CITY OF
BAINBRIDGE ISLAND

Planning Commission
Regularly Scheduled Meeting
Thursday, September 28, 2017
7:00 – 9:00 PM
Council Chamber
280 Madison Ave N
Bainbridge Island, WA 98110

AGENDA

6:00 PM	Pedestrian Bridge Public Meeting
7:45 PM	CALL TO ORDER Call to Order, Agenda Review, Conflict Disclosure
7:50 PM	REVIEW AND APPROVAL OF MINUTES June 19, 2017 June 22, 2017 July 13, 2017 August 10, 2017 September 14, 2017
8:00 PM	PUBLIC COMMENT Accept public comment on off agenda items.
8:10 PM	SHORELINE MASTER PROGRAM GENERAL AMENDMENT Christy Carr, Senior City Planner
8:55 PM	NEW/OLD BUSINESS
9:00 PM	ADJOURN

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

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

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

Planning Commission
Regularly Scheduled Meeting Minutes
Monday, June 19, 2017

CITY OF BAINBRIDGE ISLAND

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
REVIEW OF MINUTES – June 15, 2017
PUBLIC COMMENT – Accept public comment on off agenda items
ROOST PHASE 2 (PLN50076B SPR) – Review and Recommendation
CRITICAL AREAS ORDINANCE – Study Session
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
Chair J. Mack Pearl called the meeting to order at 6:05 PM. Commissioners in attendance were Michael Lewars, Maradel Gale, Jon Quitslund, William Chester and Michael Killion. Lisa Macchio was absent and excused. City Staff present were Planning Director Gary Christensen, Planning Manager Joshua Machen, Senior City Planners Heather Wright and Christy Carr and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

The agenda was reviewed. There were not any conflicts disclosed.

REVIEW OF MINUTES – June 15, 2017
The Commissioners asked that the word "discussed" replace the word "canvassed" as used in conjunction with Reasonable Use Exceptions.

> **Motion: I recommend approval of the minutes from June 15, 2017.**
> **Quitslund/Lewars – Passed Unanimously**

PUBLIC COMMENT – Accept public comment on off agenda items
None.

ROOST PHASE 2 (PLN50076B SPR) – Review and Recommendation
Senior City Planner Heather Wright provided a brief overview of the second phase of the Roost project located near Lynwood Center including the retention of an existing historic home, relocation of another existing historic home and redevelopment of 4 mixed use buildings, 15-unit inn and restaurant. Ms. Wright pointed out the trail system network which would also provide connectivity to a trail the Bainbridge Island Metro and Parks District intended to build concurrently outside the development as well as existing trails. She also touched on general water enjoyment, buffers and tree unit requirements.

Adam Wheeler, Brown Wheeler Engineers – Spoke about permeability of the ground and whether it would be possible to use more pervious pavement than impervious. He also spoke about the upgrade to the stormwater system the City recently performed that would catch runoff and deposit it into the Sound.

Chair Pearl provided a re-write of Condition 29 to Senior City Planner Heather Wright. He also wanted fencing along all buffer perimeters.

Commissioner Gale expressed frustration with finding Staff Report reference documents in SmartGov as well as the "sketchy" minutes provided from the Design Review Board regarding the project.

> **Motion: I move we approve the Site Plan Review and SSDP 50076B with the conditions added that were Number 29 that was changed, the fencing of buffers during construction and changing Number 31 to say "will" rather than "may" as requested by the Design Review Board.**
> **Gale/Lewars: Passed Unanimously**

Commissioner Killion brought up water infiltration stating he felt they needed an in-depth discussion.

Break began at 7:30 PM.
Break ended at 7:38 PM.

CRITICAL AREAS ORDINANCE – Study Session
Senior City Planner Christy Carr began the study session by pointing out that changes in the public hearing draft were highlighted in yellow and asking the Commissioners their opinion on excluding the Designated Centers from the critical aquifer recharge area. Further review and discussion commenced from there. Thresholds for pruning were suggested. Creation of a certification to be signed by contractors performing tree work stating they understood the City's code as it applied to tree maintenance and clearing was also discussed.

Public Comment
Mike Juneau, Arborist – Stated he felt good about the direction the Critical Areas Ordinance vegetation code was going. He read a prepared statement about his dream that Bainbridge Island forests appreciated in the future and said that local government needed to raise the bar in how trees were managed.

NEW/OLD BUSINESS
None.

ADJOURN
The meeting was adjourned at 8:46 PM.

Approved by:

_________________________________	_________________________________
J. Mack Pearl, Chair	Jane Rasely, Administrative Specialist

CITY OF BAINBRIDGE ISLAND

Planning Commission
Regularly Scheduled Meeting Minutes
Thursday, June 22, 2017

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
PUBLIC COMMENT – Accept public comment on off agenda items
CRITICAL AREAS ORDINANCE – Study Session
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
Chair J. Mack Pearl called the meeting to order at 6:07 PM. Planning Commissioners in attendance were Maradel Gale, Jon Quitslund, William Chester, Michael Killion and Lisa Macchio. Michael Lewars was absent and excused. City Staff present were Planning Director Gary Christensen, Senior City Planner Christy Carr and Administrative Specialist Jane Rasely who monitored recording and prepared minutes. City Consultant Dave McCormack from Aspect Consulting provided professional geotechnical information.

The agenda was reviewed. There were not any conflicts noted.

PUBLIC COMMENT – Accept public comment on off agenda items
None.

CRITICAL AREAS ORDINANCE – Study Session
Chair Pearl spoke about feeling rushed to get through the material of the Critical Areas Ordinance and asked about pushing their recommendation to City Council out to mid-July asking Ms. Carr and the other Commissioners whether they felt it would be a bad thing to forward something they didn't feel had been reviewed adequately. Conversation proceeded from there to adding additional verbiage to require post-development infiltration to remain the same as pre-development infiltration.

Ms. Carr introduced Dave McCormack, the City's Geotechnical Consultant who helped the Commissioners review the geologically hazardous areas of the ordinance. Factors of safety, setbacks and buffers (with a recommended 75-foot largest setback) and the effects of climate change on the standard being set.

Mike Juneau, Arborist – Had a list of questions for Mr. McCormack about dealing with trees and vegetation management on slopes.

Ms. Carr pointed out changes to the Winslow Ravine section of the ordinance. Coppicing was briefly reviewed again with a consensus that it should be allowed every three years as opposed to every five years. Tree replacement was also discussed.

Mike Juneau, Arborist – Asked that a certified arborist be present when a hired crew is working on a slope. Ms. Carr stated there was not any way to enforce that.

NEW/OLD BUSINESS
None.

ADJOURN
The meeting was adjourned at 9:05 PM.

Approved by:

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J. Mack Pearl, Chair	Jane Rasely, Administrative Specialist

Planning Commission
Regularly Scheduled Meeting Minutes
Thursday, July 13, 2017

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
REVIEW OF MINUTES – June 20, 2017 and June 29, 2017
PUBLIC COMMENT – Accept public comment on off agenda items
CRITICAL AREAS ORDINANCE TRANSMITTAL MEMO
CREATIVE SPACE SITE PLAN REVIEW (PLN50177 SPR)
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
Chair J. Mack Pearl called the meeting to order at 7:07 PM. Commissioners in attendance were Jon Quitslund, William Chester, Michael Killion, Lisa Macchio, Kimberly McCormick Osmond and Don Doman. City Staff present were Planning Director Gary Christensen, Interim Planning Manager Heather Wright, Senior City Planner Christy Carr and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

The agenda was reviewed. Commissioner McCormick Osmond stated she would recuse herself from deliberations about Creative Space as she represented the Saddle Club and Far Echo Farm (neighbors to the proposed project) in a legal capacity.

REVIEW OF MINUTES – June 20, 2017 and June 29, 2017

> **Motion: I move acceptance of the minutes as distributed for June 20, the joint meeting with City Council and Design Review Board and another meeting on the (June) 29th, joint training (with) Council and Design Review Board.**
> **Quitslund/Killion: Passed unanimously**

PUBLIC COMMENT – Accept public comment on off agenda items
None.

CRITICAL AREAS ORDINANCE TRANSMITTAL MEMO
Senior City Planner Christy Carr introduced the memorandum transmitting the updated Critical Areas Ordinance to City Council saying she wanted to give the Planning Commissioners the opportunity to have input regarding it. Chair Pearl asked if the final geotechnical report had been received. Ms. Carr stated it had not yet been received. Ms. Carr also provided the schedule for City Council review. Commissioner Macchio commended Ms. Carr for the cover memo saying it did a really excellent job of providing the Council with sufficient detail about what transpired and covered a lot of material in one accurate and very thoughtful way.

NEW/OLD BUSINESS
Chair Pearl moved New/Old Business forward as they were ahead of schedule. He brought up electing a new chair. It was decided that Planning Director Christensen would look into that process and have it placed on a future agenda for discussion.

Commissioner Macchio suggested each Commissioner introduce themselves since there were new commissioners.

CREATIVE SPACE SITE PLAN REVIEW (PLN50177 SPR)
Commissioner McCormick Osmond excused herself from this portion of the meeting.

Interim Planning Manager Heather Wright presented the project stating they were being asked to provide a recommendation to the Planning Director. She also stated staff were recommending denial as outlined in the Staff Report provided as part of the agenda packet. Ms. Wright highlighted the changes in buffer requirements that occurred during the site plan review process which resulted in more than half the proposed buildings being placed in the new buffers.

Chair Pearl invited anyone from the applicant's group to speak.

Michael Wangen, Architect – Displayed a model while speaking about the project's process from conception to the current time. Mr. Wangen described a piazza and a tight cluster of buildings that would allow the site to remain in its natural condition. He emphasized the small number of people that would inhabit the space on a daily basis while also stating the hope would be to have special events in the piazza that would build community.

Susan Paulson, Lead Legal Consul for the Applicant – Echoed what Ms. Wright said about providing a recommendation to the Director. She stated they would be happy to move forward with conditions for approval and that no purpose would be served by their recommendation of denial.

Adam Wheeler, Engineer – Stated this was a site where low impact development could occur but that the applicant would like to know they can build before they spend the money on an expensive engineering report.

Commissioner Macchio felt the Planning Commission could not make a recommendation until they knew what the buffers were going to be.

Juliet LeDorze, Manager of Neighboring Far Echo Farm – Stated she was not necessarily against the project, but having recently gone through a redevelopment of the horse stable and the expensive studies and reports, felt every developer should have to go through the same process.

She did not understand the need to use Saddle Club Road instead of the applicant owned property to the north.

Jackie Chipman, Current President of the Saddle Club – Wanted to see the intersection of the walker, rider and car safeguarded. Ms. Chipman also mentioned the possible trail development next to a paved road that was discussed at Design Review Board. She asked the Planning Commission to be thoughtful of the Saddle Club's concerns.

Chair Pearl stated he hoped the applicant would finish their work on the plan and bring it back as opposed to making them provide a recommendation without a complete project.

Dave Christiansen, Owner – Spoke about the frustration he had going through this process for almost two years.

> **Motion: I move that we disapprove the Creative Space Site Plan PLN50177 as presented to us on the conditions that the buffer on the west was not resolved relative to where it starts and stops and how wide it has to be. The issues having to do with hydrologist, stormwater flow, the trenches for infiltration, the easement that's on the south edge of the property that recently had been discovered and have some formal paperwork that eliminates that easement and I'd like to have some resolution to where the entrance and exit of the property so it doesn't disturb Saddle Back Road and look at other options for that and also resolving the tree issue in terms of landscaping the parking lot and the resulting issue of tree retention. Remuneration of the other (trees) and other issues covered by staff (in the Staff Report).**
> **Killion/Quitslund – Passed Unanimously**

ADJOURN
The meeting was adjourned at 8:58 PM.

Approved by:

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J. Mack Pearl, Chair | Jane Rasely, Administrative Specialist

Planning Commission
Regularly Scheduled Meeting Minutes
Thursday, August 10, 2017

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
REVIEW OF MINUTES – June 26, 2017
PUBLIC COMMENT – Accept public comment on off agenda items
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
Chair J. Mack Pearl called the meeting to order at 7:00 PM. Commissioners in attendance were Jon Quitslund, William Chester, Michael Killion, Kimberly Osmond McCormick and Don Doman. Lisa Macchio was absent and excused. City Staff present were Planning Director Gary Christensen, Senior City Planners Jennifer Sutton and Christy Carr. Administrative Specialist Jane Rasely prepared minutes from meeting recording.

The agenda was reviewed. There were not any conflicts disclosed.

REVIEW OF MINUTES – June 26, 2017
Minutes were approved via a motion not captured on recording.

PARKER OPEN SPACE PUBLIC HEARING (PLN50837 OS)
Senior City Planner Jennifer Sutton gave an overview of the Parker's application reminding the Planning Commission they would provide a recommendation to City Council and County Land Commissioners about the change in tax classification. Ms. Sutton also mentioned the Parker's taxes would go up in the transfer of land from commercial farmland to traditional farmland.

> **Motion: I'd like to make the motion that we approve the Parker Open Space Plan presented.**
> **Chester/Quitslund: Passed Unanimously.**

PUBLIC COMMENT – Accept public comment on off agenda items
None.

SMP LIMITED GENERAL AMENDMENT – Introduction
Senior City Planner Christy Carr introduced some changes to the State review process for amendments that included a State joint review concurrently with the City's review. Ms. Carr also spoke about incorporating the Critical Areas Ordinance update into the Shoreline Master Program once Council had approved it. She also recapped the Geotech report provided by Herrera for the Critical Areas Ordinance.

DISCUSSION OF ADDING COMMISSION REVIEW OF SUBDIVISIONS

Planning and Community Development Director Gary Christensen led the conversation regarding the possibility of adding the Planning Commission to the subdivision permit application process citing new additions to the Land Use Element in the Comprehensive Plan update.

DISCUSSION OF ELECTION OF COMMISSION CHAIR & VICE-CHAIR

Chair Pearl mentioned they had missed their window of opportunity to elect a new chair and vice-chair in January 2017.

> **Motion: I move that you (J. Mack Pearl) continue until January.**
> **Killion/Quitslund: Passed Unanimously**

NEW/OLD BUSINESS

It was requested that Mark Epstein, the City's project manager for the STO trail and the bridge across Highway 305 attend a future meeting.

ADJOURN

The meeting was adjourned at 8:40 PM.

Approved by:

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J. Mack Pearl, Chair | Jane Rasely, Administrative Specialist

CITY OF
BAINBRIDGE ISLAND

Planning Commission
Regularly Scheduled Meeting Minutes
Thursday, September 14, 2017

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
PUBLIC COMMENT – Accept public comment on off agenda items
SHORELINE MASTER PROGRAM GENERAL AMENDMENT
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
Chair J. Mack Pearl called the meeting to order at 7:00 PM. Commissioners in attendance were Jon Quitslund, William Chester, Michael Killion, Lisa Macchio and Don Doman. Kimberly McCormick-Osmond was absent and excused. City Staff in attendance were Senior City Planner Christy Carr and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

The agenda was reviewed. There were not any conflicts noted.

PUBLIC COMMENT – Accept public comment on off agenda items
None.

SHORELINE MASTER PROGRAM GENERAL AMENDMENT
Senior City Planner Christy Carr gave the Commissioners a handout on the Optional Joint SMP Amendment Review Process from the Department of Ecology and answered questions regarding this process. Housekeeping revisions were presented (see attached).

PUBLIC COMMENT
Dick Haugen, Citizen – Spoke about overall summaries and focus sheets for individual topics in the Shoreline Management Program (SMP) so the lay person could pick it up and understand what the SMP meant for them. He also spoke about making the language precise so there was no ambiguity or room for different interpretations.

NEW/OLD BUSINESS
None.

ADJOURN
The meeting was adjourned at 9:00 PM.

Approved by:

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J. Mack Pearl, Chair | Jane Rasely, Administrative Specialist

CITY OF BAINBRIDGE ISLAND

Department of Planning and Community Development

Memorandum

Date: September 28, 2017

To: Planning Commission

From: Christy Carr, AICP
Senior Planner

Subject: Shoreline Master Program (SMP) Amendment

Staff will present several examples of recent shoreline land use applications, including single-family homes, appurtenant/non-habitable structures, vegetation maintenance, to provide background for continued discussion on SMP Sections 4.1.2 and 4.1.3.

Please review attached documents:

- Existing SMP Sections 4.1.2 and 4.1.3
- Proposed changes

4.1.2 Environmental Impacts

4.1.2.1 Applicability

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

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

4.1.2.2 Goal

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

4.1.2.3 Policies

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

    a. Effects on ecological functions and ecosystem-wide processes, including temporal loss of functions; and

    b. Effects that occur on-site and effects that may occur off-site; and

    c. Direct and indirect effects and long-term effects of the project; and

    d. Effects of the project and the incremental or cumulative effects resulting from the project added to other past, present, and reasonably foreseeable future actions; and

e. Compensatory mitigation actions that offset adverse impacts of the development action and/or use.

5. To provide for comprehensive management strategies for shoreline areas, integrate planning and regulatory measures, such as those within the comprehensive plan, regional watershed plans, or state and federal regulations.

4.1.2.4 Regulations-Impact Analysis and No Net Loss Standard

1. All shoreline development, use and activities, including preferred uses, and uses that are exempt from a shoreline substantial permit, shall be located, designed, constructed, and maintained in a manner that protects ecological functions and ecosystem-wide processes. All proposed shoreline development, uses and activities shall:

   a. Utilize the required mitigation sequence of Section 4.1.2.6, Regulations – Mitigation; and

   b. Utilize effective erosion and scour control methods during project construction and operation; and

   c. Minimize adverse impacts to critical salt water habitat, fish and wildlife conservation areas, and/or other ecological functions and ecosystem-wide processes, such as those provided by shoreline vegetation; and

   d. Minimize interference with beneficial natural shoreline processes, such as water circulation, sand and gravel transport movement, erosion, and accretion; and

   e. Avoid hazards to public health and safety; and

   f. Minimize the need for shoreline stabilization measures and flood protection in the future; and may require a geotechnical analysis to ensure that the proposed activity meets this regulation (See Section 6.2, Shoreline Stabilization); and

   g. Result in no net loss of ecological functions and processes necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time.

2. In reviewing and approving shoreline development, use or activity, regardless of whether a permit is required the following shall apply:

   a. The Administrator shall condition the shoreline development, use, and/or activities such that it will:

      i. Meet provisions in subsection 1 above; and

      ii. Employ measures to mitigate adverse impacts on shoreline functions and, processes, if necessary; and

      iii. Modify the site plan and/or adjust the project dimensions, intensity of use, or screening as deemed appropriate to address impacts. If impacts cannot be avoided through design modification, the Administrator shall require compensatory mitigation, pursuant to regulations in Sections 4.1.2.5, Regulations – Revegetation Standards, and 4.1.2.6, Regulations – Mitigation; and

b. If a proposed shoreline development, use or activity is determined by the Administrator to result in significant short-term, long-term, or cumulative adverse environmental impacts lacking appropriate compensatory mitigation, it shall be sufficient reason for the Administrator to deny a permit.

3. To assure that development activities contribute to meeting the no net loss provisions pursuant to subsection 1 and 2 above, an applicant is required to submit a site-specific analysis of potential impacts and a mitigation plan that includes compensatory mitigation measures when determined necessary as a result of the analysis. The site-specific analysis shall be prepared in accordance with Section 4.1.2.9, Submittal Requirements – Site-Specific Impact Analysis and Mitigation Plan.

4. To mitigate anticipated impacts and meet the no net loss standards in subsection 1 and 2 above, an applicant for a single family residential development or accessory structures may choose to use the Standard Residential Mitigation Manual in Appendix D in lieu of a site-specific impact analysis and mitigation plan. If an applicant uses the Single Family Residential Mitigation Manual, compensatory mitigation requirements provided in the manual shall be included in the project submittal.

4.1.2.5 Regulations – Revegetation Standards

1. Vegetation replanting is required for all development, uses or activities within the 200-foot shoreline jurisdiction that either alters existing native vegetation or any vegetation in the required Shoreline Buffer or Vegetation Management Areas, whether a permit is required or not. This includes invasive species removal. Minimum requirements for planting plans can be found in the City's Administrative Vegetation Management Manual. The following information shall be submitted for approval prior to vegetation disturbance as part of a project proposal or clearing permit pursuant to BIMC 15.18, Land Clearing:

    a. Residential, Industrial and Commercial Development.

        i. Vegetation disturbance of 200 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.

        ii. Vegetation disturbance greater than 200 square feet requires that the planting plan shall be completed by a qualified professional or the applicant may use the single-family residential mitigation manual.

    b. Public Park and City Maintained Areas.

        i. Vegetation disturbance of 2,500 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.

        ii. Vegetation disturbance greater than 2,500 square feet requires that the planting plan shall be completed by a qualified professional.

2. For vegetation mitigation in the Shoreline Buffer or Site-specific Vegetation Management Areas, all new plantings shall meet the provisions in Section 4.1.3.5(5), except for the Point Monroe District which shall meet special provisions in subsection 6,

3. If the Shoreline Buffer is altered or reduced pursuant to provisions of Section 4.1.3, Vegetation Management or Section 4.2.1, Nonconforming Uses, Non-Conforming Lots, and Existing Development, the following shall occur in Zone 1:

    a. Retain existing native vegetation; and

b. Plant the entire area of Zone 1. Obtain 65% vegetation canopy coverage within 10 years.

4. When vegetation mitigation is required for new upland development, uses, or activities the mitigation plan shall include new plantings that are protective of views from the primary structure of the subject property and in proportion to the identified impact. Mitigation shall be located in the following sequence, except for the Point Monroe District which shall meet special provisions in subsection 6,

   a. Within Zone 1, plant vegetation-to obtain a minimum of 65% native vegetation canopy coverage;

   b. In Zone 2, plant to increase canopy coverage, in a manner that promotes contiguous native vegetation or in areas nearest the shoreline;

   c. In the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor that connects to the shoreline;

   d. Outside of the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor to the shoreline;

   e. Outside of the Shoreline Buffer; or

   f. At an off-site location approved by the Administrator, within Zone 1, plant to meet the standard of subsection a.

5. When mitigation is required for shoreline stabilization projects due to site disturbance, the required planting plan shall also include the following, unless an alternative planting plan is approved by the Administrator:

   a. Replant 75% of the shoreline area located along the upland edge of the shoreline stabilization structure to a minimum depth of ten (10) feet, unless demonstrated to be infeasible to the Administrator;

      i. The depth may be reduced to five (5) feet to allow for landscape design variation, provided that the total square footage of the area planted equals the required 75% of the shoreline;

   b. Planting plans shall meet provisions in Section 4.1.3.5(5), and shade bearing plants shall be provided at suitable-fish spawning sites; and

   c. Include plantings equivalent to one tree per ever 20 linear feet of shoreline and one shrub per ever five linear feet, which may be planted with due consideration of views from the primary structure of the subject property.

6. Special Mitigation Provisions for Point Monroe District. When vegetation mitigation is required for new development, uses, or activities in the Point Monroe District, the mitigation plan shall include new vegetation communities appropriate for dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh that shall be installed within the spit-specific vegetation management area (SVMA) as defined in Section 4.1.3.5(9), thirty (30) foot setback between the OHWM and the primary structure, or where area is available on the site.

4.1.2.6 Regulations – Mitigation

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

d. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values, pursuant to Section 4.1.2.7, Surety Regulations.

5. To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment, the City may give mitigation credit to any beneficial restoration action that occurred within 10 years of the proposed development/redevelopment activity provided that:

   a. The applicant/property owner declares the intent of the restoration or enhancement project as mitigation credit at the time of the restoration permit application; and

   b. The City can confirm via site inspection, photographs, or other evidence that the restoration actions have improved shoreline conditions.

6. Where feasible, replacement compensatory mitigation should be required prior to impact and, if applicable, prior to final inspection and approval of building occupancy; and to ensure no net loss, the mitigation shall replace the functions as quickly as possible following the impact.

4.1.2.7 Regulations – Surety

1. The applicant/property owner shall provide assurance to the satisfaction of the Administrator, that the restoration area (including off-site mitigation) will be maintained in perpetuity. The assurance can be in the form of notice on title, conservation easement, or similar mechanism as approved by the City Attorney.

2. Except for projects undertaken by public entities, performance and/or maintenance bonds or other security shall be required by the City to assure that work is completed, monitored, and maintained. The bond/surety shall be refunded to the depositor upon completion of the mitigation activity and any required monitoring.

4.1.2.8 Regulations – Monitoring and Maintenance

1. When mitigation is required, a periodic monitoring program shall be included as a component of the required mitigation plan. To ensure the success of the required mitigation, monitoring shall occur for a minimum duration of five years from the date of the completed development. The monitoring plan may also require that periodic maintenance measures be included as recommended by a qualified professional. The duration of monitoring may be extended if the project performance standards set forth in the approved mitigation plan fail to be accomplished, or, due to project complexity, the approved mitigation plan requires a longer period of monitoring.

2. Monitoring programs may be forwarded for review and comment to state and/or federal resource agencies and affected tribes with jurisdiction.

3. Monitoring programs shall meet the requirements established in Monitoring Requirements, Appendix B, B-6(C)(2)(e).

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

4.1.3 Vegetation Management

4.1.3.1 Applicability

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

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

The Vegetation Management provisions apply to all shoreline development, and regulated uses and activities, including those that do not require a shoreline permit. Similar to other master program provisions, vegetation standards do not apply retroactively to existing uses and structures unless changes or alterations are proposed. Standards for vegetation management are established using current scientific and technical information pursuant to WAC 173-26-221(5)(b) and173-26-201(2)(a), and are based on the use category, shoreline characterization and the designation. Standards are provided in Section 4.0, and Tables 4-2 and 4-3.

4.1.3.2 Goal

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

4.1.3.3 Policies

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

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

4.1.3.4 Regulations – Exceptions

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

a. Maintenance trimming of vegetation that has a main stem or supporting structure which is less than three (3) inches in diameter; except that tree topping or other vegetation removal is not exempt.

b. Buffer enhancement through the removal of noxious or invasive weeds, provided the following are met:
   i. The vegetation removal is based on consultation with the Kitsap County Noxious Weed Board or the species being removed are on the Washington State Noxious Weed List (WAC 16-750, or its successor); and
   ii. The vegetation removal is conducted in a manner consistent with best management practices (BMP); and
   iii. Replanting occurs in the disturbed area in accordance with Section 4.1.2.5, Revegetation Standards.

c. Removal of hazard trees, as defined in Appendix B, where a report by an arborist or other qualified professional demonstrates to the satisfaction of the Administrator that trimming is not sufficient to address the hazard provided:
   i. Mitigation is provided in accordance with Section 4.1.2, Environmental Impacts, including:
      A. Requiring that the downed tree be retained on the site to provide or enhance wildlife or marine habitat; and/or
      B. When possible, require that the hazard tree be topped for safety and remain as a wildlife snag; or
   ii. When a hazard tree is located in a geologically hazardous area, the applicant shall submit a Bluff Management Plan pursuant to Section 4.1.5, Critical Areas. The hazard tree may be removed prior to the approval of the plan if it is necessary to protect life and property.

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

4.1.3.5 Regulations - General

1. Development within the shoreline jurisdiction shall be located and designed to protect existing native vegetation from disturbance to the fullest extent possible, to mitigate impacts to existing vegetation, and to meet the standard of no net loss of ecological functions and processes, Section 4.1.2, Environmental Impacts.

2. Vegetation clearing~~,~~ or grading, may not be undertaken within the shoreline jurisdiction without prior review and approval by the Administrator, unless otherwise exempt under Section 4.1.3.4, Regulations – Exceptions, or as provided in subsection 7 below, with an

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

3. Two alternative methods may be used to meet the goals and policies of the Vegetation Management Section, as provided below, except the Point Monroe District shall meet the special provisions provided in subsection 9:

    a. Site-Specific Vegetation Management Areas

        i. As an alternative to the Shoreline Buffer dimensions provided in subsection b, below, an applicant may propose specific dimensional standards that meet the Vegetation Management goals and policies as determined through a Habitat Management Plan prescribed in Appendix B, Section B-4, provided that the plan demonstrates the following:

            A. The proposed development is for a residential use.

            B The site-specific proposal assures there is no net loss of the property's specific shoreline ecological functions and associated ecosystem-wide processes pursuant to Section 4.1.2, Impact Analysis and No Net Loss; and

            C. The site-specific proposal uses the scientific and technical information* compiled to support the Shoreline Buffer standards of Section 4.1.3.5(3)(b), and/or other appropriate technical information which, as determined by a qualified professional, demonstrates how the proposal protects ecological functions and processes and how it meets the goals and policies of this Section.

        ii. The Habitat Management Plan shall be reviewed by the Administrator in accordance with provisions in Appendix B. The Administrator may approve, approve with conditions, or deny the request. The Administrator shall have the Habitat Management Plan reviewed by an independent third party, the cost of which will be borne by the applicant.

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

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

b. As an alternative to a Site-specific Vegetation Management Area, a Shoreline Buffer shall be maintained immediately landward of the OHWM and managed according to provisions of this section. The Shoreline Buffer shall meet the location and design standards of Section 4.1.3.6, Regulations – Shoreline Buffer – Location and Design Standard. The Shoreline Buffer shall be composed of two zones:

   i. Zone 1, an inner protective buffer area located immediately abutting the OHWM; and

   ii. Zone 2, the remaining portion of the Shoreline Buffer located immediately abutting Zone 1.

4. The Shoreline Buffer or Site-specific Vegetation Management Area shall be maintained in a predominantly natural, undisturbed and vegetated condition. Unless specifically allowed by this program, the following standards shall apply:

   a. All existing native groundcover, shrubs and significant trees located within the Shoreline Buffer or Site-specific Vegetation Management Area shall be retained;

   b. All activities shall be performed in compliance with the applicable standards contained in the Vegetation Management Section, unless the applicant demonstrates that alternate measures or procedures are equal or superior in accomplishing the purpose and intent of the Vegetation Management Section, including no net loss of ecological functions and ecosystem-wide processes.

   c. The use of pesticides are prohibited unless specifically allowed in Section 4.1.6, Water Quality and Stormwater Management.

5. New vegetation planted in the Shoreline Buffer or Site-specific Vegetation Management Area, unless otherwise provided for in zone-specific requirements Section 4.1.3.6 (6), shall be:

   a. Native species using a native plant-community approach of multi-storied, diverse plant species that are native to the Central Puget Lowland marine riparian zone.

   b. Other plant species may be approved that are similar to the associated native species in diversity, type, density, wildlife habitat value, water quality characteristics, and slope stabilizing qualities, excluding noxious/invasive species provided that, as submitted by a qualified professional, it is demonstrated to the satisfaction of the Administrator that the selected ornamental plants can serve the same ecological function as native plant species.

6. Significant trees located outside the Shoreline Buffer or Site-specific Vegetation Management Area but within the shoreline jurisdiction, shall be retained unless allowed to be removed under the exceptions or other provisions of this program provided:

   a. The Administrator may require alterations of a site plan in order to retain significant trees outside the Shoreline Buffer or Vegetation Management Area. This may include minor adjustments to the location of building footprints, the location of driveways and access ways, or the location of walkways, easements or utilities.

7. Vegetation clearing and maintenance activities, except those which are part of new construction, are allowed consistent with an approved SOP manual for vegetation maintenance and management of public parks, public trails, public rights-of-way or easements, publicly-owned property, and/or other areas normally maintained by the City. A shoreline substantial development permit may be required for the SOP manual. The SOP manual shall include the following prescriptive elements:

   a. Procedures for maintaining vegetation on shoreline properties, shoreline trails or shoreline rights-of-way and easements, including procedures for noxious weed removal;

   b. Procedures for maintaining vegetation in Critical Areas, Shoreline Buffers, or Site-specific Vegetation Management Areas, or other sensitive land areas, including areas with cultural resources;

   c. Procedures for mitigation and vegetation replanting including appropriate species list; and

   d. Procedures for review and approval of allowed activities occurring under the scope of the SOP, including procedures for documenting activities.

8. Minor vegetation removal outside the shoreline buffer or site-specific vegetation management area on a developed property not associated with new construction may be allowed, as provided in this program with an approved clearing permit provided:

   a. The Administrator may grant approval of minor vegetation clearing if it meets the provisions of this Program and the following:

      i. The minor vegetation clearing allowed within a three (3) year period will include an area no greater than 200 square feet in area and/or no more than 3 non-significant trees per 20,000 square feet up to a maximum of six (6) trees; and
      ii. Native vegetation will not be removed from the Shoreline Buffer or Vegetation Management Area; and
      iii All applicable standards of an approved Vegetation Management Plan are met; and
      iv. The replanting is performed pursuant to Section 4.1.2.5, Revegetation Standards; and
      v. A Bluff Management Plan is provided pursuant to Section 4.1.5, Critical Areas for any vegetation alteration in a geologically hazardous area.

   b. Proposed clearing must meet the provisions of Sections 4.1.2, Environmental Impacts and 4.1.4, Land Modification.

9. **Special Provisions for Point Monroe District**. Shoreline Buffers or Site-specific Vegetation management Areas are not required for properties located in the Point Monroe District;-the following specific vegetation provisions shall apply:
   a. All properties in the Point Monroe District shall retain existing native vegetation and shall be subject to a Point Monroe vegetation management area (PVMA).
   b. The PVMA shall include areas that are:
      i. Within thirty (30) feet of the OHWM and within the required side yard and the salt marsh fringe; and

ii. Outside any designated development area as approved pursuant to Section 5.9.6(2).

c. The PVMA shall be managed and maintained in vegetation communities appropriate to dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh.

d. Developed properties shall retain existing native vegetation (including dune grass and salt marsh plant communities) in those areas that are not developed with legally established impervious surfaces.

e. Any new development or alterations and expansion of existing development shall assess impacts to existing vegetation and meet the no net loss standard pursuant to Section 4.1.2, Environmental Impacts.

4.1.3.6 Regulations – Shoreline Buffer – Location and Design Standard

1. The total depth of the Shoreline Buffer is based on the shoreline designation and the physical and most predominant geomorphic characteristics of the property. The depth of the Shoreline Buffer will be determined by the Administrator according to criteria below.

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

   i. Shoreline Buffer Category A: The property contains or abuts a spit/barrier/backshore, or marsh, or lagoon; or

   The property contains or abuts a low bank and the existing native tree and shrub vegetation cover is at least 65% of the area of Shoreline Buffer Zone 1.

   ii. Shoreline Buffer Category B: The property is shallow (200 feet in depth or less, as measured landward), or located on a high bluff, or does not meet any of the characteristics of Category A.

   b. Shoreline Buffer standard depth in Table 4-3

   c. As determined by the Administrator, buffers do not extend beyond an existing public paved street or an area which is determined by the Administrator to be functionally isolated from the shoreline or critical area. In these limited instances the no net loss of shoreline ecological function and processes still apply to properties within the shoreline jurisdiction.

2. The total area of the Shoreline Buffer shall be the equivalent of the length of the property along the shoreline, multiplied by the required buffer depth as prescribed for the specific shoreline designation in which the property is located. See Figure 4-1.

3. The Shoreline Buffer consists of two zones. The depth of each of the two zones within the Shoreline Buffer is determined as follows:

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

b. Zone 2 shall be established immediately landward of the Zone 1 and extend no further than the depth of the Shoreline Buffer.

4. The following zone specific planting regulations apply to the Shoreline Buffer:

   a. New lawns are not permitted in Zone 1.

   b. In Zone 2, one-third (1/3) of the area may be planted in a combination of grass lawns and approved structures provided:

      i. Significant native trees are not removed to establish such use, or

      ii. The buffer has been reduced through view provisions of Section 4.1.3.11.

   c. The remaining two-thirds (2/3) of Zone 2 shall be maintained in a native vegetative state.

   d. Planted areas in which fertilizers might be applied-shall be located as far landward of Zone 1, as feasible.

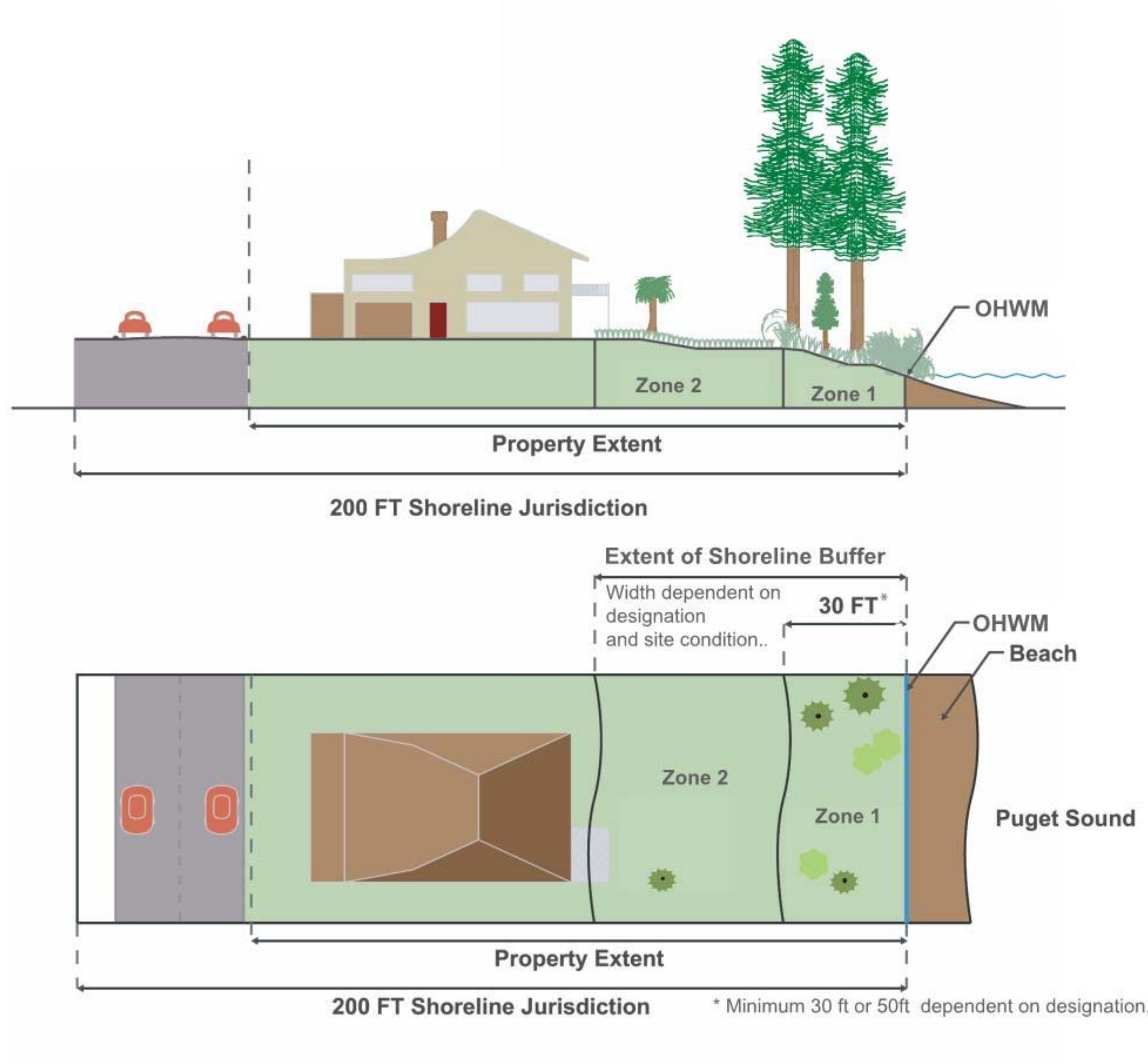

Figure 4-1 Dual Shoreline Buffer

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

1. The following activities are allowed within the Shoreline Buffer and Site-specific Vegetation Management Area with an approved clearing permit. Such activities shall meet the standards of Section 4.1.4, Land Modification.

    a. Existing landscape areas may be retained within the Shoreline Buffer or Site-specific Vegetation Management Area. However, any changes from the existing landscape to a different landscaping use or activity will require that the modified area comply with the provisions of 4.1.3, Vegetation Management, and the intent of providing native vegetation to maintain ecological functions and processes.

b. Minor Pruning. Tree pruning, including thinning of lateral branches to enhance views, or trimming, shaping, thinning or pruning necessary for plant health and growth and which does not harm the plant, is allowed consistent with the following standards:

   i. All pruning shall meet the American National Standard Institute (ANSI) tree pruning standards;

   ii. In no circumstance shall removal of more than one-fourth (1/4) of the original crown be permitted within a three year period;

   iii. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy; and

   iv. Pruning shall retain branches that overhang the water.

c. Vegetation Removal Related to Construction. Tree or vegetation removal within the Shoreline Buffer or Site-Specific Vegetation Management Area that is associated with new construction may be allowed, but must retain significant trees and shall meet the requirements of Section 4.1.2, Environmental Impacts, including replanting provisions.

d. Vegetation Removal Related to Public Facility Maintenance. Tree or vegetation removal within the Shoreline Buffer or Site-specific Vegetation Management Area that is associated with maintenance of existing public facilities (including: roads, paths, bicycle ways, trails, bridges, sewer infrastructure facilities, storm drainage facilities, fire hydrants, water meters, pumping stations, street furniture, potable water facilities, and other similar public infrastructure), may be approved by the Administrator if no significant trees are removed, the requirements of Section 4.1.2, Environmental Impacts are met, and the maintenance is measures meet the goals and policies of Section 4.1.3, Vegetation Management, or as approved in a SOP manual as provided in Section 4.1.3.5(7). The following activities are exempt from this requirement:

   i. Removal of vegetative obstructions required for sight distance and visual clearance at street intersections provided in the Public Works Design and Construction Standards and Specifications.

e. Underground Utilities. Utilities that run approximately perpendicular to the buffer (for example, a stormwater tightline to the water to protect a slope or a sewer line to a marina), may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Area, provided that disturbance is minimized and the disturbed area is revegetated after construction; and

f. Other Approved Development in the Shoreline Buffer or Site-specific Vegetation Management Area.

   i. Potable water wells; and

   ii. Approved shoreline stabilization;

2. Shoreline Buffer Reductions.

a. When the prescriptive buffer depth is reduced or dimensions altered through provisions of this Program, the applicant shall record a notice on title, or other similar document with the County Auditor prior to permit issuance, subject to the approval of the Administrator.

b. If the required depth of a Shoreline Buffer for a single-family residential property is reduced in accordance with the Shoreline Structure Setback provisions of Section 4.1.3.11 or other reductions allowed through this Program, Zone 1 must be restored in accordance with provisions of Section 4.1.2.5.

3. Stairways to the shoreline shall not exceed 300 square feet for private use, the minimum necessary for public use and are not included in the total square footage allocations prescribed in subsections 4.1.3.8(3) of this Program.

   a Larger stairway~~s~~ serving a single-family residence may only be allowed through approval of a Shoreline Variance.

      i. As an alternative to a stairway larger than 300 square feet and to reduce environmental impacts, a tram may be allowed without a variance.

   b. Stairway design shall meet the following minimum criteria:

      i. International Codes for:

         A. Hand Railings;

         B. Stairway width; and

         C. Tread Depth.

      ii. Landings are required, unless demonstrated not to be necessary, and shall be determined by:

         A. Existing site topography;

         B. Personal safety; and

         C. Slope stability.

4.1.3.8 Vegetation Alterations Standards – Residential Development

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

1. Maintenance of existing residential landscaping is allowed subject to Sections 4.1.3.5(8) and 4.1.3.7. 2. One (1) hand installed pervious trail to the shoreline not more than four (4) feet in width, which may include hand installed steps, and shall be designed to minimize environmental impacts. No significant trees shall be removed. The trail may be wider when required for handicapped or public access. For single-family residential development vegetation trimming is limited to two (2) feet on either side of the trail.

3. Non-habitable structures appurtenant to a single-family use, such as a boat house, deck/patio and/or stairway may be allowed consistent with the following standards, except

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

a. For Site-specific Vegetation Management Areas, the total square footage of all buildings or structures must not exceed 300 square feet in area.

b. For Shoreline Buffer areas, the total square footage of all buildings or structures must not exceed 400 square feet or 10% of the Shoreline Buffer area, whichever is less.

c. For Shoreline Buffer areas, only 10% of the total allowed square footage or 300 square feet, whichever is less, can be located in Zone 1, except when upland of Priority Aquatic B, the total allowable square footage is 5% of Zone 1 or 150 square feet, whichever is less.

d. All structures must be designed to not significantly impact views from adjoining property primary buildings.

e. All structures must meet the following standards:

   i. Only water-related structures are allowed within 30 feet of the OHWM or in Zone 1, including a boathouse, permeable deck, boat storage, or staircase.

   ii. Shall not exceed 12 feet in height above existing grade.

   iii. Decks and/or patios shall be permeable and shall not exceed 30 inches in height above existing grade.

4. View Maintenance – Single-family Residential Only.

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

a. Limited removal of existing trees or vegetation located on the same property as a single-family residence may be allowed for maintenance of a pre-existing view from the primary structure, or to establish a view for a new primary structure provided the following are met:

   i. The applicant demonstrates to the satisfaction of the Administrator that the vegetation removal is the minimum necessary to re-establish or establish a view of the water similar to that enjoyed by other residences in the area and that pruning methods are not sufficient to provide an adequate view of the water similar to that enjoyed by other residences in the area; and

   ii. Existing significant native trees are not removed within the Shoreline Jurisdiction, unless exempt; and

   iii. In no instance, including accounting for other approved alterations as provided in Section 4.1.3, shall vegetation removal exceed twenty (20) percent of the required Shoreline Buffer area or Site-specific Vegetation Management Area or reduce the vegetation canopy coverage to less than 65% in the Shoreline Buffer or Vegetation Management Area.

A. Vegetation removal occurring adjacent to the shoreline shall also be limited to fifteen (15) linear feet of the water frontage; and

iv. The applicant shall obtain an approved Bluff Management Plan pursuant to Section 4.1.5, Critical Areas for any vegetation alteration in a geologically hazardous area. The cost and preparation of the plan is the responsibility of the applicant; and

v. All vegetation removal complies with other applicable requirements of this Program (such as clearing and grading, forest practices, and protection standards for fish and wildlife habitat), including the no net loss and/or revegetation standards in Section 4.1.2.

b. The Administrator my deny a request or condition approval for vegetation alteration proposals for view maintenance if it is determined that the action will result in an adverse effect to any of the following:

i. Slope stability;

ii. Habitat value;

iii. Health of surrounding vegetation;

iv. Risk of wind damage to surrounding vegetation;

v. Nearby surface or ground water; or

vi. Water quality of a nearby water body.

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

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

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

4.1.3.10 Vegetation Alteration Standards – Public Park Development in Shoreline Buffers

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

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

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

B. Accessory recreation buildings, including restrooms, picnic pavilions and service roads that serve such structures may be allowed in Zone 2 and buildings shall not exceed 12 feet in height above existing grade;

C. Stairways may exceed 300 square feet, provided that it is demonstrated that a greater area is necessary to meet public access and public use demands Stairways shall conform to the standards of the Building Code as adopted in BIMC Chapter 15.04.; and

D. Boat ramps and other boating facilities may be allowed pursuant to Section 5.4, Boating Facilities.

4.1.3.11 Regulations – Shoreline Structure Setback View Requirement

1. To protect existing predominate shoreline views and accommodate shoreline views for a new single-family primary residential structure or addition to a primary residential structure, the Administrator may allow Zone 2 of the Shoreline Buffer to be altered when there is an existing primary residential structure located within 100 feet of the property line of the subject property and topographical or other relevant information indicates that the view of the shoreline from the subject property or the adjacent residence would be impacted by existing or proposed development. The shoreline structure setback line may also require that new structures be set farther away from the shoreline to preserve existing views enjoyed by an adjoining single-family primary structure that was established earlier. These provisions apply to single-family residences only, except in the Point Monroe District.

   a. Setbacks for the purpose of this subsection are based on the location of primary residential structure(s) existing at the time a new primary residential building permit is submitted. A primary residential structure constructed in compliance with the required shoreline setback is not made nonconforming by the later construction of a primary residential structure in a different location on an adjoining lot.

   b. The shoreline structure setback provisions apply only to primary single-family residential structures located within the 200-foot shoreline jurisdiction, where an existing primary single-family residential structure is located within 100 feet of the subject property line. All measurements are to the closest primary residential structure on either side of the subject property as measured parallel to the shoreline.

   c. In determining the shoreline structure setback line, the Administrator may also consider topography or other physical property constraints in addition to the provisions of subsection 4 and 5, below. Applicants may submit detailed information regarding how property constraints impact the predominate shoreline views from either the subject property's proposed primary residential structure or adjoining properties' primary residential structure(s).

2. The Shoreline Buffer on the subject property may be reduced below the depth requirements identified in Table 4-3 to allow a new primary residential structure to be located within Zone 2 provided the conditions in Section 4.1.3.7(2) are met.-Mitigation of proposed residential development shall be required pursuant to Section 4.1.2, Environmental Impacts.

3. In no case shall the subject property be permitted to locate a new primary residential structure within the site's specified Zone 1 of the Shoreline Buffer, unless a Shoreline Variance is granted.

4. Adjoining Development Located Within Shoreline Buffer. The setback requirement for the subject property shall be based on the location of the adjoining properties' primary residential structure(s) as described in subsections (a) through (d) below.

    a. Primary Residential Structure Located on One Side. When an existing primary residential structure is located on one side of the subject property, the shoreline structure setback line shall be determined as follows:

        i. If the adjoining primary residence is partially or wholly located within Zone 2, the shoreline setback line is determined by drawing a line from the most waterward point of the adjoining primary residential structure to the point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 4.1.a below).

        ii. If the adjoining primary residence is located partially or wholly in Zone 1, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property and the adjoining property's Zone 1 boundary, to the point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 4.1.b, below).

    b. Primary Residential Structure Located on Both Sides. When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined as follows:

        i. If both the adjoining primary residential structures are located partially or wholly in Zone 2, then the shoreline structure setback line shall be determined by drawing a line between the most waterward points of each of the adjoining primary residential structures. (See Figure 4.1.b, below)

        ii. If one of the adjoining primary residences is partially or wholly in Zone 1, and the other adjoining primary residence is partially or wholly in Zone 2, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property and the adjoining property's Zone 1 boundary (for that adjoining residence located in Zone 1), to the most waterward point of the other adjoining primary residential structure located in Zone 2. (See Figure 4.1.b, below).

        iii. If both of the adjoining primary residences are located partially or wholly within Zone 1, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property's Zone 1 boundary and the adjoining property's Zone 1 boundary to the same intersection point on the subject property's opposite property line. (See Figure 4.1.c. below)

c. Primary Residential Structure Located on a Shoreline Forming a Cove or Headland. The Administrator shall make the determination whether a shoreline forms a cove or headland. When existing primary residential structures are located on a cove or headland, the shoreline structure setback line shall be determined as follows:

i. If there is a primary residential structure on only one side of the subject property, then the shoreline structure setback line for the subject property shall be either the distance from the OHWM to the most waterward portion of the primary residence structure of the adjoining property, or the subject property's Zone 1, whichever is greater.

ii. If there are adjoining primary residential structures located on both sides of the subject property, the shoreline structure setback line shall be determined by averaging the distance from OHWM to the most waterward portion of the two adjoining property's primary residential structures. (See Figure 4-1(c) ii, below)

5. Adjoining Development Located Outside the Shoreline Buffer. The setback requirement for the subject property shall be based on the location of the adjoining properties' primary residential structure(s) as described in subsections (a) and (b) below.

a. Primary Structure Located on One Adjoining Property, Outside Shoreline Buffer. When an existing primary residential structure is located on one side of the subject property, the shoreline structure setback line shall be determined by drawing a line from the most waterward point of the primary residential structure of the adjoining property to a point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 5-1(a), below).

b. Primary Structures Located on Both Adjoining Properties, Outside the Shoreline Buffer. When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined by drawing a line between the most waterward points of each of the adjoining primary residential structures. (See Figure 5-1(b), below).

c. Primary Structures Located on Both Adjoining Properties, Outside the Shoreline on a Cove or Headland. When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined by averaging the distance from OHWM to the most waterward portion of the two adjoining property's primary residential structures. (See Figure 5-1(c), below).

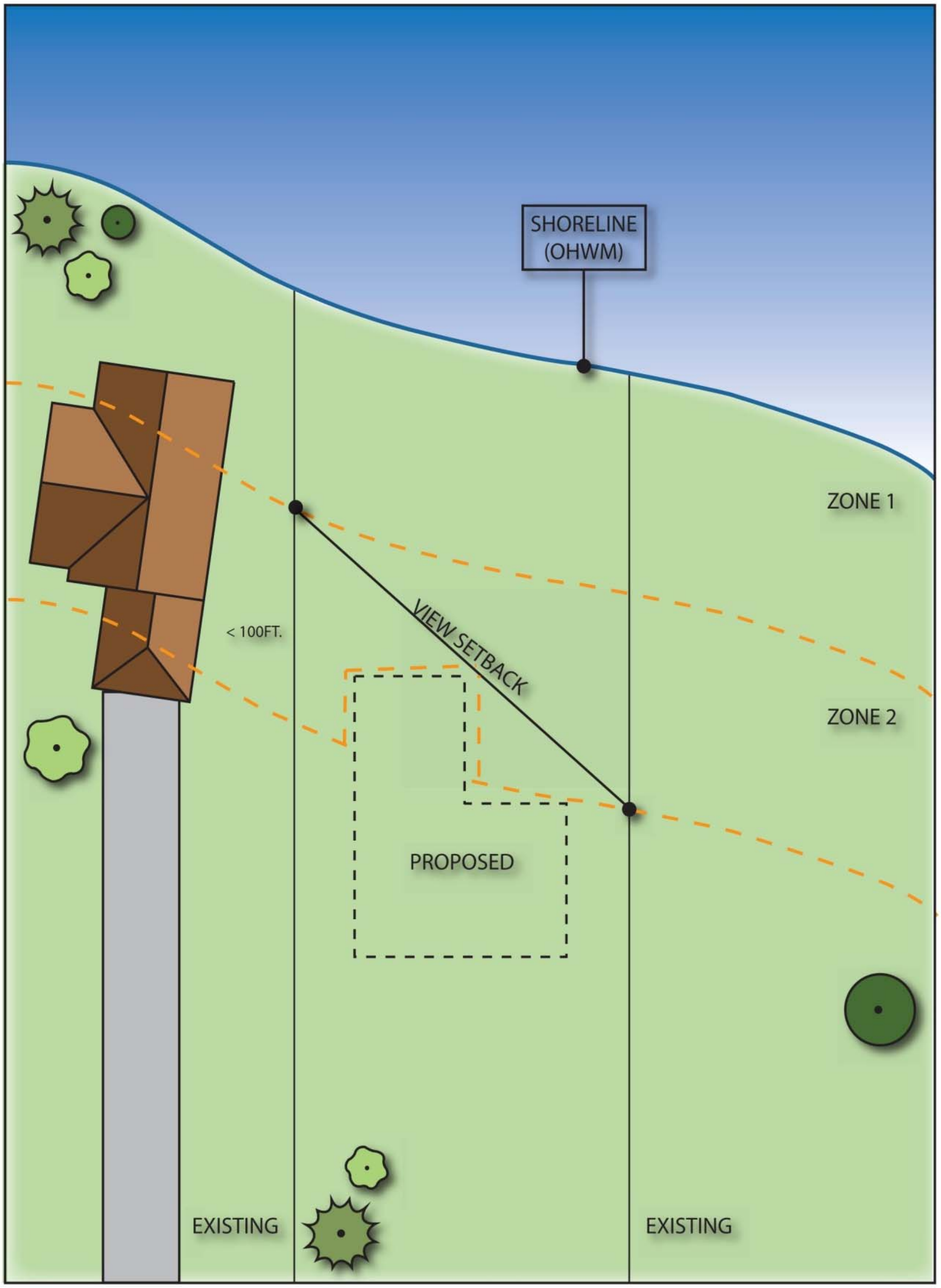
SHORELINE
(OHWM)
ZONE 1
ZONE 2
< 100FT.
VIEW SETBACK
PROPOSED
EXISTING
EXISTING

FIGURE 4-1(A) I

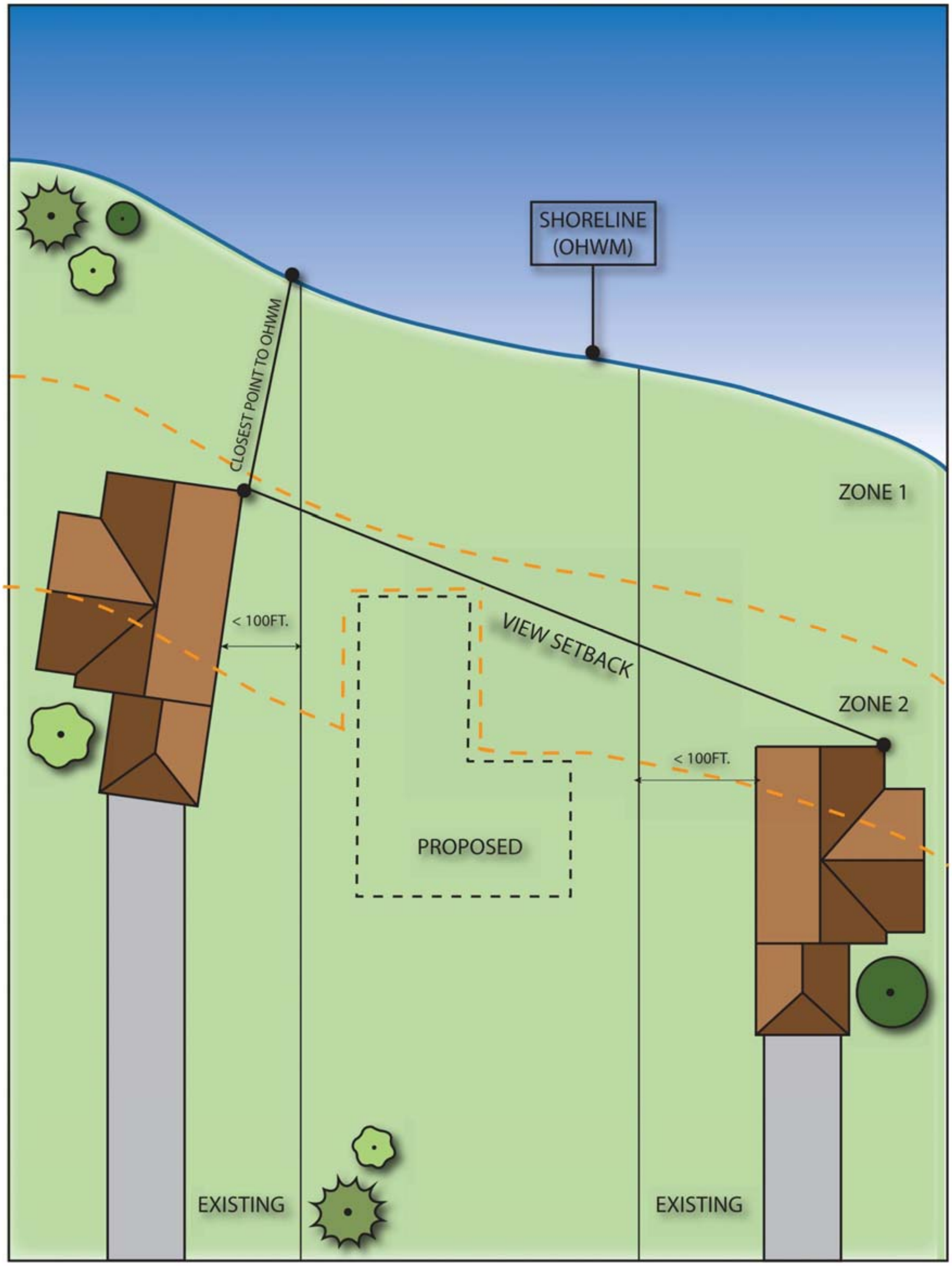
SHORELINE
(OHWM)
CLOSEST POINT TO OHWM
ZONE 1
< 100FT.
VIEW SETBACK
ZONE 2
< 100FT.
PROPOSED
EXISTING
EXISTING

FIGURE 4-1(B) I

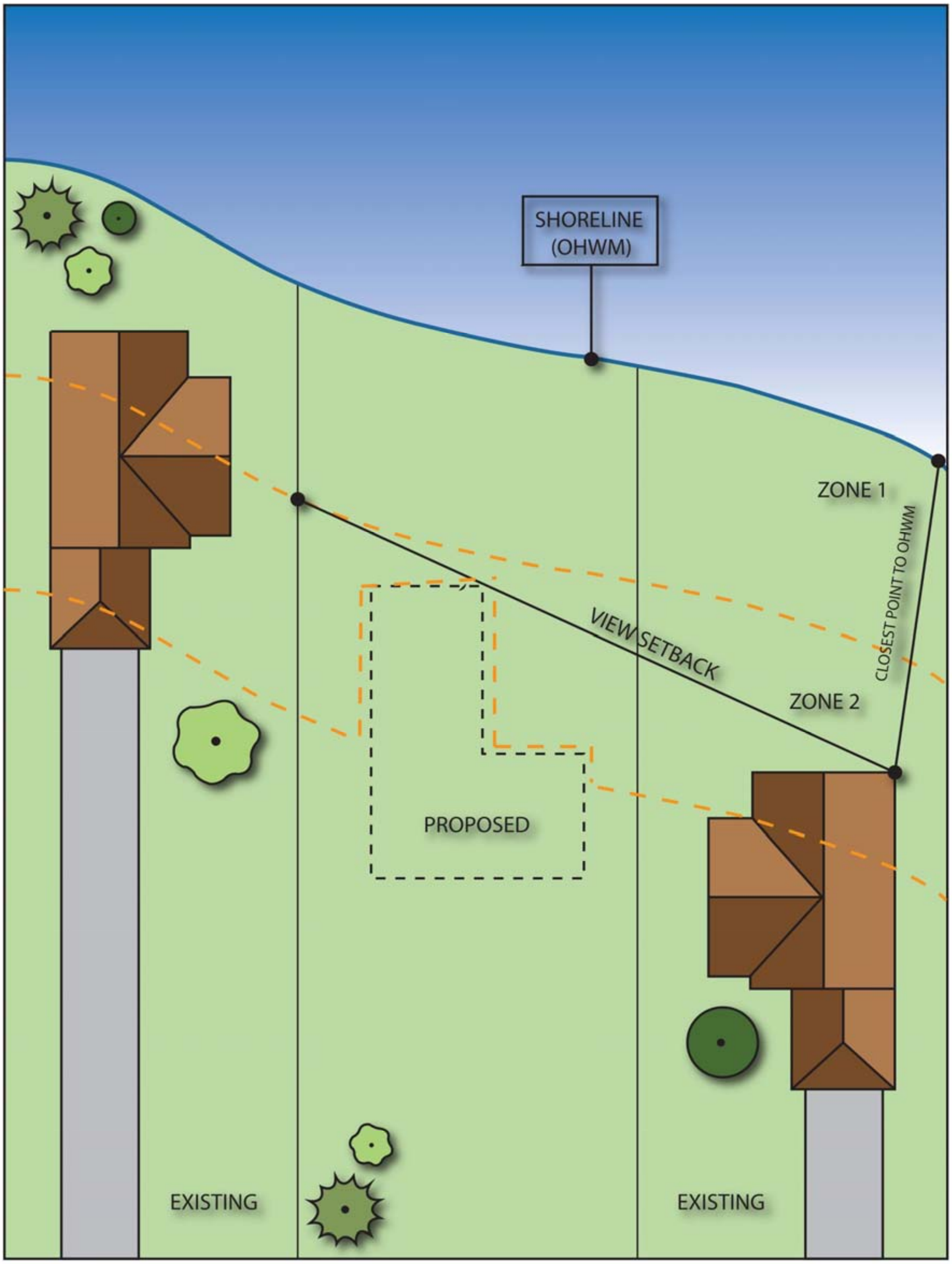

FIGURE 4-1(B) II

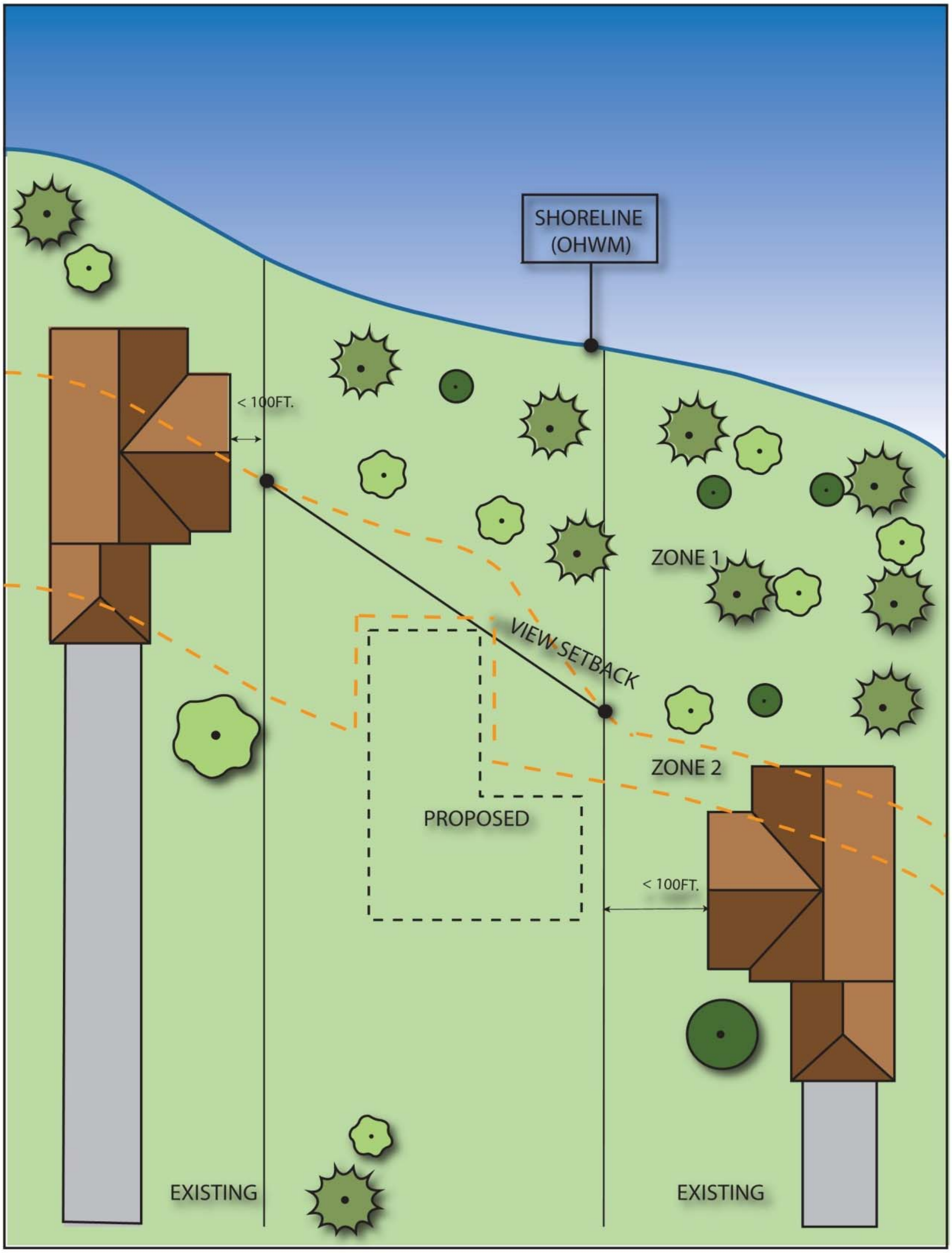

FIGURE 4-1(B) III

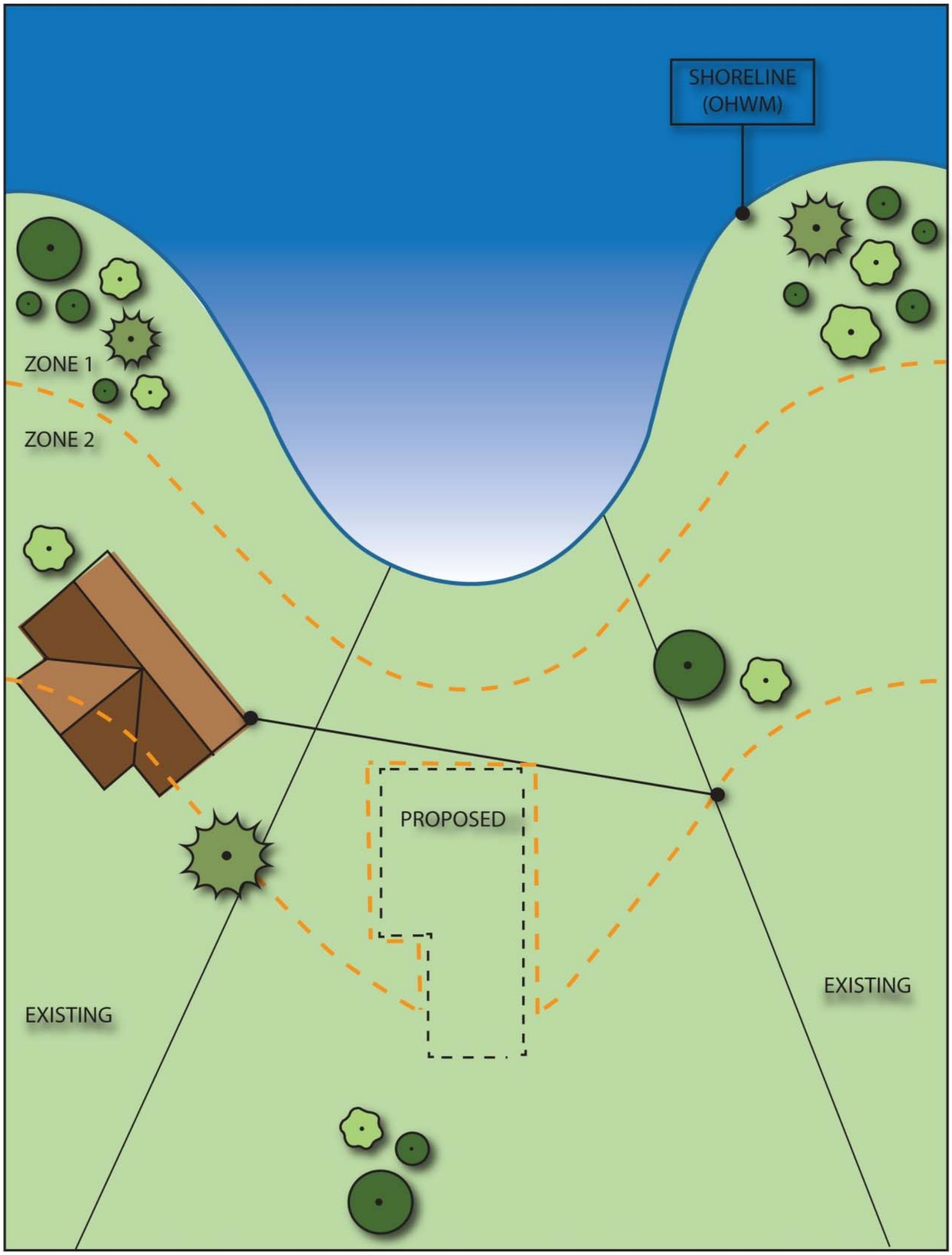

FIGURE 4-1(C) I

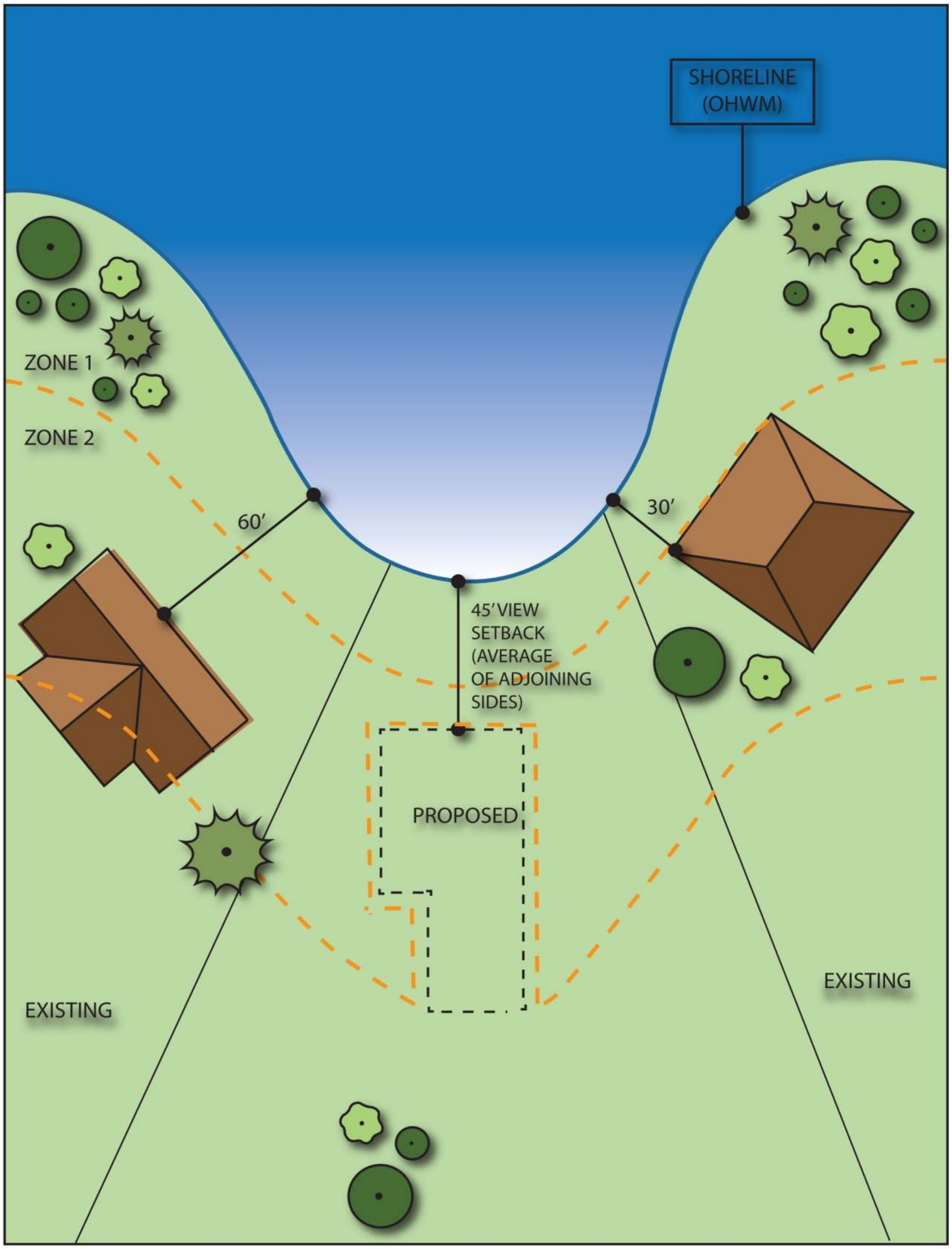

FIGURE 4-1(C) II

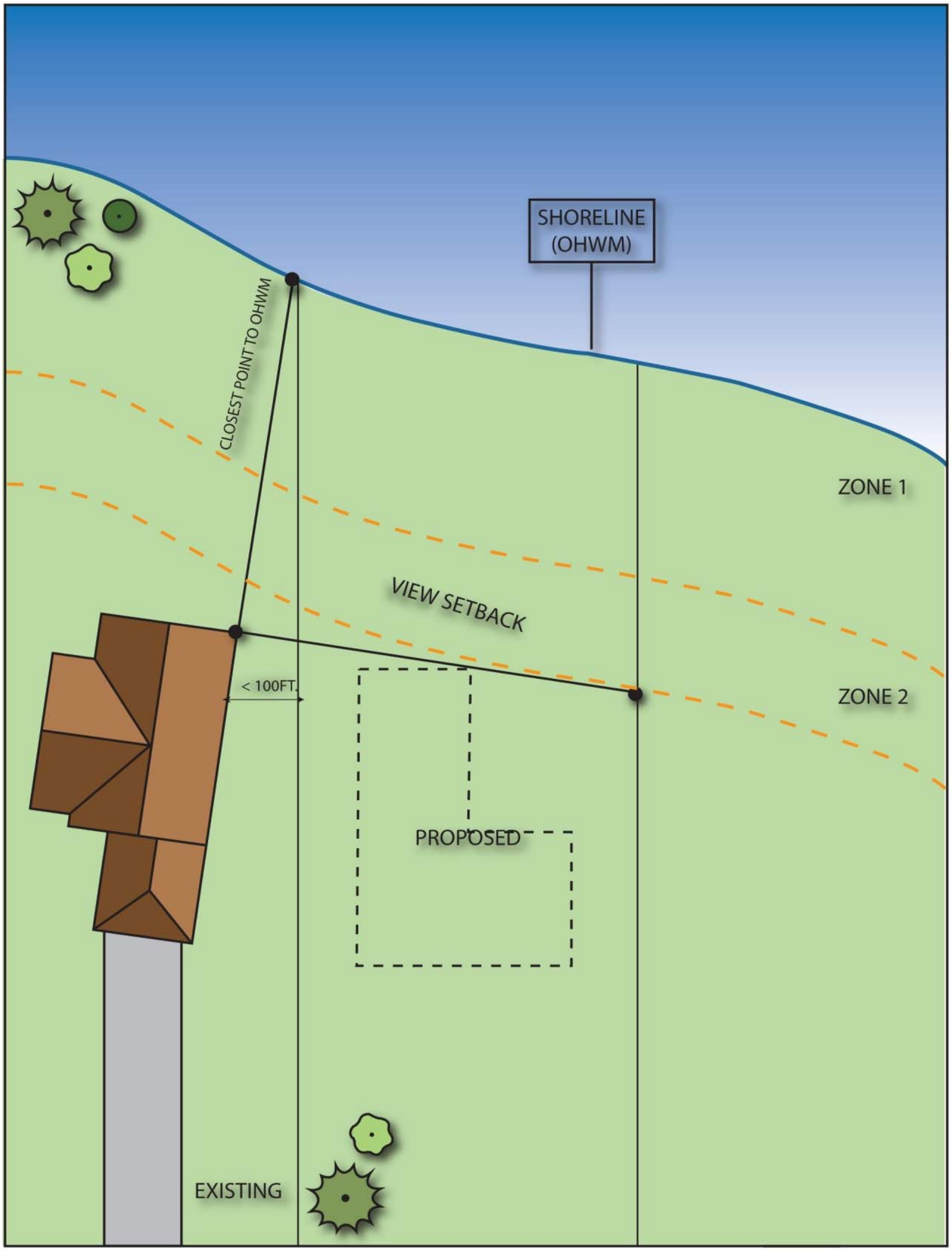
SHORELINE
(OHWM)
CLOSEST POINT TO OHWM
ZONE 1
VIEW SETBACK
< 100FT.
ZONE 2
PROPOSED
EXISTING

FIGURE 5-1(A)

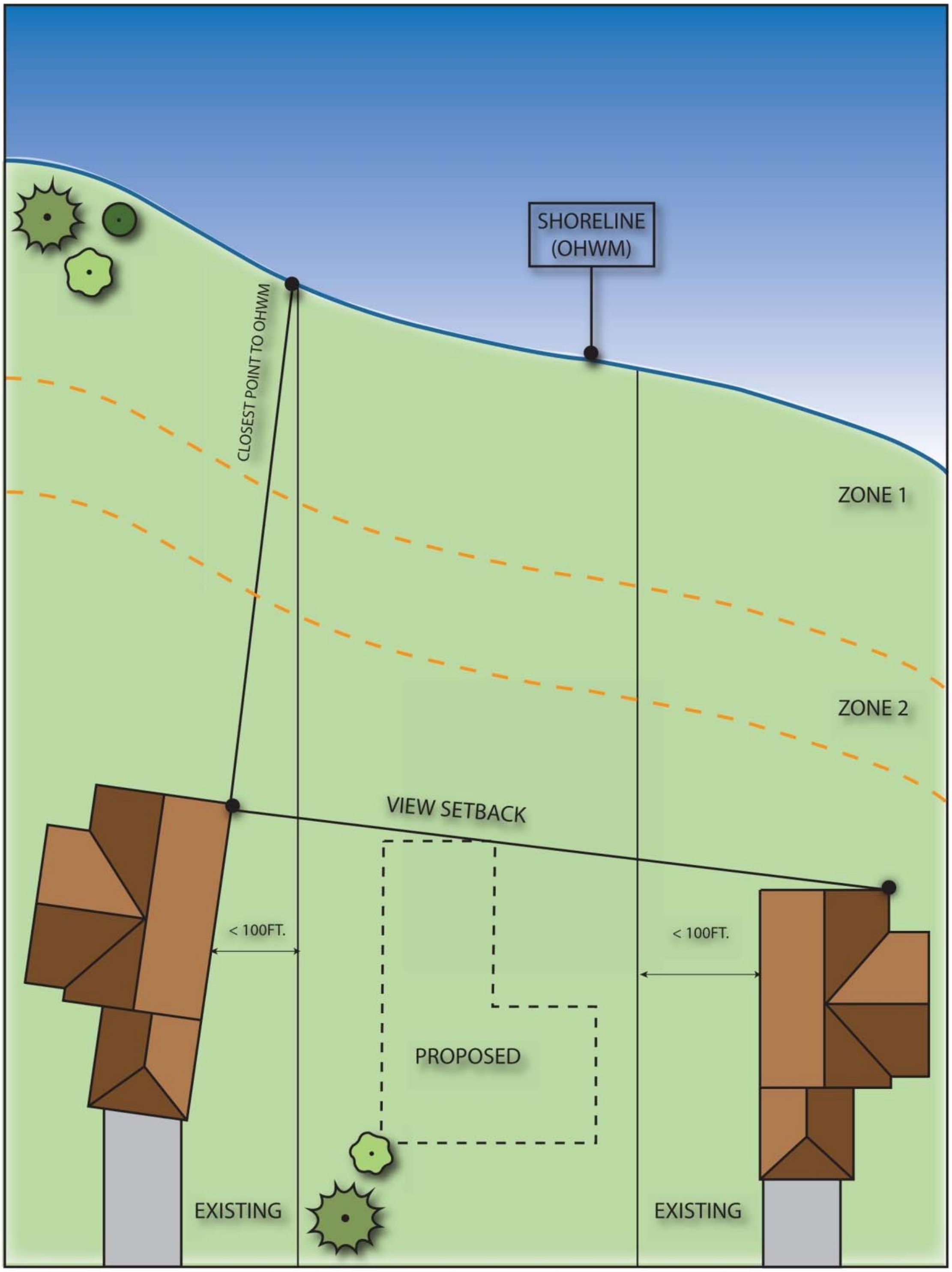
SHORELINE
(OHWM)
CLOSEST POINT TO OHWM
ZONE 1
ZONE 2
VIEW SETBACK
< 100FT.
< 100FT.
PROPOSED
EXISTING
EXISTING

FIGURE 5-1 B

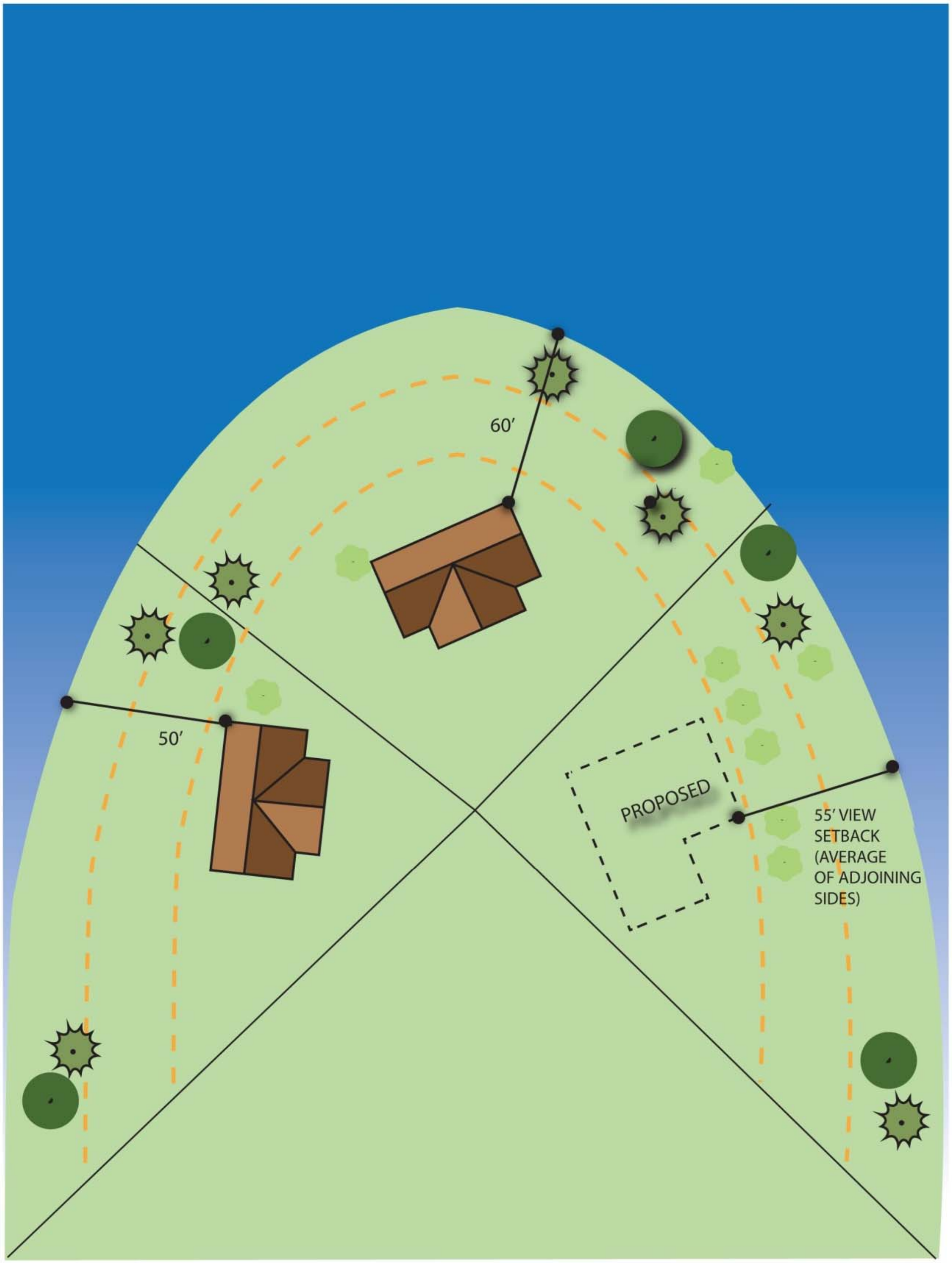

FIGURE 5-1 C

SMP Section 4.1.2.4.3 – Impact Analysis and No Net Loss Standard

Existing language:

3. To assure that development activities contribute to meeting the no net loss provisions pursuant to subsection 1 and 2 above, an applicant is required to submit a site-specific analysis of potential impacts and a mitigation plan that includes compensatory mitigation measures when determined necessary as a result of the analysis. The site-specific analysis shall be prepared in accordance with Section 4.1.2.9, Submittal Requirements – Site-Specific Impact Analysis and Mitigation Plan.

4. To mitigate anticipated impacts and meet the no net loss standards in subsection 1 and 2 above, an applicant for a single family residential development or accessory structures may choose to use the Standard Residential Mitigation Manual in Appendix D in lieu of a site-specific impact analysis and mitigation plan. If an applicant uses the Single Family Residential Mitigation Manual, compensatory mitigation requirements provided in the manual shall be included in the project submittal.

Commented [CC1]: Does not exist.

Proposed language:

3. An applicant for any shoreline development, use or activity must demonstrate compliance with the no net loss provisions pursuant to subsection 1 and 2 above, as follows:

    a. Demonstrate use of applicable mitigation measures in the Single Family Residence Shoreline Mitigation Manual provided in the City's Administrative Manual. Proposed mitigation measures and the manual's "Checklists for Mitigation Approval" must be included in the application; or

    b. If the project site or proposal does not qualify for use of the Single Family Residence Shoreline Mitigation Manual, submit a site-specific impact analysis in accordance with the guidance provided in the City's Administrative Manual. A mitigation plan must be included when determined to be necessary as a result of the analysis.

SMP Section 4.1.2.6 – Mitigation

Existing language:

1. Mitigation Sequence: Mitigation shall include the following actions in order of priority (a-e), and (f) is required for all mitigation activities:
    a. Avoiding the impact altogether by not taking a certain action or parts of an action;
    b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
    c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
    d. Reducing or eliminating the impact over time by preservation and maintenance operations;
    e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
    f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
2. When compensatory mitigation is necessary to offset impacts, mitigation measures in the immediate vicinity of the impact shall be the preferred mitigation option. Property owners may be required to perform the balance of compensatory mitigation off-site if the property cannot support required mitigation or when off-site mitigation can be demonstrated to the satisfaction of the Administrator to be more beneficial to shoreline ecological functions and processes. For example, off-site mitigation may be the better choice if large, cohesive areas are available off-site while only small fragmented areas are available on-site for mitigation.
3. Mitigation actions shall not have a significant adverse impact on other preferred shoreline uses promoted by the policies of the Shoreline Management Act.
4. When compensatory mitigation measures are required, all of the following shall apply:
    a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources; and
    b. The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities can grow and mature over time; and
    c. Unless the Single-family Residential Mitigation Manual is being used for single-family residential development and accessory structures pursuant to Section 4.1.2.4(4), the mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory and Characterization Report, the Shoreline Restoration Plan and other background studies prepared in support of this Program; and
    d. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values, pursuant to Section 4.1.2.7, Surety Regulations.
5. To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment, the City may give mitigation credit to any beneficial restoration action that occurred within 10 years of the proposed development/redevelopment activity provided that:
    a. The applicant/property owner declares the intent of the restoration or enhancement project as mitigation credit at the time of the restoration permit application; and

b. The City can confirm via site inspection, photographs, or other evidence that the restoration actions have improved shoreline conditions.

6. Where feasible, replacement compensatory mitigation should be required prior to impact and, if applicable, prior to final inspection and approval of building occupancy; and to ensure no net loss, the mitigation shall replace the functions as quickly as possible following the impact.

Proposed language:

1. To ensure the no net loss standard is met, any adverse impacts must be mitigated in accordance with mitigation sequencing ~~pursuant to WAC 173-26-201(2)(e):~~

   a. Avoiding the impact altogether by not taking a certain action or parts of an action;

   b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

   c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

   d. Reducing or eliminating the impact over time by preservation and maintenance operations;

   e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

   f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Commented [CC2]: No change.

2. Unless the Single Family Residence Shoreline Mitigation Manual is being used, mitigation sequencing must be documented in a site-specific impact analysis. If compensatory mitigation is necessary as a result of the site-specific impact analysis, a mitigation plan meeting the applicable provisions in Appendix B-6, including a periodic monitoring program, is required.

Commented [CC3]: New clarifying language.

3. When compensatory mitigation is necessary to offset impacts, mitigation measures in the immediate vicinity of the impact shall be the preferred mitigation option. Property owners may be required to perform the balance of compensatory mitigation off-site if the property cannot support required mitigation or when off-site mitigation can be demonstrated to the satisfaction of the Administrator to be more beneficial to shoreline ecological functions and processes. For example, off-site mitigation may be the better choice if large, cohesive areas are available off-site while only small fragmented areas are available on-site for mitigation. Mitigation shall be located and designed in the following order of priority, except for the Point Monroe District, which shall meet special provisions in subsection 4.

   a. Within Zone 1, plant vegetation to obtain a minimum of 65% native vegetation canopy coverage;

   b. In Zone 2, plant to increase canopy coverage, in a manner that promotes contiguous native vegetation or in areas nearest the shoreline;

   c. In the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor that connects to the shoreline;

   d. Outside of the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor to the shoreline;

   e. Outside of the Shoreline Buffer; or

Commented [CC4]: Move from 4.1.2. No change to language.

f. At an off-site location approved by the Administrator, within the Shoreline Buffer or Site Specific Vegetation Management Area, plant to meet the standard of subsections a through c.

3. Special Mitigation Provisions for Point Monroe District. When vegetation mitigation is required for new development, uses, or activities in the Point Monroe District, the mitigation plan shall include new vegetation communities appropriate for dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh that shall be installed within the spit-specific vegetation management area (SVMA) as defined in Section 4.1.3.5(9), thirty (30) foot setback between the OHWM and the primary structure, or where area is available on the site.

4. When compensatory mitigation measures are required, all of the following shall apply:

   a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources; and

   b. Unless the Single-Family Residence Shoreline Mitigation Manual is being used, the required mitigation plan shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory and Characterization Report, the Shoreline Restoration Plan and other background studies prepared in support of this Program; and

   c. All mitigation activities shall be monitored and maintained to ensure that they achieve their intended functions and values, pursuant to Section 4.1.2.7, Mitigation Monitoring and Maintenance; and

   d. Mitigation actions shall not have a significant adverse impact on other preferred shoreline uses promoted by the policies of the Shoreline Management Act; and

   e. Any new plantings shall be in proportion to the identified impact and may be protective of views from the primary structure of the subject property.

5. For vegetation mitigation in the Shoreline Buffer or Site-specific Vegetation Management Area, all new plantings shall meet the provisions in Section 4.1.3.10.2, except for the Point Monroe District which shall meet special provisions in subsection 3.

6. Where feasible, mitigation should be required prior to impact and prior to final inspection and approval of building occupancy and shall replace the functions as quickly as possible following the impact.

7. To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment, the City may give mitigation credit to any beneficial restoration action that occurred within 10 years of the proposed development/redevelopment activity provided that:

   a. The applicant/property owner declares the intent of the restoration or enhancement project as mitigation credit at the time of the restoration permit application; and

   b. The City can confirm via site inspection, photographs, or other evidence that the restoration actions have improved shoreline conditions.

8. When mitigation is required for shoreline stabilization projects due to site disturbance, the required planting plan shall also include the following, unless an alternative planting plan is approved by the Administrator:

   a. Replant 75 percent of the shoreline area located along the upland edge of the shoreline stabilization structure to a minimum depth of ten (10) feet, unless demonstrated to be infeasible to the Administrator;

Commented [CC5]: Revised – to allow for offsite mitigation with shoreline buffer instead of only within Zone 1.

Commented [CC6]: Moved, no change.

Commented [CC7]: Moved, no change.

Commented [CC8]: New section to clarify that monitoring and maintenance is required.

Commented [CC9]: Moved, no change.

Commented [CC10]: Moved, revised for clarity.

i. The depth may be reduced to five (5) feet to allow for landscape design variation, provided that the total square footage of the area planted equals the required 75% of the shoreline;

b. Planting plans shall meet provisions in 4.1.3.10.2 and shade bearing plants shall be provided at suitable-fish spawning sites; and

c. Include plantings equivalent to one tree per ever 20 linear feet of shoreline and one shrub per ever five linear feet, which may be planted with due consideration of views from the primary structure of the subject property.

Commented [CC11]: Moved, no change.

SMP Section 4.1.2.6 – Surety

Existing language:

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

Proposed language:

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

SMP Section 4.1.2.7 – Monitoring and Maintenance

Existing language:

1. When mitigation is required, a periodic monitoring program shall be included as a component of the required mitigation plan. To ensure the success of the required mitigation, monitoring shall occur for a minimum duration of five years from the date of the completed development. The monitoring plan may also require that periodic maintenance measures be included as recommended by a qualified professional. The duration of monitoring may be extended if the project performance standards set forth in the approved mitigation plan fail to be accomplished, or, due to project complexity, the approved mitigation plan requires a longer period of monitoring.
2. Monitoring programs may be forwarded for review and comment to state and/or federal resource agencies and affected tribes with jurisdiction.
3. Monitoring programs shall meet the requirements established in Monitoring Requirements, Appendix B, B-6(C)(2)(e).
4. All new and replacement shoreline stabilization projects shall complete and submit a minimum five-year monitoring and maintenance program that addresses the shoreline stabilization mitigation measures, and shall at a minimum include:
    a. An annual site visit by a qualified professional for each of the five (5) years to assess the effectiveness of the mitigation; and
    b. A progress report submitted to the Administrator annually, which includes any monitoring or maintenance recommendations of the qualified professional.

SMP Section 4.1.2.7 – Monitoring and Maintenance

Proposed language:

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

Commented [CC12]: Added language for clarity.

Commented [CC13]: Revised for clarity; clarified 5 year duration.

Commented [CC14]: Moved and revised.

6. ~~All new and replacement shoreline stabilization projects shall complete and submit a minimum five-year monitoring and maintenance program that addresses the shoreline stabilization mitigation measures, and shall at a minimum include:~~

   a. ~~An annual site visit by a qualified professional for each of the five (5) years to assess the effectiveness of the mitigation; and~~

   b. ~~A progress report submitted to the Administrator annually, which includes any monitoring or maintenance recommendations of the qualified professional.~~

Commented [CC15]: Deleted, redundant.

SMP Section 4.1.3.4 – Exceptions

Existing language:

1. Vegetation management standards shall not apply retroactively to existing lawfully established conforming and nonconforming uses and developments, including maintenance of existing residential landscaping, such as lawns and gardens. Property owners are strongly encouraged to voluntarily improve shoreline vegetation conditions over the long term.

2. Existing buffers and setbacks that have been established through previously approved subdivisions and indicated on the face of an approved plat shall be recognized and adhered to.

3. The following shall be exempt from the provisions of Section 4.1.3.
   a. Maintenance trimming of vegetation that has a main stem or supporting structure which is less than three (3) inches in diameter; except that tree topping or other vegetation removal is not exempt.
   b. Buffer enhancement through the removal of noxious or invasive weeds, provided the following are met:
      i. The vegetation removal is based on consultation with the Kitsap County Noxious Weed Board or the species being removed are on the Washington State Noxious Weed List (WAC 16-750, or its successor); and
      ii. The vegetation removal is conducted in a manner consistent with best management practices (BMP); and
      iii. Replanting occurs in the disturbed area in accordance with Section 4.1.2.5, Revegetation Standards.
   c. Removal of hazard trees, as defined in Appendix B, where a report by an arborist or other qualified professional demonstrates to the satisfaction of the Administrator that trimming is not sufficient to address the hazard provided:
      i. Mitigation is provided in accordance with Section 4.1.2, Environmental Impacts, including:
         A. Requiring that the downed tree be retained on the site to provide or enhance wildlife or marine habitat; and/or
         B. When possible, require that the hazard tree be topped for safety and remain as a wildlife snag; or
      ii. When a hazard tree is located in a geologically hazardous area, the applicant shall submit a Bluff Management Plan pursuant to Section 4.1.5, Critical Areas. The hazard tree may be removed prior to the approval of the plan if it is necessary to protect life and property.
   d. Commercial forest practices and the removal of trees pursuant to a Forest Practices Permit (Class II, III and IV-S only) issued by the Washington State Department of Natural Resources under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, including Appendix B, and shall be limited to the minimum necessary to accommodate an approved use.

Commented [CC16]: Difficult to interpret as written.

Commented [CC17]: These sections deleted and replaced with sections from critical areas ordinance.

SMP Section 4.1.3.4 – ~~Exceptions~~ Exemptions

Proposed language:

1. Vegetation management standards shall not apply retroactively to existing lawfully established conforming and nonconforming uses and developments, including normal and routine yard and garden activities** within ~~of~~ existing residential landscaping, such as lawns and gardens. Property owners are strongly encouraged to voluntarily improve shoreline vegetation conditions over the long term.
2. Existing buffers and setbacks that have been established through previously approved subdivisions and indicated on the face of an approved plat shall be recognized and adhered to.
3. Vegetation management standards shall not apply to pruning of trees and shrubs, provided that*:
   a. No live branch or stem or portion of live branch or stem greater than 6 inches in diameter is removed;
   b. Pruning activities conform to applicable practices of ANSI A300 (Part 1 – 2017) Tree, Shrub and Other Woody Plant Management – Standard Practices (Pruning), as amended.
   c. Trees and shrubs are not located in or overhanging a Type F stream or ordinary high water mark;
   d. Pruning operations do not remove greater than 10 percent of live canopy within any three-year period, provided that up to 25 percent may be removed with a certified arborist on site; and
   e. The practice known as topping – the reduction of tree size by cutting live branches and leaders to stubs, without regard to long-term tree health or structural integrity is prohibited.
4. Vegetation management standards shall not apply to the removal of the following vegetation with hand labor or hand-held equipment provided: (a) the area of work is under 2,500 square feet in area and (b) any area of bare ground is planted with native species within the first appropriate growing season or otherwise protected by acceptable temporary erosion and sedimentation control strategies:
   a. Plants on the Kitsap County or Washington State Noxious Weed Control Board list of noxious weeds;
   b. English ivy (*Hedera helix*) from tree trunks or ground surface;
   c. Himalayan blackberry (*Rubus discolor, R. procerus*);
   d. Evergreen blackberry (*Rubus laciniatus*);
   e. English/Portuguese laurel (*Prunus laurocerasus/lusitanica*)
   f. English holly (*Ilex aquifolium*); and
   g. Scotch broom (*Cytisus scoparius*).
   h. English hawthorne (*Crataegus laevigata*)
   i. Poison oak (*Toxicodendron diversilobum*)
5. Commercial forest practices and the removal of trees pursuant to a Forest Practices Permit (Class II, III and IV-S only) issued by the Washington State Department of Natural Resources under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-

Commented [CC18]: Change title to be consistent – "Exceptions" is only used here.

Commented [CC19]: These sections are in the critical areas ordinance. Clearing permit would be required for pruning that exceeds these thresholds and no net loss standard would apply.

Commented [CC20]: No change.

forestry use, the general provisions of this Program, including Appendix B, and shall be limited to the minimum necessary to accommodate an approved use.

***Existing language for pruning:**

SMP 4.1.3.7.1:

The following activities are allowed within the Shoreline Buffer and Site-specific Vegetation Management Area with an approved clearing permit. Such activities shall meet the standards of Section 4.1.4, Land Modification.

b. Minor Pruning. Tree pruning, including thinning of lateral branches to enhance views, or trimming, shaping, thinning or pruning necessary for plant health and growth and which does not harm the plant, is allowed consistent with the following standards:

i. All pruning shall meet the American National Standard Institute (ANSI) tree pruning standards;

ii. In no circumstance shall removal of more than one-fourth (1/4) of the original crown be permitted within a three year period;

iii. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy; and

iv. Pruning shall retain branches that overhang the water.

Commented [CC21]: This section is somewhat redundant of the proposed exemption for pruning.

Is there an upper limit to specify or should the no net loss standard be applied?

****New definition from draft critical areas ordinance (adapted for shoreline):**

Normal and routine yard and garden activities including, but not limited to, cutting and mowing lawns, weeding herbaceous plants, removal of noxious and invasive species, harvesting and replanting of ornamental garden plants and crops, incidental vegetable gardening, pruning and planting of noninvasive ornamental vegetation that are intended to maintain the general condition and extent of such areas; provided, that such activities are limited to legally existing yard and garden areas, do not further expand into critical areas or shoreline buffers, do not significantly alter topography, and do not diminish water quality or quantity. Normal and routine activities cannot result in a change to the location, size at the ground level or configuration of existing yard and garden areas. Normal and routine activities do not include tree and vegetation activities pursuant to BIMC 16.20.090.B that require a critical area permit and city pre-approval or removal of significant trees.

Existing language for landscape areas:

SMP 4.1.3.7.1:

The following activities are allowed within the Shoreline Buffer and Site-specific Vegetation Management Area with an approved clearing permit. Such activities shall meet the standards of Section 4.1.4, Land Modification.

a. Existing landscape areas may be retained within the Shoreline Buffer or Site-specific Vegetation Management Area. However, any changes from the existing landscape to a different landscaping use or activity will require that the modified area comply with the provisions of 4.1.3, Vegetation Management, and the intent of providing native vegetation to maintain ecological functions and processes.

Commented [CC22]: Not clear – propose to replace with "yard and garden activities" exemption.

New section or reference critical areas section (Vegetation Maintenance):

Not exempt, clearing permit required. Would include hazard trees, coppicing, ~~significant trees~~, view maintenance (and hedge maintenance?).

1. Hazard trees.

    a. Hazard tree removal or wildlife snag creation not within erosion and landslide hazard areas or a landslide hazard area setback at the top of slope is allowed provided that it shall comply with the following standards and submittal requirements:

    i. A report from an International Society of Arboriculture (ISA) Tree Risk Assessment Qualified (TRAQ) arborist that documents the hazard and provides a replanting plan for replacement trees;
    ii. Land owners are encouraged, but not required, to retain all or portions of removed hazard trees on site to provide wildlife habitat;
    iii. The land owner shall replace any trees that are removed with new trees at a minimum ratio of two replacement trees for each tree removed (2:1) within the first appropriate growing season in accordance with an approved planting plan. Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter at (4-1/2 feet high) for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;
    iv. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and
    v. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the land owner prior to receiving approval from the city; provided, that within 14 days following such action, the land owner shall submit the report required by Section (i) directly above and a planting plan that demonstrates compliance with the provisions of this title.

    b. Hazard tree removal within erosion and landslide hazard areas and their setbacks at the top of slope is allowed provided that it shall comply with the standards and submittal requirements of both BIMC 16.20.090.B.2.a and the following:

    i. No root disturbance or stump removal is permitted;
    ii. Tree trunks, branches and stems may be left on a slope provided vegetative material does not result in a net increase in geological instability or create dangers to life or property.
    iii. When removing more than one hazard tree, or more than two within a five-year period, the applicant shall demonstrate compliance with development standards in BIMC 16.20.130.D(1) as documented by a geotechnical engineer licensed in the State of Washington.

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2. Coppicing

Commented [CC23]: Council still discussing whether or not to include big leaf maple and alder.

a. The coppicing of big leaf maple (*Acer macrophyllum*), red alder (*Alnus rubra*) and any species listed in BIMC 16.20.090.A(2) is allowed, provided:
   i. No ground or root disturbance occurs as part of the cutting;
   ii. Trees or shrubs are less than 6 inches in diameter at 4-1/2 feet high;
   iii. Coppicing may only occur once every three years; and
   iv. Coppicing of big leaf maple and red alder is not allowed in wetlands or fish and wildlife habitat conservation areas or their associated buffers. In shoreline buffers?

b. The coppicing or removal of any species listed in BIMC 16.20.090.A(2) and BIMC 16.20.090.B(3)(a) in an area greater than 2,500 square feet shall:
   i. Demonstrate compliance with development standards in BIMC 16.20.130.D(1) as documented by a geotechnical engineer licensed in the State of Washington if located within erosion and landslide hazard areas and their buffers at the top of the slope; and
   ii. Include submittal of a replanting plan for city review and approval for any areas of bare ground.

4. View maintenance

Existing language:

SMP 4.1.3.8.4 View Maintenance – Single-family Residential Only.

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

a. Limited removal of existing trees or vegetation located on the same property as a single-family residence may be allowed for maintenance of a pre-existing view from the primary structure, or to establish a view for a new primary structure provided the following are met:

   i. The applicant demonstrates to the satisfaction of the Administrator that the vegetation removal is the minimum necessary to re-establish or establish a view of the water similar to that enjoyed by other residences in the area and that pruning methods are not sufficient to provide an adequate view of the water similar to that enjoyed by other residences in the area; and

   ii. Existing significant native trees are not removed within the Shoreline Jurisdiction, unless exempt; and

   iii. In no instance, including accounting for other approved alterations as provided in Section 4.1.3, shall vegetation removal exceed twenty (20) percent of the required Shoreline Buffer area or Site-specific Vegetation Management Area or reduce the vegetation canopy coverage to less than 65% in the Shoreline Buffer or Vegetation Management Area.

      A. Vegetation removal occurring adjacent to the shoreline shall also be limited to fifteen (15) linear feet of the water frontage; and

   iv. The applicant shall obtain an approved Bluff Management Plan pursuant to Section 4.1.5, Critical Areas for any vegetation alteration in a geologically hazardous area. The cost and preparation of the plan is the responsibility of the applicant; and

   v. All vegetation removal complies with other applicable requirements of this Program (such as clearing and grading, forest practices, and protection standards for fish and wildlife habitat), including the no net loss and/or revegetation standards in Section 4.1.2.

b. The Administrator my deny a request or condition approval for vegetation alteration proposals for view maintenance if it is determined that the action will result in an adverse effect to any of the following:

   i. Slope stability;

   ii. Habitat value;

   iii. Health of surrounding vegetation;

   iv. Risk of wind damage to surrounding vegetation;

   v. Nearby surface or ground water; or

   vi. Water quality of a nearby water body.

Commented [CC24]: •Allows for removal of significant, non-native trees
•Does not currently reference other sections that limit size of limbs allowed to be removed
•How does applicant demonstrate "minimum necessary"?
•Could allow proposed exempt pruning activities without review (less than 6" diameter, up to 25%)

Commented [CC25]: Not clear what this applies to – canopy coverage includes trees and shrubs. Can you not remove a tall shrub that takes up more than 20% of the buffer? Wouldn't it just get pruned down?

Commented [CC26]: Not clear how this is measured/applied.

Commented [CC27]: Geotech review not required in all cases; not required for most pruning.

SMP 4.1.5.8.4 – Bluff Management Plan

Existing language:

All alterations to the vegetation within a geological hazardous area shall provide a Bluff Management Plan developed by qualified professional(s) to address vegetation management for slope stability and ecological functions and processes for a ten year period. The plan at a minimum shall include:

a. A geotechnical analysis of slope stability as defined in B-9, Geologically Hazardous Areas of Appendix B.

b. A site plan showing existing vegetation location and species.

c. An analysis of identified vegetation appropriate for removal or alteration.

d. An analysis of vegetation management strategies for slope stability.

e. A mitigation plan developed according to Section 4.1.2, Environmental Impacts and Section 4.1.3, Vegetation Management.

f. The Administrator may include additional conditions for a site-specific analysis and require a third party review by a qualified professional at the cost of the applicant.

Commented [CC28]: As written, required for pruning. Suggest be limited to removal unless exceeding pruning thresholds allowed without review and pre-approval.

New section for significant trees

Existing language:

SMP 4.1.3.5.4: The Shoreline Buffer or Site-specific Vegetation Management Area shall be maintained in a predominantly natural, undisturbed and vegetated condition. Unless specifically allowed by this program, the following standards shall apply:

a. All existing native groundcover, shrubs and significant trees located within the Shoreline Buffer or Site-specific Vegetation Management Area shall be retained;

Commented [CC29]: Unclear. Could you take out a significant tree to install a patio? Boathouse? Dock?

SMP 4.1.3.5.6: Significant trees located outside the Shoreline Buffer or Site-specific Vegetation Management Area but within the shoreline jurisdiction, shall be retained unless allowed to be removed under the exceptions or other provisions of this program provided:

a. The Administrator may require alterations of a site plan in order to retain significant trees outside the Shoreline Buffer or Vegetation Management Area. This may include minor adjustments to the location of building footprints, the location of driveways and access ways, or the location of walkways, easements or utilities.

Commented [CC30]: There are no exceptions or other provisions that allow significant tree removal.

Commented [CC31]: No provision to allow for the removal.

SMP 4.1.3.7.1.c: Vegetation Removal Related to Construction. Tree or vegetation removal within the Shoreline Buffer or Site-Specific Vegetation Management Area that is associated with new construction may be allowed, but must retain significant trees and shall meet the requirements of Section 4.1.2, Environmental Impacts, including replanting provisions.

Proposed language:

Significant tree removal shall only be permitted to allow for locating a single-family residence and normal appurtenances. The Administrator may require alterations of a site plan in order to retain significant trees. This may include adjustments to the location of building footprints, the location of driveways and access ways, or the location of walkways, easements or utilities.

Commented [CC32]: Proposed to allow removal only for primary structure and appurtenances (septic, garage, etc.). Need to add definition of significant tree to SMP (10"evergreen, 12" deciduous).