causes substantial adverse effects to shoreline resources or environment.  
2. As defined in ICC 17.05A.070.  
3. As defined in ICC 17.05A.070.  
4. Consistent with the requirements of ICC 17.05A.095.A.  
5. Consistent with the requirements of ICC 17.05A.095.C.  
6. The demonstration of need shall address the items in ICC 17.05A.095.D.  
7. The alternatives analysis shall address the items in ICC 17.05A.095.E.  
8. Director may waive requirement for demonstration of need if stabilization is to replaced with soft shoreline stabilization. See ICC 17.05A.110.A.3.g.  
9. Geocoastal analysis not required if replacing with other soft measures. See ICC 17.05A.110.A.4.g.

**2.Existing shoreline stabilization.**

- a. Existing shoreline stabilization, other than structures located in canal communities, may be replaced in kind or with soft shore stabilization consistent with section 17.05A.110.A(1)(b) if the replacement is to protect public transportation infrastructure, essential public facilities, or principal uses or structures (including wastewater disposal systems) from erosion caused by currents, tidal action, or waves and the structure complies with all of the following:
  - (i) The replacement is designed, located, sized, and constructed to ensure no additional net loss of ecological functions;
  - (ii) The replacement performs the same stabilization function as the existing structure and does not require additions to or increases in size; and

(iii) The replacement does not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992 and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure, and construction shall extend no further waterward of the existing bulkhead than is necessary for construction of new footings.

b. Older structures shall be removed as new structures are put in place. Exceptions may be made by the Shoreline Administrator only in cases where removal would cause more ecological disturbance than leaving the remnant structure in place.

c. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead or soft shore stabilization must be located at or near the actual OHWM.

d. In a canal community, existing bulkheads (for lots along the canals only) may be replaced with shoreline stabilization provided they meet the following:

- (i) The replacement structure is designed, located, sized, and constructed to ensure no net loss of ecological functions;
- (ii) The replacement structure performs the same stabilization function as the existing structure and does not require additions to or increases in size;
- (iii) The replacement structure is aligned horizontally with the predominant line formed by other bulkheads on the same shoreline; and
- (iv) The replacement structure is aligned vertically with the predominant height of other bulkheads on the same shoreline.

e. For each canal community, the Shoreline Administrator may approve a standard permit specifying allowable materials, structure height, backfill, and any required mitigation measures.

**23. New or expanded structural shoreline stabilization.**

- a. Shoreline stabilization shall be prohibited in or adjacent to lakes.
- b. Shoreline stabilization shall not be permitted on spits, hooks, bars, barrier beaches, or similar accretion terminals or accretion shoreforms; except when demonstrated that construction of the above shore defense devices are absolutely necessary for the protection of existing primary structures and appurtenances and mitigation consistent with section 17.05A.090.C.7 has been accomplished.
  - a. New structural shoreline stabilization shall not be permitted in or adjacent to lakes, except that softshore stabilization may be permitted for those properties abutting lakes where gasoline-powered motorized boating is allowed, and where a demonstration of need, consistent with the provisions of ICC 17.05A.095.D, can be provided.

b. Structural shoreline stabilization shall not be permitted on spits, hooks, bars, barrier beaches, or similar accretion terminals or accretion shoreforms; except when demonstrated that construction of the above shore defense devices are absolutely necessary for the protection of existing primary structures and appurtenances and mitigation consistent with ICC 17.05A.090.B has been accomplished.

c. New shoreline stabilization may be permitted and existing structural shoreline stabilization may be expanded only when at least one (1) of the following apply:

- (i) Where necessary to support a project whose primary purpose is enhancing or restoring ecological functions;
- (ii) Where necessary to remediate hazardous substances pursuant to Chapter 70.105 RCW;
- (iii) Where necessary to protect public transportation infrastructure, existing dikes, or essential public facilities and other options are infeasible;
- (iv) Where necessary to protect a water-dependent use and other options are infeasible;
- (v) Where there is conclusive evidence documented by a geotechnical or coastal engineering analysis that erosion from waves or currents is expected to cause damage to a primary structure or appurtenance within three (3) years based on a trend analysis of prior rates of erosion if the shoreline stabilization is not constructed, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts to ecological functions; or
- (vi) On a lot within a designated canal community where the adjacent lots on both sides of the subject lot have a legally established bulkhead, structural shoreline stabilization may be permitted, provided:
  - (1) The horizontal distance between existing bulkheads does not exceed 120 feet;
  - (2) The proposed stabilization structure would be located landward of the OHWM;
  - (3) The proposed shoreline stabilization would link with the adjacent bulkheads; and
  - (4) The proposed shoreline stabilization would not adversely affect known forage fish habitat.

cd. In addition to meeting the provisions of section ICC 17.05A.110.A.1, proposals for new or expanded structural shoreline stabilization allowed under this section 17.05A.110.A.3.e shall demonstrate all of the following before a permit can be issued:

- (i) A geotechnical analysis is required by qualified professionals to document the impacts of shoreline modification proposals. The analysis must demonstrate that erosion from waves or currents is expected to cause damage to a primary

~~structure or appurtenance within three (3) years based on a trend analysis of prior rates of erosion if the shoreline stabilization is not constructed;~~

- (i) The need for the structural shoreline stabilization has been demonstrated in accordance with the criteria in ICC 17.05A.095.D;
- (ii) The proposal is the minimum necessary to protect the primary structure or appurtenance consistent with the requirements of ~~section 17.05A.110.A.1.b~~ ICC 17.05A.095.E;
- (iii) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;
- (iv) The structural shoreline stabilization complies with the flood damage prevention regulations in ~~e~~Chapter 14.02A ICC;
- (v) The county shall require sufficient analysis by qualified professionals with the expertise to document the impacts of shoreline modification proposals. Such analysis may include, but not be limited to, ~~geotechnical~~coastal, hydrological, and biological studies, and should include an analysis of drift cells and stormwater drainage; and
- (vi) Adverse impacts are fully mitigated according to the prescribed mitigation sequence in ~~section~~ICC 17.05A.090.B such that there is no net loss of shoreline ecological functions or processes.

de. The Shoreline Administrator shall require applicants for new or expanded shoreline stabilization to provide credible evidence, through preparation of a ~~geotechnical~~coastal analysis by a qualified professional that the primary structure or appurtenance is in danger of damage from shoreline erosion caused by tidal action, currents, or waves. The evidence shall:

- (i) Demonstrate that the erosion is not due to landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope;
- (ii) Demonstrate a significant possibility that the primary structure or appurtenance will be damaged within three (3) years ~~based on a trend analysis of prior rates of erosion~~ as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions;
- (iii) Demonstrate that the shoreline stabilization would not adversely affect the property of others by changing rates of sediment, redirection of wave energy, or impoundment of or redirection of floodwater or tidal action; stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited; and
- (iv) Include an assessment of on-site drainage and vegetation characteristics and their effects on slope stability.

f. ~~Replacement of existing shoreline stabilization shall be regulated as new stabilization~~

g. ~~Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure or appurtenance shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. In order for structural shoreline stabilization to be authorized, the geotechnical report must conclude that that there is a significant possibility that such a structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or that waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions. All geotechnical reports shall also identify any potential impacts to downstream or downdrift structures.~~

e. Construction of new shoreline stabilization to protect a platted lot where no primary use or structure presently exists shall be prohibited except as provided in ICC 17.05A.110.A.2.d. Replacement of existing structural shoreline stabilization to protect a lot where no primary use or structure presently exists will be evaluated using the same criteria as other replacement stabilization (see ICC 17.05A.110.A.3).

f. Applications for new shoreline stabilization shall address intertidal and shoreline habitat loss which may arise due to permanent structures limiting the ability of the ordinary high water mark and shoreline to migrate landward in response to sea level rise.

**3. Existing structural shoreline stabilization.**

a. Existing structural shoreline stabilization, other than structures located in canal communities (the requirements for which are detailed in ICC 17.05A.110.A.3.d below), may be replaced consistent with this chapter if there is a demonstrated need to protect public transportation infrastructure, essential public facilities, or principal uses or structures (including wastewater disposal systems) from erosion caused by currents, tidal action, or waves and the structure complies with all of the following:

(i) The replacement is designed, located, sized, and constructed to ensure no additional net loss of ecological functions;

(ii) The replacement performs the same stabilization function as the existing structure and does not require additions to or increases in size; and

(iii) The replacement does not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992 and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure, and construction shall extend no further waterward of the existing bulkhead than is necessary for construction of new footings.

b. Older structures shall be removed as new structures are put in place. Exceptions may be made by the Shoreline Administrator only in cases where removal would cause more ecological disturbance than leaving the remnant structure in place.

- c. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead or soft shore stabilization must be located at or near the actual OHWM.
- d. For each canal community, the Shoreline Administrator may approve a standard permit specifying allowable materials, structure height, backfill, and any required mitigation measures.
- e. Except as outlined in 17.05A.110.3.g and h below, replacement of existing structural shoreline stabilization shall be regulated as new stabilization, in any of the following scenarios.
  - (i) Replacement is not the common method of repair for the type of structure or development; or
  - (ii) The replacement structure or development is not comparable to the original structure or development including but not limited to its size, shape, configuration, location (other than where relocation of the structure is required due to the movement/reestablishment of the ordinary high water mark), and external appearance; or
  - (iii) The replacement causes substantial adverse effects to shoreline resources or environment.
- f. The director may waive the requirement for a demonstration of the need for stabilization, when structural shoreline stabilization is proposed to be replaced with soft shoreline stabilization and the replacement would result in enhancement of shoreline ecological functions or processes
- g. Shoreline stabilization shall be considered existing, when one of the following types of documentation is provided. In the absence of at least one of the below listed documents, then the shoreline stabilization proposal will be reviewed as a new structure.
  - (i) An approved shoreline and/or building permit documenting the past construction, repair, or replacement of structural stabilization; or
  - (ii) Dated aerial and/or oblique aerial photos showing the presence of shoreline stabilization on the subject property, prior to the Shoreline Management Act.

4. Non-structural or "Soft" Shoreline Stabilization. In addition to the general design requirements of ICC 17.05A.110.A.6, the following design standards must be incorporated into the design of soft shoreline stabilization measures:

- a. The project must be designed to prevent increased erosion of adjacent properties. Soft shoreline stabilization projects may not include hard structural shoreline stabilization elements.

- b. The soft shoreline stabilization design must provide stability and dissipate wave and current energy without presenting extended linear faces to oncoming waves or currents.
- c. At least eighty (80) percent of the project, by volume, must be constructed of naturally-occurring materials used in ways that are consistent with current nearshore processes. Hard structural stabilization elements shall only be used if demonstrated as necessary to connect to an adjacent hard structure, and shall be the minimum necessary.
- d. The sizing and placement of all materials must be selected to:
  - (i). Protect upland structures from erosion over the long term;
  - (ii). Allow safe passage and migration of fish and wildlife;
  - (iii). Minimize the creation of juvenile salmon predator habitat, such as shallow pools and large rocks or over-water snags that can serve as perches; and
  - (iv). Use sand and gravel that are suitable as spawning substrate when a proposal is on a shoreline reach with forage fish spawning habitat.
- e. Soft shoreline stabilization measures may include fill placed waterward of the OHWM to provide enhancement of shoreline ecological functions to improve the substrate condition or gradient.
- f. Applicants are encouraged to use the Washington Department of Ecology's March 2014 Shoreline Master Program Planning and Implementation Guidance: Soft Shoreline Stabilization as well as the Washington State Department of Fish and Wildlife's March 2014 Marine Shoreline Design Guidelines and any revisions thereto to plan and design soft shoreline stabilization measures. Reliance on such materials helps ensure best management practices are followed.
- g. A geocoastal analysis is not required for the replacement of soft, non-structural shoreline stabilization measures with other soft measures.

#### **5.4. Applications for shoreline stabilization.**

- a. Permit applications must include the appropriate reports indicated in Table 5.
- b. Permit applications for shoreline stabilization shall provide competent technical evidence that the proposed shore defense structure will perform as designed.
- cb. Applications for shoreline stabilization shall cover the following items:
  - (i) Purpose of shoreline stabilization;
  - (ii) Type of construction;
  - (iii) Method of construction;

- (iv) Elevation of the toe and crest of the bulkhead with respect to water levels;
- (v) Direction of net longshore drift (when appropriate);
- (vi) Normal, low and high water elevations (when appropriate); and
- (vii) Technical evidence indicating the need for the shoreline stabilization consistent with the requirements of this chapter.

de. Applications for jetties shall also provide the following:

- (i) Mitigation proposed for any impacts on longshore drift, such as beach feeding procedures; and
- (ii) Provisions for pedestrian access on the top of the jetty, unless safety factors make pedestrian access infeasible, in which case a description of the safety constraints shall be provided; and
- (iii) A demonstration of need and alternatives analysis consistent with ICC 17.05A.095.D and E through the submittal of a complete BSA and geocoastal analysis.

ed. Applications for groins shall also provide the following:

- (i) Source and destination of material proposed to be trapped by the groin(s); and
- (ii) Mitigation proposed for any impacts on longshore drift, such as beach feeding procedures; and
- (iii) A demonstration of need and alternatives analysis consistent with ICC 17.05A.095.D and E through the submittal of a complete BSA and geocoastal analysis.

fe. In order for a proposed bulkhead to qualify for the RCW 90.58.030(3)(e)(ii) exemption for bulkheads associated with a legally established single-family residence and to ensure that such bulkheads will be consistent with the SMP as required by RCW 90.58.140(1), the Administrator shall review the proposed design as it relates to local physical conditions and the Island County SMP and must find that:

- (i) Erosion from waves or currents is expected to cause damage to a legally established primary structure located less than 100 feet from the OHWM within three (3) years ~~based on a trend analysis of prior rates of erosion~~ if the shoreline stabilization is not constructed;
- (ii) The proposed bulkhead is either located landward of the OHWM or if more than fifty (50) percent of the functional value of an existing bulkhead is in disrepair and the OHWM has moved (e.g., due to bank erosion), repairs must be relocated to the present OHWM; and

- (iii) The maximum height of the proposed bulkhead is no more than one (1) foot above the elevation of extreme high water on tidal waters as determined by the National Ocean Survey published by the National Oceanic and Atmospheric Administration except in areas subject to coastal flooding as defined by FEMA and eChapter 14.02A ICC where the maximum height of bulkheads shall be no greater than necessary to resist tide, wave and floodwater action during a 100-year storm event.

5.6. Design regulations.

- a. Shoreline stabilization shall conform to applicable design requirements of the Washington Department of Fish and Wildlife and U.S. Army Corps of Engineers, however, demonstration of need assessments shall be consistent with this Chapter.
- b. ~~A professional geotechnical analysis shall be required for all new or expanded shoreline stabilization structures.~~
- eb. Professional geologic geocoastal site studies or professionally engineered designs may be required for any proposed shoreline stabilization if the county determines sufficient uncertainties or potential for damage to other shoreline properties and features exist.
- dc. If a bulkhead is employed proposed as a shoreline stabilization structure, in compliance with the policies and regulations of this SMP, the following design criteria shall be met:
  - (i) The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the shoreline hydraulic system;
  - (ii) Filter cloth or adequate smaller filter rock shall be used to aid drainage and help prevent settling;
  - (iii) The toe reinforcement or protection must be adequate to prevent a collapse of the shoreline stabilization system from wave action, overtopping, scouring, and upland erosion;
  - (iv) The material used in construction shall be non-toxic to marine organisms;
  - (v) When a vertical or near vertical wall is being constructed or reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall may be used as backfill, to be considered a normal protective bulkhead common to single family residences; and
  - (vi) Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil and other materials.; and
  - (vii) Bulkheads shall be constructed parallel to the ordinary high water mark. Wing-walls and return-walls, which do not extend waterward of the ordinary high water mark, and which can be justified under the other requirements of this section, ICC 17.05A.110.A, may be permitted.

- ed. Shoreline stabilization structures that dissipate wave energy are preferred over vertical walls or concrete slabs. Where concrete slabs with vertical waterward faces are employed, adequate tiebacks and toe protection shall be provided. Design and material of shoreline stabilization structures shall be decided and based upon an analysis of alternatives; the preferred alternative will be that which balances a minimum impact to the environment and shoreline process with a structural solution that will ensure the long term viability of the shoreline stabilization structure.
- fe. Riprap shall be constructed and maintained in a manner that does not have a negative long-term impact on water quality and fisheries habitat.
- gf. Riprap material shall consist of clean, angular quarried rock and shall be of sufficient size and weight to prevent movement by wave or current action. The use of tires, automobile bodies, scrap metal, paper products and other solid waste materials is prohibited.
- hg. Use of downed logs, snags or rock-work to enhance habitat and to provide a more natural appearance to the shoreline should be incorporated into the design where appropriate.
- ih. Stairs or other permitted structures may be built into a bulkhead but shall not extend waterward of the face of the bulkhead.
- ji. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.
- j. When a new or replaced hard structural shoreline stabilization measure is proposed on a site where legally established hard structural shoreline measures do not exist on adjacent properties, the proposed stabilization measure must demonstrate that impacts to adjacent properties will not occur.
- k. When a new or replaced hard structural shoreline stabilization measure is proposed on a site where legally established hard structural shoreline stabilization measures exist on adjacent properties, the proposed stabilization must tie in flush with those stabilization measures as physically feasible. The new stabilization measure shall not extend waterward of the OHWM, except in those locations where the structure connects to the adjoining stabilization measure. The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible.

#### **B-6. Shoreline restoration or beach enhancement.**

- 1.a. Restoration projects on marine and freshwater shoreline shall be allowed provided it is carried out in accordance with an approved project restoration plan and in accordance with the policies and regulations of this Program.
- 2.b. Restoration projects shall be designed such that there are no adverse impacts on ecological resources or functions.

- 3.e. Ecological restoration and enhancement shall be approached on a watershed basis and shall seek to promote an ecosystem or landscape approach, including integrating projects into their surrounding environments.
- 4.d. To the greatest extent feasible, ecological restoration and enhancement projects shall be protected in perpetuity. If future development proposes to impact existing ecological restoration and enhancement sites, it must be demonstrated that there are no practicable alternatives to avoid adverse impacts, and further, that adequate mitigation is provided to address unavoidable losses.
- 5.e. Ecological restoration and enhancement actions shall demonstrate that they are based on sound scientific principles and are compatible with the functions of nearby restoration and enhancement sites.
- 6.f. Beach enhancement in all designations shall be undertaken only for restoration, enhancement or maintenance of natural resources, or as a means to replace an existing shoreline stabilization structure.
- 7.g. Beach enhancement may be permitted when the applicant has demonstrated that no significant change in littoral drift will result which will adversely affect adjacent properties or habitats as demonstrated through a geocoastal analysis.
- 8.h. Natural beach restoration/enhancement design alternatives shall include the best available technology such as, but not limited to: gravel berms, drift sills, beach nourishment, natural revegetation and maintained plantings, deposition of drift logs and/or large woody organic debris to stabilize the backshore or protect the toe of eroding bluffs.
- 9.i. Natural beach restoration/enhancement shall not:
  - a.(i) Detrimentally interrupt littoral drift, or redirect waves, current, or sediments to other shorelines;
  - b.(ii) Result in any exposed groin-like structures; provided that small "drift sill" groins may be used as a means of stabilizing restored sediment where part of a well planned community beach restoration program;
  - c.(iii) Extend waterward more than the minimum amount necessary to achieve the desired stabilization;
  - d.(iv) Result in contours sufficiently steep to impede easy pedestrian passage, or trap drifting sediments;
  - e.(v) Create additional dry land mass except where the additional land mass will restore degraded ecological functions; and
  - f.(vi) Cause irreversible long-term loss of near-shore habitat.
- 10.j. The size and mix of new materials to be added to a beach as part of an approved beach restoration program shall be as similar as possible to the natural beach sediment, but large enough to resist normal current, wake or wave action at the site.

11.k. Beach enhancement shall be designed to minimize adverse impacts on spawning, nesting, or breeding habitat and so that littoral drift of the materials enhancement shall not adversely affect adjacent spawning grounds or other areas of biological significance as demonstrated through a biological site assessment provided by a qualified professional.

12. Shoreline restoration projects within urban growth areas will be reviewed consistent with the criteria and procedures in WAC 173-27-215. See Table 6.

**Table 6: Shoreline Restoration Projects within Urban Growth Areas**

Type of Restoration	Permits	Reports
<u>Restoration plantings that do not meet the definition of shoreline development per ICC 17.05A.070.</u>	<u>Letter of Compliance issued by Island County Planning &amp; Community Development</u>	<u>Restoration plan prepared by an environmental consultant, or based on standard restoration plan adopted by Island County Planning &amp; Community Development</u>
<u>Restoration or enhancement that meets the definition of shoreline development per ICC 17.05A.070.</u>	<u>Substantial Development Permit (SDP) or Shoreline Exemption (SHE) permit. Exempt status is outlined in WAC 173-27-040(o) and (p). Island County may not require permits or charge fees for fish habitat enhancement projects that meet the requirements of WAC 173-27-040(p)(iii)(A)&amp;(D).</u>	<u>Restoration plan and geocoastal analysis prepared by a qualified professional</u>

**B. Moorage facilities (docks, piers, and floats).**

1. ~~New docks, piers, and floats shall be limited to the minimum size necessary for water-dependent uses, public access, or ecological restoration.~~

2. ~~New docks, piers, and floats shall be located and designed in a manner so as not to interfere with geohydraulic shoreline processes.~~

3. ~~The location and design of new or replaced docks, piers, and floats, as well as the subsequent use, shall minimize adverse effects to fish, shellfish, wildlife, and water quality and shall not result in a loss of shoreline ecological function. Unavoidable impacts shall be mitigated consistent with the mitigation sequence of section 17.05A.090.C.7.~~

4. ~~New or replaced docks, piers, and floats shall be located, designed, and operated so as not to interfere with rights of adjacent property owners, navigation, or adjacent water uses.~~

5. ~~All docks, piers, and floats shall be constructed consistent with state and federal requirements.~~

- ~~6. New or replaced docks, piers, and floats associated with single family residences shall not be approved unless the following information has been provided:~~
  - ~~a. Demonstrate that existing shared, public or community facilities are not adequate or available for use; and~~
  - ~~b. Indicate that a multiple owner or multiple user facility has been thoroughly investigated and is not feasible.~~
- ~~7. Each dock, pier, or float proposal shall be evaluated on the basis of multiple considerations, including but not necessarily limited to the potential and cumulative impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, navigation, scenic views, and public access to the shoreline and the best available background information on tidal currents, wave height, and prevailing storm wind conditions.~~
- ~~8. New docks, piers, and floats associated with residential uses on marine waters shall be the minimum size required to provide for moorage. Single family piers or docks shall not exceed ninety (90) feet in length measured perpendicularly from the OHWM. Shared moorage may extend up to 110 feet in length if demonstrated to be necessary to provide adequate moorage.~~
- ~~9. New piers, docks, and floats on marine waters shall have a maximum width of four (4) feet and a maximum walkway width of four (4) feet. Overwater surfaces shall be constructed of unobstructed grating to provide at least fifty (50) percent open surface area.~~
- ~~10. For new docks, piers, and floats associated with residential uses on lakes, the maximum waterward intrusion of any portion of any pier or dock shall not extend further waterward than the average intrusion of the piers, docks, and floats on lots abutting the location of the new dock as measured perpendicularly from the OHWM unless an alternative dimension is required to prevent impacts to critical habitat or navigation. In no circumstances shall the maximum waterward intrusion of any portion of the pier, dock, or float extend more than sixty (60) feet from the OHWM, or the point where the water depth is eight (8) feet below the OHWM, whichever is reached first.~~
- ~~11. New piers, docks, or floats on lakes shall have a maximum width of four (4) feet, or five (5) feet for shared docks.~~
- ~~12. Pier skirting is prohibited.~~
- ~~13. Repair of existing docks, piers, and floats shall be allowed. Repair of a dock, pier, or float in which more than fifty (50) percent of the decking is replaced or more than half the existing piles are replaced over a five year period shall be considered new construction and shall conform to the performance standards of this SMP.~~
- ~~14. Existing docks, piers, or floats that are non-conforming to the current required dimensional standards may be replaced or reconstructed to the existing dimensions, provided they are consistent with all other performance standards of this section and the standards of the U.S. Army Corps of Engineers and the Washington State Department of Fish and Wildlife and shall include measures that increase light transmission through the deck, maximize the height of piers above the water surface, reduce the overall number or size of piles, enhance the shoreline vegetation, and minimize impacts on shallow water habitat.~~

- ~~15. For commercial and industrial uses, docks, piers, and floats are only allowed for water dependent uses and shall be the minimum size necessary to accommodate the proposed use.~~
- ~~16. Commercial and industrial docks upon which toxic or flammable materials are handled or stored shall make adequate provisions to minimize the probability of spill. Adequate provision shall be made to control accidental spills that do occur.~~
- ~~17. Docks, piers, or floats associated with marinas shall make adequate provisions for parking, fueling, sewage pump out, and liquid and solid waste disposal.~~
- ~~18. All new or replaced docks, piers, floats, and similar devices shall be designed and located so as not to be a hazard to navigation and so marked as to prevent a hazard to navigation at any time during the day or night.~~
- ~~19. All floats and floating docks shall include stops to keep the floats off the tidelands at low tide.~~
- ~~20. For new waterfront subdivisions, planned residential developments, multi-family residences, and inns, only joint use docks and piers may be permitted.~~
- ~~21. Unsafe docks, piers, and floats shall be removed or repaired promptly by the owner.~~
- ~~22. New and replaced docks, piers and floats, with the exception of those in the Canal Communities of Lagoon Point, Sandy Hook and Mariners' Cove, shall comply with the following design standards:
  - ~~a. Designed and constructed to avoid or, if that is not possible, to minimize shading and other impacts on nearshore habitats and processes;~~
  - ~~b. Pilings must be structurally sound prior to placement in the water;~~
  - ~~c. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, containment features in the design of the structures shall be required;~~
  - ~~d. Docks, piers, and floats shall be spaced and oriented to shoreline in a manner that minimizes hazards and obstructions to navigation, fishing, swimming, and pleasure boating;~~
  - ~~e. Overhead wiring or plumbing is not permitted on piers, docks, or floats;~~
  - ~~f. Deck lighting shall be designed to shine downward but not on the surface of the water, be of low wattage, and shall not exceed a height of three (3) feet above the dock surface;~~
  - ~~g. All construction related debris shall be disposed of properly and legally. Any debris that enters the water shall be removed promptly;~~
  - ~~h. Where feasible, floats shall be secured with anchored cables in place of pilings; and~~
  - ~~i. Piles, floats or other members in direct contact with water shall be approved by applicable federal and state agencies for use in water and shall not be treated or coated with~~~~

~~biocides such as paint, or pentachlorophenol. Use of arsenate compounds or creosote treated members is prohibited. Steel is preferred.~~

~~23. A local canal community dock master plan may be permitted as a shoreline conditional use for a duration of six (6) years for the communities of Lagoon Point, Sandy Hook and Mariners' Cove. Once adopted, new and replaced docks, piers and floats in the Canal Communities that comply with the standards of the master plan and are adjacent to the canal would be allowed as permitted uses. An approved master plan would be required to contain, at a minimum, the following:~~

- ~~a. Dock, pier and float dimensional standards;~~
- ~~b. Standards for light penetrating materials (e.g., grating);~~
- ~~c. Standards for materials that touch the water, specifying that they must be approved by applicable federal and state agencies for use in water and not treated or coated with biocides such as paint, creosote or pentachlorophenol; and~~
- ~~d. Protections for existing shoreline ecological functions, views, and navigation.~~

~~24. Through the conditional use process, dimensional standards may be established as part of an approved canal community dock master plan that differ from those for docks, piers, and floats in other parts of the county as provided in section 17.05A.100.D.~~

~~25. Private docks, piers, and floats in the canal communities that face the open waters of the Puget Sound shall comply with the general requirements for docks, piers, and floats in section 17.05A.100.D.~~

~~26. Prior to adoption of a local canal community dock master plan, private docks and piers shall be permitted as conditional uses in the canal communities of Lagoon Point, Sandy Hook, and Mariners' Cove, provided that:~~

- ~~a. New or replaced docks and piers use materials that touch the water that are approved by applicable state agencies for use in water and are not treated or coated with biocides such as paint, creosote or pentachlorophenol;~~
- ~~b. Repaired or replaced docks do not increase the total area of overwater coverage and do not extend beyond the average length of the two (2) closest adjacent docks; and~~
- ~~c. New docks do not exceed the average overwater area of the two (2) closest docks, and the length of the dock, pier, or float does not extend beyond the average length of the two (2) closest adjacent docks, piers, or floats.~~

### **C. Shoreline vegetation maintenance.**

1. Unless otherwise specified, all shoreline use and development, including preferred uses and uses exempt from permit requirements, shall comply with the buffer provisions of ICC 17.05A.090.M to protect and maintain shoreline vegetation and habitat. This section below applies to the removal of vegetation unrelated to normal permitted construction.

2. Removal of native vegetation shall be avoided, where feasible. Where removal of native vegetation cannot be avoided, it shall be minimized to protect ecological functions.

  - a. If native vegetation is to be removed, then replanting shall be required consistent with the shoreline buffer enhancement standards of ICC 17.05A.090.M, except that planting shall be within the shoreline jurisdiction and in a location where most appropriate based on ecological and site characteristics.
3. Removal of non-native vegetation within shoreline jurisdiction may be allowed pursuant to the following standards.

  - a. If non-native shrubs and herbaceous vegetation are to be removed, then it shall be replaced with an equal square footage of native vegetation at appropriate natural densities within the shoreline jurisdiction where most appropriate based on ecological and site characteristics.
  - b. If non-native trees are to be removed, then they shall be replaced with native trees at a ratio of 1:1.
  - c. When the removal of non-native vegetation in accordance items a and b above occurs outside of the shoreline buffer, monitoring shall not be required for the replacement native vegetation.
4. Native plant materials that are equivalent to those which would typically occur with respect to size, structure, and diversity at maturation shall be used in mitigation, restoration, rehabilitation, or enhancement projects.
5. Natural features such as snags, stumps, logs, drift logs, or uprooted trees shall be left undisturbed to support fish and other aquatic systems, except where they would adversely affect navigation or represent a human health or safety risk.
6. Proponents of all new shoreline uses or developments shall demonstrate that site designs and layouts are consistent with the policies of this section to ensure shoreline functions, values, and processes are maintained and preserved. A shoreline permit or written statement of exemption shall not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water, shoreline, or any specific feature near or far.
7. Topping trees is prohibited, except as allowed for hazard trees as described below in item 10 of this section.
8. Selective pruning or thinning of trees for safety or view protection or maintenance may be allowed when the following applies:

  - a. Removal of no more than twenty-five (25) percent of the canopy of any single tree (calculated based on the area of the crown, or upper portion(s) comprised of branches and leaves or as determined by a certified arborist) in any given five-year period; or
  - b. No more than twenty (20) percent of the limbs on any single tree may be removed and no more than twenty (20) percent of the canopy cover in any single stand of

trees may be removed in a given five-year period. This provision does not include tree removal unless such tree has been determined to be a hazard tree in accordance with section 10 below.

- c. Pruning shall comply with the National Arborist Association pruning standards.
- d. If the tree has been determined to be a hazard tree as determined by a certified arborist then the standards of section 10 below apply.
9. The Shoreline Administrator may deny a request or condition approval of vegetation management or removal proposals for view maintenance if it is determined the action will result in an adverse effect to any of the following:

  - a. Slope stability;
  - b. Habitat value;
  - c. Health of surrounding vegetation;
  - d. Risk of wind damage to surrounding vegetation;
  - e. Nearby surface or ground water; or
  - f. Water quality of a nearby water body.
10. Removal of a hazard tree or trees may be allowed pursuant to the following conditions:

  - a. a hazard tree risk assessment is provided by a certified arborist demonstrating that the tree is a hazard tree (that it poses a threat because of its location of damaging permanent physical improvements to property, damaging utilities, or causing personal injury);
  - b. in determining appropriate measures for addressing a hazard tree, the action shall be limited to the minimum necessary to alleviate the hazard as recommended by the certified arborist;
  - b. in all cases, the stump of the tree shall be left in place, consisting of the root-ball and a minimum of two feet of the above-ground trunk, unless otherwise recommended by the certified arborist;
  - c. the portions of the tree removed must be retained on site for the purposes of providing additional wildlife or marine habitat, unless otherwise recommended by the certified arborist;
  - d. disturbance of other native shoreline vegetation should be minimized during removal of the hazard tree;
  - e. when the hazard tree is located within a geologically hazardous area, the submittal of a geotechnical analysis will be required; and

- f. when a hazard tree within shoreline jurisdiction is removed rather than pruned, replanting shall be required at a ratio of 1:1.
11. Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on the Island County or Washington state noxious weed list is permitted in shoreline locations if provision is made for re-establishment of native vegetation in the disturbed area consistent with 17.05.090.M. Ground based motorized equipment may be used if accompanied by a plan for the re-establishment of native vegetation, and with prior written approval of the Shoreline Administrator.
12. Aquatic weed control may be allowed for passive recreation purposes including swimming and boating access from a dock or the shoreline, pursuant to the Washington Department of Fish and Wildlife 2015 Aquatic Plants and Fish pamphlet and successor pamphlets. Use of chemical methods of weed control shall only be allowed when done by a qualified professional, in compliance with the rules of the Department of Ecology, Department of Agriculture and Department of Natural Resources, pursuant to Chapters 173-201A, 16-228 WAC, and Title 222 WAC.
13. the within or near steep and/or unstable slopes, may require a geotechnical analysis. The recommendations of such analysis shall be given priority over the recommendations of a certified arborist.

**CD. Grading and filling.** Grading and filling must be consistent with eChapter 11.01 ICC (land development standards) and eChapter 11.02 ICC (clearing and grading requirements) and may be permitted in shorelines only as follows:

1. Fill may be permitted below the ordinary high water mark only:

  - a. When necessary to support a water-dependent use;
  - b. To provide for public access;
  - c. When necessary to mitigate conditions that endanger public safety;
  - d. To allow for cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan;
  - e. To allow for the disposal of dredged material considered suitable under, and conducted in accordance with, the dredged material management program of the Washington Department of Natural Resources;
  - f. For expansion or alteration of transportation or utility facilities currently located on the shoreline and then only upon demonstration that alternatives to fill are not feasible; or
  - g. As part of mitigation actions, shoreline restoration, or habitat enhancement projects.
2. Fill in flood hazard areas identified on the Flood Insurance Rate Maps (FIRMs) is not allowed unless the director finds that no feasible alternative exists.

3. Land clearing, grading, filling, and altering of wetlands, natural drainage features, and topography are limited to the minimum area necessary for driveways, buildings, and view and solar access corridors, and must conform with critical area requirements and SMP setbacks.
- 2.4. Fill above or below the ordinary high water mark shall comply with the following regulations:

  - a. The extent of filling and excavation allowed shall only be the minimum necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes;
  - b. Grading and filling shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes and mitigation shall employ the mitigation sequence in-section ICC 17.05A.090.B;
  - c. Excavation and fill shall not be permitted if it would adversely affect normal recharge of groundwater supplies, or degrade quantity or quality of groundwater;
  - d. Fill material shall be of a quality, and so placed and contained, as to not cause water quality degradation. Solid waste and other hazardous materials shall not be used as fill material;
  - e. Sanitary landfill sites are prohibited within all shoreline designations;
  - f. The perimeter of all excavation and filling areas shall be provided with means to control erosion, such as vegetation, retaining walls or other mitigation measures; and
  - g. Applications that include placement of fill as a project element shall include the following information:
    - (i). Physical, chemical and biological character of fill material;
    - (ii). Source of fill material;
    - (iii). Method of placement and compaction; and
    - (iv). Method of perimeter erosion control.
5. The following requirements apply to land clearing, grading, filling, or alteration of natural drainage and topography for residential construction:

  - a. Cleared surfaces not to be covered with gravel or impervious surfaces shall be replanted promptly with native or compatible plants (i.e., groundcovers or other plant materials adapted to site conditions which will protect against soil erosion). This applies to individual construction and shoreline subdivisions. Existing vegetation shall be used to visually buffer structures as viewed from the shoreline, public roads, and adjoining properties. All applications for new construction and subdivisions shall identify trees that are proposed to be removed. If trees are to be removed beyond those required to construct a single-family residence, then a tree removal plan shall also be submitted. The plan shall:

- (i). Identify the proposed building areas, driveways, and view corridors; and
  - (ii). Demonstrate how existing natural screening will be retained while providing for construction, views, and sunlight.
  - (iii) Include a report by a certified arborist for any hazard tree removal.
- 6. All building permit applications for new nonresidential construction, uses, structures or activities must show all trees on the site plan and identify any trees proposed to be removed. If trees are to be removed at other times, a tree removal plan must be submitted to the department for review and approval. Site and tree removal plans must:
  - a. Identify the proposed and existing building areas, driveways, and view and solar access corridors;
  - b. Demonstrate how natural screening will be retained while providing for construction, views, and sunlight; and
  - c. Include a report by a certified arborist for any hazard tree removal.
- 7. It is the property owner's responsibility to obtain required state and federal authorizations for work in wetlands, streams, or shoreline waters and provide those authorizations to the County.

**DE. Dredging and dredged material disposal.**

- 1. New development shall be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.
- 2. Dredging and dredged material disposal shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes and avoid or minimize significant ecological impacts.
- 3. Any impacts shall be mitigated consistent with the mitigation sequence in section ICC 17.05A.090.B.
- 4. Dredging and dredged material disposal below the ordinary high water mark shall be permitted only:
  - a. When necessary for the operation of a water-dependent use; or
  - b. When necessary to mitigate conditions that endanger public safety or fisheries resources; or
  - c. For establishing, maintaining, expanding, relocating or reconfiguring navigation channels and basins when necessary to ensure safe and efficient accommodation of existing navigation uses when:
    - (i) Significant ecological impacts are minimized;

- (ii) Mitigation is provided, employing the mitigation sequence in section ICC 17.05A.090.B; and
- (iii) Dredging is maintained to the existing authorized location, depth and width;

- d. For restoration projects associated with implementation of the Model Toxics Control Act or the Comprehensive Environmental Response, Compensation, and Liability Act, or any enhancement or restoration project; or
- e. For flood risk reduction projects conducted in accordance with section ICC 14.02A.050.

- 5. Dredging is not allowed waterward of the ordinary high water mark for the primary purpose of obtaining fill material.
- 6. Disposal of dredged material shall be done only in approved upland disposal sites and shall not be allowed within critical areas or their buffers, except as part of an approved ecological restoration or enhancement project.
- 7. Stockpiling of dredged material in or under water is prohibited.
- 8. In order to ensure that operations involving dredged material disposal and maintenance dredging are consistent with the Shoreline Master Program as required by RCW 90.58.140(1), no dredging may commence in any shoreline designation without the responsible person having first obtained the appropriate local, state and federal permits.
- 9. Proposals that cause substrate displacement or that involve substrate modification through dredging, trenching, or digging shall not be allowed in existing kelp or eelgrass beds without an approved mitigation plan.
- 10. Dredging operations shall minimize interference with navigation and normal public use of the water.
- 11. Dredged materials deposited on sites within the shoreline jurisdiction shall constitute fill, and shall comply with all applicable requirements of this Program, eChapter 11.01 ICC (land development standards) and eChapter 11.02 ICC (clearing and grading requirements), and any applicable dredge disposal plans.

**EE. Breakwaters, jetties, groins, tide gates and weirs.**

**Table 7: Report Requirements for New Construction or Replacement of Tide-gates and Breakwaters**

Type of Development	<u>Reports required for applications for replacement or new structures, not for maintenance<sup>1</sup></u>	<u>Alternative designs, in order of least to most ecological impact</u>

<u>Tide-gates:</u>	<u>Alternatives Analysis, Demonstration of Need, Geocoastal Analysis, Biological Site Assessment with Mitigation</u>	<ol style="list-style-type: none"><li>1. <u>Open channel system.</u></li><li>2. <u>Tide-gate that allows for fish passage and saltwater exchange.</u></li><li>3. <u>Tide-gate that allows for saltwater exchange but not fish passage.</u></li><li>4. <u>Tide-gate that does not allow saltwater exchange.</u></li></ol>
<u>Breakwaters:</u>	<u>Alternatives Analysis, Demonstration of Need, Geocoastal Analysis, Biological Site Assessment with Mitigation</u>	<ol style="list-style-type: none"><li>1. <u>No breakwater.</u></li><li>2. <u>Floating type breakwater.</u></li><li>3. <u>Berm breakwater or conventional rubble-mound breakwater.</u></li><li>4. <u>Permeable vertical or horizontal composite breakwater, including piled design.</u></li><li>5. <u>Permeable vertical breakwater on foundation.</u></li><li>6. <u>Impermeable vertical wall breakwater on foundation.</u></li></ol>

1: If no permitted tide-gate maintenance has occurred for a period of 5 years, all repair and maintenance requires complete report submittal and alternatives analysis.

1. Breakwaters, jetties, groins, tide gates, and weirs located waterward of the OHWM shall be allowed only where necessary to support water-dependent uses, public access, or other specific public purpose.
2. Groins and jetties may be permitted only as part of a community or public beach management program, or when necessary to support a water-dependent use.
3. Breakwaters, jetties, groins, tide gates, and weirs shall be designed, located, sized, and constructed to ensure no net loss of ecological functions.
4. Breakwaters, groins, tide gates, and weirs shall be professionally designed based on a geotechnical report geocoastal analysis and biological site assessment that demonstrates the project can be constructed in a manner that:
  - a. Protects critical areas including critical saltwater habitat;
  - b. Provides for mitigation according to the sequence defined in section ICC 17.05A.090.B;

- c. Avoids detrimental impacts on the movement of sediment and circulation of water; and
- d. Would not damage the property of others by changing rates of sediment, redirection of wave energy, or impoundment of or redirection of floodwater or tidal action.

- 5. Breakwaters, jetties, groins, tide gates, or weirs that would cause significant impacts to adjacent or down-current properties and shoreline areas are prohibited.
- 6. Adjacent to marine feeder bluffs, breakwaters, jetties, groins, tide gates, and weirs may be permitted only when it is demonstrated by a professional engineer or geologist that construction will not substantially disrupt the beach feeding action or littoral drift.
- 7. Replacement of existing breakwaters, jetties, groins, tide gates, or weirs shall be regulated as new structures.
- 8. All applications for construction, repair, or replacement of breakwaters or tide-gates shall include the reports indicated in Table 7 above.

## **17.05A.120 - Shorelines of statewide significance.**

- A. In addition to compliance with the use requirements which hereafter follow, developments proposed within shorelines of statewide significance shall, insofar as is possible:
  - 1. Recognize and protect the statewide interest over local interest;
  - 2. Preserve the natural character of the shoreline;
  - 3. Result in long term over short term benefit;
  - 4. Protect the resources and ecology of the shorelines;
  - 5. Increase public access to publicly owned areas of the shorelines;
  - 6. Increase recreational opportunities for the public in the shoreline; and
  - 7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.
- B. In addition to compliance with the appropriate use requirements of this chapter, forest practices situated within the shoreline jurisdiction of statewide significance shall employ selective timber cutting so that no more than thirty (30) percent of the merchantable trees may be harvested in any ten-year period of time; provided, that other timber harvest methods may be permitted in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective timber cutting ecologically detrimental, subject to approval of a conditional use permit for such timber harvest methods.
- C. Permit review for restoration projects shall be prioritized over other projects in the shoreline.

D. If the county develops a fee-in-lieu program for the provision of public access, the Shoreline Administrator shall prioritize provision and improvement of public access to publicly owned shorelines of statewide significance.

### **17.05A.130 - Shoreline Master Program procedures.**

A. **Shoreline permit applications.** Any person desiring to undertake substantial development on shorelines of the state located within Island County shall apply to the Island County Planning and Community Development Department for a shoreline permit, in a format established by the county. The application shall contain, at a minimum, such information as is required by state and local rules and regulations adopted pursuant to the SMA. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, Chapter 173-27 WAC, and this Shoreline Master Program whether or not a permit is required.

B. **Shoreline permit application requirements.** A complete application for a shoreline substantial development, conditional use, or variance permit shall contain, at a minimum, the following information:

1. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project, and not the representative of the owner or representative of the primary proponent;
2. The name, address and phone number of the applicant's representative if other than the applicant;
3. The name, address and phone number of the property owner, if other than the applicant;
4. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location;
5. Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the ~~a~~Act over the project is derived;
6. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project;
7. A general description of the property as it now exists including its physical characteristics and improvements and structures; and
8. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
  - a. The boundary of the parcel(s) of land upon which the development is proposed;

- b. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location, provided that, for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, a description of the field indicators observed and rationale for determination shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline;
  - (i) Where a conflict or dispute arises between an applicant's determination of ordinary high water mark and the county's determination, the applicant and the county shall each provide a written justification for their individual ordinary high water mark determinations to the Department of Ecology.
  - (ii) The Department of Ecology shall make the final ordinary high water mark determination based on their own investigation and the information provided by the applicant and the county.
- c. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area;
- d. A delineation of all wetland areas that will be altered or used as a part of the development;
- e. A general indication of the character of vegetation found on the site;
- f. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities;
- g. Where applicable, a landscaping plan for the project consistent with the requirements of this SMP;
- h. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section;
- i. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent;
- j. Quantity, composition and destination of any excavated or dredged material;
- k. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties;

- I. Where applicable, a depiction of the impacts to views from existing residential uses and public areas; and
- m. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

**C. Permit review process and approving authority.**

1. Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by Island County.
2. Shoreline exemptions are subject to a Type I or Type II application and shall be subject to the land use review process described in eChapter 16.19 ICC.
3. Unless the underlying approval is classified as a Type III decision, shoreline substantial development permits, shoreline conditional use permits, and shoreline variances, are Type II applications and shall be processed and subject to the land use review process outlined in eChapter 16.19 ICC. Although pre-application conferences are optional for shoreline substantial development permits, shoreline conditional use permits, and shoreline variances, applicants for these permit types are encouraged to have a pre-application conference prior to application submittal. The Shoreline Administrator may refer a shoreline substantial development permit application, shoreline conditional use application, or shoreline variance application to the Hearing Examiner for a public hearing and decision when requested by the Applicant or when the Shoreline Administrator determines that such action is prudent based on the significance of public comments received, or based on the scale and scope of the proposal.
4. In cases where this Chapter requires applicants to take certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.
54. Determinations of the Shoreline Administrator regarding applicability of the SMP, exemptions and application requirements shall be processed as Type I decisions pursuant to eChapter 16.19 ICC.
65. The Hearing Examiner shall conduct reviews and appeals of decisions on shoreline applications consistent with provisions of sectionICC16.19.170, sectionICC 16.19.180 and sectionICC 16.19.190.
6. The Shoreline Administrator shall make decisions on applications for substantial development permits, and recommendations on applications for conditional use and variance permits based upon: The policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code; and the Island County Shoreline Master Program.
7. A notice of application shall be issued for all shoreline permit applications as provided for in eChapter 16.19 ICC, which is consistent with WAC 173-27-110. The public comment

period for the notice of application for a shoreline permit shall be not less than thirty (30) days, per WAC 173-27-110(2)(e).

8. Special procedures for Washington State Department of Transportation projects.
  - a. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.
  - b. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.
98. All applications for a permit or permit revision shall be submitted to the Department of Ecology, as required by WAC 173-27-130 or as subsequently amended.
109. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. A permit revision shall be consistent with provisions of WAC 173-27-100. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Master Program and the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.
1140. After county approval of a conditional use or shoreline variance permit, the county shall submit the permit to the Department of Ecology for the Department's approval, approval with conditions, or denial, as provided in WAC 173-27-200. The Department shall transmit its final decision to the county and the applicant within thirty (30) calendar days of the date of submittal by the county.
12. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the county will, concurrently with the transmittal of the ruling to the applicant, mail the final decision on the permit application, using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require conditional use permits and/or variances shall be mailed simultaneously with any substantial development permits for the project.
  - a. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.
  - b. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:
    - (i) For projects that only require a substantial development permit (SDP): the date that Ecology receives the county's decision.

(ii) For a shoreline conditional use permit (SCUP) or shoreline variance (SVAR): the date that Ecology's decision on the SCUP or SVAR is transmitted to the applicant and the county.

(iii) For SDPs simultaneously mailed with an SCUP or SVAR to Ecology: the date that Ecology's decision on the SCUP or SVAR is transmitted to the applicant and the county.

1344. Each permit issued by the county shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with the Department of Ecology, per WAC 173-27-190 or as subsequently amended. ~~"Date of filing" of the county's final decision on substantial development permits differs from date of filing for a conditional use permit or variance. In the case of a substantial development permit, the date of filing is the date the county transmits its decision on the permit to the Department of Ecology. In the case of a variance or conditional use permit, the "date of filing" means the date the Department of Ecology's final order on the permit is transmitted to the county.~~ Construction, or the use or activity, shall commence within two (2) years after approval of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The Administrator may authorize a single extension before the end of either of these time periods, with prior notice to parties of record and the Department of Ecology, for up to one (1) year based on reasonable factors.

1442. Compliance with permit conditions. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity.

15. Responsibilities of the Shoreline Administrator.

- a. Provides technical and administrative assistance to the hearing examiner as required, and provides such technical assistance to the Board of Island County Commissioners as may be needed; and
- b. The Shoreline Administrator shall make decisions on applications for substantial development permits, and recommendations on applications for conditional use permits and variances based upon:
  - (i) The policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code; and
  - (ii) The Island County Shoreline Master Program.
- c. Determinations of the Shoreline Administrator regarding applicability of the SMP, exemptions and application requirements shall be processed as Type I decisions pursuant to Chapter 16.19 ICC.
- d. Establishing the procedures and preparing the forms deemed essential for the administration of the SMP;

- e. Advising applicants for permits and other interested persons of the policies, regulations, and procedures established by the SMP and the SMA;
- f. Making administrative interpretations of the SMP, as necessary;
- g. Collecting required fees;
- h. Determining that applications are proper and complete prior to review;
- i. Making field inspections; and
- j. Enforcing the provisions of the SMP and the SMA, and permits issued under them, and with conditions attached to a shoreline permit issued by the county.

**D. Shoreline Master Program review and amendments.**

- 1. ~~Any of the provisions of this Shoreline Master Program may be amended as provided for in RCW 90.58.120, 200 and Chapter 173-26 WAC. Amendments shall be processed as a Type IV decision pursuant to chapter 16.19.~~
- 2. ~~This Shoreline Master Program (SMP) shall be periodically reviewed and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.~~
- 3. ~~The county's established permit tracking system, aerial photographs, review of other available data, and field observations as feasible shall be used to periodically evaluate the effectiveness of the Shoreline Master Program in achieving no net loss of shoreline ecological functions with respect to both permitting and exemptions.~~
- 4. ~~As part of the required SMP update, an evaluation shall be conducted every eight (8) years assessing the effectiveness of the SMP in achieving no net loss and a report shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.~~
- 5. ~~The SMP review and update process shall be consistent with the requirements of WAC 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.~~
- 6. ~~Amendments or revisions to the Island County Shoreline Master Program, as provided by law, do not become effective until approved by the Department of Ecology.~~

**ED. Shoreline substantial development permits and exemptions.**

- 1. **Permits required.**
  - a. Any development, use, or activity shall not be undertaken within the jurisdiction of the SMA, and ~~this shoreline Master Program~~ unless it is consistent with the policy and procedures of the Act, Chapter 90.58 RCW, ~~WAC Chapter 173-27 WAC~~, and other applicable federal and state regulations, and the adopted Island County Shoreline Master Program.

- b. A substantial development shall not be undertaken within the jurisdiction of the SMA, Chapter 90.58 RCW, and this Shoreline Master Program unless a shoreline substantial development permit has been obtained and the appeal period has been completed and any appeals have been resolved and the applicant has been given permission to proceed by the proper authority.
  - c. Any person wishing to undertake substantial development or exempt development on shorelines shall apply to the Shoreline Administrator for an appropriate shoreline permit or statement of exemption.
  - d. If a development, use or activity is listed as a conditional use by the Shoreline Master Program, it shall not be undertaken within shoreline jurisdiction unless a shoreline conditional use permit has been obtained, the appeal period has been completed, any appeals have been resolved, or the applicant has been given permission to proceed by the proper authority.
2. Exemptions from substantial development permit requirements.
  - a. Shoreline exemptions are processed as a Type I or Type II application and shall be subject to the land use review process described in Chapter 16.19 ICC.
  - ab. Exemptions shall be narrowly construed in accordance with WAC 173-27-040(1). A use classified as a shoreline conditional use or a use not named or contemplated is allowed only as a shoreline conditional use and is ineligible for shoreline permit exemption.
  - bc. Permit exemption letters shall be prepared for projects requiring Federal Rivers and Harbors Act ~~s~~Section 10 permits and/or Federal Clean Water Act ~~s~~Section 404 permits.
  - ed. Key terms used in this section are defined in the definitions sections, including: normal appurtenance, consumer price index, normal maintenance, normal and repair, normal protective bulkhead, shoreline stabilization, and emergency.
  - de. The following, as defined in WAC 173-27-040, are not considered to be substantial developments:
    - (i) Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~six thousand four hundred and sixteen dollars (\$6,416.00)~~ the Substantial Development Dollar Threshold as set by the Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five (5) years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

- (ii) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;
- (iii) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual OHWM. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington Department of Fish and Wildlife;
- (iv) Emergency construction necessary to protect property from damage by the elements. An emergency is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this SMP. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this Shoreline Master Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

- (v) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures, including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot (an animal feeding operation) of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling other than that which result from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
- (vi) Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids, such as channel markers and anchor buoys. WAC 173-27-040(2)(f);
- (vii) Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the county and state agency having jurisdiction thereof, other than requirements imposed pursuant to Chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one (1) family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield, and grading which does not exceed 250 cubic yards and which does not involve placement of fill waterward of the Ordinary High Water Mark or in any wetland. Construction authorized under this exemption shall be located landward of the ordinary high water mark and shall be subject to required setbacks. Construction authorized under this exemption shall be located landward of the ordinary high water mark;
- (viii) Construction of a dock, including a community dock, designed for pleasure craft only, for the private, non-commercial use of the owners, lessee, or contract purchaser of single- and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exemption applies if ~~the fair market value of the dock does not exceed~~:
  - (1) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars (\$2,500.00).
  - (2) In fresh waters, the fair market value of the dock does not exceed:
    - (a) ~~twenty-two thousand five hundred dollars (\$22,500) ten thousand dollars (\$10,000.00) for docks that are constructed to replace~~

existing docks, and are of equal or lesser square footage than the existing dock being replaced; or

(b) Eleven thousand two hundred (\$11,200) dollars for all other docks constructed in fresh waters.

(3) However, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500.00) occurs within five (5) years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

- (ix) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of the system waters, including return flow and artificially stored groundwater from the irrigation of lands. WAC 173-27-040(2)(i);
- (x) The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water. WAC 173-27-040(2)(j);
- (xi) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as part of an agricultural drainage or diking system. WAC 173-27-040(2)(k);
- (xii) Any project with a certification from the governor pursuant to Chapter 80.50 RCW (certification from Energy Facility Site Evaluation Council (EFSEC));
- (xiii) Site exploration and investigation activities that are prerequisite to preparation of an application for development authority under this chapter if:
  - (1) The activity does not interfere with the normal public use of the surface waters;
  - (2) The activity will have no significant adverse impact on the environment, including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
  - (3) The activity does not involve the installation of any structure, and upon completion of the activity, the vegetation and land configuration of the site are restored to conditions existing before the activity;
  - (4) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the county to ensure that the site is restored to pre-existing condition; and

- (5) The activity is not subject to the permit requirements of RCW 90.58.550, WAC 173-27-040(2)(m);
- (xiv) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under Chapter 43.21C RCW;
- (xv) Watershed restoration projects as defined in RCW 90.58, in accordance with WAC 173-27-040(2)(o);
- (xvi) A public or private project that is designed to improve fish or wildlife habitat or fish passage, as provided in WAC 173-27-040(2)(p), when all of the following apply:
  - (1) The project has been approved by the Washington Department of Fish and Wildlife (WDFW);
  - (2) The project has received hydraulic project approval by the WDFW pursuant to 75.20 RCW; and
  - (3) The county has determined that the project is substantially consistent with this shoreline master program;
  - (4) Fish habitat enhancement project meets the criteria of RCW 77.55.181.
- (xvii) Hazardous substance remedial actions, as specified in WAC 173-27-0440(3); and
- (xviii) Normal appurtenances to a single-family residence are included in the permit exemption provided in ~~section~~ ICC 17.05A.130.~~E~~D.2.~~e~~vii. "Normal appurtenances" include a garage, ~~deck~~, driveway, utilities, ~~fence~~, septic tank and drainfield, and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland, or waterward of the ordinary high water mark. Normal appurtenances to a single-family residence also include:
  - (1) Beach access structures (i.e., stairways and tramways) and footpaths when in compliance all other provisions of this chapter;
  - (2) Gazebos and sheds located outside of the buffers required by this ~~e~~Chapter, not exceeding 200 square feet in total impervious footprint, and not exceeding two (2) such structures per single-family lot;
  - (3) Fill that does not exceed 250 cubic yards in total, necessary during the original construction of a single-family residence for the following purposes as described below:

- (a) Normal landscaping, to include topsoil, rock or similar landscaping materials but not including mulch;
- (b) Structural fill, only as necessary to comply with building code requirements related to the structural integrity of a foundation and not to include fill required for parcel flood-proofing, wetland fill or other fill activities; and
- (c) Fill required for driveway construction, not including asphalt or concrete; and
- (d) Fill placed entirely within a foundation wall or associated with a drainfield shall not count toward the 250 cubic yards;
- (4) Antennas and satellite dishes that are less than one (1) meter in diameter; and
- (5) Solar arrays serving only the single-family residence.

(xix) The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

f. Those shoreline uses which are exempt from a substantial development permit, shall still require department review through either a shoreline exemption or a limited review shoreline exemption.

(i). Shoreline exemptions which may be processed as limited review shoreline exemptions are those uses which require minimal interagency coordination and regulatory review and meet all of the following criteria listed below:

- (1) the project is exempt from substantial development permit requirements per WAC-173-27-040;
- (2) the project qualifies for a Type I permit review per Chapter 16.19 ICC;
- (3) the project does not require a threshold determination under SEPA; and
- (4) the project is not within a wetland, stream, critical drainage area, flood hazard area, steep slope, geologically hazardous area, habitat of local importance, FWHCA, or an associated buffer. Unless, that FWHCA is a marine buffer and neither a threshold determination under SEPA nor a biological site assessment is required; in such a case the project may still be processed as a limited review provided it meets the other criteria of this section.

(ii). The following process requirements apply to limited review shoreline exemptions.

- (1) Multiple projects on a single parcel may be processed as a singular limited review, provided that the individual projects meet the criteria for a limited review as outlined in this section.
    - (2) Prior to issuing a decision on a limited review application, the department may request verification that the original use or structure was legally established.
    - (3) If the project is in the vicinity of cultural resources, review from DAHP is necessary.
  - (iii). Uses that qualify for limited review shoreline exemption include, but are not limited to, the following.

    - (1) Like-for-like replacement of an existing, legally established and permitted structure which is 400 square feet or less in size such as decks, porches, carports, garages or tool sheds. The replacement shall not include any changes to the size, location, or configuration of the structure or include habitable space.
    - (2) Like-for-like replacements of septic components which do not increase septic capacity by more than ten (10) percent.
    - (3) Small additions, that do not exceed 400 square feet or 25% of the existing footprint, whichever is less, where the addition is made to the landward side of an existing residence, such as decks, porches, carports, or garages. Such additions shall not include habitable space.
    - (4) Minor accessory structures such as tool sheds, garden sheds, or greenhouses located to the landward side of the shoreline setback.
    - (5) Normal maintenance and repair of accessory structures that do not include habitable space.
    - (6) Raising a single family home to meet the flood development standards of Chapter 14.02A ICC.
    - (7) Retrofits to existing structures to comply with the Americans with Disabilities Act.
    - (8) Other uses may qualify for limited review subject to department review prior to application submittal.
- g. Installation of minor heating, ventilation, and air conditioning (HVAC) appurtenances are exempt from all shoreline permits, including the limited review shoreline exemption process outlined in item f above, provided that all applicable codes, setbacks, and the following requirements are met:

  - (i) the unit is installed at or above grade;

- (ii) the impervious footprint (which includes any precast concrete or other stabilization installed with the HVAC appurtenance) is less than twelve (12) square feet;
- (iii) the impervious footprint does not extend further than three (3) feet from the exterior wall of the building;
- (iv) the impervious footprint does not encroach into the shoreline setback or buffer;
- (v) the HVAC unit does not impact views per this Chapter;
- (vi) for existing structures within the shoreline setback or buffer the unit shall not be placed closer to the shoreline than the existing residence or an existing structure (such as a deck or patio); and
- (vii) installing the HVAC system does not include excavation or the pouring of concrete.

h. Vegetation maintenance activities pursuant to ICC 17.05A.110.C are exempt from all shoreline permits, including the limited review shoreline exemption process outlined in item f above.

**FE. Shoreline conditional use permit.**

1. The purpose of a shoreline conditional use permit is to provide a system within the Shoreline Master Program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a shoreline conditional use, special conditions may be attached to the permit to prevent undesirable effects of the proposed use and to ensure consistency of the project with the Act and the Island County Shoreline Master Program.
2. Uses which are classified or set forth as shoreline conditional uses in the Master Program may be authorized, provided the applicant demonstrates all of the following conditional use criteria as listed in WAC 173-27-160:
  - a. That the proposed use is consistent with the policies of RCW 90.58.020 and the Master Program;
  - b. That the proposed use will not interfere with the normal public use of public shorelines;
  - c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Shoreline Master Program;
  - d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
  - e. That the public interest suffers no substantial detrimental effect.

3. In the granting of shoreline conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
  - a. The county shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts including, but not limited to, impacts on fish and wildlife habitat, public access/use, aesthetics, and other shoreline attributes.
  - b. Proponents of the shoreline use and development shall take the following factors into account when assessing cumulative impacts:
    - (i) Current ecological functions and human factors influencing shoreline natural processes; and
    - (ii) Reasonably foreseeable future use and development of the shoreline; and
    - (iii) Beneficial effects of any established regulatory programs under other local, state, and federal laws; and
    - (iv) Mitigation measures implemented in conjunction with the proposed project to avoid, reduce and/or compensate for adverse impacts.
4. Other uses which are not classified or set forth in this Master Program may be authorized as shoreline conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the Master Program.
5. Uses which are specifically prohibited by the Master Program may not be authorized.

**GF. Shoreline Variance.**

1. The purpose of a variance is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the Shoreline Master Program, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Island County SMP would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020.
2. Construction pursuant to a variance permit shall not begin nor can construction be authorized except as provided in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

3. An application for a shoreline variance shall be submitted on a form provided by the county accompanied by maps, completed environmental checklist, applicable fees, and any other information specified in this Master Program or requested by the Shoreline Administrator.
4. An applicant for a substantial development permit who wishes to request a variance shall submit the variance application and the substantial development permit application simultaneously.
5. Variances for development that will be located landward of the ordinary high water mark and landward of any wetland may be authorized provided the applicant can demonstrate consistency with the following variance criteria as listed in WAC 173-27-170:
  - a. That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes, or significantly interferes with, reasonable use of the property;
  - b. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program and not, for example, from deed restrictions or the applicant's own actions;
  - c. That the design of the project is compatible with other permitted activities within the area and with uses planned for the area under the Comprehensive Plan and Master Program and will not cause adverse impacts to the shoreline environment;
  - d. That the variance requested is the minimum necessary to afford relief and will not constitute a grant of special privilege not enjoyed by other properties in the area; and
  - e. That the public interest will suffer no substantial detrimental effect.
6. Variances for a development or uses that will be located waterward of the ordinary high water mark or within any wetland may be authorized provided the applicant can demonstrate all of the following:
  - a. That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes all reasonable use of the property;
  - b. That the proposal is consistent with the criteria established in this SMP; and
  - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
7. Decision Criteria – Wetland or Fish and Wildlife Habitat Buffer. Where the Shoreline Variance request includes a reduction to a wetland or fish and wildlife habitat area buffer, the applicant shall demonstrate the following:
  - a. Approval of the variance will not adversely impact water quality or quantity.

- b. Approval of the variance will not adversely impact any functional attribute of the habitat area.
- c. Approval of the variance will not jeopardize the continued existence of species listed by the Federal government or the State as endangered, threatened, sensitive, or documented priority species or priority habitats.
- d. The proposal avoids adverse impacts, where feasible, and provides mitigation, pursuant to ICC 17.05A.090.B.

- 7.8. In the granting of all variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
- 89. Variances from the use regulations of the Island County Shoreline Master Program are prohibited.

**HG. Notice of approval or denial.** The Island County Planning and Community Development Department shall notify the following persons in writing of the final approval or denial of a shoreline permit as required by law:

1. The applicant;
2. The Washington State Department of Ecology;
3. All "parties of record" for each decision as defined in eChapter 16.19 ICC, and any person who has written the planning department requesting such notice; and
4. Any affected Indian tribe.

**IH. When substantial development may commence.** Construction pursuant to a shoreline permit shall not begin or be authorized until thirty (30) days from the date the final order granting the permit was filed with the Washington State Department of Ecology pursuant to RCW 90.58.140(6), or until all review proceedings are terminated if such proceedings were initiated within thirty (30) days from the date of such filing, except as provided in RCW 90.58.140(5), (b) and (c). Issuance of a shoreline permit shall in no way be construed as excusing the applicant from compliance with any other local, state, or federal statutes, ordinances, or regulations applicable to the proposed substantial development.

**JL. Appeals to Shorelines Hearings Board.** After completing any administrative appeal regarding a shoreline substantial development permit pursuant to eChapter 16.19 ICC, further review may be sought by appeal to the Washington State Shorelines Hearings Board pursuant to Chapter 90.58 RCW.

No Shoreline conditional use permit or variance approval by the county is final until reviewed and approved by the Department of Ecology according to WAC 173-16-070<sup>130</sup> or as hereafter amended. Further review may then be sought by appeal to the Washington State Shorelines Hearings Board pursuant to Chapter 90.58 RCW.

**J. Moratoria authority and requirements**

1. Island County has authority to adopt a moratorium control or other interim control on development under RCW 90.58.590.
2. Before adopting the moratorium, Island County must:
  - a. Hold a public hearing on the moratorium or control;
  - b. Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;
  - c. Notify the department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing; and
  - d. Provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium.
4. The public hearing must be held within sixty days of the adoption of the moratorium or control.
5. A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.
6. A moratorium or control may be renewed for one or more six-month periods if Island County complies with the requirements in subsection (2) above before each renewal.

**K. Fees.** A fee as set by the Board shall be paid to the Island County Planning and Community Development Department at the time a shoreline permit application is accepted to cover the cost of administration.

**D. Shoreline Master Program review and amendments.**

1. Any of the provisions of this Shoreline Master Program (SMP) may be amended as provided for in RCW 90.58.120 and 90.58.200 and Chapter 173-26 WAC. Amendments shall be processed as a Type IV decision pursuant to Chapter 16.19 ICC.
2. This SMP shall be periodically reviewed and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.
3. The county's established permit tracking system, aerial photographs, review of other available data, and field observations as feasible shall be used to periodically evaluate the effectiveness of the SMP in achieving no net loss of shoreline ecological functions with respect to both permitting and exemptions.

4. As part of the required SMP update, an evaluation shall be conducted every eight (8) years assessing the effectiveness of the SMP in achieving no net loss and a report shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.
5. The SMP review and update process shall be consistent with the requirements of WAC 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.
6. The Island County Planning and Community Development and Planning Commission have authority to review and recommend revisions to the SMP.
7. Amendments or revisions to the Island County SMP, as provided by law, are effective 14 days from Ecology's written notice of final action.

( Ord. No. C-107-15 [PLG-007-15] , Exh. B, 10-15-2015)

### **17.05A.140 – Nonconforming development.**

Nonconforming use or development means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or this Master Program, or amendments thereto, but which does not conform to present regulations or standards of this Master Program. In such cases, the following standards shall apply:

- A. In all cases, the burden shall be on the property owner and/or applicant to prove that a use or structure was lawfully constructed or established. For establishing the existence of shoreline stabilization structures. see ICC 17.05A.110.A.3.h.
- B. Nonconforming Structures.
  - A.1. Residential and appurtenant structures (excluding bulkheads, overwater structures or other shoreline modifications) that were legally established and are used for a conforming use, but that do not meet current standards for density, lot size, setbacks and buffers shall be considered a conforming structure. Redevelopment, expansion, or replacement of these residential structures shall be consistent with this Shoreline Master Program, including requirements for no net loss of shoreline ecological functions. Nothing in this section: (a) Restricts the ability of this Master Program to limit redevelopment, expansion, or replacement of overwater structures located in hazardous areas, such as floodplains and geologically hazardous areas; or (b) affects the application of other federal, state, or local government requirements to residential structures.
  - B.2. Structures that were legally established and are used for a conforming use, but which are nonconforming with regard to setbacks, buffers, area, bulk, height or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses. Also see the provisions of ICC 17.05A.090.1 for shoreline setback, shoreline buffer, and impervious surface modifications permitted without a shoreline variance.

- a. Lateral expansion of structures into areas prohibited by current bulk, dimensional or performance standards shall require a variance, with the following exception.
  - (i) For the replacement of legally non-conforming factory-built homes, a greater building footprint than existed prior to replacement may be allowed in order to accommodate the replacement of a factory built home with another factory built home that does not have the same size and shape. A proposed increase less than twenty-five percent of the existing home's footprint shall not require a variance.
  - (ii) Applications for such replacements shall include a habitat management plan that identifies measures to protect habitat and mitigates for unavoidable impacts. The replacement home may be no closer to the shoreline than the existing residence.
- C. Uses that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in this SMP upon approval of a conditional use permit;
- D. A use which is listed as a conditional use, but which existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use, but which existed prior to the applicability of the Master Program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use;
- E3. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities;
- F. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:
  - 1. No reasonable alternative conforming use is practical; and
  - 2. The proposed use will be at least as consistent with the policies and provisions of the Act and the Master Program and as compatible with the uses in the area as the preexisting use.

In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Master Program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard;

- 4. Rebuilding After Damage. If a nonconforming development sustains major structural damage due to fire, flood or other natural disaster, it may be reconstructed upon its original site and to the configuration existing immediately prior to the damage, provided:

- a. The rebuilt structure will not cause adverse effects to adjacent properties or to the shoreline environment; and
- b. The site is geologically stable; and
- c. No horizontal or vertical expansion or enlargement of the footprint or height, or any degree of relocation, will occur; and
- d. No degree of relocation will occur, except to increase conformity, in which case the structure shall be located as far landward as possible or in the least environmentally damaging location relative to the shoreline or any critical area; and
- e. The submittal of applications for permits necessary to restore the development is begun within one year of the damage. The administrator may waive this requirement in situations with extenuating circumstances such as resolution of an estate, or widespread economic or natural disaster; and
- f. The reconstruction is commenced within two years of the issuance of permits. Administrator may allow a one-year extension.

G.5. A nonconforming structure which is moved any distance must be brought into conformance with the Master Program and the Act to the maximum extent feasible;

H. ~~If a nonconforming development is unintentionally damaged to an extent not exceeding seventy-five (75) percent of its real valuation exclusive of foundations, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, provided that application is made for the permits necessary to restore the structure within one (1) year of the date the damage occurred, all permits are obtained, and the restoration is completed within two (2) years of permit issuance;~~

I.6. If a nonconforming structure is intentionally modified and the cost of the proposed development exceeds sixty (60) percent of the fair market value of the replacement cost of the original structure, it shall be required to meet all applicable standards in the SMP;

7. Applications for the movement, replacement, redevelopment, expansion or modification of nonconforming structures must demonstrate that the proposed action will not:

- a. Result in a net loss of shoreline ecological functions;
- b. Increase adverse impacts on shoreline critical areas;
- c. Create a new nonconformance or increase the degree of inconsistency with the provisions of this SMP; or
- d. Result in a hazard to people or property.

8. To demonstrate no net loss of shoreline ecological functions, an analysis must be provided by the applicant that addresses any:

- a. Increase in the quantity of pollutants from the site;

- b. Increase in the quantity of surface runoff from the site;
- c. Decrease in trees and other vegetation within buffers and tree protection zones;
- d. Decrease in the stability of the site and other properties; and
- e. Changes to the transport of sediment to and within nearshore areas.

C. Nonconforming Uses.

1. Uses that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that:
  - a. Nonconforming single-family residential uses that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in this SMP upon approval of a shoreline variance, consistent with ICC 17.05A.090.J;
  - b. Nonconforming, legally established water-related and water-enjoyment commercial uses may be enlarged or expanded upon approval of a conditional use permit. Such uses shall conform to applicable buffer and setback standards and cause not net loss of ecological functions over time.
2. A use which is listed as a conditional use, but which existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use, but which existed prior to the applicability of the Master Program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use;
3. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:
  - a. No reasonable alternative conforming use is practical; and
  - b. The proposed use will be at least as consistent with the policies and provisions of the Act and the Master Program and as compatible with the uses in the area as the preexisting use.

In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Master Program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard;
- J.4. A nonconforming use that is discontinued for a period of twenty-four (24) continuous months shall not be allowed to be re-established as a nonconforming use; and

**D. Nonconforming lots.**

K.1. An undeveloped lot, tract, parcel, site, or division of land located landward of the Ordinary High Water Mark which was established prior to the effective date of the Act or the Master Program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the Master Program and the Act.

**17.05A.150 - Penalties and enforcement.**

Any person who shall fail to conform to the terms of a permit issued under this chapter or who shall undertake development on the shorelines of the state without first obtaining any permit required under this chapter shall be subject to the penalties and enforcement provisions of ~~section~~ICC 17.03.260 except the civil penalty for violation shall be as set forth in RCW 90.58.210. In addition, Island County and the Department of Ecology shall have the authority to take enforcement action pursuant to RCW 90.58.210, .220, and .230, and WAC 173-27-240 through ~~WAC 173-27-300~~310.

**17.05A.160 - Severability.**

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provisions to other persons or circumstances shall not be affected.

**17.05A.170 – Conflict of Provisions.**

Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the county, the requirement that most supports the purposes and provisions of the Shoreline Management Act, as detailed in RCW 90.58.020, shall apply, as determined by the county, except when constrained by federal or state law.

In case of any ambiguity, difference of meaning, or inconsistencies between the text and any illustrations or other graphics and maps, the text throughout this Title, including text within tables, shall control. In addition, in case of any ambiguity, difference of meaning, or inconsistencies between the text throughout this Title, and the text within tables, the text throughout this Title shall control.

**17.05A.180 - Effective date.**

This chapter shall take effect on January 19, 2016 upon approval by the Department of Ecology, and shall apply to new applications submitted on, or after that date and to incomplete applications filed prior to that date.

## EXHIBIT C: SHORELINE MANAGEMENT ELEMENT OF COMPREHENSIVE PLAN



Photo by Matt Kukuk

**Island County's Shoreline Master Program (SMP) carries out the policies of the SMA for the unique Puget Sound and lake shorelines across Whidbey, Camano, and other small islands.**

**The SMP provides policies, regulations, and permit procedures for shoreline development tailored to the unique geographic, economic, and environmental needs of Island County.**

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### MAP 3A. Shoreline Environmental Designations



This map is intended to be used as a GUIDE. Island County is providing this information as a general geographic representation that should not be used for precise measurements or calculations. Some of the features on this map are not accurately depicted. Any user of this map assumes all responsibility for use and agrees to hold Island County harmless for liability, damages, or loss incurred by use of this information. Specific questions should be directed to Island County's Department of Planning and Community Development.

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# **Island County**

## **Shoreline Master Program**

### **Goals and Policies**

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## **Chapter I: Introduction**

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### **Purpose**

This Shoreline Master Program (SMP) provides goals and policies which apply to all shorelines of the state and freshwater lakes 20 acres or larger, associated wetlands and the area 200 feet landward from the ordinary high water mark, as well as seaward of that line to the limits of County jurisdiction, generally the centerlines of the Port Susan, Skagit Bay, Admiralty Inlet and Puget Sound. It is the intent of this SMP to protect the public interest in the waters of the state. The County recognizes that the waters of the state belong to the public, and that the County government is to act as the trustee of those waters, as recognized in the Public Trust Doctrine and required by state law under the Shoreline Management Act (SMA). In accordance with the SMA, the Island County SMP is intended to manage the use and development of the shorelines of Island County by giving preference to water-dependent and water-related uses, by providing public access to the shorelines, and by regulating shoreline development and activities to occur in a manner that does not result in a loss of ecological functions and processes.

The Shoreline Master Program goals and policy statements, along with the shoreline land use map, are the foundation for specific guidelines concerning how to regulate and manage activities occurring within the County's shoreline jurisdiction. These goals and policies reflect the aspirations and concerns that Island County citizens and stakeholders expressed about the County's shorelines in the 2001 version, as well as during a series of community meetings held in 2011 and 2012.

## **Chapter II: Shoreline Goals and Policies**

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This chapter provides goals and policies relating to seven elements for protecting and managing Island County's shorelines and implementing the Shoreline Master Program. The goals and objectives are organized into elements consistent with State guidelines (WAC 173-26) that cover broad aspects of shoreline management.

### **A. Economic Development Element**

The Economic Development Element addresses goals and policies for industries, transportation, port, and tourist facilities that are particularly dependent on a waterfront location.

This element considers relationships between activities, structures, and modifications required for economic development, and other policies of Island County and the Shoreline Management Act (SMA). For the purposes of shoreline management, economic development means human use of the shoreline area to produce goods and services. Thus, boat manufacturing, fishing and transportation facilities are all examples of economic development. These policies also recognize that areas already developed with commercial uses are concentrated in the three incorporated areas of the County, and that the SMPs for those jurisdictions should provide for most of the expected growth in economic development along the shorelines, with the exception of the shellfish industry which requires clean water and other conditions that are generally not present in incorporated areas of the county.

When new economic development is proposed, questions of location, design and operation must be dealt with by the developer and regulatory agencies. Physical effects of the new development upon other activities and resources must also be taken into consideration. Public decision makers must recognize that shoreline space and resources are limited even on an island, and that their innate qualities and potential uses can vary greatly depending on the location. Some types of shorelines are abundant, others are uncommon or unique.

***GOAL:*** Allow economic development, including residential development, along shorelines that will be an asset to the local economy without degrading the shoreline environment. New businesses shall be located and designed to ensure compatibility among uses and enhancement of the quality of life for residents of Island County.

***Policies:***

1. Economic development should be conducted in a manner that minimizes adverse impacts and results in no net loss of shoreline ecological functions.
2. Encourage new economic development to locate in areas that are already developed with similar uses.

3. Encourage new water-dependent, water-related, and water-enjoyment economic development in appropriate but limited shoreline areas in the unincorporated county that are compatible with adjacent uses.
4. Promote actions ensuring a safe, clean and attractive community.
5. Work with Port Districts and the Economic Development Council to promote the development of commercial and industrial activities that do not require substantial increases in public expenditures for public services.
6. Provide for a healthy and productive shellfish industry that is compatible with ecological protection of the shoreline.
7. Economic development on the shoreline should facilitate public access and recognize that the natural beauty and ecology of the shoreline is an economic asset.

## **B. Recreation and Public Access Element**

Island County contains over 200 miles of freshwater and saltwater shorelines. The greatest portion of these shorelines is privately owned, which limits access to the general public. This element is concerned with existing and future additional public recreational opportunities and public access to shorelines, including but not limited to publicly owned parks, tidelands, beaches, recreational areas, and visual access to public waters.

Public access to shorelines is essential to most Island County residents and is an important economic driver for Island County, especially in terms of tourism. In planning for additional recreation areas and facilities within shoreline areas, Island County updated its Parks and Recreation Plan in December 2011. The Plan was adopted as an element of the Island County Comprehensive Plan and provides an analysis of the County's anticipated recreation needs and projects to meet a growing populace over the next 20 years.

***GOAL:*** Increase and enhance a variety of safe and well-maintained recreation opportunities and public access to publicly owned shorelines and tidelands of Island County consistent with the natural shoreline character, public safety, individual privacy, and property rights.

***Policies:***

1. Public access and recreation on public lands is a preferred use of shorelines of the state. Recreational uses and developments that facilitate the public's ability to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline are preferred.

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2. Recreation facilities should be dispersed along the shoreline in a manner that supports frequent recreational access and aesthetic enjoyment of the shoreline for a substantial number of people.
3. Establish workable policies and procedures for identifying, cataloguing, mapping, signing, managing, and recovering public access and tidelands where public access to the shoreline may have been lost or impeded by encroachment or other actions by adjacent or nearby property owners.
4. Protect and maintain existing recreational uses and public access points, and make improvements as needed to ensure safe and convenient access that is compatible with adjacent uses and protective of shoreline ecological functions.
5. Recreational development and public access should be located, designed, and operated to ensure no net loss of ecological functions, protect public health and safety, and minimize adverse impacts on other shoreline uses.
6. Provide a balanced choice of passive and active recreational opportunities countywide, while recognizing that shorelines should be used primarily for water-oriented recreation.
7. Respect and protect private rights in shoreline property when considering recreational uses and public access development.
8. Encourage the development of public access to all publicly owned shorelines, where appropriate.
9. Require commercial, industrial, and multifamily residential waterfront development, and residential subdivisions to provide a means for safe visual and pedestrian access to shorelines, where feasible.
10. Acquire suitable upland shoreline properties to provide public access to publicly owned shorelands and tidelands in areas where existing access is inadequate and before other development makes such action impossible.
11. Encourage linkage of shoreline parks, recreation areas and public access points with linear systems, such as hiking trails, bicycle routes, easements and scenic drives.
12. Artificial marine life habitats (i.e., dive parks) should be constructed in areas of low habitat diversity and in consultation with the Washington State Department of Fish and Wildlife and Department of Natural Resources.
13. Encourage innovative and cooperative approaches among public agencies and private parties such as the Island County Public Benefit Rating System and Conservation Futures Fund program, to provide shoreline recreation opportunities and public access.
14. Trails and pathways on steep shoreline bluffs should be located, designed, and maintained to protect bank stability without the need for shoreline armoring.

15. Protect public visual access to the shorelines and encourage the establishment of new scenic view points.

## **C. Transportation Element**

This element deals with those structures and activities connected with the movement of people, goods, and services, and with their relationship to the shorelines. Along with roads, highways and ferry terminals, this element considers pedestrian, equestrian, and bicycle paths.

Transportation activities include buses, auto trips, truck transport, foot and bicycle traffic, land-sea cargo handling and others. The goal and policies will serve as the guiding tools for design and construction of efficient transportation systems within the shorelines of Island County.

**GOAL:** Where transportation facilities must be located within shoreline jurisdiction, develop systems to assure safe, efficient movement of goods and people while minimizing disruptions to the shoreline environment and potential conflicts between different users.

***Policies:***

1. Transportation facilities should generally be located outside the shoreline, unless necessary to serve shoreline uses or to provide access between islands and the mainland.
2. Locate, develop, manage, and maintain transportation systems in a manner that protects shoreline ecological functions and processes by minimizing and mitigating unavoidable impacts.
3. Provide water facing signage informing boaters of the availability of publicly owned haul-outs.
4. Provide safe pedestrian and bicycle facilities in public shoreline areas.
5. Encourage provision of public transit to major shoreline public access areas, especially those where existing parking is limited.
6. Provide for road access to shorelines that is aesthetically compatible and non-disruptive to natural shorelines.
7. Encourage joint-use of transportation and utility corridors.
8. Evaluate the feasibility of a small scale passenger ferry service between Whidbey and Camano Islands as a potential water-dependent use.

## **D. Shoreline Use Element**

This element considers the pattern of distribution and location requirements of land uses on shorelines and adjacent areas, including but not limited to housing, commerce, industry, transportation, public facilities, utilities, agriculture, education and natural resources. Also to be considered is the pattern, distribution and location requirements of water uses including, but not limited to, aquaculture, recreation and transportation.

***GOAL:*** Provide functional and attractive shoreline uses that are appropriate in scale, configuration, and location, and are sensitive to and do not degrade habitat and shoreline ecological processes.

***Policies:***

1. Give preference to water-dependent uses and single family residential uses that are consistent with the preservation of shoreline ecological functions and processes. Give secondary preference to water-related and water-enjoyment uses. Allow non-water-oriented uses only when substantial public benefit is provided with respect to the goals of the SMA for public access and ecological restoration.
2. Ensure that all potential shoreline uses and development are located and designed to avoid a net loss of shoreline ecological functions.
3. Encourage clustering of compatible uses for shoreline development as a means of minimizing disturbance of natural shoreline areas.
4. Evaluate the potential for saltwater intrusion into water supply wells when permitting development proposals or shoreline activities.
5. Utilize Department of Ecology methodology to determine the accuracy of the ordinary high water mark when evaluating future development proposals or shoreline activities.
6. Sea level rise and increased frequency and magnitude of extreme storm events as a result of climate change should be taken into account when considering and evaluating shoreline uses.
7. Land uses allowed on upland areas adjacent to the shorelines should be compatible with shoreline uses and should avoid impacting shoreline resources.
8. Encourage shoreline uses and development that enhance and increase public access to the shoreline.
9. Explore potential opportunities for private-public partnerships to locate an appropriate small ferry boat landing site on Camano Island to promote inter-island transit.

## **E. Historic and Cultural Element**

This element considers shoreline areas that contain archaeological and historical resources. It is the intent of this element to establish policies that will aid in the protection and restoration of buildings, archaeological sites and areas having historic, cultural, educational, or scientific value.

Island County has established one of the largest Historical Preservation Districts (Ebey's Landing) in the Puget Sound Basin and Pacific Northwest. Additionally, Island County has a large number of prehistoric cultural resources which occur on a variety of public and private lands. To date, only a small portion of these resources have been investigated and catalogued. The current archaeological site inventory for the County includes a number of different sites, of which the five major types are shell middens, lithic sites, earthworks, rock cairns, and burial grounds. While shell middens and burial grounds are strongly associated with shorelines, the other types may also be found within the shorelines of the County.

***GOAL:*** Protect, preserve, and restore historical, cultural, educational, and scientific sites within the shorelines of Island County.

***Policies:***

1. Recognize the probability that shoreline development may encounter archeological, historic or cultural resources, and establish procedures for protecting and preserving them.
2. Collaborate with affected Tribes, state, federal and local governments to protect Native American artifacts and sites of significance, and other archaeological and cultural resources, in accordance with all state and federal regulations.
3. Encourage revisions to and updating of local administrative codes that protect and restore historical, cultural, educational and scientific sites.
4. Encourage the preservation of sites for scientific study and public observation.
5. Island County Marine Stewardship Areas should be the focus of additional educational efforts to encourage greater appreciation and stewardship of marine resources.

## **F. Conservation Element**

This element deals with the preservation of the natural shoreline functions and resources considering such characteristics as scenic vistas, parkways, estuarine areas for fish and wildlife protection, beaches and other valuable natural or aesthetic features. It also considers the protection of human health and property from geological and flood hazards. This element recognizes that all waters of Puget Sound contain at least one, and often several of the elements that constitute critical saltwater habitat, thus planning for protection of these areas must be integrated into the environment designations.

**GOAL:** Ensure preservation and continued utilization of Island County's unique, fragile, and scenic shoreline areas and preserve their ecological features and functions.

**Policies:**

1. Provide for conservation controls and mitigation standards which will ensure new shoreline developments prevent a net loss of shoreline ecological functions and enhance the quality of natural resources on shorelines for the enjoyment and utilization of future generations of users.
2. Provide for the protection of endangered species and habitat areas essential for persistence of shoreline oriented species and preserve shoreline areas having unique natural resource systems valuable for scientific research or education.
3. Protect critical areas including wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, frequently flooded areas, and areas with a critical recharging effect on aquifers, consistent with the policies and regulations in Chapter 17.02A ICC for wetland protection, Chapter 11.02 ICC for geologically hazardous areas, Chapter 14.02 for frequently flooded areas. For fish and wildlife habitat conservation areas, protection under Chapter 17.02 ICC should be expanded to include critical saltwater and freshwater habitats as defined in WAC 173-26-221(2)(a)(iii) and (iv), and integrate these protections into the SMP through appropriate environment designations, use restrictions, and development standards.
4. Minimum buffers and setbacks should be established for each environment designation that protect against a net loss of ecological functions, recognizing both the types of habitat present and the degree of existing development.
5. Increase understanding of shoreline processes and incentives for good stewardship.
6. Encourage preservation of scenic and aesthetic qualities of shorelines and vistas.
7. Prioritize protection and conservation of shoreline areas that are ecologically intact and minimally developed or degraded.
8. Safeguard the waters, marine life, plant life and surrounding shores and beaches of the Island County Marine Stewardship Areas.
9. Work with the Washington State Department of Natural Resources to support the goals and objectives for protecting the Smith and Minor Islands Aquatic Reserve.
10. ~~Island County shall establish a program to monitor the effects of ongoing climate change on the marine environment by annually measuring sea level and marine water pH at a minimum of five established sites spread throughout Island County.~~

## **G. Restoration Element**

This element provides for the restoration and enhancement of ecologically impaired areas in a manner that achieves a net gain in shoreline ecological functions and processes above the baseline conditions.

***GOAL:*** Re-establish, rehabilitate, and otherwise improve impaired shoreline ecological functions and processes through voluntary and incentive-based public and private programs and actions that are consistent with the Island County restoration plan and other approved restoration plans.

***Policies:***

1. Improve shoreline functions, processes, and values over time through regulatory, voluntary and incentive-based public and private programs and actions that are consistent with the Shoreline Master Program Restoration Plan and other agency adopted restoration plans.
2. Encourage cooperative restoration programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners.
3. Target restoration and enhancement towards improving Washington Department of Fish and Wildlife priority habitat or locally important wildlife species.
4. Ecological restoration activities are encouraged in all shoreline environments and are considered to be consistent with all uses including residential, commercial, and industrial, provided they are designed appropriately.
5. Restoration actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted toward meeting the needs of endangered, threatened, and regionally important plant, fish, and wildlife species and habitats.
6. Restoration should be integrated with and should support other natural resource management efforts in Island County and in the Puget Sound region.
7. When prioritizing restoration actions, the County should give highest priority to measures that have the greatest chance of reestablishing ecosystem processes and creating self-sustaining habitats.

## **Chapter III. Shoreline Environment Designations**

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In order to plan and effectively manage shoreline resources, the State's shoreline guidelines require that each jurisdiction categorize its shoreline area into Shoreline Environment Designations. The classification system consists of six designations: High Intensity, Shoreline Residential, Urban Conservancy, Rural Conservancy, Natural, and Aquatic. The purpose of shoreline environment designations is to provide a uniform basis for applying policies and use requirements within distinctively different shoreline areas.

The principles of the Shoreline Management Act of 1971 regarding establishing shoreline environment designations, as set forth in Chapter WAC 173-26-110, state that the shoreline environment designation to be given any specific area is to be based on the following:

- 1) *existing development pattern;*
- 2) *biophysical capabilities and limitations of the shoreline being considered for development; and*
- 3) *locally adopted plans.*

The various shoreline environment designations, along with their respective classification criteria, are discussed in this chapter. The importance of designating shoreline environments for approximately 207 miles of shorelines of Island County with a high degree of objectivity, comparability, and consistency was recognized. In order to minimize error, every effort was made to apply the descriptive criteria in a meaningful, factual and logical manner. Moreover, multiple criteria, rather than a single criterion, were always applied as detailed in the report *Shoreline Environment Designation Criteria* dated October 2011.

Due to historical development patterns in Island County prior to adoption of the SMA, several shoreline areas are currently characterized by small lot parcelization. While some shorelines in the County may be densely platted or developed, the shoreline may still exhibit high environmental quality with significant development constraints such as steep slopes. In some cases, a platted or developed shoreline may have an environmental designation that focuses on conserving the environmental quality that remains, rather than allowing higher densities to expand consistent with the small lot historical platting pattern.

### ***NATURAL***

#### **A. Purpose**

The purpose of the Natural designation is to preserve, protect, and restore areas that are relatively free of human influence or that include minimally degraded natural features and resources.

#### **B. Criteria for Designation**

1. Areas designated Natural should meet one or more of the following criteria:

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- a. Areas that are generally free from shoreline modifications, structures, roads, and significant agricultural uses, or have the potential to regain natural conditions with minimal or no restoration activity;
- b. Areas critical for the support of federal and state listed priority, sensitive, threatened or endangered species;
- c. Areas of waterfowl concentration;
- d. Areas where the shoreline, whether minimally disturbed or intact, represents an ecosystem type or geologic feature that is of particular scientific or educational interest;
- e. Forested riparian areas predominantly composed of native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies;
- f. Areas of shoreline-associated wetlands with generally intact buffers;
- g. Salt marsh areas that are intact or, if previously used for agriculture, are capable of being restored;
- h. Feeder bluffs without existing development above or below the slope, or development that is sufficiently set back from the top of slope so that the slope can function normally without endangering structures;
- i. Undisturbed estuaries or accretional spits;
- j. Areas unable to support new development or uses without significant adverse impacts to ecological functions, or that possess serious development limitations or human health and safety risks due to the presence of environmental hazards related to flooding, erosion or landslides and similar occurrences.

2. For areas designated due to the presence of specific habitat features, the designated areas should be large enough to protect the functions and values of the habitat, and the processes necessary for its persistence.

## **C. Management Policies**

- 1. Any use that would substantially degrade the ecological functions or the natural character of the shoreline area should not be allowed.
- 2. New agricultural activities should be limited to low intensity agriculture and located outside of any required buffers.
- 3. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed.

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4. The following new uses should not be allowed in the Natural environment designation: commercial uses; aquaculture; industrial uses; and non-water-oriented recreation.
5. Roads, utility corridors, and parking areas should be located outside of Natural designated shorelines, except where necessary to support shoreline uses, and then should only extend into the shoreline to the minimum extent necessary.
6. Existing roads and parking areas should not be expanded in Natural designated shorelines, except where necessary to support shoreline uses.
7. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Natural designation that protect intact areas of fish and wildlife habitat and allow development only where set back sufficiently from the shoreline to allow normal ecological functions to continue.

## ***URBAN CONSERVANCY***

### **A. Purpose**

The purpose of the Urban Conservancy designation is to protect and restore ecological functions of open space and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

### **B. Criteria for Designation**

1. Areas inside urban growth areas, as defined in RCW 36.70A.110, should be designated Urban Conservancy if any of the following characteristics apply:
  - a. They are suitable for water-related or water-enjoyment uses;
  - b. They are open space, flood plain or other sensitive areas that should not be more intensively developed;
  - c. They have potential for ecological restoration;
  - d. They retain important ecological functions, even though partially developed; or
  - e. They have the potential for development that is compatible with ecological restoration.

### **C. Management Policies**

1. Uses that preserve the natural character of the area or promote preservation of open space, floodplain, or critical areas either directly or over the long term should be the primary allowed uses.

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2. Water-oriented and single family residential uses should be given priority over non-water-oriented uses.
3. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with adjacent uses and the setting.
4. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Urban Conservancy designation that protect critical areas while allowing uses compatible with protection of shoreline resources.
5. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

## ***RURAL CONSERVANCY***

### **A. Purpose**

The purpose of the Rural Conservancy designation is to protect, conserve, and manage ecological functions, harvestable natural resources, and aesthetic, cultural, historic, and recreational areas, in order to provide for rural residential use and recreational opportunities.

### **B. Criteria for Designation**

Areas designated Rural Conservancy should meet one or more of the following criteria:

1. The shoreline is generally undeveloped, or currently supporting lesser intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170.
2. The shoreline is supporting human uses but subject to environmental limitations, including steep slopes presenting erosion and slide hazards, wetlands, streams, areas prone to flooding, and/or contains areas that cannot provide adequate water supply or sewage disposal.
3. The shoreline is supporting or can support low impact outdoor recreational activities.
4. The shoreline has aesthetic, cultural, historic, or recreational qualities of regional or statewide importance.
5. The shoreline is predominantly low density residential use or low-intensity water-dependent uses.
6. Undesignated shoreline areas are designated Rural Conservancy.

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### **C. Management Policies**

1. Uses in the Rural Conservancy designation should be limited to those that sustain the shoreline area's physical and biological resources, including low density residential development, and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.
2. Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.
3. Public or private outdoor recreation facilities should be encouraged if compatible with the character of the area and developed in a manner that maintains shoreline ecological functions and processes. Preferred recreation uses include water-oriented facilities that do not deplete shoreline resources over time, such as boating facilities, wildlife viewing, trails, and swimming beaches.
4. The aesthetic, cultural, ecological, historic, and recreational character of the area is to predominate over the impact of human development.

## ***HIGH INTENSITY***

### **A. Purpose**

The purpose of the High Intensity designation is to provide for high intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and, where feasible, restoring ecological functions in areas that have been previously degraded.

### **B. Criteria for Designation**

1. Areas designated High Intensity should include only areas that currently support water-dependent uses related to commercial boatyards and marinas, transportation or navigation, or are suitable and needed to accommodate similar water-oriented uses in the foreseeable future.

### **C. Management Policies**

1. Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with relevant state and federal law.
2. Because shorelines suitable for High Intensity uses are a limited resource, emphasis shall be given to development within already developed areas. Full utilization of existing developed areas should be achieved before further expansion of intensive development is allowed.
3. First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Non water-oriented uses should not be allowed except as part of mixed use developments and where they do not conflict with or limit

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opportunities for water-oriented uses, or on sites where there is no direct access to the shoreline.

4. Aesthetic considerations should be addressed by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
5. Encourage municipalities with jurisdiction over shoreline areas designated High Intensity to plan to meet future development needs for most water dependent uses in Island County.

## ***SHORELINE RESIDENTIAL***

### **A. Purpose**

The primary purpose for designating an area Shoreline Residential is to allow for residential development and for moderate to high impact recreational uses in appropriate areas of the shoreline.

### **B. Criteria for Designation**

1. Areas inside County-adopted rural areas of more intense development (RAIDs), if they are predominantly single-family or multifamily residential development or are planned and platted for residential development, but are not predominantly wetlands, stream corridor, or annually flooded.
2. Areas that are legally subdivided for residential use at a density of one or more units per acre and are not constrained by inadequate water supply or the inability to dispose of sewage due to soil conditions or lot sizes.
3. Areas developed with or planned for moderate to high impact recreational uses.
4. Areas that are within the Lagoon Point, Mariners Cove, and Sandy Hook developments should be designated Shoreline Residential – Canal Community.
5. Areas where the historic development pattern has resulted in intensive residential development may be designated Shoreline Residential or when existing residential structures are constructed thirty feet or less from the Ordinary High Water Mark, a designation of Shoreline Residential–Historic Beach Community should be assigned.

### **C. Management Policies**

1. Consider bulk and scale limitations on residential redevelopment and infill to ensure compatibility within existing waterfront communities.
2. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking

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into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

3. Commercial development should be limited to water-oriented uses.
4. Clustering of residential units should be encouraged in order to retain open areas within areas designated Shoreline Residential.
5. Multi-family residential, multi-lot (5 or more lots) and recreational developments should provide shoreline areas for joint use, and public access to the shoreline.
6. Shoreline residential developers should be required to attach a protective covenant for individual lot development indicating how the shoreline vegetation will be protected and erosion controlled.
7. Develop standards and procedures that recognize the unique character of areas designated Shoreline Residential – Canal Community, such as allowing for unified permitting for docks and stabilization, and establishing building setbacks and incentives that acknowledge, protect, and enhance the limited riparian vegetation in these locations.
8. Allow reduced marine buffers and setbacks for residential lots within a designated Shoreline Residential–Historic Beach Community.

## ***AQUATIC***

### **A. Purpose**

The purpose of the Aquatic designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

### **B. Criteria for Designation**

1. All saltwater areas waterward of the ordinary high water mark, including estuarine channels and coastal lagoons, other than those designated High Intensity.
2. All SMA jurisdiction freshwater lakes waterward of the ordinary high water mark.

### **C. Management Policies**

1. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration. The size of new overwater structures should be limited to the minimum necessary to support the structure's intended use.
2. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of overwater facilities should be encouraged.
3. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public

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views, and to allow for the safe, unobstructed passage of fish, marine mammals, and birds, particularly those species dependent on migration.

4. Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be permitted except where necessary to achieve the objectives of RCW 90.58.020, and then only when all potential impacts are mitigated as necessary to assure maintenance of shoreline ecological functions and processes.
5. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
6. Preference should be given to those forms of development that involve lesser environmental and visual impacts. In general, projects or portions of projects that require no structures, submerged structures or minor intertidal structures should be given preference over those that involve substantial floating or surface structures.
7. Projects that involve little or no substrate modification should be given preference over those that involve substantial modification of the substrate.
8. Encourage cooperation between all State agencies, private persons, and corporations and public agencies responsible for implementing Shoreline Master Programs to insure a more compatible use of tidelands and bedlands.
9. Except for boat launches, disabled persons/emergency response vehicles, and authorized temporary use of construction equipment, motorized vehicular travel shall be prohibited on private and public tidelands.
10. Existing permitted boat ramps shall not be mapped as Aquatic designations. These facilities shall be mapped with the same designation as the adjoining uplands. The purpose of this mapping distinction is to allow protection, restoration, and improvement to existing boat launch facilities consistent with the goals of the SMA.

## Chapter IV: Shorelines of Statewide Significance

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### PRINCIPLES AND DEVELOPMENT GUIDELINES

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of statewide significance. Because these shorelines are major resources from which all people in the state derive benefit, Island County's Master Program must give preference to uses that favor public and long-range goals of the state. Shorelines of statewide significance in Island County include those areas of Puget Sound lying seaward from the line of extreme low tide. Shorelines of statewide significance in Island County include those areas of Puget Sound lying seaward from the line of extreme low tide as well as the tidal shoreline adjacent to Skagit Bay from Brown Point to Yokeko Point.

Accordingly, the Act has established that Island County's Master Program shall give preference to uses that meet the principles outlined below, in order of preference. Guidelines for ensuring that these principles are incorporated into the Master Program and adhered to in implementing the Act follow each principle:

#### 1. *Recognize and Protect the Statewide Interest Over Local Interest.*

##### *Development Guidelines:*

- a. Solicit comments and opinions from groups and individuals representing statewide interests by circulating the Master Program, Master Program amendments and requests for substantial development permits on shorelines of statewide significance to state agencies, adjacent jurisdictions, and local officials.
- b. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations.
- c. Solicit comments, opinions and advice on shoreline development from individuals with expertise in ecology, oceanography, geology, aquaculture and other scientific fields pertinent to shoreline management.

#### 2. *Preserve the Natural Character of the Shoreline.*

##### *Development Guidelines:*

- a. Designate and administer shoreline planning environments and use regulations to minimize manmade intrusions on shorelines.
- b. Upgrade and redevelop those areas where intensive development already exists in order to reduce their adverse impact on the environment and to accommodate future growth rather than allowing high intensity uses to extend into low intensity use or underdeveloped areas.
- c. Ensure that where commercial timber cutting is allowed, as provided in RCW 90.58.150, reforestation will be possible and accomplished as soon as practical.

**3. *Result in Long-Term Over Short-Term Benefit.***

*Development Guidelines:*

- a. Leave undeveloped those areas which contain a unique or fragile resource.
- b. In areas where erosion and sediment control practices will not be effective, excavations or other activities which increase erosion are to be severely limited.
- c. Restrict or prohibit public access onto areas which cannot be maintained in a natural condition under human uses.

**4. *Increase Public Access to Publicly Owned Areas of the Shorelines.***

*Development Guidelines:*

- a. Give priority to developing paths and trails to shoreline areas, linear access along the shorelines, public transit to popular shoreline accesses, and to developing upland parking to serve public access locations.
- b. Locate private development inland from public shorelines so that public access is enhanced.

**5. *Increase Recreational Opportunities for the Public on the Shorelines.***

*Development Guidelines:*

- a. Plan for and encourage development of facilities for recreational use of the shorelines.
- b. Reserve areas for lodging and related facilities on uplands well away from the shorelines with provisions for non-motorized access to the shorelines.

## **Chapter V: Shoreline General Policies**

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The following general policies apply to all shoreline uses and modifications within all Shoreline Environment Designations.

### **A. Archaeological, Historic and Cultural Resources**

1. Archaeological, historic and cultural sites and resources should be protected, preserved, and where feasible, restored. All use and development on sites containing these resources should be planned and carried out so as to minimize adverse impacts to the resource(s).
2. The County shall maintain a current inventory of all known and suspected historic and archaeological sites in cooperation with the state Office of Archaeology and Historic Preservation and, where applicable, officials from the affected Indian tribe. This inventory will be kept in a secure location and used by County staff only for the purpose of verifying the presence of an archaeological site on a subject property. The County shall update its inventory should any new archaeological site be discovered during development or otherwise, and shall forward or cause to be forwarded this information to the state Office of Archaeology and Historic Preservation and the affected Tribe when applicable.
3. To prevent adverse impacts on archeological, historic and cultural sites and resources, proponents of all new shoreline use and development should consult Island County prior to beginning any shoreline project or activity. The County should ensure appropriate coordination, consistent with state and federal requirements, with affected tribal organization(s) and the State Department of Archaeology and Historic Preservation (DAHP) in the review of projects having potential impacts on archaeological sites.
4. When archeological, historic and cultural sites and resources occur on public lands they should be accessible to the public and used for research or educational purposes consistent with the public access provisions of this Program and applicable tribal access policies. Private owners of archeological, historic and cultural sites and resources are encouraged to provide access and educational opportunities when appropriate.
5. Where a proposed development is located on or near a known archaeological, historic or cultural site, the County should require the property owner or project proponent to engage a qualified professional archaeologist to investigate and report to the County upon the location, condition, extent of the site and any recommendations in regard to treatment. The affected Tribe's comments on any findings and recommendations proposed by the archaeologist on behalf of the property owner or project proponent shall be attached to the report. The report shall be performed in accordance with the best available technology and techniques commonly accepted as standards in the profession of archaeology. A copy of the archaeologist's report shall be provided to the affected Tribe and the DAHP.

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6. No permit for an application requiring an archaeologist's report will be issued prior to the receipt by Island County of a required archaeological report. Based on the information contained in the written report of the qualified professional archaeologist, including the recommendations of the affected Indian Tribe on avoidance or mitigation of the proposed project's impacts obtained during the consultation process, the County will condition and balance project approval in a manner to avoid or minimize impacts to the site consistent with federal and state law. Avoidance and conservation of the site is the preferred treatment.
7. If, during the course of development, and particularly during actual construction, human remains or archaeological resources are encountered, the project should be immediately halted and the property owner or project proponent should be required to contact the affected Native American Tribe, the County and the DAHP.

## **B. Environmental Protection and Critical Areas**

1. Maintain healthy, functioning ecosystems through the protection of ground and surface waters, marine shorelines, wetlands, and fish and wildlife and their habitats, and to conserve biodiversity of plant and animal species.
2. All developments and uses in the marine waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe unobstructed passage of fish and wildlife, particularly those species dependent on migration.
3. All proposed development in the shoreline should comply with Chapters 11.02 ICC, and 17.02A ICC, which shall be incorporated into the SMP by reference.
4. Establish protection standards for fish and wildlife habitat conservation areas within the shoreline, by establishing appropriate environment designations and buffer requirements, and by limiting development and use of the shoreline that could harm critical saltwater or freshwater habitat.
5. Shorelines that support unique or high value natural resource systems, critical saltwater habitat, associated wetlands, or areas of particular value for scientific research should be considered for the highest level of protection. In general these areas should remain in a natural undeveloped condition.
6. All shoreline use and development should be carried out in a manner that achieves no net loss of ecological functions; in assessing the potential for net loss of ecological functions or processes, project specific and cumulative impacts should be considered.
7. Impacts to critical areas should first be avoided, and where unavoidable, minimized and mitigated to result in no net loss of ecological functions.
8. Give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries and other endangered or threatened species and habitats.

9. Encourage the use of permanent open spaces, buffers, and best management practices for erosion control to retard surface and underground runoff for protection of the shoreline lands and waters.
10. The County should encourage innovative restoration strategies to provide for comprehensive and coordinated approaches to mitigating cumulative impacts and restoration rather than piecemeal mitigation.
11. Create incentives that will encourage enhancement of degraded shoreline riparian vegetation and removal or softening of shoreline stabilization structures.

### **C. Flood Hazard Reduction**

1. The County should prevent the need for flood control works by limiting new development in flood-prone areas consistent with FEMA regulations and flood mapping.
2. All proposed development in the shoreline should comply with the County's Flood Damage Prevention Ordinance (ICC 14.02A.010 through 050) and stormwater and surface water standards (Chapter 11.03 ICC).
3. New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a stream, channel migration zone, or floodway, or that would require new or expanded shoreline stabilization to prevent damage from coastal flooding, should not be allowed.
4. Flood control works should only be allowed in the shoreline if they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.
5. Flood control works to protect existing development should be permitted only when the primary use being protected is consistent with this Shoreline Master Program, and the works can be developed in a manner that is compatible with multiple use of streams and associated resources for the long term, including shoreline ecological functions, fish and wildlife management, or recreation.
6. ~~When reviewing projects that could be affected by sea level rise adjust development standards such as building setbacks or elevation as necessary to minimize potential damage from flooding.~~

### **D. Public Access**

1. Provide, protect, and enhance a public access system that includes both physical and visual access to shorelines; increases the amount and diversity of public access to the State's shorelines and adjacent areas; improves the accessibility of existing publicly owned shorelines; relies primarily on publicly-owned access but also requires public

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access for certain private developments; and is consistent with the shoreline character and functions, private property rights, and public safety.

2. In appropriate areas where intensive recreational uses have been established, such traditional uses should be protected from competing uses that could substantially impact and interfere with the historical and established uses.
3. To the greatest extent feasible, Island County should provide maps and signage as needed to facilitate appropriate use of shoreline public access.
4. Assure that public access is located, designed, and maintained in a manner that does not result in a net loss of shoreline functions.
5. Priority should be given to developing visual and pedestrian access to publicly owned uplands and beaches connecting to publicly owned tidelands.
6. Where practical, public access points should be linked with non-motorized transportation routes and served by public transit.
7. Developments, uses and activities should be designed and operated to avoid or minimize blocking, reducing, or detracting from the public's visual or physical access to the water and the shorelines.
8. Shoreline development by public entities or on publicly owned land should provide public access as part of each development project, unless such access is shown to be incompatible with the Master Program due to reasons of safety, security, or adverse impacts to shoreline functions and processes.
9. Non-water-dependent developments or subdivisions of land into five (5) or more parcels by private entities are encouraged to provide public access, unless such access is shown to be incompatible with the Master Program due to reasons of safety, security, or adverse impacts to shoreline functions and processes.
10. Public health and safety concerns associated with public access sites should be adequately mitigated and appropriate precautions taken to prevent adverse impacts on shoreline ecological functions and/or processes.
11. Efforts to implement public access requirements should be consistent with all relevant constitutional and other legal limitations on regulation of private property.
12. Public access requirements on privately owned lands should be commensurate with the scale and character of the development and should be reasonable, effective, and fair to both the landowner and the general public.
13. Maintain clear records of all public access points including public parks, public road ends, public tidelands, public easements, and other public properties designated for public access.

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14. Public access that has been encroached upon or closed off by adjacent property owners shall be recovered and made accessible to the public. Structures that have been placed in public rights-of-way that provide public access should be removed.
15. Island County shall continue compiling, verifying, and mapping shoreline public access sites for an on-going inventory of Island County Shoreline Public Access Sites.
16. The County shall create a public access plan to be adopted as an element of the comprehensive plan.

## **E. Shoreline Vegetation Conservation**

1. New uses and developments should be designed to preserve native shoreline vegetation to maintain shoreline ecological functions and processes and prevent direct, indirect, or cumulative impacts of shoreline development.
2. New uses and developments should establish native shoreline vegetation such that the composition, structure, and density of the plant community resemble a natural, unaltered shoreline as much as possible.
3. In the Natural shoreline environment designation, do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. Each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.
4. Limit removal of native vegetation to the minimum necessary to accommodate shoreline development.
5. Restrict native vegetation removal within shoreline jurisdiction in order to maintain shoreline functions, including protection of habitat and shoreline bluffs.
6. Maintaining well-vegetated shorelines is preferred over clearing vegetation to create views or provide lawns. Limited and selective clearing for views and lawns may be allowed when slope stability and ecological functions are not compromised, but landowners should not assume that creating an unobstructed view of the water will be allowed. Trimming and pruning are generally preferred over removal of native vegetation.
7. Property owners should be encouraged to avoid or minimize the use of fertilizers, herbicides, and pesticides.
8. Shoreline landowners are encouraged to preserve and enhance native woody vegetation and native groundcovers to stabilize soils and provide habitat.

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9. Non-native vegetation that requires use of fertilizers, herbicides, or pesticides is discouraged.
10. Property owners should be encouraged to control or eradicate non-native invasive weeds while minimizing adverse environmental impacts when doing so.

## **F. Water Quality and Quantity**

1. Water quality and surface water quantity should be protected to ensure safe and adequate water supplies, prevent net loss of shoreline ecological functions, and preserve aesthetic qualities and recreational opportunities.
2. The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and ground water over the long term.
3. Shoreline use and development should be designed to minimize the need for chemical fertilizers, pesticides, herbicides or other similar chemical treatments that could contaminate surface or ground water or cause adverse effects on shoreline ecological functions and values.
4. Appropriate buffers should be provided along all wetlands, streams, lakes, and marine water bodies and should be maintained in a manner that avoids the need for chemical treatment.
5. Potential adverse effects of agricultural activities on water quality should be minimized by implementing best management practices, buffers and other appropriate measures.
6. Effective erosion control and water runoff treatment methods should be provided for all shoreline development and use in accordance with Island County best management practices.
7. Encourage pervious materials and other appropriate low impact development techniques where soils and geologic conditions are suitable and where such practices could reduce stormwater runoff and would not increase the risk of slope instability or erosion.

## **G. Sea Level Rise**

1. Continue to connect shoreline property owners and developers with current sources of information on sea level rise in Island County.
2. Encourage shoreline property owners and developers to consult and utilize current sources of information on sea level rise and guidance in their development planning processes.
3. Provide, as possible, educational opportunities on sea level rise planning and best management practices for shoreline property owners and developers.
4. Monitor the impacts of sea level rise within densely developed coastal bluff communities and Shoreline Residential Historic Beach and Canal Communities to assess the adequacy of established shoreline regulations under such changing conditions.

## **Chapter VI: Policies for Shoreline Uses**

The following shoreline use policies implement the broad goal and policy statements of the shoreline master program elements. These general use policies apply to proposed uses in the shoreline jurisdiction by providing a more defined policy basis to direct both regulatory and non-regulatory actions and decisions.

### **A. Agriculture**

1. Agriculture is an important economic activity in Island County. Consistent with WAC 173-26-241(3)(a)(ii), this Shoreline Master Program should not modify or limit ongoing agricultural activities occurring on agricultural lands within shoreline jurisdiction.
2. Agricultural uses and development proposed on land not currently in agricultural use, and conversion of agricultural lands to non-agricultural uses, should conform to this shoreline master program.
3. Agricultural use and development should be managed to:
  - a. Prevent livestock intrusion into the water;
  - b. Control runoff;
  - c. Prevent water quality degradation caused by manure, fertilizer, biological pollutants, or agricultural chemicals;
  - d. Avoid clearing of riparian areas;
  - e. Prevent bank erosion; and
  - f. Assure no net loss of ecological functions.
4. Buffer zones of permanent vegetation should be maintained between tilled areas and associated water bodies to reduce surface runoff and siltation. The width of the native vegetation zone may vary depending on site conditions in accordance with critical area regulations, with the overall goal being to limit clearing of riparian corridors and to provide mitigation measures where clearing is necessary.
5. Medium or large animal feeding operations are not allowed within 200 feet of the ordinary high water mark unless effective mitigation measures are employed.
6. Soil erosion control measures, implementing Natural Resources Conservation Service (NRCS) standards and practices, such as crop rotation, mulching, strip cropping, and contour cultivation should be encouraged on lands contiguous to Island County shorelines.
7. NRCS best management practices should be utilized to protect the shoreline ecosystem from adverse impacts of agricultural chemicals.

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## **B. Aquaculture**

1. Aquaculture is a preferred, water-dependent use of regional and statewide interest that is important to the long-term economic viability, cultural heritage and environmental health of Island County.
2. The County should support aquaculture uses and developments which result in long-term over short-term benefit, protect the resources and ecology of the shoreline and are consistent with control of pollution and prevention of damage to the environment.
3. Aquaculture should not be allowed in areas where it would result in a net loss of ecological functions, or pose a threat to wild salmonids by degrading water quality, sea floor health, or potentially act as disease or parasite sources, or which, if the farmed organisms escape, may successfully reproduce and compete with native species.
4. Aquaculture districts were established in Island County in the 1980's for the purpose of managing aquacultural use and resources; however, in practice the districts have not facilitated better resource management. Therefore, the aquaculture districts have been abolished and aquaculture shall be managed consistent with policies, regulations, and performance standards established in this Shoreline Master Program.
5. In considering the suitability of sites for proposed aquaculture, factors such as tidal currents, dissolved oxygen, water temperature, and depth shall be evaluated in addition to the presence of critical saltwater habitat.
6. Intensive residential uses, other industrial and commercial uses, and uses that are unrelated to aquaculture should be located so as not to create conflicts with existing aquaculture operations.
7. The County shall adopt a prohibition on new commercial fin fish net pen aquaculture operations to provide time for updated guidance on addressing the protection of ecological functions and use conflicts. The County will revisit policies and regulations regarding marine fin fish net pens to address new guidance during the scheduled periodic reviews of this program under RCW 90.58.080.
8. Existing aquaculture areas should be protected from water quality degradation that may be caused by any marine or upland project. In instances where such degradation is anticipated, mitigation measures should be required to protect the aquaculture site and should be part of the approval of the marine or upland project.

## **C. Beach Access**

1. Beach access structures should be located, designed, and maintained in a manner that minimizes adverse impacts on shoreline ecology.
2. Neighboring property owners are encouraged to propose beach access structures in appropriate locations for shared use.

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3. Beach access structures shall not be permitted until and unless their adverse effects on lake or marine shoreline functions and processes, including any significant adverse effects on adjoining lands and properties, are fully evaluated and mitigated.
4. Beach access structures may not be appropriate in some areas because of safety hazards or sensitive ecological conditions. The County should not permit these structures in areas where there are expected risks to human health and safety or adverse effects on shoreline functions and processes. Some properties will have view-only access to the neighboring waters.
5. In order to protect the aesthetics of Island County shorelines, the natural habitat forming flow of sediments from bluff to beach, and to reduce risks to human health, safety, and residential structures, beach access structures shall be prohibited on bluffs identified as exceptional feeder bluffs and geologically hazardous slopes within the setback or buffer zones.
6. Beach access structures should conform to the existing topography, minimize adverse impacts on shoreline aesthetics, and minimize clearing and grading to the maximum extent feasible.
7. Beach access structures shall not be allowed if there is a reasonable likelihood that they will require erosion control structures or armoring in the future.
8. Beach access structures should be designed to minimize the amount of clearing, grading, excavation, and other forms of shoreline alteration so that they don't require substantial bank or slope modifications.
9. Beach access structures should only be allowed where it provides access to a publicly owned beach or where the same party owns both the uplands and adjoining tidelands or an easement is granted by the tideland owner to the upland owner for access.
10. New subdivisions and non-residential development with bluffs greater than 10 feet in height in the Rural Conservancy designation should be required to provide for community or public access where feasible. New non-residential development does not include remodeling, reconstruction due to natural disaster, minor expansions to the use or minor structural modifications and additions. Public or community beach access on banks lower than 10 feet in height may be allowed for single-family residences by means of a low impact trail.

#### **D. Boating Facilities**

1. Boating facilities should be located, designed, constructed, and operated with appropriate mitigation to assure that there will be no net loss of shoreline functions and processes and to prevent conflicts with other allowed uses.
2. Marinas and boating facilities should be located and designed in a manner that is compatible with adjacent land uses and avoids damage to fish and shellfish resources.

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3. All new marinas and boating facilities should be developed consistent with Washington State Department Ecology, Fish and Wildlife and Natural Resources requirements and guidelines.
4. Long term moorage should not be allowed in areas adjacent to shellfish beds, commercial aquaculture, or shallow water embayments with poor flushing action.
5. The County should protect the natural character of the shoreline and prevent adverse ecological impacts caused by in-water and overwater structures by controlling how they are designed, constructed, and where they are located.
6. Encourage the installation of new technology and materials which conserve space, are less damaging to the environment, and are more efficient.
7. Public and community boat launches are preferred over private launch facilities.
8. New enclosed or covered moorages and boathouses should be prohibited.
9. Special attention shall be given to the design and development of operational procedures for the handling and storage of fuel in order to minimize accidental spillage and provide satisfactory means for handling those spills that do occur.
10. Live-aboard vessels are not allowed anchored at moorage buoys and should only be permitted where adequate marina facilities exist to prevent impacts to water quality.
11. Boating facilities associated with commercial, industrial, or port uses, residential subdivisions of five (5) lots or more and multi-family housing should include public access and contribute to the public's ability to view, touch, and travel on the waters of the state.
12. On those shoreline areas where public access and recreation occurs, the recreational use of motorized personal watercraft (e.g., jet skis) which are accompanied by loud, persistent and nearshore noise and distraction should not be allowed unless specifically permitted. It shall not be permitted if public use of an area is predominantly of a passive nature such as swimming areas, picnicking, wildlife viewing and interaction or beach walking.

#### **E. Commercial**

1. Commercial uses and development should be located, designed, constructed and operated in a manner that result in no net loss of shoreline ecological functions.
2. First priority should be given to those commercial uses which are determined to be water-dependent uses; second priority should be given to water-related and water-enjoyment uses that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.

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3. Non water-oriented uses should be prohibited in the shoreline unless they are part of a mixed-use development, navigability is severely limited or the use provides a significant public benefit with respect to the Shoreline Management Act's objectives.
4. Subdivision of lands zoned for commercial uses should only be permitted where it can be demonstrated that development resulting from the subdivision will not interfere with or preclude water-dependent commercial uses or restoration activities.
5. Commercial uses shall provide public access to the shoreline. Public access and ecological restoration should be considered as potential mitigation of impacts to shoreline resources for all water-related and water-dependent commercial uses consistent with all relevant constitutional and other legal limitations on the regulation of private property.
6. New commercial development on shorelines generally is encouraged to locate in areas where current commercial uses exist.
7. Parking facilities should be placed inland from immediate water's edge and recreational beaches.
8. An assessment should be made of the effect that a commercial structure will have on a scenic view significant to a given area.
9. Commercial development should not be allowed in the Natural or Rural Conservancy shoreline environment designations.

## **F. Forest Practices**

1. Allow only selective commercial timber cutting so that no more than 30 percent of the merchantable trees may be harvested in any ten year period of time provided; that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental.
2. Forest practices in shorelines should occur in a manner as to result in no net loss of shoreline ecological functions.
3. Seeding, mulching, matting, and replanting should be accomplished where necessary to provide stability on areas which have been logged. Replanted vegetation should be of a similar type and concentration as existing in the general vicinity of the logged areas.
4. Logging and thinning operations within the County's shoreline jurisdiction should be conducted in a safe manner with minimum impact to the environment and to neighboring properties.
5. Shoreline areas having scenic qualities such as those providing a diversity of views, unique landscape contrasts or landscape panoramas should be maintained as scenic views in timber harvesting areas.

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6. Logging should be avoided in shorelines with slopes of such grade that large sediment runoff will be precipitated unless adequate restoration and erosion control can be expeditiously accomplished.
7. Logging and clearing shall be designed to protect the adjacent shorelands from erosion, uncontrolled drainage, slides, pollution, excavations, fills and other adverse impacts.
8. Offshore log storage should only be allowed on a temporary basis where natural tidal or current flushing and water circulation are adequate to disperse polluting waste and dredging would be avoided.

## **G. Industry**

1. Industrial development should be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.
2. Industrial development should only be allowed in the Aquatic and High Intensity designations.
3. The design, construction, operation and maintenance of pipelines carrying hazardous materials and petroleum products in liquid form must conform to all regulations established by the United States Department of Transportation.
4. In order to prevent spills and other forms of pollution, owners and operators of facilities engaged in storing, transferring, distributing, and/or consuming oil shall conform to established procedures, methods, and equipment set forth by statutory and other requirements of the United States Environmental Protection Agency and the State Department of Ecology.
5. No drilling, processing, or refining of petroleum shall be permitted within 2,000 feet of the shorelines of Island County.
6. Waste treatment ponds for water-dependent industry should not be located within shoreline jurisdiction.
7. As noted in the County Comprehensive Plan's Mineral Lands Overlay and Map E, there are no known areas of the shoreline that are needed for the long-term extraction of sand, gravel, or that have valuable metallic substances that could potentially be extracted. In addition, the extraction of minerals from shoreline represents an inherent risk to shoreline ecological functions. Therefore, mining should be a prohibited use in all shoreline designations.
8. Water-dependent industrial uses should be given priority in areas designated for industrial uses; second preference should be given to water-related industrial uses over non-water-oriented industrial uses.

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9. Industrial and port development should be visually compatible with adjacent non-commercial properties.
10. Industrial development shall incorporate public access as mitigation for impacts to shoreline resources. Where public access cannot be provided in a manner that would avoid significant interference with operations or hazards to life or property, a mitigation plan or bank for off-site access could be implemented and adopted by Island County.
11. Waterfront industrial areas should be designed to allow cooperative use of docking, parking, cargo handling, and storage facilities.

## **H. Recreation**

1. Preserve regionally scarce and fragile natural resources when developing recreational uses.
2. Water-oriented recreational uses should be given priority for access to and use of the water.
3. Selected publicly owned tidelands that have not been withdrawn for governmental or aquacultural uses should be considered for recreational development.
4. In appropriate areas where intensive fishing uses have been established, every effort should be made to protect these traditional uses from competing uses which would substantially impact and interfere with the historical and established uses.
5. Encourage the development of public recreational clam or oyster harvest areas on public second class tidelands.
6. Recreational use and development shall be designed, constructed and operated in a manner facilitates appropriate use of shoreline resources and does not result in a net loss of shoreline ecological functions and is compatible with the surrounding properties.
7. Linkages between shoreline parks, recreation areas and public access points with linear systems (e.g., water trails, hiking paths, bicycle paths, easements, or scenic drives) should be provided where feasible.
8. Recreation facilities should incorporate adequate orientation information and public education regarding shoreline ecological functions and processes, the effect of human actions on the environment and the importance of public involvement in shoreline management. Opportunities to incorporate educational and interpretive information should be pursued in design and operation of recreation facilities and other amenities such as nature trails.
9. Provide for recreational development within shorelines of statewide significance, which will produce long-term benefits to all Island County and State citizens.

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10. Encourage the use of street ends and publicly owned lands for shoreline public access, development of recreational opportunities and scenic view points.
11. Seek to recover for public use accesses that have been encroached upon or closed off by adjacent property owners.
12. Prioritize the acquisition of privately owned shorelands or improvement of publicly owned shorelands, with high value for recreation, before other development makes such action impossible.
13. Encourage innovative and cooperative techniques among public agencies and private parties in planning recreational opportunities.
14. Publicly owned bedlands abutting upland parks should be given consideration for underwater parks.

## **I. Residential**

1. Residential development shall protect existing shoreline and water views, promote public safety, avoid adverse impacts to marine bluffs and nearshore habitat and not result in a net loss of shoreline ecological functions.
2. Single-family residential development, accessory dwellings, and beach access structures should only be allowed in the Natural designation as a shoreline conditional use if the density and intensity is limited to protect shoreline ecological functions.
3. All residential use and development should prevent cumulative impacts associated with shoreline armoring, overwater structures, stormwater runoff, septic systems, introduction of pollutants, and vegetation clearing.
4. New development located at the top of bluffs in shoreline jurisdiction should be set back to ensure that shoreline stabilization would not be necessary for the life of the structure as determined by a geotechnical analysis.
5. New residential development should be designed and located to preclude the need for vegetation removal to the greatest extent feasible.
6. Residential lots should be designed, configured and developed to ensure that no net loss of ecological functions and processes occur even when all lots are fully built out.
7. All new or expanded shoreline residential development should be designed to avoid the need for new or expanded structural shore armoring or bulkheads or other types of shore defense works.
8. Residential subdivisions of five (5) or more lots are encouraged to provide public access to the shoreline at intervals of every four parcels or 150 feet whichever is greater in terms of shoreline frontage feet.

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9. Residential development over water, including floating homes, should be prohibited.
10. Houseboats and other liveaboard vessels should be located in approved marinas, where they must meet all local waste disposal practices, local and state health regulations, and not be allowed to locate over productive fish food areas.
11. Residential developers should be required to indicate how they plan to preserve shore vegetation and control erosion both during construction and after completion.
12. Dumping of yard waste over shoreline bluffs or at road ends should not be allowed.
13. Sewage disposal facilities as well as water supply facilities must be provided in accordance with appropriate state and local health regulations. Storm drainage facilities should be separate, not combined with sewage disposal systems.
14. Accessory structures such as decks and stairways should be designed and constructed to avoid adverse impacts to geologically hazardous areas.
15. Accessory structures that are not normal appurtenances should be proportional in size to the residence and compatible with onsite and adjacent structures, uses and natural features.
16. Natural vegetation should be retained to the extent feasible, except for limited removal allowed for view enhancement, removal of hazardous, diseased or damaged trees when they pose a threat to a primary structure or appurtenance, and to allow for pedestrian waterfront access. The following factors should be considered when removal of vegetation is proposed:
  - a. View corridors and vistas should be incorporated into building and site design.
  - b. Encourage building and site designs which frame views and vistas.
  - c. Preserve trees as a part of the view. Panoramic views are not necessarily void of trees.
  - d. Thinning and limited pruning of trees to preserve existing views is encouraged as an alternative to removal.
17. Stairs and trams to the beach should be designed and located so that no fill or other modification waterward of the ordinary high water mark is necessary to construct or use the structure.
18. Stairways, trams, and landings should be located upland of existing bulkheads.
19. Whenever possible, non-regulatory methods to protect, enhance, and restore shoreline ecological functions should be encouraged for residential development.

#### **J. Signs**

1. Off-premise outdoor advertising signs should be limited to areas of more intensive land use such as commercial and industrial areas.

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2. Vistas and viewpoints should not be degraded and visual access to the water from such vistas should not be impaired by the placement of signs. Only signs that impart historical or directional information and are of limited size and height should be allowed.
3. When feasible, signs should be constructed against existing buildings to minimize visual obstructions of the shoreline and water bodies.

## **K. Transportation**

1. Proper road and bridge design, location, construction, and maintenance practices should be used to prevent development of roads and structures that would adversely affect shoreline resources.
2. Design and construction of public roads should be consistent with County adopted land use plans, preserve aesthetic qualities of shorelands, and take into consideration the following:
  - a. Major new roads and parking areas should be located outside of shoreline jurisdiction whenever feasible.
  - b. All construction should be designed to protect the adjacent shorelands against erosion, uncontrolled drainage, slides, pollution, excessive excavations and fills and other factors detrimental to the environment.
  - c. Scenic corridors with public roadways should provide for safe pedestrian and other non-motorized travel, and sufficient viewpoints, rest areas and picnic areas in public shorelines.
  - d. Loops or spurs of old highways with high aesthetic quality should be kept in service as pleasure bypass routes.
  - e. Encourage joint use of transportation corridors within shoreline jurisdiction for roads, utilities, and non-motorized forms of transportation.
3. New transportation facilities should be designed and located to minimize the need for:
  - a. Structural shoreline protection measures;
  - b. Modifications to natural drainage systems; and
  - c. Waterway crossings.
4. Maintenance and repair of existing roads in shoreline jurisdiction shall use all reasonable methods to minimize adverse impacts on nearby shorelines.
5. Planning for transportation and circulation corridors shall consider location of public access facilities, and be designed to promote safe and convenient access to those facilities.
6. Pedestrian trails and bicycle paths along shorelines are encouraged where they are compatible with the natural character, resources, and ecology of the shoreline.

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7. Coordinate with Island Transit to provide bus service to beach public access points where feasible.
8. Parking as a stand-alone use should be prohibited. Parking in shoreline areas should be limited to that which directly serves a permitted shoreline use or public shoreline access and located as far away from the OHWM as possible.

## **L. Utilities**

1. Design, locate and maintain utilities to assure no net loss of ecological functions.
2. Utilities should be located outside of shorelines whenever feasible, unless necessary to serve shoreline uses.
3. Whenever utilities must be placed in a shoreline area, the location should be chosen so as not to obstruct or degrade scenic views.
4. Whenever feasible, utilities should be placed underground.
5. Upon completion of utility installation or maintenance projects within shoreline areas, disturbed sites should be restored to pre-project configuration, replanted with native species and maintenance care provided until the newly planted vegetation is established.
6. Sewage treatment, water reclamation, desalinization and power plants should be located where they do not interfere and are compatible with recreational, residential, or other public uses of the water and shorelands.
7. Wave- and tidal- based energy generation facilities should be allowed only if they are of small enough scale and carefully designed and sited to ensure no net loss of shoreline ecological functions and are compatible with the surrounding land uses. Ensure that if the facility fails or is no longer used, the entire facility will be removed and the site rehabilitated.
8. Development of underwater pipelines and cables on first- and second-class tidelands will be discouraged except where adverse environmental impacts can be shown to be less than the impact of upland alternatives, and when permitted will include proper provisions to insure against substantial or irrevocable damage to the environment.

## **Chapter VII: Policies for Shoreline Modifications**

Shoreline modification activities are generally construction actions undertaken in preparation for, or in support of, a shoreline use. Typical modifications to Island County shorelines include dredging, piers and docks, groins and jetties, bulkheads, and dikes.

### **A. Shoreline Stabilization**

1. New development should not be allowed if it would foreseeably create a need for shoreline stabilization measures within the life of the development.
2. New and replacement activities should consist of the softest measure that will protect existing uses and proposed development.
3. The creation of new parcels that would foreseeably require shoreline stabilization for development to occur should be prohibited.
4. An existing shoreline stabilization structure may be replaced with a similar structure only if a demonstration of need to protect the primary structure from shoreline erosion caused by tidal action, currents, or waves.
5. The County shall require sufficient analysis by qualified professionals with the expertise to document the impacts of shoreline modification proposals. Such analysis may include, but not be limited to, geotechnical, hydrological, and biological studies, and should include an analysis of drift cells.
6. A geotechnical analysis should evaluate on-site drainage issues before considering structural shoreline stabilization.
7. Non-structural measures to avoid the need for shoreline stabilization, including relocating structures, increasing buffers, enhancing vegetation, managing drainage and runoff and other measures are preferred over structural shoreline armoring.
8. Non-structural or soft-shore bank stabilization techniques are preferred over structural shoreline stabilization, such as bulkheads, seawalls, and breakwaters.
9. Structural shoreline armoring should only be permitted when necessary to support:
  - a. An existing primary structure associated with an approved shoreline use or development where the structure is in imminent danger of damage due to shoreline erosion that cannot be avoided by other means;
  - b. A permitted water dependent use;
  - c. A project for restoration or enhancement of ecological functions, or
  - d. Public infrastructure or essential public facilities when other alternatives are infeasible.

10. Shoreline stabilization and shoreline armoring for the purpose of leveling or extending property or creating or preserving residential lawns, yards or landscaping should not be allowed, except when employing soft shore stabilization techniques to replace existing hard armoring.
11. New bulkheads should be prohibited if they are proposed to be located seaward of the ordinary high water mark.
12. Where feasible, any failing, harmful, unnecessary, or ineffective structural shoreline armoring should be removed, and shoreline ecological functions and processes should be restored using non-structural methods.
13. In addition to conforming to the regulations in this Program, non-regulatory methods should be employed to protect, enhance, and restore shoreline ecological functions and other shoreline resources. Non-regulatory methods may include public facility and resource planning, technical assistance, education, incentives for voluntary enhancement and restoration projects, land acquisition and restoration, or other programs.
14. When necessary, riprap and other bank stabilization measures should be located, designed, and constructed so as to avoid the need for future shoreline stabilization and to protect the natural character of the shoreline.
15. Shore protection measures should be designed and constructed so as to minimize interruption to naturally occurring shoreline processes, such as sediment movement and marine and wildlife habitat functions.
16. Shoreline protection measures such as bulkheads, dikes, jetties, or groins should not be permitted on spits, hooks, bars, barrier beaches or similar accretion shoreforms, except when it can be demonstrated that construction of the above shore protection measures are necessary for the protection of existing structures.
17. Shore protection measures should not be permitted on marine feeder bluffs, except when it can be demonstrated by a professional engineer or geologist that construction will not seriously disrupt the upland feeding action or the littoral drift or is necessary for the protection of existing primary structures.
18. Bulkheads, seawalls and other structural shoreline armoring should be located and constructed in such a manner which will not result in a net loss of shoreline functions or adverse effects in nearby beaches and will minimize alterations of the natural shoreline.
19. Bulkheads and seawalls should be constructed in such a way as to minimize damage of fish habitats. Open-piling construction is preferable to solid types.
20. Bulkheads and seawalls should be designed to blend in with the surroundings and not to detract from the aesthetic qualities of the shorelines.
21. State Department of Fish and Wildlife guidelines concerning the construction of bulkheads.

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22. Provide incentives for replacement of structural shoreline stabilization with non-structural shoreline stabilization to restore degraded shore environments and where necessary for the protection of septic systems and drainfields along the shoreline. Non-structural alternatives may include drift logs, gravel berms, vegetative stabilization, beach enhancement (nourishment), and other methods.
23. Rigorously enforce stormwater management regulations upstream from shoreline areas to ensure that increased runoff does not contribute to shoreline erosion.
24. Encourage appropriate innovative low impact stormwater management methods, especially on high bluff shorelines, to minimize increases in erosion due to development.
25. Allow limited fill in marine shorelines where the fill is part of soft shoreline stabilization that is replacing hard armoring.

## **B. Moorage Facilities**

1. Moorage associated with a single-family residence is considered a water-dependent use provided it is designed and used as a facility to access watercraft when nearby moorage facilities are not available or feasible.
2. Moorage for water-related and water-enjoyment uses should be allowed only as part of a mixed use development and should include public access.
3. Moorage facilities should be located, designed, constructed, and operated with appropriate mitigation to avoid adverse effects on shoreline functions and processes, including currents and littoral drift, and to prevent conflicts with other allowed uses.
4. Shallow draft uses, such as marinas, will be preferred over deep draft uses in areas requiring extensive maintenance dredging.
5. To minimize the impacts associated with private docks, piers, floats, boat lifts, and launch ramps and rails accessory to residential development:
  - a. Mooring buoys are generally preferred over docks, piers or floats;
  - b. Shared boating facilities serving multiple properties are preferred over facilities serving only a single property or parcel;
  - c. Public boat launches are preferred over private launch facilities;
  - d. Rail and track launch systems are preferred over ramps.
6. Multiple use and expansion of existing facilities are preferred over construction of new individual docks and piers except for existing waterfront, residential communities that were designed with private docks on man-made canals (i.e., Mariners Cove, Lagoon Point, and Sandy Hook).
7. Joint use of recreational piers and docks on state owned aquatic lands is encouraged consistent with the Washington State Department of Natural Resources criteria.

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8. Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating, as well as private riparian rights of adjacent land owners.
9. Docks and piers should not be allowed where shallow depths require excessive overwater pier length or dredging.
10. Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length and width of piers and docks should be no greater than that required for safety and practicality for the primary use.
11. Shoreline resources and water quality should be protected from overuse by boaters living on vessels (live-aboards). Boaters living on vessels should be restricted to established marinas with facilities to address waste handling and other sanitary services. Mooring buoys shall not be used to anchor live-aboard vessels.
12. Vessels should be restricted from extended mooring on waters of the state unless authorization is obtained from the DNR and impacts to navigation and public access are mitigated.
13. Piers and docks shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.
14. New pier and dock development should be designed so as not to interfere with lawful public access to or use of shorelines. Developers of new piers and shared moorage should be encouraged to provide physical or visual public access to shorelines whenever safe and compatible with the primary use and shore features.
15. In providing for moorage facilities, the County should consider the capacity of the shoreline sites to absorb the impact of waste discharges from boats, including gas and oil spillage.

### **C. Landfill and Excavation**

1. Filling and excavation should only be allowed waterward of the ordinary high water mark when alternatives are infeasible and when the filling or excavation is:
  - a. Necessary to support an approved water-dependent use or essential public facility; or
  - b. Part of an approved ecological restoration or enhancement project; or
  - c. For soft-shore stabilization; or
  - d. Part of an approved aquaculture operation when the fill is required to improve production; or
  - e. Part of an approved beach nourishment project; or
  - f. Required to provide public access for a substantial number of people.
2. The extent of landfill and excavation allowed should only be the minimum necessary to accommodate an approved shoreline use or development and with assurance of no net

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loss of shoreline ecological functions and processes. Enhancement and voluntary restoration of landforms and habitat are encouraged.

3. Shoreline fills or cuts should be designed and located so that significant damage to shoreline ecological functions or natural resources or alteration of local currents or littoral drift will not occur, resulting in the creation of a hazard to adjacent property, life, and natural resource systems.
4. Fill materials should be of such quality that they will not cause undue degradation of water quality.
5. In evaluating fill or excavation for water-dependent uses and for public access projects and in designating areas appropriate for fill and excavation, such factors as total water surface reduction (on lakes), navigation restriction, impediment to water flow and circulation, impediment to sediment movement, reduction of water quality, and destruction of habitat should be considered.
6. Filling in flood plain areas should not be allowed if reduction of flood water storage capacity might endanger other areas.
7. Filling and excavation should not be allowed where structural shoreline stabilization would be required to maintain the materials placed or excavated.
8. Beach material from tidelands and beds should generally not be used to backfill bulkheads and seawalls.
9. When filling on tidelands is permitted, provisions to stabilize fill material will be required.
10. Sanitary landfills and the disposal of solid waste should be prohibited within the shoreline jurisdiction.

#### **D. Dredging**

1. Dredging of bottom materials for the single purpose of obtaining fill should be prohibited except when the material is necessary to restore ecological functions associated with a Model Toxics Control Act (MTCA) or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) habitat restoration project.
2. Any allowed dredging should include measures to mitigate impacts to existing shoreline ecological functions and natural resources of both the area to be dredged and the area for deposit of dredged materials to achieve no net loss of shoreline functions.
3. New development should be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.

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4. Shoreline vegetation that is disturbed by dredging projects shall be replanted and restored to pre-project configuration, or otherwise mitigated if replanting would not be viable.
5. Dredging operations should minimize interference with navigation and adverse impacts to other shoreline uses, properties and values.
6. Dredging and dredge disposal should be consistent and coordinated with appropriate local, state and federal regulations to minimize duplication during the review process.

#### **E. Breakwaters, Jetties and Groins**


1. Breakwaters, jetties and groins should be permitted only for water-dependent uses when the benefits to the region outweigh local resource losses and restrictions on public navigation resulting from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes.
2. Floating breakwaters are preferred to solid landfill types in order to maintain sediment movement and nearshore habitat.
3. Solid breakwaters shall be constructed only where design modifications can eliminate potentially detrimental impacts on the movement of sediment and circulation of water.
4. Jetties and groins should be discouraged and allowed only as a conditional use in conjunction with an approved water-dependent use.

#### **F. Ecological Restoration**

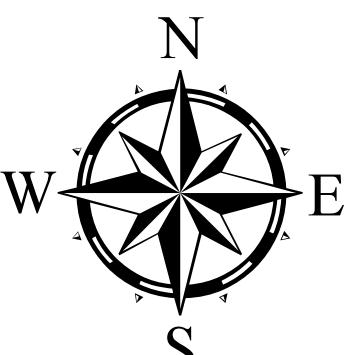
1. Ecological restoration activities are encouraged in all shoreline environments and are considered to be consistent with all uses including residential, commercial, and industrial, provided they are designed appropriately.
2. Restoration actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted toward meeting the needs of endangered, threatened, and regionally important plant, fish, and wildlife species and habitats.
3. Restoration should be integrated with and should support other natural resource management efforts in Island County and in the Puget Sound region.
4. When prioritizing restoration actions, the County should give highest priority to measures that have the greatest chance of reestablishing ecosystem processes and creating self-sustaining habitats.


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## EXHIBIT D: SHORELINE ENVIRONMENTAL DESIGNATION MAPS

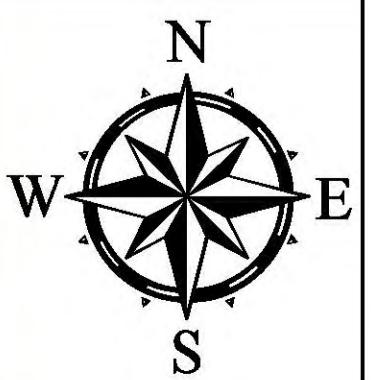



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North Whidbey



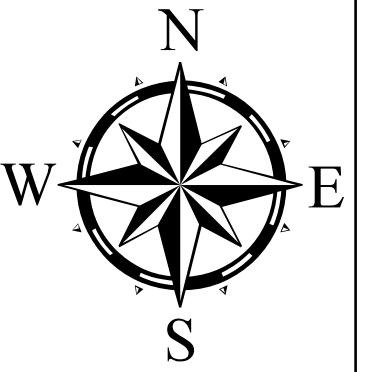


Proposed Shoreline Designation  
South Whidbey





Proposed Shoreline Designation  
Camano Island



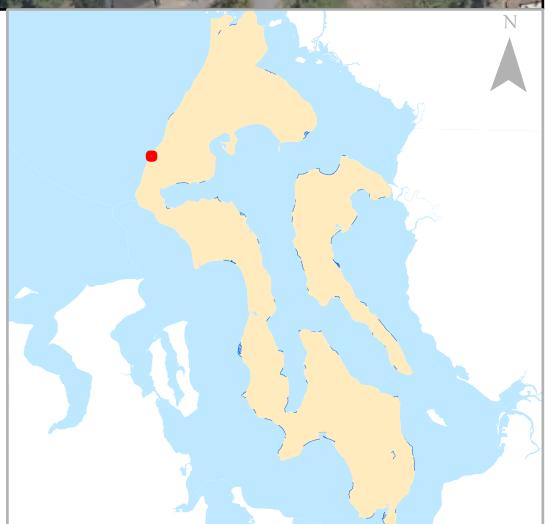


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Current HBC Boundaries  
Updated New HBC Rev

Historc Beach Community Rev

Yes





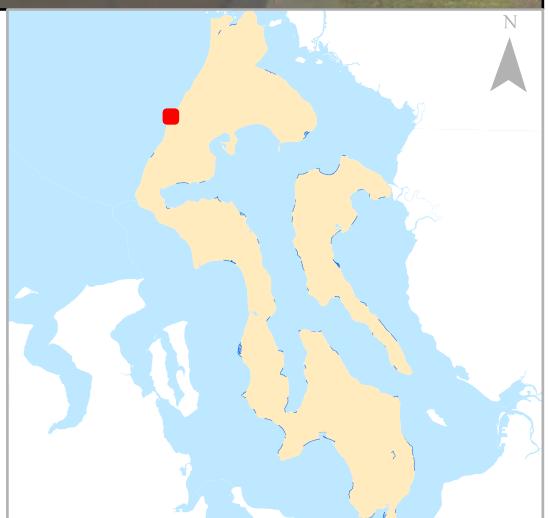
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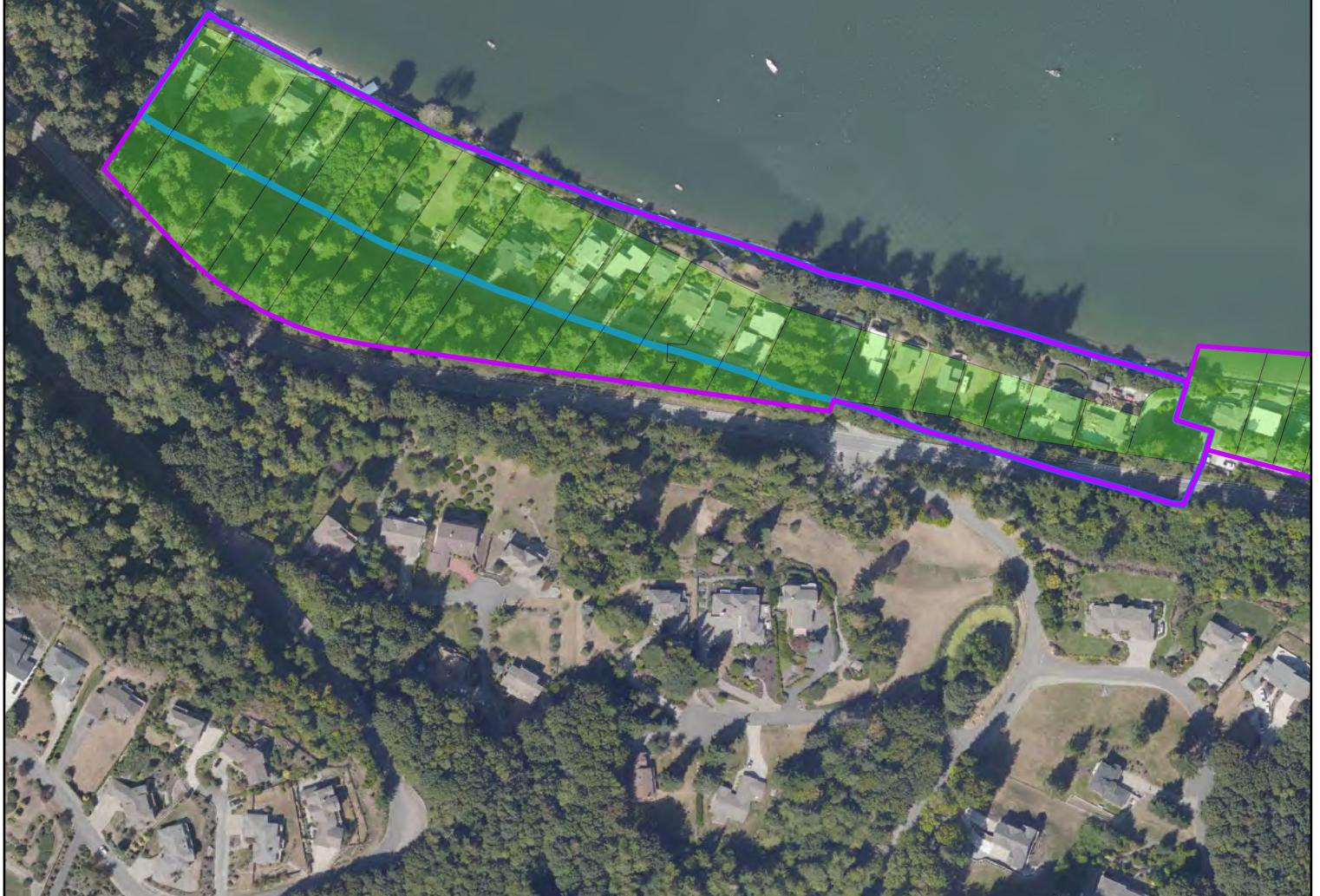
Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





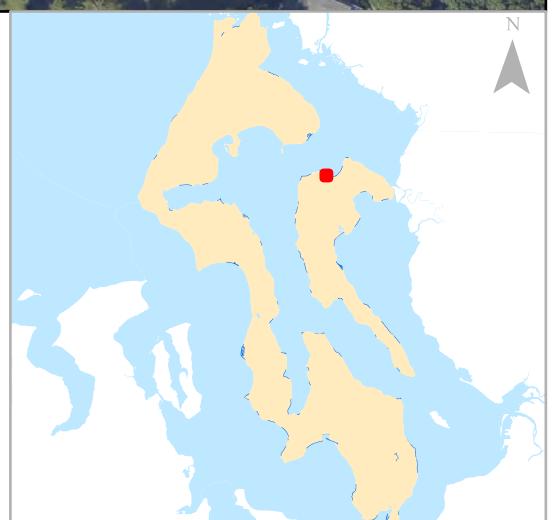
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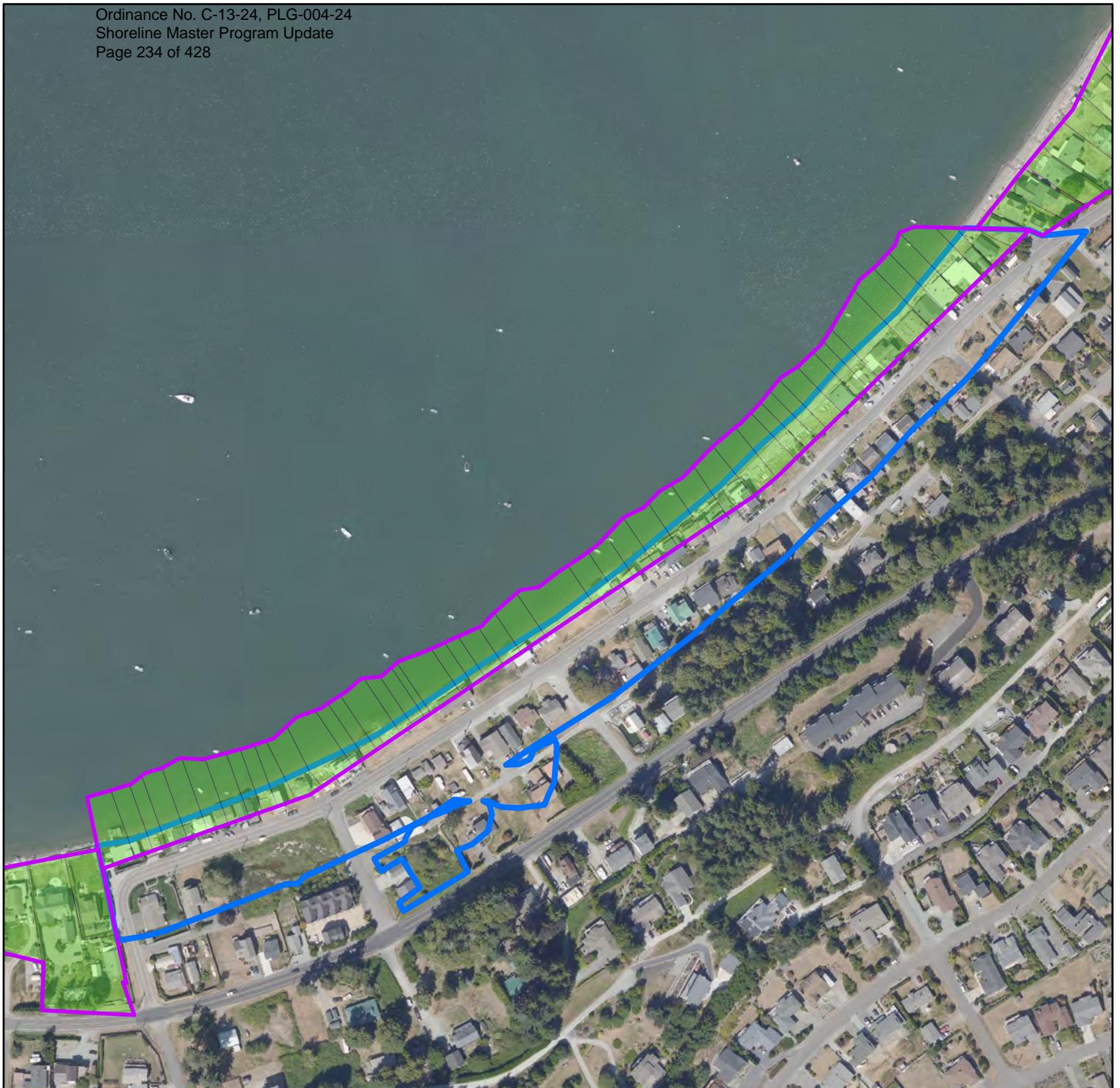
Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





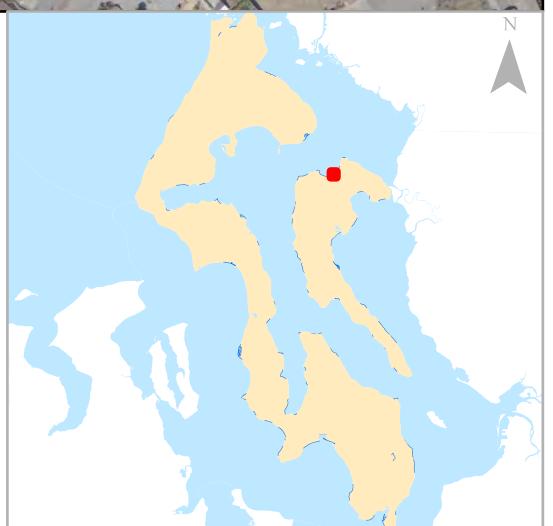
## Island County Historic Beach Communities SITE: Utsalady

Current HBC Boundaries

Updated New HBC Rev

Historic Beach Community Rev

Yes





## Island County Historic Beach Communities SITE: New Location

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes



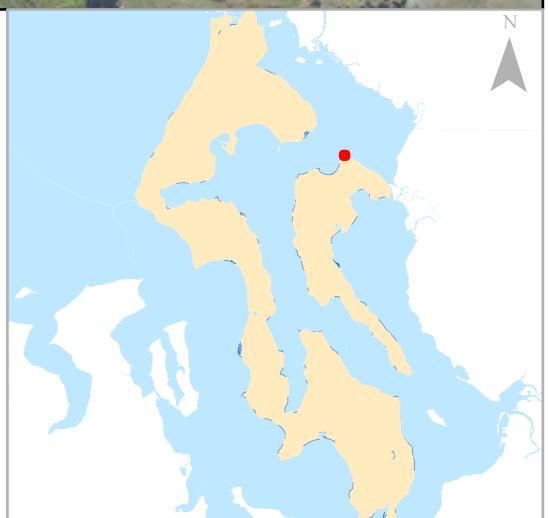


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Historc Beach Community Rev

 Yes





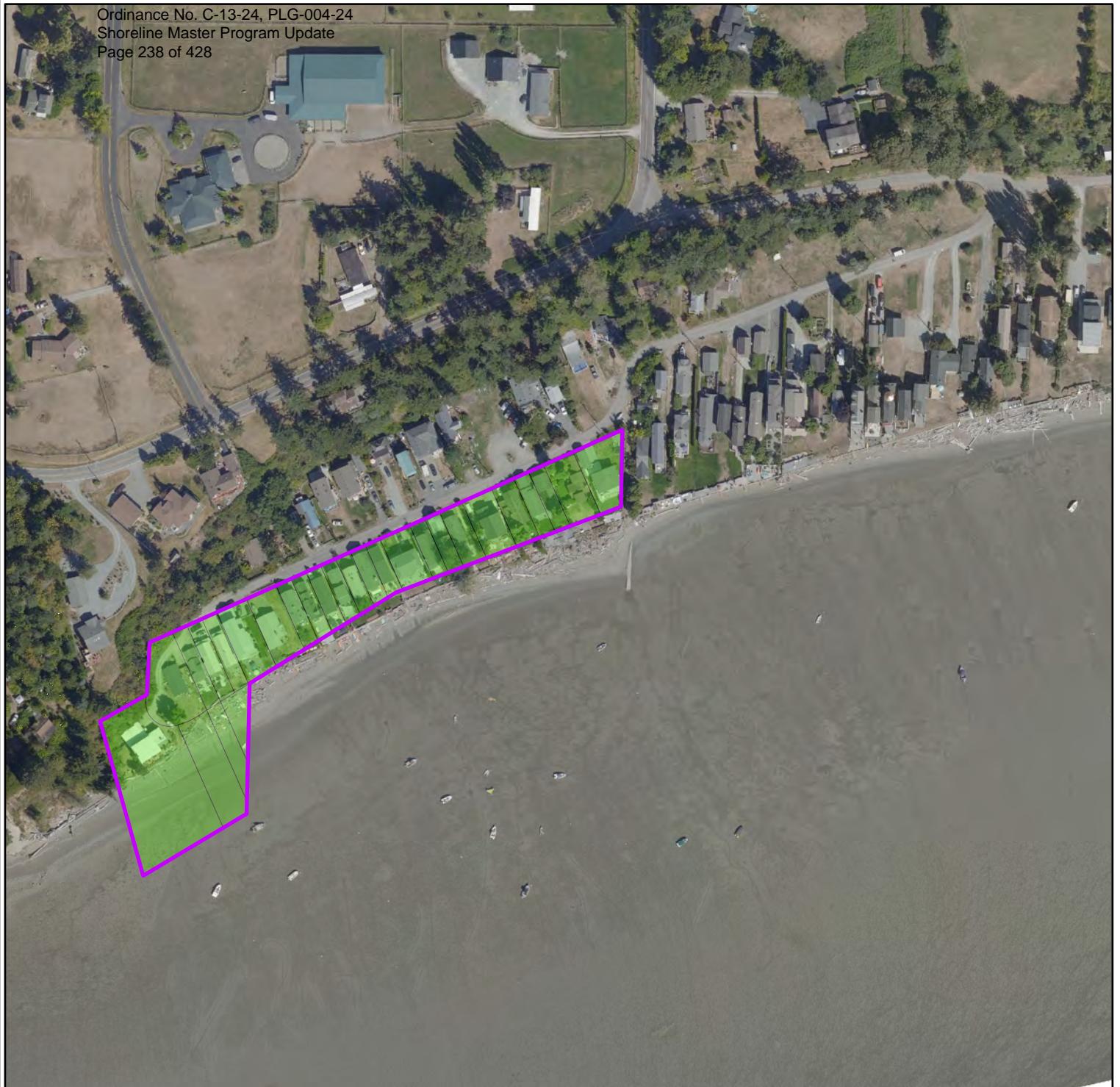
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 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: Juniper Beach

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





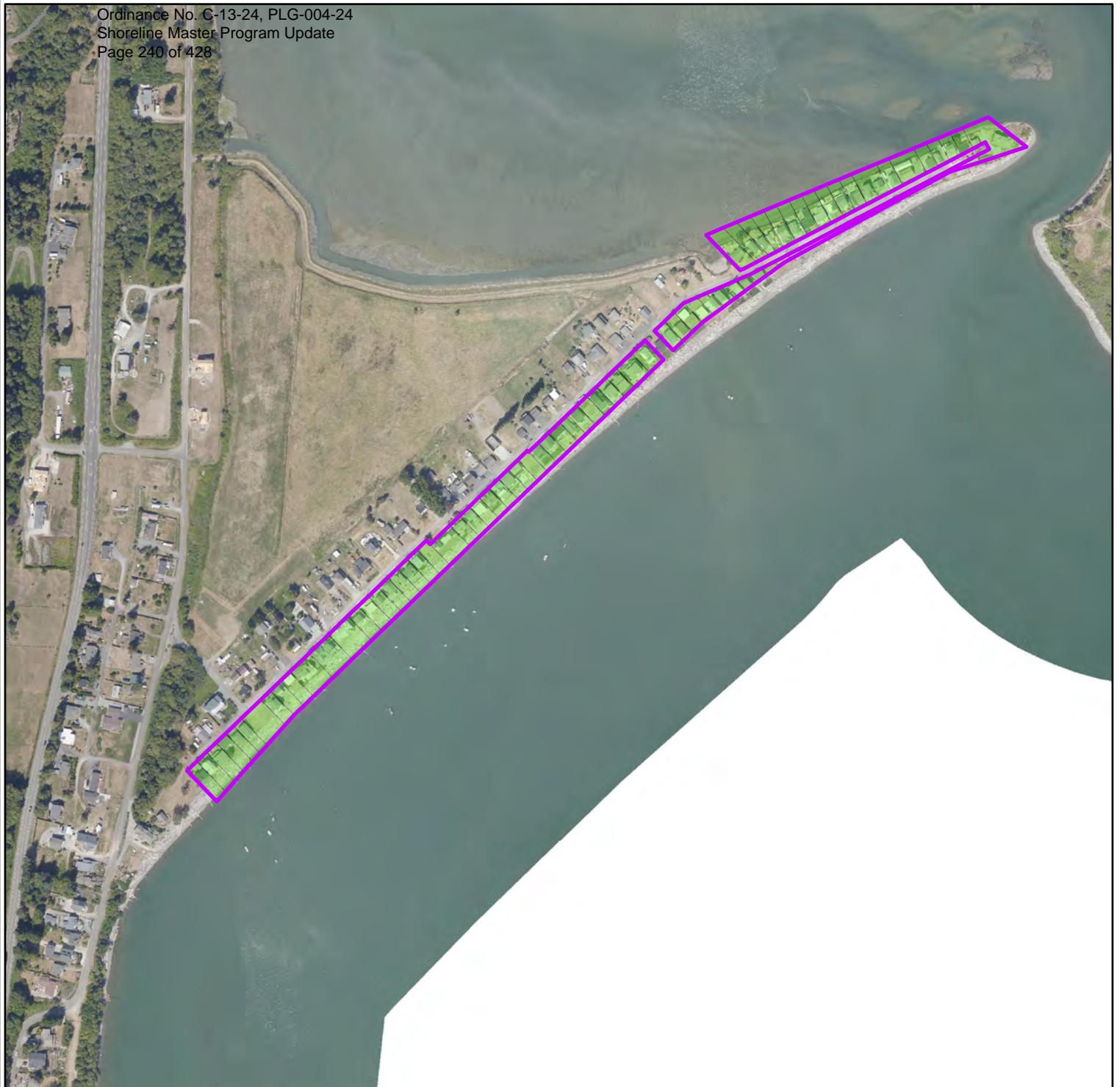
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 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





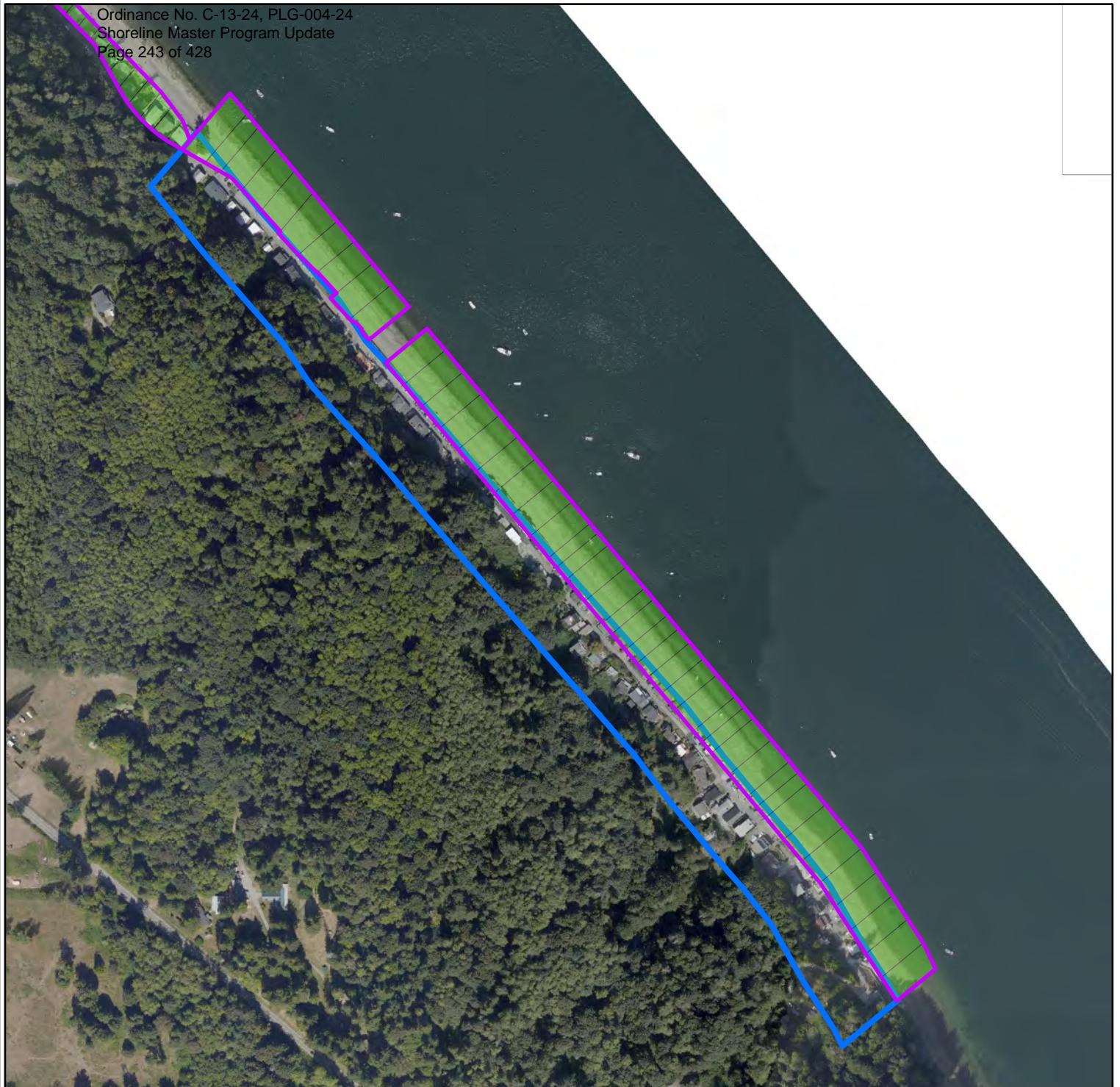
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 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: Tyee Beach

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes



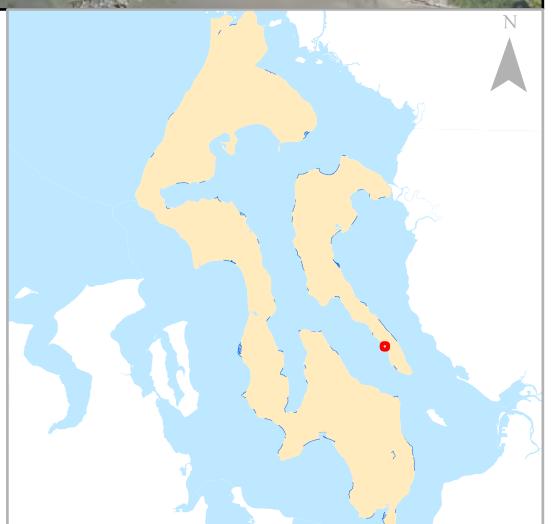


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





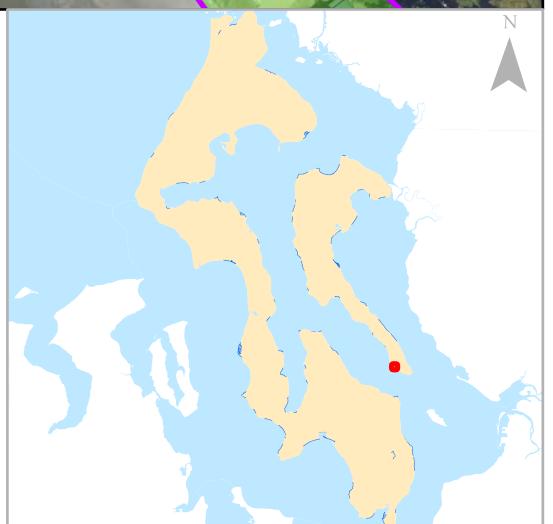
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Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





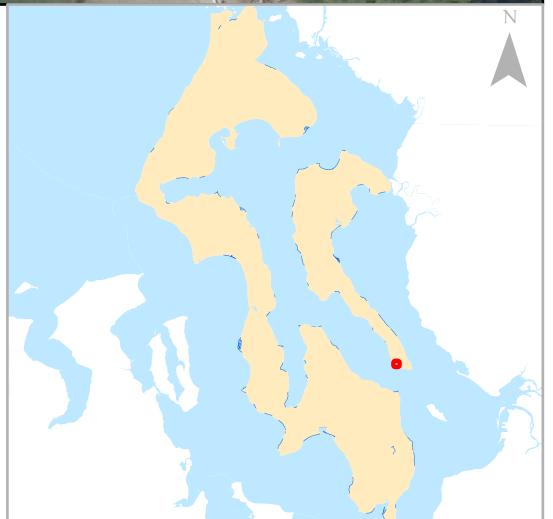
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Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





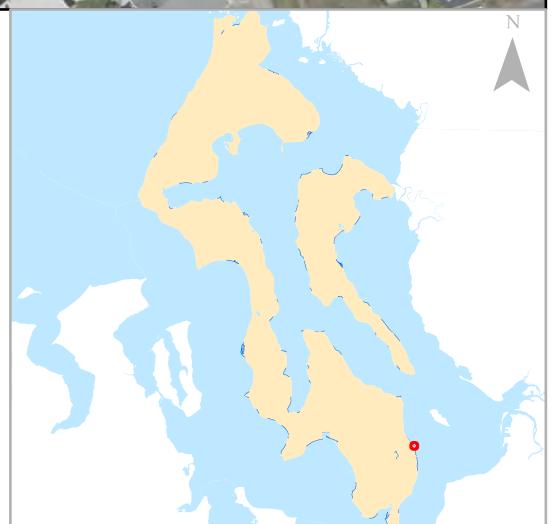
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Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





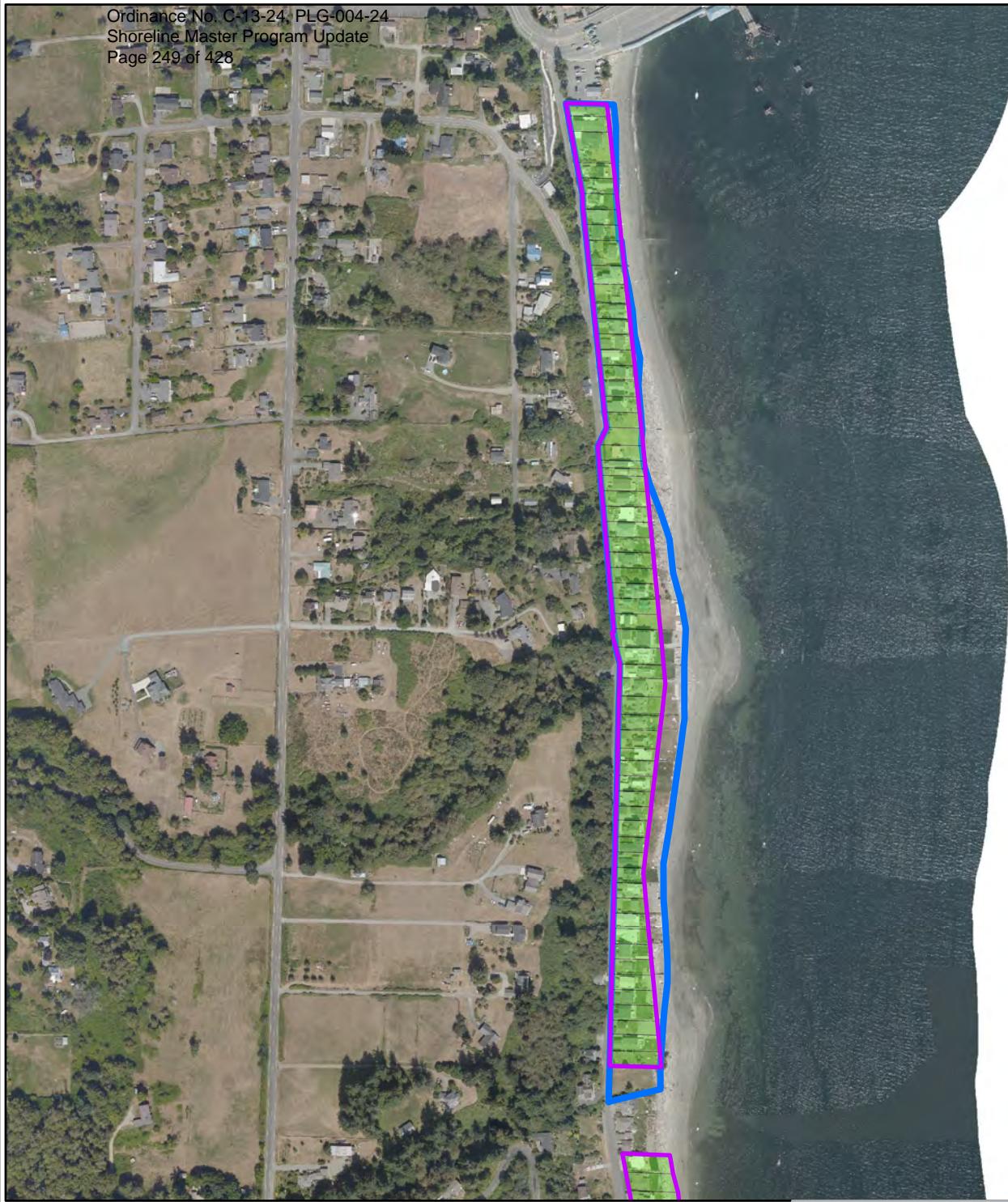
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 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: Columbia Beach

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes



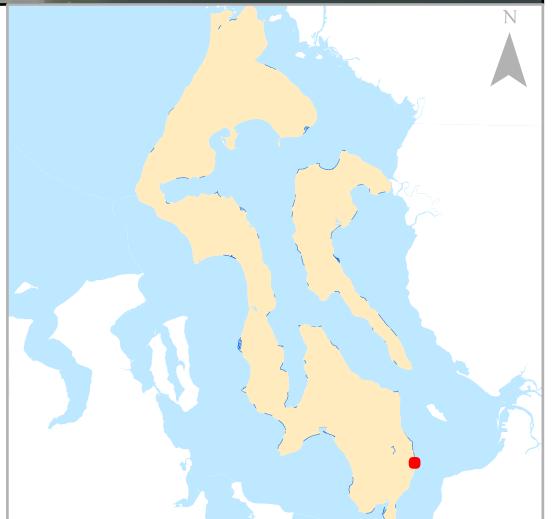


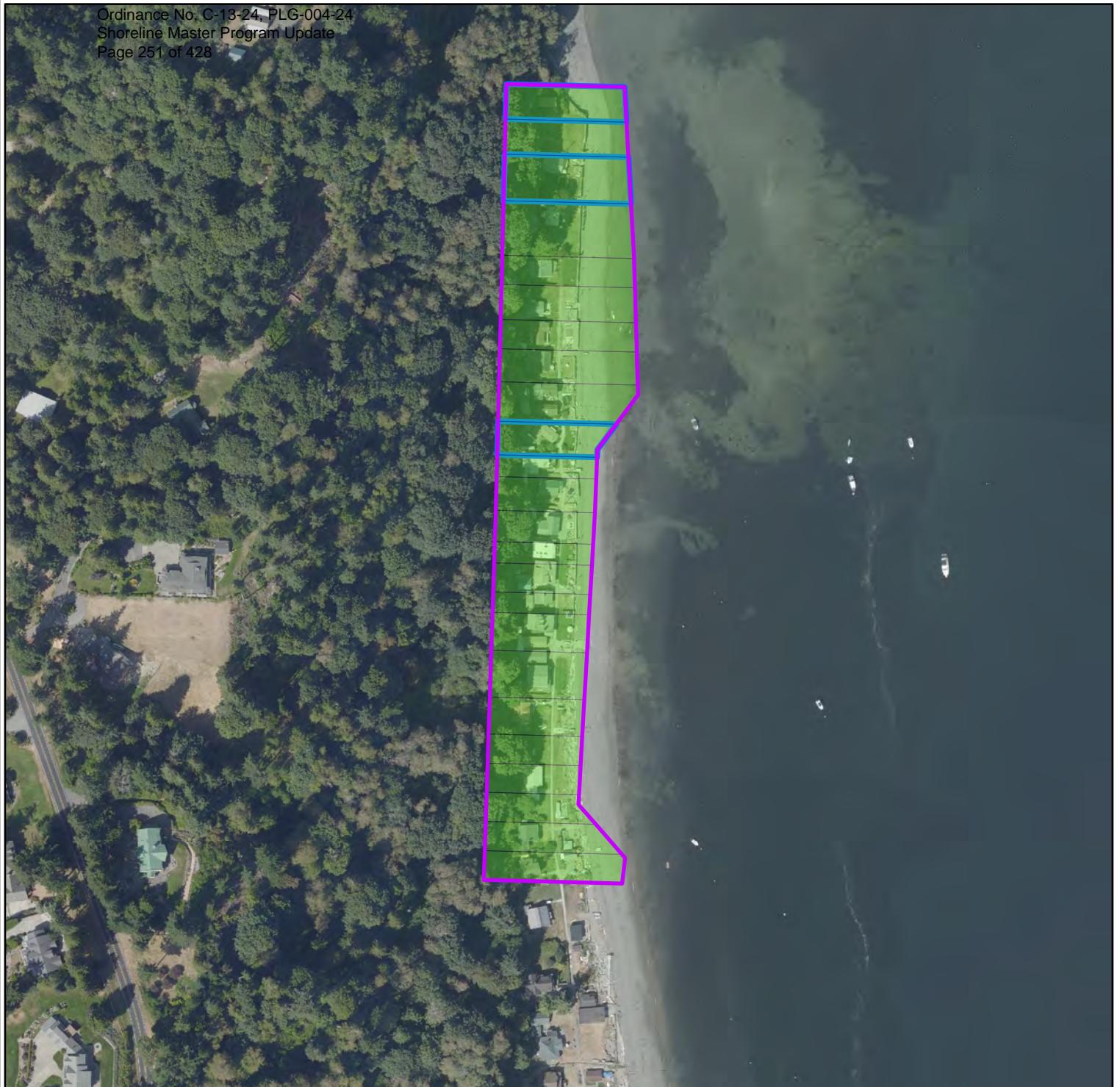
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 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: Possession Beach Walk

  Current HBC Boundaries

  Updated New HBC Rev

Historc Beach Community Rev

  Yes





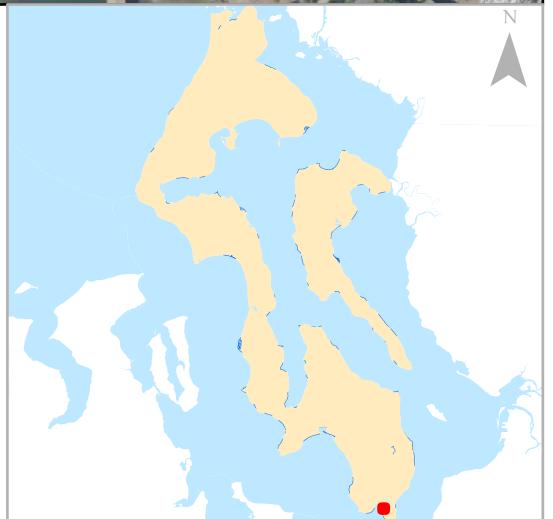
## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes

 N/A



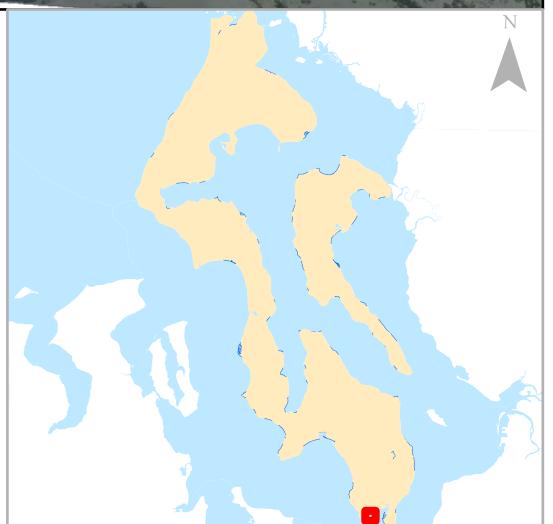


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



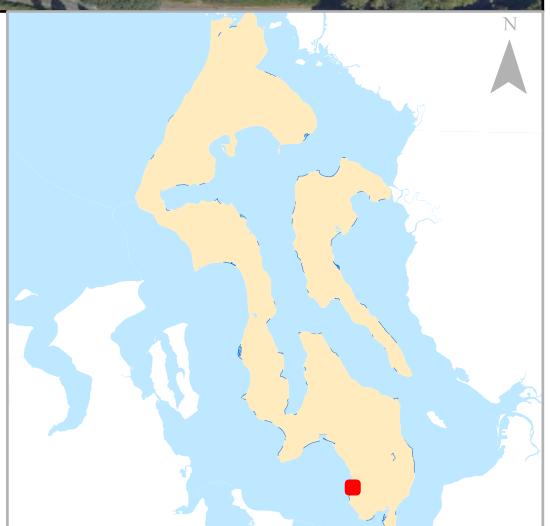


## Island County Historic Beach Communities SITE:

Current HBC Boundaries  
Updated New HBC Rev

Historc Beach Community Rev

Yes



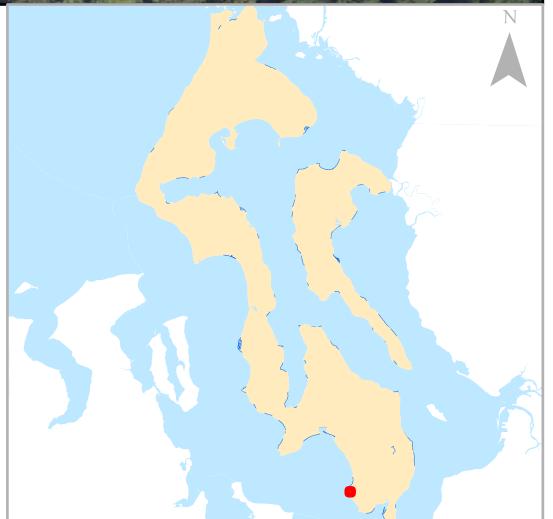


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



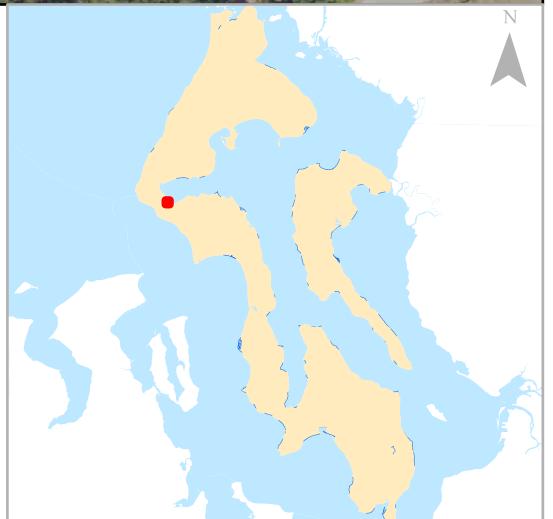


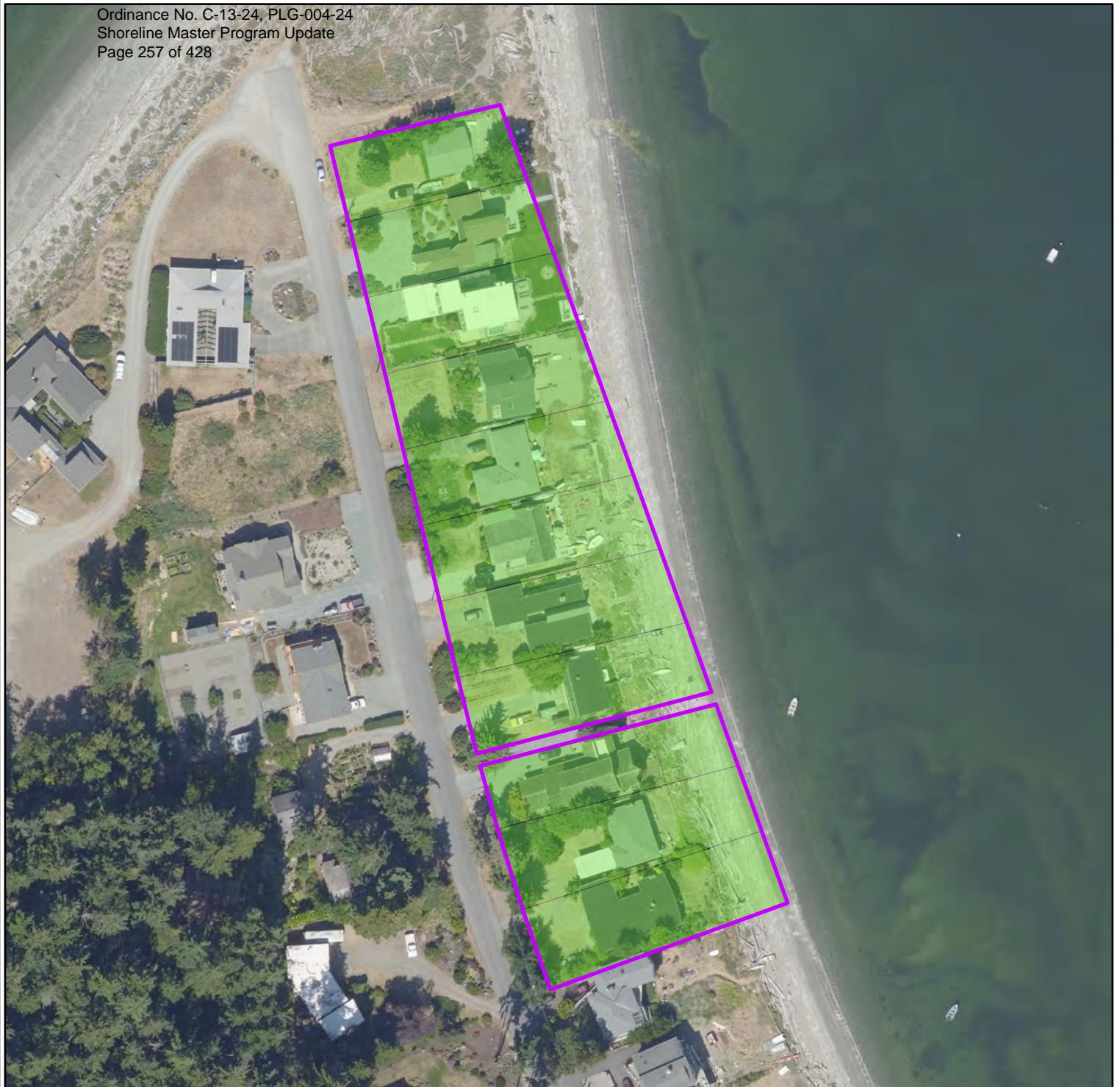
## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



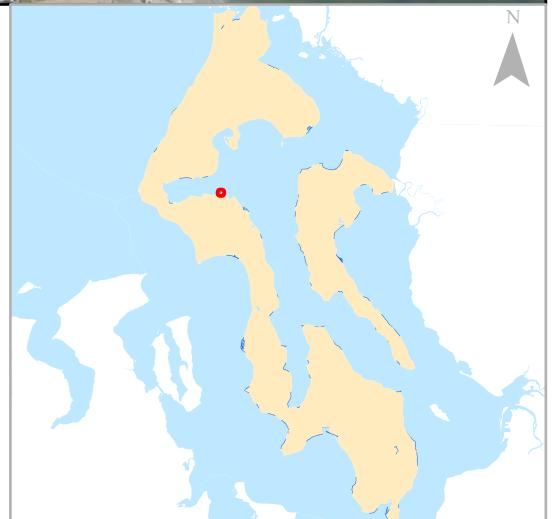


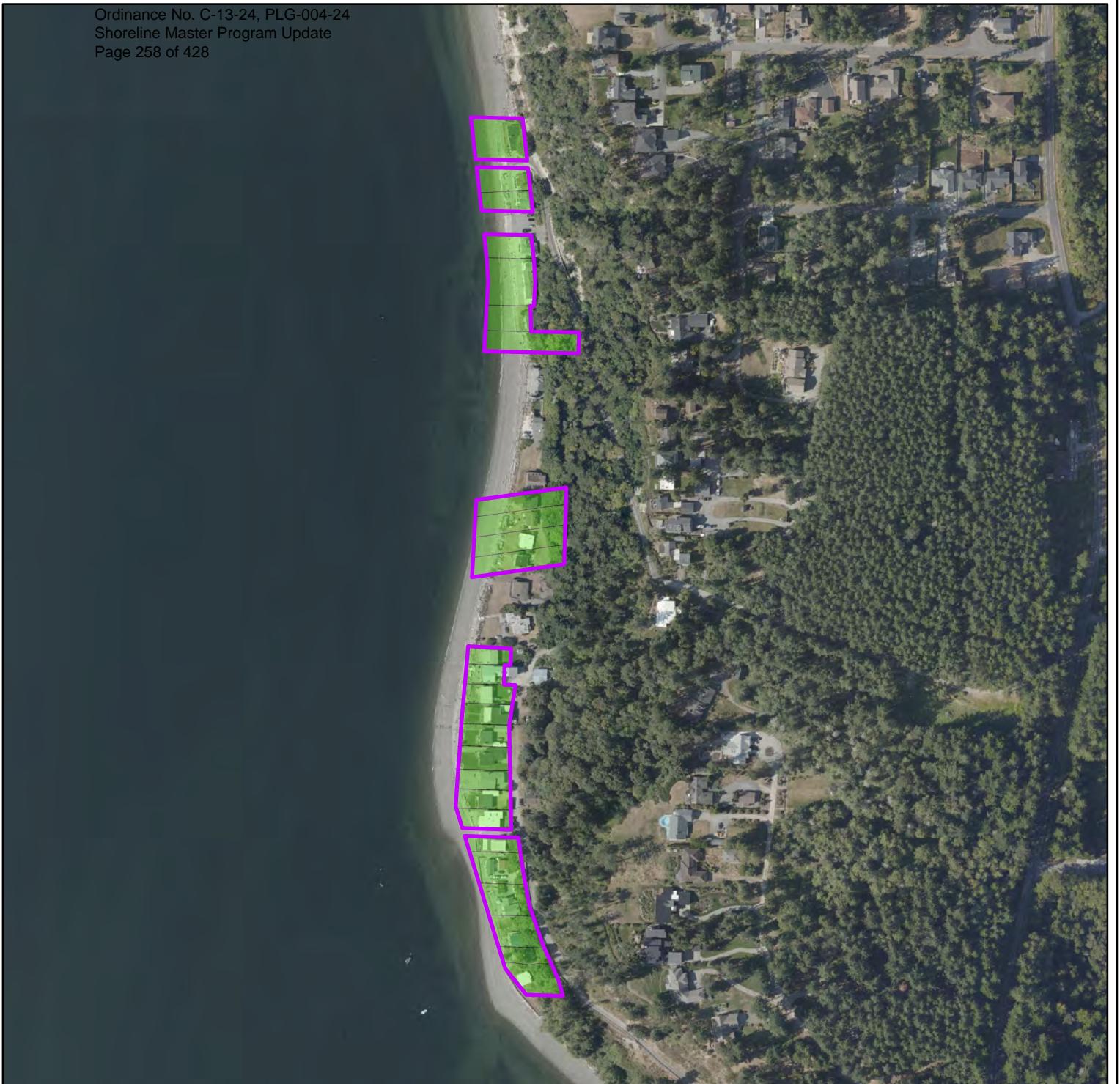
## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





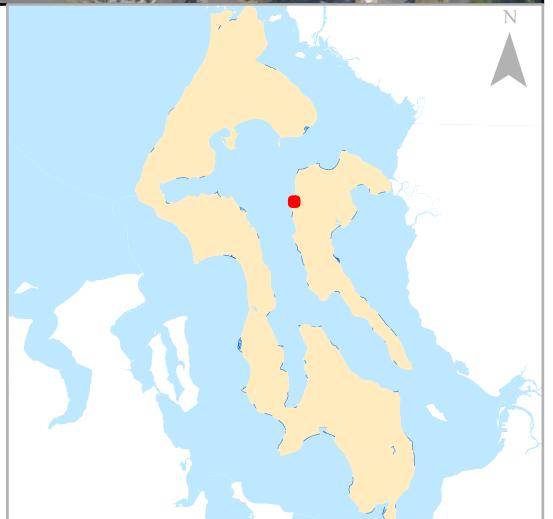
## Island County Historic Beach Communities SITE: Madrona Beach

Current HBC Boundaries

Updated New HBC Rev

Historic Beach Community Rev

Yes



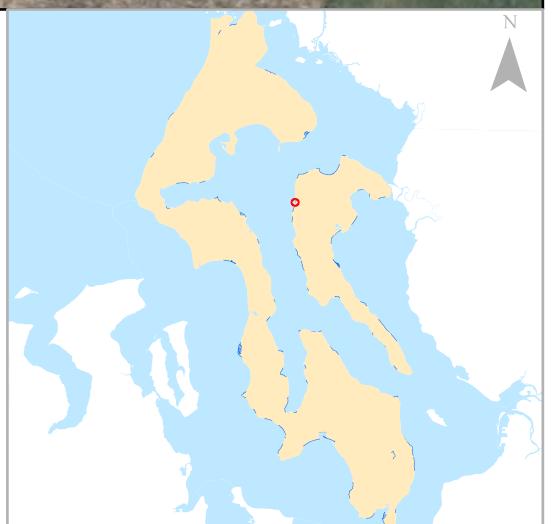


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



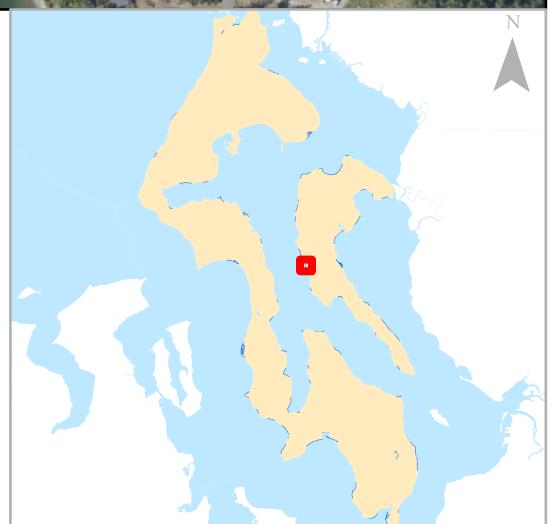


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



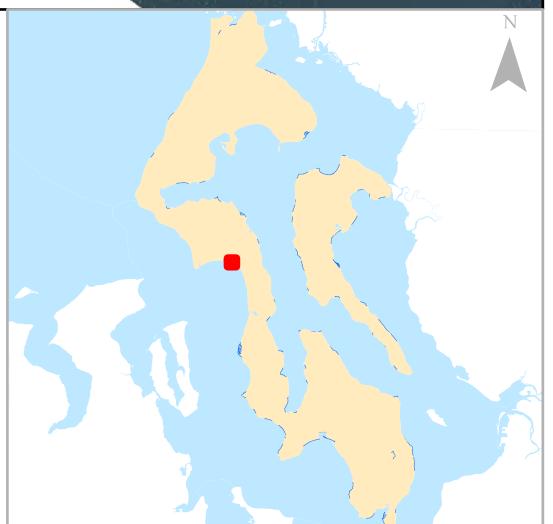


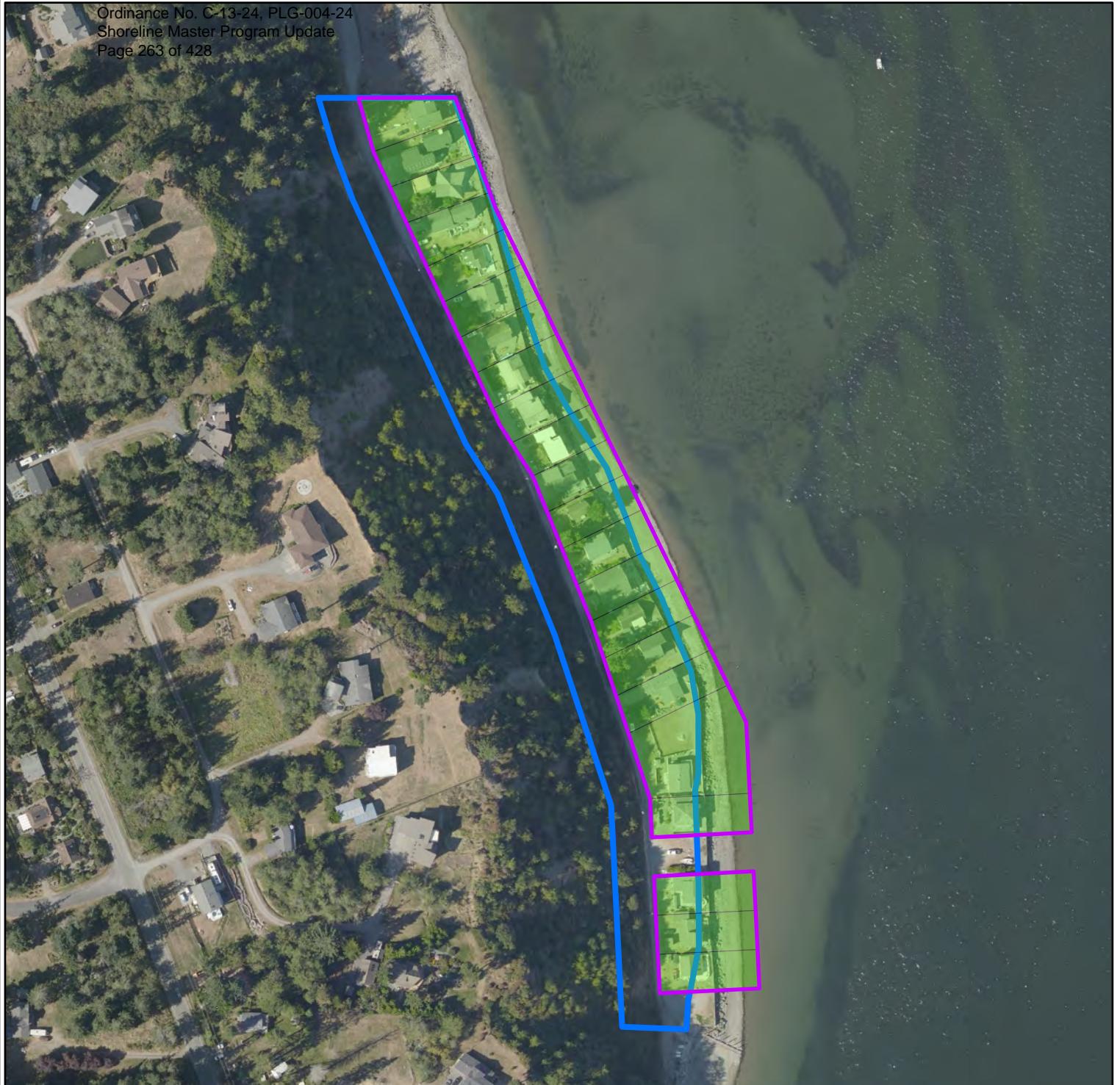
## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: Hidden Beach Lots

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





## Island County Historic Beach Communities SITE: New Location





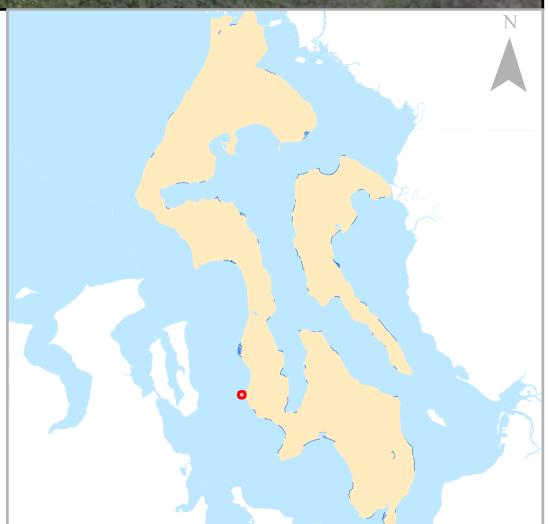
## Island County Historic Beach Communities SITE: Bush Point Beach

Current HBC Boundaries

Updated New HBC Rev

Historic Beach Community Rev

Yes



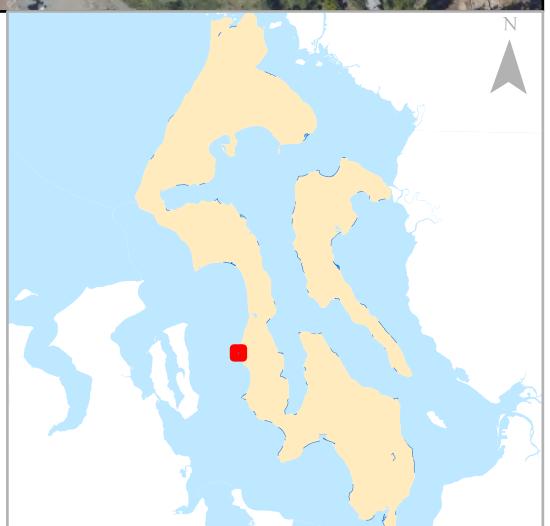


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

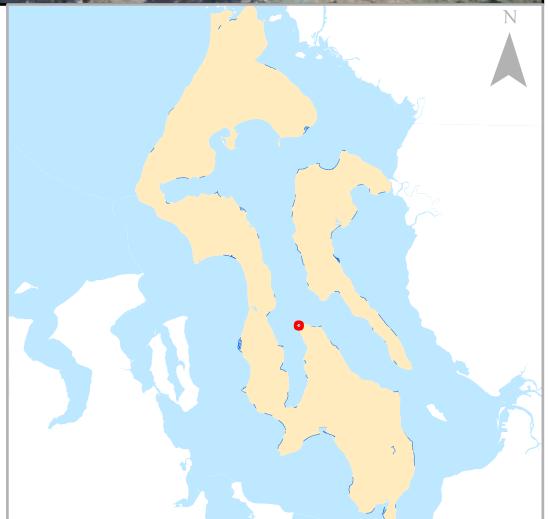
Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: New Location





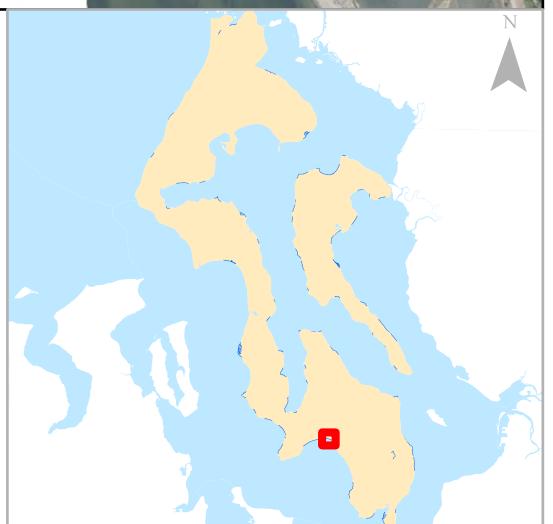
## Island County Historic Beach Communities SITE: Expanded Location

Current HBC Boundaries

Updated New HBC Rev

Historic Beach Community Rev

Yes





## Island County Historic Beach Communities SITE: Sunlight Beach

  Current HBC Boundaries

  Updated New HBC Rev

Historc Beach Community Rev

  Yes





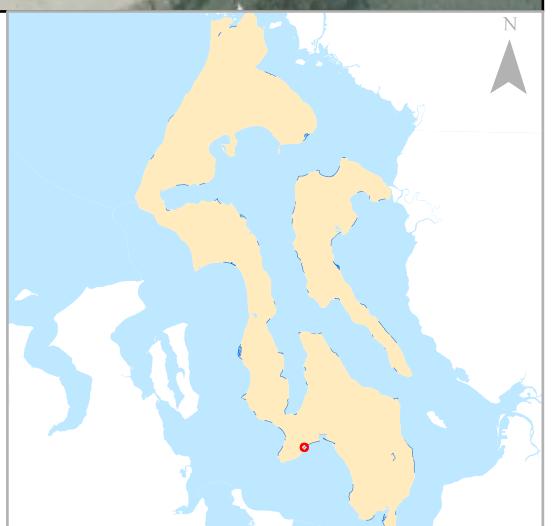
## Island County Historic Beach Communities SITE: Shore Ave

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





## Island County Historic Beach Communities SITE: Expanded Location

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes



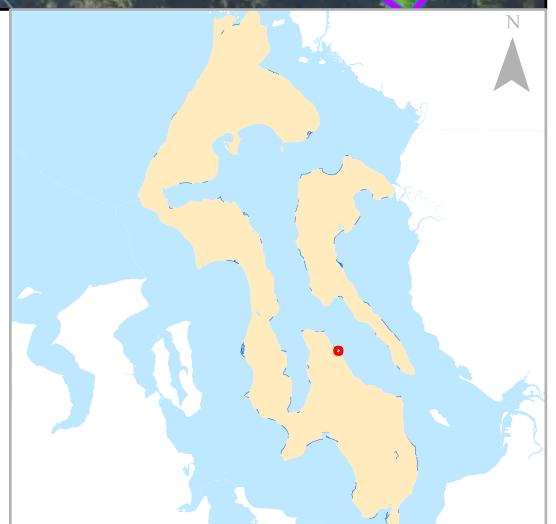


## Island County Historic Beach Communities SITE: Bell's Beach Waterfront Tracts

- Current HBC Boundaries
- Updated New HBC Rev

Historc Beach Community Rev

Yes





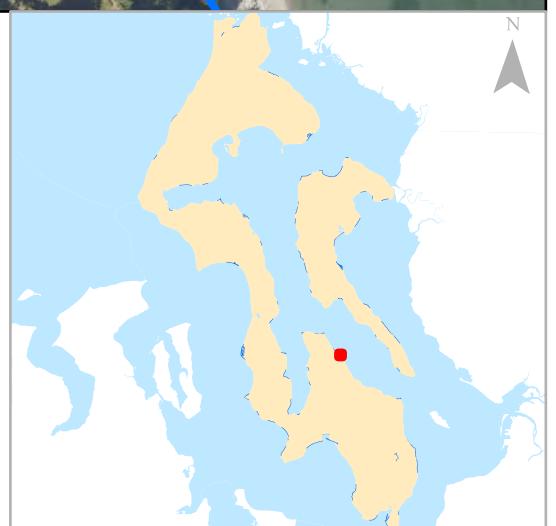
## Island County Historic Beach Communities SITE: Saratoga

Current HBC Boundaries

Updated New HBC Rev

Historic Beach Community Rev

Yes





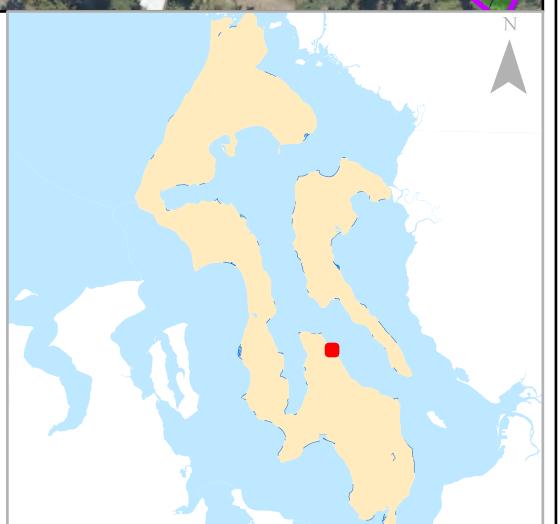
## Island County Historic Beach Communities SITE: Saratoga

Current HBC Boundaries

Updated New HBC Rev

Historic Beach Community Rev

Yes





## Island County Historic Beach Communities SITE: Whidbey Shores

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes



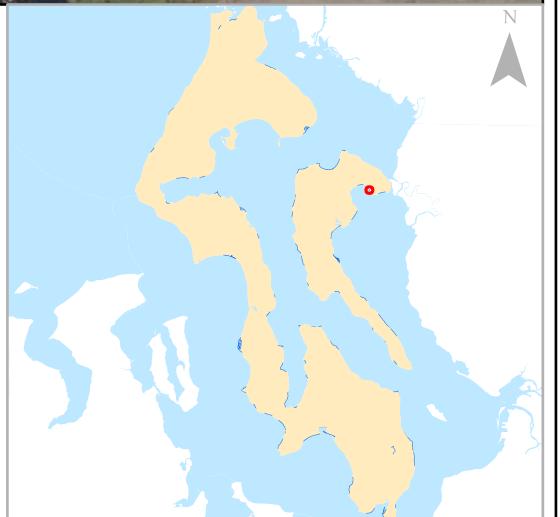


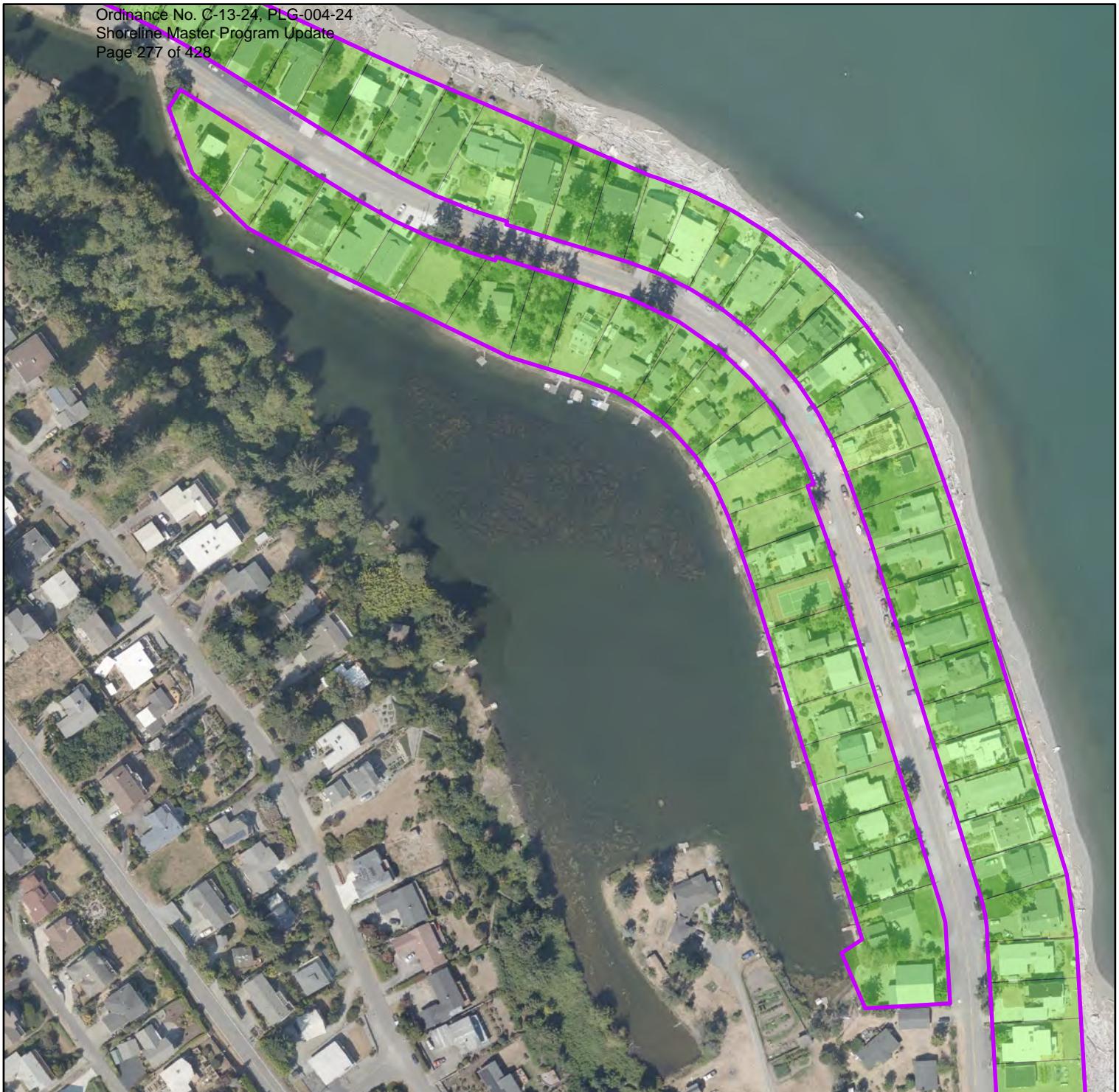
## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





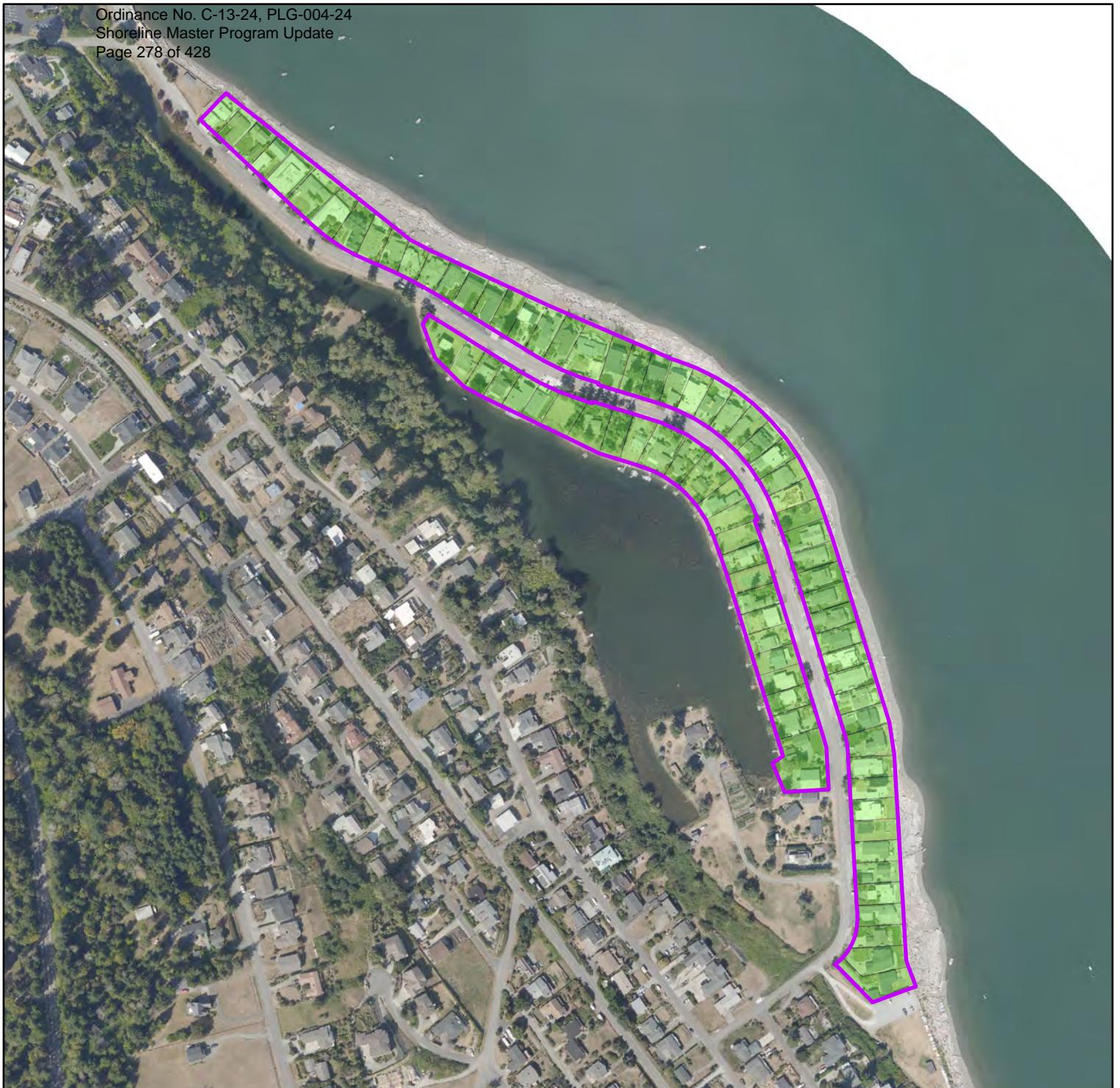
## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



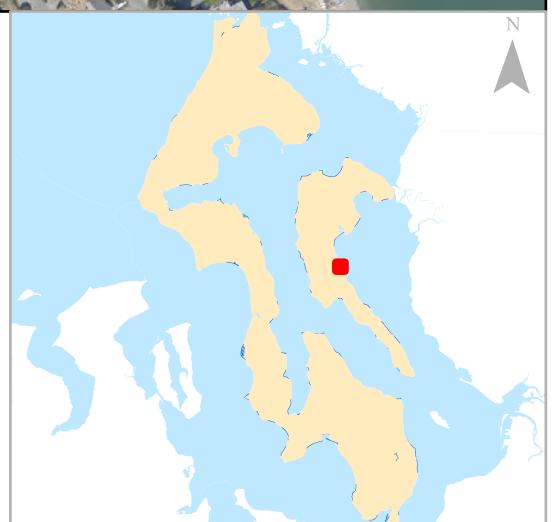


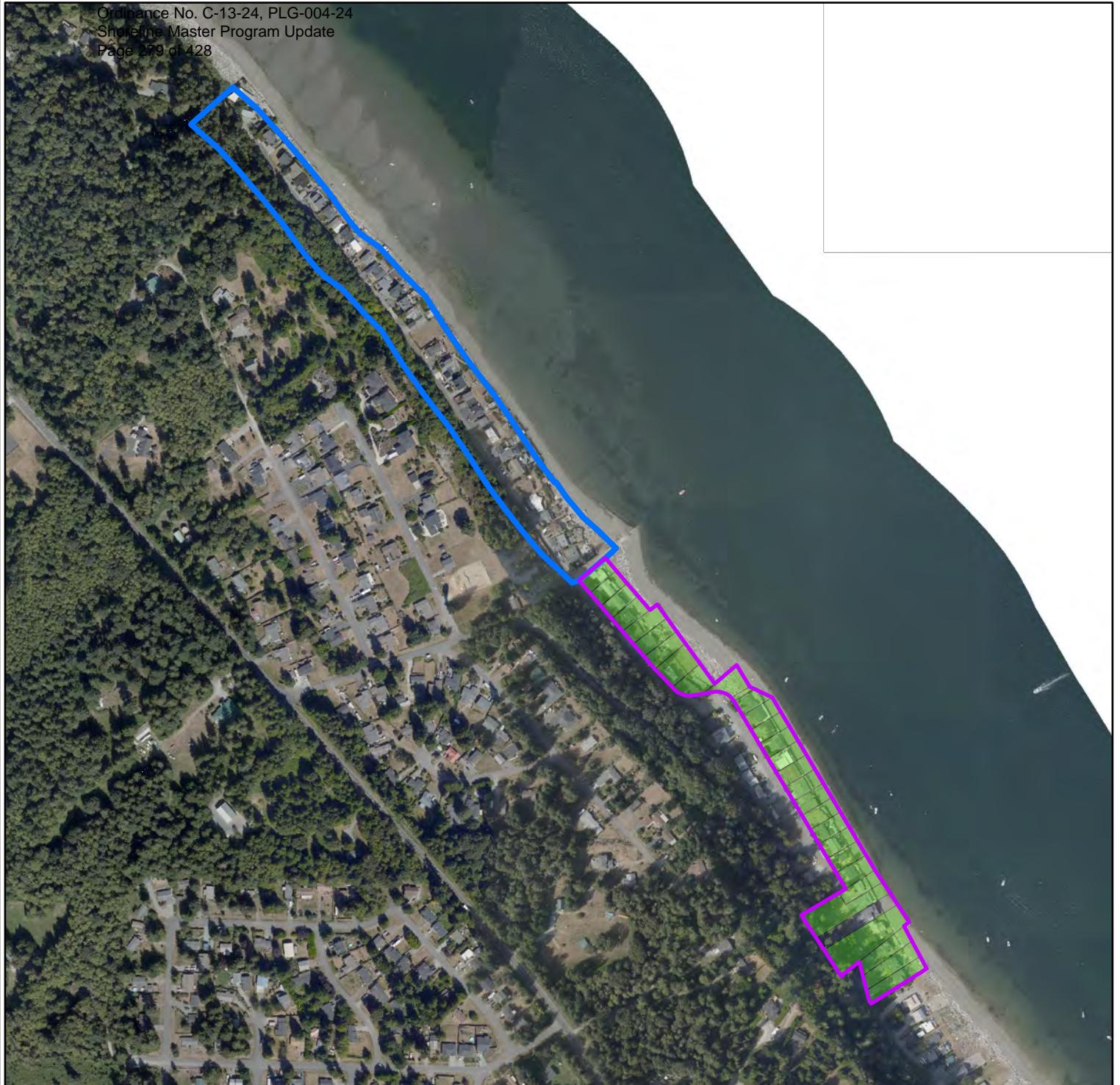
## Island County Historic Beach Communities SITE: New Location

Updated New HBC Rev

Historc Beach Community Rev

Yes





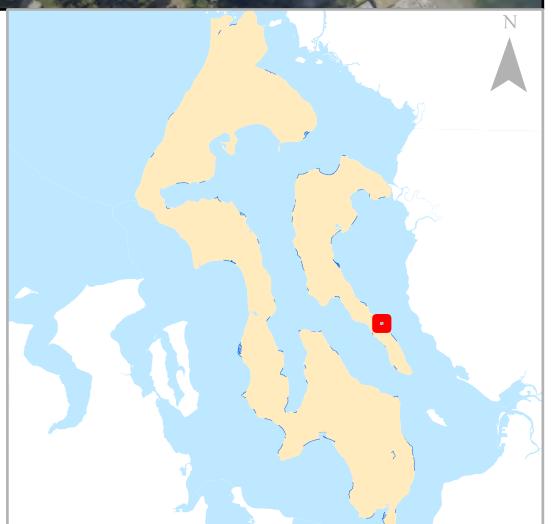
## Island County Historic Beach Communities SITE: New Location

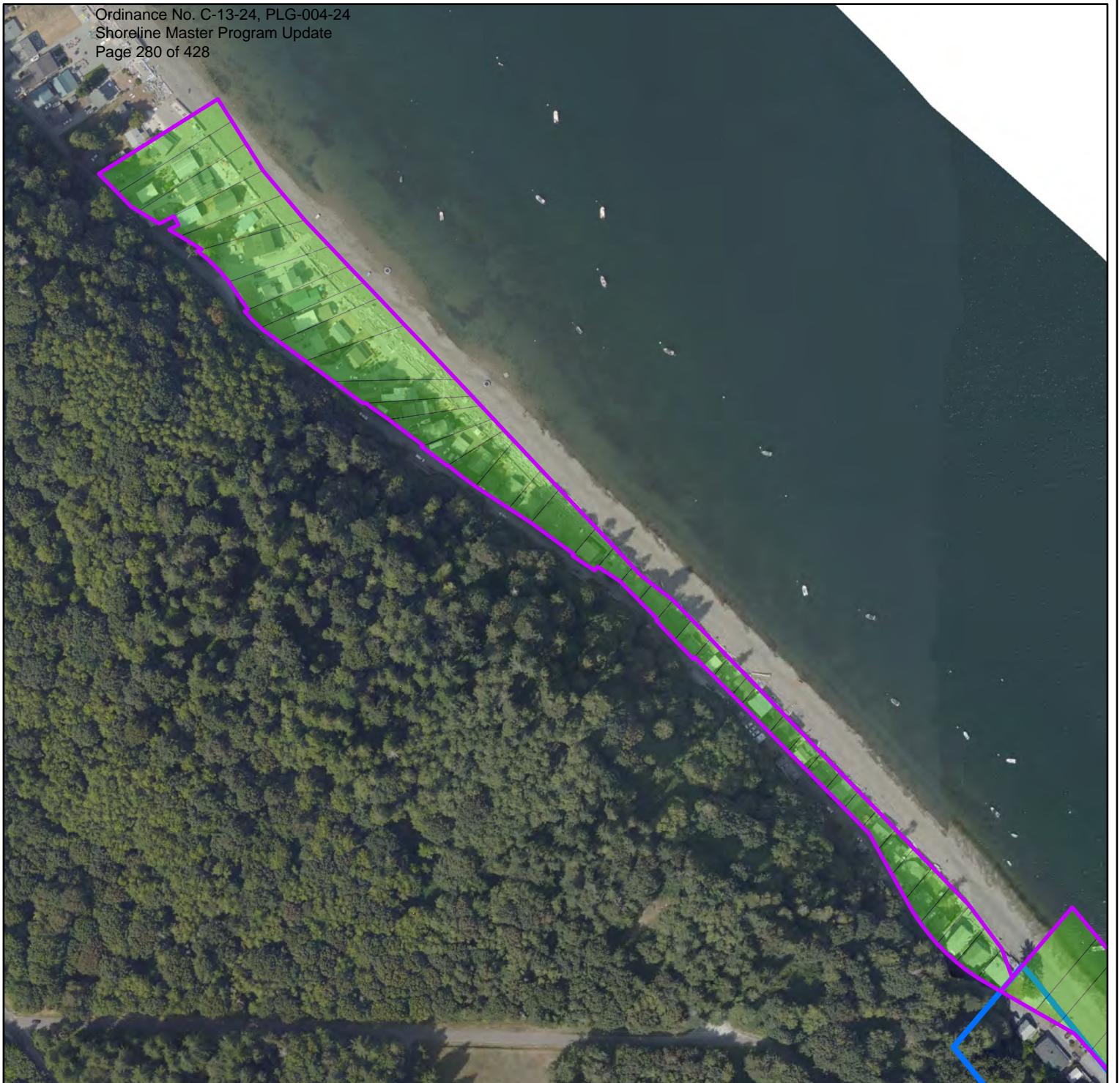
Current HBC Boundaries

Updated New HBC Rev

Historic Beach Community Rev

Yes





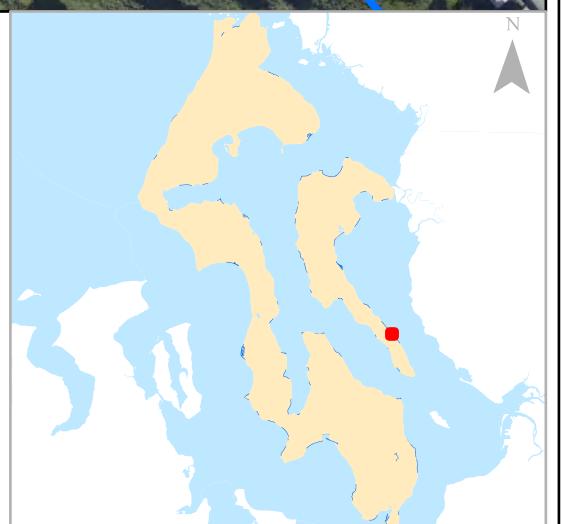
## Island County Historic Beach Communities SITE: New Location

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





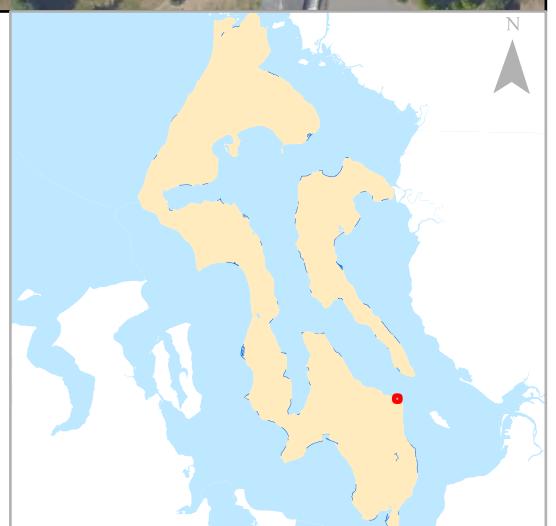
## Island County Historic Beach Communities SITE: Sandy Point

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



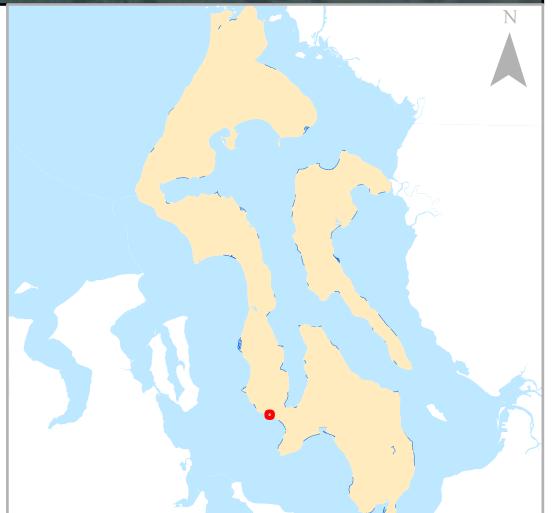


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



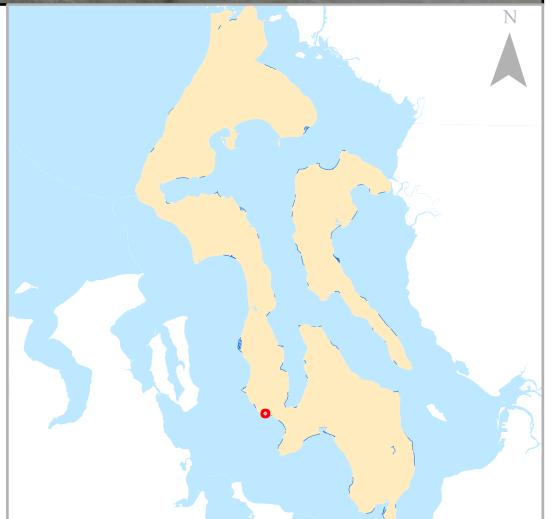


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



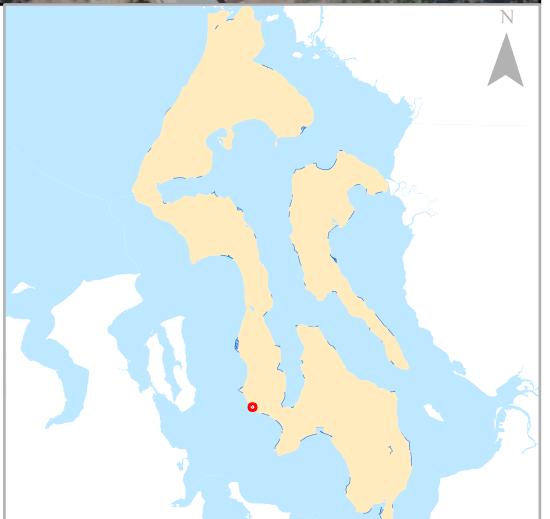


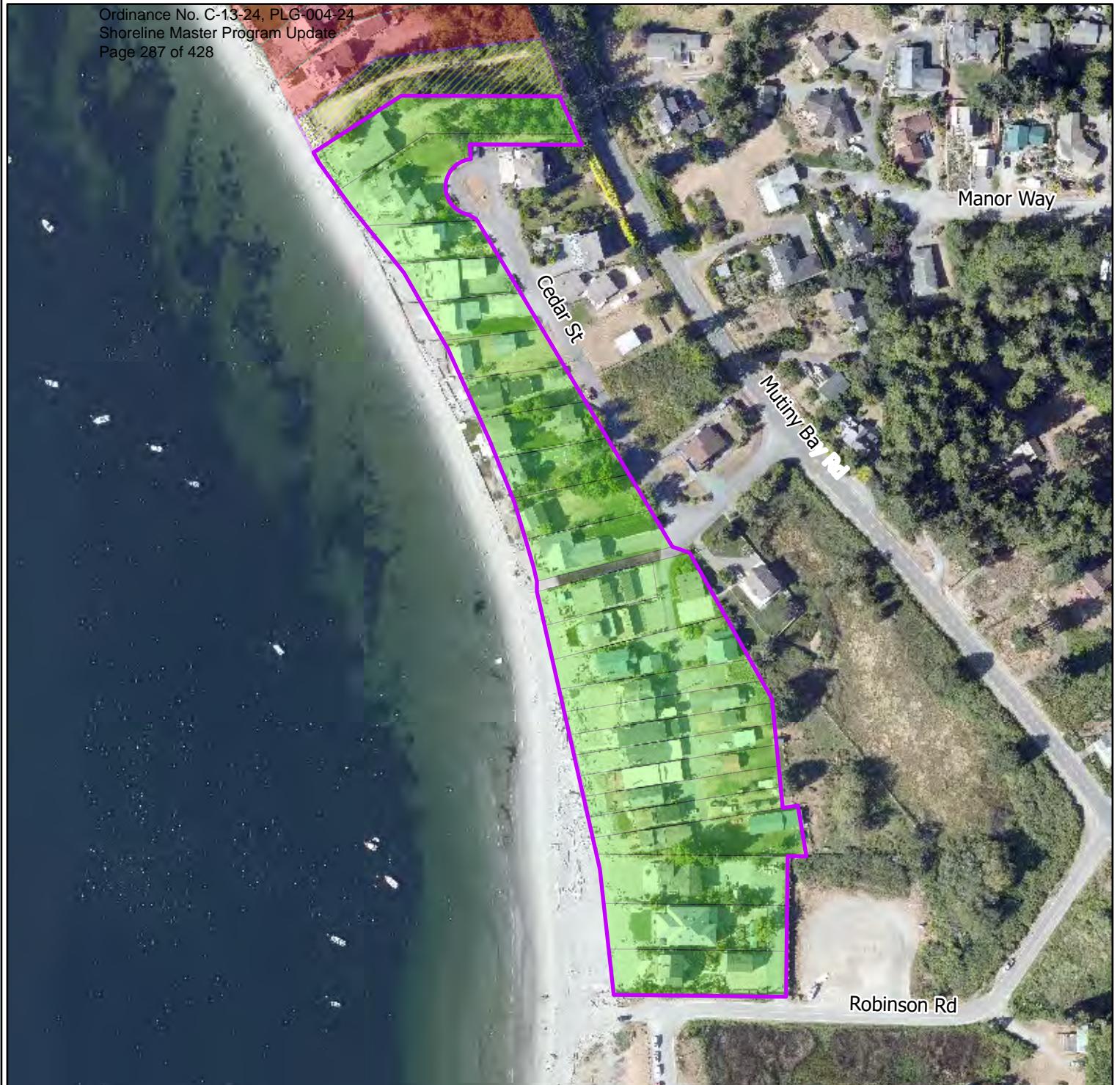
## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: New Location

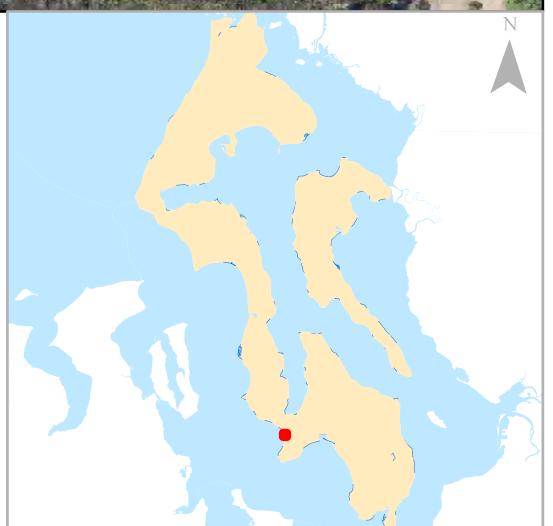
 Proposed New HBC

Historc Beach Community

 Yes

 No

 N/A



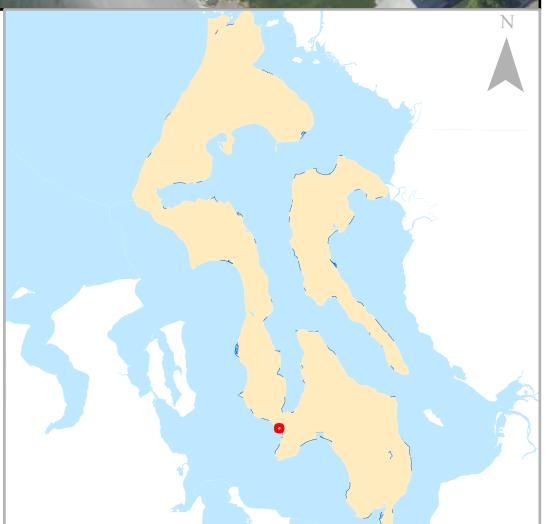


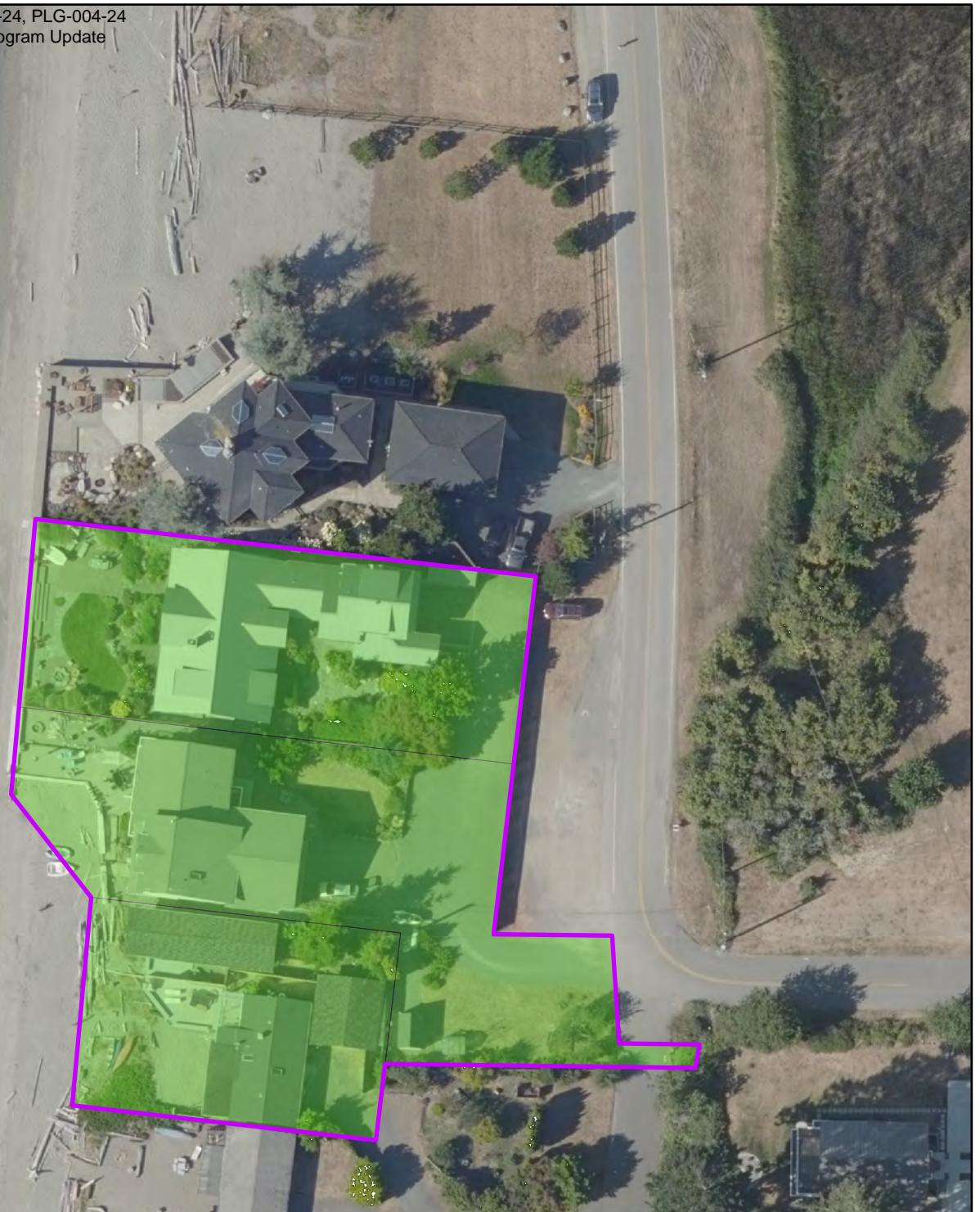
## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



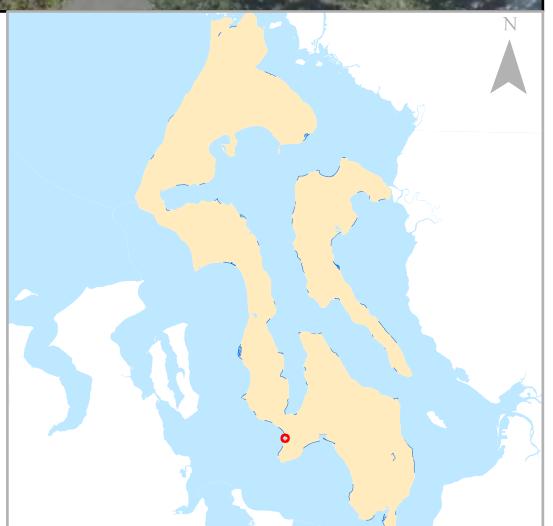


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



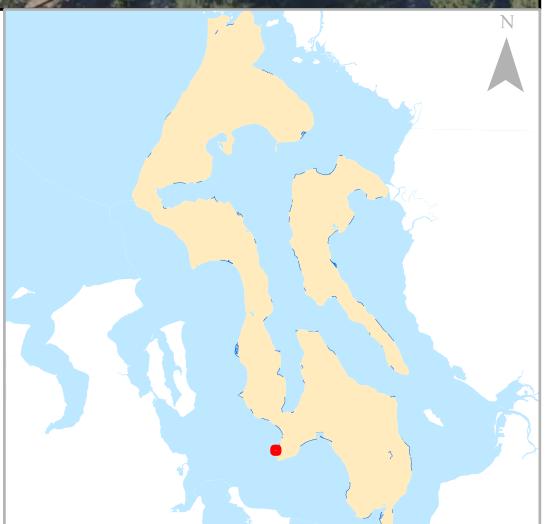


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: New Location

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





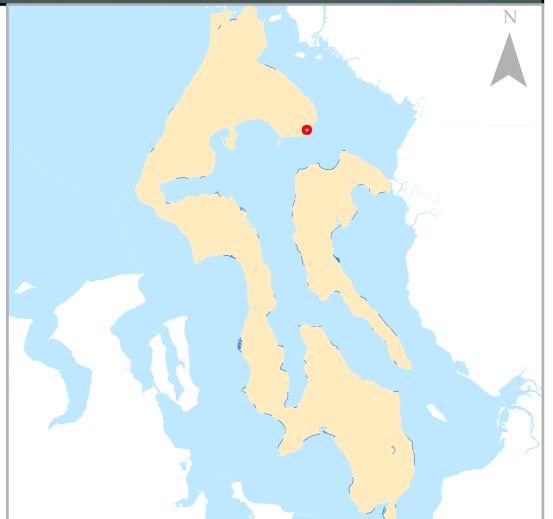
## Island County Historic Beach Communities SITE: New Location

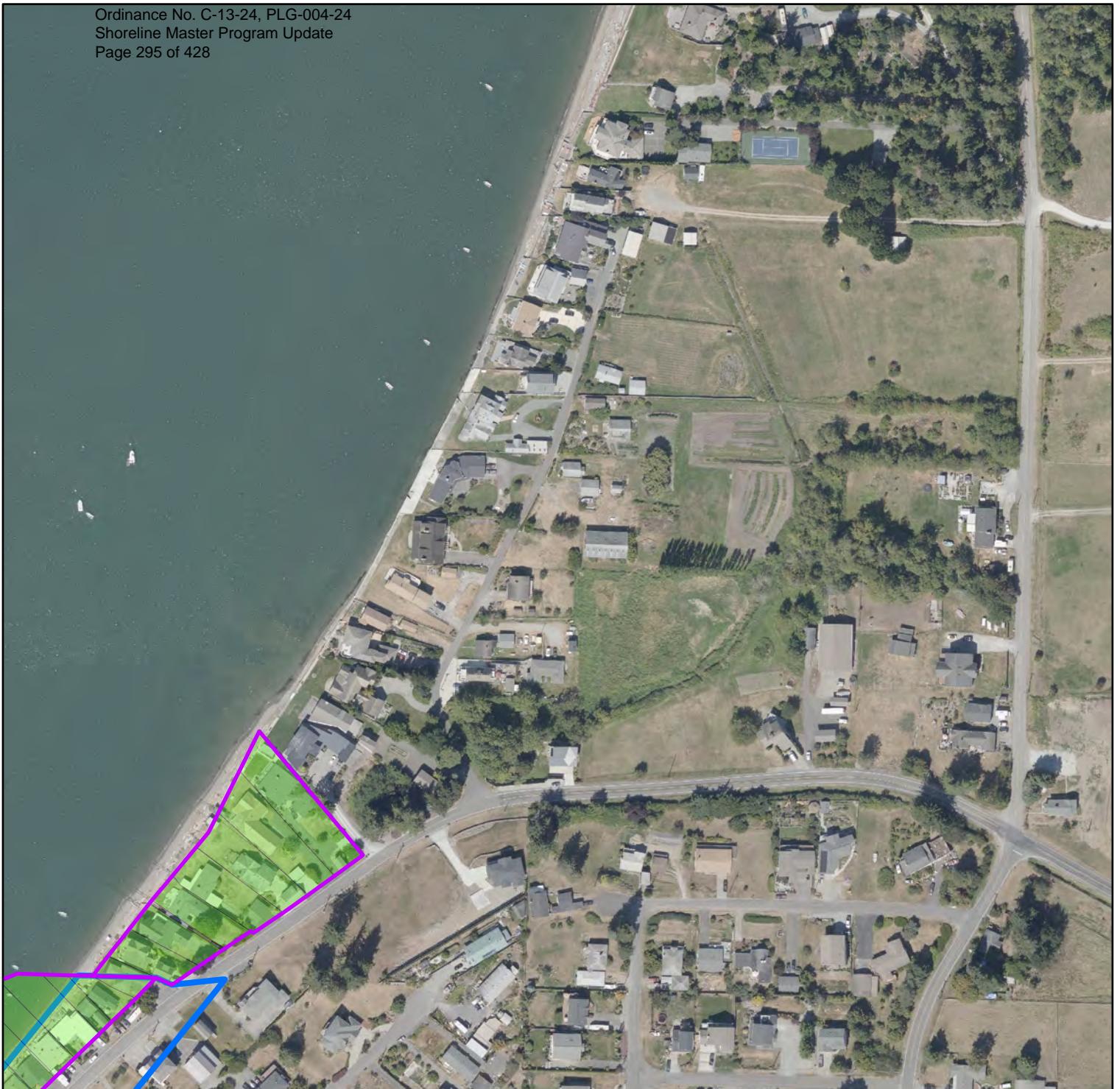
  Current HBC Boundaries

  Updated New HBC Rev

Historc Beach Community Rev

  Yes





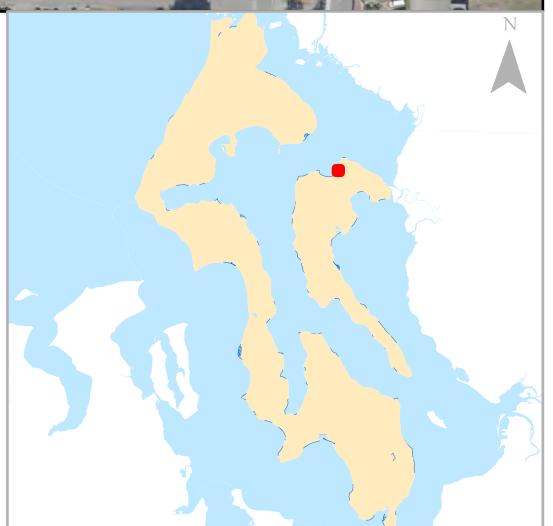
## Island County Historic Beach Communities SITE: New Location

 Current HBC Boundaries

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: Juniper Beach

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes



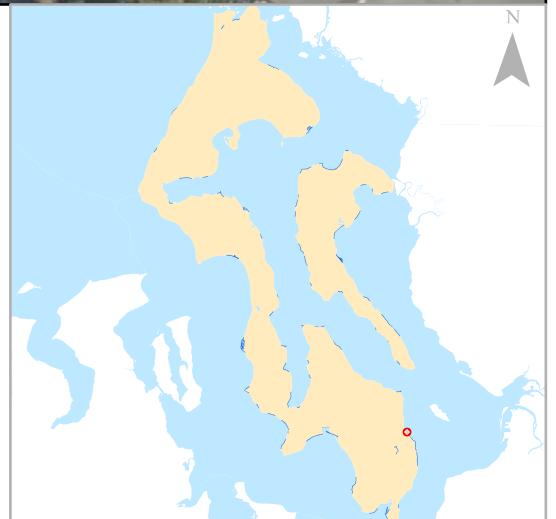


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





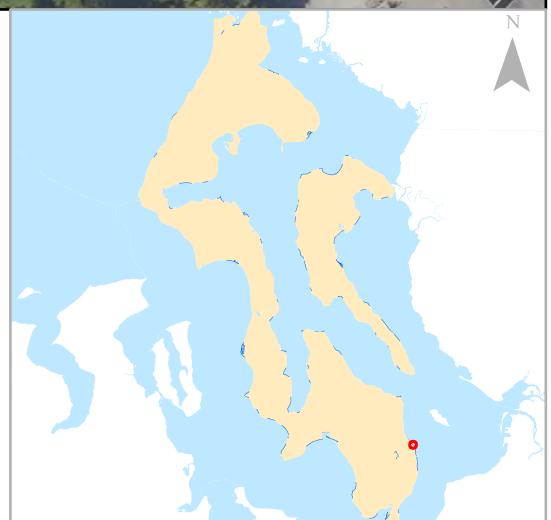
## Island County Historic Beach Communities SITE: New Location

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes



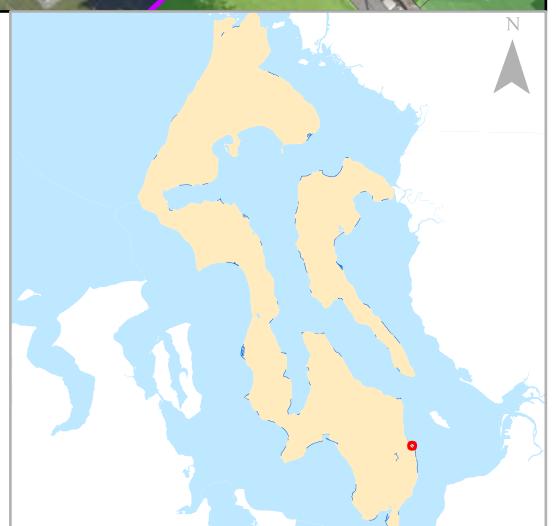


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



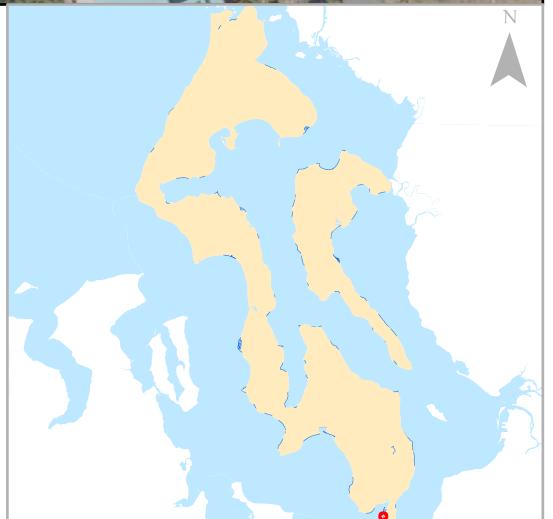


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

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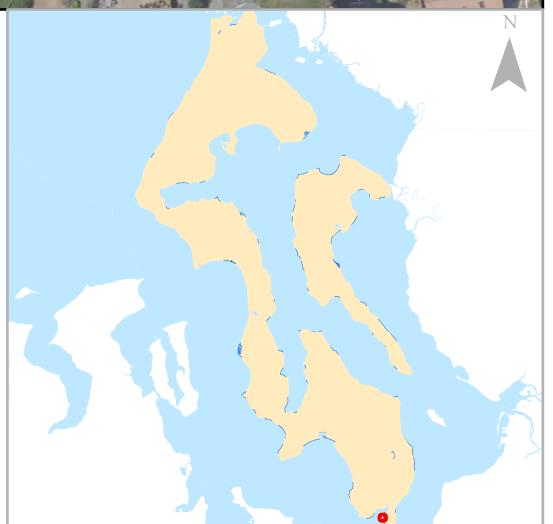


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





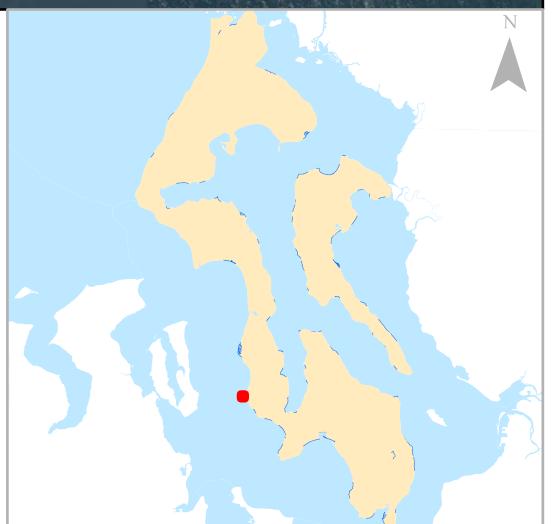
## Island County Historic Beach Communities SITE: New Location

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





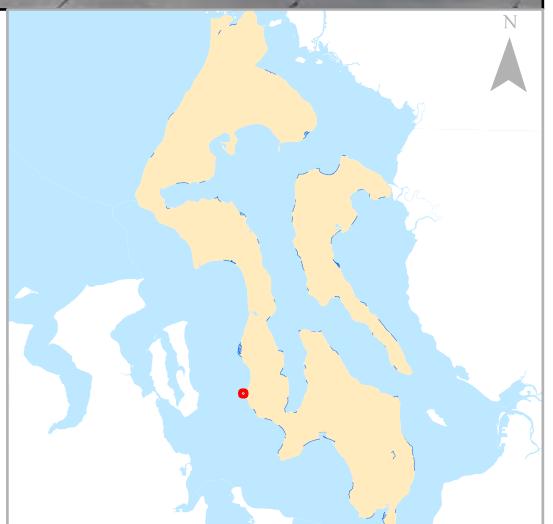
## Island County Historic Beach Communities SITE: New Location

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes



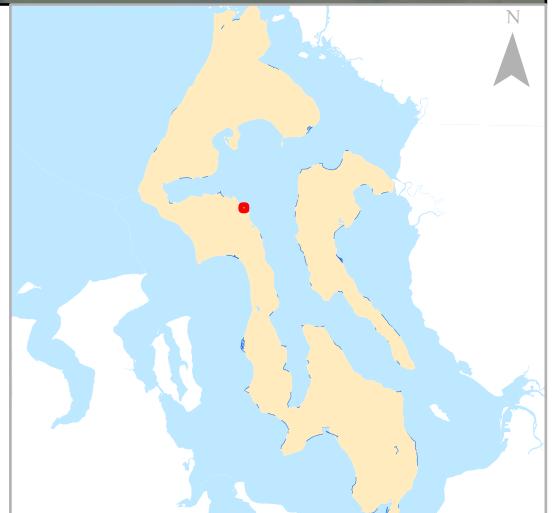


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes



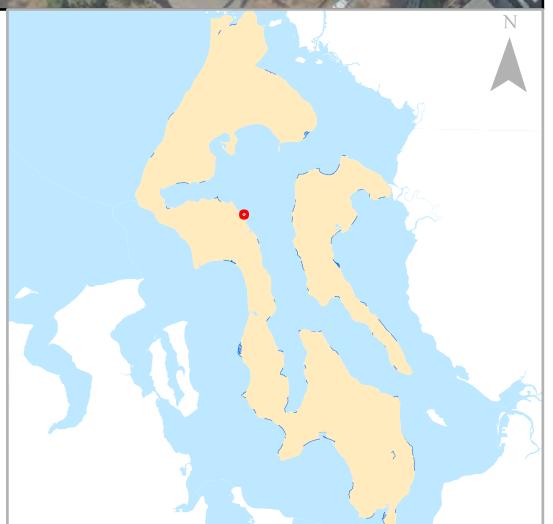


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

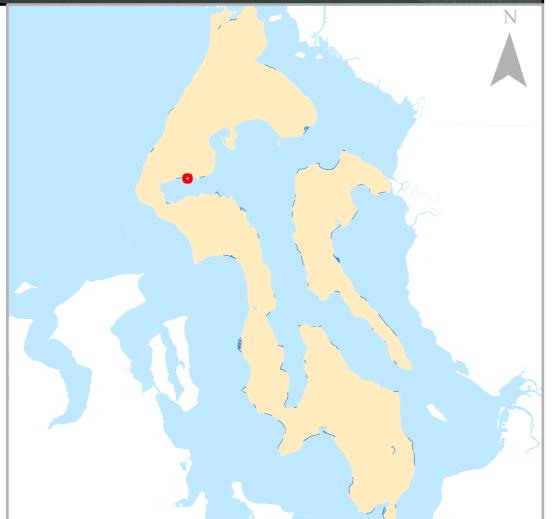
Historc Beach Community Rev

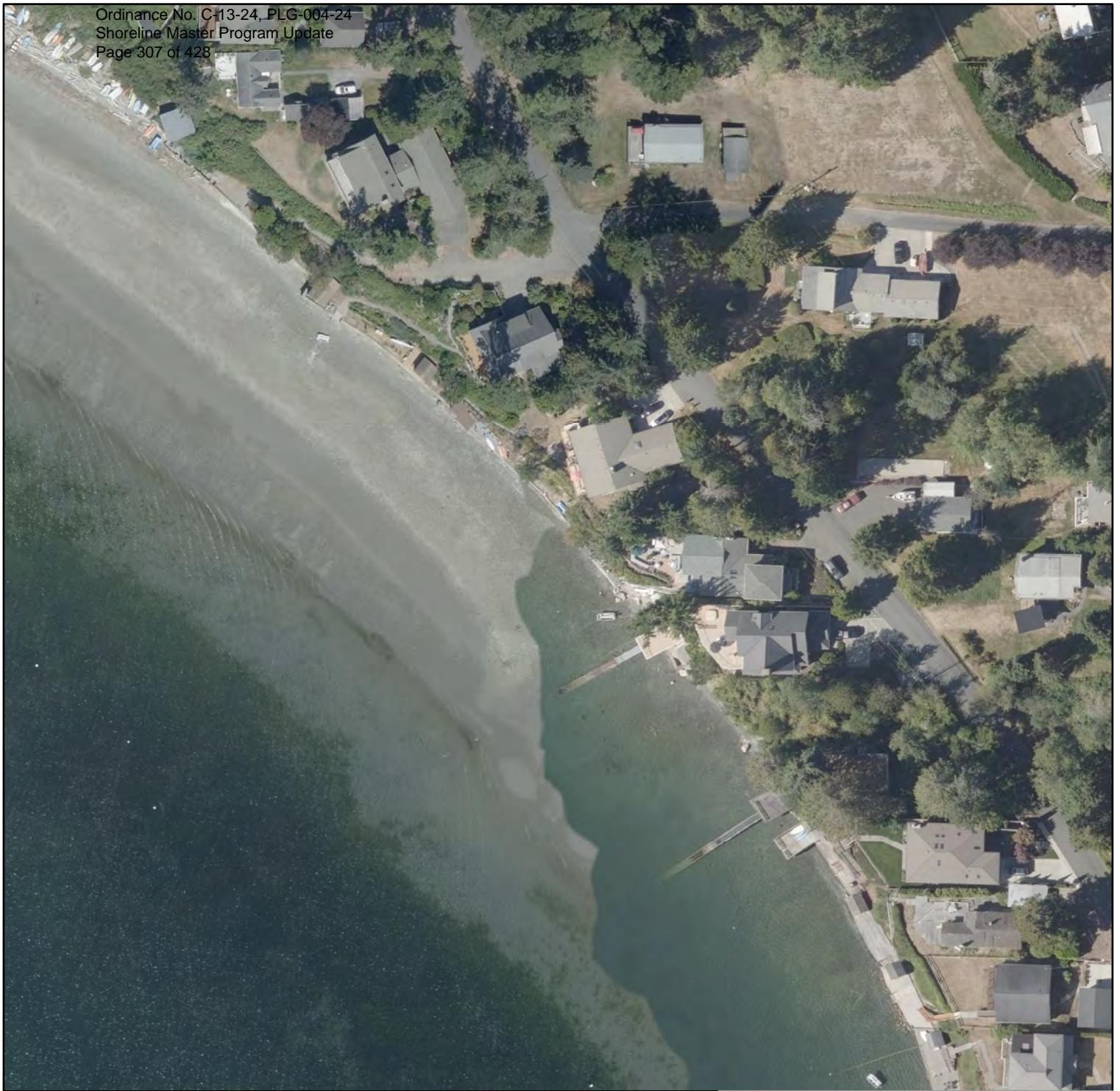
 Yes



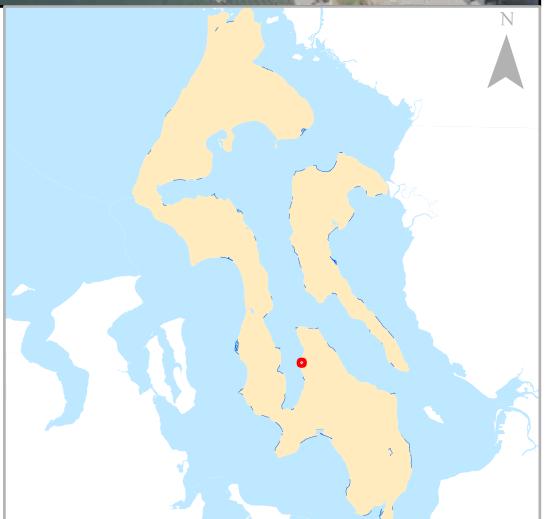


## Island County Historic Beach Communities SITE: New Location





## Island County Historic Beach Communities SITE: New Location



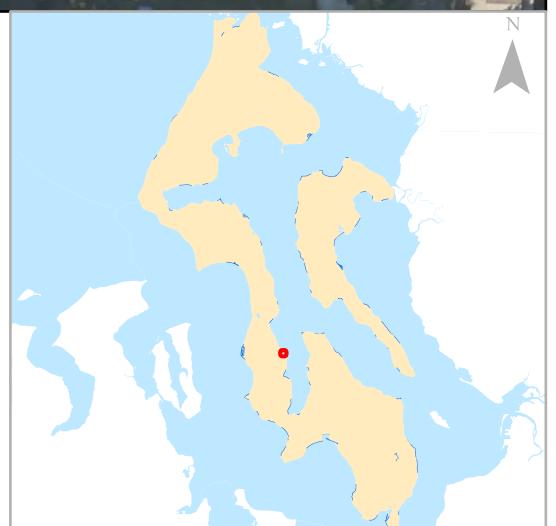


## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





## Island County Historic Beach Communities SITE: New Location

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





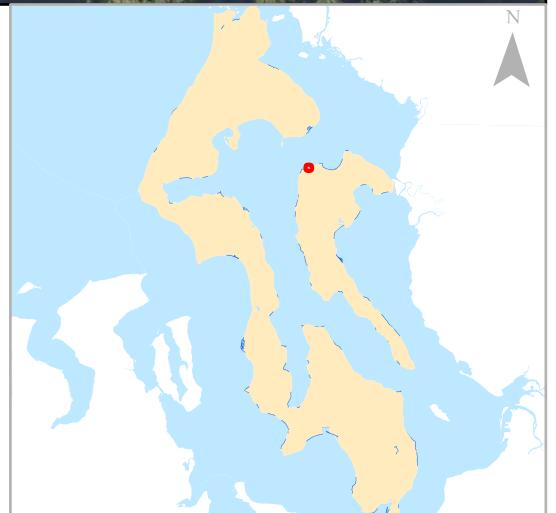
## Island County Historic Beach Communities SITE: Maple Gove Beach No 2 & 1st Addition Maple Gove Beach No 2

  Current HBC Boundaries

  Updated New HBC Rev

Historic Beach Community Rev

  Yes



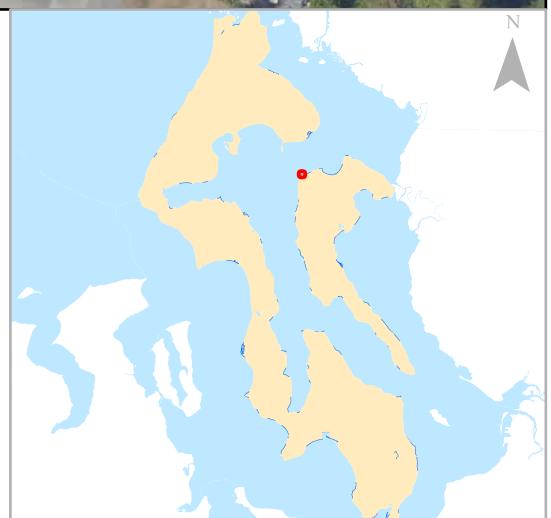


**Island County Historic Beach Communities  
SITE: Maple Gove Beach No 2 & 1st  
Addition Maple Gove Beach No 2**

 Updated New HBC Rev

Historc Beach Community Rev

 Yes





**Island County Historic Beach Communities**  
**SITE: Maple Gove Beach No 2 & 1st**  
**Addition Maple Gove Beach No 2**

  Current HBC Boundaries

  Updated New HBC Rev

Historc Beach Community Rev

  Yes





## Island County Historic Beach Communities SITE: Maple Gove Beach

Current HBC Boundaries

Updated New HBC Rev

Historc Beach Community Rev

Yes





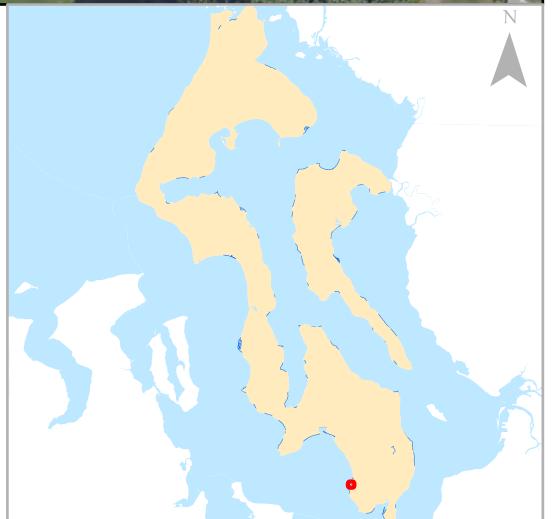
## Island County Historic Beach Communities SITE: New Location

Current HBC Boundaries

Updated New HBC Rev

Historic Beach Community Rev

Yes



## EXHIBIT E: SHORELINE ENVIRONMENTAL DESIGNATION CHANGES

*~ MEMORANDUM ~*

**TO:** **Board of County Commissioners**  
**FROM:** **John Lanier, Principal Planner**  
**DATE:** **July 31, 2024**  
**SUBJECT:** **2024 Final Shoreline Environmental Designation Determination**

**Shoreline Environmental Designation (SED) Changes**

❖ **Portion of Surfcrest Drive SED Rural Conservancy to Natural**

This section of shoreline was previously changed from Natural to Rural Conservancy by Policy No. 001/19, attached, on June 6, 2019. As part of this periodic update, staff brought four SED policies that had been issued outside of the update process to the Board of Island County Commissioners (Board) for consideration. Following a comment from the Skagit River System Cooperative, attached, Policy No. 001/19 was determined by the Board to have been a misapplication of the SED standards as set forth in Island County Code and the Shoreline Management Act. Staff proposes the portion of shoreline in referenced in Policy No. 001/19 be designated as Natural.

❖ **Cedar Street SED resubmit Historic Beach Community (HBC) determination**

A public comment, attached, was received demonstrating how the Cedar Street area meets the HBC qualifications as found in Island County Code. Portions of a Shore Friendly study included with the comment show impervious surface calculations and setbacks from the ordinary high water mark. Staff proposes designation to HBC of the area shown on page 57 of Amendments to the Island County Shoreline Environment Designation Map for Shoreline Residential Historic Beach Communities (attached).

❖ **Three lots along Mutiny Bay to be reclassified from Rural Conservancy to Shoreline Residential**

A memo, attached, directed to the Board requested redesignation of three parcels along Mutiny Bay. Staff has reviewed the designated parcels and the Board has directed that these parcels be designated Shoreline Residential. There is a general pattern of development and shoreline setback that supports the transition from Shoreline Residential to Rural Conservancy should happen after these three parcels.

Staff proposes designation of Shoreline Residential for the three parcels as shown in the attached memo.

***Attachments***

- A. Policy 001/19
- B. Public Comment regarding Cedar Street Historic Beach Community &
- B1. Page 57 of Amendments to the Island County Shoreline Environment Designation Map for Shoreline Residential Historic Beach Communities
- C. Memo to Board of Island County Commissioners re: Shoreline Environmental Designations (SED) – Request for Correction



## ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111, Ext. 7339 FAX: (360) 679-7306 ■ 1 NE 6<sup>th</sup> Street, P. O. Box 5000, Coupeville, WA 98239-5000  
Internet Home Page: <http://www.islandcountywa.gov/planning/>

**SUBJECT:** Regulation of Conflicting Shoreline Environmental Designation (SED) – Policy for map change at Surfcrest Drive

**POLICY/DETERMINATION NO:** 001/19

**EFFECTIVE DATE:** June 6, 2019

**PURPOSE:** To clarify shoreline regulations for Shoreline Environmental Designations (SEDs) where the mapped SED conflicts with the criteria that establishes the SED; Specifically in reference to parcels R13303-290-3930 north on the seaward side of Surfcrest Drive to R13303-491-4000.

**BACKGROUND:**

- The Shoreline Master Program (SMP) adopted on January 19, 2016 gives Island County discretion to determine if there is a conflict between the mapped SED and the criteria establishing the SED for a determination rather than relying on the incorrect or outdated map, per ICC 17.05A.060.C.
- The SED for the subject parcels are Natural (N), which requires a 125 foot Marine Buffer and 25 foot Shoreline Setback. The subject parcels are currently small platted lots with utilities and road infrastructure.
- Owners of parcels within the Surfcrest Beach community have requested per their narrative, that the County determine if a conflict between what exists under the SED criteria and what is shown and classified on the shoreline maps. The owners have stated that the subject parcels are more consistent with the SED Rural Conservancy (RC).

**POLICY/DETERMINATION:**

Staff researched and reviewed the subject area and consulted with the State Department of Ecology Shoreline Planner, David Pater, and determined that the appropriate SED for PCN# R13303-290-3930 north on the seaward side of Surfcrest Drive to R13303-491-4000 is Rural Conservancy – RC, per the following observations and determinations:

- The subject area, as designated above, within the Surfcrest Drive Beach community, the shoreline meets the Rural Conservancy – RC designation criteria (SMP sec 17.05A.060.F).
- The area north and south is built out and the area contains small lot sizes. The parcels have existing utilities and road infrastructure, and is consistent with existing development north and south of predominantly low density rural residential uses.

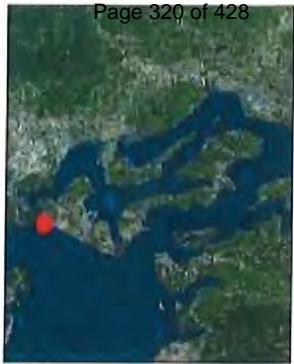
**ATTACHMENTS:**

Attachment A: SED Map

Attachment B: Aerial Photo per Washington State Coastal Atlas

  
Hiller West, Planning and Community Development Director

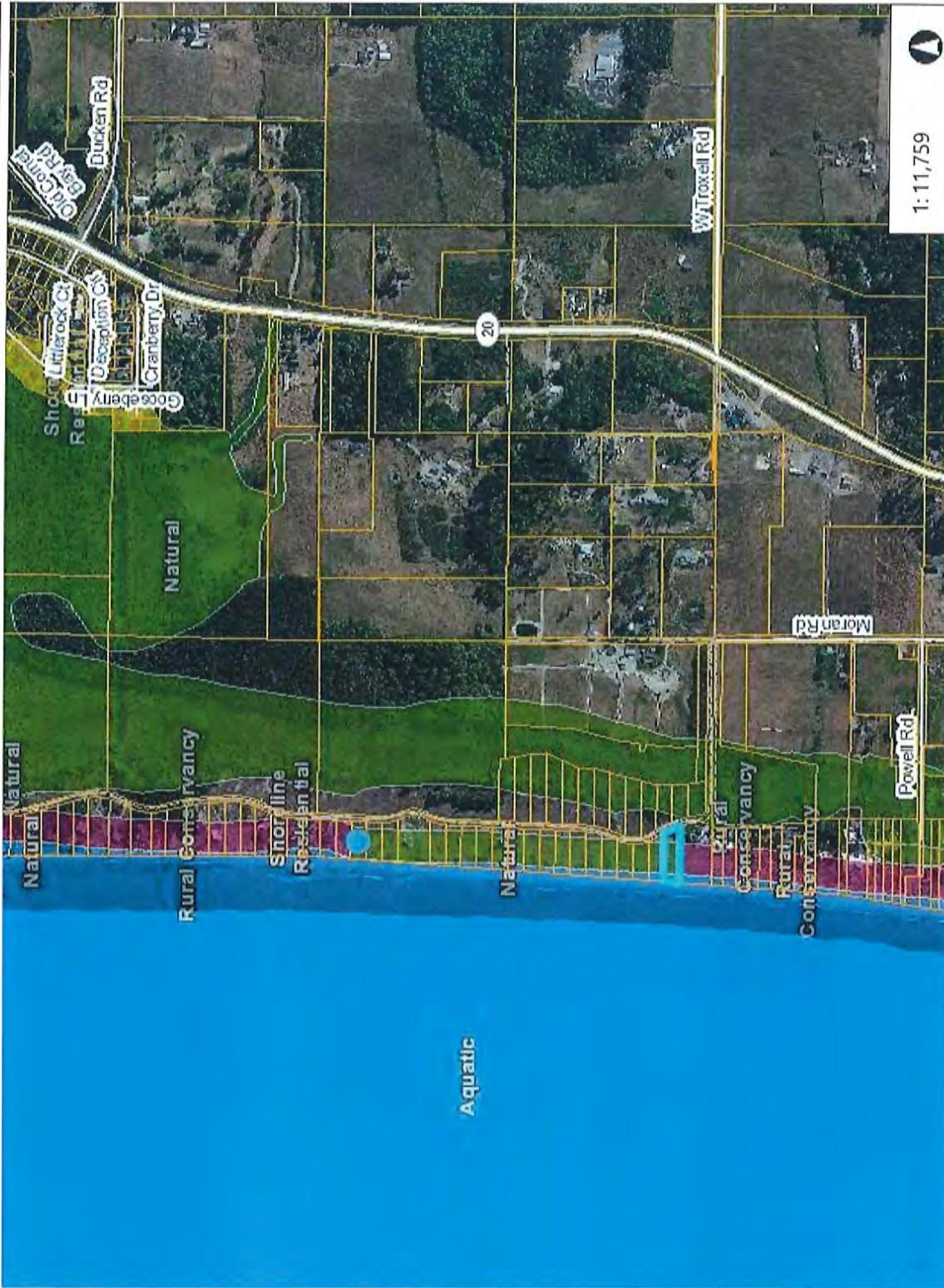
**Attachment A**  
**Policy 001/19**



## SED Designation Reconsideration - Surfcrest Drive



Page 320 of 428



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© Latitude Geographics Group Ltd.





## **Attachment B**

### **Public Comment regarding Cedar Street Historic Beach Community**

Cedar Street  
Freeland, WA 98008  
February 16, 2024

Commissioner - Janet St.Clair  
Commissioner - Jill Johnson  
Commissioner - Melanie Bacon  
Asst. Director - Johnathan Lange  
Long Range Planner - John Lanier

**Re: Island County SMP Public Comment – Cedar Street SRHBC Designation**

I am a member of the South Whidbey Shoreline Group and reside on Cedar Street in Mutiny Bay. The Department of Ecology rejected Island County's designation of Cedar Street as SRHBC as was originally proposed by Island County.

I am writing to provide information on why Island County correctly identified Cedar Street as an SRHBC in the draft using the SMP criteria, and to request that the County maintain its designation of SRHBC for the Cedar Street community in the plan.

Sincerely,

Tom Opdycke

## Preserve Cedar Street's Designation as Shoreline Historic Beach Community

Island County originally – and correctly – designated Cedar Street as Shoreline Residential and Historic Beach Community. The Department of Ecology subsequently – and incorrectly – made the assessment that Cedar Street does not qualify. **Cedar Street community qualifies for SRHBC designation under the SMP criteria, and we request that Island County restore Cedar Street to its original designation as a new SRHBC.**

### Definition of Historic Beach Community

Historic Beach Community is defined in the Draft SMP as follows (page 25/465):

*“Historic beach community means limited areas within the shoreline of Island County that have been platted in a dense pattern with small lots and greater impervious surface relative to other areas of the county. The existing marine waterfront lots are generally developed with residential structures constructed approximately thirty (30) feet or less from the ordinary high water mark and the original structures were established prior to enactment of the Shoreline Management Act.”*

### Cedar Street Meets the Criteria

- 1. Platted in a dense pattern with small lots and greater impervious surface relative to other areas of the County.**
  - a. Size: Exhibit 1A is an aerial view showing the size of Cedar Street lots is smaller and more densely developed relative to other areas. They are at most 60 feet wide, with more narrow lots on the southern portion of this development. It is important to note that the depth of these lots has significantly retreated from the water side since the original plat. These lots are also small on a practical basis when considering available space for residential structures while also making allowances for driveways, septic drain fields, and setbacks from the shoreline on the one side and from roads/utilities on the other side. Given these factors, residents do not have space to retreat their homes away from the water.
  - b. Impervious Surface: given the small lot sizes and extensive existing residential development, these properties have proportionately greater impervious surface relative to properties in other areas of the County. These lots are substantially developed with residences, garages, driveways, parking areas, patios, and the like. Exhibit 1B shows an aerial view of Cedar Street with approximate impervious surfaces shaded in red (as defined in the SMP). It is apparent that the density of impervious surface is much greater than other areas of the County.
- 2. Waterfront lots with residential structures approximately 30 feet or less from the ordinary high-water mark.**
  - a. Cedar Street has residential structures approximately 30 feet or less from the ordinary high-water mark. By way of example, we have data from a survey of this stretch of beach

completed in partnership with Island County's Shore Friendly program in 2021.

The report concludes that there are residences within 30 feet and decks are within 12 feet of the Ordinary High Water Mark (Exhibit 1C). This conclusion is supported by LIDAR data which shows that the mean higher high-water mark intersects the bulkheads (Exhibit 1D and Exhibit 1E).

### **3. Original structures were established prior to the Shoreline Management Act**

- a. The Shoreline Management Act was ratified by voters in 1972, and Cedar Street was platted and had developed structures by that time.
- b. Cedar Street is part of the West View which was plated in 1959 (Exhibit 1F).
- c. The aerial photo in Exhibit 1G shows that nearly all lots were developed with original structures by 1968, before the SMA went into effect.

#### **The Department of Ecology's Assessments of Cedar Street are Incorrect**

The Department of Ecology asserted that Cedar Street does not qualify on the basis that “1) the parcel is large and has much less than 80% impervious surfaces” and “2) current development is more than 30 feet from the estimated OHWM”. The following assessments of the criteria by the Department of Ecology are incorrect as outlined below:

- “The parcel is large and has much less than 80% impervious surfaces” – we have shown Cedar Street lots are small relative to other areas. In addition, Cedar Street compares favorably with other lots now approved for SRHBC designation – on parcel size, density and approximate impervious surfaces. Exhibit 1G provides some examples.
- “(the parcel) has much less than 80% impervious surfaces” – we assert per the surface areas highlighted in Exhibit 1B that this assumption is incorrect. In any case, the SMP stipulates only that the parcels must have greater impervious surface relative to other parts of the County; it does not stipulate that a parcel must have at least 80% of impervious surface to qualify for HBC designation.

Furthermore, it is our reading of the SMP that the intent is to provide for a higher impervious surface allowance (80%) for SRHBC lots. This makes good planning sense, given the constraints on these types of properties. Also, if the criteria threshold was that a lot needed to have 80% developed to qualify, that could create an adverse incentive for property owners to “develop it imperviously or lose it”.

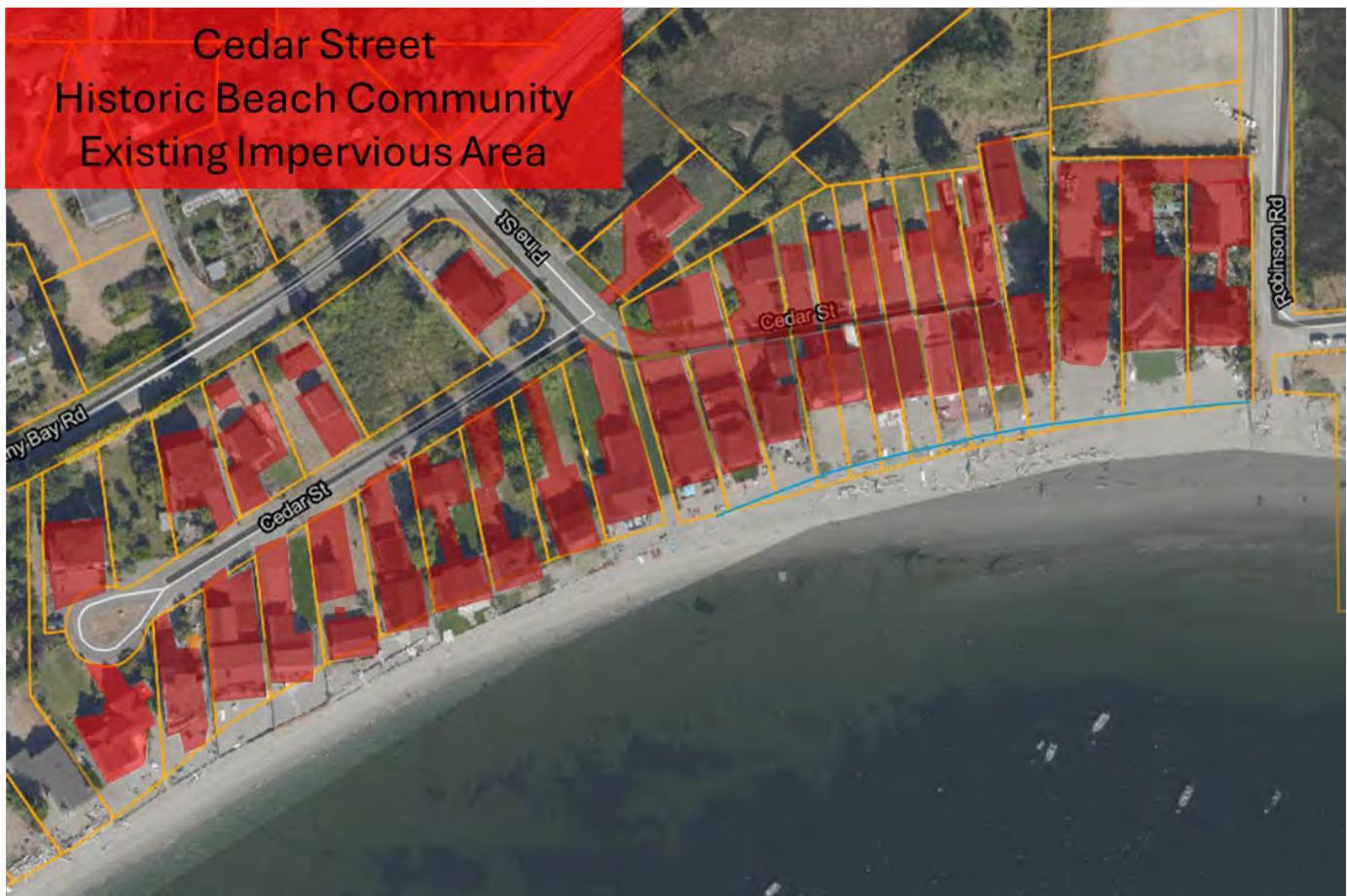
- “Current development is more than 30 feet from OHWM” – We have shown that there are lots on Cedar Street that are within 30 feet of OHWM (Exhibits 1. In any case, the SMP criteria is not precisely within 30 feet, it is approximately 30 feet or less. Having flexibility on this standard makes good sense so assumptions can be consistent for a stretch of beach, recognizing the OHWM along a community fluctuates over time (as it has done in Mutiny Bay (Exhibits 1C, D, E, F).

**In conclusion, Cedar Street qualifies under the SMP criteria and is in line with other comparable communities. We request that the Island County SMP maintain its designation of Cedar Street as a new SRHBC.**

Exhibit 1A: Lots on Cedar Street are more dense and smaller than other areas of the County



Exhibit 1B: Greater Impervious Surface relative to other areas of the County



***Exhibit 1C: Excerpt from Island County Shore Friendly Site Report - waterfront lots with residential structures are approximately 30 feet or less from Ordinary High Water Mark***



## Memorandum

Date: August 2, 2021

To: Cedar St, Freeland

Re: Shore Friendly Site Visit on April 28, 2021

Shoreline Armored low bank

Type:

### Introduction

A site visit was completed on April 28, 2021 at Mutiny Bay as part of the Northwest Straits Foundation (NWSF) and Island County Department of Natural Resources (DNR) Shore Friendly Program. On site were Jessica Côté, PE and Greg Curtiss, PE from Blue Coast Engineering. On site from Island County was Anna Toledo, Watershed Planner. The goal of Shore Friendly is to improve stewardship of private shorelines and promote alternative management strategies that maintain coastal ecosystem processes without compromising access and enjoyment. This project aims to provide knowledge and guidance to shoreline residents living on Puget Sound on how they can contribute to the health and recovery of our Puget Sound.

This technical memo documents the findings for two parcels at 5928 and 5932 Cedar St. . . . property) based on site observations and other available information. A detailed report on the coastal processes, geology, and habitat of the overall shoreline was also produced and provided to each property owner.

### Upland Structures

Parcel S8395-00-00014-0 (5928 Cedar St) and parcel S8395-00-00015-0 (5932 Cedar St) both have single family residences (SFR) and a cast-in-place concrete retaining wall (bulkhead) along the entire 120-foot length (Figure A-1) of shoreline. The minimum setback of the SFRs from the bulkhead is 30 feet. Both houses also have wood decks which are setback from the bulkhead a minimum of 12 feet. A garage and driveway are located on each parcel on the landward side of the houses.

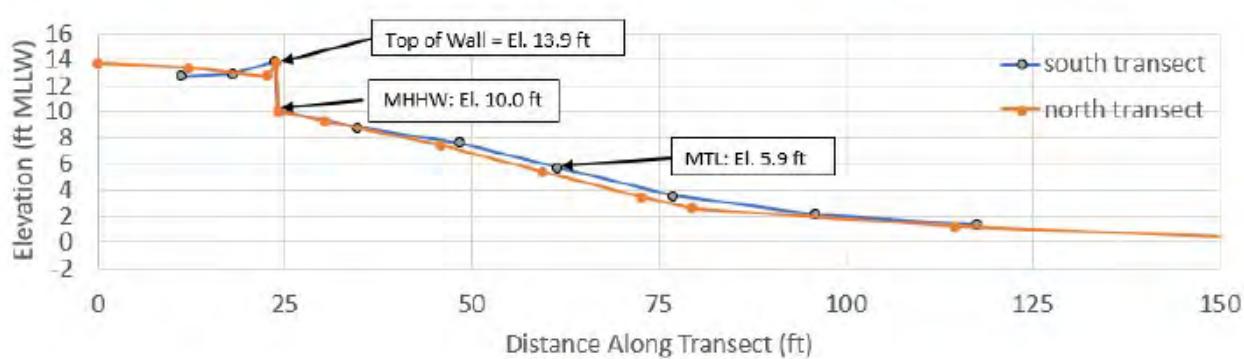
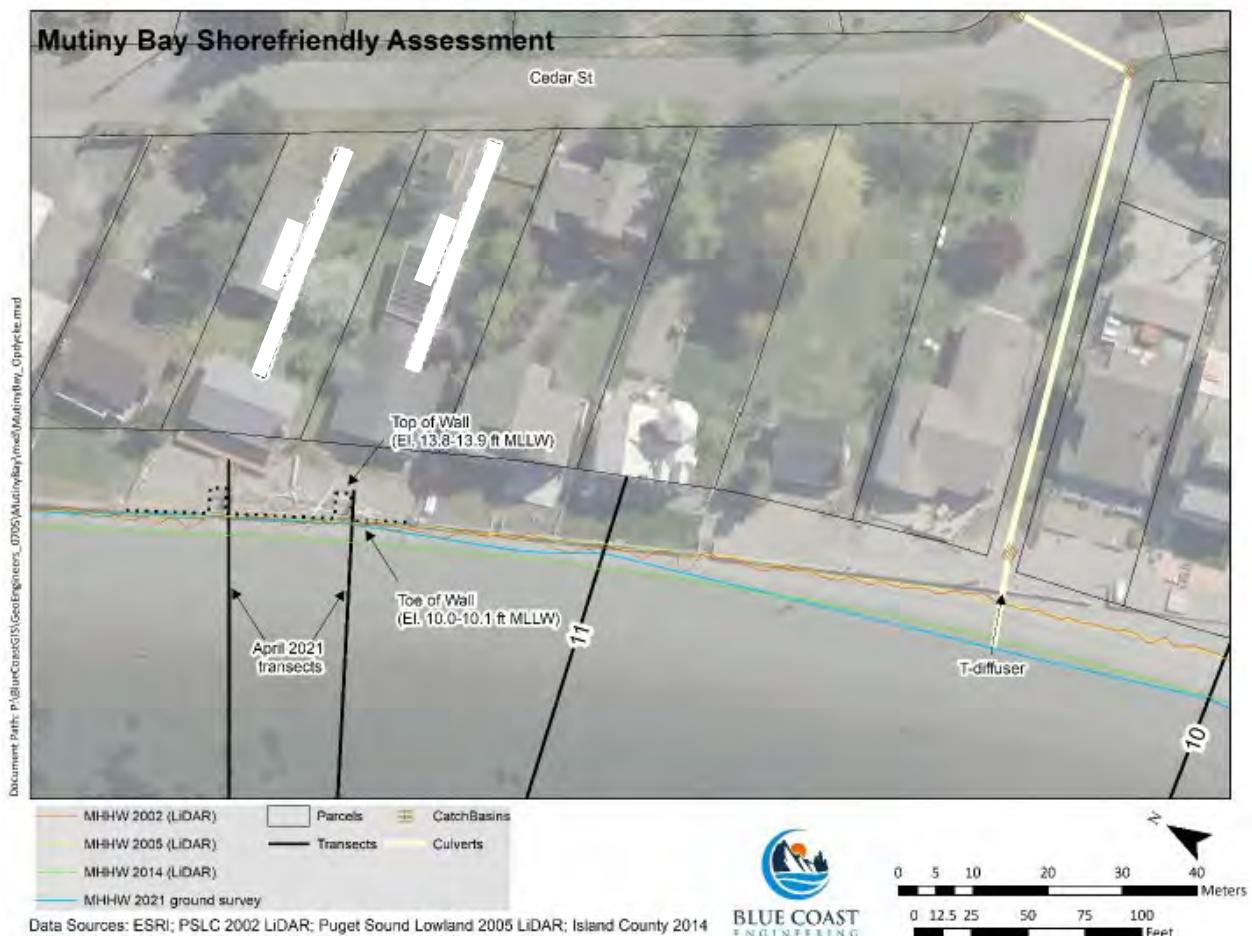
### Infrastructure and Drainage

All known utilities are routed to the house from the roadside of the parcels and septic tanks and drain fields are located on the landward side of the house. Water from the roof downspouts drain directly onto the lawn. A catch basin is located within the roadway right-of-way and is pumped out to the T-diffuser pipe located along the bulkhead to the south; see *Mutiny Bay Shore Friendly Technical Report* for more detail.

### Coastal Structures

The property has a cast-in-place concrete retaining wall (bulkhead) along the entire length (120 feet) with built-in concrete stairs. Timber planks are placed across the stairs to help prevent sand

**Exhibit 1D: Excerpt from Shore Friendly Site Report – LIDAR confirming residential structures approximatley 30 feet or less from present and past OHWM that intersects shoreline armor.**



**Figure A-2. Site overview map and cross-shore beach transects surveyed during the April 2021 site visit.**

*Exhibit 1E: Excerpt from Island County Shore Friendly Site Report – waterfront lots with residential structures approximately 30 feet or less from Ordinary High Water Mark – armored shoreline*



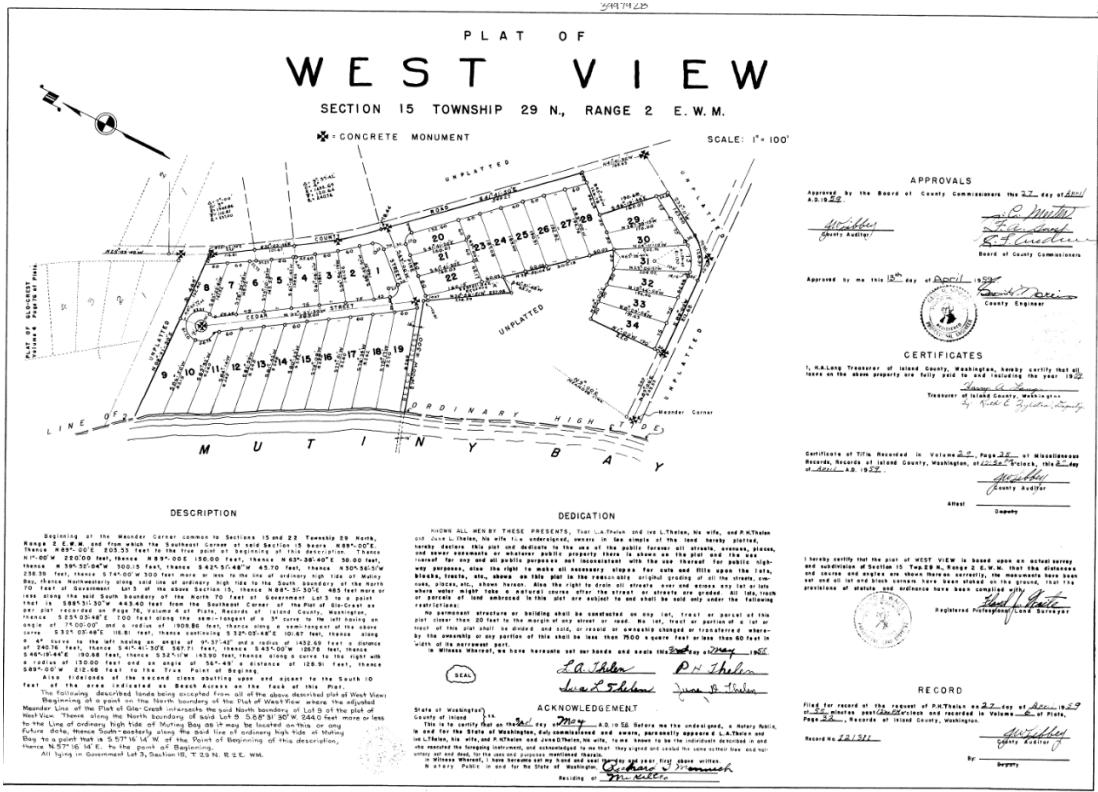
### Mutiny Bay Reach Assessment



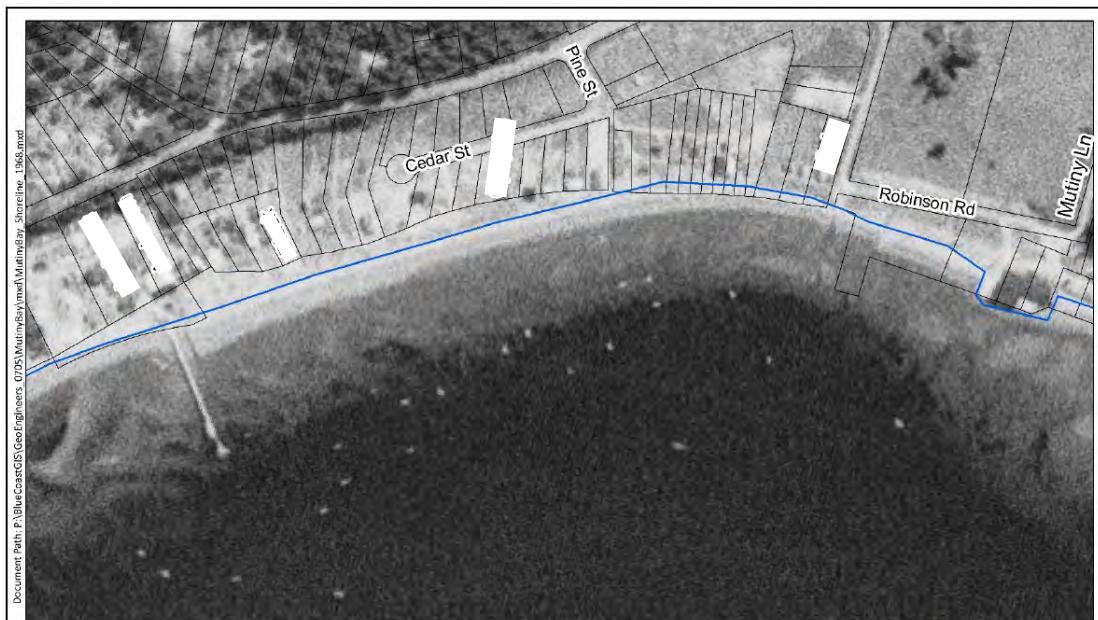
0 25 50 100 150 200  
Meters  
0 85 170 340 510 680  
Feet

Data Sources: 3/4/2019 & 7/13/2020 Maxar aerial mosaic image; Island County parcel data; WDFW 2017 Beach Strategies shoreline data

*Exhibit 1F: 1959 Cedar Street West View Plat established prior to Shoreline Management Act*



**Exhibit 1G: 1968 Original structures established prior to Shoreline Management Act**



## Mutiny Bay Shoreline

Year  Parcels  
1968

Data Sources: USGS 1968 aerial photograph; Island County parcel data



*Exhibit 1G: Examples of Comparable New Historic Beach Community Designations*



*Exhibit 1G(cont.): Examples of Comparable New SRHBC Designations*



Island County Historic Beach Communities  
SITE: New Location

■ Updated New HBC Rev  
Historic Beach Community Rev  
■ Yes



Page: 30

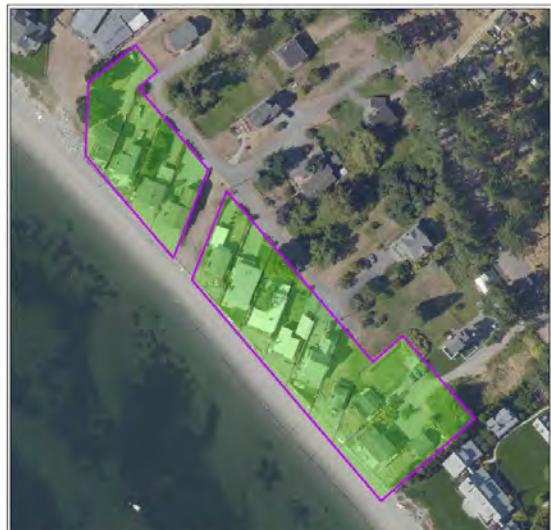


Island County Historic Beach Communities  
SITE: New Location

■ Updated New HBC Rev  
Historic Beach Community Rev  
■ Yes



Page: 59

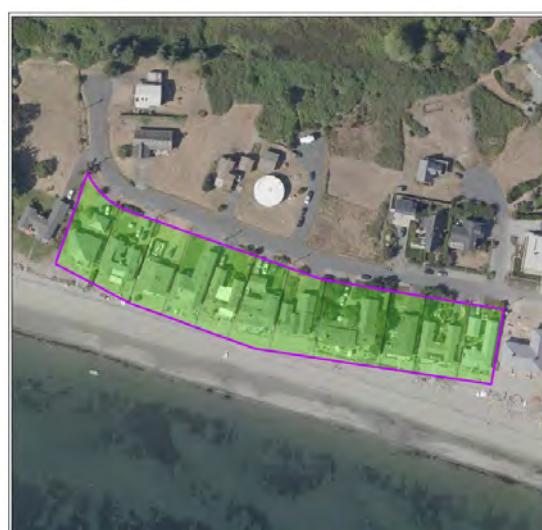


Island County Historic Beach Communities  
SITE: New Location

■ Updated New HBC Rev  
Historic Beach Community Rev  
■ Yes



Page: 58



Island County Historic Beach Communities  
SITE: New Location

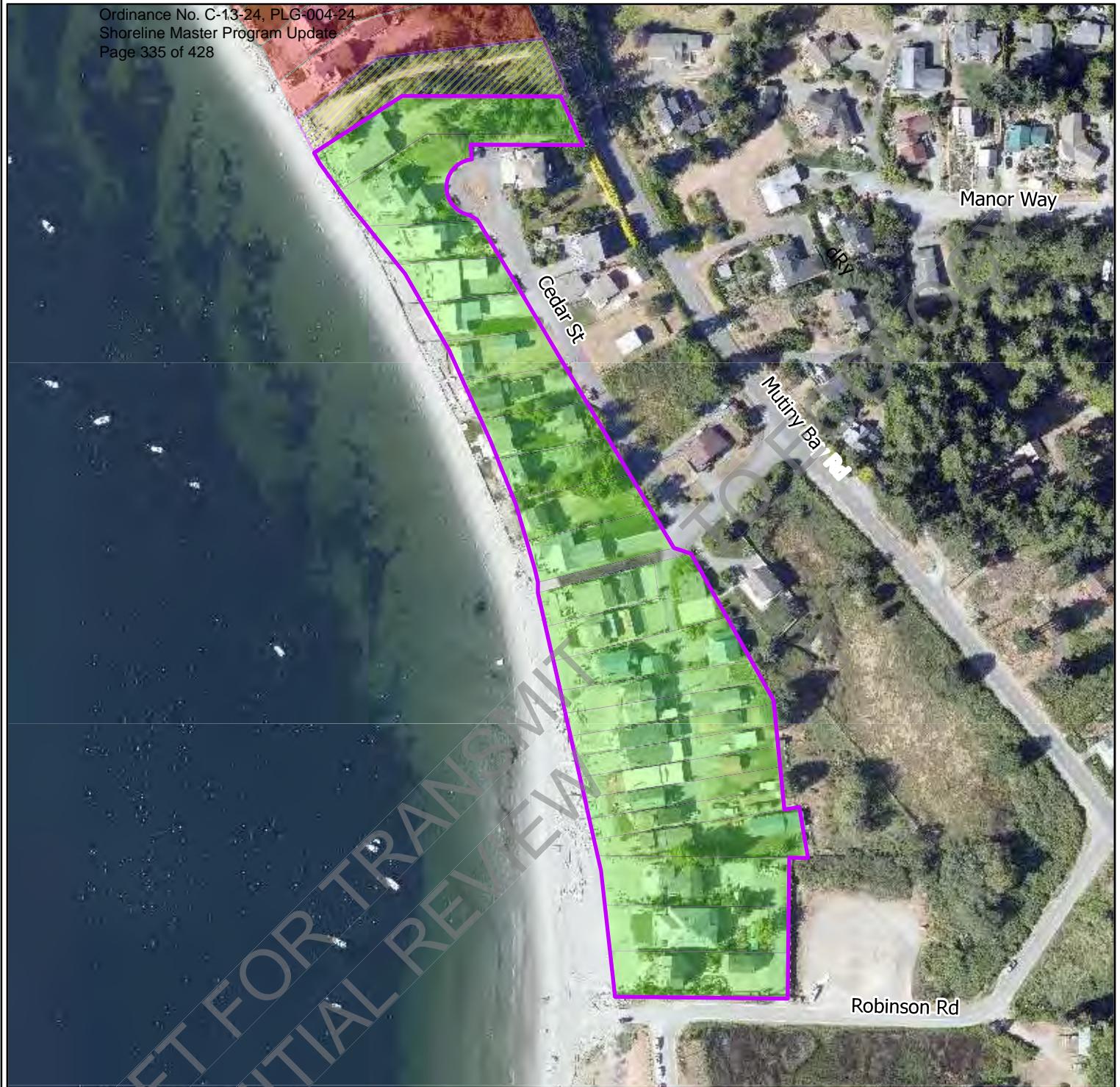
■ Updated New HBC Rev  
Historic Beach Community Rev  
■ Yes



Page: 54

**Attachment B1**

**Page 57 of Amendments to the Island County Shoreline  
Environment Designation Map for Shoreline Residential  
Historic Beach Communities**

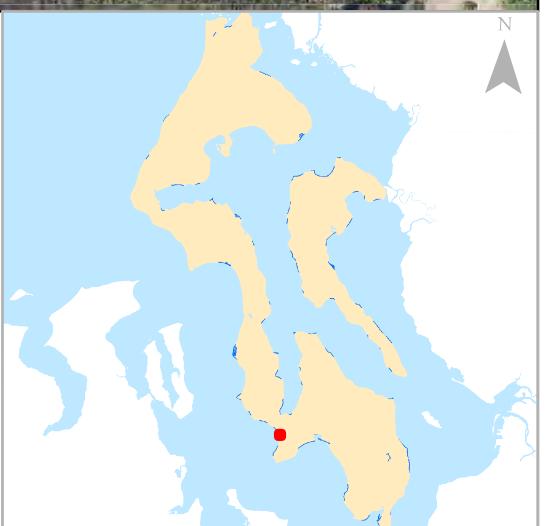


## Island County Historic Beach Communities SITE: New Location

Proposed New HBC

Historc Beach Community

- Yes
- No
- N/A



## **Attachment C**

### **Memo to Board of Island County Commissioners re: Shoreline Environmental Designations (SED) – Request for Correction**



**To:** **Board of Island County Commissioners**  
**Island County Planning Director**  
**From:** **Larry Kwartsick, Sound Planning Services**  
**Re:** **Shoreline Environment Designations (SED) – Request for Correction**

I represent 3 property owners along the shoreline of Mutiny Bay. The 3 lots are within the Plat of Menlo Beach and are within the boundary of the Menlo Beach Residential Area of More Intensive Rural Development (RAID). All 3 are zoned Rural Residential and all 3 lots conform to the minimum RAID lot size of  $\frac{1}{2}$  acre. The Parcel numbers and owners are S7505-00-00033-0 – Reiner; S7505-00-00032-1 – McKinley, and S7505-00-00032-0 – Comstock.



As depicted on the map on the following page, the 3 lots are designated Rural Conservancy. I believe that this SED conflicts with the descriptions of Shoreline Environment Designations.



Per ICC17. 05A.060.C:

*Whenever there is a conflict between the descriptions of shoreline environment designations and the mapped boundaries of the shoreline environment designations the county will rely on criteria contained in **SMP chapter III** (shoreline environment designations), RCW 90.58.030(2), and chapter 173-22 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.*

The following are the criteria for the designation of the Shoreline Residential Environment, as specified in the SMP Chapter III, i.e. the Shoreline Element of the adopted 2016 Comprehensive Plan:

## ***SHORELINE RESIDENTIAL***

### **A. Purpose**

The primary purpose for designating an area Shoreline Residential is to allow for residential development and for moderate to high impact recreational uses in appropriate areas of the shoreline.

### **B. Criteria for Designation**

1. Areas inside County-adopted rural areas of more intense development (RAIDs), if they are predominantly single-family or multifamily residential development or are planned and platted for residential development, but are not predominantly wetlands, stream corridor, or annually flooded.
2. Areas that are legally subdivided for residential use at a density of one or more units per acre and are not constrained by inadequate water supply or the inability to dispose of sewage due to soil conditions or lot sizes.
3. Areas developed with or planned for moderate to high impact recreational uses.
4. Areas that are within the Lagoon Point, Mariners Cove, and Sandy Hook developments should be designated Shoreline Residential – Canal Community.
5. Areas where the historic development pattern has resulted in intensive residential development may be designated Shoreline Residential or when existing residential structures are constructed thirty feet or less from the Ordinary High Water Mark, a designation of Shoreline Residential–Historic Beach Community should be assigned.

The three parcels each conform to criteria 1 and 2 of the Shoreline Residential Criteria for Designation in Chapter III.

On the following page are the criteria for the Rural Conservancy designation also as specified in the Chapter III of the Shoreline Element of the adopted 2016 Comprehensive Plan

## ***RURAL CONSERVANCY***

### **A. Purpose**

The purpose of the Rural Conservancy designation is to protect, conserve, and manage ecological functions, harvestable natural resources, and aesthetic, cultural, historic, and recreational areas, in order to provide for rural residential use and recreational opportunities.

### **B. Criteria for Designation**

Areas designated Rural Conservancy should meet one or more of the following criteria:

1. The shoreline is generally undeveloped, or currently supporting lesser intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170.
2. The shoreline is supporting human uses but subject to environmental limitations, including steep slopes presenting erosion and slide hazards, wetlands, streams, areas prone to flooding, and/or contains areas that cannot provide adequate water supply or sewage disposal.
3. The shoreline is supporting or can support low impact outdoor recreational activities.
4. The shoreline has aesthetic, cultural, historic, or recreational qualities of regional or statewide importance.
5. The shoreline is predominantly low density residential use or low-intensity water-dependent uses.
6. Undesignated shoreline areas are designated Rural Conservancy.

The 3 parcels do not conform to the above Rural Conservancy designation criteria.

While Per ICC17. 05A.060.C relies on the criteria stated in Chapter III, ICC 17.05A.060.H and. F also include criteria for these 2, and other, Shoreline Environment Designations. The code criteria for Shoreline Residential and Rural Conservancy are on the following page, in table format.

<b>F. Rural Conservancy Shoreline Environment Designation</b>	<b>H. Shoreline Residential Shoreline Environment Designation</b>
<p>1. Purpose: The purpose of the Rural Conservancy designation is to protect, conserve, and manage ecological functions, harvestable natural resources, and aesthetic, cultural, historic, and recreational areas in order to provide for rural residential use and recreational opportunities.</p> <p>2. Criteria for Designation: Areas designated Rural Conservancy should meet <b><u>one or more</u></b> of the following criteria:</p> <ul style="list-style-type: none"><li>a. The shoreline is generally undeveloped or currently supporting lesser intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170.</li><li>b. The shoreline supports human uses but is subject to environmental limitations, including steep slopes presenting erosion and slide hazards, wetlands, streams, areas prone to flooding, or contains areas that cannot provide adequate water supply or sewage disposal.</li><li>c. The shoreline supports or can support low impact outdoor recreational activities.</li><li>d. The shoreline has aesthetic, cultural, historic, or recreational qualities of regional or statewide importance.</li><li>e. The shoreline is predominantly low-density residential use.</li><li>f. The shoreline has low intensity water-dependent uses.</li></ul>	<p>1. Purpose: The primary purpose for designating an area Shoreline Residential is to allow for residential development and for moderate to high impact recreational uses in appropriate areas of the shoreline.</p> <p>2. Criteria for Designation: Areas inside County-adopted rural areas of more intense development (RAIDs), if they are characterized by predominantly single-family or multi-family residential development or are planned and platted for residential development, <b>but are not predominantly covered by wetlands, stream corridors, or annually flooded areas, shall be designated Shoreline Residential when any of the following characteristics apply:</b></p> <ul style="list-style-type: none"><li>a. <b>Areas that are legally subdivided for residential use at a density of one (1) or more units per acre and are not constrained by inadequate water supply and the inability to dispose of sewage due to soil conditions or lot sizes; or</b></li><li>b. Areas developed with or planned for moderate to high impact recreational uses.</li></ul>

The Shoreline Residential criteria of the code restates that Shoreline Residential designated areas that are in flood zones, which would be most of the platted beach lots in the County that **“are not predominantly “annually flooded areas” qualify for the Residential Designation.** The 3 lots are in the same flood zone as the adjacent lots with the Shoreline Residential designation.



The 3 lots in question are adjacent to other Menlo Beach lots that are correctly designated Shoreline Residential. Clearly there is a conflict between the mapped SED of the 3 lots in question and the criteria for the SED designations as stated in both the Comprehensive Plan Shoreline Element and the criteria stated ICC 17.05A.060.H and. F. These 3 lots should have an SED designation of Shoreline Residential.

On behalf of the lot owner's, I request that the Planning Department correctly include these 3 lots in the Shoreline Residential SED.



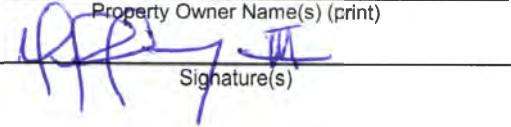
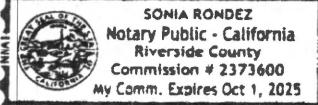
## ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522 ■ from S. Whidbey (360) 321-5111  
FAX: (360) 679-7306 ■ P. O. Box 5000, Coupeville, WA 98239-5000  
121 N East Camano Drive, Camano Island, WA 98282 ■ Phone (360) 387-3443  
[www.islandcountywa.gov/planning](http://www.islandcountywa.gov/planning)

### APPLICANT AUTHORIZATION FORM

If you are authorizing an agent or contractor to apply for permit(s) on your behalf, you must complete this form providing authorization for a designated agent to apply for permit(s) on your behalf. This form is required for the protection of the landowner. An application authorizing an agent to act on the landowner's behalf that is not accompanied by a signed and notarized Applicant Authorization Form will not be accepted.  
**All original signatures must be in blue ink.**

I/We, MCKINLEY-WHIDBEY, LLC, the owner(s) of the subject property, understand that by completing this form I hereby authorize Larry Kwartsick to act as my agent. I understand that the agent will be authorized to submit applications on my behalf and that all future contact and correspondence from Island County staff regarding this application will be directed only to the agent.

<p>1) <u>MCKINLEY-WHIDBEY, LLC</u> Property Owner Name(s) (print)   Signature(s)  2)  Property Owner Name(s) (print)  Signature(s)  11/27/23 Date</p>	<p>State of <u>California</u> County of <u>Riverside</u></p> <p>I certify that I know or have satisfactory evidence that <u>moore mckinley</u> is the person who appeared before me and signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in this instrument.</p> <p> SONIA RONDEZ Notary Public - California Riverside County Commission # 2373600 My Comm. Expires Oct 1, 2025</p> <p>Dated <u>November 27, 2023</u> Signature of Notary Public <u>Sonia Rondez</u> Printed Name <u>Sonia Rondez</u> Residing at <u>81590 Carboneras, Lihue-CH 92253</u> My appointment expires <u>Oct. 1, 2025</u></p>
<p>1)  Property Owner Name(s) (print)  Signature(s)  2)  Property Owner Name(s) (print)  Signature(s)  Date</p>	<p>State of _____ County of _____</p> <p>I certify that I know or have satisfactory evidence that _____ is the person who appeared before me and signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in this instrument.</p> <p>Dated _____ Signature of Notary Public _____ Printed Name _____ Residing at _____ My appointment expires _____</p>



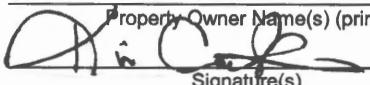
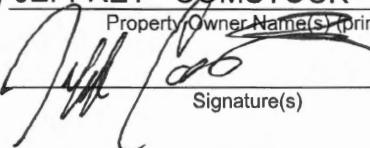
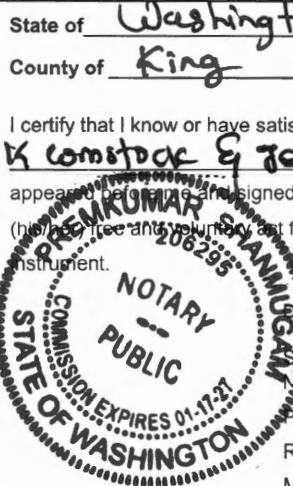
## ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

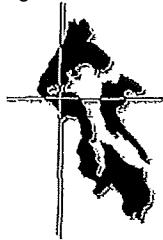
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If you are authorizing an agent or contractor to apply for permit(s) on your behalf, you must complete this form providing authorization for a designated agent to apply for permit(s) on your behalf. This form is required for the protection of the landowner. An application authorizing an agent to act on the landowner's behalf that is not accompanied by a signed and notarized Applicant Authorization Form will not be accepted.  
**All original signatures must be in blue ink.**

I/We, JEFFREY & KIMBERLY COMSTOCK, the owner(s) of the subject property, understand that by completing this form I hereby authorize Larry Kwartsick to act as my agent. I understand that the agent will be authorized to submit applications on my behalf and that all future contact and correspondence from Island County staff regarding this application will be directed only to the agent.

<p>1) <u>KIMBERLY COMSTOCK</u>  Property Owner Name(s) (print) Signature(s)</p> <p>2) <u>JEFFREY COMSTOCK</u>  Property Owner Name(s) (print) Signature(s) Date</p>	<p>State of <u>Washington</u> County of <u>King</u></p> <p>I certify that I know or have satisfactory evidence that <u>K comstock &amp; Jeffrey D comstock</u> is the person who appeared before me and signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in this instrument.</p> <p> Dated <u>11/30/23</u> Signature of Notary Public <u>S. dh k</u> Printed Name <u>Prem Kumar Shannigan</u> Residing at <u>Merzer Island</u> My appointment expires <u>1/17/27</u></p> <p>1) <u>Property Owner Name(s) (print)</u> Signature(s)</p> <p>2) <u>Property Owner Name(s) (print)</u> Signature(s) Date</p>
	<p>State of _____ County of _____</p> <p>I certify that I know or have satisfactory evidence that _____ is the person who appeared before me and signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in this instrument.</p> <p>Dated _____ Signature of Notary Public _____ Printed Name _____ Residing at _____ My appointment expires _____</p>



## ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

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121NEastCamano Drive, Camano Island, WA 98292 • Phone (360)387-3443•FAX(360) 387-6161  
Internet Home Page: <http://www.islandcountywa.gov/planning/>

---

**SUBJECT:** Regulation of Conflicting Shoreline Environmental Designation (SED) –  
Policy for map change at Beverly Beach

**POLICY/  
DETERMINATION**

**NO:** 003/17

**EFFECTIVE  
DATE:** May 31, 2017

**PURPOSE:** To clarify shoreline regulations for Shoreline Environmental Designations (SEDs) where the mapped SED conflicts with the criteria that establishes the SED; Specifically in reference to PCN# S6135-02-00137-0, 105/17 SHE (also addresses parcels S6135-00-00153-0 south to S6135-02-00128-0 on the waterside, with bulkheads).

**BACKGROUND:**

- The Shoreline Master Program (SMP) adopted on January 19, 2016 gives Island County discretion to determine if there is a conflict between the mapped SED and the criteria establishing the SED for a determination rather than relying on the incorrect or outdated map, per ICC 17.05A.060.C.
- Shoreline Exemption Permit 105/17 SHE was submitted April 14, 2017 for John and Thomas Guichard PCN# S6135-02-00137-0 on Beach Drive on Beverly Beach, by agent Ron Young.
- The SED for the subject parcel is Rural Conservancy (RC), which requires a 10% maximum impervious surface limit for proposed projects within the shoreline jurisdiction. The proposed New single-family residence (SFR) and attached garage have an approximately 14% impervious surface ratio. Staff sent the applicant a request for additional information letter to verify the impervious surface ratio.
- The agent requested per their letter, May 9, 2017, that the County determine if a conflict between what exists under the SED criteria and what is shown and classified on the shoreline maps. The agent has stated that the subject parcel is more consistent with the SED Shoreline Residential (SR).

**POLICY/DETERMINATION:**

Staff researched and reviewed the subject area and consulted with the State Department of Ecology Shoreline Planner, David Pater, and determined that the appropriate SED for PCN# S6135-02-00137-0 on Beach Drive at Beverly Beach (also addresses parcels S6135-00-00153-0 south to S6135-02-00128-0 on the waterside, with bulkheads) is Shoreline Residential – SR, per the following observations and determinations:

- The subject area, as designated above, within the Beverly Beach shoreline meets

- the Shoreline Residential – SR designation criteria (SMP sec 17.05A.060.H).
- o The area is built out and has lot sizes at a density that is greater than described in the RC SED and more consistent with the SR designation.
- o The area and subject parcel has existing bulkheads.
- o Through a visual inspection of the Washington State Coastal Atlas of Beverly Beach there appears to be no exposed slopes in the subject area (see Attachment B for aerial photo from the Washington State Coastal Atlas).
- o The subject parcel's GeoTechnical report dated 12/31/07 states that with the rebuilt bulkhead and proposed drainage improvements the parcel and site is compatible with the proposed improvements.

**ATTACHMENTS:**

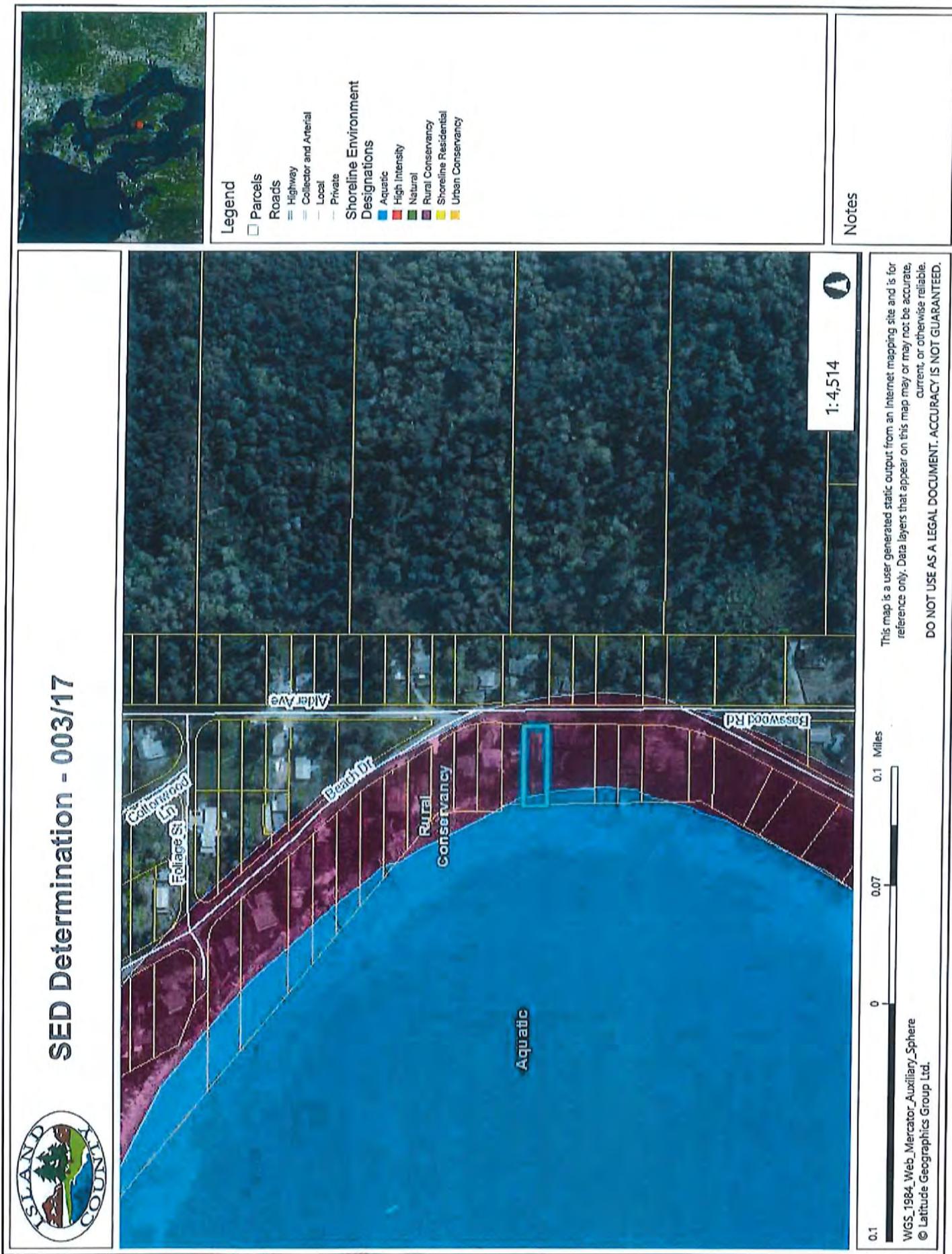
Attachment A: SED

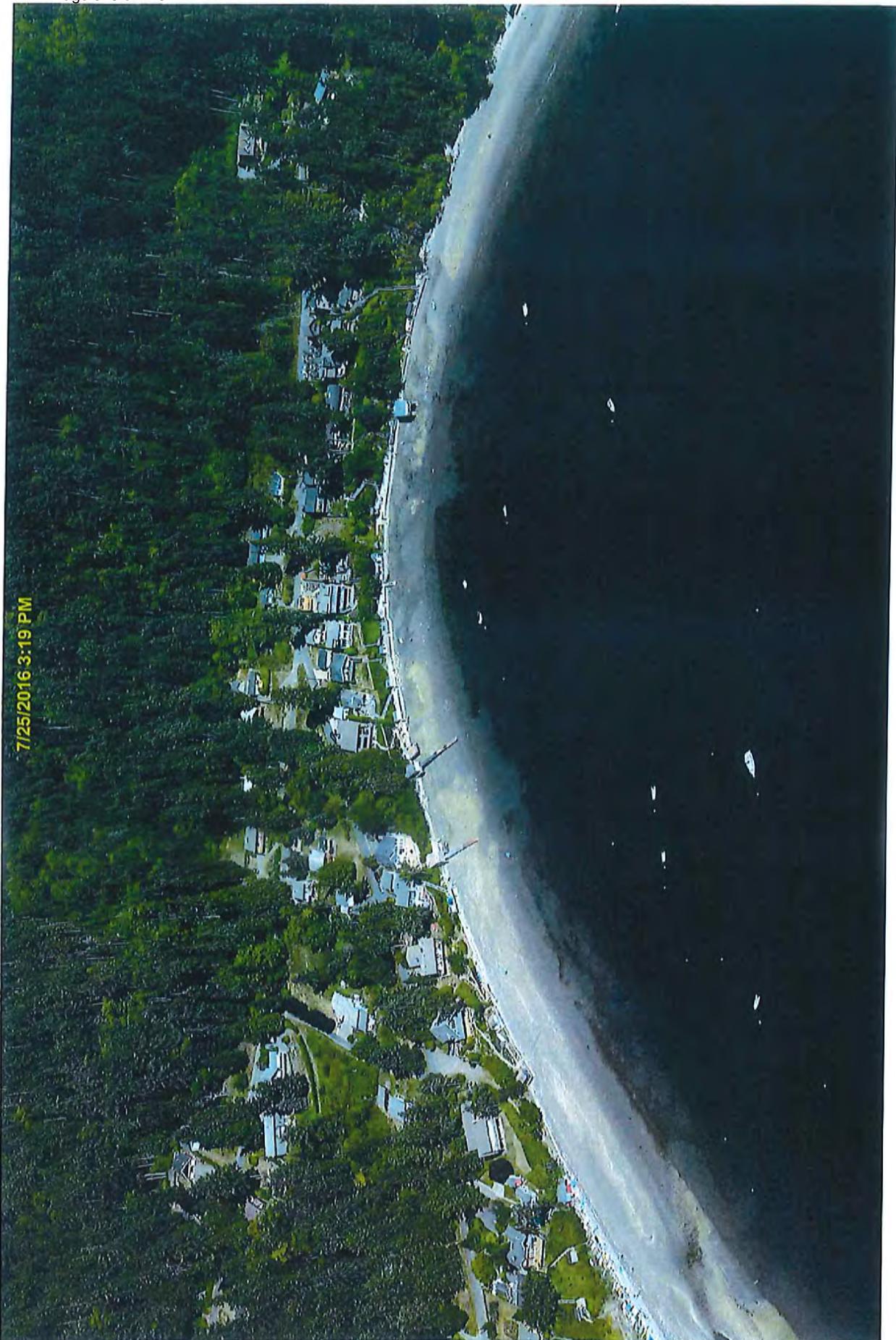
Attachment B: Aerial Photo per Washington State Coastal Atlas



Hiller West, AICP

Planning and Community Development Director





7/25/2016 3:19 PM



## ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111,  
Ext. 7339 FAX: (360) 679-7306 ■ 1 NE 6<sup>th</sup> Street, P. O. Box 5000, Coupeville, WA 98239-5000  
Internet Home Page: <http://www.islandcountywa.gov/planning>

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**SUBJECT:** Regulation of Conflicting Shoreline Environmental Designation (SED) –  
Policy for map change at Race Road

**POLICY/**

**DETERMINATION**

**NO:** 005/17

**EFFECTIVE**

**DATE:** October 31, 2017

**PURPOSE:** To clarify shoreline regulations for Shoreline Environmental Designations (SEDs) where the mapped SED conflicts with the criteria that establishes the SED; Specifically in reference to PCN# S7480-00-00007-0, (also addresses parcels R23108-179-0910 north to S8005-00-0A009-0).

**BACKGROUND:**

- The Shoreline Master Program (SMP) adopted on January 19, 2016 gives Island County discretion to determine if there is a conflict between the mapped SED and the criteria establishing the SED for a determination rather than relying on the incorrect or outdated map, per ICC 17.05A.060.C.
- In July, Clayton Herbst and Prentis Hale inquired about PCN#S7480-00-00007-0.
- The SED for the subject parcel is Natural (N), which requires a 50 foot steep slope buffer and a 25 foot setback for proposed projects within the shoreline jurisdiction. The existing homes in this neighborhood are within 30 feet of the top of the slope.
- The agent, Ron Young, requested per their letter, August 14, 2017 that the County determine if a conflict exists between the SED criteria and what is shown and classified on the shoreline maps. The agent has stated that the subject parcel is more consistent with a SED Rural Conservancy designation.
- Ron Young also disagreed with staff's determination of the Ordinary High Water Mark (OHWM).
- On September 25, 2017, Diane Hennessey and David Pater from Ecology, Michelle Pezley, Jonathan Lange, and Tony Mills from Island County, and Jocelyn Young from Young Associates met on site to determine the OHWM. Staff from Department of Ecology determined the OHWM to be fifteen feet water side from the toe of the steep slope.

**POLICY/DETERMINATION:**

Staff researched and reviewed the subject area and consulted with the State Department of Ecology Shoreline Planner, David Pater, and determined that the appropriate SED for PCN# S7480-00-00007-0 on Race Road (also addresses parcels R23108-179-0910 north to S8005-00-0A009-0) is a split SED with the Natural designation over the steep slope and abutting estuarine

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Wetland and a Rural Conservancy designation from the top of slope landward with the following observations and determinations:

- The subject area, top of the slope landward, within the shoreline meets the Rural Conservancy – RC designation criteria (ICC 17.05A.060.F), with predominantly low density residential use.
- The area is built out and has lot sizes at a density that is greater than described in the NC SED landward of the top of the slope and more consistent with the RC designation. The steep slope and the estuarine wetland are more consistent with the Natural Designation.

**ATTACHMENTS:**

Attachment A: SED

Attachment B: Aerial Photo per Washington State Coastal Atlas

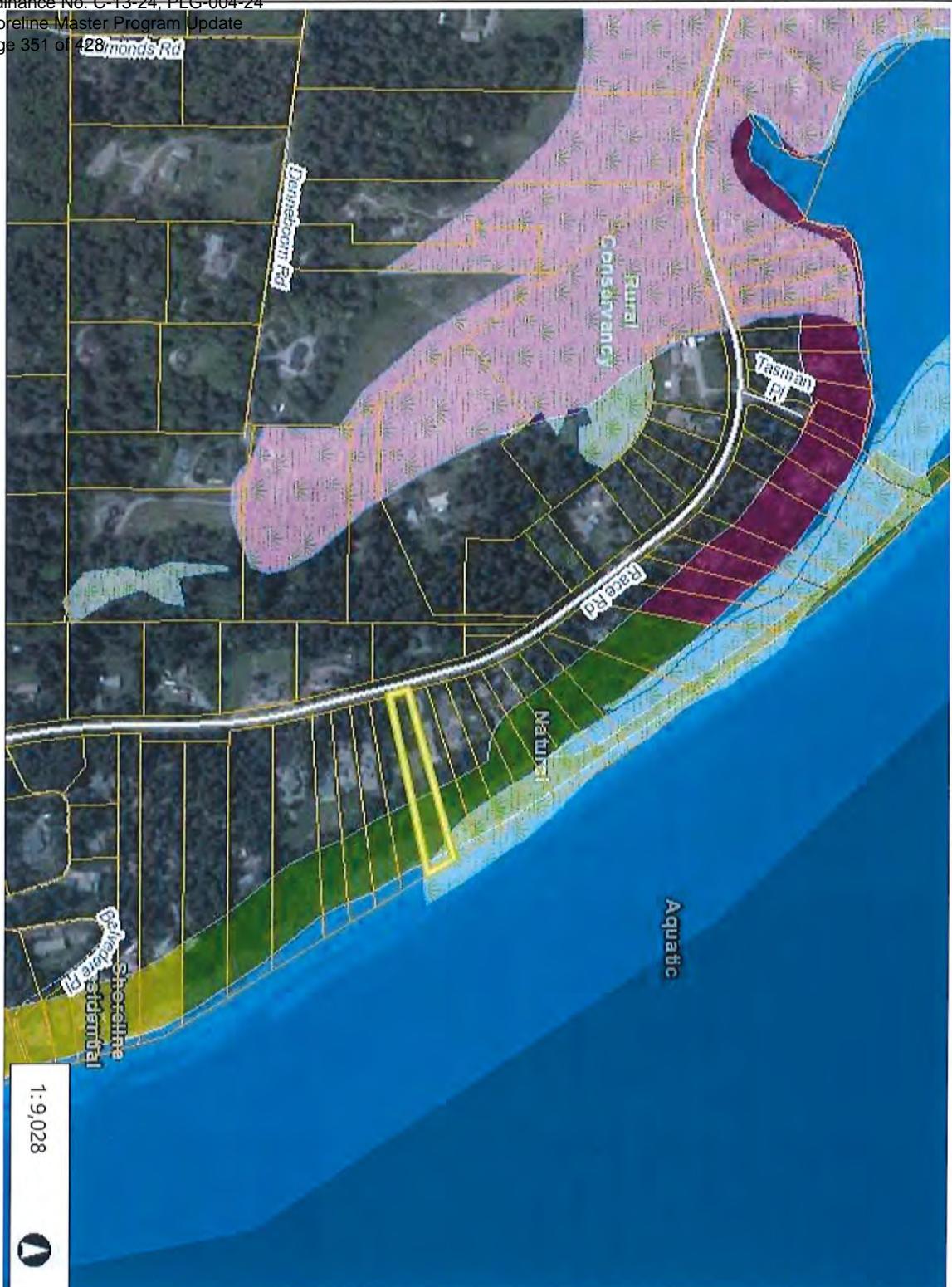


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Hiller West, Planning and Community Development Director



## SED Determination- 005/17



### Notes

Change from all Natural to landward of top of slope be Rural Conservancy.



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This aerial photograph captures a coastal landscape. On the left, a dark blue body of water meets a sandy beach. A narrow strip of land with sparse vegetation separates the beach from a dense forest of green trees. To the right of the forest, a large, well-maintained green field with a grid-like pattern of paths or furrows is visible. A few small buildings are scattered throughout the scene, including a cluster near the beach and a larger one in the field. The overall image is a high-resolution satellite or drone shot.



## ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111, Ext. 7339 FAX: (360) 679-7306 ■ 1 NE 6<sup>th</sup> Street, P. O. Box 5000, Coupeville, WA 98239-5000  
Internet Home Page: <http://www.islandcountywa.gov/planning/>

**SUBJECT:** Regulation of Conflicting Shoreline Environmental Designation (SED) – Policy for map change at Soundview Drive

**POLICY/DETERMINATION NO:** 003/19

**EFFECTIVE DATE:** September 25, 2019

**PURPOSE:** To clarify shoreline regulations for Shoreline Environmental designations (SEDs) where the mapped SED conflicts with the criteria that establishes the SED; Specifically in reference to parcels within Useless Bay Beach Subdivision, Division 2, 4, 12, and other parcels, on the seaward side of Soundview Drive.

### BACKGROUND:

- The Shoreline Master Program (SMP) adopted on January 19, 2016 gives Island County discretion to determine if there is a conflict between the mapped SED and the criteria establishing the SED for a determination rather than relying on the incorrect or outdated map, per ICC 17.05A.060.C.
- The SED for the subject parcels is Rural Conservancy (RC), which requires a 75 foot Marine Buffer, a 25 foot Shoreline Setback, and a 30 foot Steep Slope Buffer. The RC designation is also subject to a Maximum Impervious Surface ratio of 10% for the area of the parcel within shoreline jurisdiction. The subject parcels are currently developed with single-family residences on small platted lots.
- Matt Kukuk of Saratoga Environmental Inc., consultant for the builder of the owners at 2414 Soundview Dr., within the Useless Bay Beach community, has requested per his narrative, that the County determine if a conflict between what exists under the SED criteria and what is shown and classified on the shoreline maps. The consultant has stated that the subject parcels are more consistent with the SED Shoreline Residential (SR).

### POLICY/DETERMINATION:

Staff researched and reviewed the subject area and consulted with the State Department of Ecology, and determined that the appropriate SED for the parcels on the seaward side of Soundview Drive is a split SED, with Shoreline Residential - SR at the top of the bluff and Rural Conservancy – RC on the slope down to the water, per the following observations and determinations:

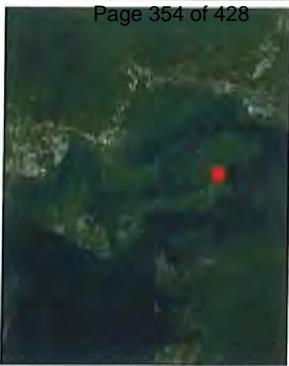
- The area, on the top of the bluff, is built out with single-family residences and contains small lot sizes. The parcels have existing utilities and road infrastructure, and are consistent with existing predominantly low density rural residential uses. This area meets the Shoreline Residential – SR designation criteria (SMP sec 17.05A.060.H).
- The area on the slope down to the water is designated as steep and unstable slopes and is within the vicinity of cultural resources. This area meets the Rural Conservancy – RC designation criteria (SMP sec 17.05A.060.F).

### ATTACHMENTS:

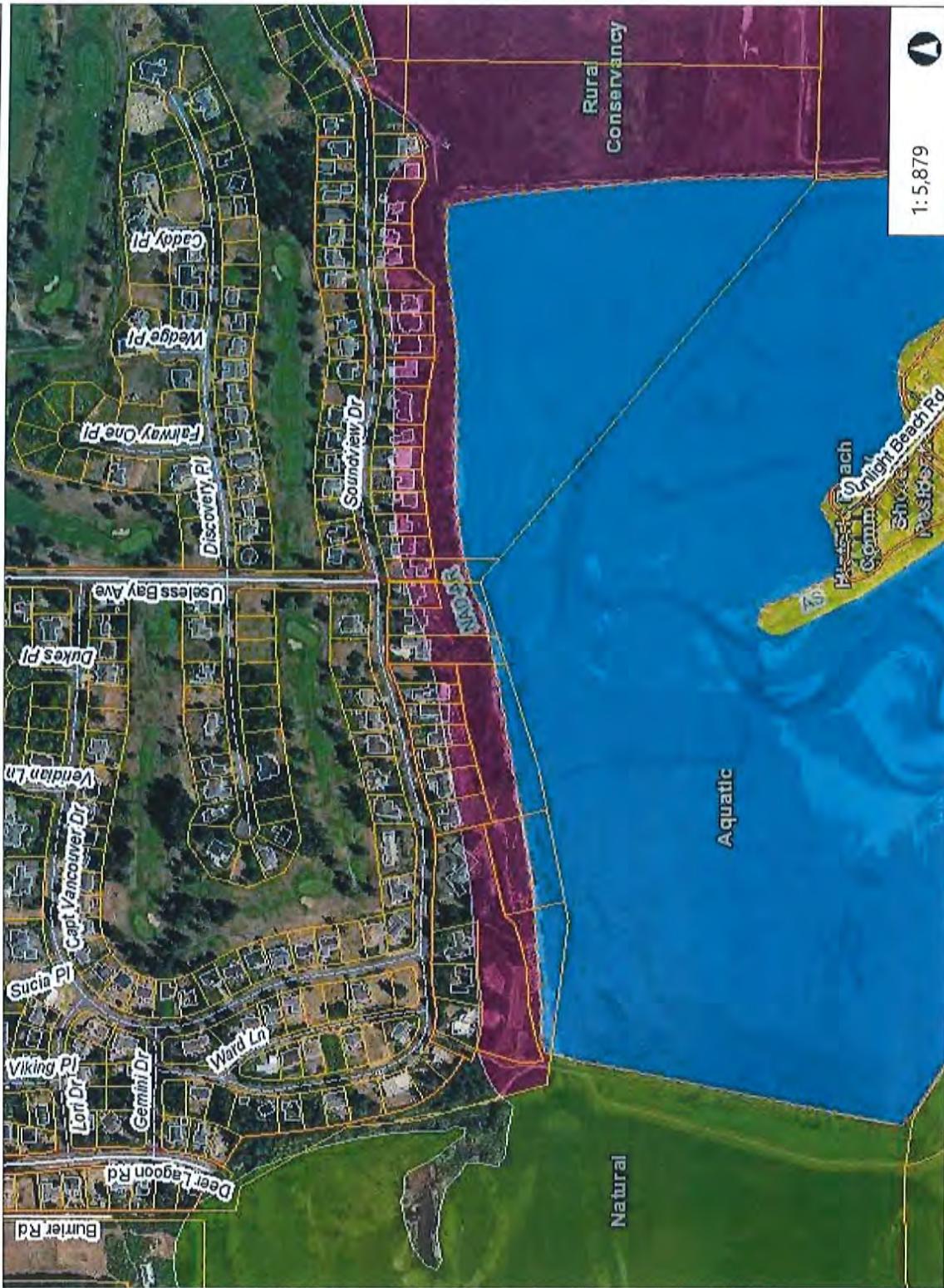
Attachment A: SED Map

Attachment B: Aerial Photos per Washington State Coastal Atlas

Hiller West, Planning and Community Development Director



SED Redesignation - Soundview Dr.



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

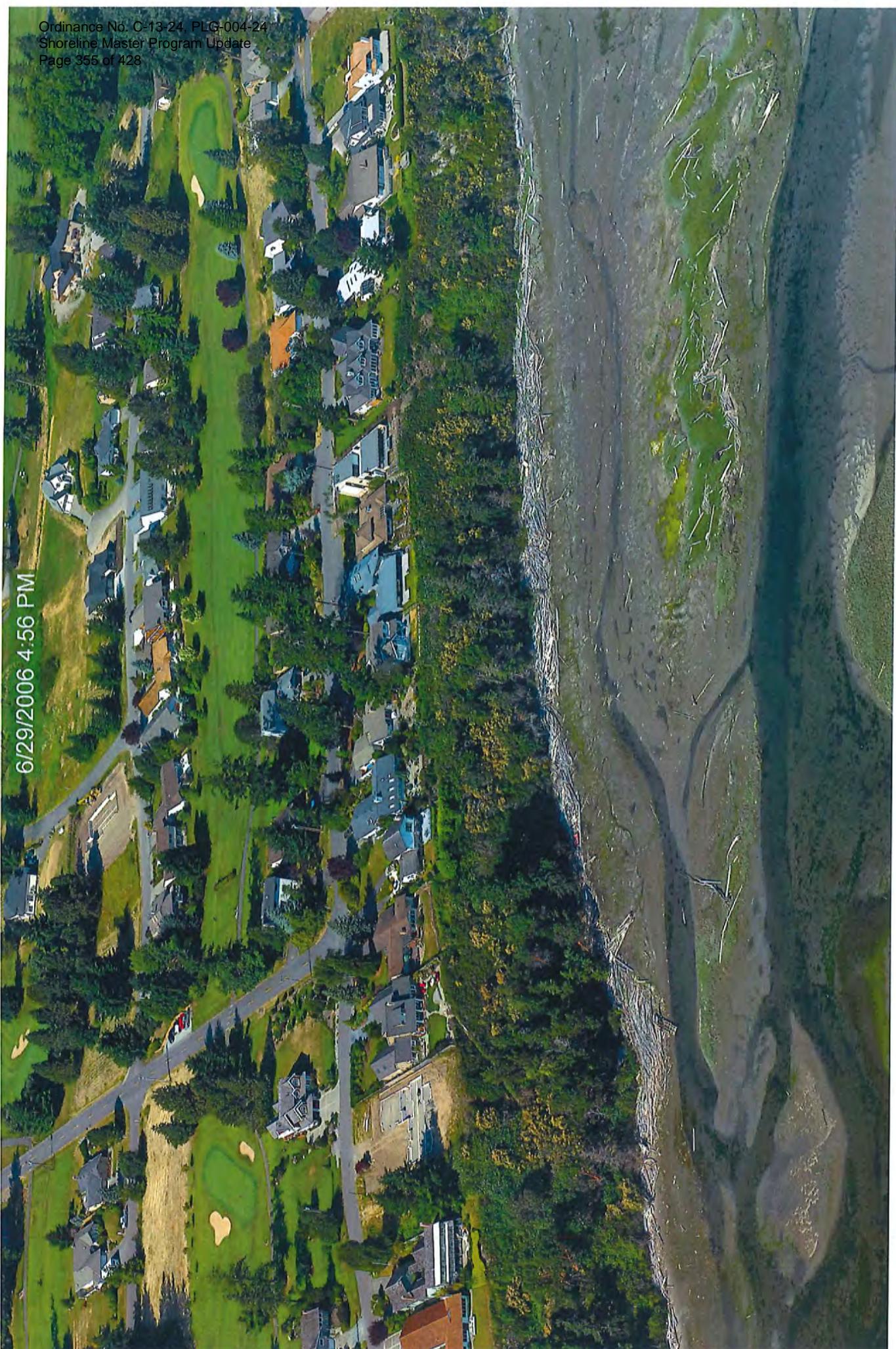
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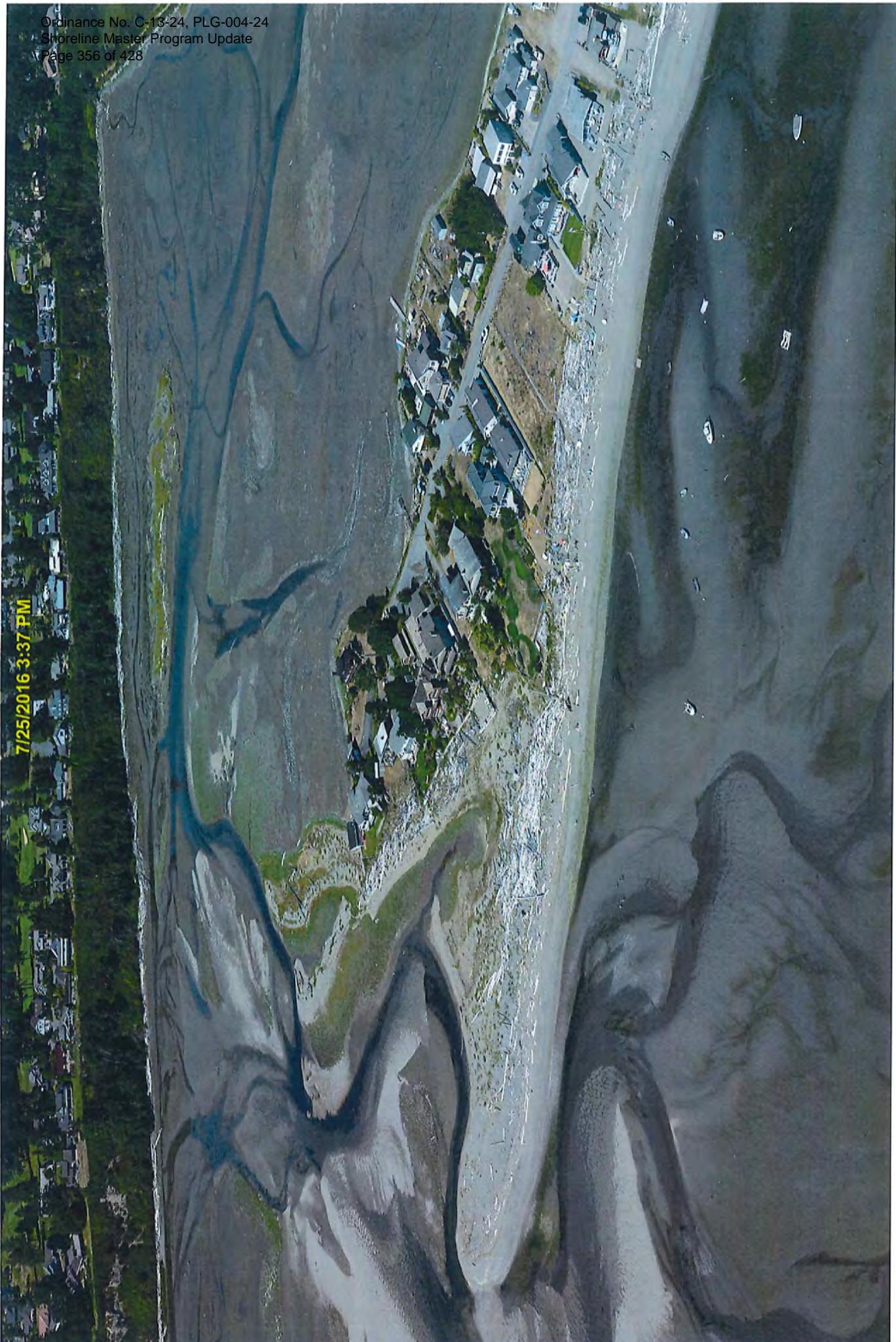
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## EXHIBIT F: STATE AGENCY AND PUBLIC COMMENTS

November 22, 2023

Island County  
John Lanier, Long Range Planner  
360-678-7821  
j.lanier@islandcountywa.gov

Dear John,

On behalf of the Washington State Department of Fish and Wildlife (WDFW), thank you for the opportunity to formally comment on the proposed code changes to Island County's Shoreline Master Program update. The Washington Department of Fish and Wildlife (WDFW) provides our comments and recommendations in keeping with our legislative mandate to preserve, protect, and perpetuate fish and wildlife and their habitats for the benefit of future generations – a mission we can only accomplish in partnership with local governments. Specific comments on the proposed code update are provided in the following table.

Table 1. Recommended changes to draft Shoreline Master Program Regulations update. Edits are based off the most recent draft document (attached to this email).

Policy Number	Policy Language with Suggestions	WDFW Comment
Suggested Topic	<p>Suggested Topic:</p> <p><b>“Island County’s Shoreline Master Program update, which is currently in progress, will explicitly address sea level rise adaptation best management practices, community-based coastal resiliency planning, and county-wide monitoring programs (Island County, 2019),” Island County <i>Sea Level Rise Strategy</i>, March 2020.</b></p>	<p>Island County’s <i>Sea Level Rise Strategy</i> (March 2020) calls for “long-term resilience planning” that fails to be captured in this SMP draft. This Strategy describes valid concerns, such as, “Island County residential development permitting for homes built in frequently flooded areas reflect the minimum elevation and flood protection measures necessary to remain eligible for federal flood insurance coverage,” and “without substantial incentive for nature-based adaptation homeowners may seek to leverage expedited emergency permitting to re-establish a baseline property flood risk, rather than working toward mitigation and improved resilience.” This Strategy calls for many options that we would like to see considered, such as:</p> <ul style="list-style-type: none"><li>- An outlined process for permitting Best Practice Sea Level Rise Adaptation Strategies, described in detail in the <i>Sea Level Rise Strategy</i>;</li><li>- The establishment of a Community Rating System (CRS) that guides higher regulatory standards, as Island</li></ul>

		<p>County currently uses the “FEMA flood zones and base flood elevations as the basis for development regulations,” which do not take into consideration tidal surge, extreme high tide, or projected sea level rise;</p> <ul style="list-style-type: none"> <li>- The policies outlined in Island County Multi-Jurisdictional Hazard Mitigation Plan (HMP) to be considered and translated into specific climate change and/or sea level rise adaptation policy relevant to this SMP.</li> </ul>
Table 1 and section 17.05A.060	Natural shoreline environment designation’s purpose, as stated in section 17.05A.060, reads: “Purpose: The purpose of the natural designation is to preserve, protect, and restore areas that are relatively free of human influence or that include minimally degraded natural features and resources.”	It seems contradictory to state in Table 1 (Shoreline Use Classification Table) that single-family use of this area is permitted without conditional use. Similarly, parking lots are permitted in this jurisdiction. Note 12 specifies ‘as part of water-dependent use’, but the amount of impervious surface should be specified, and intent made clearer. Generally, these uses do not fit the definition provided for the Natural designation. The intent of the definition of the Natural Shoreline Environment designation seems to have a restorative/protection focus. Housing and parking do not align with this intent, making it important to carefully describe the permitted uses in this area to avoid uses in this designation that these policies intend to prohibit.
17.05A.070-Definitions  Accretion Shoreform	Accretion shoreform means shoreline with a backshore which <del>has been</del> is produced by the long-term deposition of sand or gravel by littoral drift from a feeder bluff or other source. Such shore forms include barrier beaches, points, spits, and hooks.	We offer this suggestion to align this definition with the correct understanding of the process being described. The definition is currently written in past tense format when the process is also occurring presently.
17.05A.070-Definitions  Bulkhead	Bulkhead means a form of structural shoreline stabilization erected parallel to and <del>near</del> within 10-ft the ordinary high water mark for the purpose of stabilizing a slope and preventing natural shoreline erosion to protect protecting the adjacent structures from the action of waves or currents.	This suggestion is to clarify ‘near ordinary high-water mark’ which could be confusing with regards to the mention of a retaining wall in 17.05A.110 A.2.f, which states ‘Upland retaining walls within shoreline jurisdiction are a type of shoreline stabilization installed at least 10-feet landward of the OHWM.’ This addition would align these two sections of code.
17.05A.070-Definitions  Compensatory Mitigation	.....Mitigation ratios are based on the degree of a proposal’s expected impact on regulated marine, <del>back-shore</del> , near-shore, <del>and</del> riparian ecosystems as determined by submitted environmental reports.	We suggest adding a few more ecosystems commonly impacted by compensatory mitigation. Opposingly, code could take out specific ecosystems and substitute with ‘marine and marine adjacent ecosystems.’ Additionally, mitigation is mentioned many times throughout this document. It would be suggested to add ‘compensatory’ to these areas of code, or define ‘mitigation’ separately from ‘compensatory mitigation.’ Mitigation and compensatory mitigation often are not always synonymous.

17.05A.070-Definitions  Exceptional Feeder Bluff	Exceptional feeder bluff means a shoreline bluff area <b>that, as a result of its natural erosion, delivers sand and gravel to the beach that is subsequently transported by waves and currents along the shoreline to maintain beaches and accretion shoreforms elsewhere within the local drift cell, but</b> with substantial sediment input into the nearshore drift system with a shorter recurrence interval as compared to a non-exceptional feeder bluff, as identified on a map available from Island County Department of Community Development.....	We suggest also including the ecosystem functions outlined in 'Feeder Bluff' to this definition. Alternatively, this definition could add 'see Feeder Bluff definition' if this addition makes this definition too lengthy.
17.05A.070-Definitions  Non-structural Shoreline	....Measures such as live stake, live fascine, brushlayer, live cribwall, <b>anchored logs</b> , vegetated geogrid, 21 branchpacking, and live slope grating are examples of soft shore protection techniques. Also called bioengineering or soft shore stabilization.	We suggest that this definition include 'anchored logs' or some form of large woody debris, as this soft shore armoring technique is used frequently.
17.05A.070-Definitions  Retaining Wall	Retaining wall means structure placed <b>at least 10 feet landward of the OHWM</b> , which acts as....	This suggestion is to clarify where the bulkhead ends and a retaining wall begins, and to align this section with 17.05A.110 A.2.f, which states 'Upland retaining walls within shoreline jurisdiction are a type of shoreline stabilization installed at least 10-feet landward of the OHWM.'
17.05A.070-Definitions	<b>Suggested future definitions</b>	We suggest you define coastal flooding, mitigation (separate from compensatory mitigation), nearshore habitat, shoreline setback, shoreline buffer, and qualified professional (see Coupeville's definition).
17.05A.080-Shoreline use classification	Table 1. Shoreline Use Classification Table, Accessory Structure, Accessory Dwelling Units	Accessory structure permits should be conditional to align with ICC code elsewhere. No newly built structure can lead to the necessity for hard armoring in the future, including these structures and accessory dwelling units (17.05A.100 K 24(d), 17.05A.090 L.1.f).
17.05A.090 – Shoreline use and development regulations, A. 1.	All shoreline development shall be located, constructed, and operated so as to protect public health, safety, and welfare, <b>and</b>	This suggestion is consistent with no net loss language elsewhere in code and aligns with required state code. See: WAC 365-196-830

	<b>shall result in no net loss of ecological function.</b>	
17.05A.090 – Shoreline use and development regulations, A.4 (b)	In cases where a legally established home must raise its foundation to meet FEMA flood elevations, the height above grade level may exceed 35 feet provided that <del>such a height will not further obstruct the view of any residences on or adjacent to such shorelines, and that</del> the legally established home is not a replacement as defined in ICC 17.05A.070.	This suggestion aligns this section with RCW 77.55.231(1)(b). If a home is at risk of coastal flooding or shoreline erosion and raising the home is the least impactful and technically feasible option for the protection of the home and the habitat, this must take priority over maintaining a neighbor's view. In the event that any person desires to replace residential marine shoreline stabilization or armoring, a person must use the least impacting technically feasible bank protection alternative for the protection of fish life, which may include raising homes. Island County should prepare to modify code now to better prepare for increased flooding into the future. We'd recommend aligning this section of code with findings from Island County's <i>Sea Level Rise Strategy Study</i> (March 2020).
17.05A.090 – Shoreline use and development regulations, A.6.	All shoreline developments and uses shall be located, designed, constructed, and managed to avoid disturbance <del>of or minimize adverse impacts</del> to fish and wildlife habitat conservation areas including, but not limited to spawning, nesting, rearing and habitat areas, and migratory routes. Where avoidance of adverse impacts is not practicable, <b>minimization of impacts shall be demonstrated.</b> <b>Additionally,</b> the Shoreline Administrator <del>may shall</del> require that mitigation measures to protect species and habitat functions be developed in consultation with state resource management agencies and federally recognized tribes, as needed. <b>Off-site mitigation will only be allowable if on-site mitigation is proven to be infeasible.</b>	If impacts are unavoidable, mitigation is <b>required</b> to achieve no net loss. Additionally, mitigation sequencing should be clearly prioritized, with avoidance considered first. Only if there are no other options for development should other measures be taken, including minimization. (WAC 173-26-201, 2.e.(I). a-f)
17.05A.090 – Shoreline use and development regulations, A. 11	All shoreline developments and uses shall be located, designed, constructed, and managed to <del>minimize avoid when possible and minimize if avoidance is not feasible,</del> interference with or adverse impacts to beneficial natural	This suggestion aligns with the previous comment, staying consistent with mitigation sequencing outlined by state law.

	shoreline processes such as water circulation, erosion, and accretion.	
17.05A.090 – Shoreline use and development regulations, A. 13	All development activities shall be located and designed to <del>minimize or</del> prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties, or substantial site regrading.	<p>This suggestion aligns Island County's SMP with local city code, such as</p> <p>Coupeville: "ii. Permit development in such a manner and only in locations where no slope protection (e.g. bulkheads, rip-rap, retaining walls, etc.) is necessary or where nonstructural protection (e.g., vegetated buffers) is sufficient for the life of the project (seventy-five (75) years)."</p> <p>And aligns with other sections of this SMP, such as 17.05A.100 – Shoreline specific use regulations, Residential K. 15-16, 17.05A.100 K 24(d), and 17.05A.090 L.1.f</p>
17.05A.090 – Shoreline use and development regulations, B. 4	Compensatory mitigation measures shall occur <del>on-site and result in no net loss of ecological functions. If there is no option for compensatory mitigation on-site, mitigation can occur</del> in the vicinity of the impact or at an alternative location within the same watershed sub-basin for impacts to freshwater shorelines or within the same marine shoreline drift cell for marine shoreline impacts. <del>If the off-site location provides greater and more sustainable ecological benefits. When determining whether offsite mitigation provides greater and more sustainable benefits, the county shall consider limiting factors, critical habitat needs, and other factors identified by the locally adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan.</del> The county may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar	<p>This suggestion is to align this code with BAS. On-site and in-kind mitigation is the preferred method for mitigation. Only when this is not an option shall other avenues be explored (off-site, mitigation banks, etc.). WAC 173-26-201 (2) (e.ii.B):</p> <p>"When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions."</p>

	approaches provided they have been approved and sanctioned by the Department of Ecology, the Department of Fish and Wildlife, the Army Corps of Engineers, and Island County. Mitigation banks shall comply with the standards and procedures in RCW 90.84 and WAC 173-700.	
17.05A.090 – Shoreline use and development regulations  F. Environmental protection and critical areas, 2	Uses and developments that cause a net loss of ecological functions shall be prohibited unless <b>it is demonstrated all options that will achieve no net loss are infeasible and accompanied by</b> mitigation is proposed that compensates for the ecological function or functions that would otherwise be lost.	This suggestion aligns with mitigation sequencing outlined in WAC 173-26-201.
17.05A.90 F. 4a	The county shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts including, but not limited to, impacts on fish and wildlife habitat, <b>beach processes</b> , public access/use, aesthetics, and other shoreline attributes.	We would recommend the inclusion of additional language regarding the purpose of the report to better align with other sections where report is mentioned.
17.05A.90 G. 5	New development that, during the life of the development, would cause foreseeable risk to the structure or the safety of its inhabitants from geological conditions or would require shoreline stabilization is prohibited, <b>except where there is no alternative location for an allowed use and the development would not cause a net loss of ecological functions.</b>	This suggestion aligns Island County's SMP 16.30.330 (B)(3)(a) "i. Ensure that new development or the creation of new lots does not cause any foreseeable risk from geological conditions to people or improvements during the life of the development."

17.05A.090 – Shoreline use and development regulations  H. Fish and wildlife habitat conservation areas, 4.a.	Development shall not intrude into, over, or within <del>ten (10) feet at least twenty-five feet (measured horizontally from the nearest edge of the structure) and four vertical feet away</del> from eelgrass meadows and kelp beds except when there is no feasible alternative alignment or location and the development would result in no net loss of the plant species and habitat.	Recommendations to align with WAC 220-660-380 (3)
17.05A.90 H. 5 a,	Protection standards: Nesting sites and territory. The following buffers and standards shall apply to all Heron, Osprey, and Bald Eagle nesting sites within shoreline jurisdiction:  a. Heron— <del>1,000</del> 984 feet for <del>non-residential development</del> undeveloped, <del>and 300</del> 656 feet for <del>residential development</del> suburban/rural, and 197 feet for urban settings.	Heron buffer standards do not align with WDFW's best available science for year-round buffers as stated in <i>Management Recommendations for Washington's Priority Species Volume IV: Birds</i>
17.05A.090 – Shoreline use and development regulations  H. Fish and wildlife habitat conservation areas, 6.	Protection standards: Washington Natural Heritage Program Areas. <del>All provisions below must also be in accordance with 17.05A.100 C(7)(8)(9)(10).</del>	Our suggestion here aligns this section of ICC with tree related code elsewhere in this chapter.
17.05A.090 - J. Classification of Water Types and Buffer Widths	TABLE 2: Stream Buffers	Stream buffer width justification in this document does not align with WDFW best available science. As stated in <a href="#">Riparian Ecosystems Volume 2: Management Recommendations</a> , we suggest that riparian buffers be referred to as 'riparian management zones' and considered a critical area in its own right. These riparian management zones should be established using the Site Potential Tree Height (SPTH) model, also outlined in the above document.
TABLE 3.	Marine buffer -measured landward from OHWM on marine shorelines (feet)2	It would seem as though these buffer distances fall short when considering sea-level rise. In particular, it is concerning that the SRCC zone has no marine buffer (0) requirements. We strongly recommend you plan for sea-level rise in the context of this SMP. Are these distances in-line with the publication listed in 17.05A.035 (E)? Was the Island County Sea Level Rise Strategy Study used in the process for deciding these distances? This study seems to contradict many aspects of this SMP.

TABLE 3.	Maximum impervious surface (applies to only that portion of the lot within shoreline jurisdiction)3, 4	In this section of the table, 80% impervious surface allowance in any designation is concerning within the shoreline jurisdiction.
17.05A.090 - L.1.h	<b>Low-impact development</b> <del>Measures shall be taken to mitigate all adverse impacts, measures where appropriate, such as pervious pavement for driveways and other hard surfaces and infiltrating stormwater runoff through bioswales. except In cases where this would threaten slope stability, increase erosion, or potentially degrade groundwater quality, other methods to achieve no net loss of ecological function shall be pursued.</del>	This suggested edit makes the intent of this code clearer in highlighting the different avenues for achieving no net loss.
17.05A.090 – L.2.a	Impervious surfaces may not cover more than twenty (20) percent of the shoreline setback area.	We suggest that this section further define how this percentage is distinguished differently than those in Table 3.
17.05A.090 – L.6.a-b	Common line setback reduction and Setback averaging reduction.	This section allows new construction to vary from current regulations, which, in our opinion, should be held to the standards of the regulations in place at the time of development. This section also does not consider if the adjacent homes have structural shoreline stabilization, which often alters the true OHWM. If the parcel of the proposed residence is not stabilized, the OHWM may be landward for the adjacent parcels, and this code would allow a new construction to potentially interact with the OHWM. The neighboring stabilization could further exacerbate the wave energy in the proposed residence and would have a high likelihood of requiring stabilization in the future. If this is allowed, there should be a reference to the section of code L(1)f, which details the applicant is aware shoreline stabilization would not be allowed on the new construction. Additionally, this variance does not take sea level rise into consideration. This section also does not state clearly that the proposed residence should be required to build outside the buffer if space allows adhering to mitigation sequencing in WAC 173-26-201 which requires avoidance as the first action taken.
17.05A.090 – L.6.c.	Setback reductions within canal communities	We would not suggest allowance of new construction within the buffer of canal communities, as these areas are struggling with heightened levels of coastal flooding and encroaching OHWM. In a case of emergency, how strong will code 17.05A.090 L(1)f be in not allowing stabilization when a home is experiencing an emergency? It would be acting with better authority not to permit structures that are at high risk of needing stabilization.

17.05A.090 – M	Modification of shoreline buffer and setback requirements to encourage restoration.	If shoreline stabilization is removed and the buffer distance from the shoreline is reduced as an incentive, this section should specify studies required to ensure less protection will not endanger the property considering future shoreline conditions. Moving a development closer to the shoreline is not suggested in most, if not all, scenarios, as sea-level rise may inundate shoreline areas in the near future. Further specifications should be stated outlining how to take these factors into consideration.
17.05A.090 - P. 2	Small scale structural flood hazard reduction measures such as raising a building above the base flood elevation, or the creation of underfloor spaces meeting the requirements of FEMA/FIA Technical Bulletin (TB) 11-1 (as amended), are not subject to the regulations of this section, ICC 17.05A.090.P and <b>ICC 17.05A.090A4b</b> .	This section of code also should not be held to the standards of 17.05A.090 (A)4b- “In cases where a legally established home must raise its foundation to meet FEMA flood elevations, the height above grade level may exceed 35 feet provided that such a height will not further obstruct the view of any residences on or adjacent to such shorelines and that the legally established home is not a replacement as defined in ICC 17.05A.070.” If a home is at risk of flooding and raising the home is the least impactful and technically feasible option for protecting the home and minimizing impacts on ecological processes, views should not take priority over safety and habitat protection.
17.05A.090 - P. 14 <b>Addition</b>	In addition to other project application requirements, applicants to construct flood hazard control projects must provide the following information:  <b>g. Mitigation sequencing to achieve no net loss of ecological function</b>	This suggested addition aligns this section with mitigation sequencing outlined by state law.
17.05A.090 - R.4	All proposed developments and activities in the shoreline shall require compliance with the current edition of the Department of Ecology's Stormwater Management Manual, NPDES General Permit requirements, and the erosion control provisions of section ICC 11.02.330, <b>and</b> the stormwater management provisions of Chapter 11.03 ICC, <b>and</b> WAC 220-660-360.	This suggestion is to align this section of code with relevant state code (WAC 220-660-360).
17.05A.095 – Shoreline Reports A.1	A Biological Site Assessment shall <b>be prepared by a qualified professional</b> and include the following information:	This suggestion aligns this section of ICC with the Habitat Management Plans section (B of this same section).

17.05A.095 – Shoreline Reports A.1	Descriptions of all FWHCAs <b>outlined in the definitions section of this chapter</b> , shown on the site plan, including qualitative and quantitative information regarding habitat value and condition of each FWHCA. <b>including identification of measures to fully protect nesting sites of the Bald Eagle, Osprey, and Heron;</b>	This suggestion assures the protection of all FWHCAs without ambiguity by referencing the definition of FWHCAs.
17.05A.095 – Shoreline Reports, A.3	The requirement for a biological site assessment for development within the shoreline buffer or shoreline-associated critical area buffers may be waived by the Planning Director in the following circumstances:	We suggest BSAs for all development that would impact critical areas. A BSA would outline impacts to inform mitigation <b>required</b> by state law to achieve no net loss of ecological function for these activities.  I believe the intent of this section was to make it easier for a homeowner to repair their home or other similar small projects in critical areas/their buffers, but many, if not all of the activities listed, have the potential to negatively impact the environment and therefore <b>require</b> mitigation. Especially concerning is part a., stating potentially no BSA would be required for shoreline stabilization. This section needs serious revision to specify what types of projects do not need BSAs. One suggestion would be to require the applicant to specify if the new development/repair intrudes further into the shoreline setback or buffer, and to put limits on the percentage of this intrusion or similar provisions. Additionally, WDFW would prefer all projects that are rehabilitating or replacing a legally established structure be required to bring the structure up to current code.
17.05A.095 – Shoreline Reports, C	Suggestion	We suggest that Island County make strides to address coastal flooding, as current geocoastal reports and associated regulations only address erosion. Geographical locations like Island County have an immense duty to prepare for sea-level rise associated flooding. Again, we recommend strategies discussed in the Sea Level Rise Strategy and Multi-Jurisdictional Hazard Mitigation Plan be incorporated here.
17.05A.095 – Shoreline Reports, C.1.c	A significant possibility that the primary structure or appurtenance will be damaged within three (3) years based on a trend analysis of prior rates of erosion as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid	We suggest further specifications be added to this section that outline situations when erosional data is not available, or when irregular King tide events cause erosion that do not fit with data trends. Additionally, it would be suggested to add a provision that requires a comparison to neighboring properties that may have no protection, soft protection, or stabilization landward of the proposed footprint to determine adequate protection of structures that have similar site conditions.

	adverse impacts on ecological functions;	
17.05A.095 – Shoreline Reports D	Demonstration of need suggested addition	We suggest this section include a provision that would require the applicant to consider the relocation of the structure.
17.05A.095 – Shoreline Reports E	<p>...a. Taking no action (allow the shoreline to retreat naturally);</p> <p>b. Upland drainage control;</p> <p>c. Vegetation protection, enhancement, and replacement;</p> <p>d. Relocation of improvements, <b>septic systems</b>, or structures , including raising the home;</p> <p>e. Beach nourishment;</p> <p>f. Large woody material placement;</p> <p>g. Soft shore protection methods—at least eighty (80) percent of the project must be constructed of naturally-occurring materials used in ways that are consistent with current nearshore processes;</p> <p>h. Upland retaining walls;</p> <p>i. Bulkheads and rock revetments placed landward of the OHWM;</p> <p><b>- All alternative landward should be addressed individually, including, but not limited to, directly abutting a structure that is being replaced, a placement further landward, and a placement to the very base of a slope. The Locations of adjacent bulkheads should be reviewed for their placement and associated effectiveness.</b></p> <p>j. Individual rock placement located at the OHWM; and</p>	WDFW would like to see expectations clearly defined for what type of evidence is to be provided. An Alternative Analysis is not a well-known report in comparison to a BSA or a Geotechnical or Geocoastal Report. Qualified Professionals are unaware of what type of justification is required, and with no direction in the regulations, it leads to very weak claims without evidence to support them and often more impactful options being permitted. We would recommend an additional part to this section. Similar to Habitat Management Plans, it should be specified that a qualified professional is required to complete this report.

	<p>k. Bulkheads and rock revetments located at the OHWM</p> <p>2. Alternatives should be addressed in a manner that provides justification for any statements made. Justification can be but is not limited to, quantitative and qualitative data, calculations and measurements, and further evidence from referenced sources on risk and processes particular to the site.</p> <p>3. This report should be prepared by a professional ecologist, biologist, or similarly qualified professional at the expense of the applicant.</p>	
17.05A.100 - Shoreline specific use regulations  C. 10 addition	e. Structural shoreline stabilization would be needed in the lifetime of the structure	This suggestion aligns this section of code with 17.05A.090 L (1)f
17.05A.100 - Shoreline specific use regulations  C. 13 addition	Existing conforming beach access structures are prohibited from adding structural shoreline stabilization to protect the structure	This suggestion would align this section with 17.05A.100 K 24(d)
17.05A.100 - Shoreline specific use regulations  D. 26. i addition	Docks, piers, and floats should be placed in locations that avoid eelgrass beds and other critical saltwater habitats.	This suggestion highlights important environments that should be avoided for moorage facility placement, as these important ecological environments are very difficult to mitigate for if impacted.
17.05A.100 - Shoreline specific use regulations  E 2.a addition	(vii) Mitigation sequencing is proposed to offset any unavoidable impacts.	This suggestion aligns this area of code with mitigation sequencing language required by state law.
17.05A.100 - Shoreline specific use regulations, F. 4.	Commercial uses shall provide public access to the shoreline. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline resources for all water-related and -	We suggest that the intent of this statement be made clearer. Public access would not be considered mitigation for impacts to shoreline environmental resources, as public access does not mitigate for no net loss.

	dependent commercial uses consistent with all relevant constitutional and other legal limitations on the regulation of private property.	
17.05A.100 - Shoreline specific use regulations, F. 10.	Water-dependent commercial development in the high intensity shoreline designation shall not be required to maintain a shoreline setback.	We feel that this statement is too broad, as water-dependent commercial development could potentially overtake the shoreline. We suggest that total limits of shoreline use be included, as water-dependent and oriented uses have the potential to cause harm to these shoreline ecosystems, especially if there is no space for ecological processes to occur. No net loss principles are always required by state law.
17.05A.100 - Shoreline specific use regulations, Forest Practice, G. 3.	Within shorelines of statewide significance, only selective commercial timber cutting shall be allowed.	We suggest that this statement be made more specific. Vegetation along shorelines facilitates important ecological processes that benefit fish and wildlife, as well as humans. Timber cutting in these ecologically irreplaceable environments should only be allowed for very specific scenarios.
17.05A.100 - Shoreline specific use regulations, Forest Practice, G. 6.	All logging operations shall <b>utilize Best Management Practices</b> to protect the adjacent and downstream shorelands against erosion, uncontrolled drainage, slides, pollution, excavations and fills, and other factors detrimental to the environment.	We suggest the inclusion of BMP language in this section.
17.05A.100 - Shoreline specific use regulations, Industry, H. 4.	Water-dependent industrial structures may be allowed within required buffers to the minimum extent necessary to support the water dependent use, <b>provided avoidance of impacts is proven to be infeasible, and</b> provided mitigation is provided in the form of buffer enhancement in a degraded buffer on nearby shorelines. Offsite mitigation may be allowed <b>if on-site mitigation is infeasible</b> , provided that a permanent easement protecting the mitigation area is secured with a record on the title to be approved by the Shoreline Administrator, and that the mitigation claimed has not also been claimed as	This suggestion aligns this section with mitigation sequencing outlined in WAC 173-26-201. The intent for water-dependency should be made clear, and better defined as to what is considered an industrial water-dependent use.

	mitigation for any other development.	
17.05A.100 - Shoreline specific use regulations, Industry, H. 5.	Industrial development shall be located, designed, constructed and operated in such a manner as to <del>minimize avoid</del> effects on aquatic life.	We suggest that this SMP be re-evaluated for instances where minimization is stated in place of avoidance, which falls out of line with WAC 173-26-201. Additionally, new industrial development should not be an allowable use in the shoreline jurisdiction, especially if non-water oriented.
17.05A.100 - Shoreline specific use regulations Residential K.12	Residential structures shall only be located upon geologically hazardous areas (as defined in Chapter 17.02B ICCA) if in compliance with the bluff setback standards and conditions contained in Chapter 11.02 ICC or set back fifty (50) feet from the top of a bank greater than 100 feet in height, whichever is more restrictive. <b>It must be demonstrated by a qualified professional that site conditions will support the proposed infrastructure and that no shoreline stabilization will be required in the lifetime of the structure. Residences shall adhere to Chapter 17.05A.090.L.1.f.</b>	This suggestion relates to all Variances that permit development that could potentially need shoreline stabilization in the future. Fifty feet is not a large distance. We suggest this section require a stipulation that outlines the process in which a qualified professional demonstrates that site conditions will support the proposed infrastructure and that no shoreline stabilization will be required. We would also suggest referencing 17.05A.090.L.1.f stating it will not qualify for armoring at any point into the future.
17.05A.100 - Shoreline specific use regulations Residential K.22	Natural vegetation between the OHWM and the top of banks and bluffs ten (10) feet or higher shall be retained, except for <del>removal necessary for view enhancement consistent with section ICC 17.05A.090.K100.N110.C.8 and 9 of this Shoreline Master Program</del> , removal of hazardous, diseased or damaged trees when they pose a threat to a permitted structure consistent with ICC 17.05A.100.N110.C.10 and to allow for pedestrian waterfront access. Removal of invasive non-native species is authorized <b>with</b>	Removal of trees for view enhancement contradicts 17.05A.110 C 9 as there are no situations where removing trees in this area would not negatively impact slope stability and habitat value.

	<b>the replacement of native plants.</b>	
17.05A.100 - Shoreline specific use regulations Residential K.24.b	Beach access structures located adjacent to fish and wildlife habitat conservation areas that include over water structures <b>or</b> landings that require fill <b>or shore protection structures</b> , shall only be allowed as a shoreline conditional use and shall require a complete BSA.	This suggestion is to align this section with part d(i) of this same section, which states, “Normal appurtenances and beach access structures shall conform to the following criteria: (i)They shall be located and designed in such a manner so as to <b>not require shoreline stabilization over the life of the structure, including the installation of bulkheads solely for the purpose of protecting new appurtenances.</b> ”
17.05A.100 - Shoreline specific use regulations Residential K.24.d (iii)	They are designed and located in such a manner to <b>avoid or minimize and mitigate if avoidance is unachievable</b> , the loss of existing vegetation <b>to achieve no net loss of ecological function.</b>	This suggestion aligns this section of code with mitigation sequencing required by state law.
17.05A.100 - Shoreline specific use regulations Residential K.24.d (v)	They shall be designed in such a manner to <b>avoid if possible or minimize and mitigate</b> their impact on shoreline functions and so as to not interfere with normal littoral drift and movement of sediments to and along the shore and shall be located as far landward of the OHWM as practical	This suggestion aligns this section of code with mitigation sequencing required by state law.
17.05A.100 - Shoreline specific use regulations Residential K.25. e (v) addition	<b>Future shoreline stabilization is prohibited to protect new and expanded structures within the buffer.</b>	This addition aligns this section of code with the same intents as 17.05A.100 K.24.d(i) above.
17.05A.100 - Shoreline specific use regulations Residential K.26.a	New multi-unit residential development, including subdivision of land into five (5) or more parcels, shall provide public access or open space for use by development residents and the public. The county may alter the recommended area threshold per constitutional limits or waive this requirement if public access is infeasible due to	This addition aligns this section of code with the same intents as 17.05A.100 K.24.d(i) above

	incompatible uses, safety, impacts to shoreline ecology, <b>need for future shoreline protection in the lifetime of the access</b> , or legal limitations. The county may require alternatives to on-site physical access if on-site physical access is infeasible for the reasons noted.”	
17.05A.100 - Shoreline specific use regulations  M. 3,4, and 16	Suggested edit	These sections must be edited to remove language that prioritizes minimization over avoidance, as required by state law.
17.05A.100 - Shoreline specific use regulations  N. 7	Utility discharges and outfalls shall be located, designed, constructed, and operated so that degradation of water quality, marine life and general shoreline ecosystems is <b>kept to an absolute minimum</b> avoided, and mitigation is provided for if any unavoidable impacts <b>is are</b>	This section must be edited to remove language that prioritizes minimization over avoidance, as required by state law.
17.05A.100 - Shoreline specific use regulations, Utilities, N. 10.	Sewage treatment, water reclamation, desalination, and power plants shall be located where they do not interfere and are compatible with recreational, residential, or other public uses of the water and shorelands unless no feasible alternative exists.	We suggest that no sewage related facilities be permitted within the shoreline jurisdiction, as shoreline areas are subject to natural geologic and hydrologic unpredictability, such as an increased susceptibility to flooding events in comparison to other land use jurisdictions.  It is also important to note that the language used in this section does not consider climate change. As the <i>Sea Level Rise Strategy</i> points out, “Site approval criteria accounts for the separation of proposed septic systems from the ordinary high water mark and viability of well production and groundwater quality at the time of application, but do not specifically address requirements related to projected sea level rise such as a variable ordinary high water mark and seawater intrusion into groundwater aquifers.”
17.05A.110 - Shoreline modification regulations	Suggested topics that need more coverage	We suggest that the change in location of the OHWL be addressed in this section. It is common that during the permitting process, the OHWL may change locations due to additional erosion. If the construction plans reflect the OHWL location at the time of plan creation and additional erosion occurs, can they honor the location on the plan set or must they adhere to the OHWL at the time of construction and update the plan set? Additionally, coastal flooding should be addressed in this section.

17.05A.110 - Shoreline modification regulations, A. 1. i.	Construction of new shoreline stabilization to protect a platted lot where no primary use or structure presently exists shall be prohibited. <del>except as provided in section ICC 17.05A.110.A.2.d.</del>	17.05A.110.A.2.d. does not specify this point further and instead seems to contradict previous code. The construction of new shoreline stabilization structures should be prohibited when the intent is to protect anything other than a primary structure or use. ICC needs to be clear and thorough when reviewing this point.
17.05A.110 - Shoreline modification regulations, A. 3.a(i)	The replacement is designed, located, sized, and constructed to ensure <del>the least impacting technically feasible bank protection alternative for the protection of fish life and no additional net loss of ecological functions;</del>	This suggestion aligns this section with RCW 77.55.231 (1)(b), "In the event that any person desires to replace residential marine shoreline stabilization or armoring, a person must use the least impacting technically feasible bank protection alternative for the protection of fish life."
17.05A.110 - Shoreline modification regulations, A. 6.b	Professional <del>geologic</del> geocoastal site studies or professionally engineered designs <del>may be are</del> required for any proposed shoreline stabilization <del>if the county determines sufficient uncertainties or potential for damage to other shoreline properties and features exist unless it is replacing with soft measures in which case the director may waive the requirement.</del>	In its current form, this section is contradictory to Table 5: Shoreline Stabilization Requirements, which states that these studies are required for all new and replacement Shoreline Stabilization unless it is replacing with soft measures.
17.05A.110 - Shoreline modification regulations, A.6.k	When a new or replaced hard structural shoreline stabilization measure is proposed on a site where legally established hard structural shoreline stabilization measures exist on adjacent properties, the proposed stabilization must <del>tie in flush with those stabilization measures as physically feasible place the new stabilization in the least impactful position technically feasible location for the protection on the primary residence. The new stabilization measure shall not extend waterward of the OHWM, except in those locations where the structure connects to the</del>	State code requires each property to be assessed for its individual risk and to be the least impactful, technically feasible option to protect the primary residence on the property. This would not align with connecting adjacent bulkheads. This again brings us back to the issues with common line setback reduction and setback averaging reduction. The OHWL may be significantly further back on the unarmored property, and this needs to be adhered to. Attaching adjacent bulkheads does not align with RCW 77.55.231 and WAC 173-26-231.

	<del>adjoining stabilization measure.</del> The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible.	
17.05A.110 - Shoreline modification regulations B.10	The size and mix of new materials to be added to a beach as part of an approved beach restoration program shall be as similar as possible to the natural beach sediment. <del>but large enough to resist normal current, wake or wave action at the site.</del>	This suggestion is to align this section with best available science. The material size and mix should match the beach. Increased size could have a negative impact on spawning. Additionally, sediment transport is a normal ecological function, which we encourage.
17.05A.110 - Shoreline modification regulations B.11	Beach enhancement shall be designed to <del>minimize-avoid</del> adverse impacts on spawning, nesting, or breeding habitat and so that littoral drift of the materials enhancement shall not adversely affect adjacent spawning grounds or other areas of biological significance as demonstrated through a biological site assessment provided by a qualified professional.	Suggestion aligns with mitigation sequencing required by state law.
17.05A.110 - Shoreline modification regulations C.2	Removal of native vegetation shall be avoided, where feasible. Where removal of native vegetation cannot be avoided, it shall be <del>minimized and mitigated for to protect and provide no net loss of</del> ecological functions	Suggestion aligns with mitigation sequencing required by state law.
17.05A.110 - Shoreline modification regulations D	Grading and Filling clarification needed	Any fill that does not match sediment size would be considered a negative impact to ecological function, which contradicts 4.a of this section, which states: "The extent of filling and excavation allowed shall only be the minimum necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes."
17.05A.130 - Shoreline Master	.....Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the	We suggest that ICC define the process in which to handle the scenario included in this edit.

Program Procedures B.8.b	plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline. <b>If the OHWL recedes due to additional erosion between when the plans are created and when construction commences, the OHWL at the time of construction must be used and plans will need to be adjusted to reflect the change;</b>	
17.05A.130 - Shoreline Master Program Procedures B.8.e	A general indication of the character of vegetation found on the site <b>and quantity and location of vegetation to be removed;</b>	This suggestion is intended to better keep track of the impacts associated with development in order to accurately weigh appropriate mitigation measures.
17.05A.130 - Shoreline Master Program Procedures B.8. <b>n addition</b>	<b>n. equipment access</b>	This suggestion is important to consider, as construction activities themselves can have negative impacts to the environment. The least impactful practices must be utilized under the correct BMPs.
17.05A.130 - Shoreline Master Program Procedures D 2.e(iv)	Emergency construction necessary to protect property from damage by the elements. An emergency is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this SMP. <b>Emergency construction should identify only the work necessary to stabilize the emergency or expedited conditions in accordance with RCW 77.55.021.</b> Emergency construction does not include development of new permanent protective structures where none previously existed.....	This suggestion aligns this section of code with RCW 77.55.021, and includes similar language to WAC 220-660-370(3)(g): “Emergency or expedited applications submitted under RCW 77.55.021 (12), (14), or (16) that do not include a site assessment and alternatives analysis report should identify only the work necessary to stabilize the emergency or expedited conditions authorized under RCW 77.55.021.”
17.05A.130 - Shoreline Master Program Procedures D 2.e(vii)	.....Normal appurtenances include a garage, <b>deck</b> , driveway, utilities, <b>fences</b> , installation of a septic tank and drainfield, and grading which does not exceed 250 cubic yards and which does not involve placement of fill	This suggestion is to align appurtenances with the definition provided in this chapter.

	waterward of the Ordinary High Water Mark or in any wetland.....	
17.05A.140 – Nonconforming development C.1.a	Nonconforming single-family residential uses that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in this SMP upon approval of a shoreline variance consistent with ICC 17.05A.090.L, <b>provided it will not need structural stabilization to protect it in the future;</b>	This suggestion aligns this code with the intent of other conditions set forth in this SMP (17.05A.100 K.24.d(i)).

The Washington Department of Fish and Wildlife (WDFW) appreciates the efforts Island County has already undertaken to protect and improve habitat and ecosystem conditions throughout their jurisdiction. We look forward to continuing to work with Island County during the review and implementation of county updates.

If you have any questions, please call me at (206)-707-5434.

Sincerely,

Morgan Krueger  
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CC:

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Public Comment Matrix - 2020-2021 Shoreline Master Program Update - 30-day Public Comment Period						
Name	Public Comment or Agency Comment or Planning Commission	Comment Summary	How Submitted	When Submitted	Change Made?	Reasoning/Action Taken
Joan Schrammec	Public	Has concerns about Sea Level Rise (SLR). In particular, concerns about how SLR in the Maple Grove community of Camano Island will interact with the currently failing septic systems and affect the shoreline environment. Suggested that septic failures should be a trigger for a monitoring program.	Public Comment Hearing	4/12/2021 - email 4/12/2021 - Public Comment Hearing	No change	A new monitoring program was recommended by Herrera Environmental for mapping signs of sea level rise throughout the County. This program is not proposed to be included in the shoreline development regulations in Island county code. Data collection could be conducted by Island County staff using a phone-based application called Survey-1-2-3 (created by ESRI), in which users identify the location, type of sea level rise impact (e.g. coastal erosion (wavescour), coastal flooding, and coastal landslides), then take a photo. The observations would be prompted with data entry fields and drop down menus to guide the observer, enable consistency, and efficiency. Data points populate a geodatabase and associated webmaps that can be viewed and analyzed by multiple users within the County. This tool could help to identify areas with the County that are increasingly vulnerable to sea level rise impacts and document the frequency at which these impacts occur. One of the impacts that could be documented through this survey method could include septic failures due to flooding.
Barbara Bennett	Public	Concerned that the state-mandated eight (8) year periodic SMP review is insufficient to adapt to rapidly changing conditions. Suggest Island County conduct a mid-cycle review of SMP during the next cycle to consider the following items: public access, resilience in the face of sea level rise, and stewardship.	Email and Public Comment Hearing	4/10/2021 - email 4/12/2021 - Public Comment Hearing	No change	No code change necessary. Review and update of the SMP can occur as often as once per year as part of the annual review docket. Staff would note though that such updates are staff and resource intensive. State mandated periodic updates are usually accompanied with grant funding.
Holly Towle	Public	Concerned that there wasn't a draft SMP for public review until recently. Emailed 9 basic concerns that would add balance and avoid past mistakes.	Email and Public Comment Hearing	4/12/2021 - email 4/12/2021 - Public Comment Hearing	No change	A draft of the proposed code changes was posted to the website March 2nd and an updated version was posted March 26th for the 30-day public comment period.
Holly Towle		Concern regarding the Natural shoreline environment designation applied to Surfcrest properties during 2016 periodic update. Some of the properties were subsequently corrected to a designation of Rural Conservancy, but not all parcels were changed.			No change	Those properties in the Surfcrest development which were left with a Natural Shoreline Environment Designation are currently undeveloped and are entirely encumbered by wetlands and their buffers. ICC 17.05A.060.E the purpose of the Natural Shoreline Environment is to preserve, protect, and restore areas that are relatively free of human influence or that include minimally degraded natural features and resources. One of the specific designation criteria includes, areas of shoreline-associated wetlands with generally intact buffers.
Holly Towle		Question regarding postcards being sent for this update			No change	Staff consulted with the Board of County Commissioners on appropriate outreach for this update and was provided direction to conduct community presentations with local organizations who can spread the information, rather than send postcards.
Holly Towle		Question regarding the notice provided for the 2016 update of the SMP			No change	A public participation plan was created in 2010 and public outreach extended through 2016 to adoption as well as workshops after adoption.
Holly Towle		Concern that softshore stabilization is always preferred over hard stabilization methods			No change	ICC 17.05A.110.A.b provides for an alternatives analysis which prioritizes softer methods of stabilization. However, the applicant can utilize harder methods where it is demonstrated to be necessary. This may include high-energy shoreline environments.
Holly Towle		Concerns that 17.05A.090.F.5 provides mitigation credit for removal of shoreline stabilization but does not address stabilization that may protect the environment			No change	Stabilization necessary for enhancement and restoration projects addressed elsewhere in the code.
Holly Towle		Concern that 17.05A.110.A.2 Summary Table provides too narrow a view of replacement stabilization			No change	Projects that do not qualify as "replacement" may still be allowed under the provisions of new stabilization.
Holly Towle		Recommendation that definition of new stabilization be moved out of 17.05A.110.A.4.a to the definition section			Change proposed	New definition added for "Structural shoreline stabilization, new" to section 070 and removed from 110.A.4
Holly Towle		Concerns about proposed changes to 17.05A.170			No change	This section will add clarity in any unforeseen instances of conflict and is a standard provision for code construction.
Holly Towle		Concerns about language in 17.05A.090.E.1.a.iii leading to development of homes too close to heavily trafficked roads and causing safety issues.			No change	Road setbacks are addressed in 17.03.180.S and have larger setbacks for higher speed and traffic road types.
Holly Towle		Suggested addition of the word "materially" in multiple sections under 17.05A.140.B.4-8 to provide more flexibility			No change	By adding this section, more flexibility was added than is provided under current code.
Holly Towle		Suggested addition of the language, "does not increase the number of lots" to 17.05A.090.A.20 to allow for boundary line adjustments.			No change	Boundary line adjustments that provide for buildable area outside critical areas and buffers would be allowable under this code section. In order to be processed as a boundary line adjustment, additional lots cannot be created. Where additional lots are created, this would be processed as a subdivision.
Holly Towle		Concern about language in ICC 17.05A.090.G for buffer enhancement and plantings requirements conflicting with restrictions on water usage during certain seasons.			No change	The recommended planting season is between October and March to allow for newly transplanted plants to adapt and grow during the wet season. Native plants which are more hardy to droughts can be allowable based on site-specific conditions.
Holly Towle		Suggestion that the provisions of 17.05A.090.F be applied to more than just canal communities			No change	Canal communities are communities which existed prior to the shoreline management act and are highly modified with limited environmental benefit. As such, more flexibility for development proposals is provided.

Name	Public Comment or Agency Comment or Planning Commission	Comment Summary	How Submitted	When Submitted	Change Made?	Reasoning/Action Taken
Holly Towle		Edits suggested to ICC 17.05A.110.C.11 to reference Island County's noxious weed list and allow for an easier process for weed removal			Change proposed	Reference to Island County's local noxious weed list added. ICC section reference corrected. No change to processes for weed removal proposed. Even weeds provide some habitat, stabilization, and storm water mitigation value. Keeping weeds in place is preferred to removing and not replanting. Motorized equipment can disturb shoreline ecological and geocoastal processes, review of proposals for utilizing such equipment is required.
Holly Towle		Concern about language in 17.05A.090.H.8 restricting residential development in the floodplain			Change proposed	New definition added to ICC 17.05A.070 for flood control works, to clarify that these do not include homes build to FEMA floodplain standards. Flood control works means structural techniques for area-wide flood control, including but not limited to berms, rock rip-raps, sandbags, application of soil cements to slopes, drainage channels, levees, dikes, dams, and retention or detention basins. Raising single-family residential structures above base flood elevation is not considered flood control works.
Holly Towle		Concern about language in 17.05A.090.E.1.d.vii not allowing for reasonable use of some properties.			No change	The process for a Shoreline Variance is provided to allow for applicants which cannot obtain reasonable economic use of their property under the provisions of this ordinance.
Holly Towle		Concern about language in 17.05A.090.A.4.b hindering views for some property owners.			No change	This is a narrow provision intended to provide flexibility for existing residences to come into compliance with FEMA flood regulations, where such compliance would result in their development exceeding the normal height requirement. If an existing home would exceed 35ft feet in height by raising the home to meet base flood elevation, this could be allowed despite the normal height limit being 35ft. However, such an exception would not be allowed if impacting views of other properties.
Holly Towle		Concern about language in 17.05A.110.A.4.e.v. regarding cost of reports for applicants.			No change	Applicants must assess the cost of their development proposals and are encouraged to get multiple quotes from a variety of professionals. This section limits the assessments to those which are sufficient to document impacts. The county cannot accept a report which insufficiently addresses impacts.
Holly Towle		Concern about language in 17.05A.090.E.1.d.vi, 17.05A.090.E.1.e.i.2, and 17.05A.090.E.1.iii.2 requiring the consolidation of lots under common ownership before allowing expansion of an existing structure in the setback			Change proposed	Provision removed. Holds owners of multiple adjacent properties to a different standard.
Holly Towle		Concerns about language in 17.05A.090.C.14.d.ii not allowing the waiver of a BSA for replacement stabilization.			No change	Negative environmental impacts from hard shoreline stabilization are well documented. Hard shoreline stabilization can be allowed where necessary, but impacts must be assessed.
Holly Towle		Concerns about language in 17.05A.110.A.1 being overly restrictive and conflicting with RCW 90.58.100.6			No change	RCW 90.58.100.6 states that the standards shall provide a preference for permit issuance for measures where the proposed measure is designed to minimize harm to the shoreline natural environment. No net loss of shoreline ecological functions and values is required by the Shoreline Management Act.
Holly Towle		Edits suggested to ICC 17.05A.110.A.3.e.ii to add the word, "adverse"			Change proposed	Term adverse added to ICC 17.05A.110.A.3.e.ii
Holly Towle		Edits suggested to ICC 17.05A..3.e.iii			No change	Adverse impacts to other properties cannot be allowed. This would not be based on adjacent property owners opinions but on a professional analysis of potential impacts.
Holly Towle		Edits suggested to ICC 17.05A.110.A.8.l			Change proposed	Term, "as feasible" added and provision limited extension onto adjacent properties removed.
Holly Towle		Edits suggested to 17.05A.110.A.1.b to add, "including for dunes and trees described in a permit for structural shoreline stabilization"			No change	Natural vegetation and dunes need to be able to naturally respond and adapt to rising sea levels. Protecting dunes and vegetation with structural stabilization disconnects the nearshore environment from the marine waters causing environmental detriment and is not consistent with the provisions of the shoreline management act.
Holly Towle		Edits suggested to 17.05A.110.A.1.b, A.1.d, A.3.e, and A.6 to provide for circumstances where shoreline stabilization can impact adjacent property owners			No change	Already addressed in existing code. 17.05A.110.A.1.d uses the term, "significant impacts" and A.6 uses the term, "increased".
Holly Towle		Edits suggested to 17.05A.110.A.1.i to allow stabilization on vacant parcels			No change	Already addressed by proposed section 17.05A.110.A.1.i
Holly Towle		Edits suggested to 17.05A.110.A.1.5 to ensure replacement of stabilization is allowed for single family residences			No change	Already addressed in this section. Term, "principal uses or structures" used.
Holly Towle		Concerns about 17.05A.110.A.4.b. prohibiting structural stabilization on lakes			No change	Lakes do not have the same kind of wave action and erosion risk as marine shorelines. The lake shore is not as dynamic. Replacement and repair of existing stabilization could be allowed in some instances but new stabilization would not.
Holly Towle		Edits suggested to 17.05A.110.A.3.a broadening stabilization use for restoration, preservation, and enhancement of ecological functions.			Change proposed	Phrase, "a material purpose of which includes" to 17.05A.110.A.3.a.

Name	Public Comment or Agency Comment or Planning Commission	Comment Summary	How Submitted	When Submitted	Change Made?	Reasoning/Action Taken
Holly Towle		Edits suggested to 17.05A.110.A.c.3 for the protection of private facilities utilizing stabilization			No change	Primary structures already allowed to utilize stabilization
Holly Towle		Edits suggested to definition of Adverse impact or effect, to add term, "materially"			No change	Not substantively necessary
Holly Towle		Concerns about language in 17.05A.090.E.1.a.v and vi regarding structures not requiring shoreline stabilization for the life of the single-family residence, typically 100 years			No change	This is only required for development proposed within the buffer or setback. Where no feasible alternative exists to gain reasonable economic use of the property, a shoreline variance can be applied for.
Holly Towle		Concern that 17.05A.130.K omits language from the RCW			Change proposed	The following language was added to the moratorium procedures in 17.05A.130.K "Provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium."
Holly Towle		Concern that 17.05A.090.E.1.b.i and ii has a typo regarding 30 inches versus 30 feet.			No change	30 inches is correct.
Kathryn Hodges & Emily Haigen (Puget Sound Energy)	Agency	PSE asked for clarification of ICC 17.05A.080 Table 1. Noted that replacement includes normal maintenance and repair, and that there is a contradiction between ICC 17.05A.070 and 17.05A.130.	Email and Public Comment Hearing	4/12/2021 - email 4/12/2021 - Public Comment Hearing	Change proposed	Footnote 20 added to Table 1 in 17.05A.080, "Proposals which meet the definition of repair per ICC 17.05A.070 only". Footnote 20 added to a P for permitted for above and below ground transmission facilities in environments where currently listed as a conditional use. Definition of repair changed to match 17.05A.130.E.2.d.ii
Commissioner Gilroy	Planning Commissioner	Has questions about what the baseline for defining "No Net Loss" is. Is also concerned about the timeline for the periodic review, and the comments concerning Admiral's Lagoon. Had a question about mapping Historic Beach Communities.	Public Comment Hearing	4/12/2021	No change	No net loss guide from Ecology provided to Planning Commission for 4/26/21 meeting. Staff met with members of the Admirals Cove association and clarified that because the Admirals Cove lake has measured levels of salinity, it will be designated as Aquatic under the SMP update. Properties within 200ft of the ordinary high water mark of the lake, will be designated Shoreline Residential. Motorized boating is not considered a passive recreational activity in regulated wetlands. Admirals lake is a regulated wetland. All Historic Beach Communities are being mapped under the existing criteria in the code. This will help to apply the regulations consistently and target those communities for outreach and education on sea level rise.
Commissioner Andersen	Planning Commissioner	Would like a clearer outline of what comments have been incorporated into the code updates, and what hasn't been incorporated. Would like Code Enforcement in the shoreline to be outlined more clearly. Had a question about Public Outreach.	Email and Public Comment Hearing	4/12/2021	No change	This matrix will serve to document the public comments that have been addressed. Code enforcement issues are handled through the same process in shoreline as the rest of the County. Code enforcement can be suggested as a work plan item for next year.
Commissioner Andersen	Planning Commissioner	Suggested adding definition of accessory structure because term is found in the code.	Email and Public Comment Hearing		Change proposed	Definition of accessory use or building added from the zoning code ICC 17.03.040.
Commissioner Andersen	Planning Commissioner	Edits to definition of boat suggested, to include paddled vessels	Email and Public Comment Hearing		Change proposed	Term, "paddles" added to definition of boat in 17.05A.070
Commissioner Andersen	Planning Commissioner	Edits to definition of Buoy or Float to add "recreational buoys/floats for crab fishing"	Email and Public Comment Hearing		No Change	Current definition covers buoys and floats that are anchored to the seafloor, WDFW already has detailed regulations governing floats for crab fishing. Would be difficult for Island County to enforce as well.
Commissioner Andersen	Planning Commissioner	Edits to definition of dredging with regards to enhancement of natural resources with regards to canal communities	Email and Public Comment Hearing		No Change	Current definition states that dredging is for the purpose of deepening navigation channels, which is consistent with activity in canal communities.
Commissioner Andersen	Planning Commissioner	Clarify definition of floating on-water residence	Email and Public Comment Hearing		No change	This definition was pulled from RCW 90.58.270(6)(b) in order to match with state statute
Commissioner Andersen	Planning Commissioner	Add definition of stormwater	Email and Public Comment Hearing		Change proposed	Definition of stormwater added from APA Dictionary
Commissioner Andersen	Planning Commissioner	Should sources identifying geologically hazardous areas be referenced in 17.05A.090.E.a.iv?	Email and Public Comment Hearing		No change	No change because if reference to sources is added, then the argument that a geologically hazardous area wasn't identified could be used in theory to disregard this section of code. It is ultimately the property owner's responsibility to discover if they are in a geologically hazardous area.
Commissioner Andersen	Planning Commissioner	Should accessory structures be added to 17.05A.090.E.1.e.ii?	Email and Public Comment Hearing		No change	The intent of the code is to allow replacement of existing primary residential structures, and not accessory structures within the buffer/setback
Commissioner Andersen	Planning Commissioner	Questions about presence of Table 2 in 17.05A.090.F	Email and Public Comment Hearing		No Change	Draft figure is at end of chapter, but not yet labeled "Figure 2"
Commissioner Andersen	Planning Commissioner	Questions about adding monitoring requirements to 17.05A.090.G.1.d.ii	Email and Public Comment Hearing		No change	The situations where monitoring is required are already outlined at the beginning of 090 and in the critical areas ordinance.

Name	Public Comment or Agency Comment or Planning Commission	Comment Summary	How Submitted	When Submitted	Change Made?	Reasoning/Action Taken
Commissioner Andersen	Planning Commissioner	Comment about 17.05A.090.H.8 and stormwater contradiciton with WAC	Email and Public Comment Hearing		No change	Added stormwater definition which may help clarify. Staff discussion is needed on this topic.
Commissioner Andersen	Planning Commissioner	Would like to prohibit special events on docks in 17.05A.100.D	Email and Public Comment Hearing		No change	Events are regulated under ICC 17.03.180.EE
Commissioner Andersen	Planning Commissioner	Would like to prohibit special events in marinas in 17.05A.100.E	Email and Public Comment Hearing		No change	Events are regulated under ICC 17.03.180.EE
Commissioner Andersen	Planning Commissioner	Would like to clarify permitting requirements and penalties in 17.05A.130	Email and Public Comment Hearing		No change	This topic requires BOCC input
Commissioner Andersen	Planning Commissioner	Would like to add fencing and landscaping to definitions, and clarify that trees are not appropriate for fencing	Email and Public Comment Hearing	4/19/2021	Change Proposed	Provision added to ICC 17.05A.090.D.13
Commissioner Andersen	Planning Commissioner	Landscaping as applied to shoreline areas definition	Email and Public Comment Hearing		Change proposed	Provision added to ICC 17.05A.090.D.13
Commissioner Andersen	Planning Commissioner	Would like to add that neighboring property sight lines may not be blocked to the 30 inch structure allowance in 17.05A.090.E	Email and Public Comment Hearing		Change Proposed	Provision added to ICC 17.05A.090.D.13
Commissioner Schwalbe	Planning Commissioner	Regulations for septic within the shoreline?	Public Comment Hearing	4/12/2021	No change	Septics require shoreline permits.
Commissioner Hand	Planning Commissioner	Commented about code enforcement and signs being on the Docket/Work Plan for next year.	Public Comment Hearing	4/12/2021	No change	Discussions for next year's Docket/Work Plan will begin in August/September
Jeanne Congdon	Public	Comments concerned with landscaping within the shoreline buffer and setback	Email	4/12/2021	Change Proposed	Provision added to ICC 17.05A.090.D.13
Betsy Harris	Public	Comments expressing concern about the SMP Update SEPA Environmental Checklist not addressing certain critical areas questions due to being considered a "non-project proposal".	Email	4/12/2021	No change	Supplemental sheet was included in SEPA Checklist and routed to applicable agencies for review. EIS was already completed for Island County Comprehensive Plan, this non-project action amends one element. Environmental impacts will be assessed individually for each project that occurs under the Shoreline Master Program.
Ron Swenson	Public	Comment expressing concern that Goss Lake is inappropriately mapped as Rural Conservancy	Email	4/11/2021	No change	Review of prior inventory report for Goss Lake inconclusive. May fit the criteria for Shoreline Residential, need to discuss further.
Larry Kwartsick	Public	Comment concerning nonconforming structures in the shoreline environment	Email	4/2/2021	No change	Currently the buffer is described as a three dimensional space, and so any expansion within triggers a variance
Mike Tenore	Public	Comment expressing support for Admirals Lake being designated Natural shoreline environment	Email	4/2/2021	No Change	Currently no plans to redesignate Admirals Lagoon
Joel Douglas	Public	Comment expressing that current body of regulations is far in excess of what is needed	Email	3/24/2021	No Change	Concern noted, but Island County must comply with State and Federal laws protecting the shoreline
Michael Bianchi	Agency	Comment pointing out that NAS Whidbey is exempted from SMP oversight	Email	4/7/2021	Change Proposed	Language changed per Ecology guidance
Bob Payton	Public	Comment in favor of protecting Admiral's Lake	Email	4/7/2021	No change	Admirals Lagoon slated to be redesignated Aquatic
Matt Nash - Island County Public Works	Agency	Question about the definition of "dredging", and whether an activity needs to be for the purposes of navigation or obtaining fill to be considered "dredging", or if cleaning culverts, outfalls, etc. fit.	Email	4/13/2021	Change proposed	Added clarification to dredging definition
Matt Nash - Island County Public Works	Agency	Comment suggesting that the definition for "outfall" be added, as Public Works does outfall work on a regular basis	Email	4/14/2021	Change proposed	Added definition for "outfall"
Matt Nash - Island County Public Works	Agency	Comment suggesting that the definition of "public infrastructure" be added	Email	4/15/2021	Change proposed	Added definition of "infrastructure"

Name	Public Comment or Agency Comment or Planning Commission	Comment Summary	How Submitted	When Submitted	Change Made?	Reasoning/Action Taken
Matt Nash - Island County Public Works	Agency	Suggestion to add a section for transportation and stormwater to 17.05A.080, Table 1. Outfalls, culverts, road maintenance, etc	Email	4/16/2021	No change	Items already listed in ICC 17.05A.080. Footnote 20 added to bridges and culverts, and existing vehicular routes to allow repair as a permitted use
Matt Nash - Island County Public Works	Agency	Comment asking about Biological Site Assessment requirement waivers in 17.05A.090.C.14.d, and adding normal repair and maintenance of transportation and stormwater facilities, parks, and boat ramps.	Email	4/17/2021	Change proposed	Added the normal repair and maintenance of public infrastructure
Matt Nash - Island County Public Works	Agency	Consider adding stormwater outfalls to development permitted within the shoreline buffer in 17.05A.090.E.1.c	Email	4/18/2021	Change proposed	Added stormwater outfalls and culverts
Matt Nash - Island County Public Works	Agency	Consider adding provisions for maintenance of boat ramps be included in 17.05A.100.E.2	Email	4/19/2021	No change	Section (vi) already states that public and community boat launches shall be "developed and maintained to support waterfront access for watercraft"
Matt Nash - Island County Public Works	Agency	Comment noting that 17.05A.110.A.3.c is one of the few instances where public transportation infrastructure is explicitly mentioned	Email	4/20/2021	No change	Added infrastructure definition.
Matt Nash - Island County Public Works	Agency	Comment asking about adding public infrastructure to exceptions in 17.05A.110.A.3.c	Email	4/21/2021	No change	Addressed in 110.A.3.c
Matt Nash - Island County Public Works	Agency	Comment suggestion changing name of Shoreline Exemption in 17.05A.130.E.2.e	Email	4/22/2021	No change	No plans to rename "Shoreline Exemption". These permits provide a means to review activities that are exempt from a Substantial Development Permit.
Matt Nash - Island County Public Works	Agency	Comment asking whether minor repair and maintenance of parks, roads, and drainage facilities should be added to 17.05A.130.E.2.E.iii	Email	4/23/2021	No change	Staff will discuss this proposed change. Current language is codifying an official department policy
<b>Comments Received Outside of Public Comment Period</b>						
Bob Wilbur	Public	Comment clarifying Admiral's Cove Committee stance on Ed Delahanty's comments	Email	3/22/2021	No change	Admirals Lagoon changing from Natural to Aquatic. Staff met with community members to discuss.
Heide Island	Public	Comment concurring with Sarah Blake's comments	Email	3/22/2021	No change	Admirals Lagoon changing from Natural to Aquatic. Staff met with community members to discuss.
Ed Delahanty	Public	Comment about Sarah Blake's comments	Email	3/22/2021	No change	Admirals Lagoon changing from Natural to Aquatic. Staff met with community members to discuss.
Sarah Blake	Public	Comment in support of Natural Shoreline Environment Designation of Admiral's Lagoon.	Email	3/22/2021	No change	Admirals Lagoon changing from Natural to Aquatic. Staff met with community members to discuss.
Ed Delahanty	Public	Comment challenging the Natural Shoreline Environment Designation of Admiral's Cove Lagoon, and its inclusion in the Shoreline Master program	Email	3/22/2021	No change	Admirals Lagoon changing from Natural to Aquatic. Staff met with community members to discuss.
Solenne Walker - WA Dept of Natural Resources	Agency	Comment stating that WADNRs' comment focus is on mooring buoys, and outlining the three supporting documents and the comments table that DNR is submitting for Island County's reference.	Email	9/22/2020	No Change	No code change necessary.
Solenne Walker - WA Dept of Natural Resources	Agency	Comment suggesting amending definition of "buoy" in 17.05A.070	Email	9/23/2020	Change proposed	Buoy definition changed as recommended
Solenne Walker - WA Dept of Natural Resources	Agency	Comment stating that Shoreline Use Classification Table 1 be amended because while buoys are permitted in the Aquatic SED, per the SMP Handbook they are also subject to regulation under the adjoining upland SED	Email	9/24/2020	No change	No change in process suggested at this time based on discussions with PC and BOCC based on available resources
Solenne Walker - WA Dept of Natural Resources	Agency	17.05A.090.C.13 - Comment stating that in order to ensure no net loss, mooring buoys should receive an SMP review to determine whether they are within 10 feet of eelgrass or kelp beds	Email	9/25/2020	No change	No change in process suggested at this time based on discussions with PC and BOCC based on available resources
Solenne Walker - WA Dept of Natural Resources	Agency	Comment concerning 17.05A.100.D.4, stating that while buoys are often exempt from substantial development permits in many jurisdictions, that doesn't mean they are exempt from a shoreline management review.	Email	9/26/2020	No change	No change in process suggested at this time based on discussions with PC and BOCC based on available resources
Solenne Walker - WA Dept of Natural Resources	Agency	Suggestion that Island County should require a Shoreline Exemption Permit for mooring buoys	Email	9/27/2020	No change	No change in process suggested at this time based on discussions with PC and BOCC based on available resources

Name	Public Comment or Agency Comment or Planning Commission	Comment Summary	How Submitted	When Submitted	Change Made?	Reasoning/Action Taken
Commissioner Andersen	Planning Commissioner	Comment suggesting that the SMP include language limiting the height of landscaping improvements, and protecting the intentional obstruction of neighbor's views.	Email	5/11/2021	Change Proposed	Provision added to ICC 17.05A.090.D.13
Commissioner Criswell	Planning Commissioner	Comment in support of Commissioner Andersen's 5/11/2021 Comment	Email	5/11/2021	Change proposed	Provision added to ICC 17.05A.090.D.13

Email	Date RCVD	Name	Location	Comment Summary	County Response
<a href="mailto:jimblack1370@comcast.net">jimblack1370@comcast.net</a>	24-Jan-24	Jim Black		Comment to inform Island County Planning that the South Whidbey Shoreline Group has requested modifications to WAC 173-26-231 through the Washington State Department of Ecology.	Outside the scope of SMP Periodic Update.
				<p>1. Island County's position on anchored log soft shore is categorized the same as a bulkhead.</p> <p>2. Why does it take two years for soft shore repair permit?</p> <p>3. Why is it impossible to get a permit for soft shore when neighbors on both sides have soft shore?</p> <p>4. Raising or repairing existing sea wall/bulkhead does not impact shoreline wave patterns for ecological systems.</p> <p>5. Current rules do not allow shoreline protection for non-developed property, even if undeveloped property then causes flooding to other properties.</p> <p>6. King tides, low barometric pressures, and storms cause flooding. Sand levels rise and fall at Mutiny Bay. What ecological damage is caused by bulkheads and soft shore systems?</p> <p>7. Soft shore systems protect against erosion from current storm driven events, but will not provide protection for long-term sea level rise.</p>	<p>1. On Island County's Alternatives Analysis (17.05A.095.E) soft shore is the seventh item, and bulkheads are the eleventh if placed at the Ordinary High Water Mark or ninth if placed landward of the Ordinary High Water Mark.</p> <p>2. Outside of the scope of this periodic update.</p> <p>3. Feasibility of shoreline stabilization depends upon site conditions and any required reports.</p> <p>4. This may or may not be the case.</p> <p>5. Currently, only bulkheads for existing residences would qualify for a Shoreline Exemption, a Substantial Development Permit would be required in protection of a undeveloped parcel were proposed.</p> <p>6. Bulkheads can cause various forms of shoreline degradation: increased beach erosion, loss of sand/sediment, loss of shoreline vegetation, loss of shade, and loss of habitat for marine species. Soft shore systems built with large woody debris mimic natural shoreline habitat and processes, causing less ecological harm.</p>

<a href="mailto:jmblack1370@comcast.net">jmblack1370@comcast.net</a>	25-Dec-23	Jim Black			7. In the majority of cases, soft shore protection is the preferred type of protection against the effects of climate change and sea level rise. By keeping the sand and sediment loose, natural cycles will actually help protect the shoreline as the sea level rises. Plus, natural shorelines that diffuse energy instead of deflecting it are more effective at dealing with storm surge waters.
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	14-Dec-23	Larry Kwartsick	Langley	Request to modify Shoreline Environmental Designation for three parcels along Mutiny Bay. The Parcel numbers and owners are S7505-00-00033-0 – Reiner; S7505-00-00032-1 – McKinley, and S7505-00-00032-0 – Comstock. Currently the parcels are designated as Rural Conservancy, and Mr. Kwartsick requests a change to Shoreline Residential.	Staff recommends against the proposed change. The parcels have been developed with single-family residences. Shoreline Residential is a more permissive designation, allowing for an increase in impervious surface from 15% to 35%. Planning staff has already increased the impervious surface limitation from 10% to 15% for lots under one acres in size that were platted prior to the original Shoreline Management Act of 1972, which includes the subject lots. The subject parcels are also in the AE13 flood zone, although the applicant argues that so are the neighboring Shoreline Residential parcels to the southeast.
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	24-Jan-24	Larry Kwartsick	Langley	Mr. Kwartsick pointed out inconsistencies with the SMP making reference to geological hazards and slopes from 11.02, 17.02B, and a new definition in 17.05A.	The only changes to Island County's definition of "geologically hazardous areas" is capitalization of "Holocene Epoch."
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	25-Jan-24	Larry Kwartsick	Langley	Mr. Kwartsick pointed out that the 250 yards of cut and fill that is considered an appurtenance to a single-family residence does not include the	Planning staff agrees with this reading of the code and state law.

<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	26-Jan-24	Larry Kwartsick	Langley	Mr. Kwartsick requests that the county adopt requirements from the SMP Handbook, Chapter 15 Shoreline Stabilization, particularly pages 45-56, and also that the Island County Shoreline Management Program does not address Sea Level Rise, and finally seeks to have Island County use near future impacts and threats of climate change, sea level rise, and the increase in king tides when evaluating projects in the shoreline.	The SMP Handbook, by the Department of Ecology, is a guidance document, not prescriptive. It does not require counties to issue bulkheads, instead there is information regarding alternatives. Further, the section on "Approaches to evaluating risk", beginning on page 49, lists alternative ways that geologists can estimate erosion. In the appendix of the SMP Handbook, Island County is cited twice for inclusion of language for addressing Sea Level Rise (regarding sea level rise and coastal
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	30-Jan-24	Larry Kwartsick	Langley	Mr Kwartsick asserts that Island County's SMP does not address RCW 90.58.100(6) nor WAC 173-27-040 (regarding one cubic yard of fill per one linear foot of wall).	<i>to, such master program shall contain standards governing the protection of single-family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single-family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single-family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment. -----</i> Island County does, in staff's opinion, have such standards. The standards governing the protection of single-family residences and appurtenant structures against damage or loss due to shoreline erosion. These standards are found in 17.05A.110.A Shoreline stabilization. Island County processes a normal protective bulkhead as a Shoreline Exemption, a lower level of permit than a Substantial Development

<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	1-Feb-24	Larry Kwartsick	Langley	Consider eliminating the Buffer area definition and just use the Buffer, marine definition; add Clearing and Grading Permit to Forest practice defintion; strike the word "platted" from the Historic beach community definition; revise Legally established use or structure definition because a legally established use or structure may or may not comply with the current code and may or may not be a nonconforming use; Nonconforming lot definition should add zoning as a reason a lot might be nonconforming; add Reasonable use definition; Single-family residence definition lists home industry and home occupation, but there is no mention of home	Other buffers than marine buffers can exist in the shoreline environment; Clearing and Grading Permits could be added to the Forest practice definition and may be in the future if necessary; Island County staff considered unplatted lots that were developed prior to the 1972 SMA as Historic Beach Community when updating the map of Shoreline Environmental Designations; legally established and nonconforming definitions should remain as is; nonconforming lot defintion is meant to apply to our shoreline regulations; a reasonable use definition could be added at the will of the Board; home industry or home occupation could be investigated for
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	2-Feb-24	Larry Kwartsick	Langley	Include illustration common line setback reduction when houses are not square; how is setback averaged when adjacent vacant lot is not in same shoreline designation; does same shoreline mean same shoreline designation.	The figures provided for commonline setback reduction are illustrations to assist people in understanding the text code which speaks to irregularly shaped residences; setbacks are averaged with the appropriate shoreline setback of the shoreline environmental
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	3-Feb-24	Larry Kwartsick	Langley	Add a historic element to SMP per RCW 90.58.100(2)(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having	Staff would not propose adding a new section at this time, perhaps during the 2028 update; creating a new shoreline environmental designation at this time would add time and
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	4-Feb-24	Larry Kwartsick	Langley	Additional comment regarding the Captain Whidbey	Staff would not propose any new zoning or shoreline environmental designations for the
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	5-Feb-24	Larry Kwartsick	Langley	Tidelands definition uses term ordinary high tide which is not defined in SMP/ 2,200 square foot reasonable use standard not in code, add reasonable and reasonable use definitions/ the following provision is problematic:  17.05A.090.N.12 - All new development proposals must select the least impactful area for	SMP typically uses ordinary high water mark, not ordinary high tide/ 2,200 square feet threshold is for development on lots that are nonconforming by width, area, area outside of buffers, etc./ impactful is not defined in the SMP, or Island County Code, necessitating the use of a standard dictionary definition/ 11.01 is

<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	6-Feb-24	Larry Kwartsick	Langley	County staff has been administering 2,200 sf of impervious surface as a reasonable use limitation	2,200 square feet impervious surface limitation is only found in stream buffer reduction and
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	2-Aug-24	Larry Kwartsick	Langley	Stated that there is no 17.05A.090.E.11 in new code	Was referenced in version commenter reviewed, this citation has been corrected in most updated
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	11-Aug-24	Larry Kwartsick	Langley	Add referenced lots along Mutiny Bay to Historic Beach Community designated areas	These lots were evaluated by planning staff and did not meet the qualifications.
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	11-Jul-24	Larry Kwartsick	Langley	Nonconforming lot definition is hard to understand and apply to 17.05A.140.D  Nonconforming lots	Nonconforming lots are lots that do not meet the dimensional requirements of the SMP, but met them at the time the lot was established,
<a href="mailto:nkammer@skagitcoop.org">nkammer@skagitcoop.org</a>	2-Feb-24	Nora Kammer		Policy 001/19 changing an area of Surfcrest shoreline from Natural to Rural Conservance has not been adopted by Department of Ecology, and does not meet SMP/SMA requirements. These parcels should remain in the Natural designation. If the designation changes to Rural Conservancy, building will happen closer to a shoreline that is eroding causing the owners to request hard armoring in the future.	The Island County Board of Commissioners has decided to retain the Natural designation, and the Department of Ecology will have a chance to weigh in as well during their review.
<a href="mailto:penny.cabot@gmail.com">penny.cabot@gmail.com</a>	16-Feb-24	Penny Cabot	Langley	People build too close to bluffs and the beach when sea level is rising and bluffs are eroding.	Island County has requirements for placement of structures near bluffs and the beach, but does not allow development in those sites.
<a href="mailto:sps@whidbey.net">sps@whidbey.net</a>	16-Feb-24	Larry Kwartsick	Langley	Shoreline Variance should not be required in flood zone, policy interpretations should be subject to consultation with the Department of Ecology.	Shoreline Variance requirement has been removed for projects in flood zones within shoreline jurisdiction. Staff agrees that administrative interpretation of the SMP should involve the Department of Ecology.

				<p>Does new code prohibit hard shoreline armoring?/Does the code differentiate between man-made and natural shorelines?/Do erosion standards cover all types of erosion (tidal,flooding,storms)?/In 2017 Lagoon Point retaining wall did not require erosion,geotechnical,used communitywide BSA, in 2020 Lagoon Point retaining wall project reclassified as bulkhead and required geotech with erosion study,BSA/update clarifies requirement for reports in Canal Communities(CC)</p>	<p>New code does not prohibit shoreline armoring/The code does have different regulations for man-made shorelines, at least in Canal Communities(CC)/Erosion is evaluated on a case by case basis based on provided reports/Planning has needed to reinterpret code at times/afreed that update clarifies requirement for reports in CCs/CCs still have some unique requirements or allowances</p>
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<a href="mailto:yaproj@whidbey.com">yaproj@whidbey.com</a>	16-Feb-24	Ron and Jocelyn Young	Clinton	<p>/Why mention separate standards if CC subject to same standards?/YA thinks Island County should not require additional reports for CCs/Lagoon Point,Mariner's Cove,Sandy Hook all man-made and most properties have hard armor/What are we protecting by denying a bulkhead on 60' lot with existing bulkheads on either side?/Would like to see process for reviewing all sources of erosion/Clarify dock width/Concerned about retaining wall code, especially 10' landward requirement/What is pathway if County,State disagree with expert opinions in reports?/Do property owners need to resolve permit denials at Hearing Examinier or Shoreline Hearings Board?/Is Island County using code interpretations to direct types of development?/Are property owners discouraged from constructing over-water structures,bulkheads,other shoreline constuction?</p>	<p>/Island County must still meet state requirements for bulkheads/the listed communities are man-made/All new bulkheads are required to meet certain state standards, which are shown in required reports/Erosion could be demonstrated in required reports/Dock width is as required by the state, no wider than 8' for entire structure,walkway (minus float width) can only be 4'/retaining walls are 10' back from odinary high water mark,bulkheads are close to ordinary high water mark/Individual projects can be appealed to Hearing Examiner, some projects will need to be appealed to Shoreline Hearings Board/Yes, at times property owners will need to resolve permit denials at the Hearing Examiner or the Shoreline Hearings Board/Island County does, as provided by code, issue interpretations to the code language/Shoreline development, including armoring, can happen when the correct conditions are met</p>
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tim4freedom@yahoo.com	2-Feb-24	Tim Verschuyl	Oak Harbor	<p>Include changes to shoreline management that include incentives to preserve upland natural vegetation and regulate storm water absorbtion.</p>	<p>17.05A.110.C - Shoreline vegetation maintenance covers shoreline vegetation and removal. Projects are required to comply with the current edition of the Department of Ecology's Stormwater Management Manual, the United States Environmental Protection Agency's National Pollutant Discharge Elimination System General Permit requirements, and erosion control and stormwater management provisions of Chapter 11 of Island County Code.</p>
tim4freedom@yahoo.com	2-Feb-24	Tim Verschuyl	Oak Harbor	<p>It is a mistake to allow more hard armoring/require soft armoring whenever possible/many natural estuaries along with associated habitats have been lost/should not be public burden to clean up after storms or bail out property owners in low lying areas/upland storm drainage is an important issue/provide incentives for proper stewardship rather than create more and more ordinances such as property tax reductions for creating micro-estuaries at existing glacier erratics or demonstrating building or activity restraint when impacted by wildlife management encumberances, such as bald eagle, etc.</p>	<p>Island County has not changed shoreline stabilization requirements/taking no action, then soft armoring techniques are the first steps on the Alternatives Analysis that is required when proposing shoreline stabilization/historical construction along the shoreline has created a changed environment/it is important to protect both the public and private interests along the shoreline/upland storm drainage is regulated/property tax reductions are available in some instances for protecting the shoreline through the Public Benefits Rating System or a conservation easement.</p>

<a href="mailto:saratogaenvironmental@whidbey.com">saratogaenvironmental@whidbey.com</a>	5-Feb-24	Matt Kukuk	Clinton	Redraft shoreline armoring section to balance protection of environment and private property/clean up definitions, some go beyond a definition and establish standards/wetland buffer section that describes standards for development in buffers missing/17.05A.090.I-J has substantial changes that may be difficult to implement accurately or consistently	Shoreline armoring section strikes a balance between protecting the environment and private property rights by allowing armoring where necessary/staff feels that the definitions are functional/wetland standards are incorporated by reference from 17.02B - Critical Areas/staff will receive training on the updates and problems with accuracy and consistency would be addressed by management
<a href="mailto:flowbox@ospreyhouse.com">flowbox@ospreyhouse.com</a>	5-Feb-24	Tom & Thalia Opdycke	Freeland	Provide more time for additional comments/do not alter dredging definition to exempt regular maintenance and repair	The Board postponed the final decision on the SMP and left the record open to receive more public comments/this altered definition has been reviewed by the Department of Ecology, the Department of Commerce, and the Department of Fish and Wildlife.
<a href="mailto:flowbox@ospreyhouse.com">flowbox@ospreyhouse.com</a>	16-Feb-24	Tom Opdycke	Freeland	Reconsider Cedar Street Historic Beach Community inclusion/Cedar Street is densely platted, high impervious surface ratios, 30' or less setbacks to ordinary high water mark, structures established prior to Shoreline Management Act	The Board has directed staff to resubmit the Cedar Street Historic Beach Community with the SMP.
<a href="mailto:flowbox@ospreyhouse.com">flowbox@ospreyhouse.com</a>	16-Feb-24	Tom Opdycke	Freeland	Remove "Dredging does not include removal of obstructions or sediment as part of regular maintenance and repair of infrastructure" as this would allow Public Works to dredge without taking responsibility for its actions. This would have a large scale negative impact.	This change has been reviewed by multiple state agencies.

<a href="mailto:flowbox@ospreyhouse.com">flowbox@ospreyhouse.com</a>	16-Feb-24	Tom Opdycke	Freeland	Report is mentioned nearly 100 times in the update, find a way to have flexibility to leverage existing reports to make the process less costly without compromising the quality of the decisions.	The Shoreline Management Act has requirements for certain shoreline developments that will need to be provided in site specific reports.
<a href="mailto:holly.towle@outlook.com">holly.towle@outlook.com</a>	6-Feb-24	Holly Towle	Seattle	Expressly comply with RCW 90.58.100(6), which restricts county overreach and requires preference for houses occupied before 1992/expressly require the county to include in each permit decision the analysis recommended by the Wash. Attorney General from Advisory Memo re: federal and state constitution concepts addressing takings and substantive due process/reject proposed amendments to the definition of "retaining wall" and other amendments pertaining to retaining walls/eliminated all amendments that make it more prohibitive, including more expensive to obtain structural stabilization permits	The County does provide a path for shoreline armoring where, and to the extent necessary/staff has reviewed the document, incorporation into process would be up to Board, Director, or Legal Team/staff recommends the change to retaining wall definition, a retaining wall is not a bulkhead/the updated code does not increase the difficulty of installing shoreline armoring, in some situations (replacement of some permitted, existing armoring) the process has been made easier.

<a href="mailto:toddgray@tulaliptribes-nsn.gov">toddgray@tulaliptribes-nsn.gov</a>				<p>New development cannot continue to be permitted in shorelines facing erosion and inundation due to sea level rise predicted to occur over the next 100 years/existing development cannot continue to use hard armoring techniques without ever increasing impacts to the aquatic environment/current practice of purchasing lots incumbered with critical areas and buffers, then developing through reasonable use decisions, variances, and exemptions, must stop/best available science shows this actively diminished ecological functions integral to the health and productivity of tribal fisheries and the natural world.</p>	<p>Development regulations and mitigation standards are in place in the SMP/hard armoring is available only when proven necessary/reasonable use regulations are unlikely to change/Island County follows development regulations to minimize or mitigate for diminished ecological functions</p>
	16-Feb-24	Todd Gray	Tulalip		

				<p>WEAN supports predictive analysis as opposed to trend analysis/give preference to long term solutions instead of a series of short term solutions/add definitions of "preferred action" and "long term"/add policy "Structures and associated infrastructure with an expected lifespan of X years or less should not be protected with hard armoring" 15 or 20 years a good time frame/institute requirements for structural removal insurance or bonds "When privately owned coastal structures and infrastructure are not longer habitable or are abandoned as a result of coastal storms, flooding, or erosion, costs and expenses associated with removal or environmental clean up should be borne by the private property owners and not the public"/significant portions of shoreline structures are absentee owned, used as weekend or vacation homes or as short term rentals, thus their contribution to Island County's housing stock is less than their numbers might suggest/</p>	<p>Until guidance is released from the Department of Ecology, Island County is using trend analysis to meet the SMA/ Island County SMP requires proof of necessity for bulkheads/ policy work happened at the beginning of the update process, code was drafted and updated to correspond with previous policy changes/requiring bonds for removal of shoreline improvements will not be in this update/ shoreline homes' limited impact on housing stock noted/</p>
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17.05A.035.E change encouraged to required/17.05A.040.C.4 this exempts road and utility work/17.05A.070 bulkhead definition requires that structure stabilize a slope and prevent shoreline erosion/No Net Loss as written appears to imply that every new bulkhead requires mitigation/normal maintenance and repair definition seems to allow just about anything, including replacement of a structure, needs to be rethought/17.05A.090.F.6.b White top aster renamed from *Aster curtus* to *Sericocarpus rigidus*/17.05A.090.G Shoreline Species & Habitats of Local Importance - how does Island County determine that protection by other agencies is not adequate to prevent degradation?  
There should be no requirement to demonstrate financing to approve a species of local importance. DNR's Natural Heritage division should provide their considered opinion on approving vegetative species of local importance./

language will remain "encouraged"/ bulkhead definition does require "stabilizing a slope" and "preventing natural shoreline erosion"/ projects and mitigation are processed on a site-by-site basis/ added sections to the "normal maintenance and repair" definition do not allow for "substantial adverse effects to shoreline resources or environment," and replacement is allowed only in limited circumstances/ correcting biological name of white top aster will occur in future update/ staff will review included documentation provided by nominee to determine if protection by other agencies is not adequate/

when resoration is proposed then a means of financing is required, this does not necessarily mean the proponent. DNR should be involved in the process/

<a href="mailto:wean@whidbey.net">wean@whidbey.net</a>	15-Feb-24	Marinanne Edain		<p>Allowing replacement of existing non-conforming housing extends the problem of managed retreat to another generation/Requirement for a replacement structure will not require shoreline stabilization for the next 100 years is not realistic with sea level rise/appreciate attempt to move septic drainfields as far back from the sea as possible, but no new septic drainfields should be permitted in the shoreline/setback reduction allowances will result in flooding and demand for hard armoring/use predictive future conditions for determining life of a project/appreciate mitigation sequencing in Alternatives Analysis/thank you for prohibiting use of toxics in aquaculture/(softshore) fill waterward of OHWM expands development potential/shoreline vegetation management is an improvement over previous void/since when are we allowing clearing, grading, filling, and altering wetland for driveways, buildings, and view&amp; solar access corridors?</p>	<p>Island County SMP allows for replacement in the same three dimensional space/ reports supplied with shoreline permits must show that shoreline stabilization will not be necessary if development occurs within the marine buffer or setback/ Island County allows for septic tanks that meet health standards within the shoreline/ all development within FEMA flood zones is required to meet the Island County Flood Protection Ordinance/ applicant supplied reports determine the "life of the project"/ comments received/ clearing and grading is limited to the minimum necessary for these uses</p>
<a href="mailto:bradthompson314@gmail.com">bradthompson314@gmail.com</a>	2-Feb-24	Brad Thompson	Freeland	<p>Copy of Ecology's SMP Planning Process Handbook with highlighted items/specifically interested in "three common erosion scenarios" as described on page 45</p>	<p>Island County follows the related RCWs, WACs, and Island County Code, the SMP Planning Process Handbook is a guidance document</p>

<a href="mailto:dpinney@fwdadvisors.com">dpinney@fwdadvisors.com</a>	12-Feb-24	Dale Pinney for South Whidbey Shoreline Owners Group	Freeland	coastal flooding, storms, and tidal surge need to be added as additional risk factors along with modifications to the three-year trend analysis/provide deference to professionals that submit reports/any changes made based on South Whidbey Shoreline Owners Group would need to be revised in all sections of SMP/3 year trend analysis is inadequate and ignores coastal flooding and storm erosion/add language for coastal flooding, storm waves, irregular erosion, combine a singular event with three year analysis, allow for stabilization that would cause significant impacts to adjacent or down-current properties or shoreline areas if mitigated/ add section for beach management districts/delete upland retaining wall/upland retaining wall is not a bulkhead/add "the county shall show deference to the reports and conclusions provided by the hired professional engineers"/eliminate reference to bulkhead height 1' above flood level/return "deck" to normal apputenance/add the words "tidal action" to the bulkhead definition/add definition of upland retaining wall/add damage to	Some of the South Whidbey Shoreline Owners Group suggestions have been implemented when possible under the SMA
<a href="mailto:kimfocus@gmail.com">kimfocus@gmail.com</a>	15-Feb-24	Kim Schaaf	Oak Harbor	Allow hard or soft armoring where needed, disposal of flood damaged refrigerators, freezers, tools, household items, etc. also has an impact on the environment	Staff believes codes are in place that allow for hard or soft armoring where needed
<a href="mailto:maryhollen@whidbey.com">maryhollen@whidbey.com</a>	14-Feb-24	Mary Hollen	Greenbank	Opposed to further hard armoring of the shoreline, bulkheads damage marine habitat for salmon and crabs, hard armoring will not stabilize bluffs and save existing house, wind and rain can destabilize the soil at the top of bluffs	Staff agrees that hard armor can affect the ecology of the near shore environment

<a href="mailto:lme.scovel@gmail.com">lme.scovel@gmail.com</a>	15-Feb-24	Linda Scovel	Camano	Clearly state what Island County considers reasonable use/ for reasonable use standard - consider impervious surface allowed in neighborhood, relative size of lot, 1,100 sf driveway added to 2,200 sf reasonable/ turnover causes timelines for permitting to be unreasonable/ take difficulties in permitting and building into account for property values	The Board will decide about adding a reasonable use definition/ staffing turnover is outside of the scope of this update/ property valuation also outside of the scope of this update
<a href="mailto:john.lovie@whidbey.com">john.lovie@whidbey.com</a>	15-Feb-24	John Lovie		Consider multiple stakeholders when updating code, not just property owners	Staff is considering multiple view points

kwdurkee@gmail.com	16-Feb-24	Kyle Ostermick-Durkee	<p>Every foot of hard armoring is less habitat for salmon/ people of Washington subsidize hard armoring of the shoreline - paying with lost fish, shorebirds, and Southern Resident Orcas/ all migrating salmon pass Whidbey Island/ impacting habitat harms fishing, whale watching, and forestry(salmon provide nitrogen for forests)/ citizens of Washington have invested hundreds of millions in salmon recovery - streamlining hard armor projects will undo decades of work/ Washington's treaty Tribes have a right to half of the salmon catch in the Puget Sound - hard armoring may go the way of culverts/ actions impacting chinook and/or Southern Resident Orcas may be considered a taking under the Endangered Species Act/ should public bear the expense of bailing out the residents and second homeowners with properties on the shoreline?/ privileging the concerns of Island County's upper crust will open the county up to potential litigation from Tribes, federal and state governments, and any resident of Washington that can show they are negatively impacted by destruction of public resources</p>	<p>Hard armoring can affect ecology and salmon habitat/ coastal resources are important to all people/ many salmon pass Whidbey Island if their spawning rivers or streams are accessed through the Puget Sound/ impacts to salmon do impact industry/ hard armoring has not been streamlined in Island County/ a court decision banning hard armoring has not yet been issued/ staff is not aware of any takings cases under the Endangered Species Act specifically regarding Chinook or Southern Resident Orcas/ policy level decisions, such as the public bearing the expense, belong to the Board/ this SMP does not seek to privilege the "upper crust" at the expense of the environment</p>
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<a href="mailto:dkoehnen61@yahoo.com">dkoehnen61@yahoo.com</a>	16-Feb-24	Debbie Koehnen		<p>Do not use hard armoring along shorelines/ if you build in a flood plain you risk flood/ if you build at the base of a volcano you risk eruptions/ building in precarious places had inherent risks/ when you build at sea level there will be high tides/ bluffs erode/ people who build in risky places should not expect others to shoulder the burden of unwise choices/ people who reap the rewards of living on the beach should have to deal with the natural consequences of water and tides/ new homes still being built in Mutiny Bay - as long as county issues new house permits the problem will never go away/ put responsibility where it belongs/ no to hard armoring, yes to the environment, no future housing developments along unstable or risky shorelines</p>	<p>Island County only allows for hard armoring in cases of necessity and where impact is mitigated or minimal/ flood plain development requires flood insurance</p>
<a href="mailto:gregdi@whidbey.com">gregdi@whidbey.com</a>	16-Feb-24	Diane Stone	Clinton	<p>Remove bulkheads, don't allow new ones/ bulkheads are a temporary solution and removing them offers advantages such as improving habitat, providing buffers from waves, and stabilizing beaches/ stabilizing a bluff is temporary and expensive</p>	<p>Island County has permitting pathways for those who choose to remove hard armoring, new armoring is only allowed where it is necessary</p>
<a href="mailto:wccr19@gmail.com">wccr19@gmail.com</a>	18-Feb-24	Stephanie Garlich, MS, DVM, CCRP	Coupeville	<p>hard armoring is harmful to shorelines, reducing sediment and natural runoff/ Salish Sea is dying due to over-development/ if we destroy the sea to preserve a few ill planned homes we destroy the island</p>	<p>Island County only allows for hard armoring in cases of necessity and where impact is mitigated or minimal</p>

Hard Copy Letter	Not listed	Steve Demmert	Camano	All beach neighborhoods should not be placed under one designation/ real vs perceived impact of bulkheads/ Ordinary High Water Mark should be considered in real work application/ bulkhead doesn't touch sea 90-98% of the time, so no affect on sea/ sea life would only be in front of beach with drift wood, not in front of bulhead/a lot of property can be lost in a single event/ staff visits on pleasant days, not during storms	Beach neighborhoods are designated according to the natural features of the land, each property is examined individually/ shoreline armoring been studied/ OHWM is considered in applications/ because a tides to not touch a bulkhead 90-98% of the time does not correlate to environmental impacts/ sea life is often transitory/ it is true that a lot of property can be lost in a single event which is why Island County has an emergency permitting process for emergency situations/ staff has indeed visited during storms and high tides, as well as speaking to many individuals on the shore line about the storms and viewing many photos and videos
<a href="mailto:len.madsen@gmail.com">len.madsen@gmail.com</a>	8-Feb-24	Leonard Madsen		Proposed ordinance goes beyond Shoreline Management Act/ license or permit required for exempt activities/ has fiscal impact assessment been made?/ refer back to Planning Commission	Island County SMP largely aligns with state requirements/ Island County does have a formal Shoreline Exemption permit, some jurisdictions provide a letter or exemption, this is not a new requirement with the 2020 update/ fiscal impact assessment has not been made/ the Planning Commission held ten hearings while developing the 2020 update
<a href="mailto:gailcorell@whidbey.net">gailcorell@whidbey.net</a>	6-Feb-24	Gail Corell	Freeland	Comment removed	Comment was for another item on the agenda, to wit health inspections

<a href="mailto:vivian2b4@gmail.com">vivian2b4@gmail.com</a>	6-Feb-24	Vivian Stembridge		Sea level rise and weather events can erode property in a matter of hours/ err on the side of science, not human predicament/ tidal events, erosion, and other weather related events will happen more frequently/ reasonable use provides gray area in code, remove reasonable use in SMP/ erosion and king tides will happen/ hard armoring is short sighted/ emphasize Shore Friendly program	Island County's shoreline armoring section requires proof of necessity for armoring, projects must meet local and state requirements/ reasonable use will continue to be considered by the planning department when evaluating certain projects/ applicants are often counselled to speak with Shore Friendly
<a href="mailto:belindag@whidbeyenvironment.org">belindag@whidbeyenvironment.org</a>	6-Feb-24	Belinda Griswold	Freeland/ Langley	encourage softshore/ avoid hard armoring in accordance with best available science/ plan for smart development where it is safe/ restrict development in areas that are likely to flood according to predictive models/ move septic and homes out of tidal inundation areas	Softshore armoring is easier to permit and the Shore Friendly program can assist with report costs/ flood development is regulated by Island County's Flood Protection Ordinance/ the SMP does allow for moving septic and homes, however it does not currently require retreat
<a href="mailto:lisefplace@hotmail.com">lisefplace@hotmail.com</a>	Not listed	Lise Place	Camano	Make permitting of replacement bulkheads easier/ too hard to provide old permits or dated aerial photos from prior to the enactment of the Shoreline Management Act in 1971 because Ecology's photos only go back to 1976/ provide effecting and timely methods for people to protect their property/ give priority to homes occupied before Jan 1, 1992	There are unpermitted bulkheads in Island County that have been built after the original SMP was adopted in Island County, planning does not wish to allow for replacement of unpermitted bulkheads without permitting as new/ emergency permits are available when protection is necessary and the emergency permitting standards are met/ Island County allows for bulkheads when necessary
<a href="mailto:dpinney@fwdadvisors.com">dpinney@fwdadvisors.com</a>	14-Feb-24	Dale Pinney for South Whidbey Shoreline Owners Group	Freeland	Allow armoring on vacant properties to protect neighboring parcels with primary uses/ allow for armoring at community lots, even if undeveloped/ draft code provided	Armoring may be possible on vacant properties, non-structural armoring could be used

<a href="mailto:tim@futurewise.org">tim@futurewise.org</a>	5-Feb-24	Tim Trohimovich for Futurewise	Seattle	<p>Chinook and Southern Resident Orcas threatened by habitat loss or loss of forage fish habitat/ include stringent protections for chinook and forage fish habitat/ shoreline armoring reduces habitat for forage fish/ proposed SMP does not comply with standards in WAC 173-26-231(3)(a)(iii) - no net loss, new development located and designed to avoid need for future shoreline stabilization to the extent feasible, setbacks from bluffs sufficient to ensure no shoreline stabilization necessary, new shoreline stabilization not allowed except to protect existing primary structures, support new non-water dependent development/ Futurewise unable to find these requirements/ no requirement to locate and design new development to avoid need for future stabilization/ 17.05A.095.D.6 omits placing development further from the shoreline/ include chinook salmon in SMP update.</p>	<p>Island County requires no net loss of ecological function when developments are proposed along the shoreline/ hard armoring only allowed when necessary and no net loss is shown/ new development is required to avoid the need for future stabilization, bluff setbacks are set in the SMP and a geotechnical report and a shoreline variance are required within said setbacks, new shoreline stabilization is only allowed when necessary/ relocation of improvement or structures is found in alternatives analysis/ salmonids is used in place of a particular species.</p>
<a href="mailto:tim@futurewise.org">tim@futurewise.org</a>	5-Feb-24	Tim Trohimovich for Futurewise	Seattle	Two additional attachment documents provided.	No response required.

## EXHIBIT G: TABLE OF AMENDMENTS TO CHAPTER 17.05A ICC

Previously submitted for Ecology Review

Code Section	Description of Change	Reasoning/Justification
050.B.1	Clarified the SMA does not apply to lands under exclusive federal jurisdiction	Periodic Review Item
050.F.1.a-e	Added a new section that lists developments not required to obtain shoreline permits or local reviews	Periodic Review Item
060.A	Removed reference to Appendix A as the official map.	Updates to the SED map are proposed with this review. Island County will keep a digital map as the official version.
060.B	Capitalizing the environment designations	Clerical edit
060.C	Reference to WAC 173-26-211 that undesignated shorelines are automatically given a designation of Rural Conservancy	WAC 173-26-211 Provide more consistency with state law
060.D	SED changes can only be requested through a Comprehensive Plan Amendment/during periodic review	WAC 173-26-211 Provide more consistency with state law
060.E.b	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	Periodic Review Item
060.I.3	Removed "low bank"	Removed "low bank" upon recommendation of Technical Review Committee for clarity.
060.I.4	Rather than reference a list of plats and designation criteria, the County will be referencing an adopted map.	Designation criteria was inconsistently applied. Staff conducted a comprehensive analysis of the shoreline and identified groups of 5 or more parcels which met the existing definition of Historic Beach Community. The resulting updated map will govern.
070	Added new definition of "accessory use or building"	Copied the definition from Island County zoning code 17.03.040
070	Added new definition of "adverse impact or effect"	Did not have an existing definition, referenced from Jefferson County and adapted for Island County
070	Added new definition of "alteration, nonconforming structures"	Did not have an existing definition, referenced from Jefferson County and adapted for Island County
070	Added new definition of "alteration, nonconforming use"	Did not have an existing definition, referenced from Jefferson County and adapted for Island County
070	Added new definition of "beach access structure"	Did not have an existing definition even though the term is used in the SMP, referenced from Mason and Jefferson Counties and adapted for Island County. Technical Review Committee suggested the addition of the term, "elevator"
070	Added new definition of "best available science"	Did not have an existing definition even though the term is used in the SMP, referenced from Mukilteo and adapted for Island County. Added reference to the 2018 "Projected Sea Level Rise for Washington State" per Technical Review Committee recommendation.
070	Added new definition of "boat"	Did not have an existing definition even though the term is used in the SMP, and had issues in the past of docks being claimed to be boats. Definition referenced from American Planning Association Dictionary. The addition of the term "paddles" was suggested by a Planning Commissioner.
070	Added new definition of "boathouse"	Did not have an existing definition even though the term is used in the SMP, referenced from Mukilteo and adapted for Island County. Currently there are boathouses and overwater boat storage structures in place in the Sandy Point Canal Community in conformance with their approved Master Plan, and it was identified that definitions should be in place for these structures for that reason.
070	Added new definition of "boat lift"	Did not have an existing definition or any existing regulations for boatlifts. New regulations added for boatlifts and definition. Referenced from Hunts Point and Jefferson Counties and adapted for Island County. A definition for "Boat lift" was added and "Boat Lift" was added as a Conditional Use (in Shoreline Residential Canal Communities) in .080 Table 1. A reconnaissance of Canal Communities showed that some property owners have drive on, floating boat lifts "moored" to their docks, so a definition and use were added so that there is a regulatory process in place going forward.

070	Added new definition of "bog"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline critical areas review in shorelines.
070	Modified existing definition of "buffer"	Additions were referenced from Jefferson County which had more clarifying language. The Technical Review Committee suggested adding that it runs parallel to the OHWM.
070	Modified existing definition of "buffer area"	Modifications suggested by Island County Critical Areas Planner.
070	Modified existing definition of "bulkhead"	Modifications suggested by Island County Critical Areas Planner.
070	Modified existing definition of "buoy"	Modifications suggested by Washington State Department of Natural Resources
070	Added new definition of "canopy"	Did not have an existing definition or any existing regulations for canopies. New regulations added for canopies and definition. Referenced from Medina and adapted for Island County. A reconnaissance of Canal Communities showed that some property owners have canopies for boat moorage, so a definition and use were added so that there is a regulatory process in place going forward.
070	Added new definition of "coastal lagoon wetland"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline critical areas review in shorelines. The clarifications regarding outlets for coastal lagoons was suggested by the Island County Critical Areas Planner.
070	Modified existing definition of "commercial development"	Home occupations and home industries are allowed uses in the Island County zoning code. This provides clarity on whether they are allowed in shoreline jurisdiction.
070	Modified existing definition of "community pier or dock"	Clarification
070	Added new definition of "compensatory mitigation"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline critical areas review in shorelines. The clarifications regarding mitigation ratios was suggested by the Island County Critical Areas Planner.
070	Added new definition of "contributing area"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "covered moorage"	Did not have an existing definition or any existing regulations for covered moorage. New regulations added for covered moorage and definition. Referenced from San Juan County and adapted for Island County
070	Added new definition of "critical areas"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "deep water habitats or ponds"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline

070	Added new definition of "delta estuary"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "delta estuary wetland"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Modified existing definition of "development"	Periodic Review Item
070	Added new definition of "dike"	Did not have an existing definition of dike even though the term is used in the SMP. Ecology suggested addition of "one or more"
070	Modified existing definition of "dock"	Did not have existing regulations for boat lifts. Drive-on boats lifts to now be regulated the same as new docks.
070	Modified existing definition of "dredging"	Additional clarification regarding maintenance dredging added per Island County Public Works suggestion to provide a more streamlined review of necessary maintenance actions of existing infrastructure.
070	Added new definition of "drive-on floating boat lift"	Did not have an existing definition or any existing regulations for drive-on floating boat lifts. New regulations added for boat lifts and definition. Floating boat lifts now regulated the same as new docks. A definition for "Boat lift" was added and "Boat Lift" was added as a Conditional Use (in Shoreline Residential Canal Communities) in .080 Table 1. A reconnaissance of Canal Communities showed that some property owners have drive on, floating boat lifts "moored" to their docks, so a definition and use were added so that there is a regulatory process in place going forward.
070	Added new definition of "expansion"	Did not have a definition of expansion even though the term is used in the SMP. Added to help clarify processes for expanding existing structural stabilization and existing non-conforming structures. Referenced from the American Planning Association Dictionary.
070	Added new definition of "feasible"	Did not have a definition of feasible even though the term is used in the SMP. Referenced from Mukilteo and adapted for Island County.
070	Modified existing definition of "fish and wildlife habitat conservation area"	The clarifications and reference correction were suggested by the Island County Critical Areas Planner.
070	Added new definition of "float plane base"	Float plane bases were listed as a use in the use table of 17.05A.080, but no definition existed.
070	Added new definition of "float plane"	Float planes were listed as a use in the use table of 17.05A.080, but no definition existed. The existing definition of dock was copied and the term, "aircraft" was added to create this definition.
070	Replaced existing definition of "floating home" with a new definition	Replaced with the definition from RCW 90.58.270(5)(b)(ii). Periodic Review Item.
070	Added new definition of "floating on-water residence"	Added from RCW 90.58.270(6)(b). Periodic Review Item.
070	Added new definition of "flood control works"	Did not have a definition of flood control works even though the term is used in the SMP. Under current code, new development in the shoreline that would require structural flood control works is not permitted. Public commenters expressed concern that raising homes to meet base flood elevation was considered a flood control work and would not be permitted.
070	Added new definition of "forest practice permit"	Did not have an existing definition for forest practice permit. Referenced from Mukilteo and adapted for Island County
070	Added new definition of "hazard tree"	Did not have an existing definition of hazard tree, even though term used in the SMP. Definition copied from the Critical Areas Ordinance ICC 17.02B.
070	Added new definition of "hearings board"	Did not have an existing definition for hearings board, even though term used in the SMP. Referenced from Mukilteo and adapted for Island County

070	Modified existing definition of "historic beach community"	Clarifications provided that also help support how the staff analysis for the proposed historic beach overlay maps was conducted. Stretches of shoreline were analyzed and groups of 5 or more parcels that met the criteria were
070	Added new definition of "industrial"	Did not have an existing definition of industrial, even though term used in the code. Referenced from APA Planners Dictionary and adapted for Island County. "Home Industry" and "Home Occupation" are specifically excluded from this definition.
070	Added new definition of "in-water facilities"	Did not have an existing definition for in-water facilities. Referenced from Mukilteo and adapted for Island County
070	Added new definition of "in-water fill"	Did not have an existing definition for in-water fill. Referenced from Mukilteo and adapted for Island County
070	Modified existing definition of "impervious surface"	Definition was modified to specifically include eaves as "impervious", and to specifically exclude decks with gaps of at least 1/8" between boards. Definitions were also added for "Pervious pavement" and "Pervious surface" for clarity, and to facilitate incorporating Planning Department policies 001/17 and 002/17 into the code.
070	Added new definition of "illegal use"	Did not have an existing definition even though the term is used in the SMP, referenced from Jefferson County and adapted for Island County. Technical Review Committee suggested the addition of the term, "unapproved"
070	Added new definition of "infrastructure"	Did not have an existing definition of infrastructure, even though term used in the code. Public Works recommended adding a definition. Referenced from APA Planners Dictionary and adapted for Island County.
070	Added new definition of "infrastructure, public"	Planning Commission recommendation to add specific definition for public infrastructure after definition for infrastructure added.
070	Added new definition of "large ponded wetland"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "log storage (rafting and stockpiling)"	Did not have an existing definition for log storage.
070	Added new definition of "mature forested wetland"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "mitigation bank"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "mosaic wetland"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "must"	Did not have an existing definition of must even though term is used in the SMP.
070	Added new definition of "native plant wetland"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Modified existing definition of "non-structural shoreline stabilization"	Modified to include term, "mostly" in order to be consistent with the rest of the definition which allows for up to 20 percent of the stabilization project to be made of inorganic materials.
070	Added new definition of "non-water-oriented use"	Did not have an existing definition for non-water-oriented use. Referenced from Mukilteo and adapted for Island County

070	Added new definition of "nonconforming development or nonconforming structure"	Did not have an existing definition for nonconforming development or nonconforming structure. Referenced from Mukilteo and adapted for Island County
070	Added new definition of "nonconforming lot"	Did not have an existing definition for nonconforming lot. Referenced from Mukilteo and adapted for Island County
070	Added new definition of "nonconforming use"	Did not have an existing definition for nonconforming use. Referenced from Mukilteo and adapted for Island County
070	Modified existing definition of "normal appurtenance"	Deck, fences, and gazebos recommended for removal from the definition of normal appurtenance by Technical Review Committee, to prevent any arguments being made for the need to construct shoreline armoring to protect such structures.
070	Added new illustration to existing definition of "ordinary high water mark"	Illustration copied from SMP handbook
070	Added new definition of "outfall"	Did not have an existing definition of outfall, even though the term is used in the SMP. Referenced from APA planners dictionary and adapted for Island County. Addition of definition for outfall was a suggestion by Island County Public Works.
070	Modified existing definition of "passive recreation"	Clarifications added to match Island County Critical Areas Ordinance ICC 17.02B, based on public comments.
070	Added new definition of "pervious pavement"	Definition added for clarity, and to facilitate incorporating Planning Department policies 001/17 and 002/17 into the code. Some changes to the proposed definition were incorporated based on feedback from consultants hired to assist with SMP update.
070	Added new definition of "pervious surface"	Definition added for clarity, and to facilitate incorporating Planning Department policies 001/17 and 002/17 into the code.
070	Added new definition of "pile, pilings, and pile driving"	Did not have an existing definition, even though terms utilized in the code. Referenced from Mukilteo and adapted for Island County
070	Modified existing definition of "priority habitat"	Definition modified to include reference to WAC 173-26-020(30)
070	Added new definition of "production facilities"	Did not have an existing definition for production facilities, even though listed as a conditional use in the use table.
070	Added new definition of "qualified professional"	Did not have an existing definition, even though terms utilized in the code. Copied from the Island County Critical Areas Ordinance, ICC 17.02B.
070	Added new definition of "repair"	Did not have an existing definition of repair, even though term used in the SMP. Adapted from definition of repair in ICC 17.04A.
070	Modified existing definition of "replacement"	Definition modified based on feedback from Technical Review Committee that cost threshold is a clearer way of establishing what qualifies as replacement.
070	Modified existing definition of "retaining wall"	Definition modified based on recommendation from Technical Review Committee to help distinguish a retaining wall from a bulkhead.
070	Modified existing definition of "revetment"	Term sloping added based on recommendation from the Technical Review Committee to help distinguish revetments in the order of alternatives for shoreline stabilization
070	Added new definition of "shoreline buffer"	Definition added based on public comment asking for clarification.
070	Modified existing definition of "shoreline environment designations"	Definition modified with provision referenced from Pierce County. Should help clarify with questions of expanding existing structures upwards.
070	Added two new illustrations to existing definition of "shoreline jurisdiction"	First illustration from outreach materials created by consultant hired after 2016 update of SMP. Second illustration created to complement the mapping update undertaken by consultants during current SMP review. Based on guidance from the SMP handbook Chapter 18.
070	Modified existing definition of "single-family residence"	Home occupations and home industries are allowed uses in the Island County zoning code. This modification provides clarity that they are allowed in shoreline jurisdiction as secondary to a single family residence.

070	Added new definition of "small contributing area"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "small ponded wetland"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Modified existing definition of "solid waste"	Planning Commission recommendation to specify pet waste as solid waste.
070	Added new definition of "solar access"	Term utilized in proposed added regulations in ICC 17.05A.110.D.4 & 5. Planning Commission also recommended including a definition.
070	Added new definition of "stormwater"	Did not have an existing definition of stormwater, even though term used in the SMP. Island County Public Works suggested adding a definition. Referenced from APA Planners Dictionary and adapted for Island County.
070	Added new definition of "structural shoreline stabilization, new"	New structural shoreline stabilization is subject to more strict requirements than repairs or replacements per 17.05A.110. Proposed to complement definitions of repair and replacement.
070	Added new definition of "structure, overwater"	Did not have an existing definition, even though terms utilized in the code. Referenced from Mukilteo and adapted for Island County
070	Modified existing definition of "substantial development"	Periodic Review Item
070	Added new definition of "tide gate"	Did not have an existing definition of tidegate, even though the term is used in the SMP. Addition of "or similar structure" was a suggestion by Ecology.
070	Added new definition of "transmission, utility"	Did not have an existing definition for utility transmission, even though listed as a conditional use in the use table.
070	Added new definition of "utilities, accessory"	Did not have an existing definition for accessory utilities, even though listed as a permitted use in the use table. This definition clarifies that stormwater outfall are considered "accessory utilities" to a "single-family residence".
070	Added new definition of "view corridor"	Did not have an existing definition, even though terms utilized in the code.
070	Added new definition of "wetland category"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetland dependent species"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetland edge"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetland functions"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetland identification guide"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline

070	Added new definition of "wetland maps"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetland outlet"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetland professional"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetland report"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetland type"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetland vegetation"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetland/deep water boundary"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
070	Added new definition of "wetlands associated with a bog, coastal lagoon, or delta estuary"	Copied from Island County's critical areas ordinance 17.02B. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline
080 Table 1	New footnote 16 and C for conditional use added to single family residences in N, RC, UC, and SR environments	New footnote 16 added to clarify the process for expansion of existing non-conforming residences beyond what is allowed through the common line or setback averaging. <b>Note that a correction is needed here:</b> Footnote 16 was corrected to require a variance for such expansions, but the C's noting conditional use, need to be removed and footnote 16 should be applied
080 Table 1	Term manufactured add to use "mobile home parks"	Updated to match Island County Zoning Code 17.03.
080 Table 1	Term floating on-water residences added to use "floating homes, houseboats"	Periodic Review Item
080 Table 1	New footnote 21 and C for conditional use added to water-related and water-enjoyment commercial in N, RC, and UC environments	New footnote 21 added to accommodate legally existing non-conforming water-enjoyment uses in the County. Allowing certain expansions so they can continue to persist but reviewing them under a shoreline conditional use permit.
080 Table 1	Term "mooring" removed from use mooring buoys	Use now encompasses all buoys and not just mooring buoys per Department of Natural Resources comments

080 Table 1	Boatlift and boat canopy added as new uses in the use table under Boating and Related Facilities	Did not have existing definitions, use, or regulations for boat lifts or canopies. A reconnaissance of Canal Communities showed that some property owners have drive on, floating boat lifts and canopies for boat moorage, so a definition and use were added so that there is a regulatory process in place going forward. Since Canal Communities are the only locations known to have existing boat lifts and canopies, expansion of the use of these facilities into new environments would not meet "no net loss" criteria. Boat lifts and canopies were marked as prohibited everywhere except Canal Communities where they could be allowed under a conditional use permit.
080 Table 1	New footnote 15 added to "Aquaculture, Commercial, In-water, including mechanical or hydraulic harvest of shellfish" in Aquatic and HI environments	Periodic Review Item
080 Table 1	New footnote 15 added to "Aquaculture, Commercial, On-land activities, structures, processing, etc." in Aquatic and HI environments	Periodic Review Item
080 Table 1	New footnote 18 added to forest practices in all environments except Aquatic	Periodic Review Item
080 Table 1	New footnote 20 and P for permitted use added to Vehicular routes and facilities(existing) in N, RC, UC, and SR environments	Whereas vehicular routes were only allowed through a shoreline conditional use permit previously, the addition of footnote 20 and P allows for activities that meet the definition of repair in the SMP to be reviewed as a permitted use. Streamlined processes for repair of existing public infrastructure a suggested change by Island County Public Works
080 Table 1	New footnote 20 and P for permitted use added to bridges and culverts in Aquatic, N, RC, UC, and SR environments	Whereas bridges and culverts were only allowed through a shoreline conditional use permit previously, the addition of footnote 20 and P allows for activities that meet the definition of repair in the SMP to be reviewed as a permitted use. Streamlined processes for repair of existing public infrastructure a suggested change by Island County Public Works
080 Table 1	New footnote 17 and P for permitted use added to Tidal and wave energy production facilities in Aquatic and N environments	Added to allow single family residences to utilize renewable energy facilities as a accessory utility and permitted use in the shoreline.
080 Table 1	New footnote 20 and P for permitted use added to below ground utility transmission in Aquatic, and N environments	Whereas below ground utility transmission was only allowed through a shoreline conditional use permit previously in the Aquatic and N environments, the addition of footnote 20 and P allows for activities that meet the definition of repair in the SMP to be reviewed as a permitted use. Streamlined processes for repair of existing utilities was a suggested change by Puget Sound Energy
080 Table 1	New footnote 20 and P for permitted use added to above ground utility transmission across all shoreline environments	Whereas above ground utility transmission was only allowed through a shoreline conditional use permit previously in all environments, the addition of footnote 20 and P allows for activities that meet the definition of repair in the SMP to be reviewed as a permitted use. Streamlined processes for repair of existing utilities was a suggested change by Puget Sound Energy
080 Table 1	Structural shoreline stabilization changed from a conditional use to a permitted use in the Rural Conservancy and Natural shoreline environments	Change was suggested by Technical Review Committee. Structural shoreline stabilization must still meet the strict regulations of 17.05A.110 and the Committee did not see any benefit of reviewing stabilization in these environments through a conditional use permit.
080 Table 1	Tidegates added as a new use in the use table	Island County has many existing tidegates but there was not a clear regulatory pathway for permitting repairs and replacements of them. Tidegates were added as a conditional use in all environments, except where activites meet the definition of repair as indicated by the addition of new footnote 20. Streamlined processes for repair of existing public infrastructure a suggested change by Island County Public Works

090.A.4	Code modified to allow existing single family residences to exceed 35ft in height when raised to meet base flood elevation	Public and Technical Review Committee comments had indicated a desire to not have it be prohibitive to raise existing homes to meet base flood elevation. Referenced Jefferson County for this provision. Technical Review Committee suggested additional clarification that replacement homes would not be allowed to exceed 35ft in height under this provision.
090.A.5	Term "professionally designed" replaced with "designed by a licensed professional"	Clarification suggested by Planning Commission member.
090.A.17	Specifics around reasonable hours and days of operation added	Clarification suggested by Planning Commission member.
090.A.18	Provision moved from 17.05A.090.K.11	Provision did not seem to fit best in the vegetation conservation/maintenance section and may get lost when planners review a subdivision in shoreline. <b>Note that an adjustment may be needed here:</b> this item may fit better under 17.05A.100.J Specific Use Regulations for Residential Development
090.A.19	Provision added regarding maximum densities in shoreline.	Added to clarify which densities govern when a conflict exists between the Island County Zoning Code, 17.03 and the SMP, ICC 17.05A. <b>Note that an adjustment may be needed here:</b> this item may fit better under 17.05A.100.J Specific Use Regulations for Residential Development
090.A.20	Provision added regarding subdivision of properties within critical areas	Provision copied from the Island County Critical Areas Ordinance ICC 17.02B.410.A. <b>Note that an adjustment may be needed here:</b> this item may fit better under 17.05A.100.J Specific Use Regulations for Residential Development or 17.05A.090.C Environmental Protection and Critical Areas.
090.A.21	Added provision prohibiting dumping of yard waste over bluffs and road ends	Staff suggested addition based on previous incidents.
090.C.4.a & b	Provisions added to detail how cumulative impacts of conditional uses are assessed	Staff identified a need for clarification of how cumulative impacts of conditional uses are assessed. Referenced from Jefferson County.
090.C.10	Reference added to RCW 90.84 and WAC 173-700.	Staff suggested addition after a pre-application conference for a new mitigation bank on Camano Island
090.C.12-15	Provisions added for: -what wetland buffer modifications can be reviewed without a shoreline variance -overlapping critical areas interpretations -critical area documentation -fencing and marking	Copied over from 17.02B.410.A-D and modified to meet SMA guidance. Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline critical areas review in shorelines.
090.C.17.d	Provisions added specifying when a Biological Site Assessment or Wetland Report may be waived	This section of code is intended to provide flexibility to the planning department when reviewing minor shoreline development proposals. Our code currently requires extensive environmental reporting for all types of uses. The waiver standards were developed after reviewing the FEMA Biological Opinion for Puget Sound regarding Habitat Assessments, and Critical Areas Report requirements from Grays Harbor County, which primarily requires a Critical Areas Report for S-VAR, S-CUP, and SDP permits, or when development within aquatic habitat is proposed.
090.C.17.e	Added "Biological Site Assessment"	Added language for clarification of section
090.C.17.j	Added conflict resolution language.	Added language specifying that in case of a conflict with other section of code, more restrictive applies.
090.C.18	Added wetlands section from 17.02B	Added wetlands section of code from 17.02B in order to incorporate Critical Areas Ordinance in SMP. Modified to remove references regarding exemptions as they would not apply in shoreline jurisdiction.
090.C.18.b(i)	Reference added to federal wetland delineation manual and regional supplement	Added language to be consistent with 2011 legislative update.
090.C.18.f(vi)	Section added to regulate critical areas buffer alteration for public transportation or utility projects	Added section per Critical Areas Planner suggestion based on comments received from Island County Public Works and Puget Sound Energy

090.C.18.k	Added section for off-site mitigation	Wetland regulations were copied from 17.02B into the SMP and modified where necessary to conform to critical areas regulations in shorelines. Previously, wetlands regulations in the SMP were referencing an outdated version of the critical areas ordinance, 17.02A. Intention was to update and streamline critical areas review in shorelines. Added (i) to acknowledge that off site mitigation must occur within the shoreline area and ensure no net loss. Modified (ii) to ensure mitigation is happening within the same contributing area.
090.D.3	Changed "building setback" to "shoreline setback" for consistency. Added reference to 090.E for extending into setback	Moved a,b, and c to 090.E. Added references to 090.E in this section
090.D.4	Added section specifying the intent to allow natural erosion of bluffs while minimizing threats to structures. Specify that structures other than upland retaining walls where necessary to protect a primary structure within the steep slope buffer shall require shoreline variance	Section added upon recommendation of the Technical Review Committee to further describe intent behind steep slope buffers.
090 Table 3	Changed language to specify that maximum impervious surface applies only to the portion of the lot within shoreline jurisdiction	Changed to clarify that only portion of parcel within shoreline jurisdiction is affected by SMP impervious surface limits. And applied new footnotes 3 and 4 which detail what is considered pervious.
090 Table 3	New footnote 1 specifying that buffers and setbacks in table only apply to shoreline jurisdiction, and do not extend past 200 feet from Ordinary High Water Mark	Clarification of where shoreline buffers and setbacks apply
090 Table 3	New footnote 2 referencing setback and buffer modifications permitted without a variance	Added a footnote to specify that 090.E provisions could be used to modify the specified buffers and setbacks.
090 Table 3	New footnote 3 specifying that pervious pavement and surfaces shall be considered as 50% for calculation of impervious surface.	Added footnote to take long-standing County policy and enact into code. Pervious pavers and surfaces have been calculated at 50% of area for impervious surface limit calculations.
090 Table 3	New footnote 4 specifying that decks with gaps of 1/8" or greater between boards are considered pervious	Added footnote to take long-standing County policy and enact into code.
090 Table 3	New footnote 5 specifying that even with smaller setbacks, residences in Historic Beach Communities still cannot extend waterward beyond the commonline.	Provision added to ensure that viewsheds are preserved per feedback from Technical Review Committee and Public Comments.
090 Table 3	New footnote 6 specifying that lots created prior to adoption of the Shoreline Management Act of 1972 may develop up to 15% impervious surface in Rural Conservancy	Provision to allow greater impervious surface limit in Rural Conservancy for lots created prior to adoption of Shoreline Management Act. Many pre-SMA lots are smaller than would be currently permitted and may already developed at or over the current 10% maximum impervious surface in Rural Conservancy. A review of previously granted shoreline variances in the Rural Conservancy SED, revealed that variances are frequently requested, but usually for not more than 15% impervious surface. Thee change to 15% would allow more options for redevelopment while recognizing challenges of older
090 Figure 4	New Figure 4 added to show how steep slope buffers are applied	Figure 4 added to provide a visual aid to help clarify how steep slope buffers are applied.
090.D.5	Reference to Table 3 added	Added per public comment suggestion to also reference steep slope buffers.
090.D.8	Language added to state that non-native landscaping can be maintained, but once removed must be replaced with native vegetation.	Staff suggested change for clarity of implementation.
090.D.8	Original item 8 moved to 090.F.6 and reworded	Relocated under buffer enhancement section of code. Staff proposed changes for clarity of implementation per wording suggested by critical areas planner.
090.D.10	Added language requiring monitoring of buffer enhancement in accordance with 090.G.1.d	Combined language with 090.H.1.d for clarity.
090.E	Section changed to address shoreline buffer and setback modification without a shoreline variance, and to reference the 2018 Sea Level Rise Assessment	Technical Review Committee recommended referencing the 2018 Sea Level Rise Assessment. Section was changed to consolidate all buffer and setback modifications allowed without a variance under one section. Shoreline variances are addressed in another section.

090.E.1	New section created to address shoreline setback and buffer alterations without a variance.	This section was created for clarity and is a compilation of many formerly separate sections.
090.E.1.a(i)	Moved from 090.E.2.d. Language changed from "is" to "shall"	"Shall" added for mandate. Moved from 090.E.2.d to incorporate into new section.
090.E.1.a(ii)	Moved from 090.J	Moved from 090.J to incorporate into new section.
090.E.1.a(iii-ix)	Moved from 17.05A.090.E.5	Moved from 090.E.5 to incorporate into new section.
090.E.1.a(x)	Added specification that buffer alteration will not be allowed that results in net loss of ecological function, increases risk of slope failure, or stormwater drainage impacts.	Adapted from Pierce County code. Added to specify that no buffer alteration will be allowed that results in net loss of ecological functions, increases slope failure risk, or impacts stormwater drainage downslope.
090.E.1.b	Moved from 090.D.3. (ii) added examples of structures less than 30 inches in height, (iii) changed to specify that garden and storage structures over 30 inches in height would be permitted only in Shoreline Residential SED.	Planning Commission recommended the addition to (ii) of examples illustrative of what structures less than 30 inches in height would be permitted within the shoreline setback. The Technical Review Committee recommended that the provision allowing a single garden shed or storage structure over 30 inches in height be limited to the Shoreline Residential SED.
090.E.1.c(viii)	Added stormwater outfalls and culverts to types of development permitted within the shoreline buffer	This language was added due to feedback from the Island County public Works Department, as stormwater outfalls and culverts frequently occur in the shoreline buffer.
090.E.1.d	New section added to regulate development on non-conforming lots without a shoreline variance	Added to allow for reasonable development on small, existing, non-conforming lots. Referenced from Jefferson County and adapted for Island County.
090.E.1.d(vii)	Added 50% maximum threshold	Utilized same existing threshold for commonline buffer reduction of previous section 17.05A.090.F.3 – now new proposed section 17.05A.090.E.1.e.i.1
090.E.1.d(viii)	Added requirement for buffer enhancement plan in accordance with 090.G.1	Consultant recommended requiring a buffer enhancement plan for maintaining natural vegetation in buffer area for development on non-conforming lots
090.E.1.e Table	Reconfigured existing code provisions into a table format. Added expansion underneath existing footprint to the Expansion/Modification section of the table.	Reconfigured existing code provisions into a table format for clarity. Technical Review Committee recommended requiring a variance to expansion beneath the footprint (for example, adding a basement) in the shoreline because of the potential impact to geohydraulic processes and slope stability. <b>Note that an adjustment may be needed here:</b> to change "steep slope setback" to "steep slope buffer" for consistent use of term.
090.E.1.e	Added language to clarify intent and remove ambiguity.	Because this is a new section compiling pre-existing sections of code, language was added to clarify, such as adding sentences at the beginning of sections to demonstrate what the following section of code is referring to. Other language was added clarifying that the standards in this section apply to shoreline jurisdiction, and "building" setback was replaced with "shoreline" setback.
090.E.1.e(ii)	Language added to specify that existing structures can be replaced in the shoreline buffer and setback as long as the building footprint and height are less than or equal to the existing footprint and height, and that the replacement structure cannot be located closer to the OHWM.	This language was added because the word "footprint" with regards to expansion implies that only horizontal expansion is being regulated. Height and distance to the OHWM were added to eliminate any ambiguities, and to make clear that this section covers replacement, and not expansion of structures in the shoreline setback.
090.E.5	This section was moved to 090.E.1	Moved to the new 090.E.1 section
090.E.1.f	This section was changed to address all setback and shoreline buffer reductions. Language added to specify that setback and buffer reductions can only be used for the primary residence.	All setback and shoreline buffer reductions were consolidated into one section. Setback and buffer reduction usage clarified in that it can only be used for the primary residence, and not other structures per Planning Commision recommendation.
090.E.1.f(i)	All provisions related to commonline setback and buffer reductions consolidated. Wording clarifications added.	All provisions pertaining to the commonline setback and buffer reductions were consolidated for ease of reading. Wording clarifications proposed due to previous difficulty with staff and applicant interpretation of this provision.
090.E.1.f(i)(1)-(3)	Items (1) and (2) moved from 090.F. Item (3) added.	Items (1) and (2) moved from 090.F in order to consolidate all commonline provisions under one section. Item (3) added per recommendation by the Technical Review Committee based on previous issues.

090.E.1.f(i) Figure 5	Figure 5 added	Figure 5 added to illustrate implementation of the commonline setback and buffer reduction. <b>Note a correction may be needed here:</b> green lines labeled as "adjacent to and within 100ft" need to extend to the proposed house footprint, rather than ending at the property line in order to be consistent
090.E.1.f(ii)	Current provisions for setback averaging broken out into list format and wording changes proposed. Item (3) added.	Current provisions for setback averaging broken out into list format and wording changes proposed for clarification of interpretation of the provisions, which have caused issues before. Item (3) added per recommendation from the Technical Review Committee based on previous issues and to be consistent with 090.E.1.f.(i)(3)
090.E.1.f(ii) Figures 6 & 7	Figures 6 and 7 added	Figure 6 and 7 added to illustrate implementation of setback and buffer averaging. <b>Note a correction may be needed here:</b> green lines labeled as "adjacent to and within 100ft" and "abutting parcel and within 100ft" need to extend to the proposed house footprint, rather than ending at the property line in order to be consistent with the wording of 090.f.(ii). Additionally, consistent use of either "abutting" or "adjacent" rather than using them interchangably. Potentially could add definitions for adjacent and abutting.
090.E.1.f(iii)	Moved from 090.J	Moved under f to consolidate all buffer and setback modifications into one section
090.E.1.f(iv)	Moved from 090.I and provision added for specificity	Moved under f to consolidate all buffer and setback modifications into one section. Addition of, "causing the structure to be non-conforming with regards to the shoreline setback or buffer" per recommendation of Technical Review Committee
090.E.1.f(iv)(4)	Moved from 090.I and provision added for specificity	Moved under f to consolidate all buffer and setback modifications into one section. Addition of, "only for expansions or modifications of structures which existed at the time the hard armoring was proposed for removal " per recommendation of Technical Review Committee
090.F	Replaced items 1 and 2 with Table	Moved language from items 1 and 2 into a table format for clarity.
090.F.5	Moved from 090.I	All provisions for shoreline buffer enhancement consolidated into one section for ease of reading.
090.F.6	Moved from 090.D.8	Relocated under buffer enhancement section of code. Staff proposed changes for clarity of implementation per wording suggested by critical areas planner.
090.G.1.b.	Existing provision revised	Changes recommended by consultant and critical areas planner for clarity of implementation.
090.G.1.d.(iv) and (v)	Language pulled from 090.D.10 and additional sentence regarding inspections added.	Added for specificity and consistency between sections.
090.I.1-3	Moved to 090.E.1.f.(iv)	Moved under f to consolidate all buffer and setback modifications into one section. Addition of, "only for expansions or modifications of structures which existed at the time the hard armoring was proposed for removal " per recommendation of Technical Review Committee
090.I.4	Moved to 090.F.5	Moved to consolidate all shoreline buffer enhancement standards under one section.
090.J.1	Moved to 090	Moved to consolidate all shoreline setback and buffer reduction standards under one section
090.J.2	Deleted	Already stated exact same way under 090.F.3
090.J.3	Moved to 090.F.4	Moved to consolidate all shoreline buffer enhancement standards under one section.
090.K	Moved to 110.C and renamed	Moved to 110.C because altering vegetation in the shoreline can be considered modifying the shoreline environment. <b>Note a correction may be needed here:</b> to be consistent with the goals of the SMP and SMA, the title of this section may need to be altered again. From "shoreline vegetation maitenance" to "shoreline vegetation conservation and maitenance"

090.H.8	Reformatted section into a list and made some revisions	Referenced San Juan County to help reformat items into a list. Item g added per recommendation by the critical areas planner. Items 12-14 referenced from Sna Juan County. <b>Note correction may be needed here:</b> Per ECY: This seems to contradict the WAC, in that stormwater issues can't be "fixed" through stabilization. What is meant by "stormwater"?
090.I.5	Cross reference added to 100.J	Cross reference added to 100.J which has some provisions for beach access associated with residential development
090.K	New provisions for lighting in the shoreline added	New provisions added for lighting in the shoreline. Referenced from Sna Juan County and adapted for Island County.
100.B.7	Provision added for geoduck aquaculture that interferes with normal public use of surface water requiring an SDP	Periodic Review Item
100.B.21-23	Provisions for overwater structures used for aquaculture added	Provisions referenced from San Juan County
100.B.25	Provisions added for chemicals used for aquaculture	Provisions referenced from San Juan County
100.C.8.a	Limitations on beach access structures extended to community beach access in addition to public access. 500ft changed to 1/4 mile	Additional beach access structures not permitted within a certain distance of public beach access. This provision was extended to community beach access structures as well, per recommendation of the Technical Review Committee. Previous confusion of how to implement 500ft provision brought up by staff and Technical Review Committee. Board of County Commissioners suggested 1/4 mile walk.
100.C.8.g.	Provision added for owners of multiple adjacent shoreline lots	Added per Ecology suggestion
100.C.9.	Incentive for shared community beach access added.	Incentives for property owners to share community beach access added per Technical Review Committee suggestion.
100.D.	Moorage Facilities moved from 110 and boat lifts, canopies, covered moorage, mooring buoys added. Image added for clarification of terms.	Section moved because moorage facilities fit more as a specific use rather than a shoreline modification. Image added from Pierce County to help illustrate terms. <b>Note addition may be helpful here:</b> illustration of float may
100.D.2.	Term "geohydraulic" removed	Term "geohydraulic" removed per consultant recommendation
100.D.3.	Term "net" added	Term "net" added per consultant recommendation
100.D.6.a & b	Details added for what documentation needs to be provided	Details added for what documentation needs to be provided for clarity of implementation
100.D.10	Provision for grating added for overwater structures	Added per consultant recommendation
100.D.21	Clarification of "new" added	Clarified that new means subdivisions created after the adoption of 17.03 the zoning code
100.D.22	Clarification of "promptly" added	Clarified that promptly is within 90 days
100.D.23-24	Provisions for covered moorage added	Issues have come up around covered moorage. Added provisions prohibiting covered moorage. Reviewed with Technical Review Committee.
100.D.30-32	Provisions for recreational floats, boat lifts and canopies, and boathouses added	Provisions added based on staff identified lack of regulations. Item 31 referenced from Jefferson County. Item 31.iii added per consultant recommendation.
100.E.1.b	Additional provisions added for float plane bases	Prohibition of float plane bases in the aquatic SED adjacent to the natural SED added.
100.E.2.s	Provisions for new or expanded marina facilities added	Provisions referenced from Jefferson County and adapted for Island County
100.F.6.e	Provisions added regarding home occupations and home industries	Home occupations and home industries are secondary to the use of a property as residential and therefore are not a commercial use.
100.F.17	Provisions for developments accessory to commercial use added	Referenced from San Juan County
100.G.7.	Provision added that forest practices only involving timber cutting are not considered development	Periodic Review Item
100.I.3	Clarification added regarding how areas landward of the OHWM do not count towards total land area	Referenced from Mason County. Staff have raised questions on this issue before.
100.I.4.	Provisions added clarifying how subdivisions of properties that are partially in shoreline jurisdiction are handled	Provisions added per staff recommendations based on previous issues raised.

100.I.11.	Clarification added that structures may not be located waterward of OHWM, and then cross referencing environmental protection section for clarity.	Provisions added per staff recommendations based on previous issues raised.
100.I.22.	Cross reference added to 100.N.8 & 9 and 100.N.10.	Improve clarity and consistency.
100.I.23.	Cross reference added to 100.N.8 & 9.	Improve clarity and consistency.
100.I.24.a.	Provisions added clarifying how joint beach access structures will be maintained by property owners.	Adopted from Pierce County to ensure permitted structures are properly used and maintained with a joint use agreement.
100.I.24.b.	Addition of BSA requirement for beach access structures located adjacent to FWHCAs, have an over-water component, or require fill/shore protection.	Added per critical areas planner recommendation to ensure environmental report requirements are met.
100.I.25	Addition of section covering uncovered deck structures for residential use. Clarifies impervious surface guidelines and development regulations, including replacement, expansion, and new decks.	Added to provide regulatory guidance for decks within shoreline jurisdiction, and clarify standards for replacement, expansion, and new decks, including prohibiting new decks within the marine buffer or steep slope buffer and specify vegetation enhancement requirements. Portion covering new decks cross-references other applicable Island County Code for consistency (ICC 11.02).
100.J.7.	Cross reference added to 17.03.180.R.	Improve clarity and consistency.
110.A.1.	Remove reference to geotechnical analysis and BSA.	Requirements more completely outlined in added section below.
110.A.1.i.	Criteria for regulating replacement of structural stabilization without primary structure on platted lot.	TRC and Ecology recommendation.
110.A.1.k.	Provision for evaluating stabilization future impacts with sea level rise.	Based on recommendation from staff to ensure no net loss is achieved, considering future decline of viable habitat with sea level rise.
110.A.2.	Table outlining requirements for environmental and geotechnical reporting, as well as needs and alternatives analysis for different types of stabilization.	Clarify code ambiguities and clearly outline when different types of reports are required for repair/replacement/new stabilization. Also addition of needs analysis per Ecology recommendations to comply with WAC 173-26-231(3)(iii)(C). Also includes expanded definition of new vs replacement stabilization, and outlines criteria for considering replacement as new stabilization to provide clarity to applicants and planning staff.
110.A.3.	Section added to outline demonstration of need for stabilization.	Provide clear criteria for a needs analysis to be submitted by applicants for planning staff review. Includes potential needs outlined in state law. Criteria also adopted from Mason County.
110.A.4.	Addition of "structural" to define requirements for this section. Cross reference to needs analysis section above, and define upland retaining walls for clarity.	Soft-shore methods may be appropriate for scenarios listed in this section, and this section instead will focus on prohibitions/restrictions on structural shoreline stabilization per staff recommendations. Definition of upland retaining walls in subsection e recommended by critical areas planner, considering this term is not elsewhere defined.
110.A.5.	Addition of "structural" to define requirements for this section.	Provide clear criteria for review of existing stabilization and cross reference 110.A(1)(b).
110.A.5.f.	Provisions outlining requirements for replacement of stabilization, including when replacement is regulated as new stabilization.	Clarify reporting requirements as well as when director may waive reports, adopted from San Juan County.
110.A.6.	Section outlining design standards for non-structural, soft shoreline stabilization.	Design guidelines adopted from San Juan County and adopted for Island County to ensure soft-shore design follows current guidelines and has minimal ecological impact.
110.A.7.c.(iii).	Add requirement for alternatives analysis, needs analysis, BSA, and geocoastal analysis for applications for jetties.	Recommended by staff to clarify application requirements for jetties and ensure adequate reports are submitted for review to ensure no net ecological loss.
110.A.7.d.(iii).	Add requirement for alternatives analysis, needs analysis, BSA, and geocoastal analysis for applications for groins.	Recommended by staff to clarify application requirements for jetties and ensure adequate reports are submitted for review to ensure no net ecological loss.
110.A.8.b/c.	Change geotechnical to geocoastal.	Geocoastal analyses are more comprehensive reports for adequately reviewing stabilization design.
110.A.8.d(v).	Provision expanded to clarify threshold for considering when vertical bulkhead may be considered an appurtenance.	Set limit on when a vertical bulkhead is considered an appurtenance to a single family residence (no > than 1 cubic yard of fill per 1 foot of wall may be used as backfill).

110.A.8.d(vii).	Provision added to clarify that bulkheads must parallel OHWM, and clarify that wing-walls and return-walls may be permitted.	Based on TRC recommendation to ensure consistent stabilization design.
110.A.8.k.	Design guidelines for stabilization adjacent to shoreline without stabilization.	Adopted from San Juan County to ensure that new stabilization does not detrimentally impact neighboring parcels without stabilization.
110.A.8.l.	Design guidelines for stabilization adjacent to shoreline with stabilization.	Adopted from San Juan County to ensure that new stabilization does not detrimentally impact neighboring parcels with existing stabilization, and design effectively ties in with existing stabilization.
110.B.7.	Update provision to require geocoastal analysis.	Ensure that beach enhancement activities do not detrimentally impact shoreline processes.
110.B.11.	Update provision to require BSA.	Ensure that beach enhancement activities do not detrimentally impact ecological functions and values.
110.B.12.	Clarify when the county may grant relief from SMP requirements and permitting requirements for restoration within urban growth areas.	Create consistency with WAC 173-27-215.
110.B.12.	Table outlining requirements for reports and permitting for different types of restoration.	Provide clear regulations for types of restoration that references applicable laws outlined in WAC 173-27-040, and SMP definition section to create a consistent approach to regulating restoration projects.
110.C.1.	Provision expanded to clarify applicability of this section to all shoreline vegetation including when no permits have been submitted.	Clarify that this section applies even when no permits have been submitted for review.
110.C.2.a.	Standards added for replanting native vegetation after removal, consistent with ICC 17.05A.090..	Set enhancement standards for native vegetation replacement to ensure no net ecological loss.
110.C.3	Standards of native vegetation removal expanded on in this section.	Clarify that equal square footage of native vegetation to replace non-native vegetation removal at natural densities appropriate to the site (at a 1:1 ratio), and also set limits on monitoring requirements.
110.C.7.	Cross reference item 10.	Improve clarity and consistency.
110.C.8.	Expand regulations to prevent single tree removal.	Clarify language around thinning of a stand to prevent ecological loss through whole tree removal, unless the tree is a hazard tree, with a cross reference to section 10.
110.C.10	New section of hazard tree removal to clarify regulations and set clear, arborist based standards.	Prevent ecological loss by ensuring that tree removal is limited to hazard trees only, and clarify which types of reports are required for planning review based on location of tree proposed for removal. Also outlines best practices for preventing damage during removal, as well as standards for revegetation at a 1:1 ratio to prevent ecological loss.
110.C.11.	Cross reference 17.05A.090.H.	Improve clarity and consistency.
110.C.12.	Expand regulations to discuss allowance for aquatic weed control for passive recreational purposes, cross referencing WDFW 2015 Aquatic Plants and Fish pamphlet, DOE	Allow for maintenance of passive recreational facilities, in accordance with state guidelines from DOE and WDFW.
110.C.13.	New regulation to specify that vegetation maintenance may require a geotechnical evaluation.	Recommended by staff to clarify requirements for clearing near geologically hazardous areas and prevent violations of Chapter 11.
110.D.2	Prohibit fill in flood hazard areas except for limited circumstances. Cross reference wetlands regulations for fill within vicinity of critical areas.	Improve protection of flood hazard areas and critical areas by cross-referencing environmental protection criteria and standards. Adopted from San Juan County and adapted for Island County.
110.D.4	Set standards for land clearing, grading, filling, or alteration of natural drainage and topography for residential construction.	Clarify that all temporary impacts shall be restored and include vegetation management standards in line with section 10. From San Juan County and adapted for Island County.
110.D.5	State that all building site plans must show all trees on site plan for nonresidential construction, and label which trees are to be removed.	Includes standards to ensure that no net ecological loss is achieved, while also clarifying report requirements and site plan requirements to allow staff the ability to track projects and ensure compliance.
110.F.	Table addressing reporting requirements and preferred alternatives for breakwaters and tide gates. Section also includes new cross-references to 17.05A.110.E, and 110.B.21.	Staff recommendation to achieve no net ecological loss by encouraging preferred designs with less environmental impact for these structures. Also clearly states reporting requirements for staff review to ensure thorough review occurs. Cross-references in following items 7 and 21 improve consistency and clarity.
130.B.8.b.	Describe mediation process for resolving OHWM disputes, with final determination by OHWM.	Create a pathway for addressing OHWM disputes that relies on state guidance through the Department of Ecology.

130.C.3	Require a pre-application conference prior to SDP, S-CUP, and S-VAR submittals.	Improve review efficiency and applicant communication by holding a comprehensive pre-application conference prior to submittal.
130.C.8	Protocol for review of Washington State Department of Transportation projects.	Create consistency with state laws pertaining to WASDOT projects pursuant to RCW 47.01.485 and RCW 90.58.140.
130.C.12.	Mailing standards after expiration of local appeal period for correspondence with Department of Ecology and Office of the Attorney General.	Improve communication and application submittal to the Department of Ecology in line with requirements outlined in RCW 90.58.140(6).
130.C.13.	Remove section pertaining to "date of filing."	Improve consistency with WAC 173-27-190.
130.C.15.	Outline responsibilities of Department Director and Planning Commission.	Clearly describe roles and responsibilities of the Department Director and Planning Commission with regards to shoreline permit review and SMP recommendations.
130.D.6.	Add section regarding amendments or revisions to the SMP referencing the 14 day period from Ecology's written notice of action.	Create consistency with required timelines for SMP revisions.
130.E.2.d(i)	Update dollar threshold for SHE review.	Update to current valuation of \$7,047.00.
130.E.2.d(viii)	Update dock threshold for SHE review.	Update to current fair market value of \$20,000.
130.E.2.d(xvi)(4)	Include fish habitat enhancement projects for SHE review.	Improve consistency with WAC 173-27-040(2)(p) and RCW 77.55.181.
130.E.2.d(xix)	Include SHE language for retrofitting of existing structures for ADA compliance.	Improve consistency with WAC 173-27-040.
130.E.2.e	New section outlining criteria for SHE vs SHE Limited Review (LR).	Establish clear standards in the SMP for SHE-LR vs SHE review to improve efficiency and provide consistent guidance to applicants. To qualify for SHE-LR, project must qualify for a SHE exemption, not require SEPA, avoid critical areas impact, and qualify for a Type I permit review. Section outlines specific types of minor projects that qualify to improve clarity. This section also clarifies requirements of vegetation maintenance activities, cross-referencing ICC 17.05A.110.C to improve clarity. These activities do not require permit review if the proposal does not meet the definition of development outlined in the SMP.
130.F.3.a.	Outline authority of planning department to request special reports to review a project for adverse environmental impact.	Achieve consistency with the policies of RCW 90.58.020 and ensure no net loss through thorough application review.
130.F.3.b.	Criteria for assessment of cumulative ecological impacts.	Provide clear standards for applicant assessment of cumulative impacts, and planning review guidelines, to ensure no net loss of ecological function.
130.G.7.	Decision criteria for S-VAR approval involving impact to critical areas and/or associated buffers.	Set clear standards for S-VAR approval involving critical areas and/or associated buffers to ensure no net ecological loss, cross-referencing ICC 17.05A.C.7 which outlines mitigation sequencing.
130.K.1-6.	Establish criteria for Island County to adopt a moratorium control or other interim control on development under RCW 90.58.590.	Clearly state process for adopting a moratorium or other development control consistent with RCW 90.58.590, including process to adopt the moratorium.
140.A.	Establish that the burden shall be on the property owner to prove that a use or structure was lawfully established.	Clearly state that the burden of proof lies with the landowner and/or applicant, with a cross-reference to ICC 17.05A.110.A.5.j for consistency regarding shoreline stabilization.
140.B.2	Cross reference ICC 17.05A.090.E and establish variance review criteria for projects involving lateral expansion of structures into prohibited areas. Special standards outlined for replacement of grandfathered factory built homes, limiting increase in size to less than 25% of the existing home's footprint. For these projects, replacements shall include a habitat management plan and may not be closer to the shoreline than the existing residence.	Establish clear criteria for reviewing expansion of legally established, non-conforming structures to improve efficiency and achieve no net ecological loss.
140.B.3	Clarify that a structure for which a variance has been issued shall be considered a legal nonconforming structure.	Outline legal status of projects approved through an S-VAR.

140.B.4	Standards for rebuilding nonconforming development after damage from fire, flood, or other natural disaster.	Clarify that nonconforming development may be reconstructed in the same footprint and configuration after damage, provided this does not result in adverse effects to the shoreline and the site is not a geologically hazardous area. Relocation may only occur to increase conformity.
140.B.5	Standard requiring that a nonconforming structure moved any distance must be brought into SMP conformance.	Create threshold for improving conformity with relocation of nonconforming development.
140.B.6	Standard requiring that a nonconforming structure modified beyond 60% of fair market value must be brought into compliance with the SMP.	Create threshold for improving conformity with replacement/repair of nonconforming development past the 60% fair market threshold.
140.B.7	Review standards for movement, replacement, redevelopment expansion or modification of nonconforming structures.	Ensure no net ecological loss and prevent adverse impacts to critical areas, people, or property.
140.B.8	Review standards for ensuring no net loss of shoreline ecological function.	Outline analysis requirements for redevelopment of nonconforming development to ensure no net ecological loss.
140.C.1.	Cross reference 17.05A.090.D.2 and change permit to S-VAR from S-CUP for projects involving expansion of legal nonconforming uses.	Clarify permitting requirements and cross-reference for clarity.
<b>2024 SMP Final Updates</b>		
17.05A	Various	Incorporated Ecology Updates - mandatory and suggested
17.05A	Throughout	capitalized Chapter, placed ICC after code reference, replaced "section" with ICC, and 17.02 and 17.02A changed to 17.02B
17.05A	Figures	Retitled to match current code
035.E	Moved 17.05A.090.E to 035.E	Code Reviser suggestion
040.C	Added 040.C to adopt portions of Critical Areas Code 17.02B by reference	Clean up redundant language regarding critical areas and ensure the same sections are referenced as previously
040.D	Added D to reference section of Health Code	Was previously referenced, so added reference to new code update
040.E	Moved from 090.C.17.j, reworded from just stream buffers to all development regulations. "If a conflict exists between the development regulations outlined in this chapter and those of another chapter of Island County Code, the more restrictive shall apply."	Code clean up, ease of use. This was buried, but it does apply to the whole chapter, not just stream buffers.
050.A	added :"Except as exempted in this section, ICC 17.05A.050," lowercase t	Code Reviser suggestion
050.B	added :"Except as exempted in this section, ICC 17.05A.050," lowercase t, update RCW citation	Code Reviser suggestion
050.C	Changed applicability from federal agencies to lands under federal control	Code Reviser suggestion
050.C.5	Moved 17.05A.050.B.1 to 050.C.5 and reworded	Code Reviser suggestion
050.F	Reword header for F and reorganize subheaders	Code Reviser suggestion
060.E.2.b	removed list of lakes	Code reviser suggestion, all other environmental designations are located on our map, not in current code.
070	removed redundant definitions from other sections of ICC	Code clean up
070	Act definition removed "of 1971" to reflect WAC 173-26-020(1)	Code reviser suggestion
070	Administrator changed to Adminstrator, Shoreline	Code Reviser suggestion
070	Adverse impact defintion cleaned up	Code Reviser suggestion
070	Appurtenance changed to Apputenance, normal	Code Reviser suggestion, reflects language in code
070	Aquaculture, commercial defintion removed redundant language	Code Reviser suggestion
070	Added new definition of "backshore means a berm, together with associated marshes or meadows on marine shores, landward of the ordinary high water mark which is normally above high tide level and has gradually been built up by accretion."	Code Reviser suggestion
070	boat definition changed to include all types of engines and motors	Code reviser suggestion

070	altered "without a canopy" to "with or without a canopy" from boat lift definition	Code reviser suggestion
070	Buffer width definition added.	Code reviser suggestion
070	canopy, boat lift and canopy, tree both now defined	Code reviser suggestion
070	Refined home industry/occupation section of Commercial Development and fixed citations	Code Reviser suggestion
070	Compensatory mitigation definition refined regarding mitigation ratios being determined by submitted reports	Code Reviser suggestion
070	Drive-on floating boat lift moved to boat lift, drive on floating	Code clean up
070	Ecological processes definition refined and cross referenced to ecosystem-wide processes	Code Reviser suggestion
070	Ecosystem-wide processes defintion refined and cross referenced to ecological processes	Code Reviser suggestion
070	Add new definition: Erosion means the geological process in which earthen materials are detached and transported away by natural forces such as wind, rain, waves, currents, tidal action, frost wedging, and/or gravity, among others.	Public Comment
070	Existing lot removed because term not used in SMP	Code Reviser suggestion
070	Expansion definition refined	Code Reviser suggestion
070	Feasible definition clarified to apply to SMP(Chapter), not all of Title 17	Code Reviser suggestion
070	Fish and Wildlife Habitat Conservation Area definition amended to include amended DNR maps and revised for clarity	Code clean up.
070	Dock added to "Float Plane Dock" definition	Code Reviser suggestion
070	illegal use definition clarified, differentiated from nonconforming use	Code Reviser suggestion
070	In-water facilities definition updated to include float plane facilities instead of undefined seaplane facilities	Code Reviser suggestion
070	Refined home industry/occupation section of Industrial	Code Reviser suggestion
070	Infeasible definition added, also directs to feasible	Ease of use
070	Infrastructure, public definition deleted due to redundancy with infrastructure definition	Code Reviser suggestion
070	Legally established use or structure definition added	Code Reviser suggestion
070	Live aboard vessel definition, removed incorrect WAC citation	code clean up
070	"Log storage" definition clarified with "timber" instead of "trees"	Code Reviser suggestion
070	low intensity agriculture definiton cleaned up	Code reviser suggestion
070	Maintenance and repair, normal added to redirect people to Normal maintenance and repair.	Code reviser suggestion
070	"Marina" definition cleaned up	Code Reviser suggestion
070	"Marine buffer, see buffer, marine" added	Ease of use
070	Normal appurtenance definition corrected so that it is clear that a normal appurtenance does not need to be physically attached to a SFR	Code Reviser suggestion
070	OHWM definition reworded so that it reflects the definition in WAC 173-22-030 and for grammatical clarity	Code Reviser suggestion
070	Pervious pavement definition refined	Code Reviser suggestion
070	Primary structure code citation fixed, as definition applies to entire Chapter	Code Reviser suggestion
070	Production facilities defintion refined	Code Reviser suggestion
070	Recreation definitions refined to include separate active and passive definitions.	Code Reviser suggestion
070	replacement definition clarified	code reviser suggestion

070	Added "residence" definition - a structure used as a home or dwelling	Code Reviser suggestion
070	Retaining wall definition refined	Code Reviser suggestion
070	Riprap definition removed reference to concrete chunks, which are prohibited by code	Code clean up
070	Shoreline exemption inapplicable RCW citation corrected	Code clean up
070	Shoreline jurisdiction definition clarified, inapplicable citation removed	Code Reviser suggestion
070	Shorelines of statewide significance RCW reference fixed from 90.85.030(2)(e) to (f)	Code Reviser suggestion
070	Shoreline substantial development permit exemption and shoreline exemption definitions merged	Code reviser suggestion
070	structural shoreline stalinization, new definition replaces legally existing with legally established, a defined term	Code Reviser Suggestion
070	subdivision code cite updated	Code clean up
070	Update "substantial development" definition	Replace outdated dollar amount with "the Substantial Development Dollar Threshold as set by the Office of Financial Management", added to reflect current RCW cite language
070	walkway definition added	clarify code for docks, etc.
070	Wetland and Wetland identification and delineation definitions removed from SMP	Information referenced from Critical Areas 17.02B
080 Intro Section	Add description of "Conditional uses and development", modify to Chapter 90.58 RCW, reword intro section	Language clarification requested by Code Revisor.
080 Table 1	Add header "Protective Structures and Activities"	Code Reviser suggestion
080 Table 1	Footnote 16 clarified, legally existing replaced with legally established, a defined term	Code Reviser suggestion
090	Reorganized for usability	Code reviser suggestion
090.A.4.b	Legally existing replaced with legally established, a defined term, reword for clarity	Code Reviser suggestion
090.A.22	Moved from dock section, applies to entire smp	Code reviser suggestion
090.B.2.e	Fixed reference	Fixed from refering to 17.02A.070 to 17.02B.510
090.B.3	refunded changed to released	Code Reviser suggestion
090.C.13.i-m	Moved to new FWHCA section 090.F.1-8	Code reviser suggestion
090.C.14,15	Removed, already in Critical areas code	Code clean up
090.C.18	Wetlands section removed, already regulated in 17.02B which is adopted by reference	Code clean up
090.D	Environmental protection and critical areas broken down into E. Geologically hazardous areas, F. Fish and wildlife habitat conservation areas, G. Shoreline species and habitats of local importance, and H. Classification of water types and buffer widths	Code reviser suggestion
090.D.4.b(ii)	reworded for clarity	Code Reviser suggestion
090.D.7,8,9,10	Removed, already in Critical areas code	Code clean up
090.D.8	reworded for clarity	Code Reviser suggestion
090.D.12	now E. Geologically hazardous areas	Code reviser suggestion
090.D.13	now F. Fish and wildlife habitat conservation areas	Code reviser suggestion
090.D.13.d	BSA info moved to 095 reports section	Ease of use
090.D.13.e and f	now G. Shoreline species and habitats of local importance	code reviser suggestion
090.D.13.g and h	now H. Classificaiton of water types and buffer widths	code reviser suggestion
090.D thru P	Subsections D-P relettered	To fix sections after creating new subsection F
090.I.2	principal structure replaced with primary structure	Code Reviser suggestion
090 Table 3 footnote 5	replaced commonline with common line	Code reviser suggestion
090 Table 3 footnote 6	added "lot coverage" to clarify	Code reviser suggestion
090.J.2.d	fixed code citation to reflect reorganization	Code reviser suggestion

090.J.2 & 3	"established in accordance with..." replaced by "must meet the requirements of..."	Code reviser suggestion
090.J.5.a, a(i), b & c	principal replaced with primary	Code reviser suggestion
090.H	Table 2 stream buffer for "Perennial stream, does not contain fish habitat changed from 50' to 75'	To reflect Critical Areas Code and meet standard of "If a conflict exists between the stream buffers outlined in this chapter and those of another chapter of Island County Code, the more restrictive shall apply."
090.I.2	principal strucure changed to primary structure, a defined term	Code Reviser suggestion
Figures 5, 6, 7	Change Non-Conforming House to Legally Existing Residence for parallel language with code	Code Reviser suggestion
090.J.1.c	added "as demonstrated by a biological site assessment" to end of 1.c	Code reviser suggestion
090.J.1.d	added "as demonstrated by a geotechnical or geocoastal analysis" to end of 1.d	Code reviser suggestion
090.J.1.e	changed "geologic-" to "geotechnical or"	Code reviser suggestion
090.J.1.j	added "as demonstrated by a biological site assessment, and a geotechnical or geocoastal analysis" to end of 1.j	Code reviser suggestion
090.J.2	"Development permitted within the shoreline setback" changed to "Requirements for development proposed within the shoreline setback"	Code reviser suggestion
090.J.3	"Development permitted within the shoreline buffer" changed to "Requirements for development proposed within the shoreline buffer"	Code reviser suggestion
090.K	clarified that the buffer can only be reduced on site	Code Reviser suggestion
090.K.1	changed distance "equal to" to "not greater than"	Code Reviser suggestion
090.K.2	changed "required buffer" to "standard buffer"	Code Reviser suggestion
090.K.3	added "on site" to clarify the credit was only useable on site, not anywhere else, removed wetland report language already found in 17.02B	Code Reviser suggestion
090.L	Figure 8 moved to 090.L	Ease of use. Eliminates need to skip to end of 17.05A to see figure.
090.L.4	Clarified to shoreline buffer area is <i>vegetated</i> with less than 50 percent.	Code Reviser suggestion
090.J.2	Header reworded to "Requirements for development proposed within the shoreline setback"	Code Reviser suggestion
090.J.2.e	"beach access" changed to "beach access structures"	Code reviser suggestion
090.J.3	Header reworded to "Requirements for development proposed within the shoreline buffer"	Code Reviser suggestion
090.J.3.a	"beach access" changed to "beach access structures"	Code reviser suggestion
090.J.4	hyphen removed from nonconforming	Code reviser suggestion
090.J.6	reworded for clarity	code reviser suggestion
090.J.6.a and a(iii)	replaced commonline with common line	code reviser suggestion
090.J.6.a(i)	reworded for clarity	code reviser suggestion
090.J.6.a (i),(ii)	residential structure replaced with residence for clarity and to match code intent	code reviser suggestion
090.J.6.a(ii)	removed "and any accessory structures" as this section is solely about placement of residence	code reviser suggestion
090.J.6.a(iii)	project into the common line altered to project beyond the common line	code reviser suggestion
090.J.6.b(iii)	reworded for clarity	code reviser suggestion
090.N.9.a & c	Capitalized beginning of sentences	Proper grammar
090.N.10	Geotechnical changed to Geocoastal	proper term usage
090.N.12	"should" changed to "shall"	FEMA Biop's language was changed from shall to should by staff during last update.
090.N.14	reworded for clarity	Code Reviser suggestion
090.Q.4	added "and"	Code Reviser suggestion
095	Shoreline Reports section added	to put all information regarding shoreline reports in one section

095.A.1.b	critical freshwater habitat removed, not defined in code	code clean up
095.A.1.c	added oxford comma after Osprey	Proper grammar
095.A.2	Recommendations replaced with recommendations	Code Reviser suggestion
095.A.3.a,b	Legally existing replaced with legally established, a defined term	Code reviser suggestion
095.A.3.j	reworded for clarity	Code reviser suggestion
095.A.3.k,l	separated from j	Code clean up
095.A.3.l(ii)	replaced legally-existing with legally established	Code reviser suggestion to match definitions in 070
095.B	Subsections reworded for clarity	Code reviser suggestions
095.C.1.c	Removal of requirement to prove a primary structure will be damaged on "a trend analysis of prior rates of erosion" when evaluating shoreline armoring projects	Public comment
100.C	"beach access" changed to "beach access structures"	Code reviser suggestion
100.C.9	reworded for clarity	Code Reviser suggestion
100.D.1	reworded for clarity, added "intended use"	Code Reviser suggestion
100.D.14	Clarified when existing pilings could be repaired by encapsulation	Code reviser suggestion
100.D.23	convenience changed to opportunity	Code reviser suggestion
100.E	float planes changed to two words per definition section, and mooring buoys added back to title since there are still development regulations in a mooring buoys subsection	Code Reviser suggestion
100.E.1.c	float planes changed to two words per definition section	Code Reviser suggestion
100.F.15	fixed code citation from 100.K to 100.L	Code Reviser suggestion
100.G.6.B	fixed code citation from 090.D to 090.H	Code Reviser suggestion
100.K.15	fixed code citation 090.L to 090.N	Code reviser suggestion
100.K.25.c, & d	Update reference from 090.G & H to 090.L & M	Change to correct code citation
100.K.25.e(ii)	fix code citation to 090.L & M	Code reviser suggestion
100.K.25.e(iii)	reworded for clarity on deck height in setback	Code reviser suggestion
100.K.25.e(iv)(1)	"enhance an area <del>of</del> equal to the deck size"	Reword for clarity/gramar
110.A	Reorganized for usability	Code reviser suggestion
110.A.1.b	Alternatives Analysis moved to new .095 reports section	Ease of use
110.A.1.i	Added reference to 110.A.2 table	Code reviser suggestion
110.A Table 5	Footnote 1, legally existing changed to legally established	code reviser suggestion
110.A Table 5	Added footnote reference to 17.05A.110.A.3.g.	Code Reviser suggestion
110.A Table 5	Added footnote reference to 17.05A.110.A.4.g	Code Reviser suggestion
110.A.2.a & b	fixed code citation	Code Reviser suggestion
110.A.2.d(i),(ii)	fixed code citations	Code Reviser suggestion
110.A.2.d(v)	Geotechnical changed to Geocoastal	proper term usage
110.A.2.e	Geotechnical changed to Geocoastal	proper term usage
110.A.2.e(ii)	Removal of requirement to prove a primary structure will be damaged on "a trend analysis of prior rates of erosion" when evaluating shoreline armoring projects	Public comment
110.A.2.g	Section removed because of Geocoastal Reports consolidated to 095	Director suggestion
110.A.3	Demonstration of Need moved to 095.D	Code Reviser suggestion
110.A.3	fixed code citation to 110.A.3.d	code reviser suggestion
110.A.3.c(iv)	Removed as it created duplicative standards	Director suggestion
110.A.3.f	fixed code citation to 110.A.3.g and h	Code reviser suggestion
110.A.3.h	added proposal after shoreline stabilization	Code Reviser suggestion
110.A.3.h(i)	added construction to list of permits proving legal existence	Code Reviser suggestion
110.A.4.c	clarified that section relates to 80% of the volume of the project	Code reviser suggestion
110.A.5.d(iii)	fixed code citation to 095.D and E	Code Reviser suggestion

110.A.5.e(iii)	fixed code citation to 095.D and E	Code Reviser suggestion
110.A.5.f(i)	Removal of requirement to prove a primary structure will be damaged on "a trend analysis of prior rates of erosion" when evaluating shoreline armoring projects	Public comment
110.A.6.b	removed because it is referenced elsewhere and not a design regulation	Code Reviser suggestion
110.A.6	relettered section after removing b (c-k)	Code Reviser suggestion
110.A.6.c	reworded for clarity	Code Reviser suggestion
110.C.11	Fixed code citation to 090.M	Code Reviser suggestion
110.D.2	last sentence moved to D.7	Code clarity, applies to entire section
110.D.5.a(iii)	added to clarify hazard tree removal requirement	Code Reviser suggestion
110.D.5.a	removed redundant sentence, already in D.3	Code reviser suggestion
110.F.4	geotechnical report changed to geocoastal analysis	correct term
110.F.8	change code reference to table 7	code reviser suggestion
130	Renumberated D-L (130.D moved to 130.L)	Code reviser suggestion
130.B.5	Capitalized Act	Code Reviser suggestion
130.C.3	Changed language from shall to should in regards to preapplication conferences for SDPs, S-CUPs, and S-VARs	Board direction for flexibility in administering code
130.C.6	former 130.C.6 moved to 130.C.15 with other Shoreline Administrator duties	Code clean up
130.C.6	added "decisions on"	Code Reviser suggestion
130.C.12	reworded for clarity	Code Reviser suggestion
130.C.12.b(i)	added SDP after Substantial Development permit to parallel SVAR and SCUP	Code reviser suggestion
130.C.15	deleted Planning Commission, as there is no reference to duties of PC in this section, Director changed to Shoreline Administrator (the definitions sections designates the Director as the Shoreline Admin already)	Code Reviser suggestion
130.C.15.a	Eliminated a. Director and moved everything up one category	Code Reviser Suggestion
130.C.15.a	change county council to Board of Island County Commissioners	Code Reviser suggestion
130.C.15.b	former 130.C.15.b moved to 130.L.6	Code reviser suggestion
130.C.15.j	reworded for clarity	Code Reviser suggestion
130.D	Moved to 130.L, former 130.E relettered as 130.D	Code Reviser suggestion, for section continuity/organization
130.D.1.a	reworded for clarity and fixed WAC citation	Code Reviser suggestion
130.D.2.a	added new a. Shoreline exemptions are processed as a Type I or Type II application and shall be subject to the land use review process described in Chapter 16.19 ICC. See ICC 17.05A.130.C.2. then renumberated remaining 130.D.2.b, c, d, e...	Code reviser suggestion
130.D.2.e(i)	replaced SDP dollar amount with "the Substantial Development Dollar Threshold as set by the Office of Financial Management"	Code Reviser suggestion
130.D.2.e(ii)	Removed definition language for already defined terms	Code Reviser suggestion
130.D.2.e(viii)(2)	Reworded (a) and (b) for clarity	Code Reviser suggestion
130.D.2.e(viii)(3)	reworded for clarity	Code Reviser suggestion
130.D.2.e(xvi)(4)	reworded to ensure this is a requirement for project to meet RCW 77.55.181	Code Reviser suggestion
130.D.2.f(i) & (iii)	Shoreline Exemption added after Limited Review	Code Reviser suggestion
130.D.2.f(i)(4)	wetland, stream, critical drainage area, flood hazard area, steep slope, geologically hazardous area, habitat of local importance, FWHCA all included in exclusion from limited review shoreline exemption	Meets current standard and application requirements for limited review
130.D.2.f(iii)(2)	Add allowance for drainfield replacement under a limited review shoreline exemption	Staff suggestion for expediting repair of failed septic systems in shoreline.

130.D.2.g	Shoreline Exemption added after Limited Review, fixed citation from item e to item f	Code reviser suggestion
130.D.g(ii)	changed "concrete pad" to "precast concrete" to align with 130.D.g(vii) "...does not include excavation or the pouring of concrete	
130.D.2.h	shoreline exemption added after limited review	Code Reviser suggestion
130.F.7.a	reword from "will not adversely impact receiving water quality or quantity" to " will not adversely impact water quality or quantity"	Code Reviser suggestion
130.F.7.d	possible changed to feasible (a defined term), added adverse before impacts, removed to the maximum practical extent	Code Reviser suggestion
130.F.8 & 9	Renumbered from 7 to 8 and from 8 to 9	Code Reviser suggestion
130.H	reference to RCW 90.58.140(5)(b) removed, no floating bridges in Island County	Code Clean up
130.I	WAC 173-16-070 to WAC 173-16-130	Corrected code citation
140.A	changed "shoreline stabilization" to "shoreline stabilization structures"	Code Reviser suggestion
140.A	fixed code citation from 17.05A.110.A.5.j to 3.h	Code Reviser suggestion
140.C.1.b	Legally existing replaced with legally established, a defined term	Code reviser suggestion
150	WAC 173-27-300 changed to 173-27-310	310 added by state