



**Planning Commission
Regularly Scheduled Meeting
Thursday, November 16, 2017
7:00 – 8:30 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
- 8:25 PM NEW/OLD BUSINESS
- 8:30 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



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: November 16, 2017
To: Planning Commission
From: Christy Carr, AICP
Senior Planner
Subject: Shoreline Master Program Amendment

Staff will continue to review proposed revisions focusing on **critical areas and vegetation management** provisions (Sections 4.1.2, 4.1.3, 4.1.5 and Appendix B).

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

A summary of proposed revisions to Section 4.1.5 is attached.

City of Bainbridge Island SMP Amendment – Critical Areas (SMP Section 4.1.5 and Appendix B)

Summary of Proposed Revisions

November 16, 2017

The existing SMP includes several small differences between the critical areas ordinance currently in effect which cause confusion and creates difficulty in administration. To improve implementation effectiveness, staff recommends removing these differences since the proposed critical areas regulations provide sufficient protection of ecological function and hazard minimization. The following shoreline-specific critical areas regulations in existing SMP are proposed to be removed:

- Wetland Category III buffers for wetlands with low level of function for habitat and low impact of land use – 60 foot buffer in shoreline reduced to 40 feet to be consistent with CAO (consistent with Ecology guidance for wetland buffers).
- Wetland Category IV buffers for wetlands with low impact of land use – 40 foot buffer in shoreline reduced to 25 feet to be consistent with CAO (consistent with Ecology guidance for wetland buffers).
- This section in B-9 (Geologically hazardous areas, see page 293 of existing SMP) deleted (now covered by standards for existing development in revised CAO):
 - 2. Redevelopment of existing structures
 - a. If an existing structure is damaged or is intentionally demolished the new structure must meet all the provisions of a new structure.
 - b. Structural alteration to an existing legally constructed structure that does not increase the structural footprint and are determined by the City Engineer as having a minimal potential for increasing landslide hazard and meets the minimum buffer dimensions in B-9(E)(3)(i);
- SMP Section 4.1.5.8.3 deleted related to minor development on steep slopes (see item 8 below).

Note on SMP consistency: Staff is working with the Department of Ecology to ensure that the incorporated by reference CAO is consistent with the SMP. Minor modifications to proposed revisions may result, relating largely to process (e.g., there cannot be a non-shoreline permit or appealable decision required in the SMP, it needs to be reviewed with the underlying shoreline permit or exemption. The review criteria can be the same.)

Appendix B will include the CAO for reference only (see item 4, below). Appendix B will include only those sections incorporated by reference.

Item	SMP Citation	Proposed language	Discussion/Basis for Change
1	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	Simplify language. This language is provided for reference only (extracted from the current SMP) to provide background on terminology: <i>The following general policies and regulations apply to all designations. These provisions are to be used in conjunction with the more specific shoreline use (referred to as “uses”) and shoreline modification activity</i>

City of Bainbridge Island SMP Amendment – Critical Areas (SMP Section 4.1.5 and Appendix B)

Summary of Proposed Revisions

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Item	SMP Citation	Proposed language	Discussion/Basis for Change
		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. <u>This section applies to critical areas defined under 36.70A RCW and WAC 173-26-221(2)(c)(iii) and (iv). Critical areas include the following areas and ecosystems: wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, critical saltwater and freshwater habitat.</u>	(referred to as “activities”) policies and regulations found in Sections 4.0 and 5.0 respectively. Shoreline Modifications – Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals. Activity – Human activity associated with the use of land or resources. Development – A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or materials; bulkheading; pile driving; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level, subject to RCW Chapter 90.58 or its successor [RCW 90.58.030(3)(d) or its successor]. This term may include activities related to subdivisions and short subdivisions; clearing activity; land modification (grade and fill work); building or construction; and activities that are exempt from the substantial development permit process or that require a shoreline variance or conditional use.
2	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.	No change proposed.
3	4.1.5.3 Policies	1. <u>Provide a level of protection to critical areas that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.</u> Protect shoreline resource areas, including but not limited to critical areas, including: a. Critical Aquifer Recharge Areas b. Fish and Wildlife Habitat Conservation Areas	1. Simplify language. No need to repeat list of critical areas. Need to confirm removal of critical habitat. Not listed in WAC 173-26-221 as a critical area required to be included in SMP. 2-7. Simplify language.

City of Bainbridge Island SMP Amendment – Critical Areas (SMP Section 4.1.5 and Appendix B)

Summary of Proposed Revisions

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Item	SMP Citation	Proposed language	Discussion/Basis for Change
		e. — 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. <u>34.</u> 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. <u>46.</u> Promote and manage <u>water-related</u> 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	

City of Bainbridge Island SMP Amendment – Critical Areas (SMP Section 4.1.5 and Appendix B)

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		these areas are not being adversely impacted by approved development or restoration projects.	
4	4.1.5.4 Regulations -- General	<u>The following sections of Chapter 16.20, Critical Areas Ordinance, dated xxxxxx, are incorporated herein by this reference, and as provided in Appendix B for reference purposes only, as supplemented or modified by Section 4.1.5.4.2 and Section 4.1.5.5:</u> <u>BIMC 16.20.030, Protection of critical areas</u> <u>BIMC 16.20.050, Standards for existing development, as applicable and consistent with this Program</u> <u>BIMC 16.20.070, Review procedures</u> <u>BIMC 16.20.090, Trees and vegetation</u> <u>BIMC 16.20.100, Aquifer recharge areas</u> <u>BIMC 16.20.110, Fish and wildlife habitat conservation areas</u> <u>BIMC 16.20.120, Frequently flooded areas</u> <u>BIMC 16.20.130, Geologically hazardous areas</u> <u>BIMC 16.20.140, Wetlands</u> <u>BIMC 16.20.150, The Winslow Ravine</u> <u>BIMC 16.20.160, Performance and maintenance surety</u> <u>BIMC 16.20.180, Critical area reports</u> <u>BIMC 16.20.190, Definitions, except where conflict exists, then the definitions in this Program shall apply.</u> <u>Provisions of the City's Critical Areas Ordinance relating to requirements for reasonable use exceptions do not apply. In these cases, relief may be granted through Section 4.2.1.7 of this Program or through a shoreline variance.</u> 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,	(Existing numbering) - Revised to incorporate by reference updated critical areas ordinance. Sections inconsistent with SMA not included. - Deleted to simplify language – monitoring required in shoreline when compensatory mitigation is required (SMP Section 4.1.3). This language does not specify that monitoring is only required when mitigation is required – not all development adjacent to critical areas needs to be monitored. - Deleted, required reports covered in BIMC 16.20.180.

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		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.	
5	4.1.5.5	Regulations – Fish and Wildlife Habitat Conservation Areas and Critical Saltwater Habitat	No changes proposed at this time.
6	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.	Language provided in critical areas ordinance adopted by reference (which references BIMC 15.16, Flood Damage Prevention).
7	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.	Language provided in critical areas ordinance adopted by reference.
8	4.1.5.8 Special Reports and	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	1 and 2. Language provided in critical areas ordinance adopted by reference.

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	Determinations of Buffers	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	3. Prohibited and allowed minor development language provided in critical areas ordinance adopted by reference (provided here for reference only): <i>Prohibited activities. Development of habitable structures and critical facilities is prohibited in landslide hazard areas and landslide hazard area setbacks.</i> <i>Allowed activities. The following minor development may be allowed in landslide hazard areas on slopes forty (40) percent or greater and landslide hazard area setbacks if the development standards of this Section are met:</i> <i>Surface water management, including outfalls</i> <i>Septic facilities, including drainfields</i> <i>Trails and stairs</i> <i>Cable lifts and trams</i> <i>Public or private utilities or streets</i> <i>Seismic or other safety upgrades to protect existing habitable structures</i> <i>Other non-habitable structures</i> <i>**Consider “toe of unstabilized feeder bluff” provision – could be unnecessary because development wouldn’t meet a factor of safety.</i> 4. Tree and vegetation requirements in critical areas ordinance address vegetation alteration and provide thresholds for review and submittal requirements.

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		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.	
9	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.	Revise if needed and relocate text to SMP Section 4.1.6, Water Quality and Stormwater Management. LID required in SMP Section 4.1.6 and BIMC 15.20, including allowing an outfall only if on-site stormwater management not feasible; however, nothing this specific in BIMC 15.20.
10	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 <u>10</u> 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	Language provided in critical areas ordinance adopted by reference.

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		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.	