



CITY OF
BAINBRIDGE ISLAND

PLANNING COMMISSION REGULAR MEETING
THURSDAY, JULY 25, 2019
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 REVIEW AND APPROVE MINUTES
 July 11, 2019
- 7:15 PM WINSLOW HOTEL ([PLN50880 SPR](#))
 Review and Recommendation
 Associate Planner Olivia Sontag
- 9:00 PM ADJOURN

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

Public comment time 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**

PUBLIC PARTICIPATION MEETING – Hudson Short Subdivision
CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
REVIEW AND APPROVE MINUTES
PUBLIC COMMENT ON OFF AGENDA ITEMS
CITY COUNCIL UPDATE
SHORELINE MASTER PROGRAM PERIODIC REVIEW – Study Session
WINSLOW HOTEL SITE PLAN REVIEW ([PLN50880 SPR](#)) – Study Session
NEW/OLD BUSINESS
ADJOURN

PUBLIC PARTICIPATION MEETING – Hudson Short Subdivision (PLN51487 PRE)

Chair William Chester opened the meeting at 5:59 PM and introduced Planner Ellen Fairleigh. Architect Devin Johnson presented the project.

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure

Chair William Chester called the meeting to order at 6:30 PM. Planning Commissioners in attendance were J. Mack Pearl, Jon Quitslund, Lisa Macchio, Kimberly McCormick Osmond and Don Doman. Joe Paar was absent and excused. City Staff present were Interim Planning Director Heather Wright, Interim Planning Manager David Greetham, Long Range Senior Planner Christy Carr, Associate Planner Olivia Sontag, Planner Ellen Fairleigh and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

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

REVIEW AND APPROVE MINUTES – June 27, 2019

Motion: I move approval of the minutes as distributed.

Quitslund/Pearl: Passed Unanimously

PUBLIC COMMENT ON OFF AGENDA ITEMS

None.

CITY COUNCIL UPDATE

Interim Planning Director Heather Wright provided an update on City Council agenda items of interest to the Planning Commission.

SHORELINE MASTER PROGRAM PERIODIC REVIEW – Study Session

Long Range Senior Planner Christy Carr facilitated discussion of WAC 173-26-221: Shoreline vegetation conservation.

Public Comment

Dick Haugan, Citizen – Reviewed the written comments he provided (see attached).

Marcia Lagerloef, Citizen – Worried about the effects of commercial aquaculture on the shoreline and offered to provide a presentation to the Planning Commission with Bainbridge Alliance for Puget Sound.

Michael Zigich, Citizen – Thought there should be a new section that stated that the vegetation and that ecological functions did not stop at 200 feet, so maybe the requirements should be island-wide.

Elise Wright, Citizen – Spoke about when the SMP was written and that those writing it were thinking in perpetuity, not just the next five years.

Gretar Gudmundsson, Citizen – Recently filed for permit to raise roof on his garage and was told “No” because it would produce more shade. He asked for consistency in permit review and for the Commissioners to remember that the decisions they made affected others.

Michael Whalen, Citizen – Stated he had provided written comments to the Planning Commission (see attached).

WINSLOW HOTEL SITE PLAN REVIEW ([PLN50880 SPR](#)) – Study Session

Commissioner Quitslund read a prepared statement responding to a recent newspaper article by Brian Kelly.

NEW/OLD BUSINESS

None.

ADJOURN

The meeting was adjourned at 8:32 PM.

Approved by:

William Chester, Chair

Jane Rasely, Administrative Specialist

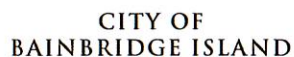


CITY OF
BAINBRIDGE ISLAND

Planning Commission Public Participation Meeting
and Special Meeting
Thursday, July 11, 2019
6:00 pm – 9:00 pm

my email is
bobjhelawyer@westoffice.net
PLEASE PRINT

Name	Address	E-Mail	Receive Notes from PPM	Join ListServ Yes/No
STEVEN HOLMAN	9019 Nisqually Way	holmanproperties@gmail.com ✓		
ROB'T CONOLEY	10781 Samish Dr.	robthelawyer@westoffice.net ✓		
Kerry Kriner	PO Box 97024 ^{EST 410} Bellevue WA 98004	kerry.kriner@psa.com ✓		
DICK HAUGAN	9010 SPARKLE	DICK@344H.com ✓		
Susan Lawrence	181 Winslow Way	HeartSusan@aol.com ✓		✓
DEVIN JOHNSON	595 MADISON	DEVIN@JOHNSONSCOOKER.COM ✓		
Gretchen Gudmundsson	15648 Pt. Marston	Gretchen987@us11.com ✓		
Dixie CARTER	220 Parfitt Way Winslow Arms (B-1)	beechbrowd@gmail.com ✓ ✓		
BERNADETTE Callister	330 Parfitt Way SW H 209	bernadette.callister@gmail.com ✓		
MARCIA LAGERLOEF	10916 NE 50th BEACH DR.	mlegemoot@seanet.com ✓		✓
Kevin Fetterly	4880 NE Torvanger	fetterly46@gmail.com ✓		
CONNIE PONS	192 WOOD AVE			
Jam Dawson	PO Box 1753			
Kjell Stoknes	168 Wood Ave SW	kjell445@yahoo.com ✓		
Mary Karen Brown	234 Wood Ave SW, Apt. 310	MARYKARENBROWN524@gmail.com ✓ ✓		
Phyllis Carlyle	144 Hall Brothers Court			



**Planning Commission Public Participation Meeting
and Special Meeting
Thursday, July 11, 2019
6:00 pm – 9:00 pm**

PLEASE PRINT

[illegible]

Bainbridge Planning Commission Comments

July 11, 2019

These are high level comments. I am not trying to wordsmith tonight but pointing out troublesome phrases. Also ideas about moving forward.

Missing from your packet is the Section 4.1. The Preamble (attached) is barely two pages but clarity here is important as it the first text from which the reader draws conclusions. Section 4.1 lends itself to ambiguity which should be resolved.

4.1.1.1 Purpose.

"Preference is given to uses which favor public and long-range goals." is in conflict with RCW 90.58.020 and WAC 173-26 (multiple sections) which states "Alterations of the natural condition of the shorelines of the state [shall be] given priority for single-family residences and their appurtenant structures". This may be a good opportunity to differentiate between "Preservation" and "Restoration" as well as differentiating between an individual property and the Island as a whole.

4.1.1.3 Policies.

1. *Missing* is what should be the *first priority* – recognizing existing property rights. Secondly, the text clearly suggests only those with expertise in certain fields will be entertained. Is this really what the City means? Write what you actually mean.

2. It also states "Preserve the natural character of the shoreline."

Who determines that? It can suggest that the City wants to return back to native environment. If that is what the City means – say so. If not – say so.

3. Further it states "preserve resources and values of shoreline of state-wide significance...". Again, PRESERVATION is one thing and RESTORATION another. Clarify what is meant and how that is determined. That will likely require some empirical measurement mechanism.

4. "Minimize development activity that will interfere with the natural functioning of the shoreline ecosystem..." this includes stability which implies "no more bulkheads". Is that what the City means? If so it should be stated implicitly.

Dick Haugan Comments.

5. "Increase public access to publically owned areas of the shorelines." Again, implied is a suggestion that, over time, individual property rights will be trumped (no pun intended) by a gradual takeover of property rights by the City. I don't think that is the intent but over time and in a different era that could be implied.

6. "Increase recreational opportunities for public on the shoreline." The angst is the City encroaching access to private property. With 97% of the Bainbridge shoreline already developed, why is this statement even a consideration?

4.1.2.1 Applicability (included in the packet)

"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."

"*No Net Loss*" is called out here and in sixteen subsequent passages in tonight's packet. Since *No Net Loss* is the next item on the Planning Commission agenda it is suggested that here and everywhere else *No net Loss* is referenced point to a yet-to-be composed section where *No Net Loss* will be defined. This avoids a hang-up now.

A. Overall Comment. Our City is missing an opportunity to "bring shoreline people along". Consider adding an inclusionary clause of how shoreliners can, for example, add ecological value by voluntarily adding a certain species of tree on their property.

Think of it this way: The SMP basically says NO NO NO – what you cannot do. Turn it around.

B. Thinking ahead. In the years we have had the SMP in place there is no evidence all these restrictions have made a difference. Figure out what really needs to be protected – even if theoretical – and develop a plan that shoreline people won't fight... and could embrace. Consider a single highly restricted buffer.

POULSBO SMP

Finally, I wonder if we cannot gain knowledge by examining our neighbor's approved SMP. Below is their presentation of vegetation management.

The Planning Department has implicitly stated, on the public record, that a goal is to cut the size of the SMP (414 pages) in half. Going from twenty-one pages to two pages would be a step in that direction.

Excerpt from Poulsbo's SMP concerning vegetation management approved by DOE.

16.08.460 Tree and vegetation maintenance and removal.

To maintain the ecological functions that trees provide for the shoreline environment, any proposal to remove trees or other vegetation in the shoreline buffer area or in an aquatic area shall be subject to the following requirements:

A. Significant native trees shall be retained in the shoreline buffer unless removal is required due to documented hazardous conditions, approved as part of a shoreline variance for reasonable use of property, or for approved shoreline access where no other feasible solution is available. In such circumstances, removal of significant native trees shall be subject to the requirements of subsection B of this section.

B. Removal, pruning, thinning, limbing or cutting of native trees or native vegetation within the shoreline buffer or in an aquatic area, with the exception of normal and routine tree and vegetation maintenance within rights-of-way, utility corridors, public access points and pathways, park and recreational facilities, existing landscaped areas, and public safety purposes, shall be subject to the following standards:

1. Existing native shoreline vegetation in an aquatic area or within a shoreline buffer shall be preserved and permanently protected, with limited exceptions to remove and/or maintain native vegetation to establish and maintain the following: water-dependent and water-related uses; public recreation and public access uses; city-approved public view corridors; and utilities and roads; or in the case of a documented hazardous condition or shoreline variance.

2. Proposed removal of native shoreline vegetation as described in subsection (B)(1) of this section shall comply with Sections [16.08.120\(B\)](#) and [16.08.140](#). When approved projects will result in an unavoidable loss of native shoreline or aquatic vegetation within an aquatic area or a buffer area, mitigation shall be required to ensure no net loss of shoreline habitat value and functions. Additional conditions or restrictions may apply if removal is proposed on steep slopes or unstable soils.

3. Proposals to remove, prune, thin, limb or cut trees or native vegetation within the shoreline buffer or in an aquatic area shall be subject to the standards of the city's clearing and grading ordinance and critical areas ordinance, and may be subject to the findings of the city arborist regarding preservation of the health and appearance of the tree(s) and surrounding native vegetation. Danger tree

abatement may be achieved by felling or topping the tree. Habitat needs may require leaving the fallen tree in the riparian corridor or maintaining a high stump.

4. Nondestructive pruning or thinning of lateral branches to preserve or enhance views, or trimming, shaping, thinning or pruning of a tree necessary to its health and growth shall be consistent with the following standards:

a. In no circumstance shall removal of more than one-fifth of the original crown or canopy be permitted.

b. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy.

C. In addition to the requirements of subsections A and B of this section, a tree removal request shall be submitted in writing to the city prior to any native tree removal, and shall include information on the location, number, type and size of tree(s) being removed, and information on any replacement tree(s) or other vegetation to be planted.

D. Removal of nonnative or invasive vegetation within the shoreline buffer is permitted; provided, that the removal shall not cause damage to the buffer's native vegetated habitat values and functions. Additional restrictions or conditions may apply if removal is proposed on steep slopes or unstable soils.

E. The city planning director may condition an approval for tree or native vegetation removal approval to require replacement trees, restoration of native vegetation, stabilization of soil and steep slopes, or other requirements as appropriate to protect shoreline habitat. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

4.1 Environmental Quality and Conservation

4.1.1 Shorelines of State-wide Significance

4.1.1.1 Purpose

The Shoreline Management Act of 1971 designated certain shoreline areas as shoreline of state-wide significance (SSWS). Because these shorelines are resources from which all people in the state derive benefit, preference is given to uses which favor public and long-range goals.

4.1.1.2 Applicability

Within the City's jurisdiction all those areas lying waterward from the line of extreme low tide are shorelines of state-wide significance. [RCW 90.58.030(2)(f)(iii) or its successor]. Development, use, or activities located within shorelines of statewide significance shall follow all the provisions of this program. Proposed development, use, and activity within shorelines of statewide significance shall be reviewed in accordance with preferred policies listed in 4.1.1.3. The Administrator may reduce, alter, or deny proposed development, use, or activity to satisfy the preferred policy.

4.1.1.3 Policies (In order of preference)

1. Recognize and protect the state-wide interest over local interest.
 - a. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating the Master Program, and any amendments thereof affecting Shorelines of State-wide Significance, to state agencies, adjacent jurisdictions, citizen's advisory committees, local officials, and state-wide interest groups.
 - b. Recognize and take into account state agencies' policies, programs, and recommendations in developing and administering use regulations, and in approving shoreline permits.
 - c. Solicit comments, opinions, and advice from individuals with expertise in ecology, geology, limnology, aquaculture, and other scientific fields pertinent to shoreline management.
2. Preserve the natural character of the shoreline.
 - a. Designate and administer shoreline designation and use regulations to minimize damage to the ecology and environment of the shoreline as a result of man-made intrusions on the shorelines.
3. Result in long-term over short-term benefit.

- a. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.
 - b. In general, preserve resources and values of shoreline of state-wide significance for future generations and restrict or prohibit development that would irreversibly damage shoreline resources.
 - c. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.
- 4. Protect the resources and ecology of the shoreline.
 - a. Minimize development activity that will interfere with the natural functioning of the shoreline ecosystem including, but not limited to, stability, drainage, aesthetic values, and water quality.
 - b. All shoreline development should be located, designed, constructed, and managed to avoid disturbance of, and to minimize adverse impacts on, fish and wildlife resources including spawning, nesting, rearing, and habitat areas and migratory routes.
 - c. Restrict or prohibit public access onto areas which cannot be maintained in a natural condition under human uses.
 - d. Shoreline materials including, but not limited to, bank substrate, soils, beach sands, and gravel bars should be left undisturbed by shoreline development.
- 5. Increase public access to publicly owned areas of the shorelines.
 - a. Give priority to developing paths and trails to shoreline areas, linear access along the shorelines, and to upland parking.
 - b. Locate development landward of the ordinary high water mark.
 - c. Limit public access when environmental or habitat values warrant such limitations.
- 6. Increase recreational opportunities for the public on the shoreline.
 - a. Plan for and encourage development of facilities for recreational use of the shorelines.

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.

Date: July 11, 2019
To: Bainbridge Island Planning Commission
From: Mike Whalen

Re: SMP Update; Vegetation Management

I would like to offer the following comments related to the current review and possible update of Section 4.1.3 - Vegetation Management and Section 4.1.2.5 - Revegetation Standards in the current SMP:

Vegetation vs. Views

The Vegetation Management Section of the current SMP is unusually complicated and in many areas difficult to interpret. One aspect that is especially hard to understand is the apparent conflict between stated goals:

- protection and restoration of shoreline vegetation for ecological benefits
- protection of shoreline views & vistas, human safety, and personal property

The current SMP does not explain how to reconcile these competing goals, nor does it provide a way to achieve a reasonable balance between them.

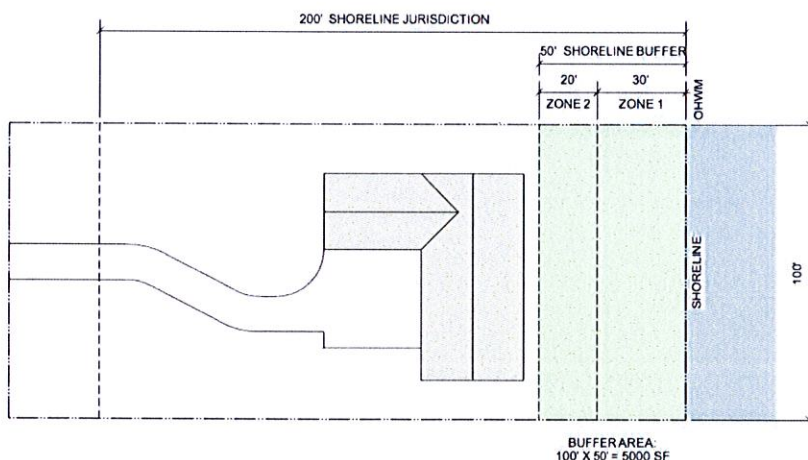
Over 80% of our shoreline is already developed. For low-bank areas zoned Shoreline Residential, the percentage is even higher. Any significant stands of native vegetation have long since been removed and replaced by single family residences and associated landscaping designed for the use and enjoyment of residents as well as to maximize the extent of water views. This has to be recognized as the dominant pattern of existing development along many reaches of our shoreline.

As a result, the Vegetation Management regulations will be applied more often in cases when revegetation is required, than in cases where there is significant native vegetation to protect. And those revegetation requirements have major implications to property where established water views have existed for decades.

What does the current SMP require in Shoreline Buffer areas?

As an example, take a 100' wide shoreline lot in the Shoreline Residential zone Category B:

Shoreline Buffer Zone: ^{50'} 75' from Ordinary High Water Line (OHWL)
Zone 1 30' from Ordinary High Water Line (OHWL)
Zone 2 20' from limit of Zone 1



Vegetation Requirements

- Zone 1: 100% Native Vegetation (except possible 15% clearing for view corridor)
- Zone 2: 65% maintained in Native Vegetation

In this example, over 75% of the Shoreline Buffer area is required to be Native Vegetation.

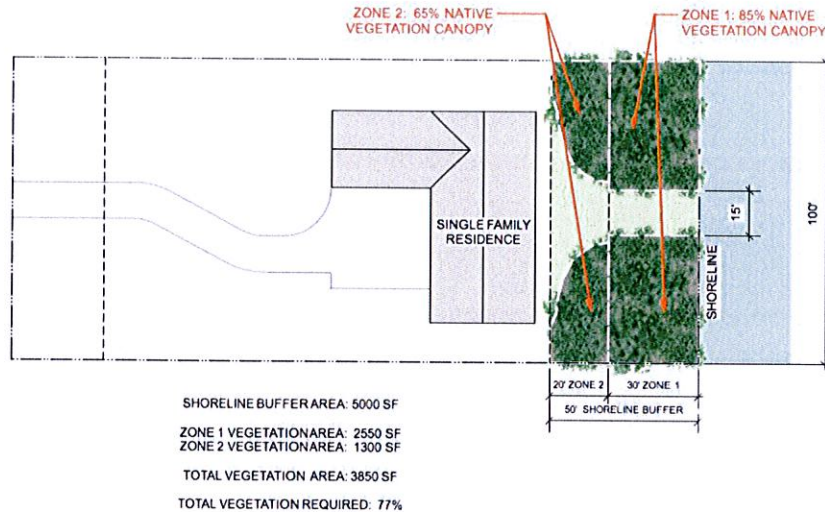


Figure 4-1 in the current SMP is somewhat misleading in this regard. A more accurate depiction of the Zone regulations might be as shown on the right:

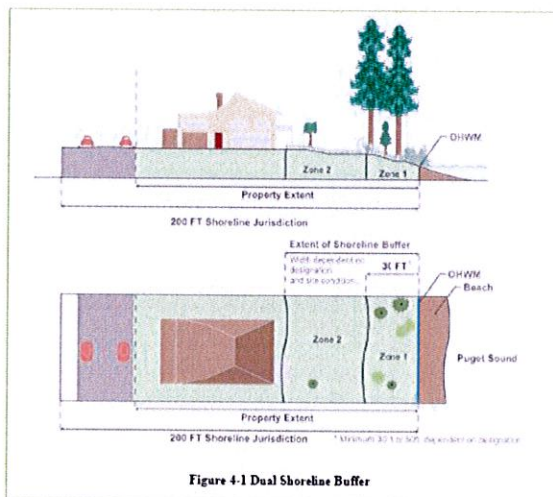


Figure 4-1 in Current SMP

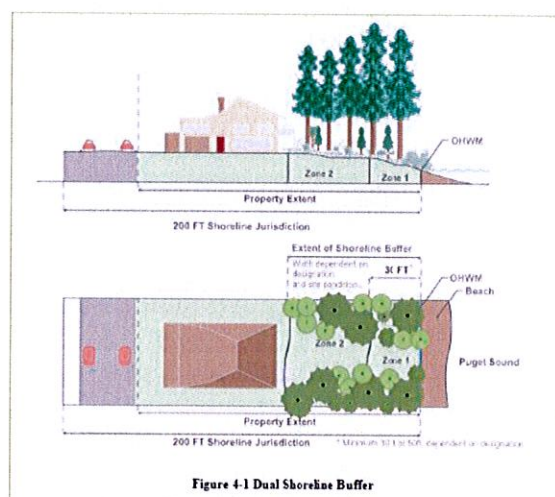


Figure 4-1 modified to reflect buffer regulations

What type of Native Vegetation planting is required?

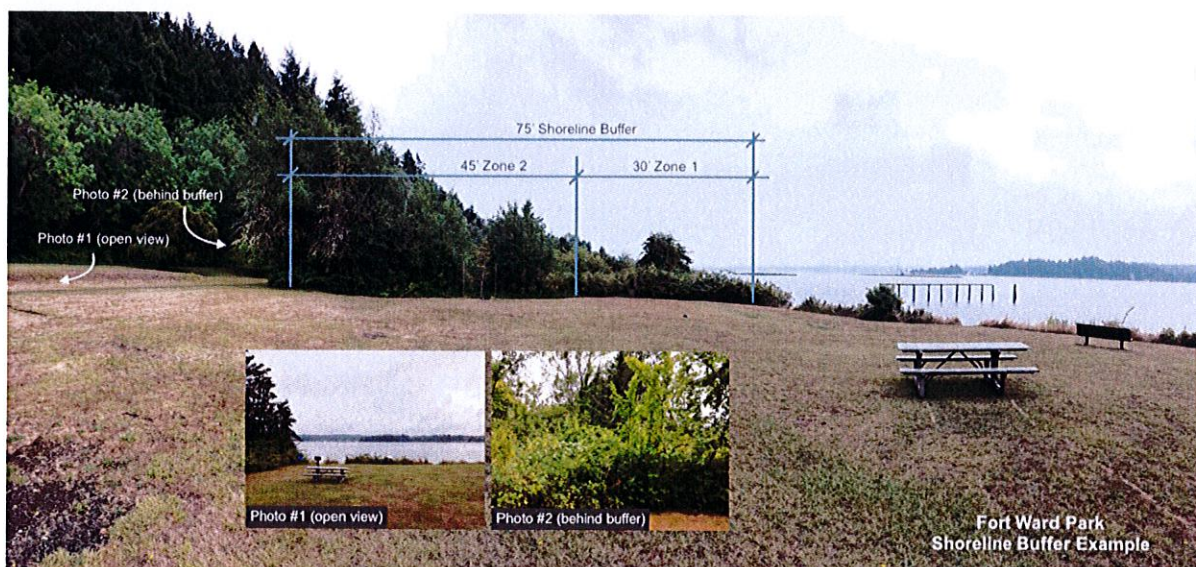
The SMP describes the required Native Vegetation as a “...multi-storied plant community native to the Central Puget Lowland marine riparian zone left in a predominantly natural, undisturbed and vegetated condition”



What does “undisturbed” Native Vegetation look like?

Fort Ward Park provides examples of what a Category A 75' shoreline buffer occupied by the type of Native Vegetation area described above actually looks like. It is a dense and relatively tall area of vegetation that almost completely blocks views of the water from the landward side.

One section offers an interesting comparison, with a broad open area of grass flanked on both sides by almost exactly 75' of native vegetation buffer. The former has expansive water views, the later none at all.





Open view, 80' upland from Ordinary High Water



View behind Native Vegetation zone, 80' upland from Ordinary High Water

If this approach were to be applied to an existing single family shoreline residence, the loss of water view would be significant.



Example: existing low bank residential with broad water views



Example: same property with 65% undisturbed native vegetation added

How can this be reconciled with another Section in the SMP that allows removal of vegetation for views, to "...establish a view of the water similar to that enjoyed by other residences in the area..." ? If neighboring properties on each side have expansive water views (say 90% of their frontage) and the regulations required revegetation with only a 20% opening allowance for views, how are these even remotely "similar" ? (See 4.1.3.8)

Is such a dense Shoreline Buffer required by the Best Available Science?

The Herrera Final Memo on Shoreline Buffer Recommendations does not say so. While they emphasize the importance of protecting intact riparian habitat in Zone 1 (or Riparian Protection Zone) , Zone 2 is described as a less restrictive area that would serve to "protect" the RPZ from upland development (houses, driveways, etc.), and provide some buffer functions. It could be a "...more permissive outer zone where decks, gardens and some amount of impervious areas is allowed..."



Fort Ward Park Example: what more "permissive" regulations for Zone 2 might look like

I cannot find anything in their memo that suggests that 65% of Zone 2 should be maintained in Native Vegetation, or that vegetation within that Zone 2 must be left in a natural and undisturbed condition. An interesting question is how this became a requirement in the Vegetation Management section, since it is apparently not based on science.

Specific Suggestions

1. Delete "undisturbed" from description of required Native Vegetation in Zone 2.
 - It is not required by Best Available Science, as represented by Herrera Memo.
 - It cannot be reconciled with the protection of water views
2. Revise 65% rule to acknowledge existing shoreline development patterns.

• Example Revised Language:

"In Zone 2, the area may be planted in a combination of grass lawns and native and non-native vegetation. Existing native vegetation within Zone 2 shall be preserved.

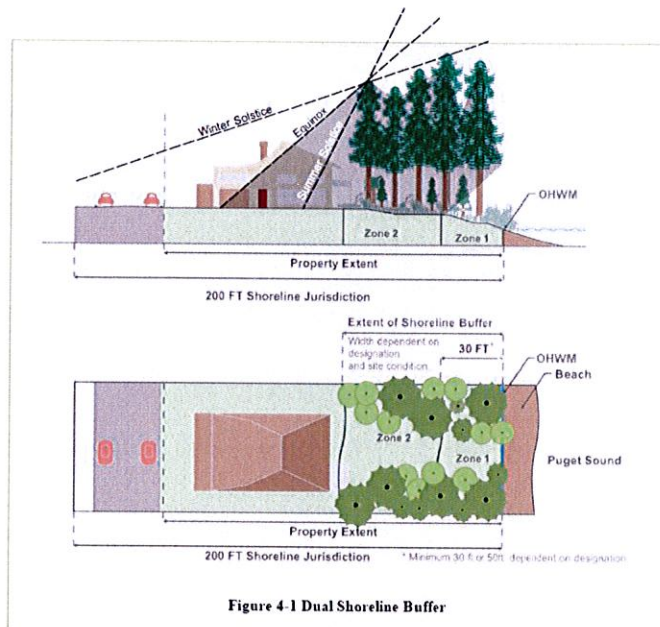
Exceptions:

- Selective removal to provide water views comparable to adjoining properties
- Selective removal to provide solar access to primary single family residence
- Selective remove to provide Defensible Space around structures."

Solar Access

A mature "multi-storied, undisturbed canopy" of native vegetation means essentially a re-forestation of the shoreline. Vegetation like this extending back 75' from the shoreline will create an increasingly shady condition over time and result in the loss of sunny outdoor areas, winter sunlight into home windows, etc.

This shaded condition would also make the use of rooftop solar panels unfeasible, an unfortunate result that seems at odds with the the City Council's recent call for a renewable energy policy for the Island.



SOLAR ACCESS

Specific Suggestion

Add flexibility in Zone 2 planting requirements to maintain, or provide, solar access to shoreline residences.

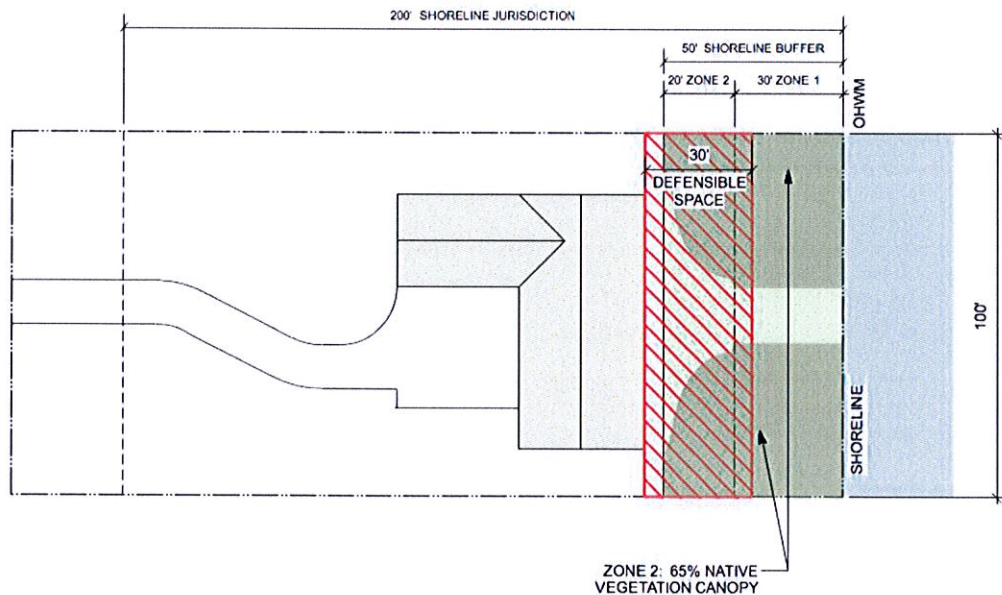
- Example Language:

“Multi-story canopy requirements in Zone 2 may be waived as necessary to maintain, or provide, solar access to single family residences and associated site improvements (e.g., patios, decks, gardens, etc.)”

Defensible Space

Last week the Bainbridge Island Fire Department conducted a course in Wildfire Risk Reduction. They noted that the risk of wildfire on Bainbridge is real and emphasized that individual homeowners have a responsibility to take preventative measures to reduce that risk. Among other recommendations:

- Maintain a 30' perimeter free of combustibles around structures
- Remove dry or crowded vegetation



“Dry and crowded vegetation” is exactly what the SMP requires to be maintained in Zone 2 of the Shoreline Buffer. The regulations call for 65% of this area to be maintained in a natural undisturbed condition, including fallen trees and woody debris. Fire fighters have another term for woody debris (“fuel load”) and they consider it hazardous.

Consider the legal implications of this requirement. Imagine a wildfire that results in the loss of homes or, even worse, injury or death. A lawsuit is filed against the City by those affected, claiming these losses could have been prevented if only the City had not made it illegal to maintain the type of defensible space called for by the local Fire Department. How do you think the City would come out in this litigation?

Specific Suggestion

Add flexibility in Zone 2 planting requirements to allow for reasonable maintenance of defensible space around structures.

Example Language:

“Native vegetation requirements in Zone 2 may be waived as necessary to maintain, or provide a 30’ Defensible Area around structures as a preventative measure to reduce the risks and hazards associated with wildfires.”

Incentives

Policy #5: “Encourage the restoration or enhancement of shoreline vegetation through incentive programs.” I have not been able to find any incentives in the current SMP, or programs created by the City related to the SMP. In fact, I think in some ways the current SMP serves as a dis-incentive to voluntary restoration.

For example, I have considered voluntarily restoring about 25% of the shoreline on my property. However, I realized that would be a mistake, for the following reason.

If I restore now, in 5 or 10 years that restored area will be considered “existing native vegetation.” Then if I wanted to do something to my house that required a permit, and a condition of that permit was mitigation (revegetation), I would get no credit for the previous voluntary restoration, and would be required to restore additional areas. From that perspective, it makes more sense to not undertake voluntary restoration now, but rather keep that area “in reserve” in case needed for some future mitigation.

Specific Suggestion

Consider additional incentives for voluntary restoration:

- Provide credits for voluntary restoration that can be used to meet, or offset, future mitigation requirements.
- Provide property tax credit based on percentage of shoreline voluntarily restored.
- Create a mechanism for Transferable Restoration Credits.

If meaningful shoreline restoration is to be achieved, the City needs the support and cooperation of shoreline homeowners. As currently written, the SMP seems to be “all stick and no carrots.” Developing a workable incentive program could help correct that.