CITY OF
BAINBRIDGE ISLAND

Planning Commission
Regularly Scheduled Meeting
Thursday, October 12, 2017
7:00 – 9:00 PM
Council Chamber
280 Madison Ave N
Bainbridge Island, WA 98110

AGENDA

7:00 PM CALL TO ORDER
Call to Order, Agenda Review, Conflict Disclosure

7:05 PM PUBLIC COMMENT
Accept public comment on off agenda items.

7:15 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

CITY OF BAINBRIDGE ISLAND

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: October 12, 2017

To: Planning Commission

From: Christy Carr, AICP
Senior Planner

Subject: Shoreline Master Program Amendment

Staff will continue to review proposed revisions focusing on integration of the **critical areas ordinance (CAO)** and associated **vegetation management** provisions. Please review the following sections of the **existing** shoreline master program (SMP):

- Section 4.1.2
- Section 4.1.3
- Section 4.1.5 and Appendix B-9

The existing SMP is available online at: http://www.bainbridgewa.gov/DocumentCenter/View/3741.

Also review the current draft of the CAO: https://wa-bainbridgeisland.civicplus.com/DocumentCenter/View/9078.

The attached document is intended as **a starting point for discussion about proposed revisions**. It may be most helpful to review this document side-by-side with corresponding sections of the existing SMP to understand proposed reorganization and revisions.

Please come to the meeting prepared to discuss:

- If/how critical areas should be regulated differently within the shoreline jurisdiction
- If/how trees and vegetation should be managed differently within the shoreline (different than within critical areas)

Revisions to other sections of the SMP are not proposed at this time. This phase of work is primarily intended to integrate the recently updated CAO and address implementation issues with associated vegetation management provisions. Other substantive topics will be addressed in a future amendment.

Staff will highlight major changes and policy decision points and a proposed schedule and public participation plan at the October 12, 2017 Planning Commission meeting.

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 – 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.

4.1.2.6 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.

4.1.2.7 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

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.

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 – Establishment of Shoreline Buffer and Site Specific Shoreline Vegetation Area

1. 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.
2. Two alternative methods may be used to meet the goals and policies of the Vegetation Management Section, as provided below, except the Point Monroe District shall meet the special provisions provided in subsection 2:
    a. Alternative 1: A Shoreline Buffer shall be maintained immediately landward of the OHWM and managed according to provisions of this Program and shall meet the location and design standards of Section 4.1.3.8, Regulations – Shoreline Buffer – Location and Design Standard.
    b. Alternative 2: As an alternative to the Shoreline Buffer dimensions provided in subsection a, above, an applicant may propose specific dimensional standards for a Site-

Specific Vegetation Management Area that meets the Vegetation Management goals, policies and applicable regulations as determined through a Habitat Management Plan prescribed in Appendix B, Section B-4, provided that the plan demonstrates the following:

A. The proposed development is for a residential use.

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

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

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

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

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

3. **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.

4.1.3.5 Regulations – Shoreline Buffer – Location and Design Standard

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

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

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

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

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

    b. Shoreline Buffer standard depth in Table 4-3

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

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

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

    a. Zone 1 shall extend from the ordinary high water mark (OHWM) a minimum of 30 feet, or to the limit of existing native vegetation whichever is greater. The native vegetation limit is determined through a site-specific analysis of existing

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

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

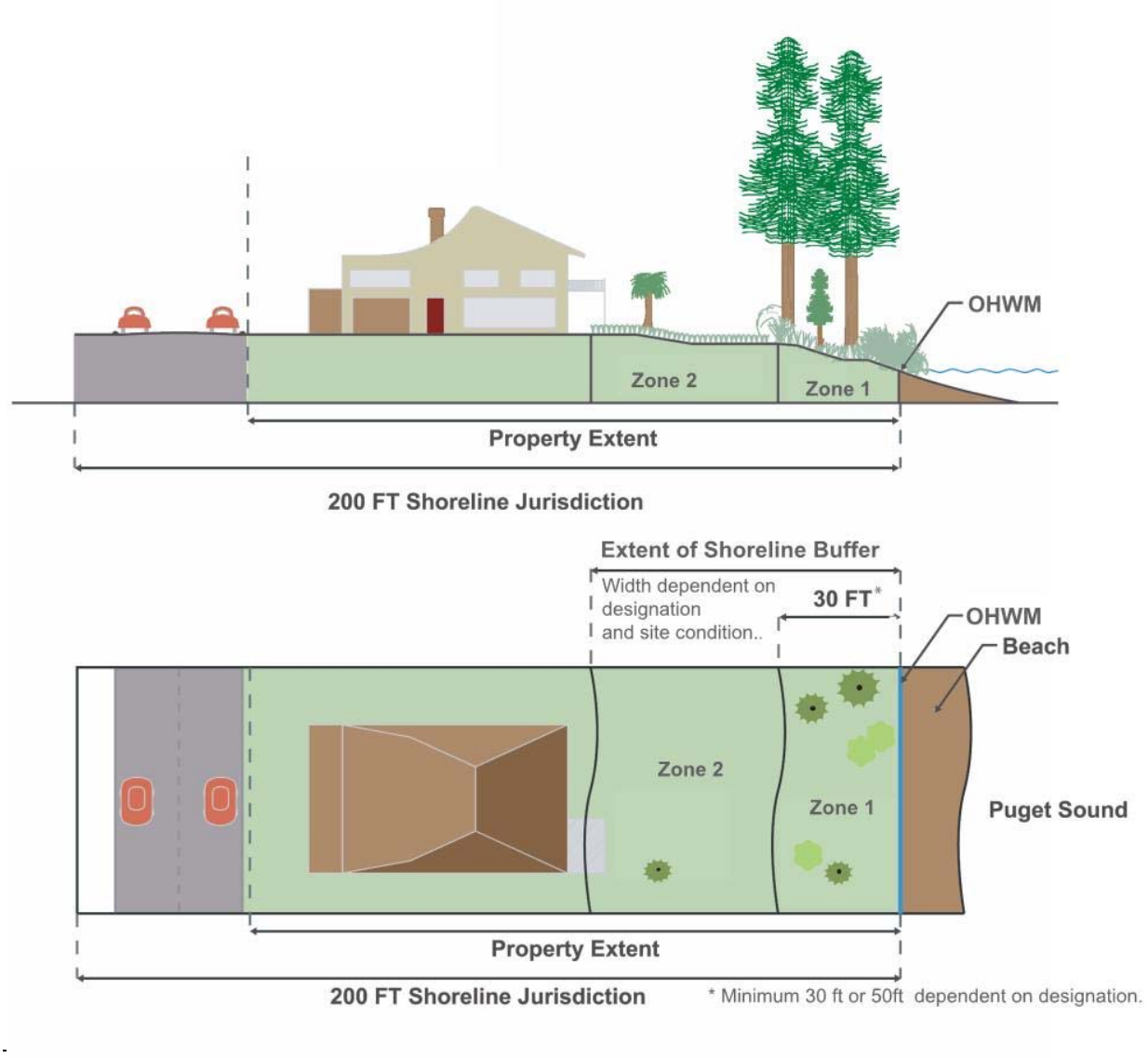

Figure 4-1 Dual Shoreline Buffer

4.1.3.6 Regulations – Shoreline Buffer Reductions

1. When the prescriptive buffer depth provided in Table 4-3 is reduced or dimensions altered through provisions of this Program, the applicant shall record a notice on title, or other similar document with the County Auditor prior to permit issuance, subject to the approval of the Administrator.

2. Any shoreline buffer reduction must be approved by the Administrator prior to any development, use or activity and must demonstrate compliance with the no net loss standard pursuant to Section 4.1.2.4 either through a site-specific impact analysis or use of the Single Family Residence Shoreline Mitigation Manual.

3. The total area of Zone 2 of the Shoreline Buffer may be reduced to accommodate shoreline views in accordance with Section 4.1.3.14 for a new single family primary residential structure or addition to a primary residential structure provided that:

    a. There is an existing primary structure located within 100 feet of the property line of the subject property;

    b. Where there is no existing primary structure, up to one-third (1/3) of the area of Zone 2 may be comprised of an approved primary structure. The remaining two-thirds (2/3) of Zone 2 must be established and/or maintained in native vegetation;

    c. If less than one-third (1/3) of the area of Zone 2 is reduced to accommodate views, the Administrator may reduce the required area of native vegetation to less than two-thirds (2/3);

    d. Significant trees shall not removed to allow for the buffer reduction.

4. If the prescriptive buffer depth for a single-family residential property pursuant to Table 4-3 is reduced in accordance with this section or a shoreline variance, the following shall occur in Zone 1:

    a. Retain existing native vegetation; and

    b. Plant the entire area with native vegetation. Obtain 65% vegetation canopy coverage within 10 years.

5. Zone 1 and Zone 2 of the Shoreline Buffer may be reduced in overall size to allow for the minor development permitted in Section 4.1.3.10 through Section 4.1.3.13.

6. The area of Zone 2 shall not be reduced over one-third (1/3) of its total area without a shoreline variance.

4.1.3.7 Regulations – General Standards

1. Development within the shoreline jurisdiction shall be located and designed to protect existing native vegetation from disturbance and mitigate impacts to existing vegetation to the fullest extent possible.

2. Vegetation alteration or removal is not allowed within the shoreline jurisdiction without prior review and approval by the Administrator, unless allowed under Section 4.1.3.4.

3. Vegetation replanting is required for all development, uses or activities within the 200-foot shoreline jurisdiction, whether a permit is required or not, that either:

    a. Alters existing native vegetation; or

    b. Alters any vegetation in a required Shoreline Buffer or Site-Specific Vegetation Management Area.

6. Significant tree removal shall only be permitted to allow for locating a single-family residence and normal appurtenances. The Administrator may require alterations of a site plan in order to retain significant trees. This may include adjustments to the location of building footprints, the location of driveways and access ways, or the location of walkways, easements or utilities.
7. 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.
8. 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.

4.1.2.8 Regulations – Vegetation Management

1. The following activities do not require city review or pre-approval.

    a. Normal and routine yard and garden activities including, but not limited to, cutting and mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden plants and crops, incidental vegetable gardening, pruning and planting of noninvasive ornamental vegetation, 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 shoreline buffers, do not include earthwork greater than fifty cubic yards, 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 clearing permit and city pre-approval.

b. Tree and vegetation activities not requiring review or approval pursuant to BIMC 16.20.090.A.

c. Class I, II III and non-conversion Class IV forest practices regulated pursuant to Chapter 76.09 RCW. 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.

2. The following activities may be allowed with an approved clearing permit.

a. Tree and vegetation activities requiring review and pre-approval pursuant to BIMC 16.20.090.B in accordance with the submittal requirements and review procedures in BIMC 16.20.090.F.
~~b.~~ Non-native vegetation alteration or removal outside the shoreline buffer or site-specific vegetation management area pursuant to applicable standards in BIMC 16.18, provided no significant tree are removed and 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.
c. Underground utilities and potable water wells 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 installation.
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 and the maintenance meets the goals and policies of Section 4.1.3, Vegetation Management.
e. 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.

3. 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.

4.1.2.8 Regulations – Revegetation Standards

1. For revegetation 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.
2. Vegetation replanting is required for invasive species removal in accordance with Section 4.1.3.4.3.a.
3. When vegetation replanting is required, the following information shall be submitted for approval prior to vegetation disturbance as part of a project proposal or clearing permit:

a. Residential, Industrial and Commercial Development.

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

ii. Vegetation disturbance greater than 200 square feet requires a planting plan completed by a qualified professional. Alternatively, the applicant may use the Single Family Residence Shoreline 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 a planting plan completed by a qualified professional.

4. When revegetation 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.

5. Revegetation 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.

6. When revegetation 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.

7. Special Mitigation Provisions for Point Monroe District. When revegetation 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.

4.1.3.9 Vegetation Alterations Standards – Residential Development

The following activities associated with residential development may be allowed within a Shoreline Buffer or Site-specific Vegetation Management Area only with an approved shoreline exemption, if required, or an approved clearing permit.

1. One (1) hand installed pervious trail to the shoreline not more than four (4) feet in width, which may include hand installed steps, provided:
   a. No significant trees shall be removed;
   b. The trail may be wider when required for handicapped or public access; and
   c. Vegetation removal or pruning is limited to two (2) feet on either side of the trail.
2. 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.
      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.

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. 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 minimum criteria in the International Building Code.

   c. Stairways shall not end waterward of the ordinary high water mark (OWHM) unless allowed pursuant to Section 6.3, Overwater Structures.

   d. 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.

4.1.5 Critical Areas

4.1.5.1 Applicability

This section provides policies and regulations that apply to critical areas including critical saltwater and freshwater habitats as defined by WAC 173-26-221(2)(c)(iii) and (iv), including those portions of streams and wetlands, and flood plains or other flood prone areas within the shoreline jurisdiction. These policies and regulations apply in addition to the critical areas protection standards for fish and wildlife habitat conservation areas found in Appendix B. All shoreline uses and activities, including development which does not require a shoreline permit, must conform to these provisions. Shoreline development and activities associated with critical areas 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 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.1.5.2 Goal

Comprehensively manage shoreline uses and activities to protect, enhance, and restore existing ecological functions and ecosystem-wide processes of critical areas by utilizing the most current, accurate, and complete scientific and technical information.

4.1.5.3 Policies

1. Protect shoreline resource areas, including but not limited to critical areas, including:
    a. Critical Aquifer Recharge Areas
    b. Fish and Wildlife Habitat Conservation Areas
    c. Frequently Flooded Areas
    d. Geologically Hazardous Areas
    e. Wetlands
    f. Critical Saltwater and Freshwater Habitat Areas
    g. Critical Habitat
2. Encourage development proposals to include elements of preservation, conservation, restoration, or enhancement of critical areas, including saltwater habitat and fish and wildlife conservation areas, through incentives and ecosystem-wide restoration planning.

3. Locate, design, construction, and manage all shoreline uses and activities in ways that assure no net loss of shoreline ecological functions and ecosystem-wide processes, and protect critical saltwater habitat, including fish and wildlife habitat conservation areas.
4. Locate and design shoreline uses, activities, and/or development to avoid risks to people and property. See also Section 3.0, Shoreline Designation Policies and Regulations, for additional provisions.
5. Ensure that proposed shoreline uses, activities and/or development proposed adjacent to critical areas or their buffers, will not adversely impact shoreline ecological functions and/or ecosystem-wide process or critical areas, fish and wildlife habitat conservation areas and critical saltwater habitat.
6. Promote and manage shoreline uses and activities, such as public access and recreation that are compatible with critical areas, provided they do not adversely impact ecological function.
7. Monitor critical areas, including critical saltwater habitats, and fish and wildlife habitat conservation areas, to assure that these areas are not being adversely impacted by approved development or restoration projects.

4.1.5.4 Regulations – General

1. Development, uses, and activities proposed within shorelines of the state shall meet the requirements of the City's shoreline-specific Critical Areas Regulations as contained in Appendix B, in addition to the requirements found elsewhere in the Master Program.
2. Development, uses, and activities adjacent to critical areas, including critical saltwater habitats ~~and fish and wildlife habitat conservation areas~~, proposed within shorelines of the state shall be monitored to assure that these areas are not being adversely impacted by approved development or restoration projects, consistent with Section 4.1.2 monitoring and mitigation requirements and the monitoring and mitigation requirements in Appendix B.
3. ~~Special Reports. For development proposed on property with marine bluffs, steep slopes, erosion hazard areas and/or landslide hazard areas, a geotechnical report shall be required to assess potential hazards and propose measures to mitigate such hazards consistent with the requirements of this Master Program and attached appendices.~~

4.1.5.5 Regulations – ~~Fish and Wildlife Habitat Conservation Areas and~~ Critical Saltwater Habitat

1. Water-dependent development and uses, including marinas, docks, piers, mooring areas, underwater parks, utility crossings, and shoreline modifications, shall not intrude into or be built over critical saltwater habitat unless:
    a. The applicant can show that all of the following criteria can be met:
        i. The use preferences of Section 4.1.1 shall be utilized for uses in Shorelines of State-wide Significance; and
        ii. The need for such a structure is clearly demonstrated and an alternative alignment or location on the property that would avoid impacts to critical saltwater habitats is not feasible or would result in unreasonable and disproportionate cost to accomplish

the same general purpose, as demonstrated through an alternatives analysis. The analysis should include in part, shoreline bathymetry, shoreline features at the site, and substrate composition;

iii. It can be demonstrated that the project is consistent with the state's interest in resource protection and species recovery; and

iv. Impacts to critical saltwater habitat functions and processes are mitigated to result in equal or better ecological function; or

b. The proposal is for private, non-commercial, residential docks for single use, community, or joint-use, which may be authorized, provided that:

i. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible; and

ii. The project, including any required mitigation, will result in no net loss of ecological functions and processes associated with critical saltwater habitat.

c. New or expanded overwater structures shall be located the greater or most protective of:

i. A horizontal distance of 25 feet from the outside edge of the structure to native aquatic vegetation attached to or rooted in substrate;
ii. A horizontal distance equal to the maximum distance shade will be cast by the structure and vessel;
iii. A 4-foot vertical distance from eelgrass or relevant submerged aquatic vegetation;
iv. A distance the diameter of the turning circle, if the structure is to be utilized for motorized vessels. The turning circle is defined as 3.5 times the length of the longest vessel to use the structure.
v. Alternative measures that demonstrate no net loss of ecological functions.

d. For projects within WDFW documented Pacific herring spawning locations, in-water activities that would affect herring spawn should be restricted to WDFW's approved work window for Bainbridge Island (May 1 through January 14). For aquaculture projects, the City may consider alternative methods that are contained in federal and/or state aquaculture permits for reducing impacts to herring spawning habitat and other forage fish spawning habitat.

e. For projects other than commercial aquaculture within WDFW documented sand lance and surf smelt spawning locations, no activities should occur during spawning windows as identified by WDFW. For commercial aquaculture projects within WDFW documented sand lance and surf smelt spawning locations, no harvesting may occur during the surf smelt or sand lance spawning seasons until a spawning survey is conducted. If surf smelt or sand lance spawn are present in the growing area to be harvested or adjacent tidelands, then no harvest activities may occur until the eggs are hatched. Extreme caution should be taken to avoid impact and minimize disturbance of sand lance and surf smelt larvae that are present.

2. Aquatic herbicide treatments, mechanical removal of vegetation or aquatic pesticide treatments shall not be used on critical saltwater habitats, except for approved habitat restoration or enhancement measures that meet the provisions of Section 4.1.6, Water Quality and Stormwater Management.

3. Sand, gravel or other materials shall not be added or removed from critical saltwater habitat, unless approved as part of a restoration effort or beach nourishment program or as allowed in 1, above.
4. New outfalls (including stormwater and sewer outfalls) and discharge pipes shall not be located in critical saltwater habitats or areas where outfall or discharge will adversely affect critical saltwater habitat, unless the applicant can show that all of the following can be met:
    a. There is no feasible alternative location for the outfall or pipe; and
    b. The outfall or pipe is placed below the surface of the beach or bed of the water body; and
    c. The discharge point(s) on the outfall or discharge pipe is located so the discharges, including nutrients and flow, do not adversely affect critical saltwater habitats; and
    d. For public sewage outfalls:
        i. The outfall discharges waterward of the intertidal zone.
        ii. The disturbed area will be revegetated with native vegetation.
5. The use of existing outfalls shall be maximized to limit the need for additional outfalls, provided the existing outfall meets the standards of this section, or unless an alternatives analysis demonstrates the dispersal is less impacting to the shoreline environment.
6. For activities adjacent to fish and wildlife habitat conservation areas the maximum prescribed buffer shall apply. These buffers can be modified on a case-by-case basis through a habitat management plan, pursuant to Section B-4 contained in Appendix B. In order to determine the need or extent of a buffer, a critical area report shall be required for all development in or adjacent to a habitat conservation area.
    a. In addition to the requirements in Appendix B, the Habitat Management Plan shall:
        i. Describe actions that will be implemented to ensure that buffer areas provide ecological functions and processes equivalent to a dense native plant-community to the extent possible given the area that is feasibly available; and
        ii. Demonstrate that no net loss of ecological functions and processes in critical saltwater habitat and other critical areas will occur, as specified in WAC 173-26-201(3)(d) and WAC 173-26-221(2)(c)(iii).
7. Until an inventory of critical saltwater habitat is completed, all over water and near-shore development shall conduct an inventory of site and adjacent beach sections to assess the presence of critical saltwater habitat and/or functions and processes. The inventory shall occur prior to construction and the methods and extent of the inventory shall be consistent with accepted research methodology. New studies shall be required only when existing information is out dated or does not exist.

~~4.1.5.6 Regulations – Frequently Flooded Areas~~

~~1. All new development and new uses within the jurisdiction of this Master Program shall comply with the provisions of Section B-11, Frequently Flooded Areas located in Appendix B of this Master Program.~~

4.1.5.7 Regulations – Geologically Hazardous Areas

1. All new development and new uses within the jurisdiction of this Master Program shall comply with regulations for Geologically Hazardous Areas as set forth in the shoreline-specific Critical Areas Regulations contained in Section B-9 of Appendix B of this Master Program.

2. Additional standards for marine bluffs (i.e., slopes greater than 40 percent that exceed a vertical height of 10 feet within the marine shorelines jurisdiction) are provided in section 4.1.5.8, Special Reports and Determination of Buffers, and 4.1.5.9, Regulations – Bluff Drainage, below.

4.1.5.8 Special Reports and Determination of Buffers

1. Applicants proposing development adjacent to a marine bluff shall submit a geotechnical engineering report prepared in accordance with the requirements of this Master Program and the shoreline-specific Critical Areas regulations contained in Appendix B. In terms of this regulation, "adjacent" means development proposed either within 50 feet from the crest of a marine bluff or within a distance equal to the height of the slope from the crest (measured from the top), whichever is greater.

2. The geotechnical engineering report shall be prepared by a Washington State licensed professional civil engineer with a specialty in geotechnical engineering or an engineering geologist with a Washington State specialty license in engineering geology as specified in RCW 18.220, Geologists. The report shall be based upon the most appropriate and current science, existing and proposed uses, risks of slope failure, and coastal erosion rates over at least 100 years, if applicable.

3. All proposed development on the face of a marine bluff or in the required buffer area shall be prohibited, except:

    a. Development may be allowed as specified in Appendix B; Subsection B-9(E)(3)(a)(i)(F) of this Master Program;

    b. Minor development for public access (e.g., public trails, stairs, or view points) may be allowed, provided that environmental impacts are mitigated and the development can meet the factor of safety in Appendix B; subsection B-9(E)(1); and

    c. Minor development permitted in the Shoreline Buffer and Site-specific Vegetation Management Area pursuant to Sections 4.1.3.8 through 4.1.3.11 such as boathouses, decks, stairs, trams, piers, and docks except at the toe of unstabilized feeder bluffs and the development can meet the factor of safety in Appendix B; subsection B-9(E)(1).

4. 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.

4.1.5.9 Regulations – Bluff Drainage

1. Surface drainage shall be directed away from marine bluffs. When no other solution is feasible, surface drainage piping may be located on the face of a steep slope when contained in a tight line (closed, non-leaking pipe) and in such a way that erosion will not be increase at the base of the bluff and provided that physical access along the shoreline is not degraded. Furthermore, conditions may be applied to mitigate the aesthetic impacts of the proposed drainage systems as viewed from public areas.

4.1.5.10 Regulations – Wetlands

1. All development, development proposals and alterations that are located within or adjacent to shoreline jurisdictional wetlands or their buffers, or that are likely to significantly impact shoreline jurisdictional wetlands shall prepare a wetland analysis pursuant to Subsection B- 4.7 10 of Appendix B, of this Master Program. The wetland analysis shall include the wetland rating (using the Washington State Wetland Rating System for Western Washington (2006) or as revised by Ecology), a functional assessment of potential buffers (based on Ecology's best available science for wetlands), and noting of any water features and other critical areas and their related buffers in the proximity of the proposed development.

2. Wetlands will be delineated using the Regional Supplement to the Army Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region or the current Washington State Department of Ecology methodology. The wetland buffer for shoreline wetlands shall be established pursuant to the provisions of Subsection B-10 in Appendix B of this Master Program.

3. Alteration of wetlands and their buffers is prohibited, unless:

    a. Such a prohibition is deemed a violation of constitutional or statutory limitations on regulations of private property; or

    b. The proponent can conclusively demonstrate to the satisfaction of the Administrator that the impacts are unavoidable.

4. In either case of subsection 3.a or 3.b, above, the proponent shall provide mitigation to achieve no net loss of wetland functions and values, according to an approved mitigation plan prepared consistent with this Master Program, including Section B-4 and B-6 of Appendix B, shoreline-specific Critical Areas Regulations.