



CITY OF  
BAINBRIDGE ISLAND

**SPECIAL CITY COUNCIL MEETING  
TUESDAY, MAY 04, 2021**

REMOTE MEETING ON ZOOM

PLEASE CLICK THE LINK BELOW TO JOIN THE WEBINAR:  
[HTTPS://BAINBRIDGEWA.ZOOM.US/J/92947338351](https://bainbridgewa.zoom.us/j/92947338351)  
OR TELEPHONE: US: +1 253 215 8782  
WEBINAR ID: 929 4733 8351

**AGENDA**

1. **CALL TO ORDER/ROLL CALL - 5:30 PM**
2. **EXECUTIVE SESSION**
  - 2.A **(5:35 PM) Pursuant to RCW 42.30.110(1)(i), to discuss with legal counsel matters relating to litigation or potential litigation to which the city, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency, 60 Minutes**
3. **APPROVAL OF AGENDA/CONFLICT OF INTEREST DISCLOSURE - 6:35 PM**
4. **FUTURE COUNCIL AGENDAS**
  - 4.A **(6:40 PM) Future Council Agendas, 10 Minutes**
    - [May 11 City Council Regular Business Meeting.pdf](#)
    - [May 18 City Council Study Session.pdf](#)
    - [May 25 City Council Regular Business Meeting.pdf](#)
    - [May 26 Special Joint City Council and Ethics Board Meeting.pdf](#)
    - [2021 List of Proposed Future Council Topics.docx](#)
5. **UNFINISHED BUSINESS**
  - 5.A **(6:50 PM) Multifamily Tax Exemption (MFTE) Overview and Policy Discussion - Planning, 30 Minutes**
    - [MFTE presentation](#)

MFTE Memo to City Council  
Background 20210211 PC Transmittal Message to Council  
Background Multifamily Tax Exemption PSRC  
Background Dept. of Commerce 2019 MFTE Report

**5.B (7:20 PM) Update on SMP Public Participation Program and Work Plan - Planning, 45 Minutes**

SMP Periodic Review Staff Memo  
Attachment 1 - Project Log  
Attachment 2 - FAQ  
Attachment 3 - Public Participation Plan and Work Plan  
Attachment 4 - SMP Project Update Memo (02-26-2021)  
Attachment 5 - Resolution 2020-16  
Attachment 6 - 2014 SMP Settlement Negotiation List - Working Draft  
Attachment 7 - Aquaculture Policies Adopted by Ordinance 2016-06  
Attachment 8 - Aquaculture Policy White Paper  
Attachment 9 - Aquaculture Alternatives Summary.pdf  
Attachment 10 - Policy White Paper on Flooding from SLR  
Attachment 11 - Joint Review Timelines  
Attachment 12 - Stakeholder Focus Group and Agency Group Participants  
Attachment 13 - Ecology's Periodic Review Rule Summary  
Attachment 14 - Ecology's Joint Review Guidance

**5.C (8:05 PM) Update on Triangle Property – Executive and Planning, 15 Minutes**

Triangle\_Property\_Update\_for\_CC\_05042021 - FINAL.docx  
DNR letter\_20210324

**6. NEW BUSINESS**

**6.A (8:20 PM) Appointments to the Ethics Board - Mayor Nassar, 10 Minutes**

Bonker - Ethics Board (Redacted).pdf  
Davison - Ethics Board (Redacted).pdf  
Godwin - Ethics Board (Redacted).pdf  
McFadden - Ethics Board (Redacted).pdf  
Neal - Ethics Board (Redacted).pdf  
Hollinger - Ethics Board (Redacted).pdf  
Mallon - Ethics Board (Redacted).pdf

**7. FOR THE GOOD OF THE ORDER - 8:30 PM**

**8. ADJOURNMENT - 8:40 PM**

**GUIDING PRINCIPLES**

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CITY OF  
BAINBRIDGE ISLAND

## Special City Council Meeting Agenda Bill

**MEETING DATE:** May 4, 2021

**ESTIMATED TIME:** 60 Minutes

**AGENDA ITEM:** (5:35 PM) Pursuant to RCW 42.30.110(1)(i), to discuss with legal counsel matters relating to litigation or potential litigation to which the city, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency,

**SUMMARY:** Hold Executive Session.

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** Executive

**RECOMMENDED MOTION:** Discussion only.

**STRATEGIC PRIORITY:** Good Governance

**FISCAL IMPACT:**

<b>Amount:</b>	
<b>Ongoing Cost:</b>	
<b>One-Time Cost:</b>	
<b>Included in Current Budget?</b>	

**BACKGROUND:**

**ATTACHMENTS:**

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**



CITY OF  
BAINBRIDGE ISLAND

## Special City Council Meeting Agenda Bill

**MEETING DATE:** May 4, 2021

**ESTIMATED TIME:** 10 Minutes

**AGENDA ITEM:** (6:40 PM) Future Council Agendas,

**SUMMARY:** Council will review future Council agendas.

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** Executive

**RECOMMENDED MOTION:** Discussion.

**STRATEGIC PRIORITY:** Good Governance

**FISCAL IMPACT:**

<b>Amount:</b>	
<b>Ongoing Cost:</b>	
<b>One-Time Cost:</b>	
<b>Included in Current Budget?</b>	

**BACKGROUND:**

**ATTACHMENTS:**

[May 11 City Council Regular Business Meeting.pdf](#)

[May 18 City Council Study Session.pdf](#)

[May 25 City Council Regular Business Meeting.pdf](#)

[May 26 Special Joint City Council and Ethics Board Meeting.pdf](#)

[2021 List of Proposed Future Council Topics.docx](#)

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**



CITY OF  
BAINBRIDGE ISLAND

**CITY COUNCIL REGULAR BUSINESS MEETING  
TUESDAY, MAY 11, 2021**

REMOTE MEETING ON ZOOM

PLEASE CLICK THE LINK BELOW TO JOIN THE WEBINAR:

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WEBINAR ID: 929 4733 8351

**AGENDA**

1. **CALL TO ORDER/ROLL CALL - 6:00 PM**
2. **EXECUTIVE SESSION**
  - 2.A **(6:05 PM) Pursuant RCW 42.30.110(1)(f), to receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge.**  
45 Minutes
3. **APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE**
4. **PUBLIC COMMENT**
  - 4.A **(xx PM) Instructions for Providing Public Comment - City Clerk, 15 Minutes**  
[Instructions for Providing Public Comment at Remote Meetings.docx](#)
5. **CITY MANAGER'S REPORT**
6. **CONSENT AGENDA**
  - 6.A **( PM) Agenda Bill for Consent Agenda, 5 Minutes**
  - 6.B **Accounts Payable and Payroll,**
  - 6.C **City Council Meeting Minutes,**

- 6.D **Buoy Repair and Maintenance Contract - Public Works,**  
Unit Price Contract - Buoy Maintenance.docx  
Bid Form Buoy RM Unit Priced Contract.doc
- 6.E **2021 Ford Cargo Van Procurement for Utilities - Public Works,**  
Ford Cargo Van Quote.pdf
- 6.F **Accept Donations for Officer Enget's Memorial Service - Finance,** 5 Minutes  
Donation Policy

**7. FUTURE COUNCIL AGENDAS**

- 7.A **(x PM) Future Council Agendas,** 10 Minutes

**8. PRESENTATION(S)**

- 8.A **Salary Commission Presentation and Council Discussion of its Determination,** 20 Minutes
- 8.B **Proclamation Declaring May 9-15, 2021 as "Bainbridge Island Police Week" - Mayor Nassar,** 5 Minutes  
Bainbridge Island Police Week 2021.docx
- 8.C **Proclamation Declaring May 16 - May 22, 2021 as "Public Works Week" - Mayor Nassar,** 5 Minutes  
Public Works Week 2021.docx

**9. PUBLIC HEARING(S)**

**10. UNFINISHED BUSINESS**

- 10.A **(XX PM) Set Public Hearing for Multifamily Tax Exemption (MFTE) Designation Areas - Planning,** 10 Minutes  
Background 20210211 PC Transmittal Message to Council  
Background Multifamily Tax Exemption PSRC  
Background Dept. of Commerce 2019 MFTE Report

**11. NEW BUSINESS**

- 11.A **Ordinance No. 2021-15 Relating to 2021 1st Quarter Budget and Updated Capital Improvement Plan Amendments - Finance** 10 Minutes  
ORD 2021-15 2021 1st QTR Budget and CIP Amendments.docx
- 11.B **Dry Fire Sprinkler System Replacement Contract Award and Budget Amendment - Public Works,** 5 Minutes  
BID FORM.docx  
LPW\_Contract\_Dry Fire Sprinkler System.docx

11.C **Resolution No. 2021-08 Updating the Governance Manual - Executive**, 10 Minutes

11.D **Ordinance No. 2021-16 Updating the City Advisory Board, Commission, Committee, and Task Force Member Selection and Appointment Process - Executive**, 15 Minutes

12. COUNCIL DISCUSSION

13. COMMITTEE REPORTS

14. FOR THE GOOD OF THE ORDER

15. ADJOURNMENT

### GUIDING PRINCIPLES

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CITY OF  
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**CITY COUNCIL STUDY SESSION  
TUESDAY, MAY 18, 2021**

REMOTE MEETING ON ZOOM

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**AGENDA**

1. **CALL TO ORDER / ROLL CALL - 6:00 PM**
2. **WELCOME TO NEW CITY MANAGER BLAIR KING**
3. **EXECUTIVE SESSION**
  - 3.A **(x PM) Pursuant to RCW 42.30.110(1)(b) to consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price, 30 Minutes**
4. **APPROVAL OF AGENDA/ CONFLICT OF INTEREST DISCLOSURE**
5. **FUTURE COUNCIL AGENDAS**
  - 5.A **(x PM) Future Council Agendas, 10 Minutes**
6. **PRESENTATIONS**
7. **UNFINISHED BUSINESS**
  - 7.A **(x PM) Workplan Discussion - City Council, 30 Minutes**  
Workplan Presentation for 04202021  
2021 Workplan Memo and Attachment for CC 04202021 final for packet
8. **NEW BUSINESS**
9. **COUNCIL DISCUSSION**

9.A (x PM) Discussion of Electric Shuttle Proposal - Councilmember Schneider, 10 Minutes

9.B Plastics Ordinance - Councilmember Carr and Deputy Mayor Hytopoulos, 10 Minutes

10. FOR THE GOOD OF THE ORDER

11. ADJOURNMENT

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CITY OF  
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**CITY COUNCIL REGULAR BUSINESS MEETING  
TUESDAY, MAY 25, 2021**

REMOTE MEETING ON ZOOM

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**AGENDA**

1. **CALL TO ORDER/ROLL CALL/ - 6:00 PM**
2. **EXECUTIVE SESSION**
3. **APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE**
4. **PUBLIC COMMENT**
  - 4.A **(xx PM) Instructions for Providing Public Comment - City Clerk, 15 Minutes**  
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6. **CONSENT AGENDA**
  - 6.A **( PM) Agenda Bill for Consent Agenda, 5 Minutes**
  - 6.B **Accounts Payable and Payroll,**
  - 6.C **City Council Meeting Minutes,**
  - 6.D **Winslow Water Tank Replacement Professional Services Agreement Amendment No. 3 - Public Works,**

6.E **Grinder Pump Replacement Contract - Public Works,**

7. **FUTURE COUNCIL AGENDAS**

7.A **(x PM) Future Council Agendas,** 10 Minutes

8. **PRESENTATION(S)**

8.A **(x PM) Proclamation Declaring June 2021 as Lesbian, Gay, Bisexual, Transgender, Queer, and Questioning (LGBTQ) Pride Month - Mayor Nassar,** 5 Minutes  
[LGBTQ Pride Month Proclamation 2020.docx](#)

9. **PUBLIC HEARING(S)**

10. **UNFINISHED BUSINESS**

10.A **Update on Small Business Grants - Finance,** 20 Minutes

11. **NEW BUSINESS**

12. **COUNCIL DISCUSSION**

13. **COMMITTEE REPORTS**

14. **FOR THE GOOD OF THE ORDER**

15. **ADJOURNMENT**

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CITY OF  
BAINBRIDGE ISLAND

**SPECIAL CITY COUNCIL MEETING  
WEDNESDAY, MAY 26, 2021**

SPECIAL JOINT CITY COUNCIL AND ETHICS BOARD MEETING

REMOTE MEETING ON ZOOM

**AGENDA**

1. **CALL TO ORDER/ROLL CALL**
2. **APPROVAL OF THE AGENDA/CONFLICT OF INTEREST**
3. **UNFINISHED BUSINESS**
  - 3.A **(X PM) Review of Pending Motions to Amend Ethics Board Operating Rules, 2 Hours**  
Motions Made at October 27, 2020 Council Meeting  
Deputy Mayor Deets\_Suggested Motions for Council Ethics Discussion  
Ethics Board Operating Rules - Revised and Adopted 10-19-2020  
Resolution No. 2020-13 Updating the Code of Conduct and Ethics Program Approved 081120
4. **FOR GOOD OF THE ORDER**
5. **ADJOURNMENT**

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## Memorandum

Date: May 4, 2021  
To: City Council  
From: Ellen Schroer, Interim City Manager  
Subject: Proposed Future City Council Topics

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The table below provides a list of potential future City Council topics that have been identified by one or more councilmembers but have not yet been placed on an agenda, or added to an agenda for consideration of placement.

### TOPIC

- Consideration of Changes to Sign Code
- Follow up to Ethics Board/City Council Joint Meeting
- Welcome totem pole
- Proclamation/Recognition resolution
- Transfer of Development Rights (TDR) Program
- KSBDC Contract
- Proposal from Mayor Nassar re: Councilmember complaint resolution
- Tree/Vegetation ordinance



CITY OF  
BAINBRIDGE ISLAND

## Special City Council Meeting Agenda Bill

**MEETING DATE:** May 4, 2021

**ESTIMATED TIME:** 30 Minutes

**AGENDA ITEM:** (6:50 PM) Multifamily Tax Exemption (MFTE) Overview and Policy Discussion - Planning,

**SUMMARY:** The purpose of tonight's briefing is to update the City Council on the Planning Commission's policy recommendations on a 12-year MFTE program, to inform the Council of the taxing implications of adopting a MFTE program, and to consider timing related to setting the date of a public hearing for the designation area.

The Planning Commission was directed by the City Council in October 2020 and affirmed in January 2021 to make policy recommendations on a future MFTE program:

- 1) Where should the program be available?
- 2) What should be the project threshold?
- 3) Should the program be available to both rental and homeownership?

The Planning Commission completed their recommendations on February 11, 2021. To understand the taxing shift of the MFTE program, City staff will provide an example of how the program could impact individual property owners based on an example from Bremerton where the MFTE program has been in place for since 2006. Shannon Lewis, Administrative Supervisor from the Kitsap County Assessor's Office and City Finance Department staff will be available to answer any technical questions.

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** Planning & Community Development

**RECOMMENDED MOTION:** I move to direct the City Manager to continue developing a (8-year, 12-year, and/or 20-year) City MFTE program that would be available to projects building 4 or more multifamily residences.

I move to add an agenda item to the May 11, 2021 City Council meeting to schedule a public hearing for June 8, 2021 on the MFTE eligibility and designation areas, including the Winslow Master Plan Study Area, the Winslow Sewer System Service Area, and within the Lynwood Center, the Neighborhood Center (NC), NC/R-12, and R-5 zones.

**STRATEGIC PRIORITY:** Vibrant Economy

**FISCAL IMPACT:**

<b>Amount:</b>	
<b>Ongoing Cost:</b>	
<b>One-Time Cost:</b>	
<b>Included in Current Budget?</b>	

**BACKGROUND:** Washington state statutory law allows local governments to adopt a MFTE program as described in Chapter 84.14 RCW. The purpose of this program is to encourage the development and redevelopment of multifamily and affordable housing by granting a property tax exemption for qualifying projects for a period of 8, 12, or 20 years. The exemption is a partial property tax exemption on the value of residential improvements for qualifying MFTE housing developments, and does not apply to the value of land or any non-residential development.

A Joint City Council/Planning Commission land use subcommittee met in the Summer and Fall of 2020 and presented a list of recommended priority code changes to the Council on October 13, 2020, including adoption of a 12-year MFTE Program. The Council endorsed the priority code changes and recommended the work be forwarded to the Planning Commission for immediate legislative work.

After the Council direction to the Planning Commission, the Commission's Affordable Housing Subcommittee (Commissioners Quitslund, Blossom, and Paar) met to discuss what MFTE program elements to recommend to the full Planning Commission, and drafted a transmittal memo for the Commission to include with their eventual recommendation to the City Council.

At their meetings on January 14 and 28, 2021, the Planning Commission discussed the following MFTE program elements:

1. Potential MFTE designation or eligibility areas - where should the program be available to properties?
2. MFTE project threshold - what is the minimum number of multifamily units that will be required in order to enroll in a future MFTE program? The state minimum project eligibility threshold is four multifamily residences.
3. Should a City MFTE program be available to both rental and homeownership projects, as allowed under state law?

At the January 28, 2021 meeting, the Planning Commission came to the preliminary recommendations on these program elements, and in general, the consensus was to make a MFTE program as widely available as possible (see motion included with this item). The Commission's Affordable Housing Subcommittee submitted a memo for review by the full Planning Commission at the January 28 meeting. The memo would support the Planning Commission policy recommendations to the City Council. At that meeting, Commissioners requested revisions to the memo prior to finalizing their policy recommendations.

On February 11, 2021, the Planning Commission finalized their transmittal memo to the City Council (see attached) and unanimously passed the motion below related to recommended MFTE program elements.

Motion: I move to forward the following policy recommendations and attached supporting memo to the City Council related to adopting a Multifamily Property Tax Exemption program:

1. That the following areas be considered for the MFTE designation/eligibility areas:

All properties either within the Winslow Master Plan Study Area, or the Winslow Sewer System Service Area, or both and within the Lynwood Center area, which

have zoning of Neighborhood Center (NC), NC/R-12, and R-5.

2. That the project eligibility threshold be four multifamily residences.

3. That a future City MFTE program be applicable to both rental and ownership units.

Also attached for background is a MFTE Summary from the Puget Sound Regional Council and the 2019 MFTE Annual Report from the Washington State Department of Commerce.

**ATTACHMENTS:**

[MFTE presentation](#)

[MFTE Memo to City Council](#)

[Background 20210211 PC Transmittal Message to Council](#)

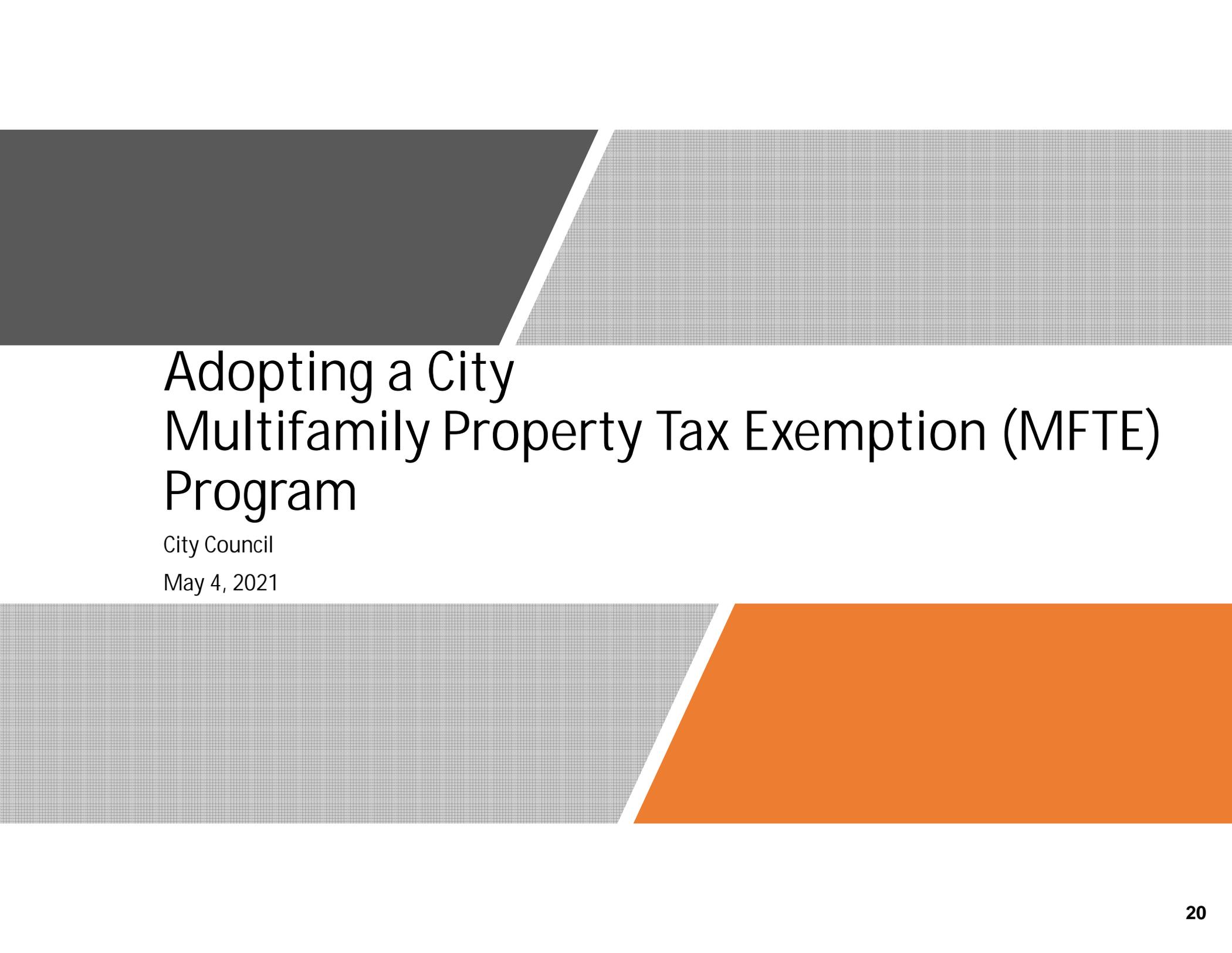
[Background Multifamily Tax Exemption PSRC](#)

[Background Dept. of Commerce 2019 MFTE Report](#)

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**

The background features a white central area with decorative elements. At the top left, a dark grey triangle points towards the center. To its right, a grey textured trapezoidal shape extends across the top. At the bottom left, another grey textured trapezoidal shape points towards the center. To its right, a solid orange trapezoidal shape extends across the bottom.

# Adopting a City Multifamily Property Tax Exemption (MFTE) Program

City Council

May 4, 2021

# Meeting Purpose



Overview of a State Multifamily Property Tax Exemption (MFTE) Program



Review Planning Commission Policy Recommendations



Confirm Scheduling Council Public Hearing on Proposed MFTE Designation Area(s)

## City Policy Support for Adopting MFTE

- [2017 Comprehensive Plan  
Housing Element Policy HO 4.4](#)
- [2018 Affordable Housing Task Force  
Final Report Recommendation 1.C](#)
- October 2020 Joint Land Use  
Subcommittee Recommendation

## What is the State Multifamily Property Tax Exemption?

- MFTE is a property tax relief program authorized by Washington State ([RCW 84.14](#)).
- Temporary exemption from property taxation on the residential improvement value.
- Financial incentive to encourage development and redevelopment of multifamily and affordable housing.
- Tax exemption on residential improvements begins once a multifamily housing development is built and completed.
- Monitoring and reporting required.

## MFTE Programs Vary by Duration of Property Tax Relief

- 8-Year MFTE Program: No state minimum for affordable housing, local governments may add requirements
- 12-Year MFTE Program: Requires 20% (rentals) or 100% (ownership) of units within a development set aside for affordable housing
- 20-Year MFTE Program: WA Legislature Newly Approved for nonprofits that requires 25% of units to be permanently affordable housing
- City could adopt any or all of MFTE programs above. City Council directed staff to develop a 12-year MFTE program. Since then, a new 20-year program is available.

Income Requirements for MFTE Affordable Units:

8-year Program no Affordable Units Required

12-year Program up to 115% AMI

20-year Program up to 80% AMI

NOTE: A person earning \$15/hour working full-time= \$31,200 Gross Annual Income

**CITY OF BAINBRIDGE ISLAND**  
**2020 MEDIAN INCOME LIMITS BY HOUSEHOLD SIZE**  
**FOR REQUIRED AFFORDABLE HOUSING UNDER MFTE PROGRAM**

Median Income Limits by Category (BIMC 18.21.020)	Household Size							
	1	2	3	4	5	6	7	8
100% of Median Household Income	\$64,190	\$73,360	\$82,530	\$91,700	\$99,036	\$106,372	\$113,708	\$121,044
≤ 30% of Median Household Income	\$19,250	\$22,000	\$24,750	\$27,500	\$29,700	\$31,900	\$34,100	\$36,300
31% - 50% of Median Household Income	\$32,100	\$36,700	\$41,300	\$45,850	\$49,550	\$53,200	\$56,900	\$60,550
51% - 80% of Median Household Income	\$51,350	\$58,700	\$66,050	\$73,350	\$79,250	\$85,100	\$91,000	\$96,850
81% - 95% of Median Household Income	\$60,981	\$69,692	\$78,404	\$87,115	\$94,084	\$101,053	\$108,023	\$114,992
115% of Median Household Income: Maximum Affordable Housing Income for State MFTE regulations	\$73,819	\$84,364	\$94,909	\$105,455	\$113,891	\$122,328	\$130,764	\$139,201

## MFTE Is A Property Tax Shift During Exemption Period (8, 12 or 20 years)

- Tax exemption on residential improvements (not land or commercial improvement) begins for tax year after a multifamily housing development is built.
- Amount of MFTE property tax exemption shifts to other taxpayers for.
- Example: This year in Bremerton, MFTE project exemptions totaled \$58 million, resulting in an estimated \$24 increase for a home assessed at \$300,000.
- Example: In 2021, if BLIS Apartments were enrolled in a MFTE program, an estimated \$16 would be added to the property taxes for a home assessed at \$800,000.

## A City MFTE Program Would Not.....

- Modify City zoning or environmental regulations
- Modify City development standards such as building height or density
- Modify or reduce required land use permit processes

To Enroll in a MFTE Program, a Multifamily Housing Developer Must...

- Apply for any required land use permits (e.g. Site Plan Review permit) and go through permitting process to obtain land use approval.
- Apply for MFTE approval during building permit review.
- Enter into contract with City to ensure compliance with any conditions
- Once project completed and exemption approved, submit annual reports to City

To Administer a MFTE  
Program, City Staff  
Will...

- Develop MFTE application and reporting forms
- Review MFTE applications for compliance with City code and State law
- Communicate with developer to collect annual reporting information
- Submit reporting information to State Department of Commerce annually

# Planning Commission MFTE Policy Recommendations

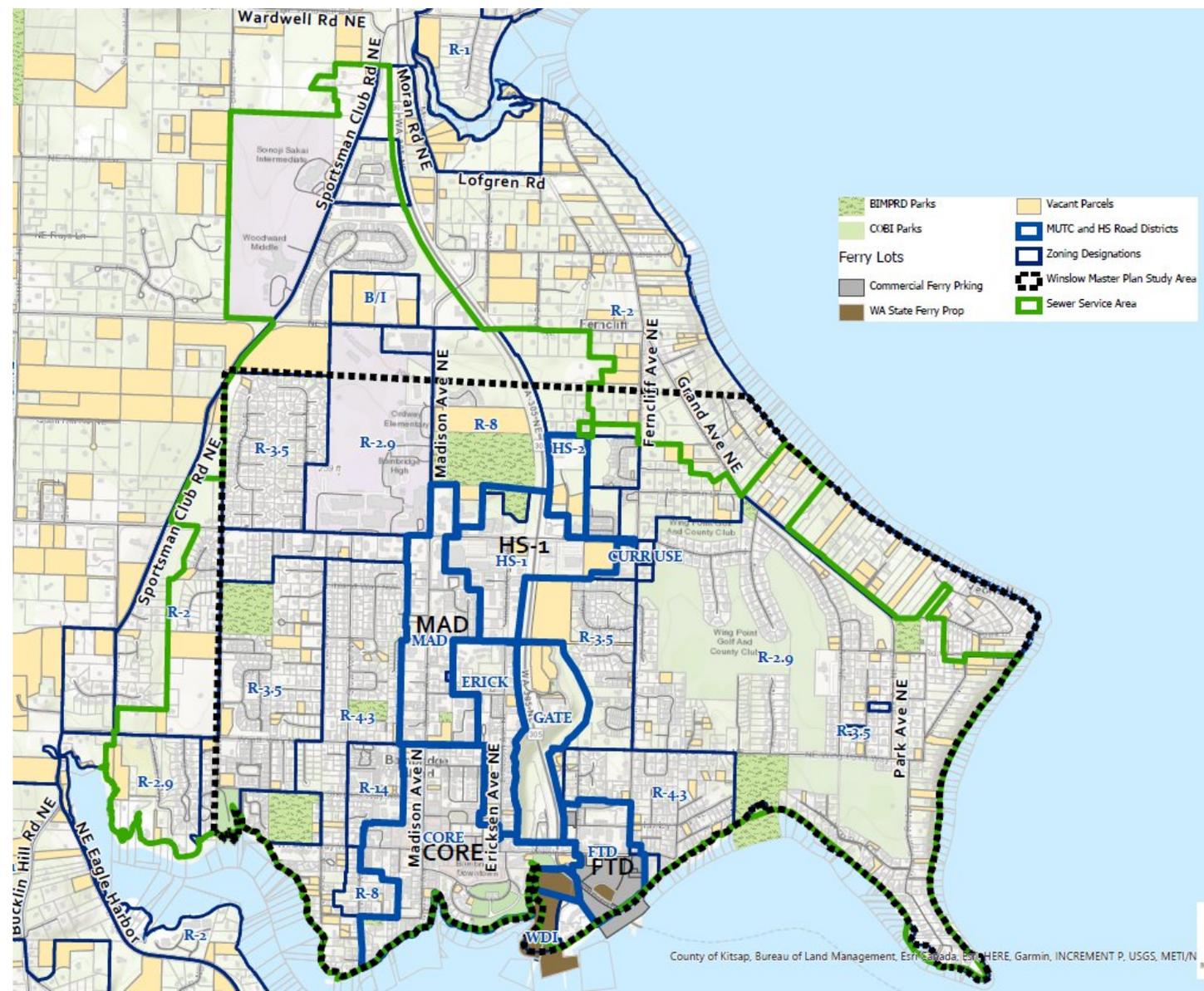
February 11, 2021

1. Project Threshold: Projects must create at least 4 multifamily units to be eligible for City MFTE program, (same as state law, [RCW 84.14.030](#)).
2. Rentals & Homeownership: City MFTE program should be available to both rental and homeownership projects.
3. MFTE Program Eligibility Areas:
  - Winslow Master Plan Study Area
  - Winslow Sewer Service Area
  - Lynwood Center Area: NC, NC/R-12 and R-5 zones

Planning Commission Recommended MFTE Program Eligibility Areas:

Winslow Master Plan Study Area (black dotted line)

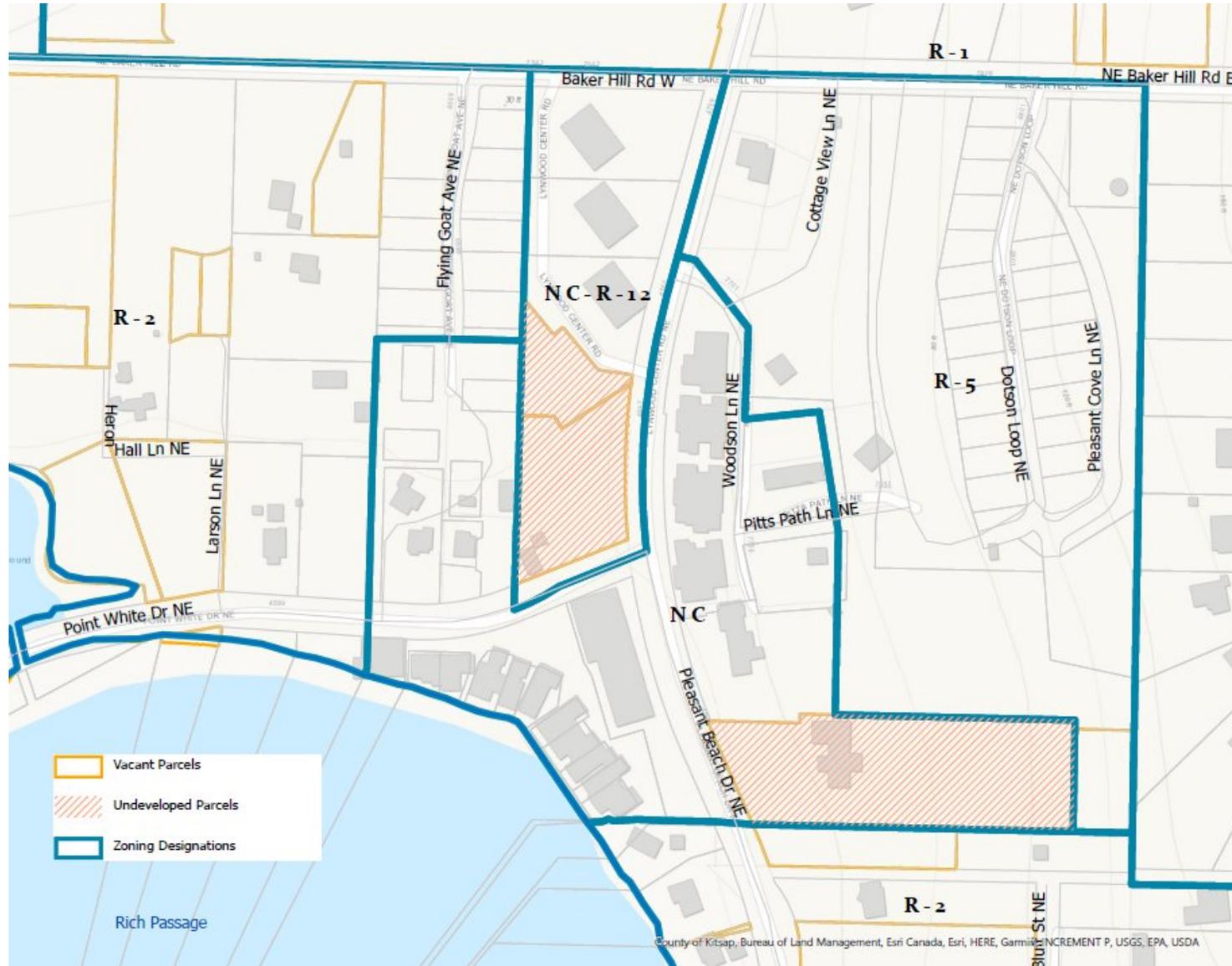
Winslow Sewer Service Area (green line)



County of Kitsap, Bureau of Land Management, Esri, Navada, B, HERE, Garmin, INCREMENT P, USGS, METI/N

# Planning Commission Recommended MFTE Program Eligibility Areas:

Lynwood Center Area:  
NC, NC/R-12 and R-5 zones



# Council Direction



Confirm moving forward with developing City MFTE Program



Confirm Preliminary MFTE Program Elements:  
Minimum Project Size  
MFTE Eligibility Areas



Confirm Scheduling City Council Public Hearing on Proposed MFTE Eligibility Area(s) for June 8

## Next Steps for Developing City MFTE Program

1. Begin Outreach for Eligibility Area Public Hearing
2. Hold Public Hearing on Eligibility Areas: Tentative Date June 8
3. Draft Ordinance for New MFTE Chapter in Bainbridge Island Municipal Code (BIMC, Title 3 Revenue and Finance)
4. Ordinance Review and Adoption by City Council (estimate Q3 2021)



Department of Planning and Community Development

## Memorandum

Date: May 4, 2021  
To: City Council  
From: Heather Wright, AICP  
Planning Director  
Jennifer Sutton, AICP  
Senior Planner  
Subject: Considering a future Multifamily Property Tax Exemption (MFTE)

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### I. MEETING PURPOSE

The purpose of City Council discussion is to:

- Provide an overview of State Multifamily Property Tax Exemption programs, [Revised Code of Washington \(RCW\) 84.14](#), and how a future City MFTE program could work, including tax implications of a MFTE program.
- Update the City Council on the Planning Commission’s policy recommendations for a City 12-year MFTE program.
- Confirm that Council wants to move forward with development of a City MFTE program, and if so, to set the date of a public hearing for City MFTE program designation areas. Staff suggests the City Council business meeting on June 8, 2021 for the public hearing.

### II. State MFTE Program Overview

Washington State provides for local governments to adopt a MFTE program as described in [\(RCW 84.14\)](#). The purpose of this program is to encourage the development and redevelopment of multifamily and affordable housing by granting a property tax exemption for qualifying projects for a period of 8, 12 or 20 years. Projects must create at least 4 multifamily residences. The exemption is a partial property tax exemption for qualifying projects, on the value of residential improvements for qualifying MFTE housing developments and does not apply to the value of land or any non-residential development. The tax exemption is a financial incentive to build multifamily and affordable housing.

How does the program achieve affordable housing?

The 3 different MFTE programs authorized under state law vary by duration of tax exemption and affordability requirements.

- 8-Year MFTE Program: No state minimum for affordable housing, local governments may add additional requirements.
- 12-year MFTE program would require that:

- For rental projects: 20% of housing units rented to low or moderate income households or below.
- For home-ownership projects, such as condominiums: 100% of housing units required to be sold to moderate income households or below.
- 20-Year MFTE Program: WA Legislature Newly Approved for nonprofits that requires 25% of units to be permanently affordable housing.

In addition, MFTE programs can improve overall housing affordability in an area by promoting the development of multifamily housing, which is usually more affordable compared to single-family homes.

The City could adopt any or all of the MFTE programs above. City Council had directed staff to develop a 12-year MFTE program. Since then, a new 20-year program is available for nonprofits that require permanent affordability.

MFTE Is a Property Tax Shift During Exemption Period (8, 12 or 20 years)

If the City adopts this program, qualifying multifamily projects would be partially exempt from property taxation and would not pay property tax on the residential improvement for a period of eight, 12 or 20 years, depending on the program adopted, after construction is complete. Property taxes on land and any commercial development is not exempted. The amount of MFTE property tax relief would be shifted to other property taxpayers through a tax increase divided among property owners Island-wide.

An example we gathered from the Kitsap County tax assessor is that in Bremerton, a MFTE housing project resulted in an estimated \$24 per year increase for a home valued at \$300,000.

MFTE is Only a Financial Incentive to Develop Multifamily Housing

Although local governments often have other programs that also incentivize building affordable housing, a MFTE program is only a temporary financial incentive to build multifamily housing. A MFTE program does not:

- Modify City zoning or environmental regulations;
- Modify City development standards such as building height or density;
- Modify or reduce required land use permit processes.

### III. Background

Adopting a MFTE program has been planned and recommended over the last four years, as referenced in the attached documents:

- [2017 Comprehensive Plan Housing Element Policy HO 4.4](#)
- [2018 Affordable Housing Task Force Final Report Recommendation 1.C](#)

A Joint City Council/Planning Commission land use subcommittee met in the Summer and Fall of 2020 and presented a list of recommended priority code changes to the Council on October 13, 2020 that included adopting a 12-year MFTE Program. The Council approved the list and recommended it be forwarded to the Planning Commission for immediate legislative work.

#### IV. Planning Commission Recommendations

After the Council's direction to Planning Commission, the Commission's Affordable Housing Subcommittee (Commissioner's Quitslund, Blossom and Paar) met to discuss what MFTE program elements to make a recommendation on to the full Planning Commission.

At their meetings on January 14 and 28, 2021 meeting, the Planning Commission discussed the following MFTE program elements:

1. Potential MFTE designation or eligibility areas- where should a program be available to properties?
2. MFTE project threshold- what is the minimum number of multifamily units that will be required in order to enroll in a future MFTE program? The state minimum project eligibility threshold is four multifamily residences.
3. Should a City MFTE program be available to both rental and homeownership projects, as allowed under state law?

At the January 28, 2021 meeting, the Planning Commission made preliminary recommendations on these program elements, and in general, consensus was to make a MFTE program as widely available as possible (see motion below). The Commission's Affordable Housing subcommittee submitted a memo for review by the full Planning Commission at the January 28 meeting. The memo was intended to support the Planning Commission policy recommendations and be transmitted to the City Council. At that meeting, Commissioners requested revisions to the memo prior to finalizing their policy recommendations.

On February 11, 2021, the Planning Commission finalized their transmittal memo to the City Council (see attachment 20210211 PC Transmittal Message to Council). This attachment also includes a DRAFT MFTE Code Chapter that was written by the Commission Affordable Housing Subcommittee, but not discussed by the full Planning Commission during this time. The Planning Commission then unanimously passed the motion below related to recommended MFTE program elements.

Motion: I move to forward the following policy recommendations and attached supporting memo to the City Council related to adopting a Multifamily Property Tax Exemption program:

1. That the following areas be considered for the MFTE designation/eligibility areas:

All properties either within:

- The Winslow Master Plan Study Area or the Winslow Sewer System Service Area, or both and;
- The Lynwood Center area, which have zoning of Neighborhood Center (NC), NC/R-12 and R-5.

2. That the project eligibility threshold be four multifamily residences.

3. That a future City MFTE program be applicable to both rental and ownership **units**.

**IV. NEXT STEPS:**

If the City Council decides to pursue adopting a City MFTE program, then the next steps in developing the program are:

1. Begin Outreach for Eligibility Area Public Hearing.
2. Hold Public Hearing on Eligibility Areas: Tentative date, June 8.
3. Draft Ordinance for New MFTE Chapter in Bainbridge Island Municipal Code (BIMC, Title 3 Revenue and Finance).
4. Ordinance Review and Adoption by City Council (estimate Q3 2021).

## **A Multifamily Property Tax Exemption Program for Bainbridge Island**

February 11, 2021

The Bainbridge Island Planning Commission is pleased to forward to the City Council a proposed *MULTIFAMILY TAX EXEMPTION PROGRAM*, for the Council's review and further action. This transmittal message contains, along with an account of the measure's development and its scope and purpose, the Commission's recommendations in response to policy questions posed by Planning Department staff.

Ordinarily, the Planning Commission does not have jurisdiction in matters covered by Title 3 in the Municipal Code. For this reason, and because the City Council is responsible for holding a public hearing and deciding upon the specific areas where provisions of this program are applicable, the Commission leaves several aspects of the Program to be determined by the Council, in consultation with Planning Department staff and the City Attorney.

### Background

Development of a Multifamily Tax Exemption Program was among the measures recommended by the Affordable Housing Tax Force in their *Final Report* dated July 11, 2018, and it has been an item on the City Council's Workplan for some time. Within the Planning Commission, the Affordable Housing subcommittee discussed this task as something eminently do-able, at a time when there was no authorization from the Council to undertake such an ambitious project as Inclusionary Housing regulations.

Commissioner Paar, as a developer of multifamily housing in Seattle, is familiar with the effectiveness of MFTE regulations; Commissioner Blossom served on the AHTF and has been eager to see the Council's long-term interest in this measure acted upon. Commissioner Quitslund studied the enabling legislation (Chapter 84.14 RCW) and looked into the regulations governing programs in Bremerton, Lacey, Shoreline, and Bellingham. At the end of October, Commissioner Quitslund sent a brief account of his findings to members of the Planning Commission and the Joint Subcommittee of the Council and P C. Further work by the Planning Commission was greenlighted by the City Council.

The provisions in RCW 84.14 are clear, detailed, and prescriptive. Per RCW 84.14.040 and .010.(18), a City must designate eligible areas for the MFTE that are within an urban center, which the statute defines as "a compact identifiable district where urban residents may obtain a variety of products and services," including "shops, offices, banks, restaurants, governmental agencies; adequate public facilities including streets, sidewalks, lighting, transit, domestic water and sanitary sewer systems, and a mixture of uses and activities that may include housing, recreation, and cultural activities."

In the programs developed in other jurisdictions there are some variations, but all closely follow the RCW requirements. Drafting the program for Bainbridge involved choosing a prototype to follow and adapting each section to suit our circumstances. The City of Lacey's program was the principal model for our program, subject to some streamlining and with nuances lifted from other programs.

Discussion in a meeting of the Affordable Housing subcommittee on November 18 made it possible to complete a DRAFT of the proposed MFTE program, which was discussed with Planning Director Heather Wright and Senior Planner Jennifer Sutton on December 3. The Planning Commission discussed the MFTE program on December 17, 2020, including the

proposed text, a memo directing attention to several decision points, a document from the Puget Sound Regional Council explaining MFTE policies, and maps of potential areas suitable for MFTE designation. Staff directed the Planning Commission to discuss specific policy questions on which they would offer recommendations to the Council.

In the Planning Commission meeting on January 14, 2021, the MFTE Program was the principal item of business. The agenda packet included maps that showed overlay district boundaries and vacant parcels, and an excerpt from the Use Table in BIMC 18.09.020 showed the zoning designations where multifamily dwellings are either a Permitted or a Conditional use. In approximately an hour of discussion, the Commission arrived at consensus on policy recommendations, responding to the topics presented by Planning staff in the Agenda Bill. Commissioner Quitslund was tasked with drafting a message to the City Council that would accompany the proposed MFTE Program, providing background and an explanation of the Planning Commission's recommendations; this draft was reviewed and approved by the other two members of the Affordable Housing subcommittee. Discussion in the Planning Commission meeting on January 28 focused on this message, prompting a number of revisions, in anticipation of final action on the package by the full Commission on February 11, 2021.

#### Policy Questions to Answer

1. MFTE-eligible areas: Consider all zones where multifamily housing currently is a permitted use – (a) MUTC (all zones), (b) High School Road 1 & 2, R-8, R-14, and (c) Lynwood Center NC, R-12 and R-5 areas (since Lynwood Center is the only NC area currently served by sewer). The City Council would hold a public hearing on the proposed MFTE-eligible areas, as the next step in completion of the MFTE plan.
2. Project threshold: Under state law (RCW 84.14.030), a project must be creating at least 4 multifamily units in order to be eligible for the MFTE program. Other jurisdictions have raised this eligibility threshold in their local regulations; for instance, Bremerton's threshold is 10 units.
3. State law provides for MFTE programs that support development of both rental and ownership units, and the DRAFT text provides for both possibilities. The affordable housing subcommittee has asked whether the program should be limited to rental projects.

#### Recommendations

In discussion, the Planning Commission considered the first and second topics together, looking at maps showing vacant parcels in (1) the MUTC and High School Road districts; in (2) the larger area defined by two partially overlapping boundaries, the Winslow Master Plan Study Area and the Sewer Service Area; and in (3) the Lynwood Center neighborhood area.

Regarding the designation of residential target areas, the Planning Commission decided, first, to recommend designating the target area in and around Winslow by two established boundaries, to include parcels that are within either the Winslow Master Plan Study Area or the Winslow Sewer Service Area (or both). The Planning Commission also considered the map showing zoning designations in the Lynwood Center area, and recommends designation of those parcels zoned NC, NC/R-12, and R-5 as a target area for MFTE-eligible development.

The Planning Commission finds these recommendations to be consistent with the goals and policies of the Comprehensive Plan, and with the Zoning Code. The proposed MFTE program makes no changes in the current Code's zoning designations and density provisions, and it takes steps toward implementation of goals and policies in the Housing Element of the Comprehensive Plan.

Regarding the minimum *Size of an MFTE project* (see Planning Commission Affordable Housing subcommittee DRAFT MFTE Code Chapter BIMC 3.36.050.B), the Planning Commission recommends allowing MFTE for four or more housing units. It was noted that some parcels in the proposed MFTE-eligible areas might be developed (or redeveloped) with 10 or more units of multifamily housing, but there may be more opportunities for infill development on a smaller scale, providing some housing in mixed-use development, with commercial space and/or space for a service provider on the ground floor, thereby dispersing affordable housing and integrating residential development with other uses.

Regarding the third topic, whether the MFTE program should be restricted to projects producing rental units, the Planning Commission recommends that the MFTE program be applicable to both rental and ownership units in the target areas. There is an acute shortage of housing on Bainbridge Island that is available for rental at affordable rates, and the MFTE program will offer an attractive incentive to developers who provide multifamily rental units. Multifamily projects that provide for owner occupancy in all or a portion of the development may be few and far between, but the Planning Commission did not see a reason for excluding such projects from consideration. All of the programs in other jurisdictions that were studied provide for both possibilities.

#### Other Matters to be Determined

RCW 84.14.040 provides guidance on designation of a targeted area or areas, the required public notice of a hearing, and subsequent action to be taken by the Council.

As defined in RCW 84.14.010.(11), "Multiple-unit housing" (also "multifamily housing") is inconsistent with "Multifamily development" as defined in BIMC 18.36, #170.

Several details in the provisions for application, fees, review, certification, appeal procedures, contractual commitments, and reporting remain to be given final form. (Presumably, the hearing on designation of the MFTE-eligible areas can be scheduled, noticed, and conducted before these details are finalized.)

#### What the MFTE Program Does and Does Not Do

Effective use of the MFTE Program will depend on revision of BIMC 18.12 (Dimensional Standards) and 18.21 (Affordable Housing), presumably to include inclusionary housing provisions.

Adoption of the MFTE Program will have no immediate impact on revenues from residential taxes. To the extent that the program incentivizes development and some long-term net increase in population, revenues will be increased, but there will be a twelve-year lag in ad valorem property taxation.

As a condition of participation in the program, at least 20% of the housing units being provided must be affordable by income-qualified households. This has the effect of setting a high

standard for an Inclusionary Housing program, which has yet to be designed. However, the requirement of such affordability lapses at the end of twelve years. Longer-term affordability will depend upon regulations in the Inclusionary Housing chapter or elsewhere in the Code.

In 84.14 RCW and in this program, the definitions of Low-income and Moderate-income households are simpler than the categories currently found in BIMC 18.21, and this will have the effect of defining somewhat more broadly the income-qualified population eligible for affordable housing.

**PC Affordable Housing Subcommittee  
December 2020 DRAFT of New Chapter 3.36  
MULTIFAMILY TAX EXEMPTION PROGRAM  
NOTE: DRAFT not reviewed by full Planning Commission**

Sections:

- 3.36.010 Purpose
- 3.36.020 Definitions
- 3.36.030 Target area for multifamily residential development
- 3.36.040 Tax exemption for multifamily housing
- 3.36.050 Project eligibility and performance standards
- 3.36.060 Application procedure
- 3.36.070 Application review and conditional certification
- 3.36.080 Final certificate
- 3.36.090 Annual compliance review and report
- 3.36.100 Cancellation of tax exemption

**3.36.010 Purpose.**

- A. Pursuant to Chapter 84.14 RCW, the purpose of this chapter is to provide access to twelve-year exemptions from ad valorem property taxation for qualified development or redevelopment projects that will supply multifamily housing in an area targeted for such housing.
- B. Further, the purpose of this chapter is to promote and incentivize the development or redevelopment of an appropriate and equitable mix of housing types, as a catalyst for additional investment and activity in the target area, in accordance with the Comprehensive Plan and other applicable planning instruments.

**3.36.020 Definitions.**

For the purposes of this chapter, the following definitions shall apply:

- A. "Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low- or moderate-income households.
- B. "Area median income (AMI)," for Bainbridge Island, means the figure set annually by HUD for the Bremerton-Silverdale area.
- C. "Household" means a single person, family, or unrelated persons living together.
- D. "Low-income household" means, generally speaking, a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the area median income (AMI), adjusted for family size, for the Bremerton-Silverdale area.
- E. "Moderate-income household" means, generally speaking, a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but

is at or below one hundred fifteen percent of the area median income (AMI), adjusted for family size, for the Bremerton-Silverdale area.

- F. "Multiple-unit housing" (also "multifamily housing") means a building having four or more dwelling units not designed or used as transient accommodations. Multifamily housing units may result from new construction or from rehabilitation or conversion of vacant, substandard, or underutilized buildings, and may form part of a mixed-use development.
- G. "Owner" means the owner of record for the property in question.
- H. "Permanent residential occupancy" means occupancy of a housing unit, as a renter or owner, on a non-transient and continuous basis, for at least one month.
- I. "Rehabilitation improvements" means either modifications to existing structures that have been vacant for twelve months or more, made to achieve substantial compliance with current building codes; or modifications to existing occupied structures which, in compliance with current building codes, increase the number of available housing units.
- J. "Residential target area" means an area within the urban growth area that has been designated by the governing authority for residential development in accordance with this chapter and applicable land use regulations.

**3.36.030 Designation of residential target area(s).**

{The RCW prescribes a process, including noticing and a public hearing, by which the area(s) where the MFTE program is applicable will be designated. At this point in some of the Codes studied, areas are named and boundaries are shown on maps. The subcommittee recommends allowing MFTE on a small scale in virtually all zones and assumes that projects involving ten units or more will be confined to parts of the Winslow study area.}

- A. Pursuant to RCW 84.14.040, the Bainbridge Island city council designates the following area(s) as a/the target area/s within which the provisions of this chapter are applicable:  
..
- B. Additional residential target areas may be designated if the city council determines that an area meets the criteria set forth in RCW 84.14.040(1), as amended.

**3.36.040 Tax exemption for multifamily housing in target area(s).**

- A. *Duration of Exemption.* For projects that have applied and been certified in accordance with this chapter, the value of improvements is exempt from ad valorem property taxation for twelve successive years beginning January 1<sup>st</sup> of the year immediately following the calendar year of issuance of the final certificate of tax exemption, provided that the property otherwise qualifies for the exemption and the applicant/owner rents or sells at least twenty (20) percent of the multifamily housing units as affordable housing for low- and moderate-income households, as further defined in this section:
  - 1. For rental projects, at least twenty (20) percent of the units shall be rented throughout the duration of the twelve-year exemption period to households earning at or below one hundred percent of AMI; further, at least half of such units shall be rented to low-income households earning at or below eighty percent (80%) of AMI.

2. For ownership projects, or that portion of a project providing ownership, at least twenty (20) percent of the multifamily housing units in the project shall be sold as affordable housing to low-income or moderate-income households earning no more than one hundred fifteen percent (115%) of AMI.
  3. For mixed-use projects applying for the tax exemption, at least 50% of floor area must be dedicated to permanent residential occupancy.
- B. *Limits on Exemption.* The tax exemption applies only to the dwelling units and to housing-related improvements, and not to the value of land and unrelated improvements, including rehabilitation and construction for non-residential uses. The exemption also does not apply to increases in assessed valuation made by the county assessor on nonqualifying portions of a mixed-use building, or to the value of land.

### **3.36.050 Project eligibility and performance standards.**

To qualify for exemption from property taxation under this section, the project must satisfy all of the following requirements:

- A. *Location.* The project must be located within a residential target area identified in BIMC 3.36.030.
- B. *Size.* {The city of Lacey requires a minimum of 20 units; Bremerton requires 10. The subcommittee recommends allowing MFTE for four or more units. There may be several buildings, but no multifamily building shall contain fewer than four units.}
- C. *Replacement or Rehabilitation of Existing Residential Structure.* If the project replaces or rehabilitates a pre-existing structure, the new multifamily housing must provide at least as many housing units as existed before.
- D. *Redeveloped and New Mixed-Use Projects.* A project that provides residential units mixed with commercial, office, and/or retail uses may qualify for the tax exemption if four or more residential units are included, and if at least one quarter of them meet the definition of affordable housing.
- E. *Compliance with Guidelines and Standards.* The project must be designed to comply with the city's Comprehensive Plan, the *Winslow Master Plan*, the *Design for Bainbridge* manual, and pertinent provisions of the *BIMC*.
- F. *Diversity in Housing Types.* The mix and configuration of housing units (e. g., studio, one bedroom, two bedroom) that meet the requirement for affordable units under this chapter shall be substantially proportional to the mix and configuration of the total housing units in the project.
- G. *Project Completion.* The project must be scheduled for completion within three years from the date of issuance of the conditional certificate.
- H. *Contractual Commitment.* The applicant must enter into a contract with the city under which the applicant agrees to implementation of the project on terms and conditions satisfactory to the city, and the contract must be approved by the {city council?}.

### **3.36.060 Application Procedure.**

- A. A property owner who is proposing a project for an ad valorem tax exemption shall file the appropriate application form, available on request from the planning and community development department. Complete the application as follows, setting forth the grounds for tax exemption, along with the required fees as established pursuant to RCW 84.14.080:
  - 1. Describe the project briefly, providing schematic site and floor plans of the multifamily dwelling units and the structure(s) in which they will be located. Indicate in the brief description the total number of dwelling units and the number of each type (e. g., studio, 1 bedroom, 2 bedroom); indicate whether the project is new construction or rehabilitation; show any common areas and utility rooms.
  - 2. Indicate whether the dwelling units are planned for rental or for owner-occupancy, or for some of both.
  - 3. Indicate the number and type of units that will be affordable, to be rented or sold to income-qualified residents.
  - 4. If this is a mixed-use project, describe how other uses will be accommodated, and indicate what percentage of floor area will be devoted to residential use.
  - 5. Acknowledge the potential tax liability when the property ceases to be eligible for exemption under this section.
- B. The director shall approve, approve with conditions, or deny a completed application within ninety days of receipt. Issuance of a building permit is contingent on approval of this application.

### **3.36.070 Application review and conditional certification.**

- A. If the director finds that the application is complete and all requirements of this chapter will be satisfied by completion of the project, the application will be approved and a conditional certificate will be issued. The director may also approve the application with conditions, recommending changes to the project and resubmission. The conditional certificate shall expire three (3) years from the date of approval unless an extension is granted as provided in this chapter.
- B. Upon approval of the application, the applicant shall enter into a contract with the city setting forth the terms and conditions of the project and eligibility for exemption.
  - 1. This contract is subject to approval by the director of planning and community development.
  - 2. At the applicant's expense, the contract shall be recorded with the county auditor within 10 days of its execution, and the city shall be provided with the recording number.

- C. *Denial of Application.* If an application is denied, the director shall state in writing the reasons for denial and shall send notice to the applicant within ten (10) calendar days of the denial.
- D. *Appeal.* Per RCW 84.14.070, an applicant may appeal a denial to the Hearing Examiner within thirty (30) calendar days of receipt of the denial, by filing a notice of appeal with the City Clerk.
- E. *Extension of conditional certificate.* The conditional certificate may be extended by the director for a period not to exceed 24 consecutive months. The applicant must submit a written request stating the grounds for an extension. An extension may be granted if the director determines that:
  - 1. Any failure to complete construction or rehabilitation within the terms of the conditional certificate is due to circumstances beyond the applicant's control;
  - 2. The applicant has been acting in good faith and with due diligence; and
  - 3. All conditions of the original contract between the applicant and the city will be satisfied upon completion of the project.

**3.36.080 Final certificate.**

- A. *Application.* Upon completion of improvements as provided in the contract between the owner and the city, the applicant may request a final certificate of tax exemption. The applicant shall file with the director such information as is needed to evaluate eligibility, including:
  - 1. A statement of expenditures with respect to each multifamily housing unit, and the total expenditures with respect to the entire property;
  - 2. A description of the completed work and a statement that the improvements qualify for the exemption;
  - 3. A statement that the work was completed within the scope of the conditional permit and any authorized extension; and
  - 4. A statement that the project meets the affordable housing requirements of this chapter.
- B. *Determination of compliance.* Within thirty (30) days of receipt of a completed application, the director shall determine whether the completed project is consistent with the contract between the city and the owner, whether all or a portion of the completed work is qualified for exemption under this chapter, and which specific improvements satisfy the requirements of Chapter 84.14 RCW and this chapter.
- C. *Filing with County Assessor.* The city shall file a final certificate of eligibility for tax exemption within ten days of the determination of compliance. The applicant shall be responsible for payment of any fee charged by the assessor.

**3.36.090 Annual compliance review and report.**

- A. *Annual Report – Property Owner.* Thirty days after the anniversary of final certification of the tax exemption, and subsequently in each year of the tax exemption period, the owner of record for the affordable multifamily project, or the homeowners' association for an owner-occupied development, shall file an annual report with the director or a designated administrator, providing the following:
1. Occupancy and vacancy data for the twelve months ending with the anniversary date;
  2. Certification by the owner that the property has not changed use, and that the property has consistently been in compliance with affordable housing requirements; and
  3. A description of any improvements to the property during the year in question.
- B. *Additional Reporting – Property Owner.* By December 15 of each full year of the tax exemption period, the property owner shall provide city staff or a designated administrator with information, in writing, sufficient for completion of the annual report to the Department of Commerce, described in subsection D, below.
- C. *Audits.* City staff may conduct audits or require on-site verification of any information provided by the property owner. Failure to submit the annual report and/or additional reporting may result in cancellation of the tax exemption.
- D. *Annual Report – City.* By December 31<sup>st</sup> of each year, the city shall submit a report to the Department of Commerce, including the following:
1. The number of tax exemption certificates granted during the year;
  2. The total number and type of multifamily units produced or to be produced;
  3. The number and type of affordable housing units produced or to be produced;
  4. The actual development cost of each unit produced;
  5. The total monthly rent or total sale amount of each unit produced;
  6. The income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption, and a summary of these figures for the city; and
  7. The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

**3.36.100 Cancellation of tax exemption.**

- A. *Cancellation.* If at any time the director determines that: (1) the property no longer complies with the terms of the contract or with the requirements of this chapter; (2) the use of the property has changed or will be changed to a non-residential use; (3) the project is found to violate applicable zoning requirements, land use regulations or building code requirements; or (4) the property no longer qualifies for the tax exemption, then the tax exemption shall be canceled and additional taxes, interest and penalties may be imposed pursuant to state law. Upon such a determination, the director or a designated officer of the city shall so notify the property owner by certified mail, return receipt requested.
  
- B. *Appeal.* The property owner may appeal this determination to the Hearing Examiner by filing a notice of appeal with the City Clerk within thirty (30) calendar days, specifying the factual and legal basis of the appeal.



# Multifamily Tax Exemption

Under state law, cities may exempt multifamily housing from property taxes in urban centers with insufficient residential opportunities. The city defines a residential target area or areas within an urban center; approved project sites are exempt from *ad valorem* property taxation on the residential improvement value for a period of eight or 12 years.

The 12-year exemption requires a minimum level of affordable housing to be included in the development (at least 20% of the units or 100% if the building is solely owner-occupied). The eight-year exemption leaves the public benefit requirement—in both type and size—to the jurisdiction’s discretion. The eight-year exemption carries no affordable housing requirement. Cities must pass an enabling ordinance to enact the MFTE and to allow applications for the exemption.

## WHAT ISSUES DOES A MULTIFAMILY TAX EXEMPTION (MFTE) ADDRESS?

This tool encourages multifamily development and redevelopment in compact mixed-use districts (urban centers) where housing and affordable housing options are in short supply. Through the multifamily tax exemption, a jurisdiction can incentivize dense and diverse housing options in urban centers lacking in housing choices or affordable units. MFTE can also apply to rehabilitating existing properties and redeveloping vacant or underused properties.

### TOOL PROFILE

#### Objectives

[Housing in Centers and Near Transit](#)

[Housing Options in Expensive Markets](#)

[Mitigate Residential Displacement](#)

#### Type of Tool

Incentives

#### Project Type

Multifamily

Rental

#### Affordability Level

Market-rate incentives and tools

Most effective for units <80% AMI

## WHERE IS THE MULTIFAMILY TAX EXEMPTION MOST APPLICABLE?

Cities planning under the Growth Management Act ([RCW 36.70a](#)) that have designated urban centers with a deficiency of housing opportunities are eligible to implement this tool. In King, Pierce, Snohomish and Kitsap counties, cities must have at least 5,000 in population. Cities must designate eligible areas that contain urban centers.

Urban centers—in the context of the MFTE-enabling legislation—have a specific meaning:

“ ...a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

- a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies;
- b) Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and
- c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both, use.” (RCW 84.14.010)

Based on the state law, designated districts are commercial or business districts with some mix of uses. Such areas may exist in downtowns, commercial corridors, or other intensively developed neighborhoods. Examples of designated districts throughout the central Puget Sound region are listed in the model policies, regulations, and other information section.

MFTEs have been effective in producing multifamily units in the region’s larger cities. Since its inception, the MFTE law has been expanded to include smaller cities. PSRC’s [2019 Housing Incentives Survey](#) found that MFTE produced the greatest number of new units of the tools surveyed. [State legislative review](#) similarly found that the tool was widely used in the central Puget Sound region, but that some changes may be needed to ensure effectiveness of the program. The success of this tool in larger jurisdictions could make it an attractive tool for smaller and moderate-sized cities that meet the population threshold.

Multifamily tax exemptions can encourage relatively dense attached flats or townhomes in mixed-use projects or residential complexes, which makes this tool particularly useful in urban centers and transit-oriented developments. Dense development is also economically efficient in expensive housing markets and can reduce housing costs.

## WHAT DO I NEED TO KNOW ABOUT USING OR DEVELOPING A MULTIFAMILY TAX EXEMPTION?

The MFTE implementation process is guided by state law in [RCW 84.14](#). In general, the process includes preparing a resolution of intent to adopt a designated area, holding a public hearing, and adopting and implementing standards and guidelines to be utilized in considering applications for the MFTE. Among other criteria, the designated area must lack “sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public who would be likely to live in the urban center, if the affordable, desirable, attractive, and livable places to live were available” (RCW 84.14.040).



A property owner applying for an MFTE must meet the criteria (per RCW 84.14.030) summarized here:

- The new or rehabilitated multiple-unit housing must be located in city-designated residential target areas within the urban center.
- The project must meet local government requirements for height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, limits on rents or sale prices, and other adopted requirements.
- At least 50% of the space in the new, converted, or rehabilitated multiple-unit housing must be for permanent residential occupancy. Existing occupied multifamily developments must also provide a minimum of four additional multifamily units.
- New construction of multifamily housing and rehabilitation improvements must be completed within three years from approval.
- The applicant must enter into a contract with the city containing terms and conditions satisfactory to the local government.

The exemption is recorded with the County Assessor. Developments that violate the terms of the exemption are required to pay back the exempted tax amounts, plus interest, and a penalty fee.

Cities considering the program need to weigh the temporary (8-12 years) loss of tax revenue against the potential attraction of new investment to targeted areas. MFTE projects could be catalysts for other private investment if they help prove an area is desirable.

Pairing the MFTE with other tools that affect density and cost reductions may help the city achieve higher density and affordable housing in designated mixed-use and commercial areas. These tools include [density bonuses](#), [TOD overlays](#), [parking reductions](#), [mixed-use development](#), and a [planned action EIS](#).

## CREATING A MULTIFAMILY TAX EXEMPTION PROGRAM

A typical planning process (gathering information, conducting public outreach, and considering ordinances), together with the specific requirements of state law, will guide the development of an MFTE program:

### **Determine Residential Target Areas**

Cities will need to consider the state law's "urban center" definition which addresses existing commercial businesses, mixed uses, and infrastructure.

### **Analysis**

To support the urban center and residential target area designations, a jurisdiction should map or collect data on current uses, services, and capital facilities. The data and analysis should demonstrate that the area lacks sufficient residential housing, including affordable housing.

Estimating the tax revenue and other cost-benefit implications of the MFTE program can help to determine whether the program would help achieve housing goals. In terms of other cost-benefits, jurisdictions can calculate the short-term construction and sales tax revenues and employment gains that stem from the development.



## Conduct Public Outreach

The MFTE statute suggests that a jurisdiction considering an MFTE program issue a resolution of intention to designate an urban center and residential target area(s). The resolution should also identify the time and place of a hearing. Cities must hold a public hearing on the proposed MFTE ordinance and follow notification schedules listed in the statute. While crafting the ordinance, cities will also want to involve stakeholders, including developers of multifamily and condominium housing, affordable housing developers and advocacy groups, and major landowners and businesses in the residential target areas. See [Build Community Support](#) for strategies to involve the public and stakeholders.

## Determine Standards

The state affords jurisdictions wide latitude to design their MFTE laws to meet local planning goals. Proposals must meet local zoning and development standards and any affordability and occupancy criteria the jurisdiction sets. Based on the intent of the MFTE, key decisions to shape the ordinance include:

- **Encouraging more versus less participation from developers**

The threshold number of units to qualify for the exemption and public benefit requirements could influence the level of participation by developers. A low threshold and limited public benefit requirements, for example, might make the program more accessible to developers, but yield a smaller return in public benefit for foregone revenue. A high threshold and demanding public benefit requirement, however, might make the program unattractive to developers. Striking a balance between requirements, goals and attractiveness is essential to a successful MFTE program.

- **Encouraging affordable housing versus market-rate housing**

RCW 84.14 allows cities to provide a bonus for affordable housing provision by allowing 12 years of tax exemption, versus the eight years offered for market-rate developments. Cities could further encourage developers to opt for the 12-year exemption by setting a threshold number of units or public benefit to attract development. Offering other incentives, such as [density bonuses](#) and [flexible development regulations](#), along with the MFTE can strengthen interest in affordable development in the city.

- **Ensuring that affordability endures**

Affordable units are at risk of losing their affordable status both at the end of the MFTE time period and during its existence if a developer decides to opt out of the program. Requiring [affordability covenants](#) for these units is one method for preserving affordability.

## Implementation

State law requires an application process and procedures. Cities will need to allocate staff and resources to reviewing applications. A fee may be charged for the request. The agency has 90 days to approve or deny the application.



## Monitoring

The law requires regular reporting by applicants and by cities. Upon construction and annually thereafter, the property owner must file reports containing information such as occupancy, vacancy, and other items required by the city.

Cities will also want to make sure that these requirements are not too onerous. In some cases, partnerships between non-profits and for-profits to ensure secure income certifications and monitoring may be helpful.

Cities must annually report to the Washington State Department of Commerce the number of certificates granted, unit types, monthly rent and sales costs, and other information. Cities can use these regular reports to monitor the success of the program and build supporting data for future program goals. Some cities adopt a sunset clause by which time the city may re-adopt or let expire the tax exemption program.

## MODEL POLICIES, MODEL REGULATIONS, OTHER INFORMATION

State of Washington: [RCW 84.14](#)

See adopted ordinances of the following cities at: <http://www.mrsc.org/codes.aspx>

- Bremerton: Downtown Core and Multiple Residential Zones
- Burien: Downtown Commercial Zone
- Everett: Downtown and vicinity
- Kirkland: Central Kirkland/Houghton; Totem Lake and North Rose Hill; Juanita; and NE 85th Street
- Lynwood: City Center
- Puyallup: central business district (CBD) and certain areas south of the CBD
- SeaTac: 154th Street and SeaTac/Airport Station Areas
- Seattle: 39 neighborhoods or districts
- Shoreline: Ridgecrest District
- Tacoma: 17 mixed-use centers designated on the Generalized Land Use Plan and in the Comprehensive Plan



# 2019 Report on Property Tax Exemptions for Multifamily Housing in Urban Areas

## 2019 MFTE Program Highlights

In 2019, twelve cities issued multifamily tax exemption (MFTE) certificates, used in the development of 1,210 income and rent restricted units and 4,252 market rate units, and providing about \$11.8 million in property tax exemptions. Of 104 municipalities eligible to adopt and implement a MFTE program, 49 have a program.

## 2019 JLARC Report

In 2019, the Joint Legislative Audit Review Committee (JLARC) issued a [report on the MFTE program](#). The report found that since 2007 the program had been used in the production of 34,885 new housing units, with 21% of those designated as affordable. The report found that developers created housing using the MFTE, yet could not conclude whether this represents a net increase in development. JLARC made some recommendations for program changes, which are detailed in the report.

## 2020 Legislation

Several bills to amend the MFTE program were proposed in the 2020 legislative session: HB 2950, HB 2620, SB 6411, and HB 2746. Ultimately, the legislature passed [Substitute House Bill 2950](#), which extended property tax exemptions until Dec. 31, 2021 for properties that would have expired before that date. It also included a requirement that a multisector work group be established to study and make recommendations on the MFTE program. This study was vetoed due to the state budget shortfall associated with the coronavirus pandemic.



## 2019 Statistics

12 cities issued MFTE certificates

65 total certificates issued

1,210 affordable units created

4,252 market rate units created

\$11,773,176 in exempted property tax revenue for projects in year 1

\$2,155 average property tax exemption per unit for projects in year 1

Agency contact

**Anne Fritzel**  
SENIOR PLANNER

Growth Management Services

[Anne.Fritzel@commerce.wa.gov](mailto:Anne.Fritzel@commerce.wa.gov)

Phone: 360.259.5216

## What is the MFTE Program?

The Multifamily Tax Exemption (MFTE) is a property tax exemption program, codified at [RW 84.14](#), to encourage multifamily housing development in designated "residential target areas" within a city or urban growth area. These residential areas must be in a compact urban district that lacks sufficient housing opportunities.

Cities may offer an 8- and/or 12-year property tax exemption on the value of the residential improvements for building or rehabilitating four or more units of multifamily housing. The 12-year exemption requires owners to offer at least 20 percent of the units as income and rent restricted housing. If an eligible city chooses to create a program, it may create requirements or restrictions in addition to those listed in statute.

Cities have the authority to approve and reject individual projects. Developers generally apply for a conditional certificate of tax exemption, and have a certain time period to complete the project. The tax exemption starts the year after the project is completed. The land, commercial or other non-residential spaces, and pre-improvement structures continue to be taxed.

## Who Can Offer an MFTE Program?

Cities that are required to plan or choose to plan under the Growth Management Act are eligible to offer an MFTE program if:

- The city or town has a population of at least 15,000;
- It is the largest city or town in a county planning under the Growth Management Act in which there is no city or town with a population of at least 15,000; or
- It is a city or town with a population of at least 5,000 in a county subject to RCW 36.70A.215, which includes Clark, Kitsap, King, Pierce, Snohomish, Thurston and Whatcom counties.
- Pierce County is also eligible.



### Example MFTE Web Pages

12-year

[Bellevue](#)

[Shoreline](#)

[Seattle](#)

8- & 12-year

[Bremerton](#)

[SeaTac](#)

[Spokane](#)

[Tacoma](#)

### Data Tables

On the next pages are tables of data of exemptions issued by cities in 2019, a list of cities that have a program that did not issue certificates, and those that are eligible that do not have an MFTE program.

RCW 84.14.100 requires jurisdictions with an MFTE program to report to the Department of Commerce each year on the certificates issued in the past year.



15 West Apartments on Mill Plain Blvd, Vancouver, WA

### Which jurisdictions issued final MFTE certificates in 2019?

City name	8-yr certs	12-yr certs	Total certs	Affordable units	Market rate units	Total units	Tax exemption in year 1	Average annual tax exemption per unit*
Bellingham	2	0	2	0	49	49	\$57,637	\$1,176
Edmonds	0	1	1	19	91	110	\$208,690	\$1,897
Kirkland	1	1	2	42	254	296	\$792,759	\$2,678
Lakewood	2	0	2	0	219	219	\$572,275	\$2,613
Olympia	1	0	1	0	48	48	\$37,315	\$777
Seattle	0	32	32	716	2,706	3,422	\$7,514,387	\$2,196
Shoreline	0	1	1	17	64	81	170,300	\$2102
Spokane	2	7	9	193	78	271	\$240,925	\$889
Tacoma	4	4	8	27	578	605	\$1,571,359	\$2,597
Vancouver	2	1	3	196	69	265	\$439,625	\$1,659
Wenatchee	2	0	2	0	72	72	\$152,915	\$2,124
Yakima	2	0	2	0	24	24	\$14,989	\$625
Totals	18	47	65	1,210	4,252	5,462	\$11,773,176	\$2,155

\* Average annual tax exemption per unit is based on Year 1 info and may change over time. This chart does not include developments which received tax exemption certificates in prior years.

**Which jurisdictions have an MFTE program, but did not issue certificates in 2019?**

City Name	Past MFTE Projects?	2019 Projects?	City Name (Cont'd)	Past MFTE Projects?	2019 Projects?
AUBURN	YES	NO	PIERCE COUNTY	YES	NO
BELLEVUE	YES	NO	PORT ANGELES	NO	NEW PROGRAM
BLAINE	NO	NEW PROGRAM	PORT ORCHARD	YES	NO
BREMERTON	YES	NO	PORT TOWNSEND	NO	NO
BURIEN	YES	NO	PUYALLUP	YES	NO
CAMAS	NO	NO	REDMOND	NO	NO
COVINGTON	YES	NO	RENTON	YES	NO
ELLENSBURG	YES	NO	SEATAC	NO	NO
EVERETT	YES	NO	SNOHOMISH	NO	NEW PROGRAM
FEDERAL WAY	NO	NO	SNOQUALMIE	NO	NO
FERNDALE	NO	NO RESPONSE	SUMNER	NO	NEW PROGRAM
ISSAQUAH	NO	NO	TUKWILA	YES	NO
KENMORE	YES	NO	TUMWATER	NO	NO
LACEY	NO	NO	UNIVERSITY PLACE	YES	NO
LONGVIEW	NO	NO	WALLA WALLA	YES	NO RESPONSE
LYNNWOOD	NO	NO	WASHOUGAL	NO	NO RESPONSE
MARYSVILLE	NO	NO	WOODINVILLE	NO	NO
MOSES LAKE	YES	NO RESPONSE			

**Which jurisdictions are eligible to have an MFTE program but do not have one at this time?**

City Name	Have an MFTE program?	City Name (Cont'd)	Have an MFTE program?	City Name (Cont'd)	Have an MFTE program?
ABERDEEN	NO	FRIDAY HARBOR	NO RESPONSE	OAK HARBOR	NO
ANACORTES	NO	GIG HARBOR	NO	ORTING	NO
ARLINGTON	CONSIDERING	KENNEWICK	NO	PACIFIC	NO RESPONSE
BAINBRIDGE ISLAND	NO	KENT	EXPIRED 2019	PASCO	NO RESPONSE
BATTLE GROUND	NO	LAKE FOREST PARK	CONSIDERING	POMEROY	NO RESPONSE
BONNEY LAKE	NO	LAKE STEVENS	CONSIDERING	POULSBO	NO RESPONSE
BOTHELL	CONSIDERING	LYNDEN	NO	PULLMAN	NO RESPONSE
BRIER	NO	MAPLE VALLEY	NO	RAYMOND	NO RESPONSE
CENTRALIA	NO	MERCER ISLAND	REPEALED 2019	RICHLAND	NO
COLVILLE	NO	MILL CREEK	NO	RIDGEFIELD	NO
DAYTON	CONSIDERING	MILTON	NO	SAMMAMISH	NO
DES MOINES	NO	MONROE	CONSIDERING	SHELTON	NO RESPONSE
DUPONT	NO	MOUNT VERNON	NO	SPOKANE VALLEY	CONSIDERING
DUVALL	NO	MOUNTLAKE TERRACE	EXPIRED	STANWOOD	NO
EAST WENATCHEE	CONSIDERING	MUKILTEO	NO	STEILACOOM	NO
EDGEWOOD	NO	NEWCASTLE	NO RESPONSE	SULTAN	NO
ENUMCLAW	NO	NEWPORT	NO RESPONSE	SUNNYSIDE	NO
FIFE	CONSIDERING	NORMANDY PARK	NO	WEST RICHLAND	NEWLY ELIGIBLE FOR PROGRAM
FIRCREST	CONSIDERING	NORTH BEND	NO	YELM	NO



CITY OF  
BAINBRIDGE ISLAND

## Special City Council Meeting Agenda Bill

**MEETING DATE:** May 4, 2021

**ESTIMATED TIME:** 45 Minutes

**AGENDA ITEM:** (7:20 PM) Update on SMP Public Participation Program and Work Plan - Planning,

**SUMMARY:** See attached memo. A PowerPoint presentation will be provided at the meeting.

The Department of Planning and Community Development ("Department") is scheduled to imminently begin the joint review process for the SMP Periodic Review. Early comments by some Planning Commissioners and the City Council liaison to the Planning Commission suggest the Department may not be following Council directives on 4 specific issues. The Department believes it is following Council's directives and seeks clarification so we can proceed with a shared understanding of next steps and expectations.

**AGENDA CATEGORY:** Ordinance

**PROPOSED BY:** Planning & Community Development

**RECOMMENDED MOTION:** Staff presentation, discussion, and clarification of Council's directives on 4 action items.

1. 2014 SMP Appeal Issues

Recommendation: Option A - The Department is directed to continue as planned.

2. Aquaculture Amendment

Recommendation: Option A - The Department is directed to develop a proposed amendment based on Alternative #1 in Attachment 9.

3. Sea Level Rise Flooding Amendment

Recommendation: Option A - The Department is directed to continue as planned.

4. Sequencing and Duration of the Joint Review Process

Recommendation: Option A - The Department is directed to continue with the planned joint review process.

**STRATEGIC PRIORITY:** Green, Well-Planned Community

**FISCAL IMPACT:**

<b>Amount:</b>	
<b>Ongoing Cost:</b>	
<b>One-Time Cost:</b>	
<b>Included in Current Budget?</b>	

**BACKGROUND:** See Attached Memo

**\*\*SMP Periodic Review Requirements\*\***

1. Attachment 2 includes concise answers to frequently asked questions (FAQs) about the SMP, the Periodic Review process, and the current work plan. The Council is encouraged to read this FAQ.
2. The City's Periodic Review must complete the minimum requirements that ensure the SMP is consistent with state law as well as local plans and regulations.
3. The City may include additional amendments as part of the Periodic Review process.
4. The City must adopt a public participation program.
5. The City Council first adopted a public participation program and work plan on March 12, 2019 and adopted an updated version on September 1, 2020 (Attachment 3).
6. The City Council adopted Resolution 2020-16 on September 8, 2020 with directives regarding the City's aquaculture SMP amendment.
7. The City Council has chosen to use the optional joint review process which is intended to streamline the review process.
8. Additional information regarding the state's Periodic Review rule is provided in Attachment 13.
9. Additional information on the joint review process is provided in Attachment 14.

**\*\*Periodic Review Schedule\*\***

1. The statutory deadline for local adoption of the Periodic Review was June 30, 2020.
2. Ecology extended the deadline to June 30, 2021 due to the delayed availability of required grant funding (\$22,400 received by COBI).
3. The City Council first adopted a project schedule on March 12, 2019 and then an updated schedule on September 1, 2020 (Attachment 3).
4. Staff provided the City Council with an updated schedule on February 26, 2021 (Attachment 4).
5. Attachment 11 includes a timeline for the currently planned joint review process which has been updated to accommodate recent meeting agenda changes requested by the Council.

**ATTACHMENTS:**

[SMP Periodic Review Staff Memo](#)

[Attachment 1 - Project Log](#)

[Attachment 2 - FAQ](#)

[Attachment 3 - Public Participation Plan and Work Plan](#)

[Attachment 4 - SMP Project Update Memo \(02-26-2021\)](#)

[Attachment 5 - Resolution 2020-16](#)

[Attachment 6 - 2014 SMP Settlement Negotiation List - Working Draft](#)

[Attachment 7 - Aquaculture Policies Adopted by Ordinance 2016-06](#)

[Attachment 8 - Aquaculture Policy White Paper](#)

[Attachment 9 - Aquaculture Alternatives Summary.pdf](#)

[Attachment 10 - Policy White Paper on Flooding from SLR](#)

[Attachment 11 - Joint Review Timelines](#)

[Attachment 12 - Stakeholder Focus Group and Agency Group Participants](#)

[Attachment 13 - Ecology's Periodic Review Rule Summary](#)

[Attachment 14 - Ecology's Joint Review Guidance](#)

**FISCAL DETAILS:** N/A

**Fund Name(s):**

**Coding:**



Department of Planning and Community Development

## Memorandum

Date: May 4, 2021  
To: City Manager  
City Council  
From: Heather Wright, Planning Director  
Peter Best, Senior Planner  
Subject: Shoreline Master Program (SMP) Periodic Review Update

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The purpose of tonight's briefing is to:

1. Provide the Council with a status update on the SMP Periodic Review.
2. Clarify Council directives on 4 action items.

### I. BACKGROUND

1. Attachment 2 includes concise answers to frequently asked questions (FAQs) about the SMP, the Periodic Review process, and the current work plan. Council is encouraged to read this FAQ.
2. The City's Periodic Review must complete the minimum requirements that ensure the SMP is consistent with state law as well as local plans and regulations.
3. The City may include additional amendments as part of the Periodic Review process.
4. The City must adopt a public participation program.
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### II. PERIODIC REVIEW SCHEDULE

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3. The City Council first adopted a project schedule on March 12, 2019 and then an updated schedule on September 1, 2020 (Attachment 3).
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5. Attachment 11 includes a timeline for the currently planned joint review process which has been updated to accommodate recent meeting agenda changes requested by Council.

### III. COUNCIL DIRECTIVES & STATUS REPORT

The Public Participation Program and Work Plan (PPP/WP; Attachment 3) and Resolution 2020-16 (Attachment 5) encompass the current directives from City Council regarding the SMP Periodic Review. The following summarizes the Council's directives as understood by the Department and provides a status report.

1. The Department will use new and engaging outreach methods during the COVID-19 emergency. Public participation goals are stated on page 2 of Attachment 3.

PPP/WP Element	Status
Online Open House	Ongoing - The Department acquired, developed, and launched the " <a href="#">Engage Bainbridge</a> " site on 2/26/2021. This site will stay current throughout the process and is intended to catch anyone up-to-date on the process regardless of when they become engaged.
Outreach	Ongoing - The Department announced the public launch of the project and early public engagement opportunities via websites, email, and mailings that directly reached: <ul style="list-style-type: none"> <li>• 132 "interested parties"</li> <li>• Over 2,000 email subscribers</li> <li>• Every mailing address on the Island (over 12,250)</li> <li>• Suquamish Tribe (government-to-government)</li> </ul> Outreach efforts have made over 16,500 contacts to date.

2. The Department will get early public and Planning Commission input on key policy questions important to helping inform the Department's proposed SMP amendments and identify information that would be helpful during the formal review process. This represents an input opportunity that is not typical during the early stages of a legislative project and is expected to help make the formal review process more efficient.

PPP/WP Element	Status
Planning Commission Workshops	Completed - The Department held two workshops (totaling 5 hours) with the Planning Commission to gather early input that is being used to help inform the Department's proposed SMP amendments.
Public Online Workshop (Surveys)	Completed - Due to the challenges of running a large online workshop and the capabilities of the new Engage Bainbridge site, the Department needed to adapt and instead launched 3 public surveys to gather early public input which is being used to help inform the Department's proposed SMP amendments. A total of 97 survey responses were received, which was a lower response rate than hoped but represents more people than could have feasibly participated in an online workshop.
Stakeholder Focus Group	Completed - The Department received 32 applications and appointed 16 members with fairly diverse perspectives (see Attachment 12). The Department met 3 times (totaling 6 hours) with the group to gather early stakeholder input

	which is being used to help inform the Department’s proposed SMP amendments.
Agency Group	Ongoing - The Department invited 47 agencies and met twice (totaling 4 hours) with a group of 10 local and state agencies (see Attachment 12) to provide early technical input and coordination which is being used to help inform the Department’s proposed SMP amendments. This group will continue to meet as needed.

- The Department will propose a first draft of the SMP amendments consistent with the adopted work plan and Resolution 2020-16. The adopted work plan organizes amendments into three categories and two types of deliverables.

PPP/WP Element	Status
Category 1 (Clarifying Edits)	On Track – Categories 1 & 2 are primarily the mandatory amendments in the Periodic Review process and will be delivered in a newly reformatted “Baseline SMP” and related BIMC amendments. The Baseline Draft will consist of a clean draft of existing SMP provisions that have been reorganized and clarified so that the SMP is easier to use and understand. Only substantive changes will be shown in strikeout and underline format. A “change matrix” will document all changes and track the origin/disposition of all SMP provisions.
Category 2 (Substantive revisions to be consistent with existing policy/law)	
Category 3 (New Substantive amendments)	Delayed – Four substantive amendments were listed in the work plan: <ul style="list-style-type: none"> <li>• Adaptation to flooding from sea level rise</li> <li>• Aquaculture</li> <li>• Aquatic environment designations, if applicable information is available</li> <li>• Aquatic environment designation procedures</li> </ul> These will be formatted as separate strikeout/underline documents that would amend the newly reformatted “Baseline SMP.”
	<p><u>Adaptation to flooding from sea level rise</u></p> <p>The City Council has adopted a Climate Action Plan (CAP) with goals, targets, and actions regarding adaptation and resilience to sea level rise (see Attachment A within Attachment 10). The Department is intending to draft policies and initial requirements that facilitate the near-term actions in the CAP and therefore this amendment will represent early steps in a longer-term sea level rise adaptation effort. Future amendment will depend on the completion and implementation of these early steps.</p>

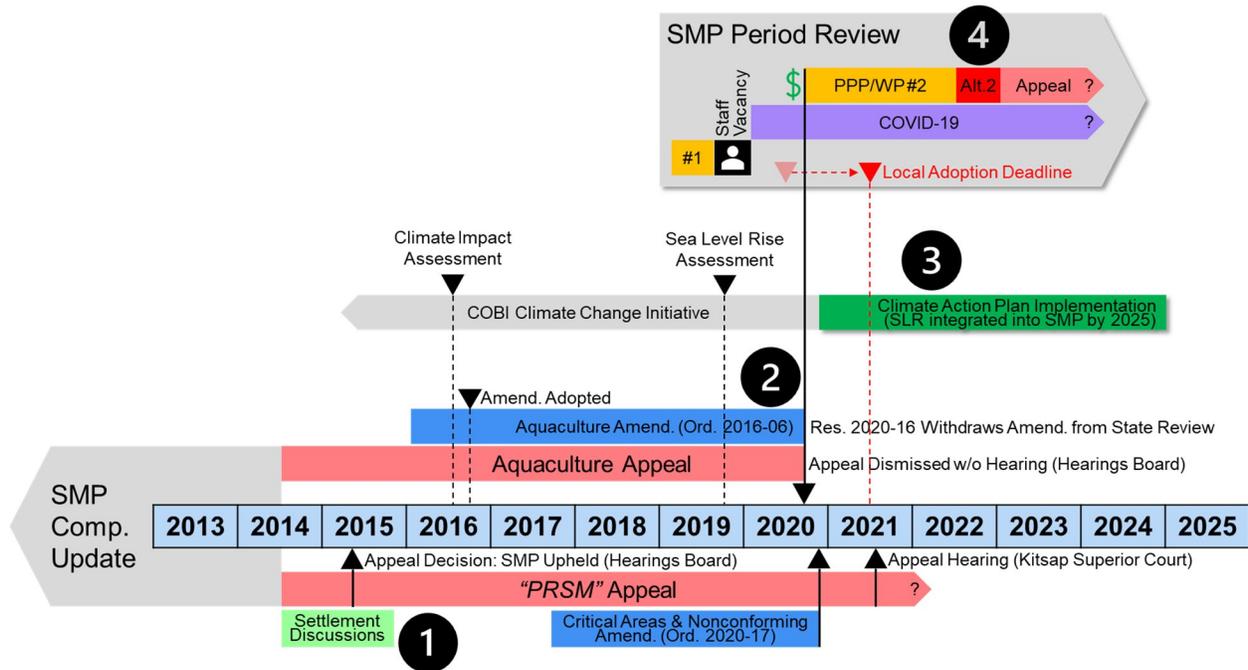
	<p><u>Aquaculture</u>                  The Council directive regarding this amendment was adopted in Resolution 2020-16. Based on staff research (see Attachment 8) and early policy input, the Department is developing an innovative approach (see summary of Alternative 1 in Attachment 9) that we believe will achieve the City’s SMA-consistent policy objectives (see Attachment 7) in a way that is legally sound and will survive appeal, if one is brought.</p> <p>Note: Early comments from some Planning Commissioners and the City Council liaison to the Planning Commission suggest the Department’s approach:</p> <ul style="list-style-type: none"> <li>• May be inconsistent with Council’s directives and the City’s policy objectives; and</li> <li>• This amendment will require substantially more time and funding for technical/scientific review than currently allocated.</li> </ul> <p>Therefore, the Department is seeking clarification on how the Council would like to proceed with this amendment.</p> <p><u>Aquatic environment designations</u>                  The Department’s research and early input process has identified information applicable to proposing new aquatic environment designation criteria and Priority Aquatic designations relevant to subtidal habitat restoration and closely interties with the aquaculture amendment. Therefore, the Department currently intends to integrate this topic into the Department’s recommended alternative for the aquaculture amendment.</p> <hr/> <p><u>Aquatic environment designation procedures</u>                  The Department has determined a substantive amendment to the aquatic environment designation procedures is necessary because the current process is sufficiently unclear. A substantially new procedure needs to be proposed.</p>
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4. The Department will support a joint review process that:
- a. Emphasizes early public input;
  - b. Emphasizes the early identification of issues on which the review will focus; and
  - c. Clearly tracks the recommendations and decisions of those issues through:
    - i. The initial review process involving the Planning Commission, City Council, and Washington State Department of Ecology (Ecology); and
    - ii. The final adoption/approval process involving the City Council and Ecology.

PPP/WP Element	Status
Joint Review Process	<p>Not started – The joint review process is scheduled to start imminently.</p> <p>Note: Early comments from some Planning Commissioners have included disagreement with the role and timing of the Planning Commission and the timing of public input during the joint review process. Therefore, the Department would like to correct misunderstandings about the timing of public input and is seeking clarification on how Council would like to proceed with the joint review process.</p>

IV. CLARIFICATION SOUGHT ON 4 ACTION ITEMS

The Department has proceeded with the Periodic Review according to our understanding of Council’s directives. Early comments from some Planning Commissioners and the City Council liaison to the Planning Commission indicate that clarification of Council’s directives on the following 4 action items is necessary before the joint review process can begin. The diagram below shows how and when these four issues relate to the SMP Periodic Review.



1. 2014 SMP “PRSM” Appeal Issues

Issue

During the “PRSM” appeal of the 2014 SMP, a list of issues (Attachment 6) were identified during settlement discussions in 2015. As referenced below, the parties did not reach a settlement through those discussions, and the 2014 SMP thus far has withstood the many legal challenges brought by those appellants, including an appeal to the U.S. Supreme Court. Early comments from one Planning Commissioner and one of the appellants in the “PRSM” appeal have indicated they thought the City would be focusing more specifically on addressing the list of issues. Specifically addressing this list of issues is not discussed in the current 2020 PPP/WP or in the original 2019 PPP/WP. Therefore, the Department has not been specifically addressing this list of issues while preparing a draft SMP Periodic Review amendment. The Department is seeking clarification regarding Council’s directive on addressing this list of issues.

Background

- The 2014 SMP (Ordinance 2014-04) was appealed by a coalition of organizations and individuals.
- On April 6, 2015, the Central Puget Sound Growth Management Hearings Board (Case No. 14-3-0012) upheld the City’s 2014 SMP on every issue raised by the appellants.

- In the years following that decision, the Kitsap Superior Court, Washington State Court of Appeals, Washington Supreme Court, and U.S. Supreme Court have rejected legal challenges by the appellants related to the SMP and evidentiary and procedural matters.
- The appellants’ 2014 SMP appeal litigation is now back before the Kitsap Superior Court and briefings and hearings are currently scheduled in the coming months.
- At one point, the City was engaged in settlement discussions with some of the appellants, which resulted in a working list of issues (Attachment 6).
- Those settlement discussions did not result in a settlement because the parties did not agree on a multitude of significant issues.
- However, some of the appellants’ issues on the topics of critical areas and nonconformities have been addressed through the recently adopted SMP amendment (Ordinance 2020-17).
- Additionally, many of the appellants’ issues relate to the clarity of the SMP may be addressed since clarifying the SMP is a major objective of the Category 1 amendments (see Section 1 of Attachment 6).
- More generally, based on input from the City Council, the City’s attorneys have emphasized to the appellants via their attorney that the changes they are seeking to the SMP would require legislative changes. To that end, the City’s attorneys have encouraged the appellants via their attorney to express their perspectives as part of the legislative process that is underway through the SMP Periodic Review. The appellants can raise any issues and make any comments during formal public comment periods and public hearings of the Periodic Review process which will be considered along with all other public comments.

The Department has been operating with an understanding that Council’s directive on this matter is:

- Although the City continues to be open to issues raised by appellants as part of their appeal and the 2015 settlement negotiations, the Department’s consideration of those issues is via the broader Island-wide public comment and input process related to the Department’s proposed draft amendment. Some of the appellants’ issues related to clarifications, for example, may be addressed since clarifying the SMP is a major objective of the City’s Periodic Review work plan.
- All public comments submitted by the appellants during the public comment period and public hearing will be considered along with the other public comments that the City receives and considers.
- Should the City receive a final judicial ruling that requires compliance amendments to the SMP, the existing Periodic Review work plan anticipated incorporating those changes into the Category 2 amendments (substantive revisions to be consistent with existing policy/law) if the timing was appropriate or as a separate compliance ordinance following the Periodic Review.

Process Options

Option	Council Directive	Considerations
A	The Department is directed to continue as planned	<ul style="list-style-type: none"> <li>• No process changes needed.</li> <li>• The City’s 2014 SMP has been upheld to date and there is no mandate to pursue these issues without a judicial ruling.</li> <li>• Appellants retain all equitable avenues to address their issues through the ongoing appeal and through public comment during the Periodic Review.</li> </ul>

B	<p>The Department is re-directed to proactively address issues raised by the appeal through a separate amendment</p>	<ul style="list-style-type: none"> <li>• To keep the state-mandated elements of the Periodic Review proceeding efficiently, this would need to be a separate amendment following its own process.</li> <li>• A specific work plan will need to be developed since previous negotiations were never concluded and there is a very large number of issues on which the parties have not agreed.</li> <li>• Unless all the appellants agree to settle or withdraw the appeal, the City could be subject to a future ruling and could have to adopt a compliance amendment.</li> <li>• Any new amendment would be subject to appeal by any party, including the current appellants.</li> <li>• Any agreement reached by the City with the appellants related to changes to the SMP must also be approved by Ecology.</li> <li>• Work on a separate amendment would need to be deferred until resources are available.</li> <li>• Other Department projects (a green building ordinance in particular) would need to be deferred or cancelled to support this substantial new SMP amendment.</li> </ul>
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Recommendation

Option A - The Department strongly recommends Option A.

2. Aquaculture Amendment

Issue

Much work went into the 2016 aquaculture amendment (Ordinance 2016-16), however important elements of the approach were determined, based on input from Ecology, to be inconsistent with the Shoreline Management Act (SMA) and the Pierce County SMP ruling. The Department believes the Council’s directive is for the Department to propose an aquaculture amendment that is consistent with the SMA and the Pierce County SMP ruling through the Periodic Review process, which makes the aquaculture amendment:

- Subject to the same technical, policy, and public review process as the other amendments; and
- Subject to new ideas through staff research and public input.

While the Department currently intends to carry forward many of the elements of the 2016 aquaculture amendment (including the adopted policies in Attachment 7) that are consistent with the SMA and the Pierce County SMP ruling, the Department believes that a compliant amendment developed within current resource constraints will require some innovative approaches (see Alternative 1 in Attachment 9) that have been informed by staff research and the Department’s early input process. Early comments from one Planning Commissioner and the City Council liaison to the Planning Commission have indicated disagreement with the Department’s approach. The Department would like clarification regarding the Council’s directive.

Background

- The City worked on new provisions regarding aquaculture in the development of the 2014 SMP update and was required by Ecology to make revisions in order to achieve final approval.
- The City has been working on an SMP amendment regarding aquaculture since the 2014 SMP was appealed on the topic of aquaculture.

- On October 11, 2016, the City Council adopted an aquaculture amendment (Ordinance 2016-16) and submitted the amendment to Ecology for approval.
- The City and Ecology discussed a number of issues considered inconsistent with the Shoreline Management Act (SMA) but never concluded the discussions.
- On June 17, 2019, the Central Puget Sound Growth Management Hearings Board (Case No. 18-3-0013c) ruled against the Pierce County SMP on the topic of aquaculture.
- On May 19, 2020, the City Council approved a City-wide work plan that included pursuing the aquaculture amendment as part of the Periodic Review process rather than as a separate amendment process.
- On September 1, 2020, the City Council adopted the current PPP/WP which included an amendment related to aquaculture in the work plan.
- On September 8, 2020, the City Council adopted Resolution 2020-16 formally withdrawing the amendment from Ecology review and directing the Department to address the topic of aquaculture as part of the Periodic Review process.
- On August 31, 2020, the Central Puget Sound Growth Management Hearings Board (Case No. 14-3-0011) dismissed the aquaculture appeal of the City’s 2014 SMP.
- On March 20, 2021, the Department published a policy white paper on aquaculture (Attachment 8).
- Ecology has cautiously indicated that the Department’s preferred approach (Alternative #1) is appropriately grounded in the SMA statutes and is willing to work closely with the City on the approach.

Process Options

Option	Council Directive	Considerations
A	The Department is directed to develop a proposed amendment based on Alternative #1 in Attachment 9	<ul style="list-style-type: none"> <li>• No process changes needed.</li> <li>• Many of the changes from the previous amendment will be retained.</li> <li>• Substantial new changes will be made as outlined in Attachment 9.</li> <li>• The City Council can choose to remove this amendment from the Periodic Review process later after reviewing the Department’s proposal.</li> </ul>
B	The Department is directed to develop a proposed amendment based on Alternative #2 in Attachment 9	<ul style="list-style-type: none"> <li>• No process changes needed.</li> <li>• Only SMA-consistent changes from the previous amendment will be retained.</li> <li>• Minimal new changes will be made as outlined in Attach. 9.</li> <li>• No new technical/scientific analysis will be conducted.</li> <li>• The City Council can choose to remove this amendment from the Periodic Review process later after reviewing the Department’s proposal.</li> </ul>
C	The Department is directed to develop a different work plan for this amendment	<ul style="list-style-type: none"> <li>• To keep the state-mandated elements of the Periodic Review proceeding efficiently, this would need to be a separate amendment following its own process.</li> <li>• A specific work plan will need to be developed.</li> <li>• Work on a separate amendment would need to be deferred until resources are available.</li> <li>• Other Department projects would need to be deferred or cancelled to support this amendment.</li> </ul>

D	<p>The Department is re-directed to cease working on an aquaculture amendment</p>	<ul style="list-style-type: none"> <li>• No process changes needed.</li> <li>• City resources will become available for other projects.</li> <li>• Future litigation is avoided.</li> <li>• Permit review will be more challenging.</li> </ul>
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Recommendation

Option A - The Department recommends option A.

3. Sea Level Rise Flooding Amendment

Issue

Adaptation to sea level rise is a broad, long-term, and consequential undertaking. The City’s Climate Action Plan (CAP) includes goals, targets, and near-term actions to address sea level rise (see Attachment A within Attachment 10). The Department has been exploring approaches used in other communities and key policy questions through staff research and the Department’s early input process. The Department is intending to propose an amendment that would be limited to just the very first steps of the longer-term process of adapting to sea level rise.

Early comments from some Planning Commissioners suggest this topic may be too new and too broad for adequate consideration within the time constraints of the Periodic Review process. The Department is sensitive to and shares that concern, which is why the Department is intending to propose just a few early steps that will lead to pilot implementation and learning before the City takes additional steps in the future.

Background

- On September 1, 2020, the City Council adopted the current PPP/WP which included an amendment related to flooding from sea level rise in the work plan.
- On November 12, 2020, the City Council adopted a Climate Action Plan (relevant content is provided as Attachment A within Attachment 10), including the following targets and action:
  - Target: By 2025, COBI will complete an analysis, develop a plan, and design a process for regularly updating the plan to ensure all City-owned assets will be resilient from sea level rise over the lifespan of the infrastructure.
  - Target: By 2025, COBI will complete an analysis, conduct public outreach activities, and identify those properties at highest risk from sea level rise impacts over the next 50 years.
  - Action: (By 2025) Ensure that planning for sea level rise on the timeframe relevant to any proposed action’s lifetime impact is explicitly incorporated into the SMP, including incorporating capacity for inundation and change to natural shoreline features, such as planting for shifting vegetative communities, infrastructure movement or abandonment to adapt to habitat loss at shoreline.
- On March 28, 2021, the Department published a policy white paper on flooding from sea level rise (Attachment 10).

## Process Options

Option	Council Directive	Considerations
A	The Department is directed to continue as planned	<ul style="list-style-type: none"> <li>No process changes needed.</li> <li>The City Council can choose to remove this amendment from the Periodic Review process later after reviewing the Department's proposal.</li> </ul>
B	The Department is re-directed to cease working on a sea level rise amendment at this time	<ul style="list-style-type: none"> <li>Sea level rise is not a required component of an SMP.</li> <li>Few jurisdictions have taken action to address sea level rise.</li> <li>The City will likely not meet the target dates in the CAP.</li> </ul>

## Recommendation

Option A - The Department recommends option A.

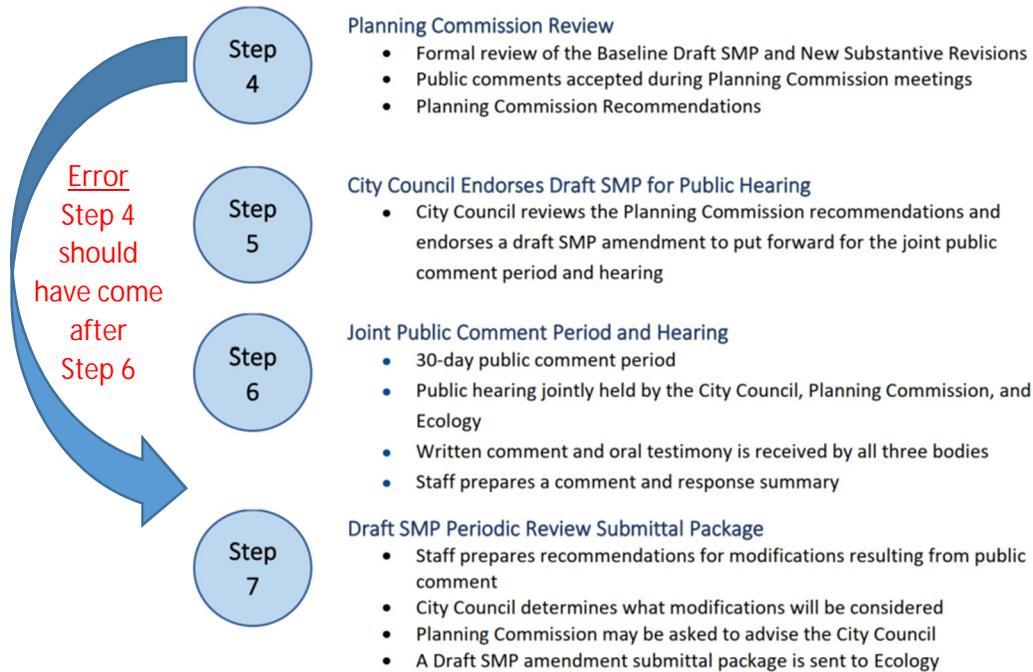
## 4. Joint Review Process

### Issue

The City Council has chosen to use the optional joint review process for this Periodic Review. Ecology guidance on the joint review process (Attachment 14) does not specify the sequencing of the local review process. The Council adopted a process and schedule proposed by the Department in the current PPP/WP (Attachment 3) that would have concluded the Planning Commission review (i.e., Step 4 below) before the Joint public hearing and comment period (i.e., Step 6 below). The Department saw that as an obvious error in its own recommendation and corrected it in the February 2021 schedule update memo to Council (Attachment 4).

The currently planned process is based on:

- Successful experience in other agencies
- Utilizing the expertise and skills of staff to propose a first draft amendment and then support a focused and efficient review
- Maximizing the usefulness of public input
- Maximizing the use of scarce meeting time to focus on clearly identified issues
- Avoiding unnecessary repetition in the process (e.g., multiple interim drafts and redundant public hearings/comment periods)
- Time and resources constraints that need to be shared with other high priority Council projects



Early comments by some Planning Commissioners and the City Council liaison to the Planning Commission suggest the currently planned process is inconsistent with Council’s directive, different from how the City has used the joint review process in the past, and results in:

- Public participation being pushed to the end of the process; and
- Too little time for the Planning Commission to consider the amendments.

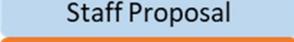
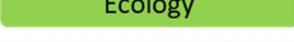
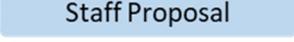
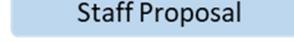
Compared to the traditional sequential amendment process and the “typical” joint review process previously used by the City, the Department believes the currently planned process is different from the other options in the following ways:

- Provides the earliest public input.
- Ensures early identification of issues that can be organized, triaged, and supported with analysis, and easily tracked through the review process.
- Facilitates a focused “issue-based” review.
- Efficiently uses scarce meeting time and Department resources.

The Department is seeking clarification on Council’s directive on the joint review process. A graphical comparison of the different review processes is provided below, and comparative timelines for the joint review processes are provided in Attachment 11.

Background

- On September 1, 2020, the City Council adopted the current PPP/WP which included a process outline and a tentative timeline.
- On February 26, 2021, the Department provided the Council with a process and schedule update via memo.

<b>Planned Joint Review</b> (Staff Recommendation)	<b>“Typical” COBI Joint Review</b>	<b>Traditional Sequential Review</b>
<div style="text-align: center;">        </div> <div style="border: 1px dashed gray; padding: 5px; margin-top: 10px;"> <b>Issue Identification</b>         </div> <div style="border: 1px dashed gray; padding: 5px; margin-top: 10px;"> <b>Joint Review</b>       </div> <div style="border: 1px dashed gray; padding: 5px; margin-top: 10px;"> <b>Joint Decision</b>       </div>	<div style="text-align: center;">     </div> <div style="border: 1px dashed gray; padding: 5px; margin-top: 20px;"> <b>Joint Review</b>         </div> <div style="border: 1px dashed gray; padding: 5px; margin-top: 10px;"> <b>Joint Decision</b>       </div>	<div style="text-align: center;">     </div> <div style="border: 1px dashed gray; padding: 5px; margin-top: 20px;"> <b>Sequential Review</b>             </div> <div style="border: 1px dashed gray; padding: 5px; margin-top: 10px;"> <b>Joint Decision</b>       </div>
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">   <b>3 Drafts</b> </div> <div style="text-align: center;">   <b>25 Months</b> </div> </div>	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">   <b>5 Drafts</b> </div> <div style="text-align: center;">   <b>31 Months</b> </div> </div>	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">   <b>7 Drafts</b> </div> <div style="text-align: center;">   <b>35 Months</b> </div> </div>

Notes:

- The above time estimates are from the adoption of the current PPP/WP on 9/1/2020 to the end of the appeal period.
- Prior COBI Joint Review Ordinances:
  - 43 months for Ord. 2020-17 (Critical Areas/Nonconforming; from 9/5/2017 decision to use the joint review process to the end of appeal period on 4/5/2021)
  - 78 months for Ord. 2016-06 (Aquaculture; from Oct/2014 appeal to 9/8/2020 withdrawal)

Process Options

Option	Council Directive	Considerations
A	The Department is directed to continue with the planned joint review process	<ul style="list-style-type: none"> <li>No process changes needed.</li> <li>Earlier public input.</li> <li>Facilitates a focused “issue-based” review.</li> <li>Efficiently uses scarce meeting time and Department resources.</li> <li>Allows the Department, Planning Commission, and City Council to complete additional priority projects (such as a Green Building code).</li> </ul>
B	The Department is re-directed to use the “typical” joint review process	<ul style="list-style-type: none"> <li>Delays the state-mandated elements of the Periodic Review by an estimated minimum of 6-months.</li> <li>Later public input.</li> <li>Requires more Planning Commission and City Council meetings.</li> <li>Other Department projects would need to be deferred or cancelled (such as a Green Building code).</li> </ul>
C	The Department is directed to bring back to Council a new process and work plan based on guidance provided	<ul style="list-style-type: none"> <li>Further delays the state-mandated elements of the Periodic Review.</li> <li>Other Department projects would need to be deferred or cancelled (such as a Green Building code).</li> </ul>

Recommendation

Option A – The Department strongly recommends option A.

V. CONCLUSION & RECOMMENDATION

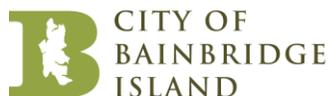
In conclusion, the Department is seeking clarification of Council’s directive on the following 4 action items and recommends Option A for all four.

	Action Item	Recommended Option
1	2014 “PRSM” Appeal Issues	A. The Department is directed to continue as planned.
2	Aquaculture Amendment	A. The Department is directed to develop a proposed amendment based on Alternative #1 in Attachment 9.
3	Sea Level Rise Flooding Amendment	A. The Department is directed to continue as planned.
4	Joint Review Process	A. The Department is directed to continue with the planned joint review process.

Should the Council choose other options, a revised Department work plan (and a revised SMP Periodic Review work plan, if necessary) will be brought to Council for discussion as soon as possible.

VI. ATTACHMENTS

1. Project Log
2. Frequently Asked Questions
3. Public Participation Program and Work Plan (Adopted 9/1/2020)
4. Project Update Memo (2/26/2021)
5. Resolution 2020-16 (Withdrawal & Directive Regarding Aquaculture Amendment)
6. 2014 SMP Appeal Settlement Negotiation List (Working Draft)
7. Aquaculture Policies Adopted by Ordinance 2016-16
8. Policy White Paper on Aquaculture
9. Aquaculture Alternatives
10. Policy White Paper on Flooding from Sea Level Rise
11. Joint Review Timelines
12. SMP Stakeholder Focus Group & Agency Group Participants
13. Ecology's Summary of the Periodic Review Rule
14. Ecology's Guidance for Using the Optional Joint Review Process



## SMP Periodic Review Project Log

Note: You can find recordings and documents for CC and PC meetings here:  
<https://www.bainbridgewa.gov/1101/City-Council-Agendas>

Acronyms  
 CC = City Council  
 ECY = Washington State Department of Ecology  
 PPP = Public Participation Program  
 PC = Planning Commission  
 SMP = Shoreline Master Program  
 WP = Work Plan

Date	Notes
<b>Relevant History</b>	
7/14/2014	CC adopted 2014 SMP (Ord 2014-04)
7/16/2014	ECY approved 2014 SMP (Ord 2014-04)
7/30/2014	2014 SMP (Ord 2014-04) goes into effect
10/7/2014	2014 SMP appealed <a href="#">Central Puget Sound Growth Management Hearings Board</a> <ul style="list-style-type: none"> <li>• Case #14-3-0012 (City upheld; currently in appeal)</li> <li>• Case #14-3-0011 (Dismissed)</li> </ul>
	Limited amendments developed to address some of the appeal issues, included: <ul style="list-style-type: none"> <li>• Critical Areas &amp; Nonconforming (Ord 2020-17; Effective 3/5/2021)</li> <li>• Aquaculture (Ord 2016-06; Withdrawn by City from Ecology review to address topic during the SMP periodic review)</li> </ul>
<b>Current SMP Periodic Review</b>	
1/22/2019	CC meeting (removed from agenda)
2/26/2019	CC study session deferred to a future meeting
3/5/2019	CC study session on PPP/WP
3/12/2019	CC approved the SMP periodic review PPP/WP
5/23/2019	PC study session (introduction and PC sub-committee formed)
6/27/2019	PC study session on vegetation management
7/11/2019	PC study session on vegetation management
10/8/2019	CC authorized City to apply for SMP grant
8/17/2020	SMP grant agreement executed
9/1/2020	CC approved PPP/WP update
1/28/2021	PC briefing on PPP/WP and next steps
2/26/2021	Engage Bainbridge project site launched with: <ul style="list-style-type: none"> <li>• SMP Stakeholder Focus Group application open until 3/14</li> <li>• Public surveys open until 3/26/2021 on:                             <ul style="list-style-type: none"> <li>○ Aquaculture</li> <li>○ Flooding from sea level rise</li> <li>○ SMP Improvement suggestions</li> </ul> </li> </ul>
2/26/2021	Project Message #1 sent (project launch, new web site, public participation opportunities)
2/26/2021	City Manager Report email includes SMP announcement (project launch, new web site, public participation opportunities)

## SMP Periodic Review Project Log

Date	Notes
3/5/2021	SMP Periodic Review – Frequently Asked Questions published
3/9/2021	COBI Connects newsletter mailed to all households with SMP front page article
3/20/2021	Policy White Paper on Aquaculture published
3/24/2021	SMP Stakeholder Focus Group meeting #1
3/25/2021	PC workshop #1
3/25/2021	Project Message #2 sent (survey deadline reminder)
3/26/2021	City Manager Report email includes SMP announcement (survey deadline reminder)
3/28/2021	Policy White Paper on Flooding from Sea Level Rise published
3/30/2021	SMP Agency Group meeting #1
3/31/2021	Aquaculture survey results published
3/31/2021	SMP Stakeholder Focus Group meeting #2
4/1/2021	Flooding from Sea Level Rise survey results published
4/5/2021	SMP Agency Group meeting #2
4/6/2021	CC meeting (project schedule changed due to new CC study session scheduled for 5/18)
4/7/2021	SMP Stakeholder Focus Group meeting #3
4/8/2021	PC workshop #2
4/13/2021	Schedule updated on project website

# Frequently Asked Questions

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- What happened to the aquaculture limited amendment the City adopted in 2016? ..... 3

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- How is the Periodic Review different from the Comprehensive Update adopted in 2014? ..... 4
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- Why are some revisions being proposed as separate amendments to the baseline draft? ..... 5
- Who is responsible for adopting the SMP?..... 6

This document will be updated periodically as additional questions arise during this process. Below is a log of when this FAQ was updated.

3/5/2021 (Initial release)		
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## LEGAL

### What is the SMP?

The Shoreline Master Program (SMP) includes our community's goals, policies, regulations, and programs regarding the use, development, conservation, and restoration of our shorelines. The SMP is jointly adopted and administered by the City and the Washington State Department of Ecology under the Washington State [Shoreline Management Act](#). The SMP must be consistent with the Shoreline Management Act ([RCW 90.58](#)) and the rules and guidelines adopted by the Washington State Department of Ecology ([WAC 173-18](#), [WAC 173-20](#), [WAC 173-22](#), [WAC 173-26](#), [WAC 173-27](#)).

The SMP officially includes the following elements:

- The main SMP document (available in PDF format [here](#)) contains the goals, policies, and regulations. This is where you can find the performance requirements for development and enforcement procedures. The SMP Periodic Review will move enforcement procedures to BIMC 2.16.165.
- SMP administration requirements and permitting procedures are in [BIMC 2.16.165](#).
- Permit application submittal requirements are included in the [City's administrative manual](#).
- Administrative fees are published in the [City's fee schedule](#).
- The procedures for adopting an SMP amendment are in [BIMC 2.16.200](#).
- An [online SMP map](#) with shoreline environment designations (and other useful information) is the City's primary day-to-day mapping tool for shoreline management. Other useful online maps focus on [harbor management](#), [critical areas](#), and [land use](#). The official Shoreline Designation, Zoning, and Land Use maps (published in PDF format [here](#)) include upland shoreline designations but are missing the adopted aquatic designations – a mapping error that will be corrected during the SMP Periodic Review.
- The regulations from the main SMP document have been codified as [BIMC Chapter 16.12](#). As a matter of practice, the City prefers to use and cite the main SMP document. The SMP Periodic Review will replace this chapter with a hyperlink to the main SMP document to avoid future confusion.

The SMP has been updated and amended many times since first adopted in the 1970s. The [current SMP](#) took effect in July 2014 after a long and complex "comprehensive update" process. A recent "limited amendment" focused on the critical areas and nonconforming sections of the SMP took effect on March 5, 2021.

The planning department works on amendments to the SMP and is responsible for administering the SMP through permitting, code enforcement, and a shoreline stewardship program. As part of this work, the planning department issues [administrative interpretations and guidance documents](#), which will help inform clarifications during the SMP periodic review.

### What is the Shoreline Management Act (SMA)?

The Washington State Department of Ecology maintains a web site where you can learn more about the Washington State [Shoreline Management Act](#).

### Isn't the 2014 SMP still under appeal?

Yes. Two appeals were filed against the City's 2014 SMP. The City's SMP was presumptively valid upon adoption by the City Council and approval by the Washington State Department of Ecology and no court has determined otherwise since its adoption and approval in 2014. As such, the City has continued to administer the SMP and comply with the Shoreline Management Act, including the adoption of limited amendments and completion of the mandatory periodic review process.

One appeal was regarding a wide range of issues. The final decision and order by the Central Puget Sound Growth Management Hearings Board ([Case No. 14-3-0012](#)) upheld the City's SMP on every issue. That ruling was appealed to Kitsap County Superior Court and has been there pending evidentiary and procedural matters that have been rejected at all levels, up to and including the U.S. Supreme Court. As of this writing, the matter is now back before the Kitsap County Superior Court for a decision related to the merits of the appeal.

The other appeal was focused on the topic of aquaculture. The City adopted an aquaculture "limited amendment" in 2016 to resolve the appeal. The aquaculture appeal was dismissed by the Central Puget Sound Growth Management Hearings Board ([Case No. 14-3-0011](#)) in 2020.

### What happened to the aquaculture limited amendment the City adopted in 2016?

A limited amendment regarding aquaculture (Ordinance 2016-06) was adopted by the City in 2016 and submitted to the Washington State Department of Ecology for approval. During this time, a precedent setting case regarding aquaculture was decided against the Pierce County SMP. Ecology could not approve the City's proposed amendment and it was withdrawn by the City. The City intends to develop a revised aquaculture amendment during this periodic review process that will comply with the precedent set in the Pierce County SMP case.

## PROCESS

### What is the Periodic Review?

The Shoreline Management Act requires the City to complete a periodic review of the SMP every eight years to ensure it stays current and effective. The [periodic review rule](#) (WAC 173-26-090) describes minimum requirements and allows the City to add locally identified amendments. The scope of work the City had adopted for this periodic review is described in Attachment A of the [Public Participation Program and Work Plan](#).

In summary, the purpose of this periodic review is to:

- Keep the SMP consistent with relevant [changes adopted into state law](#) and City plans/codes since 2014
- Improve the clarity and implementation of the SMP
- Correct errors

The City also intends to propose new substantive amendments on:

- Flood risk from sea level rise
- Aquaculture

- Possible updates to aquatic shoreline designations and procedures

The [periodic review rule](#) (WAC 173-26-090) also allows the City to choose between the standard local amendment process in WAC 173-26-100 or an [optional joint review process](#) outlined in WAC 173-26-104. The City has chosen to use the optional joint review process, which will be more streamlined than the typical City ordinance and SMP amendment process since the Planning Commission, City Council, and the Washington State Department of Ecology will jointly hold one 30-day comment period and one public hearing instead of each holding their own.

### How is the Periodic Review different from the Comprehensive Update adopted in 2014?

The City's SMP has undergone a "comprehensive update" adopted in 2014 as well as "limited amendments" adopted in 2016 (regarding aquaculture) and 2020 (regarding critical areas and nonconformities). The "periodic review" is a new process adopted by the state in 2017.

The comprehensive update was a one-time, cover-to-cover rewrite of the SMP based on:

- A state mandate.
- New guidelines in WAC 173-26 adopted by the Washington State Department of Ecology.
- A required inventory and characterization of our 53-miles of shoreline.
- A required review of best available science.

Limited amendments (now called a "locally initiated amendment" in state rules) can be initiated by the City at any time and are narrowly focused on specific topics.

A periodic review is required every eight years and at a minimum must ensure the SMP is consistent with state laws and City plans/codes adopted since the comprehensive update or a prior periodic review. The City may choose to include additional amendments. During this periodic review, the City has chosen to include additional amendments regarding:

- Extensive non-substantive revisions to improve clarity and implementation
- Flood risk from sea level rise
- Aquaculture
- Possible updates to aquatic shoreline designations and procedures

While all SMP amendments must be based on best available science, a periodic review does not require an inventory and characterization or a review of best available science like was done during the comprehensive update.

### What documents can I expect to see during this project?

The following documents will be posted to the [Engage Bainbridge project site](#) when they become available. Check the site for anticipated timeframes.

- Public participation program and work plan
- Announcements and legal notices regarding important participation opportunities and project milestones
- A white paper on aquaculture to inform early policy discussions
- A white paper on flooding risk due to sea level rise to inform early policy discussions

- A planning department "baseline draft" of the SMP along with amendments to the baseline draft on the topics of aquaculture and flooding risk due to sea level rise
- A public hearing "baseline draft" of the SMP along with amendments to the baseline draft on the topics of aquaculture and flooding risk due to sea level rise - this draft will be endorsed by the City Council
- A packet of public comments and testimony
- An issues matrix along with applicable recommendations from staff and the Planning Commission, decisions by the City Council, and comments from the Department of Ecology
- A final SMP adopted by the City Council
- A final SMP approved by the Department of Ecology

### What is the "baseline draft"?

The 2014 SMP was a significant improvement over the previous 1996 SMP in many ways and the 2021 amendments made additional improvements. However, there is wide agreement that the SMP is still challenging to understand (in part due to its length) and implement and could be clearer by reducing redundancy and consolidating concepts. Therefore, non-substantive revisions will include reorganization, plain talking, conversion of text to tables and figures, and other improvements where needed. Due to the extent of these revisions, the traditional strikeout and underline format for showing these non-substantive changes is not feasible and so a new "baseline draft" of the SMP will be produced based on a clearer version of the existing provisions and in clean formatting. All revisions will be trackable in a change matrix so the existing 2021 SMP and the baseline draft can easily be cross-referenced.

Within the baseline draft, strikeout and underline formatting will be used to show very limited and specific substantive "housekeeping" amendments intended to:

- Keep the SMP consistent with relevant [changes adopted into state law](#) and City plans/codes since 2014
- Correct errors
- Resolve conflicts
- Improve implementation
- Move existing content from the main SMP document to somewhere else in BIMC

### Why are some revisions being proposed as separate amendments to the baseline draft?

While the intent of the baseline draft is to improve the existing SMP and show very limited and specific "housekeeping" amendments that are either mandated or necessary to improve the implementation of the existing SMP, the City intends to propose the following new substantive amendments:

- Flood risk from sea level rise
- Aquaculture
- Possible updates to aquatic shoreline designations and procedures

Each of these new substantive amendments will be presented as a standalone document in strikeout and underline format so that review, comments, recommendations, deliberations, and decision can be easily facilitated and documented.

### Who is responsible for adopting the SMP?

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Adoption of an SMP amendment is the shared responsibility of the City Council and the Director of the Washington State Department of Ecology. The City Council's adoption of the SMP amendment by ordinance is the final determination of the local government that the SMP is consistent with the Shoreline Management Act, the City's Comprehensive Plan, and appropriately reflects local circumstances. Ecology's approval is the final determination by the state government that the SMP is consistent with the Shoreline Management Act. An SMP amendment goes into effect 14-days after Ecology's approval.



**Shoreline Master Program Periodic Review  
Public Participation Program  
and Work Plan**

**Updated September 1, 2020**



# Shoreline Master Program Periodic Review Public Participation Program and Work Plan

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## Stay Informed

- **Sign up** on [Notify Me](#): Members of the public can sign up to receive email or text notifications about public meetings and other aspects of the SMP periodic review. Select the “Shoreline Master Program” list.
- **Sign up** for the [City Manager’s Report](#).
- **Website**: The City maintains a [Project Webpage](#) on its website with updates, important dates, background materials, and draft documents. This is where you can review prior activity on this project and find out what to anticipate next.
- **Invite**: Members of the public can request City staff to give a presentation and take Q&A on the SMP periodic review to community groups or any public forum.

## Get Engaged

- **Attend** public meetings, including workshops, Planning Commission, and City Council meetings. Planning Commission and City Council meetings are also recorded and available for later viewing on the City website.
- **Comment**: Public comments can be submitted during the public comment period:
  - Online: Check the [Project Webpage](#) during the public comment period
  - By email: [pcd@bainbridgewa.gov](mailto:pcd@bainbridgewa.gov)
  - By mail: Planning & Community Development  
Attn: SMP Periodic Review  
280 Madison Avenue N  
Bainbridge Island, Washington 98110

## Questions?

- **Contact**: Peter Best, Senior Planner  
(206) 780-3719  
[pbest@bainbridgewa.gov](mailto:pbest@bainbridgewa.gov)

## Introduction

The City of Bainbridge Island (City) is conducting a periodic review of its Shoreline Master Program (SMP), which is required every eight years by the Washington State Shoreline Management Act (SMA) [RCW 90.58.080(4); WAC 173-26-090(2)]. This document outlines the scope and timing of the amendment process and describes opportunities for public participation throughout.

The following are important notes regarding this periodic review:

- This periodic review is expected to result in amendments to the SMP, however it is not a cover-to-cover substantive comprehensive update like that completed by the City in 2014. Therefore, the process will be significantly more focused.
- The City is required to adopt this SMP periodic review by June 30, 2021. The process also requires initial review and final approval by the Washington State Department of Ecology (Ecology).
- The City and Ecology must “make all reasonable efforts to inform, fully involve and encourage participation of all interested persons and private entities, tribes, and agencies of the federal, state or local government having interests and responsibilities relating to shorelines of the state and the local master program.” [WAC 173-26-090(3)(a)(i)]
- The SMA requires the City to establish and distribute a public participation program with procedures that will “provide for early and continuous public participation through broad dissemination of informative materials, proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, and consideration of and response to public comments.” [WAC 173-26-090(3)(a)(ii)]
- The City has chosen to use the optional joint state/local review process in WAC 173-26-104. This joint review process means that the comment periods held by Ecology and the City will run concurrently and will include at least one joint public hearing.

## Goals

Overall goals of this Public Participation Program are to:

- Provide objective information to assist the public in understanding issues and solutions related to the SMP itself and the periodic review process.
- Provide opportunities for interested parties to contribute ideas and provide feedback through the periodic review process.
- Make the periodic review process accessible and engaging to interested parties by using a variety of media, plain language, and easy-to-understand materials.

## Scope of Periodic Review

The required minimum scope of the periodic review as established by the SMA [RCW 90.58.080(4)(a)] is:

- To assure the SMP complies with applicable law and guidelines in effect at the time of the review; and
- To assure consistency of the SMP with the City’s comprehensive plan and development regulations adopted under the Washington State Growth Management Act [RCW 36.70A], if applicable, and other local requirements.

The periodic review process provides the method for bringing the SMP into compliance with any requirements of the SMA that have been added or changed since the last SMP review and for responding to changes in guidelines adopted by the state, together with a review for consistency with any amendments to the City’s comprehensive plan and regulations. The periodic review also provides an opportunity to incorporate amendments to reflect changed circumstances, new information, or improved data.

The anticipated revisions to be addressed during the periodic review are described in Attachment A. The City will focus mostly on meeting the minimum requirements described above with revisions that can be characterized as clarifying edits or substantive revisions consistent with existing policy or law. A limited number of new substantive revisions are also described in Attachment A.

## Periodic Review Process Steps



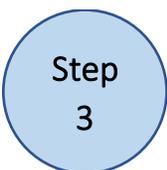
### Staff Review

- Audit SMP consistency with State legislative changes
- Audit SMP consistency with the 2016 Comprehensive Plan and development regulations in the Bainbridge Island Municipal Code (BIMC)
- Audit for internal inconsistencies within the SMP
- Audit definitions
- Administrative program evaluation, including process improvement survey of former applicants
- Present results with Step 2



### Baseline Draft SMP

- Prepare a full baseline draft of the SMP including all:
  - Clarifying Edits
  - Substantive Revisions Consistent with Existing Policy or Law
- Flag sections where new substantive revisions will interact
- Government Agency focus group (online)
- Present draft to Planning Commission, City Council, and public
- Refine based on initial feedback as necessary



### New Substantive Revisions and Early Public Engagement

- Prepare issue papers and policy outlines for new substantive changes
- Public outreach effort (mailings, etc)
- Public Workshop (online)
- Focus groups (2 online meetings each)
- Workshop with the Planning Commission
- Finalize Department proposal



### Planning Commission Review

- Formal review of the Baseline Draft SMP and New Substantive Revisions
- Public comments accepted during Planning Commission meetings
- Planning Commission Recommendations

Step  
5

**City Council Endorses Draft SMP for Public Hearing**

- City Council reviews the Planning Commission recommendations and endorses a draft SMP amendment to put forward for the joint public comment period and hearing

Step  
6

**Joint Public Comment Period and Hearing**

- 30-day public comment period
- Public hearing jointly held by the City Council, Planning Commission, and Ecology
- Written comment and oral testimony is received by all three bodies
- Staff prepares a comment and response summary

Step  
7

**Draft SMP Periodic Review Submittal Package**

- Staff prepares recommendations for modifications resulting from public comment
- City Council determines what modifications will be considered
- Planning Commission may be asked to advise the City Council
- A Draft SMP amendment submittal package is sent to Ecology

Step  
8

**Initial Determination of Consistency from Ecology**

- Ecology evaluates the Draft SMP periodic review submittal package, including proposed modifications resulting from public comment
- Ecology makes an initial determination regarding consistency with the SMA, noting areas of concurrence and concern with possible required and/or recommended changes.

Step  
9

**Final SMP Periodic Review Submittal Package**

- If necessary, staff prepares recommendations related to Ecology’s recommended or required changes
- City Council reviews and adopts a Final SMP amendment
- Planning Commission may be asked to advise the City Council
- The City Council may hold an additional public hearing, but is not required to do so
- A final SMP submittal package is sent to Ecology

Step  
10

**Ecology Reviews and Approves SMP Periodic Review**

- Ecology reviews the Final SMP periodic review submittal package and approves, approves with conditions, or denies the SMP amendment.

Step  
11

**Update Administrative Documents Consistent with Final SMP Periodic Review**

- Update: COBI Administrative Manual for Planning Permits
- Update: COBI Guidance for a Site-Specific Analysis
- Update: COBI Qualified Specialist List
- Create: Summary sheets, checklists, and worksheets for the most common types of activities in shoreline jurisdiction

Step 12

Appeals

- An SMP amendment may be appealed to the Central Puget Sound Growth Management Board

Anticipated Timeline

Year	2020					2021							
Month	8	9	10	11	12	1	2	3	4	5	6	7	8
Step 1	█												
Step 2		█	█	█									
Step 3		█	█	█									
Step 4					█	█							
Step 5							█						
Step 6								█					
Step 7									█				
Step 8										█			
Step 9											█		
Step 10												█	
Step 11													█
Step 12													→

This timeline is now out of date. See project website for latest schedule.

Participation Opportunities

The City is committed to providing the following participation opportunities during the SMP periodic review process.

Focus Groups

The Department of Planning and Community Development will facilitate two focus groups, one for interested stakeholders and the other for interested government agencies. The focus groups will:

- Provide early input to staff before new substantive amendments to the SMP are drafted; and
- Review new substantive amendment language drafted by staff.

The stakeholder focus group is intended to include diverse perspectives with up to 15 members from industry, professional organizations, and civic groups that have an interest in shorelines. This focus group will likely meet twice.

The government agency focus group is intended to include representatives from tribal, federal, state, and local government agencies, including City departments and advisory committees. The government agency focus group will also help identify administrative improvements that will make multi-jurisdictional permitting more efficient. This focus group will likely meet four times.

## Public Workshop

The Department of Planning and Community Development will facilitate a public workshop on new substantive amendments to the SMP prior to finalizing the Department's recommendations to the Planning Commission. This early public engagement will help shape the Department's proposed recommendations.

## Planning Commission Meetings

Planning Commission meetings are held on the second and fourth Thursday of the month. Special meetings may be held at an earlier time or on a different day, as needed. Public comment is accepted at all Planning Commission meetings. Meeting materials are provided in the agenda packet, which is usually published on the City's website on the Friday prior to the meeting:

<https://www.bainbridgewa.gov/AgendaCenter>.

## Joint Local/State Public Comment Period and Public Hearing

The periodic review process requires a 30-day public comment period during which at least one public hearing must be held. A joint public hearing will be held by the Planning Commission, City Council, and Ecology staff. The public comment period provides an opportunity to provide written comment and the public hearing provides an opportunity to provide testimony. All comments are reviewed, cataloged, summarized, and summary responses are prepared. Modifications to the draft SMP resulting from public comments are also identified. The public hearing must be advertised on the City's website and in the local newspaper at least 10 days prior to the hearing.

## City Council Meetings

City Council meetings are held the first through fourth Tuesdays of each month. Special meetings may be held at an earlier time or on a different day. Public comment is accepted at all City Council Business Meetings, which are held on the second and fourth Tuesdays of each month. Meeting materials are published in the agenda packet, which is published on the City's website on the Friday prior to the meeting: <https://www.bainbridgewa.gov/1101/City-Council-Agendas>.

## Outreach Methods and Tools

The overall objective of this Public Participation Program is to describe how the City will engage the public during the course of the periodic review process. Public participation methods and tools may vary during the periodic review process. This Public Participation Program may continue to be reviewed and refined throughout the review process, if needed. The City will utilize a variety of modes of communication to engage the public. Public outreach will consist of interactive outreach efforts, traditional media and advertising, and outreach efforts utilizing technology and social media. Public meetings will be noticed as far in advance as possible.

## Interactive Outreach Methods

- Stakeholder groups
- Public workshop (via webinar format)
- Video call presentations at group meetings, e.g., Bainbridge Island Watershed Council, realtor groups

## Traditional Media and Advertising

- Press releases to local papers, blogs and newsletters
- Utilize community organization email lists, newsletters, and social media
- U.S. postal mail flyer to shoreline property owners
- Announcements in the *Bainbridge Island Review*
- Emails to current City email listservs, volunteer lists, and citizen advisory groups

## Technology and Social media

- City website – An online open house with background information, existing SMP, useful weblinks to planning resources, and materials prepared for public meetings will be available to the public on the City’s SMP [project page](#) and as hard copies at City Hall
- [Notify Me](#) – There is a listserv for the public to sign up for Shoreline Master Program announcements
- Updates related to the SMP periodic review process will be posted on Facebook
- Posting SMP periodic review meetings to the calendar on the City website
- City Manager’s Report – updates and announcements of meeting dates included as needed in the weekly report

## Potential Groups for Outreach

The following is an initial list of groups for outreach. Additional groups may contact staff to be added.

<p><b>City Citizen Advisory Groups</b>                  Climate Change Advisory Committee                  Environmental Technical Advisory Committee                  Marine Access Committee                  Planning Commission                  Utility Advisory Committee</p>	<p><b>Other Public Agencies</b>                  Bainbridge Island Fire District                  Bainbridge Island Metro Park and Recreation District                  Bainbridge Island School District                  Kitsap Public Utility District                  Kitsap Public Health District                  Puget Sound Regional Council                  Washington State Ferries</p>
<p><b>Community Groups</b>                  Association of Bainbridge Communities                  Bainbridge Island Japanese American                  Exclusion Memorial Organization                  Bainbridge Island Land Trust                  Bainbridge Island Watershed Council                  Chamber of Commerce                  Housing Resources Board                  Rotary Club of Bainbridge Island                  Sustainable Bainbridge</p>	<p><b>Other Organizations</b>                  Bloedel Reserve                  Cooke Aquaculture                  Kitsap Building Association                  Kitsap County Association of Realtors                  SEPA review agencies                  Yacht clubs and marinas                  Tribal governments</p>

## Attachment A - Anticipated Revisions

### Clarifying Edits

Clarifying edits are changes that will improve the administration of the SMP without modifying the effect of existing provisions. Examples of clarifying edits include:

- Integrate current administrative interpretations
- Correct scrivener’s errors and incorrect cross-references
- General plain talking of complex provisions
- Add informational text and graphics that will facilitate the efficient use of the SMP
- Improve (and add) tables, footnotes, and graphics to consolidate and simplify the presentation of requirements
- Remove text that is redundant to tables, footnotes, and graphics, as appropriate
- Consolidate, reorganize, and cross-reference text as needed, particularly to avoid “surprise” requirements buried across multiple sections of the SMP
- Remove definitions for words that do not appear in the text of the SMP
- Republish the Shoreline Designation Map (Appendix A) in a tiled format at larger scale based on Shoreline Management Areas (no changes to designations)
- Combine Appendix A (Shoreline Designation Map) and Appendix E (Special Area Maps)
- Remove Appendix C (Buffer Recommendation Memorandums)
- Add shoreline example graphics to rules of measurement (BIMC 18.12.050)
- Replace BIMC 16.12 with a hyperlink to the full version of the SMP

### Substantive Revisions Consistent with Existing Policy or Law

These substantive revisions will modify the effect of existing SMP provisions for the purpose of achieving existing policy or law and will be color coded in the draft SMP for easy identification. Some changes will be required because of a change in state law, to resolve an inconsistency, or to comply with a court ruling. Other changes may propose alternative approaches to regulations that have proven difficult to administer or propose new regulations to improve administration. Examples of substantive revisions consistent with existing policy or law include:

- Required by state law
  - As needed for consistency with state legislative changes since 2014 (see [Ecology’s checklist of legislative changes](#))
  - As need to resolve internal inconsistencies
  - As needed for consistency with the 2016 COBI Comprehensive Plan and development regulations in BIMC, such as 2016 stormwater regulations and 2019 subdivision regulations
  - As needed for compliance with court rulings, including the outcomes of the 2014 SMP appeals
    - Note: There are two ongoing appeals. If they are not resolved before the adoption of the periodic review, then COBI will need to adopt a separate compliance amendment following the periodic review.
- As needed to improve consistency with other state/federal shoreline regulations and permit agency procedures

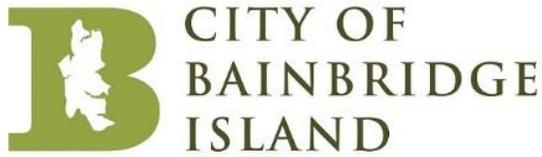
- Address deficiencies identified during an administrative program evaluation
- Clarify what “modifications” are addressed by the regulations in Section 6.1
- Update definitions, as necessary
- Shoreline Designation Map corrections, if any
  - Note: “Corrections” are only to fix (1) an inconsistency between the published Shoreline Designation Map and the final decision of the City Council as clearly documented in the official record or (2) designations that are clearly erroneous compared to their designation criteria.

## New Substantive Revisions

These substantive revisions will change or add policies to the SMP as well as change or add related regulations and will be color coded in the draft SMP for easy identification. Such amendments can be a major undertaking and may need to be addressed through their own SMP amendment following the periodic review. The City’s capacity to complete new substantive revisions during the periodic review is significantly limited by resource and time constraints due to the COVID-19 pandemic and statutory deadline for adopting the periodic review. In particular, any new substantive amendment that would change the underlying assumptions used in the SMP cumulative impacts analysis would require the City to update that analysis which would add significant cost and time to this periodic review process. The following are the new substantive revisions proposed for consideration during this periodic review:

- Integrate the ongoing aquaculture limited amendment
- Incorporate climate adaptation/sea level rise into goals, policies and regulations with the focus being on flooding (future amendments will address other risks from sea level rise, such as bluff erosion)
- Review and clarify procedures for updating Priority Aquatic environment designations
- Update Aquatic environment designations on the Shoreline Designation Map based on available information, if applicable

Note: The current SMP amendment regarding critical areas and non-conforming provisions is anticipated to be adopted and take affect before the Fall 2020. Therefore, they will be included in the baseline SMP.



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: February 26, 2021  
 To: City Council  
 From: Heather Wright, Planning Director  
 Peter Best, Senior Planner  
 Subject: Shoreline Master Program Periodic Review – Schedule Update & Next Steps

I. BACKGROUND

What is the Periodic Review?

The City is required by the Shoreline Management Act (SMA) to complete a periodic review of the Shoreline Master Program (SMP) every eight years (Attachment 3 provides a summary of the SMA periodic review rule). The periodic review mandate is to keep the SMP current and effective, it is not a cover-to-cover comprehensive substantive update like the SMP adopted in 2014.

What is the Scope of the Periodic Review?

On September 1, 2020, the City Council approved an updated Public Participation Program and Work Plan (PPP/WP; Attachment 2) with adjustments responsive to:

- A change in the state deadline to June 30, 2021 (from June 2020) due to the timing of the \$22,400 state grant for this project
- The COVID-19 pandemic
- Staff vacancies and workload

The PPP/WP describes three categories of revisions and two types of deliverables.

Revisions	Deliverables
1. Clarifying edits	Baseline SMP (with tracking matrix)
2. Substantive revisions consistent with existing policy or law	
3. New substantive revisions <ul style="list-style-type: none"> <li>• Flood risk from sea level rise</li> <li>• Aquaculture</li> <li>• Possible updates to aquatic designations and procedures</li> </ul>	Individual amendments to the Baseline SMP (with tracking matrix)

Most of the public process will be focused on the new substantive revisions, particularly aquaculture and flood risk from sea level rise. To facilitate the joint review process that is unique to the SMP:

- Four versions of the deliverables will be produced (PCD Draft, Public Hearing Draft, City Final, Ecology Approved)
- Issues and related recommendations and decisions made throughout the process will be recorded using a tracking matrix.

The PPP/WP describes a public participation program that will include:

- Broad outreach
- A new interactive online project center
- Substantial early policy engagement that will inform the Department proposal
  - Online polls and surveys
  - Online focus groups for stakeholders and agencies
  - Online workshop with the Planning Commission
  - Online public workshop
- A joint public hearing and public comment period with the City Council, Planning Commission, and Department of Ecology
- Monthly online drop-in sessions with staff

## II. SCHEDULE UPDATE

The Department has continued to experience workload delays and has also further analyzed the process in detail to find efficiencies and better understand scheduling limitations. Accordingly, we have needed to adjust the schedule in the PPP/WP (page 5, Attachment 2) to the following. The State Department of Ecology has reviewed and accepted the updated schedule. As the process unfolds, the schedule could be subject to further delay as with any legislative project. Council will be provided with regular updates.

	2021												2022					
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6
Step 1	█	█	█	█														
Step 2	█	█	█	█	█													
Step 3		█	█	█	█													
Step 4			█	█	█	█	█											
Step 5					█													
Step 6					█	█												
Step 7								█	█	█								
Step 8										█	█	█						
Step 9												█	█	█				
Step 10															█	█	█	
Step 11																		→
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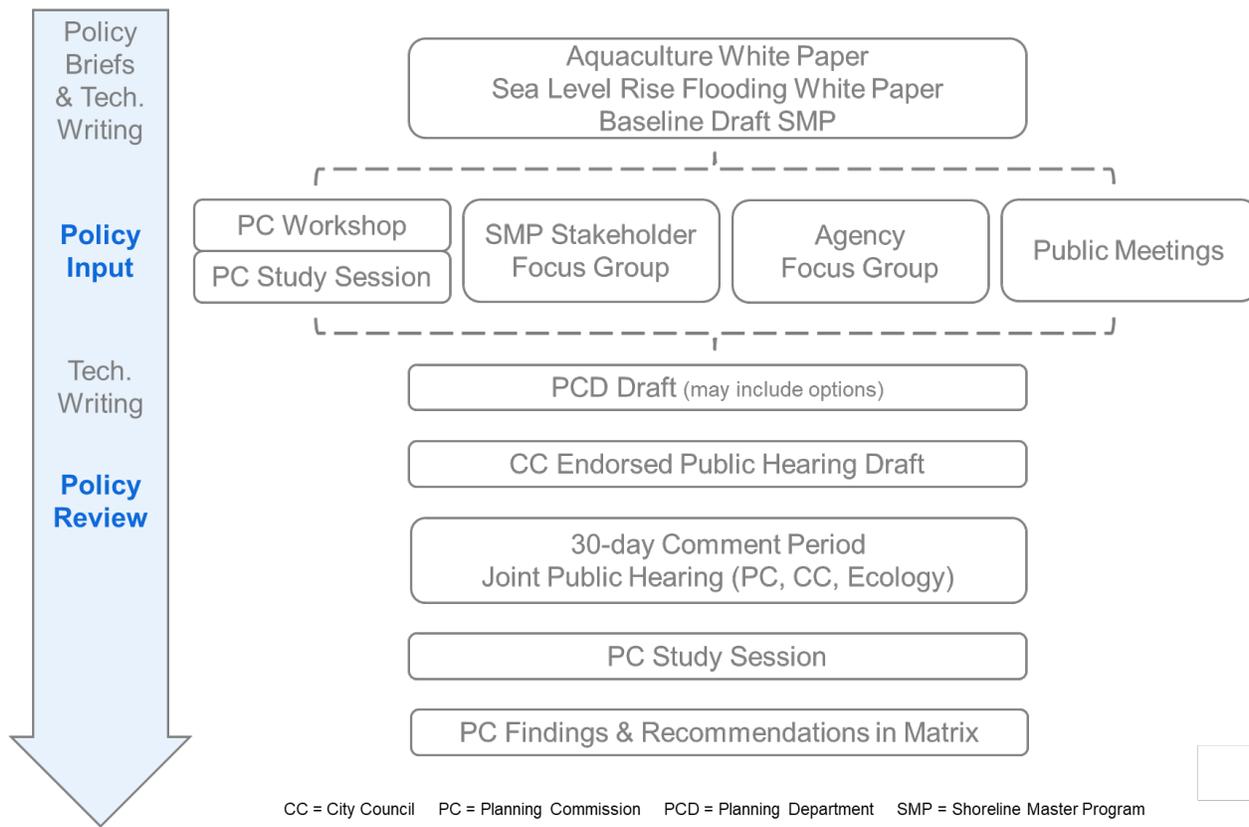
## III. NEXT STEPS

We anticipate launching the new interactive “Engage Bainbridge” project website on February 26, 2021 with a major communications effort. This will begin the early policy input and public engagement phase of the project, including:

- Recruitment for the SMP stakeholder focus group and agency focus group.
- Public engagement through several polls/surveys.

The following phase of the project will include a 30-day public comment period (currently anticipated to start on May 14, 2021) and the joint public hearing (currently anticipated on June 1, 2021) with the City Council, Planning Commission, and Department of Ecology.

A summary diagram of the process through the Planning Commission’s review, including the joint public hearing, is provided below.



**IV. ATTACHMENTS**

1. SMP Periodic Review Project Log
2. Public Participation Program and Work Plan
3. Summary of the Periodic Review Rule

**RESOLUTION NO. 2020-16**

**A RESOLUTION** of the City of Bainbridge Island, Washington, withdrawing the City's request for the Washington State Department of Ecology to approve Ordinance No. 2016-06 relating to the Shoreline Master Program limited amendment regarding aquaculture policies and regulations that the City has been pursuing since 2016 with the Department of Ecology.

**WHEREAS**, the City's Shoreline Master Program ("SMP") Update was approved by the Department of Ecology ("Ecology") on July 16, 2014 and became effective on July 30, 2014; and

**WHEREAS**, on October 6, 2014, the Bainbridge Alliance for Puget Sound, the Association of Bainbridge Communities, and the Coalition to Protect Puget Sound Habitat ("Alliance") filed a Petition for Review with the Washington State Growth Management Hearings Board ("GMHB")(Case No. 14-3-0011); and

**WHEREAS**, the Alliance, by and through its Petition, alleged that the City's SMP regulations relating to aquaculture were not consistent with the Washington State Shoreline Management Act ("SMA") and in conflict with certain sections of Washington Administrative Code ("WAC") Chapter 173-26; and

**WHEREAS**, on November 5, 2014, the Pacific Cost Shellfish Growers Association ("PCSGA") moved to intervene in the above-described litigation in order to ensure that its interests would not be impaired thereby; and

**WHEREAS**, at its December 9, 2014 regular business meeting, the City Council passed a motion directing the Department of Planning and Community Development to prepare an amendment to the July 30, 2014 SMP related to aquaculture to bring the aquaculture regulations into alignment with the language contained in the June 7, 2013 version of the SMP pertaining to aquaculture regulations; and

**WHEREAS**, as a result of the City Council's December 9, 2014 direction, and in order to obtain the GMHB's approval of an extension of the hearing on the merits, the City, the Alliance, and PCSGA ("Parties") agreed to enter into settlement discussions; and

**WHEREAS**, the Parties met several times between January 2015 and January 2016 to identify revisions to the SMP's aquaculture regulations that would further the City Council's December 9, 2014 direction while balancing the interests of the Parties; and

**WHEREAS**, the City drafted proposed Ordinance No. 2016-06 to revise the SMP's aquaculture regulations and the City believed that those revisions ("Revisions") represented the City's best efforts to comply with the City Council's December 9, 2014 direction while balancing the interests of the Parties; and

**WHEREAS**, the Planning Commission reviewed the Revisions at a study session on March 24, 2016; and

**WHEREAS**, the Planning Commission conducted a public hearing on the Revisions contained in proposed Ordinance No. 2016-06 on April 14, 2016; and

**WHEREAS**, the City Council reviewed the Revisions at a business meeting on June 14, 2016 and June 28, 2016; and

**WHEREAS**, the City Council conducted a public hearing on proposed Ordinance No. 2016-06 on July 26, 2016 that was continued to August 23, 2016; and

**WHEREAS**, the City Council reviewed the Revisions at a business meeting on September 13, 2016 and September 27, 2016; and

**WHEREAS**, on October 11, 2016, the City Council enacted Ordinance No. 2016-06 and the ordinance has never become effective because it has a provision stating that the ordinance will take effect upon approval from Ecology of the City's aquaculture limited amendment and that approval from Ecology has not occurred; and

**WHEREAS**, the City submitted Ordinance No. 2016-06 to Ecology in October 2016 following the WAC 173-26-100 submittal package requirements; and

**WHEREAS**, public comments on Ordinance No. 2016-06 were accepted by Ecology in 2017; and

**WHEREAS**, following a June 2019 Growth Management Hearings Board decision rejecting Ecology's approval of proposed aquaculture restrictions enacted by Pierce County, on September 26, 2019, Ecology provided the City with a memorandum that identified concerns with Ordinance No. 2016-06, and Ecology provided additional comments to the City in October 2019; and

**WHEREAS**, the City is required by the SMA to complete a Periodic Review of the SMP every 8 years, and the June 2020 deadline for the City's current Periodic Review process was pushed back to June 30, 2021 by Ecology due to various factors, including the delayed availability of grant funds; and

**WHEREAS**, the City's work on the SMP aquaculture limited amendment as well as the work on the Periodic Review were delayed due to staffing vacancies and the COVID-19 pandemic; and

**WHEREAS**, in May 2020, the City Council adopted a revised workplan, and through that workplan the Council approved City staff's recommendation to pursue possible revisions and updates related to the City's SMP aquaculture regulations via the SMP Periodic Review process rather than the aquaculture limited amendment that the City has been unsuccessfully pursuing with Ecology for several years; and

**WHEREAS**, on August 31, 2020, the Growth Management Hearings Board found in favor of the City and Ecology in the above-referenced Growth Board appeal that was brought in 2014 by the Bainbridge Alliance for Puget Sound, the Association of Bainbridge Communities, and the Coalition to Protect Puget Sound Habitat, and issued an order dismissing and closing the case in the matter of *Bainbridge Alliance et al v. City of Bainbridge Island, State of Washington Department of Ecology, and Pacific Coast Shellfish Growers Association*; and

**WHEREAS**, as above described, that 2014 Growth Board appeal was a significant factor in the City's pursuit of the aquaculture limited amendment set forth in Ordinance No. 2016-06, and the dismissal of that litigation is a further basis to withdraw from consideration by Ecology that limited amendment; and

**WHEREAS**, Ecology has indicated to the City that if the City is proceeding to pursue possible revisions and updates to its SMP aquaculture regulations via the SMP Periodic Review process rather than the SMP aquaculture limited amendment, Ecology would appreciate formal communication from the City Council to state that the limited amendment is being withdrawn by the City from consideration by Ecology as the City works through the Periodic Review process.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO RESOLVE AS FOLLOWS:**

**Section 1.** The City Council is hereby formally communicating to the Washington State Department of Ecology ("Ecology") and other interested parties that the City is withdrawing the City's request for Ecology to approve Ordinance No. 2016-06 relating to the Shoreline Master Program ("SMP") limited amendment regarding aquaculture policies and regulations that the City has been pursuing since 2016 with Ecology.

**Section 2.** The Director of Planning and Community Development is authorized to continue to proceed accordingly, and the City will continue to work via the SMP Periodic Review process with interested parties who are seeking to pursue topics of interest related to the SMP, including topics related to aquaculture regulations and policies.

PASSED by the City Council this 8<sup>th</sup> day of September, 2020.

APPROVED by the Mayor this 8<sup>th</sup> day of September, 2020

  
\_\_\_\_\_  
Leslie Schneider, Mayor

ATTEST/AUTHENTICATE:

  
Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:	September 4, 2020
PASSED BY THE CITY COUNCIL:	September 8, 2020
RESOLUTION NO.	2020-16

2014 SMP Settlement Negotiation List (Working Draft)

Issue/Topic	Page/Section	Suggested Change	Rationale/Discussion	Status Update (4/23/2021)	
<b>Section 1. Topics agreed to with no need for further discussion</b>					
1	Nonuse of nonconforming structure	4.2.1.5	Make clear that nonuse of a nonconforming structure is not limited in time as is nonuse of a nonconforming use.	Agree.	2021 Limited Amendment revised the nonconforming section.
2	Changes in designations	3.4.5	Make clear that there are no automatic changes in shoreline designations.	Agree.	3.4.5 does not exist, perhaps this is referring to 3.4(5) which states: "All publicly owned open space or park properties shall be designed Island Conservancy or Natural." These would not be applied automatically and would require an amendment. The Periodic Review is considering a change to Aquatic designations procedures.
3	Citations to sections that do not exist	2.3.1 4.1.2.9	Eliminate all such instances.	Agree.	The Periodic Review Baseline Draft will address this.
4	Development in critical areas		Make clear the SMP does not prohibit new residential development in all critical areas.	The critical areas goals, policies and regulations (Section 4.1.5 and Appendix B) apply to all critical areas. Development in all critical areas must meet the regulations in these sections. The SMP does not outright prohibit new residential development in all critical areas. Regulations are specific to the type of critical area (geotechnical, wetland, etc.).	2021 Limited Amendment revised the critical areas section.
5	Suitability of docks and piers	6.3.1	Suitable location for docks and piers is limited to consideration of regulations in Section 6.3	Can consider striking #2:  <del>The proposal is suitably located and designed and that all potential impacts have been recognized and mitigated; and</del>  Other applicable sections of the code ensure that docks and piers are suitably located and designed. This language is duplicative.	The Periodic Review Baseline Draft will propose removing section 6.3.1 (Applicability).
6	Vegetation change		The SMP should make clear there is no need for City approval to remove any vegetation and replace it with another.	Agree.	More clarity is needed on issue before an update can be provided.

2014 SMP Settlement Negotiation List (Working Draft)

Issue/Topic	Page/Section	Suggested Change	Rationale/Discussion	Status Update (4/23/2021)	
7	Applicability of goals and policies to development	4.0.1	Amend SMP to make clear that development must comply with regulations and not the more broadly worded goals, policies and designations.	Agree.	This is already clearly stated in the 2014 SMP [see SMP 1.1 and 4.0.1(5)], which is consistent with SMA.
8	Nonconforming use	4.2.1.3.5	Eliminate description as being “restricted” if it is in fact prohibited		2021 Limited Amendment revised the nonconforming section.
9	Residential use at Point Monroe		Clarify that residential structures at Point Monroe are not nonconforming uses.	Agree.	The Periodic Review Baseline Draft will address this.
10	Potential increase in buffers by 50%	Page 286	Eliminate ability of shoreline administrator to increase buffers by 50% for wildlife habitat or plant species purposes.	Does not apply to shoreline buffer.	2021 Limited Amendment revised the critical areas section.
11	Re-establishment of nonconforming uses restricted	4.2.1.3.5	Change as follows: “Once discontinued, re-establishment of nonconforming uses located in the shoreline jurisdiction shall be restricted <u>as provided in Section 4.2.1.3.5.</u> ”	Agree, except correct section is 4.2.1.5.  Change as follows: “Once discontinued, re-establishment of nonconforming uses located in the shoreline jurisdiction shall be restricted as provided in Section 4.2.1.5.”	2021 Limited Amendment revised the nonconforming section.
12	Shoreline buffers	Table 4-3 (page 66)	Add footnote #3: All lots with a depth of <200 feet are Category B lots regardless of geomorphic class.	PRSM agrees with the proposed revision with addition of specific statement that the most restrictive clause does not apply and the recognition that factors other than the geomorphic class affect the depth of the shoreline buffer. The issue in this section, in our view, is not internal inconsistency but rather the workings of the most restrictive clause. Ensuring that lots <200 feet deep shall have the narrower shoreline buffer, requires an explicit statement in the footnote that the most restrictive clause does not apply. Also, the term “geomorphic class” does not encompass all the possibilities, e.g., percentage native vegetation coverage is not a geomorphic class.	The Periodic Review Baseline Draft will address this.
13	Shoreline buffers	Table 4-3 (page 66)	See Figure 4-1.	PRSM agrees.	More clarity is needed on issue before an update can be provided.
14	Shoreline buffers	Table 4-3 (page 66)	--	Footnote 1 in table 4-3 refers to the <i>total</i> of zone 1 and zone 2. PRSM’s understanding is that Zone 1 starts at OHWM as usual and Zone 2 starts 30 feet from OHWM and continues to 50 feet from the top of the bluff or the extent of the standard buffer, whichever is greater.	More clarity is needed on issue before an update can be provided.
15	Internal reference	4.1.2.4.4 (page 71)	The site-specific analysis shall be prepared in accordance with the guidance provided in the City’s Administrative Manual.	PRSM agrees that 4.1.2.9 does not exist. However, the code section cited by the City seems to be incorrect. The SMP language in 4.1.2.4.3 is: “the site-specific analysis shall be prepared in accordance with section 4.1.2.9, submittal requirements—site-specific impact analysis and mitigation plan.”	The Periodic Review Baseline Draft will address this.

2014 SMP Settlement Negotiation List (Working Draft)

	Issue/Topic	Page/Section	Suggested Change	Rationale/Discussion	Status Update (4/23/2021)
16	Internal reference	4.1.2.5.1 (page 71)	Minimum requirements for planting plans can be found in the City’s Administrative Vegetation Management Manual.	PRSM agrees that the cited manual seems to be unavailable.  The City might consider providing a comprehensive list of plants (native and non-native with the same ecological functions) approved for planting in the shoreline buffer without City approval, including ground covers, ferns, perennials, shrubs, and trees.	The Periodic Review Baseline Draft will address this.
17	Nonconforming Uses, Nonconforming Lots, and Existing Development	4.2.1.1 (page 121)	This section applies to shoreline uses and/or structures that were lawfully established or constructed prior to the effective date of the initial adoption of the Master Program (November 26, 1996) or its amendments, but which do not conform to present regulations or standards of the Master Program.	PRSM assumes that the revised SMP is an amendment to the initial master program of 1996 and that this topic reflects a misunderstanding on the part of the City.	The Periodic Review Baseline Draft will address this.
18	Correction— Renovations or remodels	4.2.1.6.1.c (page 124)	Renovations or remodels are entirely contained within the building	PRSM agrees. This is issue is also included on the PRSM list of suggestions for “technical’ changes to the SMP.	2021 Limited Amendment revised the nonconforming section.
19	Definition	5.9.5.8.c (page 184)	Average Lot Width Measurement. In determining allowed setback for this subsection, lot width shall be measured as depicted BIMC Chapter 18.12, Dimensional Standards.		More clarity is needed on issue before an update can be provided.

2014 SMP Settlement Negotiation List (Working Draft)

Issue/Topic	Page/Section	Suggested Change	Rationale/Discussion
<b>Section 2. Topics agreed to with need for further discussion/shared language</b>			
20	Nonconforming development Page 237	Delete definition of “existing development” and replace “existing development” in section 4.2 with “nonconforming development.”	Can discuss language:  (1) New or amended master programs approved by the department on or after September 1, 2011, may include provisions authorizing:  (a) Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following to be considered a conforming structure: Setbacks, buffers, or yards; area; bulk; height; or density;
21	Most restrictive provision applies 4.0.1.7 1.3.4.5	Replace “more restrictive shall apply” to “more specific provision shall apply”  Replace “provide more protection to the shoreline area shall apply” with “the more specific provision shall apply.”	A more specific regulation may not result in no net loss of ecological functions and processes.  Where provisions of this Master Program or other provision in BIMC conflict, the <del>more restrictive</del> provisions which results in greater ecological functions and processes shall apply unless specifically stated otherwise.  Replace “provide more protection to the shoreline area shall apply” with “ <u>result in greater ecological functions and processes shall apply.</u> ”
22	Permission to clear 4.1.4.3	Limit requirement for a clearing permit to specified number of square feet of clearing and specified volume of grading.	1. All clearing <u>greater than 200 square feet and/or grading</u> not associated with an approved development, use or activity, unless specifically provided for in this program.  <u>2. All grading with a combined volume greater than 25 cubic yards not associated with an approved development, use or activity, unless specifically provided for in this program.</u>
23	Human activity Page 224	From definition of “activity” replace “human activity” with “shoreline modification activity.”	Agree.
24	Vegetation management 4.1.4.4	Eliminate the prohibition of “all clearing” unless associated with an approved use or activity. Exempt from City approval any landscaping outside the buffer and exempt from City approval any landscaping within the buffer as long as native plants are used.  Provide reference to the Kitsap County native plant list.	Clearing within shoreline jurisdiction associated with an existing legal use shall be limited to the extent necessary and require a clearing permit only if the cleared area is within the shoreline buffer and greater than 200 square feet.  <del>1. Clearing and/or grading within shoreline jurisdiction shall require an approved clearing or grading permit in association with an existing legal use or a new permitted or allowed shoreline use or development. Such activities shall meet the mitigation and revegetation provisions in Section 4.1.2, Environmental Impacts and Section 4.1.3, Vegetation Management.</del>

2014 SMP Settlement Negotiation List (Working Draft)

Issue/Topic	Page/Section	Suggested Change	Rationale/Discussion
			<p><u>1. Normal and routine maintenance of residential landscaping shall not require a clearing permit unless the cleared area is within the shoreline buffer and greater than 200 square feet.</u></p> <p><u>2. Grading within shoreline jurisdiction associated with an existing legal use shall be limited to the extent necessary and require a clearing permit only if greater than a combined volume of greater than 25 cubic yards.</u></p> <p><u>3. Clearing and/or grading associated with a new shoreline use or development shall meet the mitigation and revegetation provisions in Section 4.1.2, Environmental Impacts and Section 4.1.3, Vegetation Management.</u></p> <p>4.1.4.4.2-4 stay the same, but are renumbered.</p> <p>The Kitsap County native plant list is included in Appendix A of the Single Family Residence Shoreline Mitigation Manual.</p>
25	Retroactivity	4.1.3.1	<p>Change retroactivity language in SMP to mimic SMA guidelines so that “unless changes or alterations are proposed” language is eliminated. Or edit to “unless there is a change to a different use, as in a change from residential to commercial or physical expansion of a structure that would increase the nonconformity.”</p>
26	Hazard trees	4.1.3.4.3.c.i	Eliminate requirement that felled hazard trees be left on site.
27	Compatibility with adjacent properties	Page 224	<p>Define “adjacent” as adjoining or across the street rather than the more vague “near or close”</p> <p>Can discuss/refine definition. “Adjacent” used over 120 times in SMP; need to understand implications of change.</p>
28	Revegetation standards	4.1.2	<p>Section 4.1.2 only applies to new development or new uses.</p> <p>Can discuss ideas to clarify applicability. Needs to apply to any shoreline modification activity not specifically exempt.</p>
29	Removal of vegetation	4.1.3.4.3.a	<p>Replace “trimming” of vegetation less than three inches to “removal” of vegetation less than three inches.</p> <p>Maintenance <del>trimming</del>, such as <u>trimming, limbing or pruning</u>, of vegetation with a main stem or supporting <del>structure</del> branches or limbs which is less than three (3) inches in diameter; except that tree topping or <del>other vegetation</del> removal of the plant is not exempt <u>unless specifically allowed by this Program.</u></p>
30	Revegetation standards	4.1.3.5.8	<p>Strike “Minor vegetation removal outside the shoreline buffer” requires “replanting ... pursuant to Section 4.1.2.5”</p> <p>Unclear on request.</p> <p>Declare existing residential development as conforming pursuant to RCW 90.58.620(1).</p>

2014 SMP Settlement Negotiation List (Working Draft)

Issue/Topic	Page/Section	Suggested Change	Rationale/Discussion
31	Need for compatibility with adjacent uses 3.2.2.6 3.2.3.1	Spell out that the purpose of the regulations is compatibility and that compatibility apart from the regulations is not required.	Agree.
32	Mandatory retention of “significant trees” 4.1.3.5.6	How does one know what a “significant tree” is?	Definition omitted from SMP update. Will use significant tree definition from zoning code for consistency (10” dbh evergreen, 12” dbh deciduous).
33	Weeding, etc. 4.1.3.4.3	Change the exemption for permits as follows “ <del>Maintenance trimming</del> <u>Removal</u> of vegetation that has a main stem or supporting structure which is less than three (3) inches in diameter; except that tree topping <del>or other vegetation removal</del> is not exempt.”	
34	Revegetation standards apply only to new development 4.1.2.1	Change the applicability section to read: “All <u>new</u> shoreline development and <del>activity</del> shall be located, designed, constructed and managed in a manner...”	
35	Expansion of nonconforming homes 4.2.1.6.3.2	“Enlargement or expansion of the building configuration <u>within the shoreline buffer...</u> ” Allow enlargement of nonconforming structures as long as enlargement does not increase the nonconformity; i.e., the enlargement is landward of the buffers.	Existing language permits enlargement landward of the existing building footprint.
36	Vegetation re-planting 4.1.2.5.1 (page 71)	Vegetation replanting is required for all development, uses or activities within the 200-foot shoreline jurisdiction that either alters existing native vegetation or any vegetation in the required Shoreline Buffer or Vegetation Management Areas, whether a permit is required or not.	PRSM disagrees; this section should not be interpreted as requiring replanting of native vegetation outside the shoreline buffer. As written, this section of the SMP does NOT require replanting outside of shoreline buffer; rather, it requires replanting inside the buffer if development, uses, activities in the shoreline jurisdiction, including outside the buffer, alter vegetation in the shoreline buffer or Vegetation Management Area. For example, if sediment from construction outside the buffer damaged plants inside the buffer. The City’s proposed clarification expands the meaning of the SMP. PRSM opposes replanting requirements outside of the shoreline buffer. PRSM also disagrees with the language in the City’s rationale equates replanting with mitigation.  Further, there is a need to clarify what is meant by “alter” and to define Vegetation Management Area. (Below the City cites the need for a definition of “alteration.”)
37	Vegetation re-planting 4.1.2.5.3 (page 72)	If the Shoreline Buffer is altered or reduced pursuant to provisions of Section 4.1.3, Vegetation Management or Section 4.2.1 Nonconforming Uses, Non-conforming Lots, and Existing Development, the following shall occur in Zone 1:	PRSM agrees with the need for clarification regarding alteration or reduction for view.  This section does not specify that replanting in entirety of Zone 1 must be with <i>native</i> vegetation (that is, in 4.1.2.5.3 b).

2014 SMP Settlement Negotiation List (Working Draft)

			<ul style="list-style-type: none"> <li>a. Retain existing native vegetation</li> <li>b. Plant the entire area of Zone 1. Obtain 65% vegetation canopy coverage within 10 years.</li> </ul>	Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.
38	Shoreline structure view setback line—decks	4.1.2.11 (section does not exist)	“...the shoreline setback line is determined by drawing a line from the most water ward point of the adjoining primary structure...”	<p>PRSM agrees with need for clarification on decks encroaching into the view setback</p> <p>The reference to code section appears incorrect; there is no section 4.1.2.11. Skips from 4.1.2.8 (page 74) to 4.1.3 (page 75).</p> <p>Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.</p>
39	Significant trees	4.1.3.5.6 (page 80)	<p>Significant trees located outside the Shoreline Buffer or Site-specific Vegetation Management Area but within the shoreline jurisdiction, shall be retained unless allowed to be removed under the exceptions of other provisions of this program provided:</p> <ul style="list-style-type: none"> <li>a. The Administrator may require alterations to a site plan in order to retain significant trees outside the Shoreline Buffer or Vegetation Management Area. This may include minor adjustments to the location of building footprints, the location of driveways and access ways, or the location of walkways, easements, or utilities.</li> </ul>	PRSM agrees with the need to provide for limited removal of significant trees from the shoreline buffer. PRSM’s position is that shoreline property owners should have the same opportunity for removal of significant trees as owners of non-shoreline property.
40	Significant trees	4.1.3.7.c (Page 84)	Vegetation Removal Related to Construction. Tree or vegetation removal within the Shoreline Buffer or Site-Specific Vegetation Management Area that is associated with new construction may be allowed, but must retain significant trees and shall meet the requirements of Section 4.1.2, Environmental Impacts, including replanting provisions.	
41	Vegetation alteration—buffer encroachment	4.1.3.6.4.b (page 82)	<p>The following zone specific planting regulations apply to the Shoreline Buffer:</p> <ul style="list-style-type: none"> <li>a. New lawns are not permitted in Zone 1</li> <li>b. In Zone 2, one third (1/3) of the area may be planted in a combination of lawn grasses and approved structures: provided <ul style="list-style-type: none"> <li>i. Significant native trees are not removed to establish such use, or</li> <li>ii. The buffer has been reduced through view provisions of Section 4.1.3.11.</li> </ul> </li> </ul>	<p>PRSM agrees with the need for clarification of this section but disagrees with the City’s proposed clarification and believes that additional issues require clarification. The disagreement is that PRSM believes that that the third phrase of the City’s proposed clarification should read “Zone 2” rather than “shoreline buffer.” The additional clarifications needed involve: (1) The intent of ii under b, (2) How are “lawns” and “lawn grasses” defined? (3) How are non-grass lawns treated? There is also a need to clarify that replacing an existing lawn does not constitute planting a new lawn.</p> <p>Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.</p>

2014 SMP Settlement Negotiation List (Working Draft)

42	Vegetation alteration	4.1.3.7.1.a (page 84)	Existing landscape areas may be retained within the Shoreline Buffer or Site-Specific Vegetation Management Area. However, any changes from the existing landscape to a different landscaping use or activity will require that the modified area with the provisions of 4.1.3, Vegetation Management, and the intent of providing native vegetation to maintain ecological functions and processes.	PRSM agrees with need for clarification of “any, but believes other issues also require clarification. Specifically, this section mentions “landscaping use” which implies a much narrower definition of use than residential/commercial etc. However, the SMP does not define “use.”  Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.
43	Vegetation alteration	4.1.3.8 (page 86)	Minor clearing, grading, or construction may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Plan for a residential development with approval of the Administrator pursuant to Section 4.1.3.7(1)(a), and only for the following activities as prescribed below and pursuant to Section 4.1.4 Land Modification.	PRSM agrees with need for clarification of minor clearing, grading, and construction. There is also need for a clarification of minor filling.  Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.
44	Vegetation alteration	4.1.3.8.1 (page 86)	Maintenance of existing residential landscaping is allowed subject to Sections 4.1.3.5(8) and 4.1.3.7.2. One (1) hand installed pervious trail to shoreline not more than four (4) feet in width, which may include hand installed steps, and shall be designed to minimize environmental impacts. No significant trees shall be removed. The trail may be wider when required for handicapped or public access. For single-family residential development, trimming is limited to two (2) feet on either side of the trail.	PRSM agrees with the need for clarification of this section, several aspects of which are unclear. The first sentence of the section states that it pertains to maintenance of existing landscapes, but the remainder of the section seems to pertain to new landscaping, specifically to the development of trails. It is unclear what is meant by “designed to minimize environmental impacts.” How is “trimming” defined? (It is not in SMP Definitions (8.0).) Nor is “pruning” in the SMP Definitions (8.0). Part of the section, beginning “One (1) hand installed...” is not a complete sentence. Is some text missing from this section? There is also a need to clarify that trimming vegetation within the shoreline buffer is not limited to two feet of a trail as it is permitted under other provisions of the SMP.  Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.
45	Geologically hazardous areas	4.1.5.8.3 (page 108)	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 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, 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).	PRSM agrees.

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46	Clarification-- Geologically hazardous areas	Appendix B-9 (E.2 page 293)	<p>2. Redevelopment of existing structures</p> <p>a. If an existing structure is damaged or is intentionally demolished, the new structure must meet all the provisions of a new structure.</p> <p>b. Structural alternation 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).</p>	<p>PRSM agrees with the need for definitions and clarification of this section. There are several unclear aspects of this section. Neither “redevelopment” nor “alteration” is defined in Glossary for SMP as a whole (beginning page 224) or for Appendix B (beginning page264). Does section (a) refer to intentional damage or any damage, including damage beyond control of homeowner? The second part of this section (b) is not a sentence.</p> <p>In general, Appendix B is extremely difficult to follow in part due to poor formatting. The City may want to consider reformatting Appendix B as a public service.</p> <p>Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.</p>
47	Geologically hazardous areas— vegetation	4.1.5.8.4 (page 108)	All alterations to the vegetation within a geologically hazardous area shall provide a Bluff Management Plan developed by a qualified professional(s) to address vegetation management for slope stability and ecological functions and processes for a ten year period.	<p>PRSM agrees that pruning should not be considered alternation and notes that neither “pruning” nor “trimming” is defined in SMP Definitions (8.0) or Appendix B Definitions (B-1). PRSM agrees that removal of a single tree should not trigger a requirement for a bluff management plan, but notes that that removal of a plant of any size—not just a tree—now triggers such a requirement.</p> <p>Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.</p>
48	Correction-- General Provisions— Nonconforming Structures	4.2.1.6.1 (page 123)	General Provisions—Existing Structures	PRSM agrees. This is issue is also included on the PRSM list of suggestions for “technical” changes to the SMP. PRSM notes the importance of stating that the most restrictive clause does not apply in this as in many other instances.
49	Internal consistency— Reconstruction of Damaged Existing Primary Structure	4.2.1.6.1.2 (page 124)	<p>If an existing primary structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the bulk dimension existing immediately prior to the catastrophic event, provided the use is conforming or meets the provisions of Section 4.2.1.4, Regulations-General, and 4.2.1.5, Regulations-Nonconforming Uses, above.</p> <p>a. This provision shall not apply to structures that are destroyed due to a criminal act initiated by the property owner; and</p> <p>b. The replacement structure shall not warrant new shoreline stabilization for the life of the new structure.</p> <p>c. The replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Regulations—Nonconforming Uses and Appendix B.</p>	<p>PRSM agrees that this section is problematic, but would characterize the problems as arising from the most restrictive clause. PRSM raised a related issue in its list of suggestions for “technical” changes to the SMP, specifically, allowance of addition of square footage in the course of reconstruction following a casualty, rather than restriction to same bulk dimension.</p> <p>Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.</p>

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50	Internal reference (incorrect)	4.2.1.6.1.2.c (page 124)	The replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Regulations—Nonconforming Uses and Appendix B.	<p>PRSM believes that the reference is problematic for several reasons. Section 4.1.5 does exist, but it is titled “Critical Areas”. Section 4.1.5.7 (under Critical Areas) is entitled, Regulations—Geologically Hazardous Areas; this section refers to Appendix B but also describes additional standards for marine bluffs specified in 4.1.5.8 and 4.1.5.9. Clarification is needed.</p> <p>Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.</p>
51	Clarification	4.2.1.6.3.2 (page 124)	<p>An existing primary residential structure may be altered or expanded to the extent allowed by this Program, provided:</p> <p>a. Enlargement or expansion of the building configuration, including any new impervious surfaces located within the Shoreline Buffer shall be located landward of the existing or original building footprint, only one such expansion may occur within the lifetime of the development, and the expansion shall not exceed:</p> <ul style="list-style-type: none"> <li>i. The allowed building area for Point Monroe District, Section 5.9.6(2)</li> <li>ii. The allowed building area for encumbered lots, Section 4.2.1.7</li> <li>iii. For structures not meeting i or ii, twenty-five percent (25%) of the existing building footprint.</li> </ul>	<p>PRSM agrees on the need for definition and clarification. Among the undefined terms are: altered, configuration, encumbered lot, lifetime. The term “development” is defined, but that definition pertains to “construction or exterior alteration of structures” and thus seems to refer entirely to the construction phase, which section 4.2.1.6.3.2 seems to use “development” to refer to a residential structure at any stage of its life.</p> <p>PRSM agrees that Section 5.9.6(2) uses the term “development area” not “building area”.</p> <p>Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.</p>
52	Existing development—redevelopment	4.2.1.7.1 (page 126)	<p>Single-family development and redevelopment, except in the Point Monroe District, that is proposed on a legal nonconforming lot located in the shoreline jurisdiction or proposed for a shoreline property that is significantly encumbered by shoreline or critical area buffers, may be allowed without a shoreline variance when the following criteria are met:</p> <p>a. A lot contains a building area of 2,500 square feet or more available for a single-family residence and normal appurtenances and unrestricted by buffers from shorelines or critical areas shall comply with the provisions of this Program. The building area means the entire area that will be disturbed to construct the home, normal appurtenances (except drain fields) and landscaping; or</p>	<p>PRSM agrees that clarification is needed. In addition to the issues for clarification raised by the City, several terms are not defined, including “legal nonconforming lot” and “significantly encumbered.” Neither these terms nor closely related terms (e.g., unencumbered) are in the SMP dictionary.</p> <p>Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.</p>
53	Existing development—redevelopment (continued)		<p>b. A lot that does not meet the requirement of subsection 1.a above shall meet the following:</p> <ul style="list-style-type: none"> <li>i. Landslide hazard provisions of Section 4.1.5, Critical Areas, and Appendix B and provide the</li> </ul>	

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			<p>maximum buffer dimension feasible for critical areas; and</p> <p>ii. Provide a building area not to exceed 2,500 square feet with maximum lot coverage of 1,200 square feet. The building area shall be located on the portion of the lot providing the maximum Shoreline Buffer dimension with consideration given to view; and</p> <p>iii. All single family residential development approved under this section shall meet the shoreline structure view setback provisions in Section 4.1.3.11, Regulations—Shoreline Structure Setback View Requirement;”</p>	
54	Definition	Various	Redevelopment and alteration—borrow from BIMC nonconforming structure –50% or greater demolition.	
55	Mitigation manual—impervious surfaces		TBD	
56	Hazard tree removal	Various	TBD	<p>PRSM agrees with the need for clarification regarding hazard tree removal. Due to the health and safety issues associated retention of a hazard tree in place or as a downed tree, PRSM believes that shoreline homeowners should be allowed to fell a tree that has been determined by arborist to be hazardous and to remove the downed tree without requirement for mitigation.</p> <p>Agreement on definitions or clarifications that may be adopted by the City in the future depends on their content.</p>
<b>Section 3. Topics for further discussion</b>				
57	Restriction on square footage increases in development	<p>4.2.1.6.1.1</p> <p>4.2.1.6.3.2(a)(iii)</p>	Delete subsection (c)(iii): “Renovations or remodels are entirely contained within the building.”	<p>Agree.</p> <p>Can discuss expansion thresholds. Is request for an expansion of up to 2,500 square feet or a resulting total footprint of 2,500 square feet?</p>

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			When limiting increases to nonconforming structures to 25%, add language that allows increases at least to 2500 square feet.	
58	Geotech for replacement bulkheads		Eliminate implied requirement that a geotech report is necessary for a replacement bulkhead to be consistent with SMA guidelines.	<p>SMA guidelines require geotech report for new bulkheads: “The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.”</p> <p>SMA guidelines provide: “An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.”</p> <p>A geotechnical report is needed to address the need to prevent potential damage to a primary structure through the use of shoreline stabilization measures and demonstrate that the damage is caused by tidal action, currents, and waves. Note: Kitsap County also requires geotech report for replacement structures.</p>
59	Home height limitations	Page 49	Limit residential height to 35 feet as in SMA instead of 30 feet.	There was no change in height limits in SMP update. Thirty feet has been the standard since 1996.
60	Agriculture	Page 225	Eliminate prohibition on growing vegetables for family use, but allow vegetables, herbs, fruits, nuts and flowers for family use	Existing agriculture for family use may remain in place and may be permitted outside the shoreline buffer. New agriculture for family use is not permitted within the shoreline buffer.
61	Assurances re “restoration area”	4.1.2.7	Make clear that restoration areas and assurances only apply to situations involving SMP violations and enforcement.	Assurances are required when mitigation is required. Mitigation is required for vegetation alteration/disturbance as a result of permitted activities, not just in the cases of violations.
62	Motorized vessels	3.3.2.7.3	Eliminate “motorizes vessels should not be allowed.”	This language supports the purpose of the shoreline designation. It is not a regulation.
<b>Section 4. Substantive topics not yet discussed (copied directly from “PRSM Proposed Substantive Changes to SMP” )</b>				

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Issue	PRSM Position	Rationale for Change	Relevant SMP Sections (partial list)
1. Existing development required to meet new SMP standards and declared non-conforming	Revise the SMP to state unambiguously that lawfully established homes existing prior to the adoption of the new SMP do not become non-conforming as a result of failure to meet the requirements in the new SMP.	<p>The SMP states that it is <i>not</i> retroactive and applies only to new development, but this not-retroactive statement is trumped by the “most restrictive” clause. Our legal review indicates that the SMP makes almost all existing homes non-conforming because they do not meet at least one of the numerous standards of the new SMP. They are non-conforming--notwithstanding the SMP provisions allowing repair, alteration, and some expansion.</p> <p>The City could have chosen to exempt existing homes from the requirement to adhere to the new SMP standards. State law explicitly provided the option to treat existing homes as conforming without regard to the new standards.</p> <p>Non-conforming status disadvantages shoreline homeowners because it may result in higher costs for insuring and borrowing and reduce the value of the property-- basically because the insurer, banker, or buyer cannot be certain that the City will continue to overlook the non-conforming status, even if it is doing so at the present time under the current City administration.</p> <p>Non-conforming status does <i>not</i> enhance the City’s ability to ensure that standards are met when major external changes are made to existing homes. Rather, the only power that the City gains from making existing shoreline homes non-conforming is the power to phase them out.</p>	<p>1.3.5.2. “The provisions of the [SMP] apply to new development and activities and are <i>not</i> retroactive.” [Emphasis added.]</p> <p>4.0.1.7. “Where provisions of this Master Program or other provisions in BIMC conflict, the more restrictive provisions shall apply unless specifically stated otherwise.”</p> <p>Definition (p237). Existing Development is defined as “Legally established structures which do not conform to the provisions in the 1996 Shoreline Master Program, as amended by ordinance 2013- on xx xx, 2013.”</p> <p>Definition (p 248). Nonconforming development is defined as “lawfully constructed or established but no longer conforms to the applicable shoreline provisions [...] or its successor.”</p>
1 (continued)		The City has publicly denied that it intends to phase out homes on the shoreline over time ( <i>Inside Bainbridge</i> , 7/17/15). However, this denial conflicts with the reality that the new SMP standards apply to existing homes, making them nonconforming and giving rise to a wide-spread belief in the shoreline community that the City’s intent is to phase out shoreline homes over time as part of an effort to return the shoreline to a primitive state.	References in 4.2.1 to <i>the nonconformity</i> ” imply that property is nonconforming. For example (4.2.1.3), “Lawfully constructed structures, established uses...shall be allowed provided to be repaired...provided that the alteration does not increase <i>the nonconformity</i> .” [Emphasis added].
2. Existing Development required to meet new buffer standards	Revise the SMP to state unambiguously that the standards on depth of shoreline buffers apply only to new development/re-	The SMP states that its provisions apply to new development and activities and are <i>not</i> retroactive. However, it also states (Table 4-3) that the shoreline buffers apply to both developed and undeveloped property. Therefore, under the most restrictive clause, the buffer standards apply to both developed and undeveloped property. Moreover, the City is now applying the buffer standards to all property.	<p>1.3.5.2. “The provisions of the [SMP] apply to new development and activities and are <i>not</i> retroactive.” [Emphasis added.]</p> <p>4.0.1.7. “Where provisions of this Master Program or other provisions in BIMC conflict, the more restrictive</p>

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Issue	PRSM Position	Rationale for Change	Relevant SMP Sections (partial list)
	<p>development and not to the repair and maintenance of existing development.</p>	<p>In addition, there are numerous problems with the SMP buffer standards. The first class of problems pertains to their complexity and vagueness. The shoreline buffer is divided into two Zones, for which the restrictions differ materially. For a given property, the total buffer depth is affected by at least seven factors: 1) Upland designation and possibly aquatic designation as assigned by the City, 2) Type of local shoreline environment, e.g., lagoon, rocky shore, 3) Height of bank at shoreline, 4) Extent of native vegetation along the shoreline and into the interior of the property, 5) View setbacks, 6) Depth of the property, and 7) whether the property is developed or not. Depending on all of these factors, the required buffer depth ranges from 30 feet (urban areas only) to 200 feet or more from the mean high water mark. It can be extremely difficult—if not impossible—for the homeowner to determine the buffer depth for his or her property. Coverage by native vegetation is especially problematic as it is extremely vague and subject to change. The methodology for determining 65% native vegetation canopy area is not described and its determination seems to require expertise that the typical homeowner does not have. Moreover, the shoreline designation and the boundary of Zone 1 can change as vegetation grows or dies. Further, in some circumstances, the City Administrator may decide to expand the buffer further.</p>	<p>provisions shall apply unless specifically stated otherwise.”</p> <p>Table 4.3, Shoreline Buffer Standards Table. This table explicitly states that the buffer standards apply to developed lots as well as undeveloped lots.</p>
<p>2 (continued)</p>		<p>This discretion, along with the complexity and vagueness, severely compromise the City’s ability to consistently interpret and administer the SMP. The City can reduce its exposure to inconsistent interpretation and administration by limiting the shoreline buffers to new development/re-development—consistent with the SMP declaration that it does not apply retroactively.</p> <p>The second class of problems with the SMP pertains to the evidence that the City presented in support of the buffer standards. State law requires that the City consider the best available scientific evidence. By far the best available scientific evidence was evidence for Bainbridge Island itself, which the City had collected in conjunction with the Battelle Marine Sciences Laboratory. This study found essentially <i>no</i> impact from shoreline development on the quality and diversity of this island’s shoreline environment (Williams et al. 2004).† The City wholly ignored those findings and instead relied heavily on research on fresh-water streams in forested areas—a totally different environment than residential areas on salt water shorelines.‡ Study of the</p>	

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		<p>applicability of the <i>concepts</i> used in the fresh-water research to salt-water shorelines was appropriate. However, the City directly applied the fresh-water <i>results</i> to salt-water shores.</p>	
<p>3. Removal of downed hazard tree</p>	<p>In light of the health issues associated with having a downed tree near a residence, the City should not prevent any homeowner—including a shoreline homeowner—from removing a downed tree. Further, the types of wildlife for which downed trees are habitat are <i>not</i> water obligate species; therefore, it is inequitable to place the burden of retaining downed trees on shoreline homeowners, but not all other homeowners.</p>	<p>Downed trees pose a health hazard because of health risks associated with the wildlife that commonly reside in such trees. Raccoons carry round worms in their feces. Children and pets are especially susceptible to ingesting the eggs of these worms when playing in the dirt near a raccoon latrine and may die or suffer severe impairments, which vary depending on which of their organ systems are affected by the worms (e.g., blindness, paralysis). Rodents (e.g., rats, squirrels) carry plague, which can be fatal if left untreated. Recently, there was an outbreak of plague in Yosemite traced to rodents near the camp grounds. (<a href="http://www.inquisitr.com/2348399/second-yosemite-plague-victim-diagnosed/">http://www.inquisitr.com/2348399/second-yosemite-plague-victim-diagnosed/</a>). Also, wild animals such as raccoons, skunks, bats, and foxes can contract rabies and infect people or pets. (<a href="http://www.cdc.gov/rabies/">http://www.cdc.gov/rabies/</a>.)</p> <p>The types of wildlife that reside in downed trees on the shore are <i>not</i> water obligate species. Therefore, is it particularly inequitable to expose shoreline families to health risks that are not borne by families who live in the interior of the island given that the interior is also appropriate habitat for the types of wildlife of interest here.</p> <p>Even one case of a wildlife-borne disease in a shoreline family that was required to retain a downed tree exposes the City to unnecessary financial risk as well as to community dismay and anger—not to mention the possible tragedy for the family.</p>	<p>4.1.3.4.3.c.i.A “Mitigation is provided in accordance with Section 4.1.2, Environmental Impacts, including: A. Requiring that the downed tree be retained on the site to provide or enhance wildlife or marine habitat;”</p> <p>B-2.8.b (page 272). “Habitat needs <i>may</i> require leaving the fallen tree in the riparian corridor or maintaining a high stump for wildlife habitat.” [Emphasis added.]</p> <p>4.1.3.6.4  a.”New lawns are not permitted in Zone 1.  b. In Zone 2, one-third (1/3) of the area may be planted in a combination of grass lawns and approved structures provided:  i.Significant native trees are not removed to establish such use, or ii. The buffer has been reduced through view provisions...”</p>
<p>3 (continued)</p>		<p>In addition, mitigation is not appropriate for removing a downed hazard tree since the fact that the tree has become a hazard is almost always an act of God, not of a homeowner. Nevertheless, if the City insists on mitigation for downing and removing a hazard tree, it could enhance wildlife habitat at another location away from family homes.</p> <p>Further, there is an inconsistency between the SMP regulations and the regulations for Critical Areas in that the latter provides some flexibility with respect to removal of the downed tree, while the former provides no flexibility whatsoever.</p>	

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<p>4. Some re-vegetation standards require restoration; some mitigation is irrelevant or disproportionate to impact. These standards trump maintenance of existing residential landscaping.</p>	<p>Numerous provisions in the SMP effectively require <i>restoration</i> of native vegetation, or require mitigation that is substantially out of proportion to, or unrelated, to an impact. These sections should be revised so that restoration is not required and mitigation meets the relevant (nexus) and proportionality tests established by the United States Supreme Court.</p>	<p>The Washington Shoreline Management Act (SMA) requires localities to establish standards to ensure no net loss to the shoreline environment. While voluntary restoration is allowed under the SMA, mandatory restoration is not. The City of Bainbridge Island exceeds the authority granted to it under the SMA in that its new SMP includes various provisions requiring restoration.</p> <p>The U.S. Supreme Court has ruled that the conditions that local governments place on land use permits must be connected to that government’s regulatory interest (“nexus” requirement, <i>Nollan v. California Coastal Commission</i>, 1987) and must be roughly proportional to the impacts of the development on that land (<i>Dolan v. City of Tigard</i>, 1994). The nexus and proportionality requirements were recently reaffirmed by the U.S. Supreme Court (<i>Koontz v. St. Johns River Water Management District</i>, 2013). While only parts of the SMP relate to permitting, almost all of it relates to land use. Prudence suggests that the City ensure that the legal standards of nexus and proportionality are met with respect to the standards of the SMP, including the vegetation standards.</p>	<p>4.1.3.5.5.a. “ New vegetation planted in the Shoreline Buffer... unless otherwise provided for in zone-specific requirements in 4.1.3.6 (6) shall be: Native species using a native plant-community approach of multi-storied, diverse plant species...”</p> <p>The SMP does not associate this with any impact; thus, it is difficult to see how it meets the nexus and proportionality tests. Rather, it appears to be required restoration of a native forest plant community.</p> <p>4.1.2.5.3. ‘If the Shoreline Buffer is altered or reduced pursuant to provisions of Section 4.1.3, Vegetation Management or Section 4.2.1 Nonconforming Uses, Non-Conforming Lots, and Existing Development, the following shall occur in Zone 1:</p> <ul style="list-style-type: none"> <li>a. Retain existing native vegetation;</li> <li>b. Plant the <i>entire area</i> of Zone 1. Obtain 65% vegetation canopy coverage within 10 years.”</li> </ul> <p>[Emphasis added.]</p>
<p>4 (continued)</p>		<p>The vegetation restoration requirements place unwarranted health and safety risks on shoreline families. The planting that is required is dense and forest-like (“multi-storied, diverse plant species that are native to Central Puget Lowland marine riparian zone” (4.1.3.5.5). Living in a forested area imposes a safety risk from fire. For fire safety, the Fire Department of the City of Bainbridge Island, along with many other fire departments, recommends mowed grass in a 100 feet perimeter around a residence (<a href="http://www.firewise.org">www.firewise.org</a>). Such a perimeter is incompatible with the replanting requirements of the SMP, as well as the prohibitions on new lawns (4.1.3.6.4).</p> <p>Living in a forested area also increases the likelihood of human-wildlife conflict, with associated health risks. Some of these health risks are discussed above with respect to downed hazard trees. Another health risk is the increased likelihood of contracting Lyme Disease via a bite from a Western Deer Tick. The U.S. Centers for Disease Control and Prevention recommends avoiding areas of forest and brush where deer, rodents,</p>	<p>Section 4.1.2.5.3 requires restoration of vegetation in all of Zone 1 regardless of the extent of alteration or reduction of the Shoreline buffer, which does not appear to meet the proportionality test. Further, we note that alternation of the shoreline buffer via further encroachment of a structure, under a variance (4.2.1.6.1) would also require replanting the entire area of Zone 1—a requirement that does not appear to meet the nexus test since alteration of the structure would not necessarily affect plantings and generally would not affect plantings in Zone 1 as residences are not allowed to encroach into Zone 1.</p>

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		<p>and ticks are common and a 3 foot barrier of wood chips followed by a 9 foot barrier of lawn to separate forest/brush from play areas, patios, and gardens (<a href="http://www.cdc.gov/lyme/prev/in_the_yard.html">http://www.cdc.gov/lyme/prev/in_the_yard.html</a>). By requiring dense forest-like replanting and prohibiting new lawns, the City endangers the health and safety of shoreline families. The City also puts itself at legal risk if a shoreline home burns in a forest fire or a member of a shoreline family contracts Lyme Disease near his or her home.</p>	
<p>4 (continued)</p>		<p>Further, under the most restrictive clause, the requirements for vegetation re-planting trump the provision that allows maintenance of existing residential landscaping. The City recently affirmed the existing-landscape provision, writing “Vegetation management standards do not apply retroactively to existing lawfully established uses and developments, including maintenance of existing residential landscaping, such as lawns and gardens.” (Inside Bainbridge, 7/17/15).</p>	<p>4.1.2.5.5. “When mitigation is required for shoreline stabilization projects due to site disturbance, the required planting plan shall also include the following...                      a. Replant 75% of the shoreline area located along the upland edge of the shoreline stabilization structure to a minimum of ten (10) feet...                      c. Include plantings equivalent to one tree per ever [sic] 20 linear feet of shoreline and one shrub per ever [sic] five linear feet...</p> <p>Section 4.1.2.5.5 requires planting of dense trees and shrubs in a substantial area regardless of the extent and nature of site disturbance, which does not appear to meet the proportionality test.</p>
<p>5. Structures appurtenant to single family use in shoreline buffer and boating facilities and overwater structures and boating</p>	<p>Consistent with the SMP statement that it is not retroactive, revise the SMP to allow the continued existence and ongoing repair of structures in the shoreline buffer that are appurtenant to single family use, regardless of square footage, as they existed when the new SMP was adopted. And,</p>	<p>As indicated above, the SMP (1.3.5.2) states that its provisions apply to new development and activities and are <i>not</i> retroactive. Nevertheless, the SMP explicitly prohibits or severely limits the extent of <i>existing</i> structures appurtenant to single family use in the shoreline buffer. These prohibitions and restrictions are retroactive.</p>	<p>4.1.3.8.3. “Non-habitable structures appurtenant to a single-family use, such as a boat house, deck/patio, and/or stairway may be allowed consistent with the following standards, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic—Category A designation. 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, whichever is less. c. For Shoreline Buffer areas, only 10% of total allowed square footage or 300 feet, whichever is less, can be located in Zone 1, except when upland of Priority</p>

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	revise the SMP to allow the continued existence and ongoing repair of boating facilities and overwater structures as they existed when the new SMP was adopted.		Aquatic B, the total allowable square footage is 5% of Zone 1 or 150 square feet, whichever is less.
5 (continued)		The City recently expressed its position that overwater structures including docks are “prohibited in areas where critical ecological and/or physical limitations exist to avoid adverse impacts to shoreline ecological functions and ecosystem-wide processes.” (Inside Bainbridge, 7/17/2015). However, the prohibition of many types of overwater structures upland of Priority Aquatic areas and in the Natural upland designation is inconsistent with the allowance of commercial aquaculture in these and some other shoreline designations, including in priority aquatic areas. If the shoreline environment is threatened by private overwater structures then surely it is threatened by commercial aquaculture to at least the same extent—if not more so. Given glaring inconsistencies such as this, it is hard to trust the City’s assertions that limitations on private overwater structures are needed to protect the environment. Trust is made even more difficult because the City provided no evidence of harm to the Bainbridge Island shoreline environment as a result of shoreline residential development and ignored strong, scientific evidence indicating that no harm had been done.	Table 4-1. Overwater structures, For example, docks are not allowed in Priority Aquatic Category A.  Table 4-1. Natural Resource Development. For example, commercial aquaculture is allowed priority aquatic areas.  Table 4-1. Public Park/Recreational Development, For example, public stairways are allowed in all upland shoreline designations, without regard for aquatic designation—as are public appurtenant structures that support a water oriented passive recreational use. Public appurtenant structures are not defined, but the definition of public access mentions viewing platforms, decks and towers.
6. Repair of Existing Bulkheads	Consistent with the SMP statement that it is not retroactive, revise the SMP to allow repair of existing bulkheads as frequently as needed and to the extent needed, including repair of more than 50%. Repair involving more than 50%--	Bulk heads are prevalent around Bainbridge Island; they protect homes and property. Weather conditions can cause bulkhead failure, and more than 50% of bulkhead length may be compromised in a single weather event. Further, a bulkhead might no longer adequately serve its purpose when considerably less than 50% of its length has been compromised.  Under the SMP, replacement of bulkheads is prohibited in some situations and severely limited in others. Replacement with hard stabilization is strenuously discouraged, even when the existing stabilization is similarly hard; it is prohibited in some upland designations and in priority aquatic designations. .	6.2.7.2.b.”Damaged structural stabilization may be repaired up to 50 percent (50%) of the linear length within a five (5) year period. Repair area that exceeds fifty percent (50%) shall be considered a replacement. Stabilization repair applications shall consider cumulative approvals of each successive application within a five year period.”

2014 SMP Settlement Negotiation List (Working Draft)

Issue	PRSM Position	Rationale for Change	Relevant SMP Sections (partial list)
	<p>including cumulative repair of more than 50%-- should not be treated as a replacement.</p>	<p>Failure to allow complete repair of bulkheads or replacement as often as needed, in effect, punishes shoreline homeowners for acts of God.</p> <p>As indicated above, the SMP states that its provisions apply to new development and activities and are <i>not</i> retroactive. Nevertheless, the SMP severely restricts the repair of <i>existing</i> bulkheads—in effect, these prohibitions and restrictions are retroactive.</p> <p>Prohibition of, or severe restrictions on, replacement of a damaged bulkhead is inconsistent with the no net loss standard and instead constitutes required restoration, which is not allowed under state law.</p>	<p>6.2.7.2.a. “Existing shoreline stabilization which no longer adequately serves its intended purpose shall be considered a replacement.”</p> <p>6.2.6.3 “Hard structural stabilization, including hard portions of hybrid stabilization, shall be limited to the areas of the site where the stabilization is demonstrated to be necessary, according to Section 6.2 Shoreline Stabilization.”</p>
<p>6 (continuing)</p>		<p>The best scientific evidence does <i>not</i> support the SMP’s prohibitions and restrictions on bulkheads. Much of the research on shoreline stabilization is <i>not</i> relevant to bulkheads that hug the shore; it pertains to structures that are waterward of the mean high water mark. PRSM analyzed data on bulkhead presence on Bainbridge Island, data collected by the City in conjunction with the Battelle Memorial Institute, Marine Sciences Laboratory (Williams et al. 2004).† We found no impact of existing bulkheads on the quality and diversity of the Bainbridge Shoreline environment.</p>	<p>6.2.4.4 Regulations—Prohibited.                      “Shoreline stabilization proposed on shores where valuable geo-hydraulic or biological processes are sensitive to interference or critical to shoreline conservation, such as: feeder bluffs, barrier estuaries, barrier lagoons, wetlands, or accretion shore forms such as sand spits, hooks, bars, or barrier beaches. Except that stabilization proposals to protect a primary family residence, primary appurtenance, or primary public or transportation facilities may be allowed on feeder bluffs and spits provide [sic] provisions of this program are met.”</p> <p>6.2.5.2 “Soft-treatment stabilization shall be used to the maximum extent feasible.”</p> <p>6.2.5.3. “New or replacement shoreline stabilization measures are a conditional use for the following:                      a. Proposed shoreline stabilization is adjacent to a feeder bluff.                      b. The nearest adjacent existing shoreline stabilization is greater than one hundred (100) feet of the subject property.”</p>

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Issue	PRSM Position	Rationale for Change	Relevant SMP Sections (partial list)
6 (continued)			<p>6.2.8.1 When evaluating the need for new, expanded or replacement stabilization measures, the applicant shall provide an analysis from a qualified professional that examines and implements preferred alternatives in the following sequence:</p> <ul style="list-style-type: none"> <li>a. No action (allow the shoreline to retreat without intervention)</li> <li>b. Non-structural measures such as vegetation enhancement or addressing upland drainage concerns.</li> <li>c. Increase building setbacks and/or relocate structures to a feasible location and/or elevate the structures</li> <li>d. Implement flexible/natural materials and methods, beach nourishment, protective berms, bioengineered stabilization, or other soft-treatment measures.</li> <li>e. Hybrid measures</li> <li>f. Exclusively hard stabilization measures.”</li> </ul>
7. Prohibition of motorized vessels in Priority Aquatic— Category B	Allow use of motorized vessels in Priority Aquatic , Category B	<p>Motorized vessels have long plied the waters that are now designated Priority Aquatic-Category B. It is inconsistent with the no net loss provisions of the state SMA to prohibit such vessels.</p> <p>The City has recently stated that “the use of motor boats is not forbidden in Fletcher Bay, Eagle Harbor, Port Madison, Port Monroe, or Blakely Harbor.” (<i>Inside Bainbridge</i>, 7/17/15). If the City’s intent is to allow motorized vessels in Priority Aquatic Category A and B areas—including the mud flat areas of the harbors and bays specifically listed above--it should revise SMP according.</p>	<p>3.3.2.7.3 Priority Aquatic Category A Management Policies. ...“Motorized vessels should not be allowed.”</p>
8. Remodeling/ Replacement of Residence	Revise the SMP to allow expansions of more than 25% of existing footprint without regard to fire or other casualty, to allow more than one enlargement or expansion	<p>Restriction of rebuilding to 25% of the existing building footprint is arbitrary. It is grossly inequitable to those with cabins or small homes as the value of their property can be materially reduced due to this restriction on rebuilding.</p> <p>It is extremely harsh to allow only one enlargement or expansion in the lifetime of a development (assuming development is used here to mean existing primary residential structure). A residential structure can easily have a lifetime of 100 years or more.</p>	<p>4.2.1.6.3.2.”An existing primary residential structure may be altered or expanded to the extent allowed by this Program, provided:</p> <ul style="list-style-type: none"> <li>a.Enlargement or expansion of the building configuration, including any new impervious surfaces located within the Shoreline Buffer shall be located landward of the existing or original building footprint,</li> </ul>

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Issue	PRSM Position	Rationale for Change	Relevant SMP Sections (partial list)
	<p>in the lifetime of a development, and to allow a building height of 35 feet. Delete from the SMP the requirement that replacement of a damaged home must be accompanied by a warrant that new shoreline stabilization will not be need for the life of the new structure.</p>	<p>Permission to rebuild a damaged structure to its <i>prior bulk dimension</i> is conditioned on ensuring that new shoreline stabilization is not needed for the life of the new structure a condition that seems to violate the nexus test.</p>	<p>only one such expansion may occur in the lifetime of the development, and the expansion shall not exceed:                      i. The allowed building area for Point Monroe District...                      ii. The allowed building area for encumbered lots...                      iii. For structures not meeting i or ii, twenty five (25%) of the existing building footprint.</p> <p>Table 4-2, Dimensional Standards Table. Upland residential height limit is 30 feet (page 61).</p>
<p>8 (continued)</p>			<p>4.2.1.6.1.2. "If an existing primary structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the bulk dimension existing immediately prior to the catastrophic event, provided the use is conforming or meets the provisions of Section 4.2.1.4 ... and Section 4.2.1.5...                      a. This provision shall not apply that are destroyed due to a criminal act initiated by the property owner; and                      b. The replacement structure shall not warrant new shoreline stabilization for the life of the new structure;                      c. The replacement structure meets geologically hazardous provision for existing development in Section 4.1.5..."</p>

**NOTES**

† Williams GD, Thom RM, Evans NR. Bainbridge Island Nearshore Habitat Characterization & Assessment, Management Strategy Prioritization, and Monitoring Recommendations. Prepared for the City of Bainbridge Island. Battelle Memorial Institute, Marine Sciences Laboratory, Sequim Washington. November 2004.

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‡ Brennan J, Culverwell H, Gregg R, Granger P. Protection of Marine Riparian Functions in Puget Sound, Washington. Prepared for Washington Department of Fish and Wildlife. Washington Sea Grant. Seattle Washington June 15, 2009.

### Aquaculture Policies Adopted by Ordinance 2016-06

Note: Strikeout formatting indicates policies determined to be inconsistent with the SMA and the Pierce County SMP ruling.

#### 5.2.2 Policies

1. Identify and encourage aquaculture activities which create ecosystem improvements and result in no net loss of ecological functions.
2. Allow experimental forms of aquaculture involving the use of new species, new growing methods, or new harvesting techniques, when they are consistent with applicable state and federal regulations and this Program. Experimental aquaculture projects should be limited in scale and should be approved for a limited period of time. When feasible, limit or restrict new development and uses in areas that affect existing experimental aquaculture.
3. Do not permit aquaculture in areas where it would result in a net loss of ecological functions, adversely impact eelgrass or macroalgae, or significantly conflict with navigation and other water dependent uses.
4. Locate new commercial aquaculture to avoid or minimize conflicts with public use and access of the shoreline and waters of City-owned tidelands and shorelines designated for public use (e.g.; Island Conservancy shoreline designation).
5. Design and locate aquaculture facilities to not spread disease to native aquatic life, establish new non-native species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.
6. Mitigate impacts to ecological functions according to WAC 173-26-201(2)(e) and Section 4.1.2, Environmental Impacts.
7. Give preference to those forms of aquaculture that have less environmental and/or visual impacts. Preference is given to those projects that require fewer submerged or intertidal structures, fewer land-based facilities, limited substrate modification, and that don't rely on artificial feeding.
8. Ensure aquaculture does not cause cumulative impacts.
9. ~~Before permitting commercial aquaculture, the City should first reserve appropriate areas for protecting and restoring ecological functions to the greatest extent feasible while planning for and fostering reasonable and appropriate water-dependent uses (RCW 90.58.020, WAC 173-26-201(2)(d), WAC 173-26-251(2)).~~
10. Consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions (WAC 173-26-241(3)(b)).
11. ~~Until the City's scheduled periodic review of this Program under RCW 90.58.080, limit where commercial aquaculture may occur based on local conditions and ecological considerations, estimated future demand for shoreline space, potential use conflicts, current shoreline use patterns and projected trends. During the periodic review, the City will make amendments deemed necessary to reflect changing local circumstances, new information or improved data, relevant environmental and ecological conditions and any applicable guidelines issued by the Department of Ecology.~~



## SMP Periodic Review

### Policy White Paper on Aquaculture

March 20, 2021

**Prepared by:**

Peter Best, MMA  
Senior Planner  
City of Bainbridge Island  
[pbest@bainbridgewa.gov](mailto:pbest@bainbridgewa.gov)  
206-780-3719

**Note Regarding the Scope of this Policy White Paper**

This policy white paper is not intended to be an exhaustive summary on the complex issue of aquaculture, but rather a concise summary relevant to supporting policy-level discussions within the scope of authority the City of Bainbridge Island has under the Washington State Shoreline Management Act.

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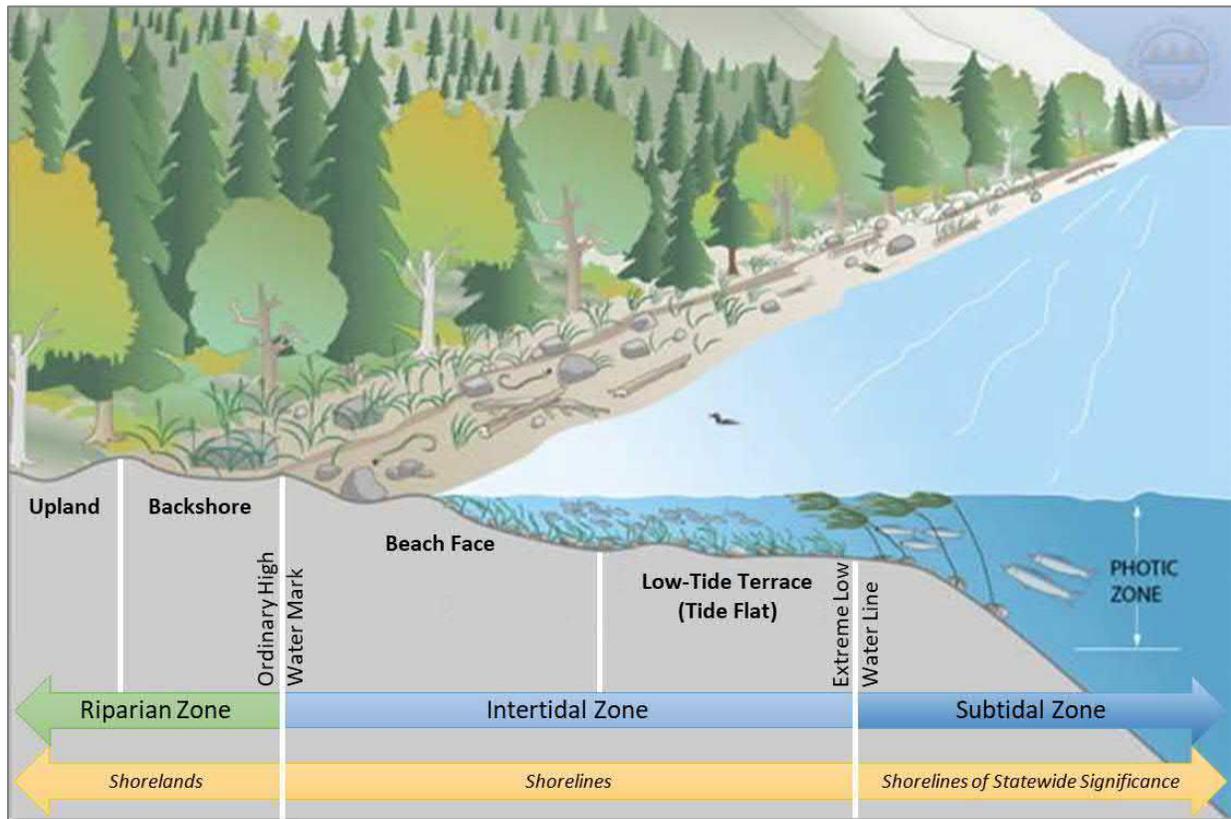
## Introduction

Bainbridge Island has a long and ongoing relationship with aquaculture, some of which is well known, such as the fish farm in Rich Passage, and much of which is likely not well known. Bainbridge Island has adopted strong policies and programs to encourage, protect, and expand local food production from upland agriculture (see Attachment G) however these policies do not directly translate to aquaculture. The term “aquaculture” covers a wide range of activities from intense commercial shellfish and finfish farming to the restoration and recover of native species and the enhancement of native fisheries for recreational, commercial, and subsistence harvest. Aquaculture may also be useful in addressing climate change and ocean acidification.

## Shoreline Jurisdiction

The SMP manages an area commonly referred to as “shoreline jurisdiction” which extends from approximately 200-feet inland from the ordinary high water mark to the City boundary half-way between Bainbridge Island and the opposite shoreline (see Attachment A). Therefore, the SMP manages upland, intertidal, and offshore aquaculture activities. Figure 1 shows how shoreline jurisdiction is divided into ecological zones as well as management zones based on the ordinary high water mark and the extreme low water line. These zones will be referenced throughout this paper.

**Figure 1. Shoreline Jurisdiction**



(Credit: Adapted by COBI from a graphic originally created by King County)

## What is aquaculture?

First, it is helpful to clarify that the harvest (i.e. collecting, digging, or catching) of wild aquatic plants and animals (e.g. algae, shellfish, finfish, or other organisms) from their natural aquatic habitats is not aquaculture. These activities involving wild stocks (or populations) fall into the realm of “fisheries”, which are co-managed by tribes, state agencies, and federal agencies. Fisheries cannot be managed by the SMP, whereas aquaculture and shoreline habitats must be managed by the SMP.

For discussing SMP policy, aquaculture can be generally described in plain terms as follows.

<b>Aquaculture</b>
<p>Within the scope of the City’s SMP, aquaculture is essentially any activity by which people:</p> <ul style="list-style-type: none"> <li>• Cultivate (i.e. actively manage the location and growth of) aquatic species;</li> <li>• Harvest those cultivated organisms; and</li> <li>• Process aquatic organisms (whether from cultivated or wild harvest).</li> </ul> <p>There are many different types of aquaculture practiced in Puget Sound which can involve:</p> <ul style="list-style-type: none"> <li>• Activities for personal, commercial, research, or restoration purposes</li> <li>• Shellfish (oysters and clams), finfish (salmon), and algae (seaweeds)</li> <li>• Native or non-native species (all species must be approved by regulators)</li> <li>• A small area of only a few square feet to a large area of many acres</li> <li>• The use of a variety equipment (from hand tools to tractors and boots to barges, etc)</li> <li>• The temporary or long-term placement of a variety of “gear”</li> </ul> <p>Operations during the day or night, especially when tide dependent</p>
<p>There is far less shellfish aquaculture in Central Puget Sound compared to other regions of Washington (Figure C-4). However, Bainbridge Island intersects with the world of aquaculture in many ways as noted below.</p>

<b>Upland Aquaculture</b>
<p>Upland aquaculture involves the cultivation of aquatic organisms in tanks on land. The City’s current SMP defines and manages upland finfish rearing activity as “agriculture” and is not an allowed use within shoreline jurisdiction. Upland aquaculture activities also include the processing of any cultivated or wild harvest.</p>
<p>On Bainbridge Island there are no upland aquaculture facilities.</p>
<p>Nearby upland aquaculture include several facilities operated by the NOAA Northwest Fisheries Science Center at the <a href="#">Manchester Research Station</a> across from Bainbridge Island on Rich Passage (Figure C-1), including a facility used to recover critically endangered sockeye salmon as well as a <a href="#">conservation hatchery</a> operated in partnership with the <a href="#">Puget Sound Restoration Fund</a>, a Bainbridge Island-based nonprofit. <a href="#">Suquamish Seafood Enterprises</a> operates a processing facility in Suquamish across from Bainbridge Island on Agate Passage.</p>

## Intertidal Aquaculture

Intertidal aquaculture involves the cultivation of aquatic organisms (most commonly clams and oysters in “shellfish farms” for commercial harvest or “shellfish gardens” for personal harvest) in or on beaches, typically on the low beach face or the tide flat above the extreme low water line. Depending on the size and location of the operation, this type of aquaculture may have upland access, upland facilities for storage and processing, or the farm may be remotely accessed only from the water by boat or barge. Common intertidal aquaculture techniques include:

- Seeding the natural beach without the placement of any “gear”
- Seeding a beach where oyster shells (for oysters) or other natural substrate (for clams) have been added
- The use of “gear” for protection and to encourage growth, such as:
  - Grow bags (Figure C-2a)
  - Long lines (Figure C-2b)
  - Tubes (Figure C-2c)
  - Predator exclusion nets (Figure C-2d)
- Control of non-native invasive predators, such as oyster drill snails

Intertidal shellfish farms and gardens typically use non-native oyster species and native clam species. Non-native oysters may be genetically modified so they are sterile and cannot reproduce in the wild.

On Bainbridge Island, the only intertidal aquaculture operation is a [community shellfish farm](#) in Port Madison operated by the [Puget Sound Restoration Fund](#), a Bainbridge-based nonprofit. There are also likely small “shellfish gardens” around Bainbridge Island where households grow clams and oysters for personal consumption.

Nearby intertidal aquaculture includes a [shellfish farm](#) in Suquamish on Agate Passage and [native oyster restoration](#) in numerous areas near Bainbridge Island and throughout Puget Sound led by the [Puget Sound Restoration Fund](#), a Bainbridge-based nonprofit.

## Offshore Aquaculture

Offshore aquaculture involves the cultivation of aquatic organisms suspended in the water column. Finfish are enclosed in net pens suspended from floats (Figure C-3a) or buoys (Figure C-3b). Shellfish (muscles or oysters) are suspended in cages from floats or rafts (Figure C-3c). Algae attached to lines may be suspended from buoys, floats, or rafts (Figure C-3d).

On Bainbridge Island, there is one offshore commercial finfish aquaculture operation in Rich Passage (Figure C-3a) which has been in operation since the 1970s. The City and the [Puget Sound Restoration Fund](#), a Bainbridge-based nonprofit, teamed up with volunteers in the 2000s to hang more than 100 oyster cages from docks in Eagle Harbor in an effort to enhance water quality. Researchers have used offshore mussel cages to monitor water quality at the Wyckoff Superfund Site in Eagle Harbor and other locations around Bainbridge Island. [Net Systems](#), a manufacturer of fishing nets and offshore aquaculture net systems, is headquartered on Bainbridge Island.

Nearby offshore aquaculture facilities exist at the [Manchester Research Station](#) across from Bainbridge Island on Rich Passage (Figure C-3a). Suquamish Seafood Enterprises operates an [oyster nursery](#) at the Brownsville Marina across from Bainbridge Island in Port Orchard Passage. The Suquamish Tribe also operates [fish pens](#) in Suquamish across from Bainbridge Island in Agate Passage (Figure C-3b) and in the City of Seattle across from Bainbridge Island in Elliot Bay to rear native salmon for release into the wild population as juveniles.

The official definitions regarding aquaculture from the City's current SMP are provided below.

**Aquaculture** – The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state-managed wildstock geoduck fishery. Upland finfish rearing facilities are included in the definition of agriculture and are not considered aquaculture for the purpose of this SMP. Aquaculture activities include, but are not limited to, the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals, and the maintenance and construction of necessary equipment and buildings. Cultivation methods include, but are not limited to, fish pens, shellfish rafts, racks and long lines, seaweed floats and nets, and the planting and harvesting of clams and oysters.

**Aquaculture, Shellfish Garden** – The cultivation, harvesting, and incidental preparation of shellfish for personal human use and consumption on public and private tidelands

**Aquaculture Practices** – Any activity directly pertaining to growing, handling, or harvesting of aquaculture produce including, but not limited to, propagation, stocking, feeding, disease treatment, waste disposal, water use, development of habitat and structures. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing.

**Aquaculture Processing** – A commercial or industrial activity that involves preparing, fish or shellfish for human use or consumption by packaging, canning, freezing or other means of final wholesale or retail production.

### How is aquaculture managed?

Aquaculture is managed by a wide range of local, state, and federal agencies which have significantly overlapping responsibilities and a few unique responsibilities as summarized in Table 1. A summary of permitting requirements for commercial shellfish farms is provided in Attachment D. Permitting requirements for offshore aquaculture are very similar with some additional requirements for overwater structures (e.g. docks, floats, rafts, buoys).

**Table 1. Summary of Aquaculture Management Responsibilities**

Overlapping Responsibilities	Unique Responsibilities
<ul style="list-style-type: none"> <li>• Water quality</li> <li>• Navigation</li> <li>• Critical saltwater habitat protection</li> <li>• Endangered species protection</li> <li>• Overwater structures</li> <li>• Cultural resources</li> </ul>	<ul style="list-style-type: none"> <li>• Compatibility of uses (City &amp; Ecology through SMP)</li> <li>• Species (WDFW); City &amp; Ecology through SMP has some responsibility</li> <li>• Food safety (WDOH)</li> <li>• Land manager (WDNR, for state aquatic lands only)</li> </ul>

*Ecology = WA Dept. of Ecology*  
*WDOH = WA Dept. of Health*

*WDFW = WA Dept. of Fish and Wildlife*  
*WDNR = WA Dept. of Natural Resources*

The City (with Ecology when issuing a shoreline variance permit or conditional use permit) and WDFW (when issuing a Hydraulic Project Approval permit) are the most likely (and often the only) agencies to:

- Conduct a site visit
- Hold a public comment period (only for City shoreline permits and SEPA)
- Defend an appeal
- Be contacted regarding concerns or violations

## How suitable is Bainbridge Island for aquaculture?

### Restoration

Bainbridge Island has a strong record of shoreline restoration efforts, which have included several projects that would meet the definition of aquaculture because of some of the techniques and equipment used, including:

- Early experiments in native oyster restoration
- Early experiments in kelp restoration (at Restoration Point)
- Early experiment in using offshore oyster baskets for water quality treatment

Kelp beds are a critical saltwater habitat and are important to regional salmon recovery efforts. Bainbridge Island historically had extensive kelp beds (Figure C-5a) and lost the last kelp bed in 2015 (Figure C-5b). The reasons for kelp declines are still under investigation and the restoration of kelp beds is still in the experimental stages. Therefore, the suitability of Bainbridge Island for kelp restoration is still uncertain. However, given the leadership of the [Puget Sound Restoration Fund](#), a Bainbridge Island nonprofit, in [kelp restoration](#) as well as the City's leadership in shoreline habitat restoration and climate change mitigation and adaptation, Bainbridge Island is uniquely situated to support the development of kelp restoration.

### Intertidal & Offshore Shellfish Farming

Central Puget Sound is not a prime area for commercial shellfish aquaculture as indicated by the fact that less than 1% of the state's entire shellfish aquaculture harvest (by volume and value) comes from Central Puget Sound (see Figure C-4). Pacific oyster and manilla clams where the only commercial species cultivated in Central Puget Sound. The prime areas for shellfish aquaculture in the state are South Puget Sound and Willapa Bay followed by North Puget Sound and Hood Canal (see Figure C-4). Key reasons for this are likely their rural economies and better water quality, which is reflected in the shellfish closure maps in Appendix B. (Note: Harmful algal blooms, which are responsible for biotoxin closures [appear to be increasing.](#))

Bainbridge Island is located within the most urbanized portion of Puget Sound which increases exposure to various water quality concerns, including:

- Frequent harmful algal blooms that can cause biotoxin closures
- Risk of untreated sewage spills from the 6 sewer plants on or immediately surrounding Bainbridge Island that can cause temporary closures
- Petroleum spills

The potential areas for commercial intertidal shellfish farming are likely limited on Bainbridge Island. Intertidal aquaculture, except for native species restoration, is prohibited in portions of Bainbridge Island, including Eagle Harbor (permanent closure) and areas designated as Priority Aquatic in the SMP. Most of the island's shorelines are privately owned and developed as residential. The resulting tidelands are typically small and highly fragmented. The Washington State Department of Natural Resources owns a few tideland areas, which theoretically could be leased for aquaculture, however these areas have no upland access and are in existing residential areas. Upland access to commercial shellfish farms is very unlikely in residential areas and public shoreline access sites (e.g. Waterfront Park dock and ramp) are not suitable for landing commercial aquaculture harvests. Therefore, the landing of any intertidal aquaculture harvests would need to occur elsewhere on the Kitsap Peninsula or perhaps at the existing private aquaculture dock in Rich Passage.

Given the above, the most suitable forms of intertidal shellfish aquaculture on Bainbridge Island would most likely be low-cost and small scale, such as:

- Native oyster restoration
- personal shellfish gardens
- Local community shellfish farm like the one currently in Port Madison
- Possibly natural clam seeding
- Small commercial "hobby" or "boutique" shellfish farms might be possible but a recent inquiry into creating such an operation on Bainbridge Island could not seem to find a suitable intertidal location

### **Offshore Fish Farming**

Given that existing finfish facilities have been located in Rich Passage (since 1970) and Agate Passage (since 1985), it is probable there are other potential locations for offshore finfish aquaculture around Bainbridge Island. It is unclear whether Rich Passage would be a suitable location for additional facilities.

### **Offshore Kelp Farming**

Kelp farming is not currently a common practice in Puget Sound. There is emerging interest (in Puget Sound and around the world) in farming kelp as a way to help mitigate climate change through sequestering carbon dioxide and counteracting ocean acidification. In addition, nearly all of the historic kelp beds around Bainbridge Island have been lost (see Figure C-5) and similar trends have been observed throughout South and Central Puget Sound. Kelp is a critical habitat that is protected under the SMP. Efforts are just beginning in Puget Sound to better understand kelp ecology and develop kelp restoration methods. It is unclear at this time whether long-term restoration efforts will require offshore facilities.

It is foreseeable there could be interest in kelp farming around Bainbridge Island given the leadership of the [Puget Sound Restoration Fund](#), a Bainbridge Island nonprofit, in [kelp restoration](#) and the use of [kelp farming to mitigation climate change](#) as well as the City's leadership in shoreline habitat restoration and climate change mitigation and adaptation. The suitability of Bainbridge Island for offshore kelp farming is currently unknown.

## What is the City's scope of authority regarding aquaculture under the Shoreline Management Act?

The City must manage aquaculture within the limits established by the Shoreline Management Act (RCW 90.58; WAC 173-26; WAC 173-27) and associated legal rulings. One recent ruling ([Case No. 18-3-0013c](#)) decided by the Central Puget Sound Growth Management Hearings Board against the Pierce County SMP is precedent setting for any aquaculture amendment to the City's SMP and significantly clarifies the scope of the City's authority regarding aquaculture under the Shoreline Management Act.

### Permitting

Aquaculture activities require approval under the SMP, either through a shoreline permit or letter of exemption. In addition, the SMP may require a shoreline conditional use permit as described in WAC 173-26-241(2)(b) in Attachment F, which requires joint review and decision making by the City and Ecology. A change in facilities or operations may require a permit revision. A public comment period is required for all aquaculture activities under the State Environmental Policy Act (SEPA) process. A shoreline conditional use permit also requires a public comment period that would be consolidated with the SEPA comment period and may require a public hearing. City SEPA and public hearing notifications are mailed to neighbors, posted on the City's website, and published in the Bainbridge Review newspaper. Shoreline permits, letters of exemption, and revisions can be approved, approved with conditions, denied, and appealed. The current SMP requires a shoreline conditional use permit for all types of aquaculture except for individual shellfish gardens [SMP 5.2.4(1)].

Aquaculture activities, like all activities within shoreline jurisdiction, must comply with the general island-wide requirements in SMP Chapter 4, including:

- No net loss of ecological functions and values [SMP 4.1.2]
- Vegetation management, including buffers, for any upland activities [SMP 4.1.3]
- Protection of critical areas [SMP 4.1.5], particularly critical saltwater habitats, which include:
  - Kelp beds and native eelgrass beds
  - Forage fish spawning and holding areas
  - Mudflats
  - Intertidal habitats with vascular plants
  - Areas with which priority species have a primary association
  - Subsistence, commercial, and recreational shellfish beds
- Water quality [SMP 4.1.6]
- Nonconforming uses and structures [SMP 4.2.1]
- Protection of cultural resources [SMP 4.2.2]
- Visual and physical public access, including navigation [SMP 4.2.4]

Since this paper is specifically intended to stay at the policy level, it will not go further into detail regarding permitting or the regulations noted above and the reader does not need to

review the requirements noted above in any further detail. The remaining topics in this section are focused on areas where the City has some policy discretion regarding aquaculture.

### **Preferred Uses and Geographic Designations**

The Shoreline Management Act creates a very complex management situation by mandating what can appear as inherently conflicting policies as described in Attachment E, which include:

- “protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life”
- “planning for and fostering all reasonable and appropriate uses”
- “protecting private property rights consistent with the public interest”
- “promote and enhance the public interest”
- “limited reduction of rights of the public in the navigable waters”

The recent Pierce County SMP appeal substantially clarified how aquaculture is to be treated in this balancing act.

First, most aquaculture is “water-dependent” (i.e. it inherently requires a water-based location) and is a “preferred use” when practiced sustainably. SMP Guidelines state, in part:

“[Aquaculture] is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.” [WAC 173-26-241(3)(b)(i)(A) in Attachment F]

Shellfish beds are also:

- A critical saltwater habitat that is to be protected
- A federal and state policy priority under numerous laws and programs, such as the [Washington Shellfish Initiative](#)
- An indicator of ecosystem recovery under the [Puget Sound Action Agenda](#)

In determining where aquaculture and other uses are allowed, the SMP must give preference to (in the following order):

- Protecting and restoring ecological functions
- Water-dependent and associated water-related uses
- Other water-related and water-enjoyment uses
- Single family residential uses
- Non-water-oriented uses.

[see WAC 173-26-020, WAC 173-26-201(2)(d), and WAC 173-26-251(2) in Appendix D]

Second, the recent Pierce County SMP appeal reinforced that the designation of areas where aquaculture is allowed and not allowed must be based on the City’s inventory and characterization as well as best available science.

“Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.” [WAC 173-26-241(3)(b)(i)(C) in Attachment F]

As summarized in Table #, the recent Pierce County SMP appeal clarifies that the SMP may balance local interests with statewide interests in “shoreland” areas (i.e. riparian zone) and “shoreline” areas (i.e. the intertidal zone) but must only consider statewide interests in areas designated by the Shoreline Management Act as “shoreline of statewide significance” (i.e. the subtidal zone for Bainbridge Island).

**Table 2. Summary of where Local Interests and State Interests can be Considered in SMP**

<b>Shoreline Jurisdiction Zone</b>	<b>Shorelands</b>	<b>Shorelines</b>	<b>Shorelines of Statewide Significance</b>
<b>Ecological Zone</b>	<b>Riparian Zone</b>	<b>Intertidal Zone</b>	<b>Subtidal Zone</b>
<b>Type of Aquaculture</b>	<b>Upland Aquaculture</b>	<b>Intertidal Aquaculture</b>	<b>Offshore Aquaculture</b>
<b>Who's interests?</b>	SMP may balance local interests with statewide interests		SMP can only consider statewide interests

**Nonconforming Uses and Structures**

If a legally established aquaculture use does not comply with new provisions adopted in the SMP, under the current SMP the use is allowed to continue as a “grandfathered” non-conforming use and existing structures may be maintained, repaired, or replaced as long as the use and structures are not altered or expanded in any way that increases the nonconformity. A change in ownership, tenancy, or management of a nonconforming use does not change its nonconforming status. Significant changes in operations, such as a change in species, or modifications to structures and equipment would need to comply with the SMP. [SMP 4.2.1] A recent update of the nonconforming provisions in the SMP took effect on 3/5/2021.

Under the Shoreline Management Act, legally established uses are “grandfathered” and cannot be forced to stop and repair and maintenance cannot be denied, however the City has significant flexibility regarding:

- When to consider a nonconforming use abandoned.
- Whether to allow replacement of nonconforming structures.

The recent Pierce County SMP appeal clarified that an SMP cannot simultaneously categorize future aquacultural uses as prohibited while categorizing existing aquacultural uses as conforming. The status of current and future uses must be consistent, either prohibited and nonconforming or allowed and conforming.

In aquaculture, like agriculture, operations may include crop rotations and periods when the farm is left fallow or dormant. The recent Pierce County SMP appeal clarified that SMPs cannot use fallow or dormant periods to deem an aquacultural use as abandoned under nonconforming rules.

**Species**

WDFW regulates which species are allowable in state waters and certifies the movement of aquatic organisms within state waters regarding disease and parasite management. The recent Pierce County SMP appeal affirms that SMPs may also govern at least what types of non-native species are allowed or not allowed and require a permit revision when there is a change in species. As a practical matter, the City will need to rely on WDFW’s expertise and resources to manage the certification of aquatic organisms regarding disease and parasite management.

## Policy Issues for Consideration

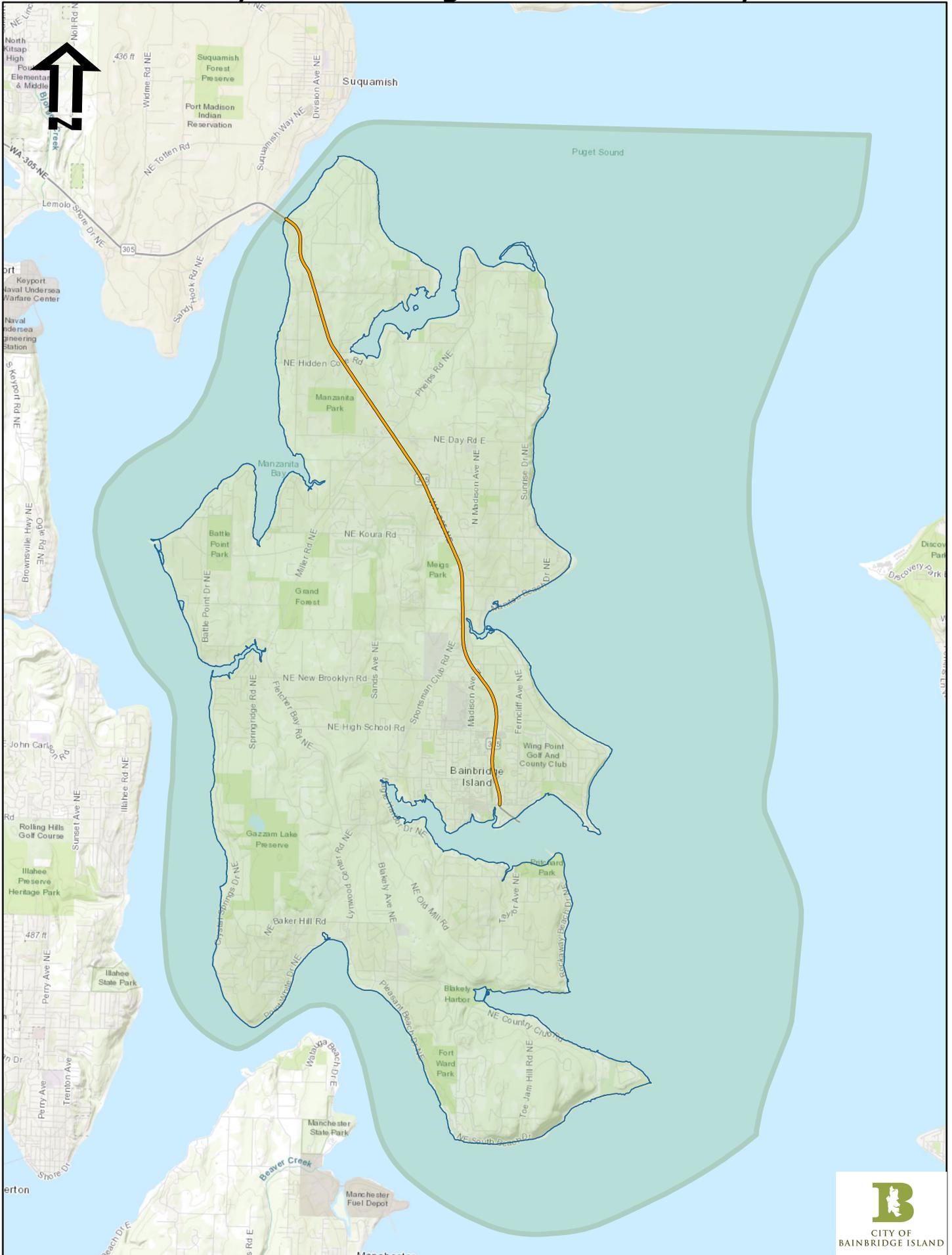
The following are questions that build off the content presented in this policy white paper which are intended to frame a high-level policy discussion that will inform the planning department's proposed amendments.

- 1. What are local Bainbridge Island interests when it comes to aquaculture?**
  - Individual shellfish farming for personal consumption
  - Locally sourced food
  - Jobs
  - Native species recovery and habitat restoration
  - Enhancement of wild native populations for ecological and fisheries purposes
  - Mitigation of climate change
  - Others
  
- 2. How does Bainbridge Island fit into statewide interests when it comes to aquaculture?**
  - Enhancement of wild native populations for ecological and fisheries purposes
  - Mitigation of climate change
  - Jobs
  - Suitability for commercial intertidal shellfish farming
  - Suitability for offshore shellfish farming
  - Suitability for offshore fish farming
  - Suitability for offshore kelp farming
  - Suitability for native species recovery and habitat restoration
  - Others
  
- 3. Should Bainbridge Island have policy preferences regarding aquaculture species?**
  - Native species only
  - Native species preferred and sterile non-native species only
  - No preference as long as non-native species are managed to minimize establishing local populations in the wild
  - No local preference, let the state set the policy
  
- 4. What are key community concerns regarding aquaculture?**
  - Intertidal aquaculture
  - Offshore aquaculture

Attachment A – City of Bainbridge Island Jurisdiction

# City of Bainbridge Island Boundary

Agency Item Attachment 6



## Attachment B – Shellfish Safety Maps (3/7/2021)

Maps from: [WDOH Shellfish Safety Online Map](#)

### Legend

**[Public Shellfish Beaches](#)** (click beaches for info.)

-  Closed (click beach for species)
-  WDFW Harvest Seasons Closed
-  Open
-  Conditionally Open
-  Unclassified

**[Marine Biotoxin Closure Zones](#)** (click area for info.)

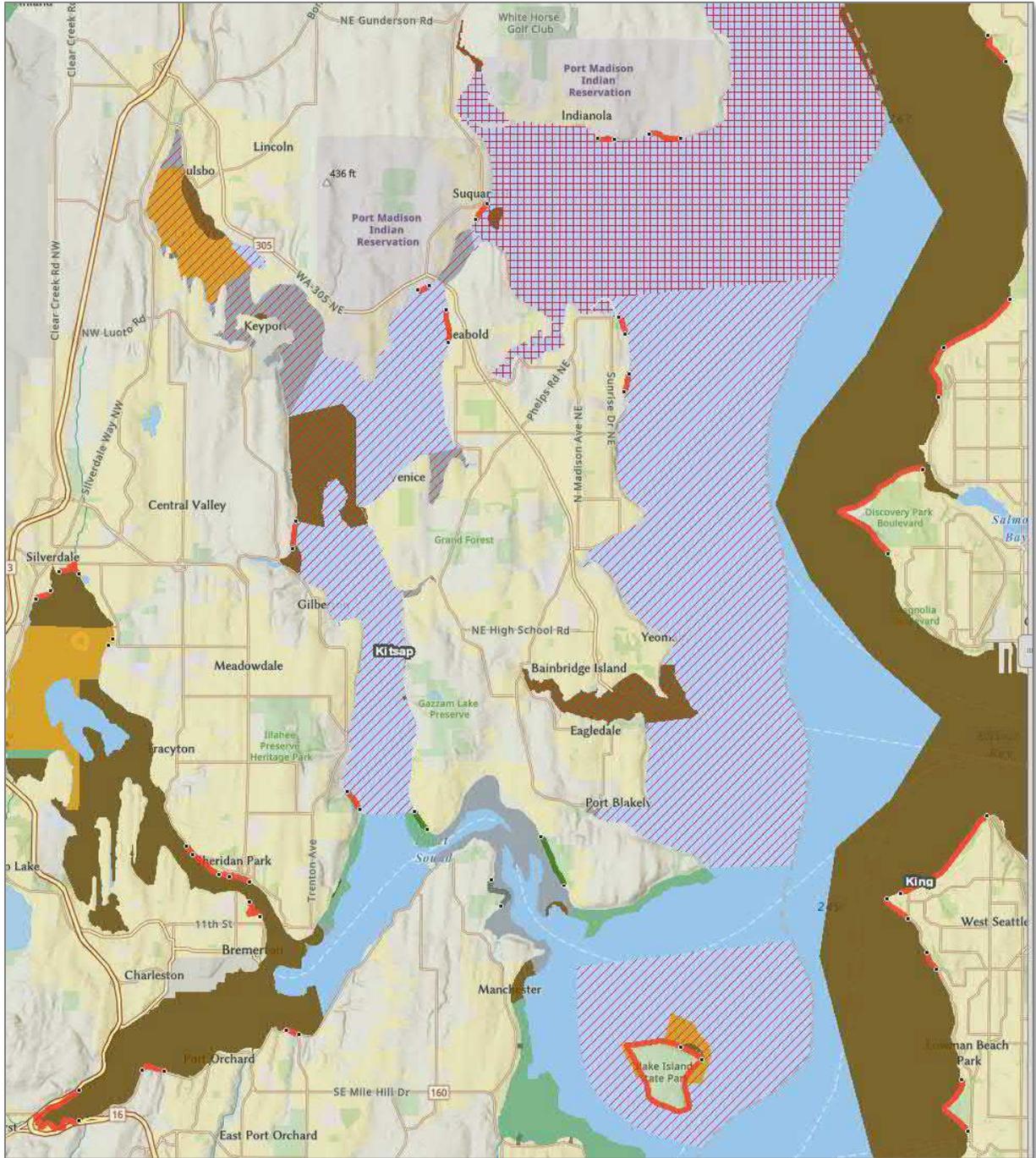
-  Closed for all species including clams, geoduck, scallops, mussels, oysters, snails and other invertebrates (not crab or shrimp).
-  Closed for [Butter and Varnish Clams](#) only

**[Water Quality Classification](#)** (click area for info.)

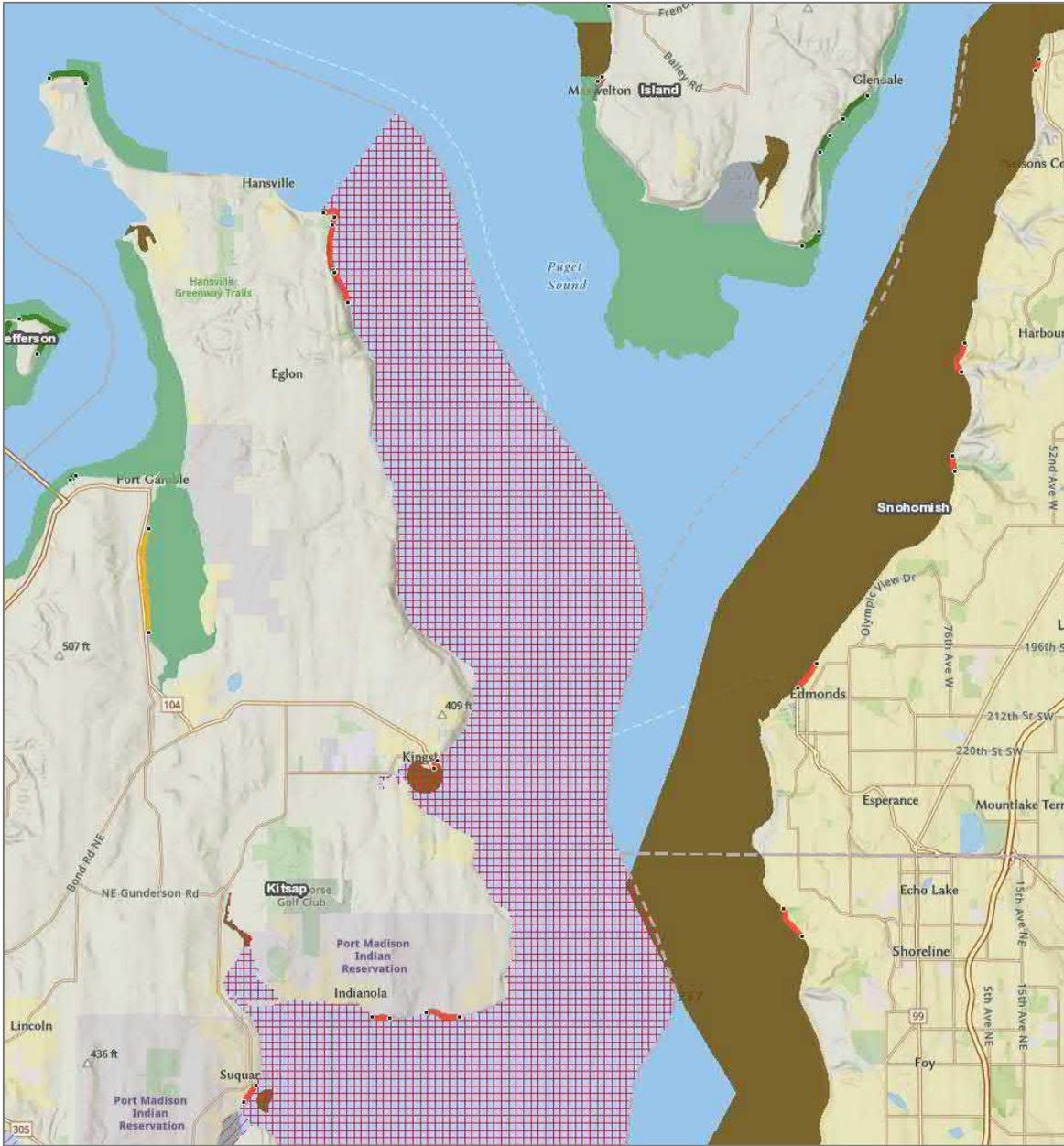
-  Approved
-  Conditionally Approved
-  Unclassified
-  Closed Due to Pollution

### Notes:

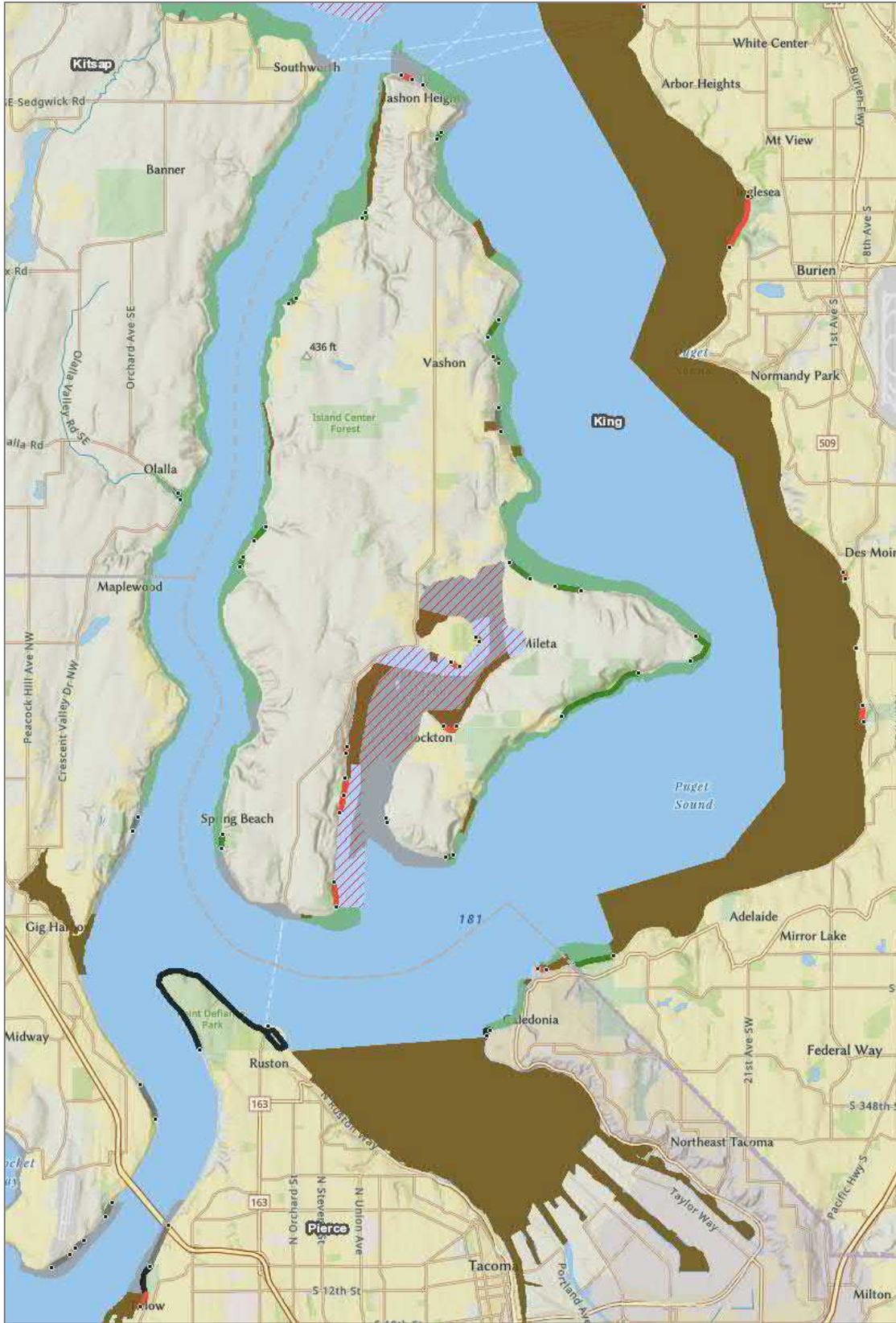
- Marine biotoxin closures and some beach closures can change seasonally.
- Water quality classification status typically change infrequently.



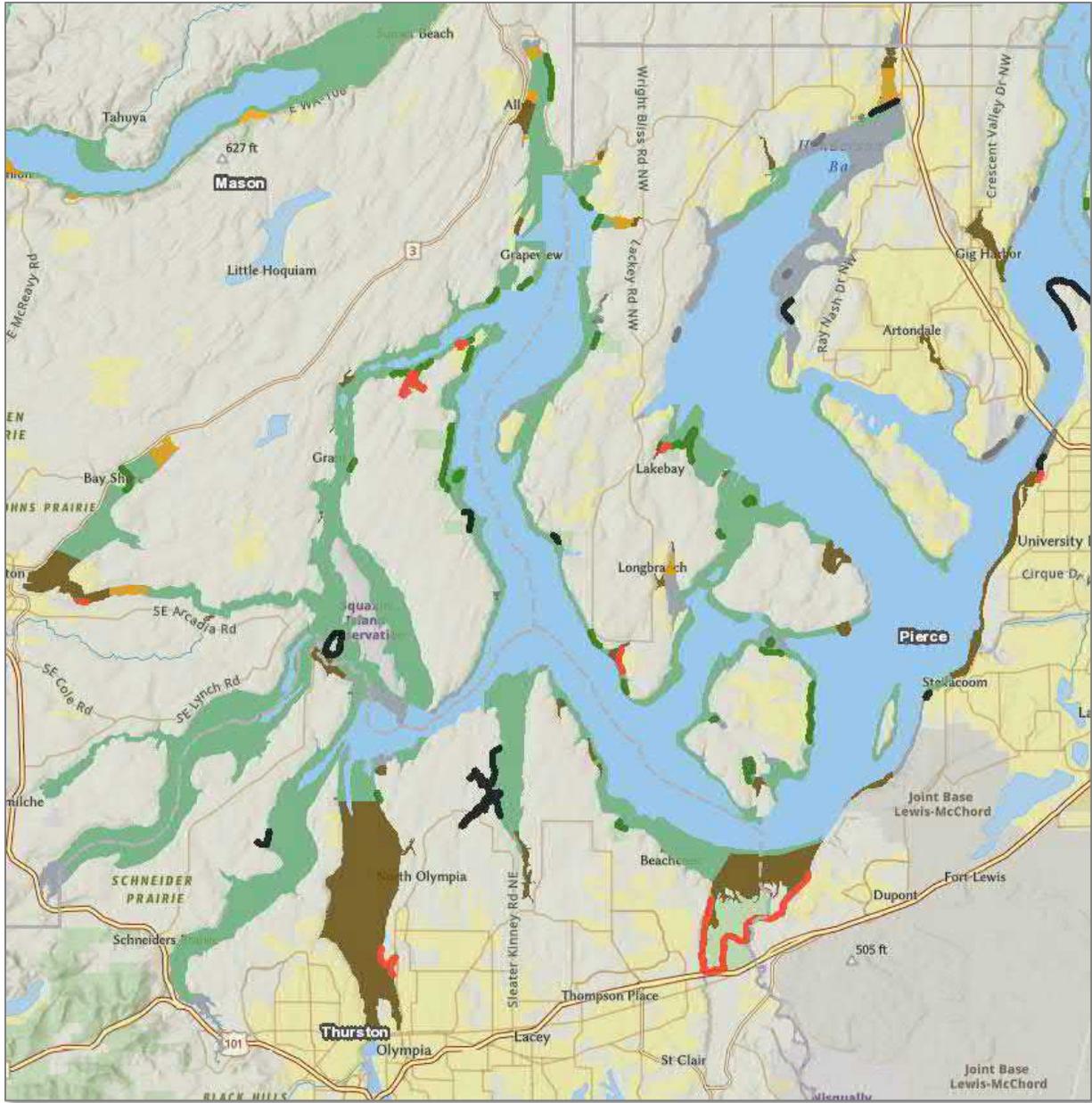
Map B-1. Bainbridge Island Vicinity (Central Portion of Central Puget Sound)



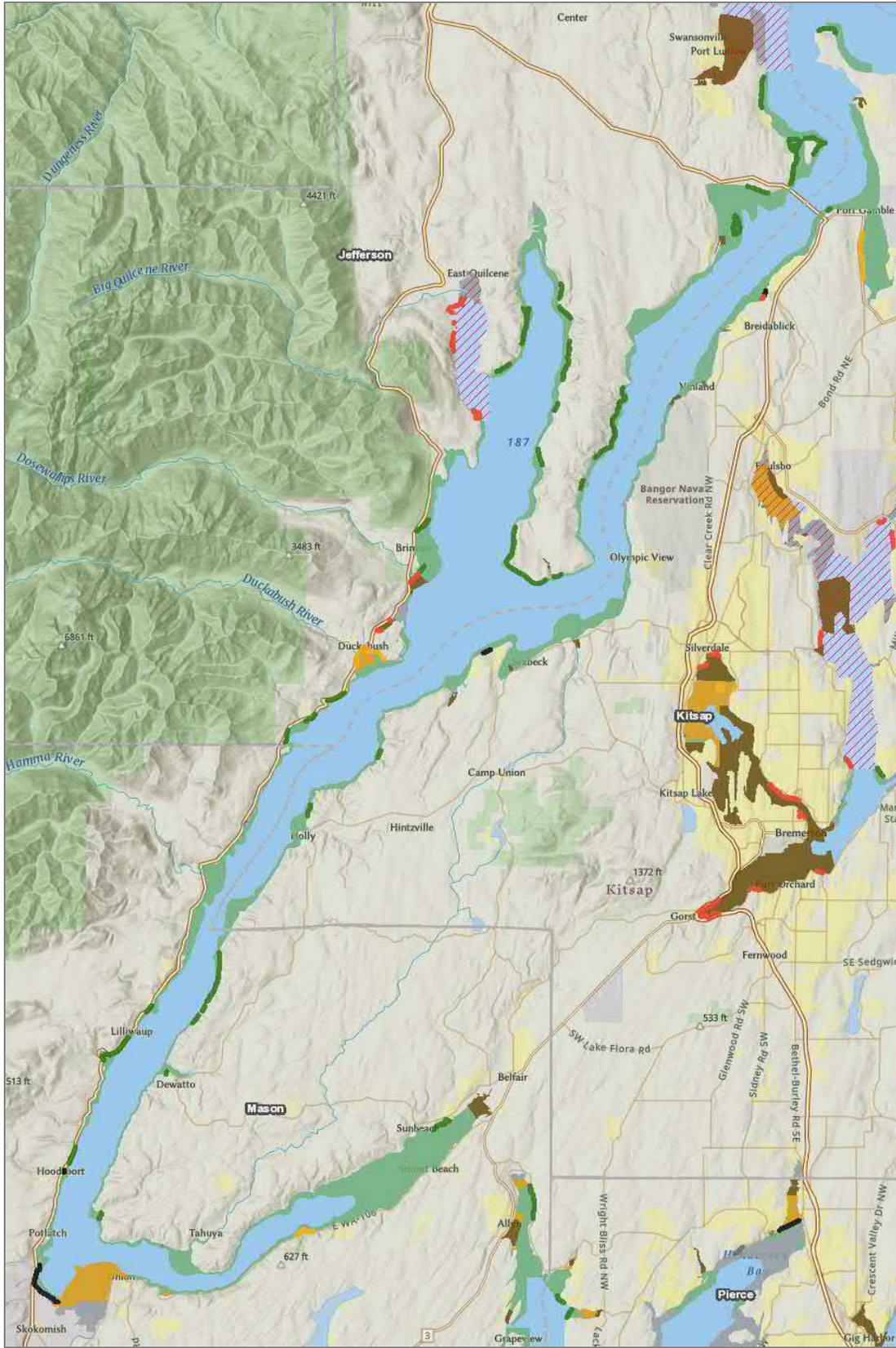
Map B-2. Northern Portion of Central Puget Sound



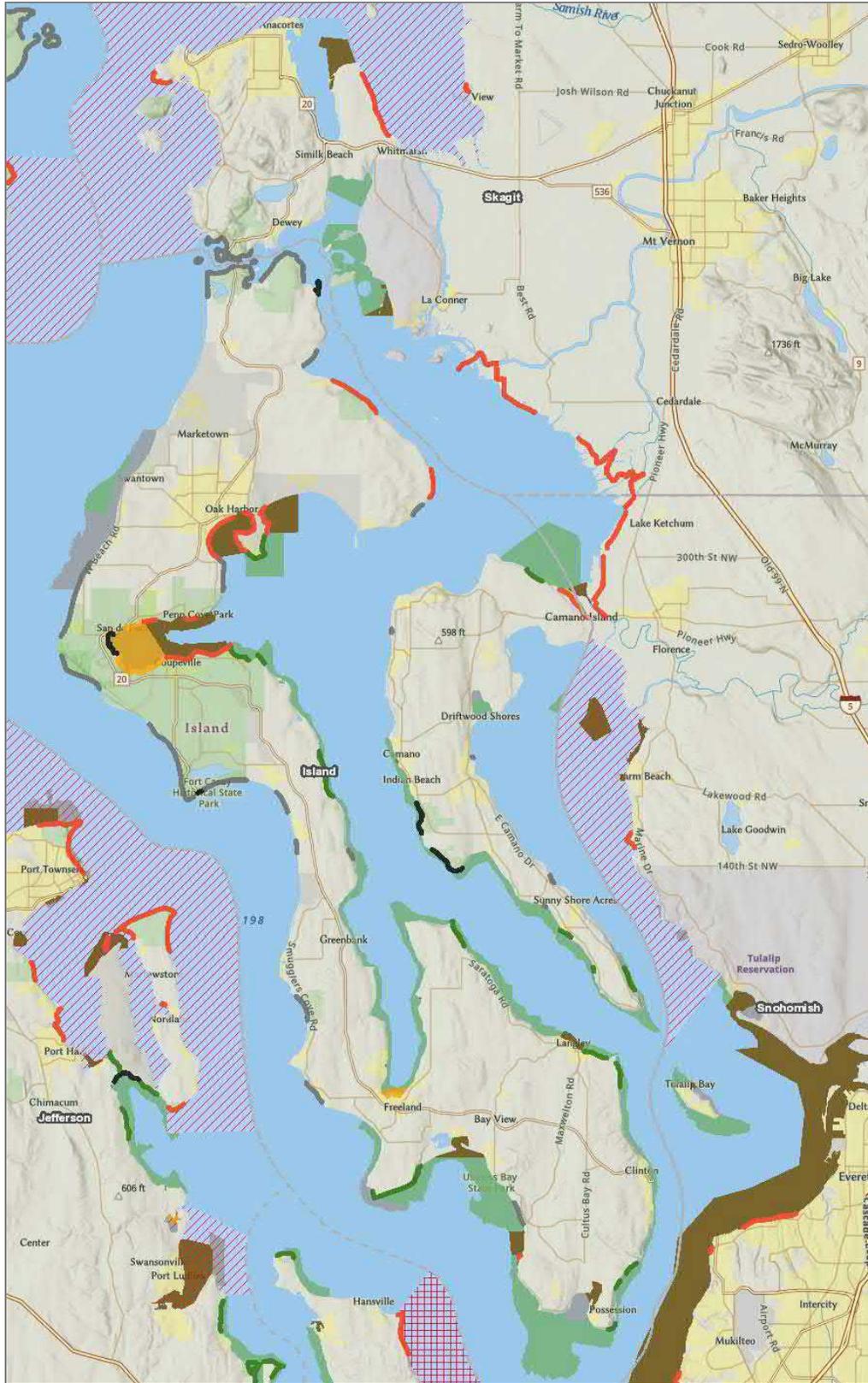
Map B-3. Southern Portion of Central Puget Sound



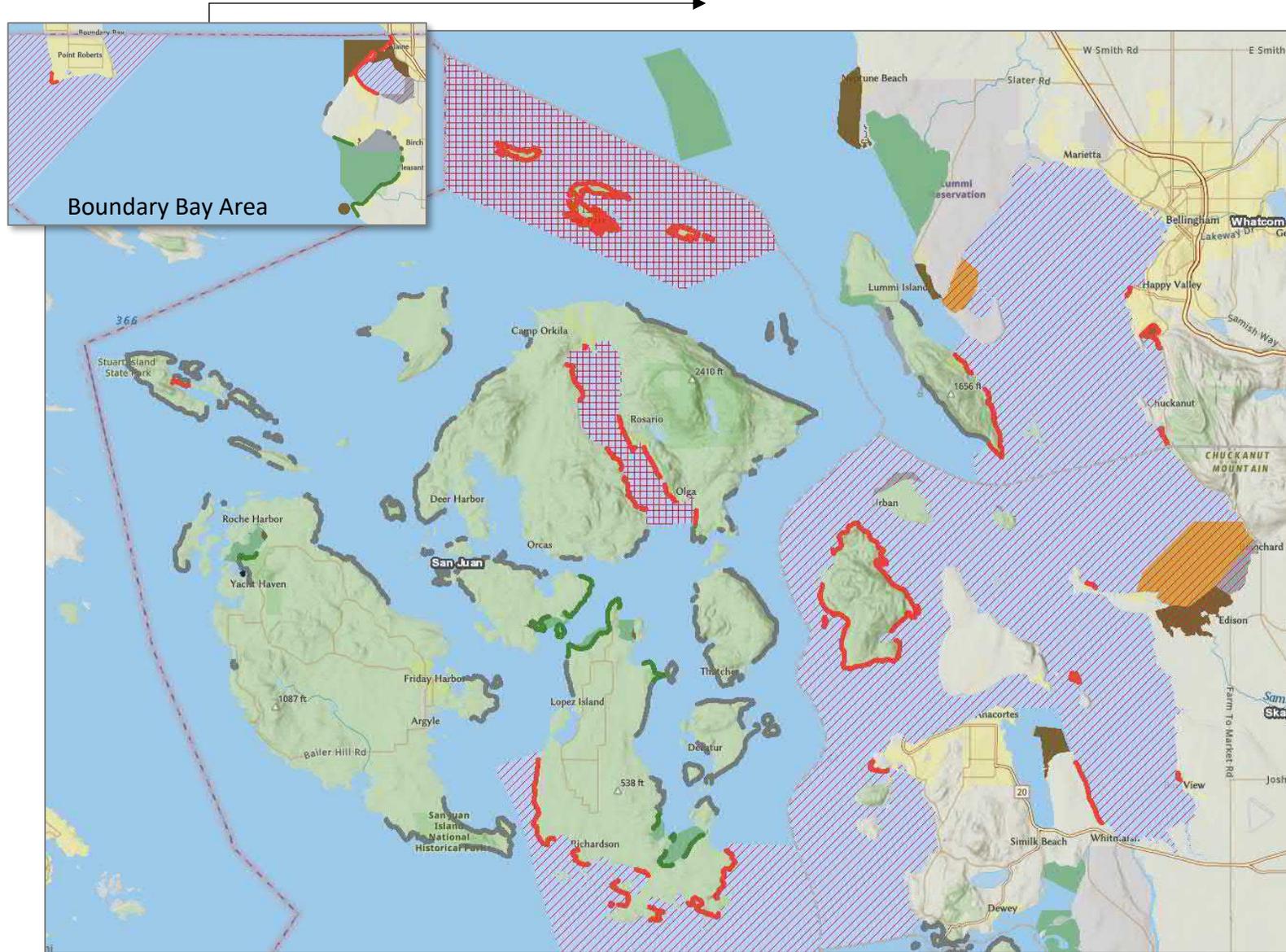
Map B-4. South Puget Sound



Map B-5. Hood Canal



Map B-6. Whidbey Basin Portion of North Puget Sound



Map B-7. Northern Portion of North Puget Sound

Attachment C – Figures



**Figure C-1. Upland Aquaculture Facility at the Manchester Research Station on Rich Passage**  
(Top: Dept. of Ecology, 2016; Bottom: [Puget Sound Restoration Fund](#))



Figure C-2a. Grow Bags at the Port Madison Community Shellfish Farm (Bainbridge Review<sup>1</sup>)



Figure C-2b. Flip Bags Suspended on Long Lines in Samish Bay ([NOAA Fisheries](#))

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<sup>1</sup> June 26, 2009. [Puget Sound Restoration Fund plots Bainbridge's first 'shellfish farm'](#). Bainbridge Review.



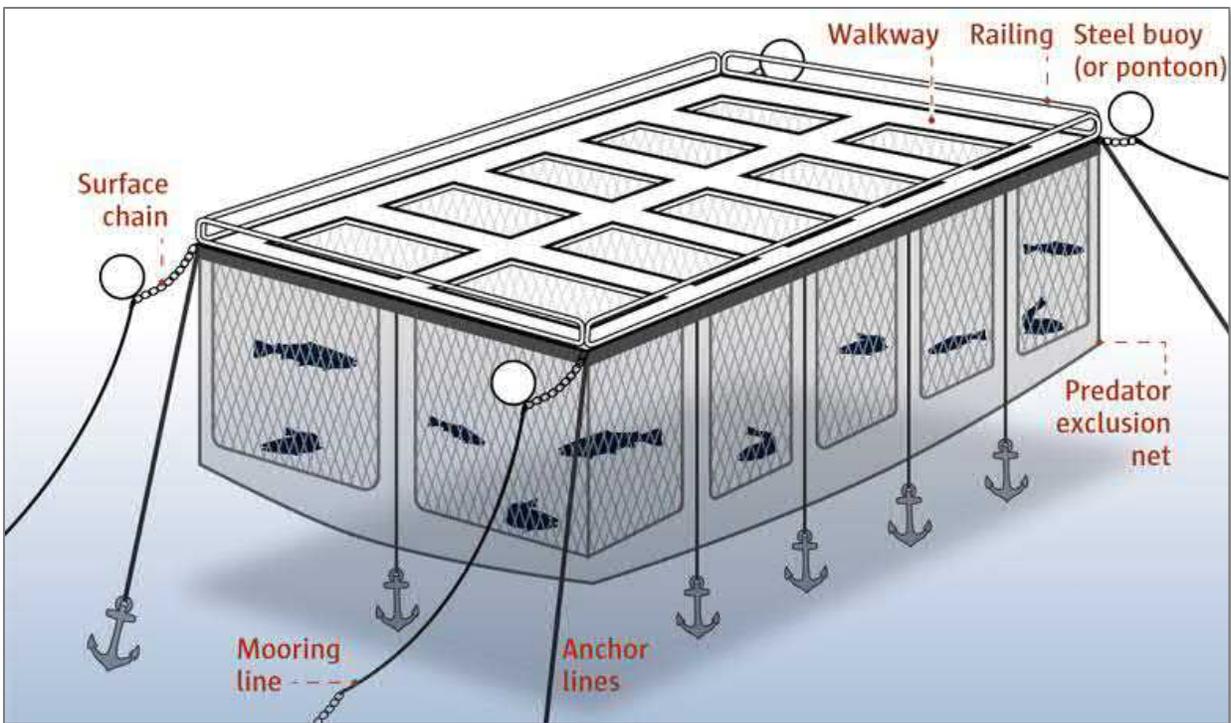
**Figure C-2c. Intertidal Geoduck Tubes** (Encyclopedia of Puget Sound<sup>2</sup>)



**Figure C-2d. Predator Exclusion Nets** (WA Sea Grant<sup>3</sup>)

<sup>2</sup> Williams, David. March 13, 2020. [Digging the mighty geoduck: A history of Puget Sound's 'boss clam'](#). Encyclopedia of Puget Sound.

<sup>3</sup> Dunne, Niall. August 1, 2017. [Washington Sea Grant researchers seek paths forward in local conflicts over geoduck farming](#). Washington Sea Grant.



**Figure C-3a. Finfish Net Pens Suspended from Floats**  
 Top: Fish Farm in Rich Passage (Dept of Ecology, 1992)  
 Bottom: Fish Farm Diagram (Seattle Times<sup>4</sup>)

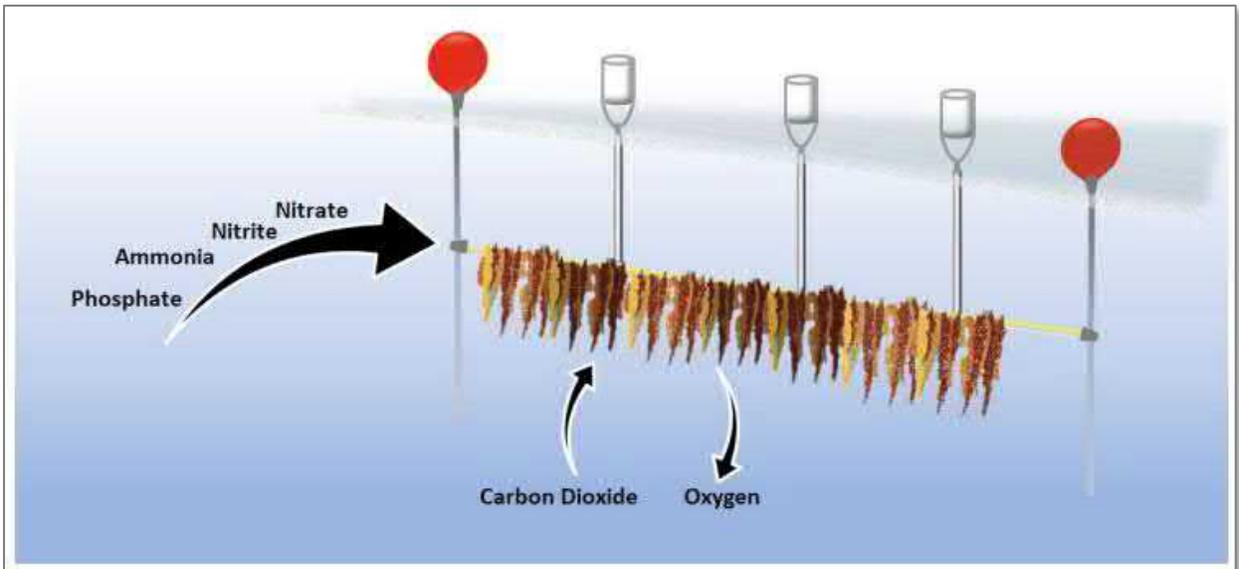
<sup>4</sup> Bush, Evan. Nov. 29, 2019. [Cook Aquaculture agrees to pay \\$2.75M to settle lawsuit over salmon net-pen collapse](#). Seattle Times.



Figure C-3b. Finfish Net Pens Suspended from Buoys in Agate Passage (Google Earth, 2015)



Figure C-3c. Mussel Lines Suspended from Rafts in Penn Cove, Whidbey Island  
(Top: Google Earth, 2018; Bottom: [Penn Cove Shellfish](#))



**Figure C-3d. Kelp Farming**

Top: Experimental Kelp Farm in Hood Canal ([WA Sea Grant](#))

Bottom: Kelp Farm Diagram (NOAA<sup>5</sup>)

<sup>5</sup> Langton, Richard, et al. 2019. [An Ecosystem Approach to the Culture of Seaweed](#). NOAA Technical Memorandum NMFS-F/SPO-195.

**Table 1.** Weight and value of Washington shellfish aquaculture production by species, 2013 (percentages are rounded to the nearest whole number for all tables).

Species	Weight		Value	
	Pounds	Percentage	Dollars	Percentage
Mussels	3,655,551	16	7,940,408	9
Geoduck clam	1,613,114	7	24,482,209	27
Manila clam	7,259,401	31	17,451,985	19
Pacific oyster	8,793,138	38	34,853,940	38
Softshell clam	1,419,509	6	454,198	<1
Other	664,905	3	6,738,647	7
Total	23,405,618	100	91,921,390	100

**Table 2.** Regional summary of 2013 Washington aquaculture production and value.

Region	Production		Value	
	Pounds	Percentage	Dollars	Percentage
South Puget Sound	8,664,322	37	53,230,541	58
Central Puget Sound	5,253	<1	19,411	<1
North Puget Sound	3,926,994	17	7,311,343	8
Hood Canal	3,490,795	15	11,566,475	13
Strait of Juan de Fuca	155,467	<1	455,587	<1
Willapa Bay	5,948,216	25	15,567,786	17
Grays Harbor	1,209,895	5	3,956,918	4
Total	23,400,942	100	92,108,061	100

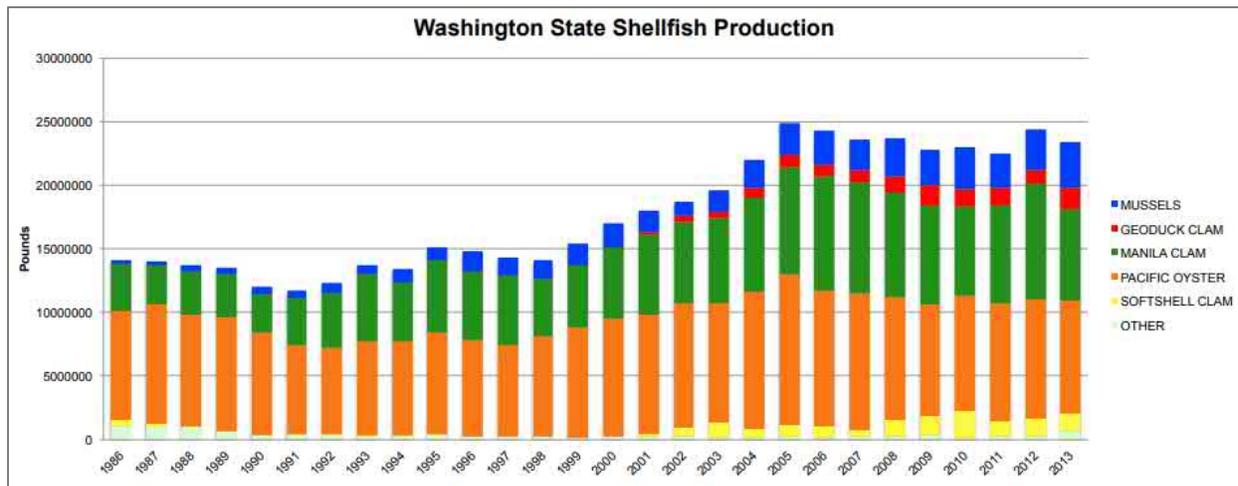


Figure C-4a. Washington Shellfish Aquaculture Production (WA Sea Grant<sup>6</sup>)

<sup>6</sup> Washington Sea Grant. 2015. [Shellfish Aquaculture in Washington State](#). Final Report to the Washington State Legislature.

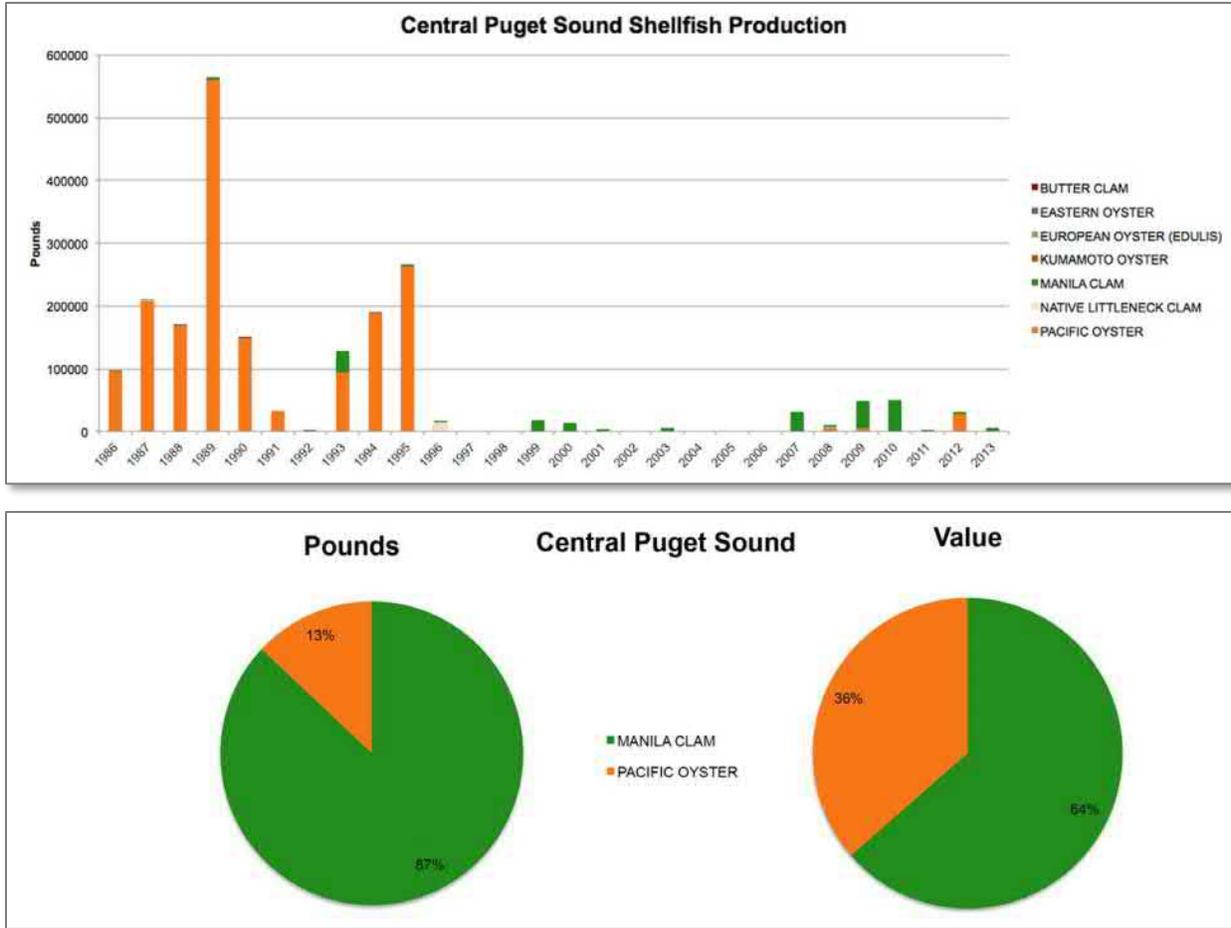


Figure C-4b. Central Puget Sound Shellfish Aquaculture Production (same as Figure 4a)

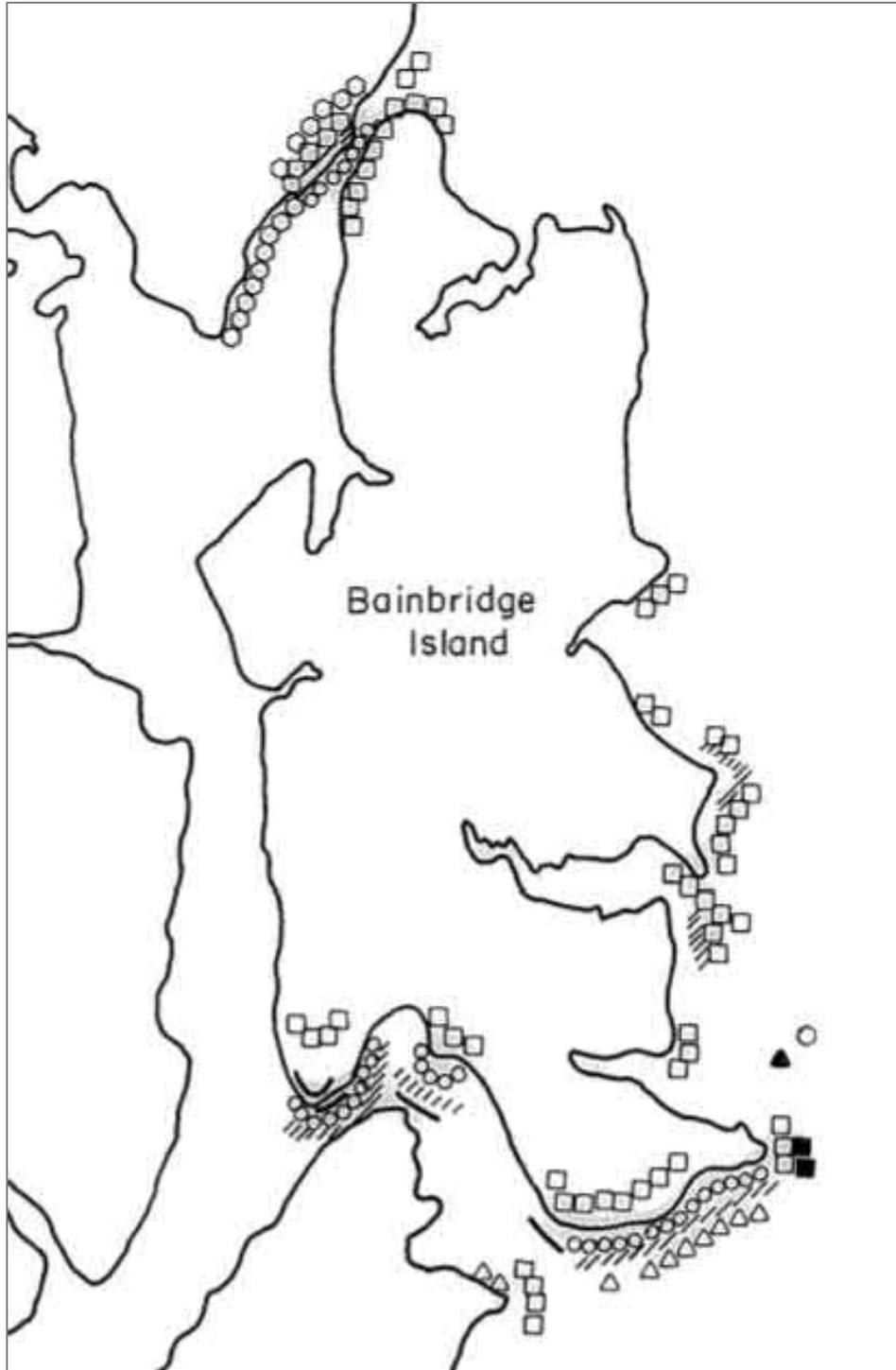
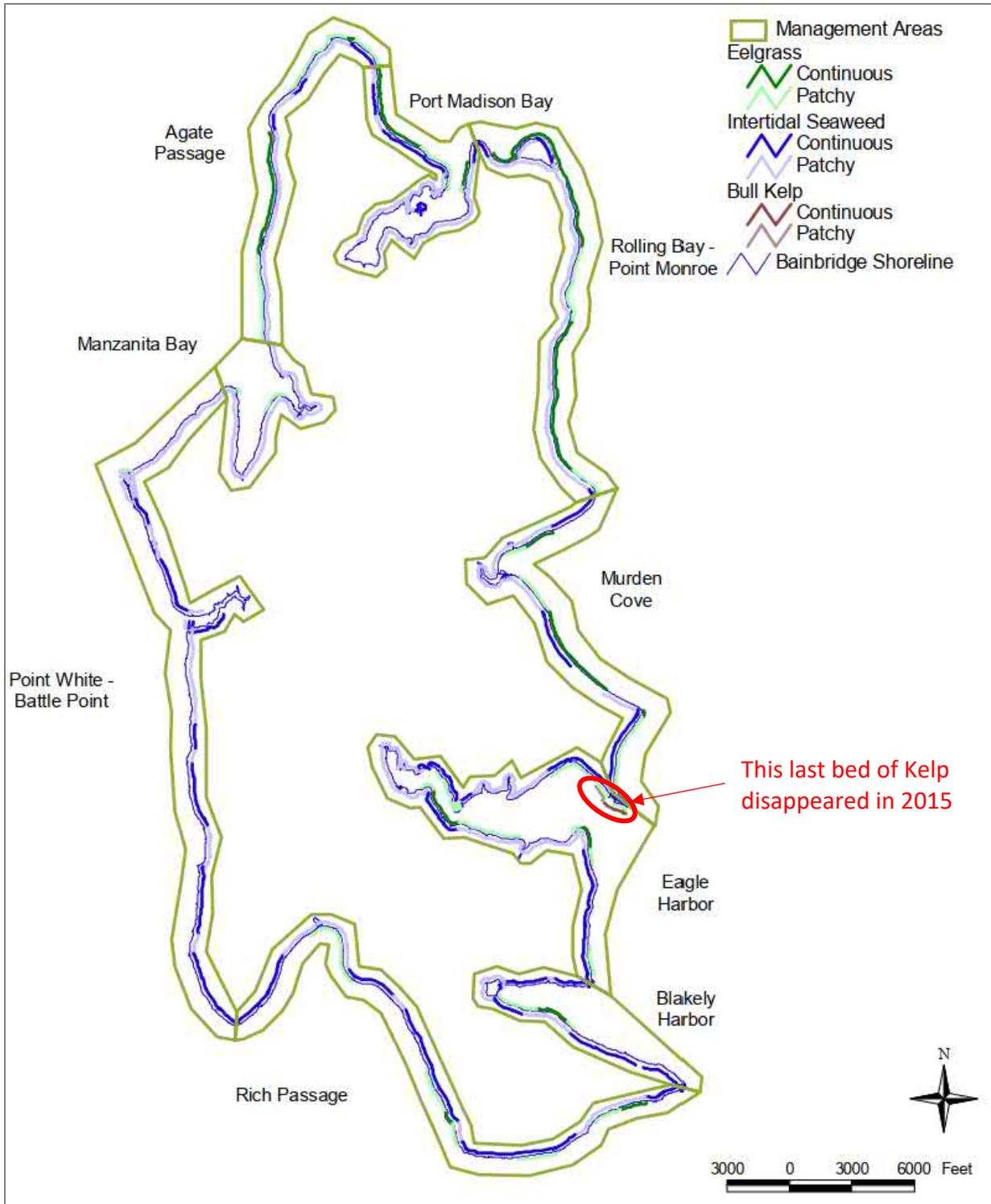


Figure C-5a. Historic Distribution of Kelp around Bainbridge Island<sup>7</sup>

<sup>7</sup> Thom, R. and L. Hallum. 1990. [Long-Term Changes in the Areal Extent of Tidal Marshes, Eelgrass Meadows and Kelp Forest of Puget Sound](#). Prepared by the Wetland Ecosystem Team for the U.S. Environmental Protection Agency Region 10.



**Figure C-5b. Eelgrass, Kelp (circled), and Seaweed Distribution around Bainbridge Island<sup>8</sup>**

<sup>8</sup> Williams, G., R. Thom, N. Evans. 2004. [Bainbridge Island Nearshore Habitat Characterization & Assessment, Management Strategy Prioritization, and Monitoring Recommendations](#). Prepared for the City of Bainbridge Island by the Marine Science Laboratory of the Battelle Memorial Institute.

## Attachment D – Shellfish Aquaculture Permitting Process Overview

Source: Washington Shellfish Initiative, [Shellfish Interagency Permitting Team](#)

Primary Requirements to Grow and Harvest Shellfish in Washington State  
09/2014

Agency	Requirement	Application	When needed	Fee	Contact
Tribes	<ul style="list-style-type: none"> <li>• Tribal Harvest Agreement or Management Plan</li> </ul>	6.3 form	-required for any work affecting wild shellfish	Maybe	Appropriate tribe (can be determined via NWIFC)
Local County	<ul style="list-style-type: none"> <li>• Shoreline Substantial Development or Conditional Use Permit</li> </ul>	JARPA	-depends on County	Yes	Local Planning Office
WA Dept. of Health	<ul style="list-style-type: none"> <li>• Operators License</li> <li>• Harvest Site Certificate</li> </ul>	Shellfish Operators License App  Harvest Site App for specific parcel	-required for commercial sales of shellfish  -required to harvest shellfish in waterbody	Yes	DOH Commercial Licensing Unit
WA Dept. of Fish & Wildlife	<ul style="list-style-type: none"> <li>• Aquatic Farm Registration (AFR) Permit</li> <li>• Emerging Commercial Fishery (ECF) Permit</li> <li>• Shellfish Import Permit</li> <li>• Shellfish Transfer Permit</li> </ul>	AFR App  ECF App  Import Permit App  Transfer Permit App	-required for commercially growing and selling shellfish  -required for harvesting wild shellfish (i.e. clearing standing stock)  -required for importing live shellfish into WA state waters  -required for transport of shellfish within WA state waters	Yes  Yes  No  No	WDFW Commercial Licensing Unit   WDFW Port Townsend Field Office
WA Dept. of Natural Resources	<ul style="list-style-type: none"> <li>• Aquatic Lease</li> </ul>	JARPA	-required to work on state owned aquatic lands	Yes	DNR Aquatics Program
US Army Corps of Engineers	<ul style="list-style-type: none"> <li>• Dept. of the Army Permit:                             <ul style="list-style-type: none"> <li>• Section 10 Rivers &amp; Harbors Act</li> <li>• Section 404 Clean Water Act</li> </ul> </li> </ul>	JARPA	-required for work in navigable waters of US  -required for the discharge of material into waters of US	Yes for IP; No for NWP	Corps Regulatory Branch

Supplemental Requirements

Agency	Requirement	Application	When needed	Fee	Contact
Tribes	<ul style="list-style-type: none"> <li>• 106 Consultation</li> <li>• Tribal Notification (consultation)</li> </ul>	ACOE Notification	-required for permit from ACOE	No	Consultation initiated by ACOE
WA Dept. of Ecology	<ul style="list-style-type: none"> <li>• 401 Water Quality Certification</li> </ul>	JARPA	-required for permit from ACOE	No	Ecology SEA Program
	<ul style="list-style-type: none"> <li>• CZM Consistency Determination</li> </ul>	Form provided by Ecology	-required for permit from ACOE for work in marine waters		
	<ul style="list-style-type: none"> <li>• Shoreline Permit Review</li> </ul>	County notification	-required for County to issue CUP		
NOAA Fisheries	<ul style="list-style-type: none"> <li>• ESA section 7 consultation</li> <li>• EFH consultation</li> </ul>	ACOE Notification	-required for permit from ACOE	No	Consultation initiated by ACOE
USFWS	<ul style="list-style-type: none"> <li>• ESA section 7 consultation</li> </ul>	ACOE Notification	-required for permit from ACOE	No	Consultation initiated by ACOE

**List of Acronyms**

- A/CA – Approved or Conditionally Approved
- ACOE – Army Corps of Engineers
- CZM – Coastal Zone Management
- ESA – Endangered Species Act
- IP – Individual Permit
- JARPA – Joint Aquatic Resources Permit Application
- NOAA – National Oceanic and Atmospheric Administration
- NWIFC – Northwest Indian Fish Commission
- NWP – Nationwide Permit
- SEA – Shorelands and Environmental Assistanct
- USFWS – US Fish and Wildlife Service

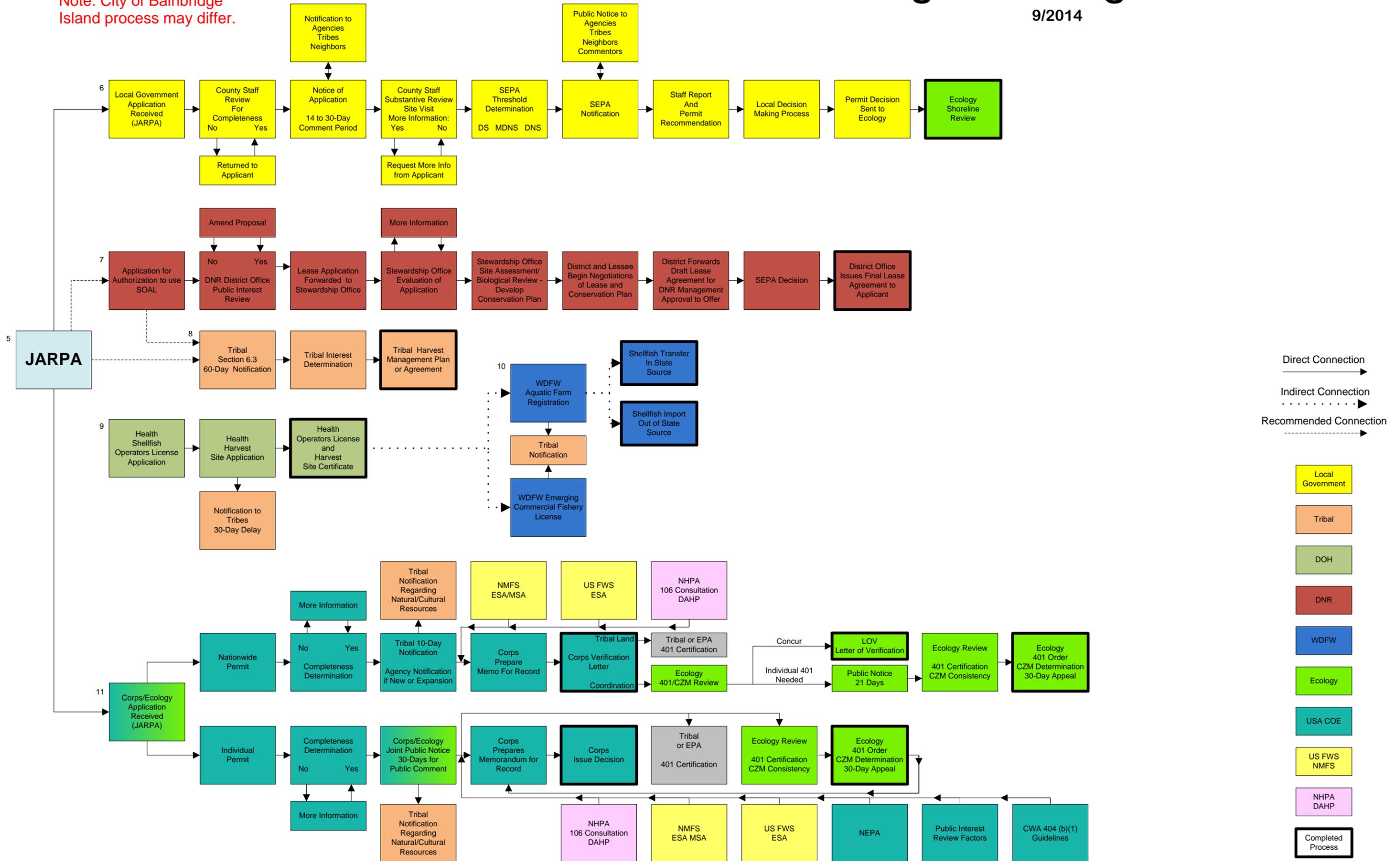
# Existing Permitting Processes

9/2014

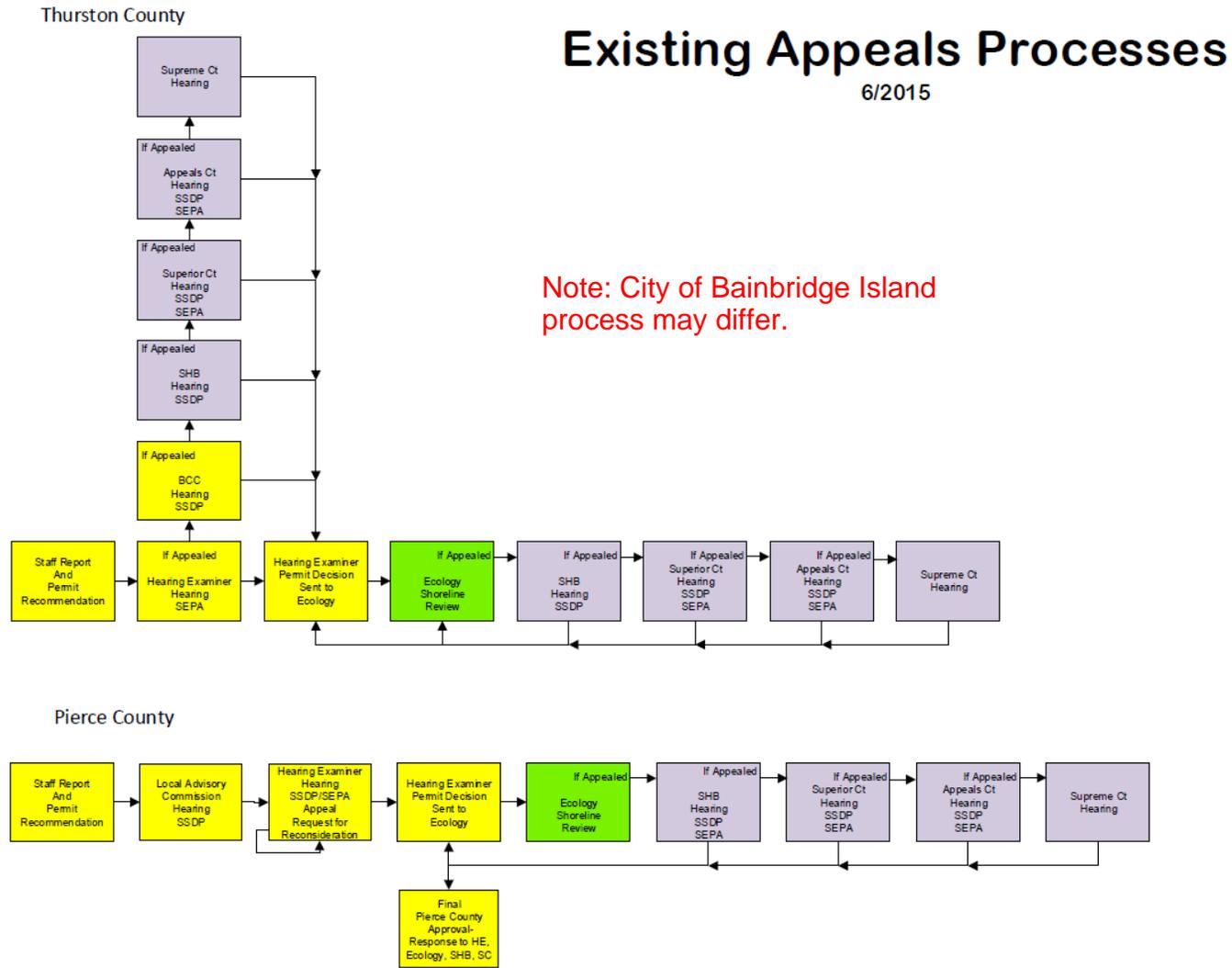
Early Inquiries:  
These are items to check prior to starting the application process, as they might direct the subsequent permitting path.

Note: City of Bainbridge Island process may differ.

- 1 Health Growing Area Classification
- 2 DNR Ownership Determination
- 3 Tribal Interests Determination
- 4 Local Government Application Pre Submission Conference



**Appendix B: Supplemental Flow Chart for Local Government Appeals Processes (Thurston and Pierce Counties)**



## Supplemental Narrative for Existing Permitting Processes Flowchart 09/2014

This document is meant to be used as a supplement to the flowchart of 'Existing Permitting Processes developed by the Shellfish Interagency Permitting Team. Top level numbers 1-8 correspond with numbered boxes on the flowchart. Ancillary information follows the flowchart's arrows radiating from boxes 1-8.

It is recommended that the steps in numbers 1-4 be completed prior to making formal application with local, State, or Federal agencies below to minimize possible delays later in the permitting process.

1. **Health Growing Area Classification:** contact Department of Health (DOH) to determine if growing area is classified:  
<http://www.doh.wa.gov/CommunityandEnvironment/Shellfish/GrowingAreas.aspx>  
 Classifications include:  
 A = approved  
 CA = conditionally approved  
 R = restricted  
 P = prohibited  
 U = unclassified; if unclassified you can only request classification if you are a licensed shellfish company or intend to be licensed (DOH Shellfish License)
  
2. **Department of Natural Resources (DNR) Ownership Determination:** determine if land is privately owned or owned by the state:
  - a. To determine if **State Owned Aquatic Lands (SOAL)**, call DNR's Aquatic Program: 360-902-1100 or via:  
[http://www.dnr.wa.gov/BusinessPermits/Topics/ShellfishAquaticLeasing/Pages/aqr\\_aquatic\\_land\\_leasing.aspx](http://www.dnr.wa.gov/BusinessPermits/Topics/ShellfishAquaticLeasing/Pages/aqr_aquatic_land_leasing.aspx)
    - If SOAL, you will need to obtain a lease from DNR (see step 7 for more details)
    - If not SOAL, and your project is subtidal, you will need to determine if there is Bush Act/Callow Act Reversionary Interest (79.135.010). DNR will assist with determination.
  - b. For **private ownership**, you will need signed documentation from owner
  
3. **Tribal Interests Determination:** if the land parcel is not part of the Settlement Agreement<sup>1</sup>, you must determine if there are Tribal Interests by submitting a 6.3 form to the appropriate tribe.
  - a. To determine if the land parcel is part of the Settlement Agreement contact the Northwest Indian Fisheries Commission (NWIFC) staff shellfish contact. If not

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<sup>1</sup> Settlement Agreement: in 2007 Puget Sound commercial shellfish growers and 17 treaty Indian tribes in western Washington reached a landmark agreement that addressed treaty shellfish harvest rights, preserved the health of the shellfish industry and provided greater shellfish harvest opportunities for everyone in the state:  
<http://nwifc.org/about-us/shellfish/commercial-shellfish-growers-settlement/>

part of the Settlement Agreement a 6.3 form must be submitted to the appropriate Tribe(s). The NWIFC staff member can help determine the appropriate Tribe(s) to contact:

<http://nwifc.org/about-us/staff-directory/>

<http://nwifc.org/about-us/shellfish/downloads/>

<http://nwifc.org/w/wp-content/uploads/downloads/2012/01/Section-6.3-Form.pdf>

- b. Note that there are multiple times in the permit process that the tribes are notified. For instance, when you go through the DOH process the tribes will be notified and a 6.3 form provided. However **it is the applicant's responsibility to fill out the 6.3 form and submit directly to the Tribes**. It is advisable to start this process early to be sure other permits not held up later.
  - c. 6.3 process outlined in detail in #8 below.
4. **Local Government Application Pre-Submission Conference:** the local government review process can be the most detailed and time consuming part of an aquaculture application. A pre-submission conference will explain the review process and help ensure that the applicant understands what information must be included in the application. For some local governments this meeting is required and for some it is optional.
- a. A fee may be required dependent on type of meeting and County
  - b. The pre-submission conference will give you information about what needs to go into the JARPA

*With adequate support, the Shellfish Interagency Permitting Team (SIP) could facilitate these initial steps with all necessary entities to promote early coordination.*

5. **JARPA:** fill out a Joint Aquatic Resource Permit Application (JARPA):  
[http://www.epermitting.wa.gov/site/alias\\_resourcecenter/jarpa\\_jarpa\\_form/9984/jarpa\\_form.aspx](http://www.epermitting.wa.gov/site/alias_resourcecenter/jarpa_jarpa_form/9984/jarpa_form.aspx)
- a. Please refer to *JARPA Instruction B: For Shellfish Aquaculture* for information about how best to fill out this form (link TBD).
  - b. Use the *Aquaculture JARPA Supplemental Drawing Checklist* to be sure your maps and drawings contain all required information (link TBD).
  - c. Applicant is required to submit an original **signed** JARPA to each permitting entity that accepts JARPA individually to initiate permitting process (see below for more details by entity). Please ensure content is the same for each JARPA submitted to each permitting entity.
6. **Local Government Application Received:** outlined here is the general process for local government permit review. These steps will vary amongst local governments. It is highly recommended to have a pre-submission conference prior to submitting your JARPA to make sure all required information is included in your application and to understand the local process.
- a. Submit JARPA to local government (if local government requires a permit) to initiate their review
  - b. Pay application fee (varies by county)

- c. **County Staff Review For Completeness** (varies by local government): for some local governments, this initial review simply confirms that all necessary paperwork is included in application. In others a thorough review of content is done at this point.
  - i. If application is not complete it is **Returned to Applicant**.
  - ii. When application is complete, the county will send out a notice of application to interested parties.
- d. **Notice of Application, Comment Period:** the notice of application is sent out as a solicitation for comments. This triggers a **14 to 30-Day Comment Period** (local government has the discretion to set the length of the comment period from 14 to 30 days):
  - i. **Notification to Agencies/Tribes/Neighbors** (per code); notice of application is sent to interested parties as a solicitation for comments only.
    - 1. Note that this is NOT a start of application process for state/federal agency permits, it is simply a request for comments to the County; applications must be submitted directly to other agencies (as outlined below) to begin those permitting processes.
    - 2. In general, neighbors receive general project descriptions while agencies receive more detailed information.
    - 3. At this time, the notification of the project is also sent to internal county agencies
    - 4. Some Counties may require signage with information about the project to be posted at the site at this point.
- e. **County Staff Substantive Review, Site Visit:** the County conducts a thorough substantive review of the content of the application which usually includes a site visit. Timelines for review are in code and best attempts made to stay within them but may vary dependent on complexity of project and comments received from interested parties.

*Site visit could include all regulating entities.*

- i. The County may **Request More Information from Applicant**. A back and forth process may occur during which supplemental information is gathered and the project may be modified.
- ii. Concerns of county and interested parties raised during Comment Period, are addressed during this process.
- iii. Every jurisdiction has requirement for timely response, but timelines may vary and deviations may be allowed.
  - 1. Example: Pierce and Thurston have 30 days allowed for substantive review but if more information is required a request for information is sent to applicant. In Pierce the applicant has 360 days to reply. In Thurston the applicant has 180 days to reply (which can be extended if needed). Once information is provided by the applicant, the County has 14 days to review (which may

result in another request for information, extending the timeline further).

- f. **SEPA Threshold Determination:** project modifications that may be made during substantive review lead to this final determination.
  - i. **DS** = Determination of Significance
    - 1. Will require an Environmental Impact Statement (EIS)
  - ii. **MDNS** = Mitigated Determination of Non-Significance
    - 1. Mitigating Conditions: MDNS means there are specific SEPA mitigation measures (conditions) that do not exist in code applied to the project (and indicated via notes to applicant)
    - 2. Project may also have a list of conditions that bring it into compliance with County Code;
  - iii. **DNS** = Determination of Non-Significance
    - 1. Approval requirements will only be those via County code (code compliant). May include descriptions of how project meets the codes by listing out what will be done (described in notes to applicant)
- g. **SEPA Notification:** applicant/agencies/tribes/neighbors notified of threshold determination.
  - i. **Public Notice to Agencies/Tribes/Neighbors**
    - 1. Neighbors may only be notified if requested (i.e. Pierce), or all neighbors within a certain distance of the project may be notified.
    - 2. Note that the threshold determination can be appealed but will be consolidated with any appeals of permit issuance further along in the process.
- h. **Staff Report and Shoreline Permit Recommendation**
  - i. Staff report lists proposal, applicable policies and regulations, and County interpretation; will include Conditional Use Permit (CUP) and/or Shoreline Substantial Development Permit (SSDP) findings
  - ii. Recommendation
    - 1. Approval, Approval with Conditions, or Denial
    - 2. To what entity the recommendation is made varies by County (i.e. Thurston makes recommendation to Hearing Examiner)
- i. **Local Decision Making Process:** varies by County. This is where appeals can be made (which can substantially affect the timing of final decisions) and additional conditions may be added.
- j. **Shoreline Permit Decision Sent to Ecology:** varies by County and may be appealed
  - i. Approved, Approved with Conditions, or Denied
  - ii. After Hearing Examiner or Shoreline Administrator issues decision, it is sent to Ecology
- k. **Ecology Shoreline Review:**
  - i. Varies by permit type.
    - 1. For SSDPs Ecology simply receives and files the decision, and notifies applicant of filing.
    - 2. For CUPs Ecology has authority to Approve, Approve with Conditions, or Deny

*Appeals processes may occur at the local and state level and can affect timing and outcome of permit process. Please see supplemental flowchart (in preparation) for detailed examples of local and state appeals processes*

7. Submit JARPA to DNR District Office as the **Application for Authorization to use SOAL** with \$25 application fee:  
[http://www.epermitting.wa.gov/site/alias\\_ResourceCenter/2489/jarpa\\_contacts.aspx](http://www.epermitting.wa.gov/site/alias_ResourceCenter/2489/jarpa_contacts.aspx)
  - a. If project area is not part of Settlement Agreement (see #3 above) and you have not already done so, notify the appropriate Tribe and submit a 6.3 form. You must have a **written** Tribal Agreement or Management Plan in place for DNR to issue a lease (see #8 below).
  - b. **DNR District Office Public Interest Review:** application received and reviewed for conformance with statutory requirements (“4+1 directives”: encourage, foster, ensure, utilize; (+1) generate revenue; RCW 79.105.030):  
<http://www.dnr.wa.gov/BusinessPermits/Topics/ShellfishAquaticLeasing/Pages/Home.aspx>
    - i. If no, or not consistent with goals (i.e. use conflict) project needs to be amended (**Amend Proposal**) or is declined
    - ii. If yes (or after project appropriately amended), the **Lease Application Forwarded to Stewardship Office** by the district for evaluation
- a. **Stewardship Office Evaluation of Application:** if needed **More Information** may be requested. Work with Stewardship Office to accomplish the next steps:
  - i. **Stewardship Office Site Assessment/Biological Review—Develop Conservation Plan:**
    - i. Site visit

*Site visit could occur at same time as County site visit.*

- ii. Stewardship specialist makes recommendations and puts together site summary (assessment)
- iii. Stewardship office sends recommendations and site assessment to District
- ii. **District and Lessee Begin Negotiations of Lease and Conservation Plan:** draft lease with recommendations for conservation and decision documents
- iii. **District Forwards Draft Lease Agreement of DNR Management Approval to Offer:** must have compliance with all other permits (if you don't then DNR won't make offer)
- iv. **SEPA Decision:** if no SEPA at County level (i.e. no County permit required) then DNR will be SEPA lead and issue the SEPA threshold determination (similar to 5f. above)
- v. **District Office Issues Final Lease Agreement to Applicant**

8. **Tribal Section 6.3 60-Day Notification:** required if any work will occur that affects wild shellfish if parcel not part of Settlement Agreement (see #3 above)
- a. Contact appropriate Tribe(s) and submit 6.3 Form. The NWIFC shellfish staff member can help determine the appropriate Tribe(s) to contact:  
<http://nwifc.org/about-us/staff-directory/>  
<http://nwifc.org/about-us/shellfish/downloads/>  
<http://nwifc.org/w/wp-content/uploads/downloads/2012/01/Section-6.3-Form.pdf>
  - b. Once 6.3 Form submitted to Tribe(s) you must wait 60 days before undertaking any activity on the parcel (i.e. harvest or enhancement). It is strongly recommended that you have Tribal Agreement or Harvest Management Plan (or written no interest determination) in place before doing so.
  - c. **Tribal Interest Determination:** Tribe(s) determines if they have interest in area (to determine if they have Tribal Treaty Rights) by surveying area.
    1. If determined that there is a natural bed that the Tribe(s) has interest in, technically the Tribe(s) and applicant have 30 days to negotiate and develop a Harvest Management Plan/Agreement. If disagreement on survey results the 30 days may be extended.
    2. If Tribe(s) determines no interest you will need this determination in writing. Thus, a Tribal Agreement may simply be a written indication from the Tribe(s) that they are not interested in the parcel. If Tribe(s) determines no shellfish beds then no Harvest Management Plan needed.
  - d. **Tribal Harvest Management Plan or Agreement** with Tribe(s).
9. Submit the Department of Health (DOH) **Shellfish Operators License Application and/or Harvest Site Application** to obtain Operators License and Harvest Site Certification. These licenses and certifications are required to harvest or sell a commercial quantity of shellfish. Applications and additional information may be found at:  
<http://www.doh.wa.gov/CommunityandEnvironment/Shellfish/CommercialShellfish/ApplyforaLicense.aspx>
- a. **Shellfish Operators License:** required for any commercial shellfish activity. There are three types of licenses:
    1. Harvester License—can harvest and sell to another licensed dealer in state only
    2. Shell Stock Shipper—can harvest, sell to restaurants, retail, inter/intra state and international
    3. Shucker/Packer—can shuck shellfish and can sell to same as #2
  - b. **Harvest Site Application:** DOH Harvest Site Certification is required for each site/parcel that is farmed (must have Operators License to apply)
    - i. Once received, DOH sends notification to Tribes and posts on website for Tribes (thus, if you haven't already notified Tribes in steps above, the Tribes will contact grower individually here); DOH sends applicant 6.3 form and lets applicant know to send to tribes (if you have already done this at step #3 or #8 above, you do not have to do it again).

- ii. As a courtesy to Tribes and to allow time for the step #8 process, DOH waits 30 days from receipt of application to issue the **Harvester Site Certificate**. The Certificate will list all sites/parcels on which a company is licensed to harvest.
10. Washington Department of Fish and Wildlife (**WDFW**): there are four different permits issued by WDFW that you may need:
- a. **Aquatic Farm Registration (AFR)**: required for commercially growing and selling shellfish
    - i. Before grower obtains AFR they must have DOH Harvest Site Certificate.
    - ii. WDFW will supply Tribe(s) copies of AFR (causes no delay on issuance of AFR).
  - b. **Emerging Commercial Fishery License (ECF)**: required for harvesting wild shellfish (i.e. clearing standing stock)
    - i. WDFW will notify the Tribe(s) of the application for ECF License.
    - ii. Before obtaining the ECF grower must have DOH Harvest Site Certificate.
  - c. **Shellfish Import Permit**: required for importing live shellfish into WA state waters
  - d. **Shellfish Transfer Permit**: required for transport of shellfish within WA state waters
11. Submit JARPA to Corps and Ecology (**Corps/Ecology Application Received**). Corps determines if project qualifies (meets terms & conditions) for Nationwide Permit or if an Individual Permit is required.
- a. **Nationwide Permit (NWP)**
    - i. **Completeness Determination**: Corps determines if application complete (refer to Pre-Construction Notification requirements for NWP48). If yes, move on. If no, Corps requests for more information with 30 days for the applicant to respond or application cancelled.
    - ii. **Tribal 10-Day Notification/Agency Notification**:
      - 1. Agency notification (DOE, DNR, EPA, NOAA, USFWS) for new or expansion projects.
      - 2. **Tribal Notification Regarding Natural/Cultural Resources<sup>2</sup>**:
        - a. Tribal Natural Resource Dept: has 10 days to provide comments and if not received Corps moves on. Tribe can request additional 15 day extension. Tribes may provide comments on project related to habitat and treaty entrusted Usual and Accustomed (U&A) areas<sup>3</sup>. Any comments must be addressed by the Corps prior to issuing a permit.

<sup>2</sup> Note that this notification is not the same as #8 (Tribal Section 6.3 60-Day Notification).

<sup>3</sup> Fifteen western Washington tribes each have a “usual and accustomed” harvest area (U&A) that reflects the historical region in which finfish, shellfish, and other natural resources were collected. All tidelands in Puget Sound are within the usual and accustomed harvest areas of one or more tribe. The fifteen tribes with U&A are: Jamestown S’Klallam, Lower Elwha Klallam, Lummi, Makah, Muckleshoot, Nisqually, Nooksack, Port Gamble S’Klallam, Puyallup, Skokomish, Squaxin Island, Suquamish, Swinomish, Tulalip, and Upper Skagit.

- b. Tribal Cultural Resource Dept: provides information on potential to affect (or no potential to affect) historic properties. If potential to affect (determined by Corps) then consultation occurs (see 11.a.iii.3. below).
- iii. **Memo for Record** (this is the rationale for the decision); all of the items below (1-3) must be completed before the Memo for Record is finalized. Time associated with completion varies depending on level of effects.
  - 1. **NMFS ESA/MSA** consultations (ESA section 7 and MSA for Essential Fish Habitat) must be completed. Consultations are initiated by Corps. Individual consultations may not be necessary if project meets conditions of programmatic consultation or Corps determines “no effect”.
  - 2. **USFWS ESA** section 7 consultation must be completed. Consultation is initiated by Corps. Individual consultation may not be necessary if project meets conditions of programmatic consultation or Corps determines “no effect”.
  - 3. **NHPA 106 Consultation DAHP and Tribal:** Corps reviews project for 106 compliance, which includes consultation with State Historic Preservation Officer (SHPO) and tribe(s) when there is a potential to effect historic properties. Tribal consultation on natural and/or cultural resources must occur if comments received during 11.a.ii.2.b. above.
- iv. **Corps Verification Letter**<sup>4</sup>: when the Memo for Record is completed then verification of NWP coverage issued by Corps to the applicant and copy sent to Ecology or EPA dependent on project location<sup>5</sup> for verification that project meets their conditions of NWP.
- v. **Ecology 401/CZM Review:**
  - 1. If Ecology **concurs** that the project meets the state 401 conditions for the NWP, then Ecology **Letter of Verification (LOV)** is issued to applicant.
  - 2. If the project does not meet the state 401 conditions for the NWP, then an **individual 401** Certification review process will be triggered.
    - a. Ecology issues **Public Notice** for 21 days.
    - b. **Ecology Review/401 Certification/CZM Consistency**
      - i. SEPA determination from lead agency will be necessary unless 401 is the only state/local permit required<sup>6</sup>.
      - ii. CZM Consistency Determination: Ecology will review the Applicant’s CZM Consistency Statement to determine if the project is consistent with the 6

<sup>4</sup> Note that the Corps Verification Letter is different than the Letter of Verification (LOV) issued by Ecology.

<sup>5</sup> If the project is on state or federal land the copy is sent to Ecology. If on tribal land the copy is sent to EPA. Some tribes have their own 401 WQ standards so if project on their land the copy would be sent directly to respective tribe.

<sup>6</sup> 401 SEPA Categorical Exemption : WAC 197-11-800(9) Water Quality Certifications.

Enforceable Policies of the Coastal Zone Management Program<sup>7</sup>.

1. If consistent, then a ‘Consistency Determination’ is issued. Issued separate from 401 but review occurs concurrently.
  2. If not consistent, Ecology will issue a Letter of Objection. After determination there is a 30 day appeal process.
- iii. Project reviewed to determine there is reasonable assurance that state water quality standards will be met.
1. If yes, then Ecology issues a **401 Order** (401 Certification) to applicant that may have conditions. This decision has a 30 day appeal period.
  2. If no, then project denied. Applicant may modify project and reapply.
- vi. **EPA or Tribal 401 Certification:** only occurs when project on tribal land.

**b. Individual Permit (IP)**

- i. **Completeness Determination** (application review): Determine if application complete (33 CFR, 325.1(d)). If yes move on. If no, Corps requests for more information with 30 days to respond or application cancelled.
- ii. Corps and Ecology send out **Joint Public Notice** with 30 days for public comment.
  1. **Tribal Notification Regarding Natural/Cultural**<sup>8</sup>.
  2. Issuance of the Joint Public Notices starts Ecology’s statutory one year review (401 Trigger):
    - a. **Ecology Review:** this outcome informs Corps Memo for Record (see #3 below)
      - i. **401 Certification:** Project is reviewed to determine there is reasonable assurance that state water quality standards will be met.
        1. If yes, then **401 Order** issued to applicant. SEPA determination must be completed for Ecology to issue the 401 certification.
        2. If no, then project denied. Applicant may modify project and reapply.
        3. Ecology decision becomes part of Corps permit.
      - ii. **CZM Consistency Determination:** Ecology will review the Applicant’s CZM Consistency Statement

<sup>7</sup> The 6 Enforceable Policies of the Washington State Coastal Zone Management Program are: (1) the Shoreline Management Act; (2) the Clean Water Act; (3) the Clean Air Act; (4) the State Environmental Policy Act; (5) the Energy Facility Site Evaluation Council Law; and (6) the Ocean Resources Management Act.

<sup>8</sup> Note that this notification is not the same as #8 (Tribal Section 6.3 60-Day Notification).

to determine if the project is consistent with the 6 Enforceable Policies of the Coastal Zone Management Program.

1. If consistent, then a 'Consistency Determination' is issued. Issued separate from 401 but review occurs concurrently.
  2. If not consistent, Ecology will issue a Letter of Objection. After determination there is a 30 day appeal process.
3. **EPA or Tribal 401 Certification:** only occurs when project on tribal land.
- iii. **Corps Prepares Memo for Record:** All things below (1-7) must be completed first:
1. **Corps Process:** additional information may be required to complete alternatives analysis, public interest review, address any treaty rights issues, and/or address any public/agency comments received. Determination will be made whether mitigation is required. If so, mitigation plan must be submitted and approved.
  2. **NHPA 106 Consultation DAHP and Tribal:** Corps reviews project for 106 compliance, which includes consultation with State Historic Preservation Officer (SHPO) and tribe(s) when there is a potential to effect historic properties. Corps will take into consideration comments received and coordinate with Tribes appropriately (see 11.b.ii.1. above).
  3. **NMFS ESA/MSA** consultations (ESA section 7 and MSA for Essential Fish Habitat) must be completed. Consultations are initiated by Corps.
  4. **USFWS ESA** section 7 consultation must be completed. Consultation is initiated by Corps.
  5. **NEPA** compliance for major federal actions per Appendix B to Part 325-NEPA Implementation Procedures for the Regulatory Program
  6. **Public Interest** Determination must discuss whether the project is (or is not) contrary to the public interest per 33 CFR 320.4(a)(1).
  7. **CWA 404(b)(1) Guidelines** compliance (40 CFR part 230) for evaluating discharges of dredged or fill material into waters of the U.S. Evaluation of compliance with the 404(b)(1) Guidelines is not required for Section 10 activities only.

## Acronyms & Abbreviations

AFR – Aquatic Farm Registration  
Corps – Army Corps of Engineers  
CUP – Conditional Use Permit  
CZM – Coastal Zone Management  
DAHP – Department of Archaeology and Historic Preservation  
DNR – Washington Department of Natural Resources  
DOE – Washington Department of Ecology  
DOH – Washington Department of Health  
ECF – Emerging Commercial Fishery License  
EIS – Environmental Impact Statement  
EPA – Environmental Protection Agency  
HE – Hearing Examiner  
JARPA – Joint Aquatic Resource Permit Application  
LOV – Ecology Letter of Verification  
NHPA – National Historic Preservation Act  
NWIFC – Northwest Indian Fisheries Commission  
PCN – Preconstruction Notification  
SOAL – State Owned Aquatic Lands  
SSDP – Shoreline Substantial Development Permit  
U&A – usual and accustomed area  
WDFW – Washington Department of Fish and Wildlife

## Appendix C: Supplemental Narrative for Local Government Appeals Processes (Thurston and Pierce Counties)

Continued from 6.h. in the full narrative:

### h. **Staff Report and Shoreline Permit Recommendation**

- i. Staff report lists proposal, applicable policies and regulations, and County interpretation; will include Conditional Use Permit (CUP) and/or Shoreline Substantial Development Permit (SSDP) findings
- ii. Recommendation
  - 1. Approval, Approval with Conditions, or Denial
  - 2. To what entity the recommendation is made varies by County (i.e. Thurston makes recommendation to Hearing Examiner)

Thurston County:

- i. Recommendation goes to **Hearing Examiner**
- j. Hearing Examiner makes permit decision
  - i. Approved or Denied
    - 1. If appealed BCC Hearing
      - a. If appealed State Hearing Board Hearing
        - i. If appealed Superior Court Hearing
          - 1. If appealed Appeals Court Hearing
            - a. If appealed Supreme Court Hearing
  - ii. After HE issues decision, it is sent to Ecology
- k. Ecology Shoreline Review

Pierce County:

- i. Recommendation goes to **Local to Advisory Commission Hearing** for review then to Hearing Examiner
- j. **Hearing Examiner Hearing for permit decision**
  - i. Approved or Denied
    - 1. Decision may be appealed
    - 2. If SEPA appeal was made, it would be heard here too)
- l. HE issues decision,
  - i. 'request for reconsideration'
  - ii. Final Pierce County Approval: after HE decision, Approval Document: approval conditions for the county based; the county documenting changes that may have been imposed through course of the hearing
  - iii. HE Permit Decision sent to Ecology
- k. Ecology Shoreline Review

## Attachment E – Shoreline Management Act Policy

## Shoreline Management Act – Use Policies

### WAC 173-26-020 Definitions.

- (29) "**Nonwater-oriented uses**" means those uses that are not water-dependent, water-related, or water-enjoyment.
- (41) "**Water-dependent use**" means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.
- (42) "**Water-enjoyment use**" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.
- (43) "**Water-oriented use**" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.
- (45) "**Water-related use**" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:
- (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
  - (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

*[other definitions omitted]*

### WAC 173-26-176 General policy goals of the act and guidelines for shorelines of the state.

- (1) The guidelines are designed to assist local governments in developing, adopting, and amending master programs that are consistent with the policy and provisions of the act. Thus, the policy goals of the act are the policy goals of the guidelines. The policy goals of the act are derived from the policy statement of RCW 90.58.020 and the description of the elements to be included in master programs under RCW 90.58.100.
- (2) The policy goals for the management of shorelines harbor potential for conflict. The act recognizes that the shorelines and the waters they encompass are "among the most valuable and fragile" of the state's natural resources. They are valuable for economically productive industrial and commercial uses, recreation, navigation, residential amenity, scientific research and education. They are fragile because they depend upon balanced physical, biological, and chemical systems that may be adversely altered by natural forces (earthquakes, volcanic eruptions, landslides, storms, droughts, floods) and human conduct (industrial, commercial, residential, recreation, navigational). Unbridled use of shorelines ultimately could destroy their utility and value. The prohibition of all use of shorelines also could eliminate their human utility and value. Thus, the policy goals of the act relate

both to utilization and protection of the extremely valuable and vulnerable shoreline resources of the state. The act calls for the accommodation of "all reasonable and appropriate uses" consistent with "protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life" and consistent with "public rights of navigation." The act's policy of achieving both shoreline utilization and protection is reflected in the provision that "permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public's use of the water." RCW 90.58.020.

- (3) The act's policy of protecting ecological functions, fostering reasonable utilization and maintaining the public right of navigation and corollary uses encompasses the following general policy goals for shorelines of the state. The statement of each policy goal is followed by the statutory language from which the policy goal is derived.

(a) **The utilization of shorelines for economically productive uses that are particularly dependent on shoreline location or use.**

RCW [90.58.020](#):

*"The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration and preservation."*

*"It is the policy of the state to provide for the management of the shorelines by planning for and fostering all reasonable and appropriate uses."*

*"Uses shall be preferred which are. . .unique to or dependent upon use of the state's shoreline."*

*"Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state."*

RCW [90.58.100](#):

*"(2) The master programs shall include, when appropriate, the following:*

*(a) An economic development element for the location and design of industries, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;. . .*

*(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shorelines use element.*

*(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;. . ."*

(b) **The utilization of shorelines and the waters they encompass for public access and recreation.**

RCW [90.58.020](#):

*"The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."*

*"Alterations of the natural conditions of the shorelines of the state, in those limited instances when authorized, shall be given priority for. . .development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state."*

RCW [90.58.100](#):

*"(2) The master programs shall include, when appropriate, the following:*

*(b) A public access element making provisions for public access to publicly owned areas;*

*(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;. . ."*

\*\*\*

*"(4) Master programs will reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and will give appropriate special consideration to same."*

**(c) Protection and restoration of the ecological functions of shoreline natural resources.**

RCW [90.58.020](#):

*"The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization protection, restoration, and preservation."*

*"This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life. . ."*

*"To this end uses shall be preferred which are consistent with the control of pollution and prevention of damage to the natural environment."*

*"Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area. . ."*

RCW [90.58.100](#):

*"(2) The master programs shall include, when appropriate, the following:*

*(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;*

*(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;. . ."*

**(d) Protection of the public right of navigation and corollary uses of waters of the state.**

RCW [90.58.020](#):

*"This policy contemplates protecting. . .generally public rights of navigation and corollary rights incidental thereto."*

*"Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, . . .any interference with the public's use of the water."*

**(e) The protection and restoration of buildings and sites having historic, cultural and educational value.**

RCW [90.58.100](#):

*"(2) The master programs shall include, when appropriate, the following:*

*(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values; . . ."*

**(f) Planning for public facilities and utilities correlated with other shorelines uses.**

RCW [90.58.100](#):

*"(2) The master programs shall include, when appropriate, the following:*

*(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element."*

**(g) Prevention and minimization of flood damages.**

RCW [90.58.100](#):

*"(2) The master programs shall include, when appropriate, the following:*

*(h) An element that gives consideration to the statewide interest in the prevention and minimization of flood damages."*

**(h) Recognizing and protecting private property rights.**

RCW [90.58.020](#):

*"The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; . . .and, therefore coordinated planning is necessary. . .while, at the same time, recognizing and protecting private rights consistent with the public interest."*

**(i) Preferential accommodation of single-family uses.**

RCW [90.58.020](#):

*"Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures. . ."*

RCW [90.58.100](#):

*"(6) Each master program shall contain standards governing the protection of single-family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single-family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single-family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment."*

**(j) Coordination of shoreline management with other relevant local, state, and federal programs.**

RCW [90.58.020](#):

*"In addition. . ." the legislature ". . . finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state."*

*". . . and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state. . ."*

*"There is, therefor, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."*

RCW [90.58.100](#):

*"In preparing the master programs, and any amendments thereto, the department and local governments shall to the extent feasible:*

*(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;*

*(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;*

*(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;*

*(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;*

*(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;*

*(f) Employ, when feasible, all appropriate modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered."*

**WAC 173-26-201 Process to prepare or amend shoreline master programs.**

*[Subsections (1) and (2)(a) through (2)(c) omitted]*

- (d) **Preferred uses.** As summarized in WAC 173-26-176, the act establishes policy that preference be given to uses that are unique to or dependent upon a shoreline location. Consistent with this policy, these guidelines use the terms "water-dependent," "water-related," and "water-enjoyment," as defined in WAC 173-26-020, when discussing appropriate uses for various shoreline areas.

Shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological protection and restoration activities. Consistent with RCW 90.58.020 and WAC 173-26-171 through 173-26-186, local governments shall, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction, apply the following

preferences and priorities in the order listed below, starting with (d)(i) of this subsection. For shorelines of statewide significance, also apply the preferences as indicated in WAC 173-26-251(2).

- (i) Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health. In reserving areas, local governments should consider areas that are ecologically intact from the uplands through the aquatic zone of the area, aquatic areas that adjoin permanently protected uplands, and tidelands in public ownership. Local governments should ensure that these areas are reserved consistent with constitutional limits.
- (ii) Reserve shoreline areas for water-dependent and associated water-related uses. Harbor areas, established pursuant to Article XV of the state Constitution, and other areas that have reasonable commercial navigational accessibility and necessary support facilities such as transportation and utilities should be reserved for water-dependent and water-related uses that are associated with commercial navigation unless the local governments can demonstrate that adequate shoreline is reserved for future water-dependent and water-related uses and unless protection of the existing natural resource values of such areas preclude such uses. Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.
- (iii) Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
- (iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.
- (v) Limit nonwater-oriented uses to those locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

Evaluation pursuant to the above criteria, local economic and land use conditions, and policies and regulations that assure protection of shoreline resources, may result in determination that other uses are considered as necessary or appropriate and may be accommodated provided that the preferred uses are reasonably provided for in the jurisdiction.

*[Subsections (2)(e) through (3)(h) omitted]*

### **WAC 173-26-251 Shorelines of statewide significance.**

*Note: For Bainbridge Island, Shorelines of Statewide Significance are those areas waterward of the extreme low water line.*

- (1) **Applicability.** The following section applies to local governments preparing master programs that include shorelines of statewide significance as defined in RCW 90.58.030.
- (2) **Principles.** Chapter 90.58 RCW raises the status of shorelines of statewide significance in two ways. First, the Shoreline Management Act sets specific preferences for uses of shorelines of statewide significance. RCW 90.58.020 states:

*"The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:*

- (1) Recognize and protect the statewide interest over local interest;*
- (2) Preserve the natural character of the shoreline;*
- (3) Result in long term over short term benefit;*
- (4) Protect the resources and ecology of the shoreline;*
- (5) Increase public access to publicly owned areas of the shorelines;*
- (6) Increase recreational opportunities for the public in the shoreline;*
- (7) Provide for any other element as defined in RCW [90.58.100](#) deemed appropriate or necessary."*

Second, the Shoreline Management Act calls for a higher level of effort in implementing its objectives on shorelines of statewide significance. RCW 90.58.090(5) states:

*"The department shall approve those segments of the master program relating to shorelines of statewide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the statewide interest."*

Optimum implementation involves special emphasis on statewide objectives and consultation with state agencies. The state's interests may vary, depending upon the geographic region, type of shoreline, and local conditions. Optimum implementation may involve ensuring that other comprehensive planning policies and regulations support Shoreline Management Act objectives.

Because shoreline ecological resources are linked to other environments, implementation of ecological objectives requires effective management of whole ecosystems. Optimum implementation places a greater imperative on identifying, understanding, and managing ecosystem-wide processes and ecological functions that sustain resources of statewide importance.

- (3) **Master program provisions for shorelines of statewide significance.** Because shorelines of statewide significance are major resources from which all people of the state derive benefit, local governments that are preparing master program provisions for shorelines of statewide significance shall implement the following:

(a) **Statewide interest.** To recognize and protect statewide interest over local interest, consult with applicable state agencies, affected Indian tribes, and statewide interest groups and consider their recommendations in preparing shoreline master program provisions. Recognize and take into account state agencies' policies, programs, and recommendations in developing use regulations. For example, if an anadromous fish species is affected, the Washington state departments of fish and wildlife and ecology and the governor's salmon recovery office, as well as affected Indian tribes, should, at a minimum, be consulted.

(b) **Preserving resources for future generations.** Prepare master program provisions on the basis of preserving the shorelines for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of statewide significance should be severely limited. Where natural resources of statewide importance are being diminished over time, master programs shall include provisions to contribute to the restoration of those resources.

- (c) **Priority uses.** Establish shoreline environment designation policies, boundaries, and use provisions that give preference to those uses described in RCW 90.58.020 (1) through (7). More specifically:
- (i) Identify the extent and importance of ecological resources of statewide importance and potential impacts to those resources, both inside and outside the local government's geographic jurisdiction.
  - (ii) Preserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish beds and navigable harbors. Base projections on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies.
  - (iii) Base public access and recreation requirements on demand projections that take into account the activities of state agencies and the interests of the citizens of the state to visit public shorelines with special scenic qualities or cultural or recreational opportunities.
- (d) **Resources of statewide importance.** Establish development standards that:
- (i) Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds, and unique environments. Standards shall consider incremental and cumulative impacts of permitted development and include provisions to insure no net loss of shoreline ecosystems and ecosystem-wide processes.
  - (ii) Provide for the shoreline needs of water-oriented uses and other shoreline economic resources of statewide importance.
  - (iii) Provide for the right of the public to use, access, and enjoy public shoreline resources of statewide importance.
- (e) **Comprehensive plan consistency.** Assure that other local comprehensive plan provisions are consistent with and support as a high priority the policies for shorelines of statewide significance. Specifically, shoreline master programs should include policies that incorporate the priorities and optimum implementation directives of chapter 90.58 RCW into comprehensive plan provisions and implementing development regulations.

## Attachment F – Shoreline Management Act Aquaculture Guidelines

**Shoreline Management Act - Aquaculture Specific Guidelines**
**WAC 173-26-241 Shoreline Uses.**

- (1) **Applicability.** The provisions in this section apply to specific common uses and types of development to the extent they occur within shoreline jurisdiction. Master programs should include these, where applicable, and should include specific use provisions for other common uses and types of development in the jurisdiction. All uses and development must be consistent with the provisions of the environment designation in which they are located and the general regulations of the master program.
- (2) **General use provisions.**
- (a) **Principles.** Shoreline master programs shall implement the following principles:
- (i) Establish a system of use regulations and environment designation provisions consistent with WAC [173-26-201](#) (2)(d) and [173-26-211](#) that gives preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas.
  - (ii) Ensure that all shoreline master program provisions concerning proposed development of property are established, as necessary, to protect the public's health, safety, and welfare, as well as the land and its vegetation and wildlife, and to protect property rights while implementing the policies of the Shoreline Management Act.
  - (iii) Reduce use conflicts by including provisions to prohibit or apply special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference shall be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.
  - (iv) Establish use regulations designed to assure no net loss of ecological functions associated with the shoreline.
- (b) **Conditional uses.**
- (i) Master programs shall define the types of uses and development that require shoreline conditional use permits pursuant to RCW 90.58.100(5). Requirements for a conditional use permit may be used for a variety of purposes, including:
    - To effectively address unanticipated uses that are not classified in the master program as described in WAC 173-27-030.
    - To address cumulative impacts.
    - To provide the opportunity to require specially tailored environmental analysis or design criteria for types of use or development that may otherwise be inconsistent with a specific environment designation within a master program or with the Shoreline Management Act policies.

In these cases, allowing a given use as a conditional use could provide greater flexibility within the master program than if the use were prohibited outright.
  - (ii) If master programs permit the following types of uses and development, they should require a conditional use permit:

- (A) Uses and development that may significantly impair or alter the public's use of the water areas of the state.
  - (B) Uses and development which, by their intrinsic nature, may have a significant ecological impact on shoreline ecological functions or shoreline resources depending on location, design, and site conditions.
  - (C) Development and uses in critical saltwater habitats.
  - (D) New commercial geoduck aquaculture as described in (3)(b) of this section.
- (iii) The provisions of this section are minimum requirements and are not intended to limit local government's ability to identify other uses and developments within the master program as conditional uses where necessary or appropriate.
- (3) **Standards.** Master programs shall establish a comprehensive program of use regulations for shorelines and shall incorporate provisions for specific uses consistent with the following as necessary to assure consistency with the policy of the act and where relevant within the jurisdiction.

*[Subsection (a) omitted]*

**(b) Aquaculture.**

**(i) General provisions.**

- (A) Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. This activity is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. Local government should consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions.
- (B) Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, commercial navigation, and, in marine waters, salinity. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Local shoreline master programs should therefore recognize the necessity for some latitude in the development of this use as well as its potential impact on existing uses and natural systems.
- (C) Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline. Impacts to ecological functions shall be mitigated according to the mitigation sequence described in WAC 173-26-201 (2)(e).
- (D) Local government should ensure proper management of upland uses to avoid degradation of water quality of existing shellfish areas.

(ii) **Siting considerations for commercial geoduck aquaculture.**

In addition to the siting provisions of (b)(i) of this subsection, commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading.

(iii) **Shoreline substantial development permits for geoduck aquaculture.**

As determined by [Attorney General Opinion 2007 No. 1](#), the planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit if a specific project or practice causes substantial interference with normal public use of the surface waters, but not otherwise.

(iv) **Conditional use permits for commercial geoduck aquaculture.**

- (A) Conditional use permits are required for new commercial geoduck aquaculture only. Where the applicant proposes to convert existing nongeoduck aquaculture to geoduck aquaculture, the requirement for a conditional use permit is at the discretion of local government.
- (B) All subsequent cycles of planting and harvest shall not require a new conditional use permit.
- (C) Conditional use permits must take into account that commercial geoduck operators have a right to harvest geoduck once planted.
- (D) A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within the same shoreline permitting jurisdiction.
- (E) Local governments should minimize redundancy between federal, state and local commercial geoduck aquaculture permit application requirements. Measures to consider include accepting documentation that has been submitted to other permitting agencies, and using permit applications that mirror federal or state permit applications.
- (F) In addition to complying with chapter 173-27 WAC, the application must contain:
  - (I) A narrative description and timeline for all anticipated geoduck planting and harvesting activities if not already contained in the federal or state permit application or comparable information mentioned above.
  - (II) A baseline ecological survey of the proposed site to allow consideration of the ecological effects if not already contained in the federal or state permit application or comparable information mentioned above.
  - (III) Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in WAC- [173-26-201](#) (2)(e).
  - (IV) Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.
- (G) Local governments should provide public notice to all property owners within three hundred feet of the proposed project boundary, and notice to tribes with usual and accustomed fishing rights to the area.
- (H) Commercial geoduck aquaculture workers oftentimes need to accomplish on-site work during low tides, which may occur at night or on weekends. Local governments must

allow work during low tides but may require limits and conditions to reduce impacts, such as noise and lighting, to adjacent existing uses.

- (I) Local governments should establish monitoring and reporting requirements necessary to verify that geoduck aquaculture operations are in compliance with shoreline limits and conditions set forth in conditional use permits and to support cumulative impacts analysis.
- (J) Conditional use permits should be reviewed using the best scientific and technical information available.
- (K) Local governments should apply best management practices to accomplish the intent of the limits and conditions.
- (L) In order to avoid or limit impacts from geoduck aquaculture siting and operations and achieve no net loss of ecological functions, local governments should consider the following:
  - (I) The practice of placing nursery tanks or holding pools or other impervious materials directly on the intertidal sediments.
  - (II) Use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark.
  - (III) Specific periods when limits on activities are necessary to protect priority habitats and associated species. The need for such measures should be identified in the baseline ecological survey conducted for the site.
  - (IV) Alterations to the natural condition of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments.
  - (V) Installation of property corner markers that are visible at low tide during planting and harvesting.
  - (VI) Mitigation measures such as buffers between commercial geoduck aquaculture and other fish and wildlife habitat conservation areas as necessary to ensure no net loss of ecological functions.
  - (VII) Use of predator exclusion devices with minimal adverse ecological effects and requiring that they be removed as soon as they are no longer needed for predator exclusion.
  - (VIII) Use of the best available methods to minimize turbid runoff from the water jets used to harvest geoducks.
  - (IX) Number of barges or vessels that can be moored or beached at the site as well as duration limits.
  - (X) Public rights to navigation over the surface of the water.
  - (XI) Good housekeeping practices at geoduck aquaculture sites, including worker training and regular removal of equipment, tools, extra materials, and all wastes.
  - (XII) Where the site contains existing public access to publicly owned lands, consider recommendations from the department of natural resources or other landowning agencies regarding protection of the existing public access.

*[Subsections (c) through (l) omitted]*

## Attachment G – City Farm and Local Food Policies

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 2016 Comprehensive Plan Content Related to Farms, Local Food, and Aquatic Resources

**BAINBRIDGE ISLAND TODAY (excerpt)**

The protection and support of existing **farms** and the preservation of prime agricultural lands and **farms** of local significance are important **goals** of the residents of Bainbridge Island. Agricultural lands provide **open space**, habitat, **groundwater** recharge, local food production with fewer transportation impacts and cultural value. Their protection can augment **sustainability goals**.

Farming on the Island provides economic, social, aesthetic and nutritional benefit to the community. Equally important, protection of agricultural lands will enhance the cultural and economic diversity and help retain the Island's rural character. *Open space* dedicated to *agriculture* also conserves environmental resources.

*Farm* operations on the Island are unique. Small *farms* ranging in size from 1 acre to 40+ acres, are mostly dispersed throughout the Island with some clustering in a few locations. The specialty, high-intensity, small *farms* will continue to be an important adjunct to farming in the future.

The City currently owns sixty acres of public farmland managed under contract by a non-profit organization. That organization also works with private landowners, seeking ways to increase the amount of land used for food production, and to conserve the land for agricultural uses over the long term. To preserve public farmland, the City *should* consider designating its public farmland properties as Agricultural Resource Land (ARL) consistent with WAC 365-190-050. Other non-profits are also involved in promoting *agriculture* on Bainbridge.

*Agriculture* is a vulnerable enterprise in any rapidly growing area. As land values continue to rise the economic viability of *farms* on Bainbridge Island depends on the farmers' industry and ingenuity and on public policies that provide incentives and tax relief.

**BAINBRIDGE ISLAND VISION 2036**

Bainbridge Island's people reflect a range of ages, ethnicities, household sizes, livelihoods and personal aspirations – we are 28,660 individuals who share a strong sense of community and a commitment to environmental stewardship. We respect this legacy of the generations that came before, beginning with the Island's indigenous people, followed more recently by European and Asian immigrants who built timber, maritime and agricultural economies.

Bainbridge Island is home to a diverse mix of people including farmers, artists, students, business professionals, service employees and retirees. We are an optimistic, forward-looking and welcoming people - open to new ideas, industrious business people, new and traditional cultures, and people of all ages and backgrounds. There is no word for exclusion in Lushootseed, the language of the first peoples of Puget Sound.

Our success at balancing the inter-dependent goals of environmental stewardship, economic

development and the needs of our people is evident in the many ways we have accommodated growth, addressed the impacts of *climate change* and conserved our environment.

Bainbridge Island's water resources are climate resilient and are able to sustain all forms of life on the Island. *Aquifers* are continuously monitored and managed to maintain our supply of fresh water at a level that meets the high standards for drinking. Education on water conservation has resulted in a significant reduction in the average water consumption per household and *low impact development* techniques applied to all land uses and redevelopment helps to recharge the Island's *aquifers*.

Winslow, Lynwood Center and the Island's other *neighborhood centers* have gracefully evolved into compact, mixed-use, human-scaled and walkable places. They are the thriving centers of civic life, cultural amenities, goods, services and a wide range of housing and employment opportunities. These centers are pedestrian districts, linked to each other and the region by a network of walkways, bicycle trails and *transit* that promote healthy lifestyles and reduce the Island's *greenhouse gas emissions*.

Bainbridge Island's other taxing districts, Bainbridge Island Metropolitan Park & Recreation District, Bainbridge Island School District, Bainbridge Island Fire District and Kitsap Regional Library through Bainbridge Public Library all play significant roles in making this a healthy community.

*Affordable housing* is available for much of the local service sector workforce. Improvements in communication infrastructure have enabled more successful local enterprises, including home-based business.

The Island is a national destination for visitors to experience artistic excellence and learn about *sustainability* and resilient community development. Local employment opportunities are diverse including small manufacturing, artisanal crafts, high tech, e-commerce, arts and food. Small retailers are thriving by serving the needs of local residents as well as visitors. A robust non-profit sector strengthens *social capital* while providing services and employment opportunities.

Outside of the *designated centers* the predominant land use pattern is lower density with lower building heights which minimizes the footprint of the built environment and maximizes the protection of tree canopy, *aquifers*, surface waters and *fish and wildlife habitat*. The Island's broad conservation landscape of canopied woodlots, parks and saltwater shorelines is dotted with working *farms*, historic structures and a housing stock that has become more compact, energy-efficient and well-integrated into the landscape.

*Agriculture* is a thriving part of the Island's economy. All City-owned agricultural land is under cultivation and produces seasonal foods for local consumption. The number of *farms* on private acreage has increased and is supplementing the local food supply. Capital facilities planning has kept up with changes in the natural and built environments, meeting the needs of a population that expects a high *level of service*. All residents have reliable electric power, telecommunication services to meet their needs, potable water, solid waste and recycling services, and storm water facilities that prevent flooding and erosion while eliminating pollutants before the water enters Puget Sound.

The good will, imagination and pragmatism of our citizens foster an environment in which we engage with, listen to, and learn from one another. Bainbridge Island functions as a caring community

that provides human services where needed to maintain the well-being of all its members, where every person feels connected to the community and where each individual has opportunities.

Community cultural planning sets direction for integrating the arts, humanities and history with urban design, economic development, education and other initiatives that nurture the quality of life on Bainbridge Island.

Artistic creativity and humanistic inquiry advance other community goals such as economic vitality, quality education, and community planning and design. Investments in the arts and humanities are investments in the growth of the community, enriching the lives of its residents and making Bainbridge Island a better place to live.

## GUIDING PRINCIPLES

While the *Vision* describes a preferred future outcome for Bainbridge Island, the *Guiding Principles* and associated Guiding Policies provide the *policy* direction needed to navigate toward that desired future.

### Guiding Principle #1

**Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.**

#### Guiding Policy 1.1

Develop an island-wide conservation strategy to identify and apply effective methods to preserve the natural and scenic qualities that make the Island a special place, including better protection for the shoreline, trees, soils, native plants, and farms.

### Guiding Principle #5

**The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.**

#### Guiding Policy 5.1

Regulate all development on the Island consistent with the long-term health and carrying capacity of its natural systems.

#### Guiding Policy 5.3

Preserve and enhance the Island's natural systems, natural beauty and environmental quality.

#### Guiding Policy 5.4

Protect and enhance wildlife, fish resources and natural ecosystems on Bainbridge Island.

**Guiding Policy 5.5**

Recognize and protect the Usual and Accustomed fishing areas of neighboring Tribes.

**Guiding Principle #6**

**Nurture Bainbridge Island as a *sustainable community* by meeting the needs of the present without compromising the ability of future generations to meet their own needs.**

**Guiding Policy 6.1**

Promote environmental *sustainability* by supplementing the State’s mandated 20-year plan horizon with a horizon of one hundred years in order to recognize the longer-term life cycles of natural systems. Tailor *green building* practices and public *infrastructure* investments to be in line with this longer-term perspective.

**Guiding Policy 6.4**

Promote food production as part of the *land use* planning process.

**Guiding Principle #7**

**Reduce *greenhouse gas* emissions and increase the Island’s *climate resilience*.**

**Guiding Policy 7.2**

Adaptation: Minimize or ameliorate the impacts of *climate change* on our community and our Island’s ecosystems through climate-informed policies, programs and *development regulations*.

**Guiding Policy 7.3**

Evaluate the climate vulnerabilities and implications of City actions and identify policies that alleviate those vulnerabilities. Consider the effects of shifting conditions (sea level rise, changing rainfall patterns, increasing temperatures and more extreme weather events) and the effects they cause (altered vegetation, changing water demands, economic shifts).

**LAND USE ELEMENT**

**Policy LU 5.9**

Design and locate development to avoid or minimize potential conflicts with agricultural activities and recognize right-to-farm regulations in developments located adjacent to agricultural uses.

**ISLAND-WIDE CONSERVATION AREA**

**GOAL LU-12 - Conserve ecosystems and the Island’s green, natural, open character.**

**Policy LU 12.1**

Preserve the conservation area outside *designated centers* through a *land use* pattern which will enhance the character of the area – forested areas, meadows, *farms*, scenic and winding roads that support all forms of transportation – and the valuable functions the conservation area serves on the Island (i.e., *aquifer recharge, fish and wildlife habitat, recreation*).

### **Policy LU 12.2**

Protect *open space, critical areas* and agricultural uses through public and private initiatives such as open space tax incentives, *conservation villages, PUDs, transfer and purchase of development rights*, public land acquisition, greenways, *conservation easements*, landowner compacts or limiting the amount of lot coverage.

### **Policy LU 13.2**

Design and site new development to cause the least visual and environmental impact on the Island landscape. Encourage the retention of features that enhance the Island's character such as barns, fences, fruit and vegetable stands.

## **RESIDENTIAL DISTRICT**

### **Policy LU 14.2**

Encourage residential development that is compatible with the preservation of *open space, forestry, agricultural activities, and natural systems*. Accessory *farm* buildings and uses are allowable.

## **LOCAL FOOD PRODUCTION**

**GOAL LU-15 - Promote food security and public health through support for local food production, awareness of farming practices. Encourage locally-based food production, distribution and choice through commercial and urban *agriculture, community gardens, farmers' markets, farm stands and food access initiatives.***

### **Policy LU 15.1**

Encourage community gardening and/or *agriculture* on public land where appropriate.

### **Policy LU 15.2**

Encourage the development of neighborhood community gardens or small-scale commercial *agriculture* where appropriate.

### **Policy LU 15.3**

Promote interagency and intergovernmental cooperation and resource-sharing to expand community gardening opportunities.

### **Policy LU 15.4**

Promote the dedication of land for community gardens in new housing developments.

**Policy LU 15.5**

Support the local farmers market and the connection between consumers and farmers.

**ECONOMIC ELEMENT**
**ECONOMIC VISION 2036**

*Agriculture* is a thriving part of the Island's economy: City-owned agricultural lands are being sustainably cultivated and producing seasonal foods for local consumption. The number of *farms* on private acreage has increased and is supplementing the local food supply. To enhance the viability of local *farms*, *affordable housing* for farmworkers has been appropriately built on City owned farmland.

**Policy EC 7.8**

Support and make Bainbridge Island a model community for *climate change* preparedness and *sustainability* practices that ensure long-term business viability while attracting and protecting visitors, businesses and residents.

**AGRICULTURE**

**GOAL EC-14 - Recognize that farming is a part of the Island's heritage and contributes to the island's economy.**

**Policy EC 14.1**

Support the market for Island-grown *agriculture* products by:

- Recognizing and supporting the Bainbridge Island Farmers' Market, including permanently dedicating space for the market and enhancing the market area.
- Allowing and promoting roadside stands that sell Island-grown products.
- Promoting and supporting Community Supported Agriculture (CSA).
- Encouraging the development of value-added processing facilities that can be shared by many farmers.
- Encouraging food crops to be planted on public land.

**Policy EC 14.2**

Support a program that helps working farms through educational, historic, farm stay and tourist visits.

**Policy EC 14.3**

Support working farms through the creation and sale of locally-constituted, high-grade compost to maintain the fertility of Island soils.

**EC Action #2 Continue efforts to promote and support *agriculture* as a component of the Island's economy, landscape and culture.**

<b>ENVIRONMENT ELEMENT</b>
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**Policy EN 5.7** Undertake appropriate, adequate and timely actions to protect and recover state priority species, species listed under the federal *Endangered Species Act*, local species of concern and their habitats located within the City to 1) avoid *local extirpation* of such species from the lands or fresh waters or nearshore and 2) contribute to the protection and recovery of such species throughout the greater region in cooperation with federal, state and other local agencies.

### AGRICULTURAL LANDS

**GOAL EN-15 - Conserve and protect the Island's existing agricultural uses and increase the acreage of permanently protected and productive farmland by using preservation methods including incentive-based programs.**

**Policy EN 15.1**

Provide owners of *farms* the option of participating in the *transfer of development rights (TDRs)/purchase of development rights (PDRs) program*.

**Policy EN 15.2**

Inventory land currently used and/or potentially available for *agriculture*, including community gardens.

**Policy EN 15.3**

Where land that had historically been used for *agriculture* is being subdivided for residential development, a portion *should* be reserved for agricultural use or community gardens. Existing traditional agricultural lands *should* be included in the *open space* of clustered development.

**Policy EN 15.4**

Develop a procedure to allow public and private property owners to designate their properties Agricultural Resource Land, consistent with WAC 365-190-050.

**Policy EN 15.5**

Utilize the Floor Area Ratio (FAR) Farmland/Agriculture fund for viable farmland preservation projects.

**Policy EN 15.6**

Prioritize food production on public farmland to address long-term food security for Island residents.

**Policy EN 15.7**

Encourage the use of native and/or regionally produced edible plants for use in required landscape and roadside vegetation buffers.

**Policy EN 15.8**

Ensure protection of the Island's *aquifers* and streams by promoting agricultural uses that are not water intensive, and *agriculture* practices that protect water quality.

**Policy EN 15.9**

Work with the Conservation District and nonprofits to encourage farming that accounts for changing Island conditions with regard to hydrology, temperature and other climatologically influenced factors. Promote crops and commodities that are adapted to future conditions and do not rely on chemical amendments that may adversely impact future water availability.

**Policy EN 15.10**

Improve public information and creating new programs to promote *agriculture* while advocating for farming practices that protect water quality and quantity.

**GOAL EN-16 - Minimize conflict between agricultural and non-agricultural uses.****Policy EN 16.1**

Design and locate development adjacent to areas designated or registered as agricultural land to avoid or minimize potential conflicts with agricultural activities.

**Policy EN 16.2**

Require notification on all plats, development permits and building permits of the existence of any registered agricultural lands within 300 feet of the development.

**Policy EN 16.3**

Maintain the Right to Farm Ordinance.

**Policy EN 16.4**

Cooperate with the Kitsap Conservation District to promote use of Best Management Practices.

**GOAL EN-17 - Encourage and support farming as an economically viable option for *land use* and as a means to providing diversity of lifestyle.****Policy EN 17.1**

Encourage small-scale farming.

**Policy EN 17.2**

Work with the Kitsap County Assessor's office to educate the farming community about the availability of the Tax Reduction Program.

**Policy EN 17.3**

Elevate and encourage public appreciation and awareness of *farms* by allowing tours of *farms* and farming facilities.

**Policy EN 17.4**

Permit the production, processing and marketing of *farm* products from Island *farms*.

**Policy EN 17.5**

Support the Farmers' Market and promote the sale of local *farm* products in other locations.

**Policy EN 17.6**

Minimize the parking requirements for agricultural uses (i.e., number of parking spaces, paved parking and landscaping requirements), due to the seasonal nature of the marketing of *farm* products.

**Policy EN 17.7**

Support agricultural tourism that ensures compatibility with surrounding uses.

**Policy EN 17.8**

Consider establishing a Citizen Advisory Group on *Agriculture* comprised of citizens representing farmers, non-profit organizations involved with local *agriculture* and businesses with an interest in local *farm* produce.

# Aquaculture Amendment Alternatives Summary

## A. EXISTING COUNCIL DIRECTIVE

### RESOLUTION NO. 2020-16

A **RESOLUTION** of the City of Bainbridge Island, Washington, withdrawing the City’s request for the Washington State Department of Ecology to approve Ordinance No. 2016-06 relating to the Shoreline Master Program limited amendment regarding aquaculture policies and regulations that the City has been pursuing since 2016 with the Department of Ecology.

...

**WHEREAS**, in May 2020, the City Council adopted a revised workplan, and through that workplan the Council approved City staff’s recommendation to pursue possible revisions and updates related to the City’s SMP aquaculture regulations via the SMP Periodic Review process rather than the aquaculture limited amendment that the City has been unsuccessfully pursuing with Ecology for several years; and

...

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO RESOLVE AS FOLLOWS:**

**Section 1.** The City Council is hereby formally communicating to the Washington State Department of Ecology (“Ecology”) and other interested parties that the City is withdrawing the City’s request for Ecology to approve Ordinance No. 2016-06 relating to the Shoreline Master Program (“SMP”) limited amendment regarding aquaculture policies and regulations that the City has been pursuing since 2016 with Ecology.

**Section 2.** The Director of Planning and Community Development is authorized to continue to proceed accordingly, and the City will continue to work via the SMP Periodic Review process with interested parties who are seeking to pursue topics of interest related to the SMP, including topics related to aquaculture regulations and policies.

Other Council-adopted policy objectives that have been found to intersect with aquaculture include:

- Critical area protection (e.g. shellfish beds are one type of critical area)
- Ecosystem/species recovery (e.g. some recovery efforts require aquaculture practices)
- Climate change mitigation/adaption (e.g. kelp farming is an emerging tool for carbon sequestration and ocean acidification buffering)
- Water quality (e.g. kelp farming and native shellfish restoration can be used to improve water quality in certain circumstances)

**B. SHORELINE MANAGEMENT CONTEXT**

For more background information, see the Department’s policy white paper on aquaculture.

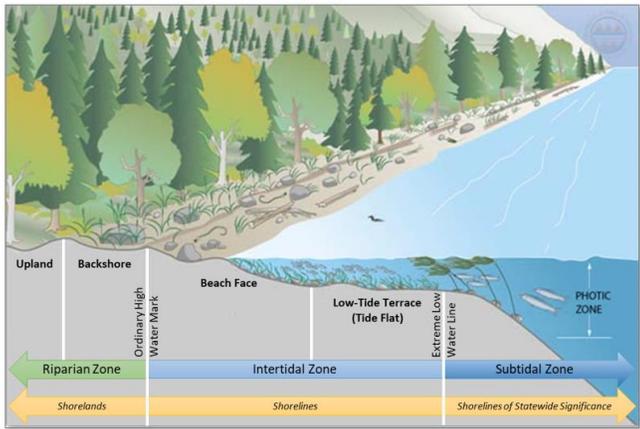
**1. SMA/SMP Hierarchy of Preferences & Cross-shore Distinctions in “Who’s Interests” are Considered**

Aquaculture

SMP must give preference to (in the following order):

- Protecting and restoring ecological functions
- Water-dependent and associated water-related uses
- Other water-related and water-enjoyment uses
- Single family residential uses
- Non-water-oriented uses.

[WAC 173-26-020, WAC 173-26-201(2)(d), and WAC 173-26-251(2)]



<b>Shoreline Jurisdiction Zone</b>	<b>Shorelands</b>	<b>Shorelines</b>	<b>Shorelines of Statewide Significance</b>
<b>Ecological Zone</b>	<b>Riparian Zone</b>	<b>Intertidal Zone</b>	<b>Subtidal Zone</b>
<b>Type of Aquaculture</b>	<b>Upland Aquaculture</b>	<b>Intertidal Aquaculture</b>	<b>Offshore Aquaculture</b>
<b>Who’s interests?</b>	SMP may balance local interests with statewide interests		SMP can only consider statewide interests

**2. Summary of Statewide Interests and Local Conditions**

Aquaculture

**Statewide Interests**  
(What types of aquaculture is Bainbridge Island suitable for?)

Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. **This activity is of statewide interest.** Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. **Local government should consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions** as necessary to assure no net loss of ecological functions. [WAC 173-26-241(3)(j)(A)]

**Other Statewide Interests**

**Economic Vitality\***  
**Local Foods\***  
**Cultural Wellbeing\***  
**Recreation**  
**Ecological**

- **Critical Areas**
  - Shellfish Beds\* (recreational and commercial)
  - Eelgrass\* and Kelp
- **Species Recovery**
  - Bull Kelp
  - Rockfish
  - Salmon\*
- **Marine Water Quality\***
  - Dissolved Oxygen
  - Nutrients
  - Ocean Acidification
- **Carbon Sequestration**

[\* Puget Sound Recovery Indicator]

**Local Conditions**

**Urban Growth Area**  
**Mostly Residential**  
**Mostly Private Tidelands**

- Small
- Highly Fragmented

**Frequent Shellfish Closures**  
**Some Permanent Closures**  
**Water Quality Threats**

- Sewer Spills
- Oil Spills

Note: This is likely an incomplete list of statewide interests and local conditions.

## C. ALTERNATIVE APPROACHES

### Overall Objectives

All alternatives are guided by the following objectives:

- Staff can develop and support the amendment with available resources and within the existing project schedule.
  - Note: The Department does not currently have approved budget to support new technical or scientific analysis/studies.
- New amendments are compliant with the Shoreline Management Act (SMA) and the Pierce County SMP ruling. For example, to be consistent with the SMA:
  - All amendments must ensure no net loss of ecological functions and ecosystem-wide processes.
  - Aquaculture must be recognized as a water-dependent use of statewide interest and must be reasonably accommodated by the SMP.
- SMP nonconforming provisions were recently revised and will apply to this amendment.
- Private tideland owners can record more restrictive private agreements (e.g. easements, covenants, etc) regarding shellfish farming on their tidelands.

### **Alternative #1 - Emphasize and Encourage the Types of Aquaculture that Advance Statewide and Local Interests Best on Bainbridge Island (Staff Recommendation)**

#### Objectives

In addition to the overall objectives above, this alternative is guided by the following objectives:

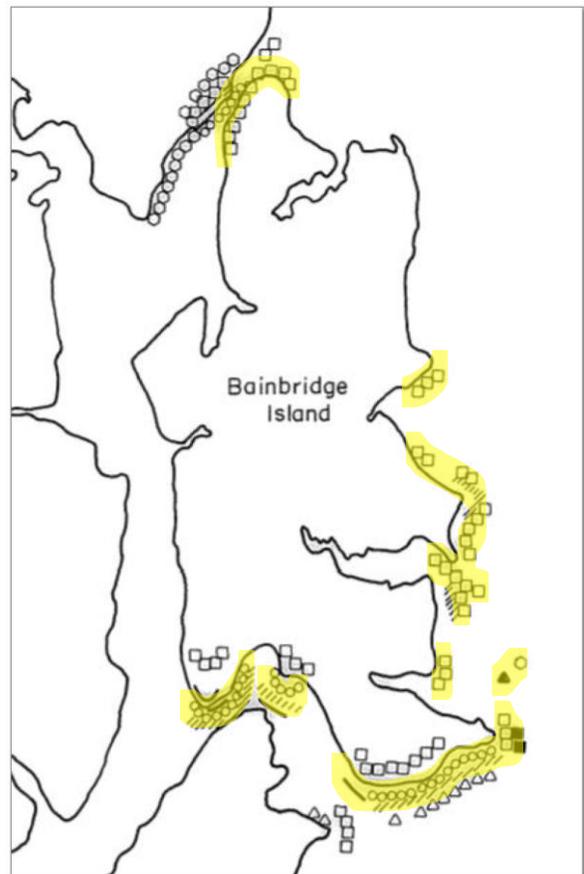
- Propose a draft amendment consistent with Council's Directive (above), which authorizes the Department to propose an aquaculture amendment that:
  - Will be found consistent with the Shoreline Management Act (SMA)
  - Will be informed by the Periodic Review process, which includes staff research, legal analysis, and input from interested parties.
- Retain as many parts of the 2016 aquaculture amendment as possible.
- Emphasize and encourage the types of aquaculture that advance statewide and local interests best on Bainbridge Island relevant to the requirements of the shoreline jurisdictional zones (above) and local conditions, including:
  - Recreation & scenic shorelines
  - Education, science, and cultural/historic preservation
  - Subsistence and cultural practice
  - Ecosystem and species recovery
  - Climate change mitigation/adaptation
- Reasonably accommodate commercial aquaculture at scales and in locations that:
  - Do not conflict with protecting and restoring ecological functions (a higher priority under the SMA)
  - Leaves adequate space for other water-dependent uses (an equal priority under the SMA)
  - Minimizes nuisances to other uses

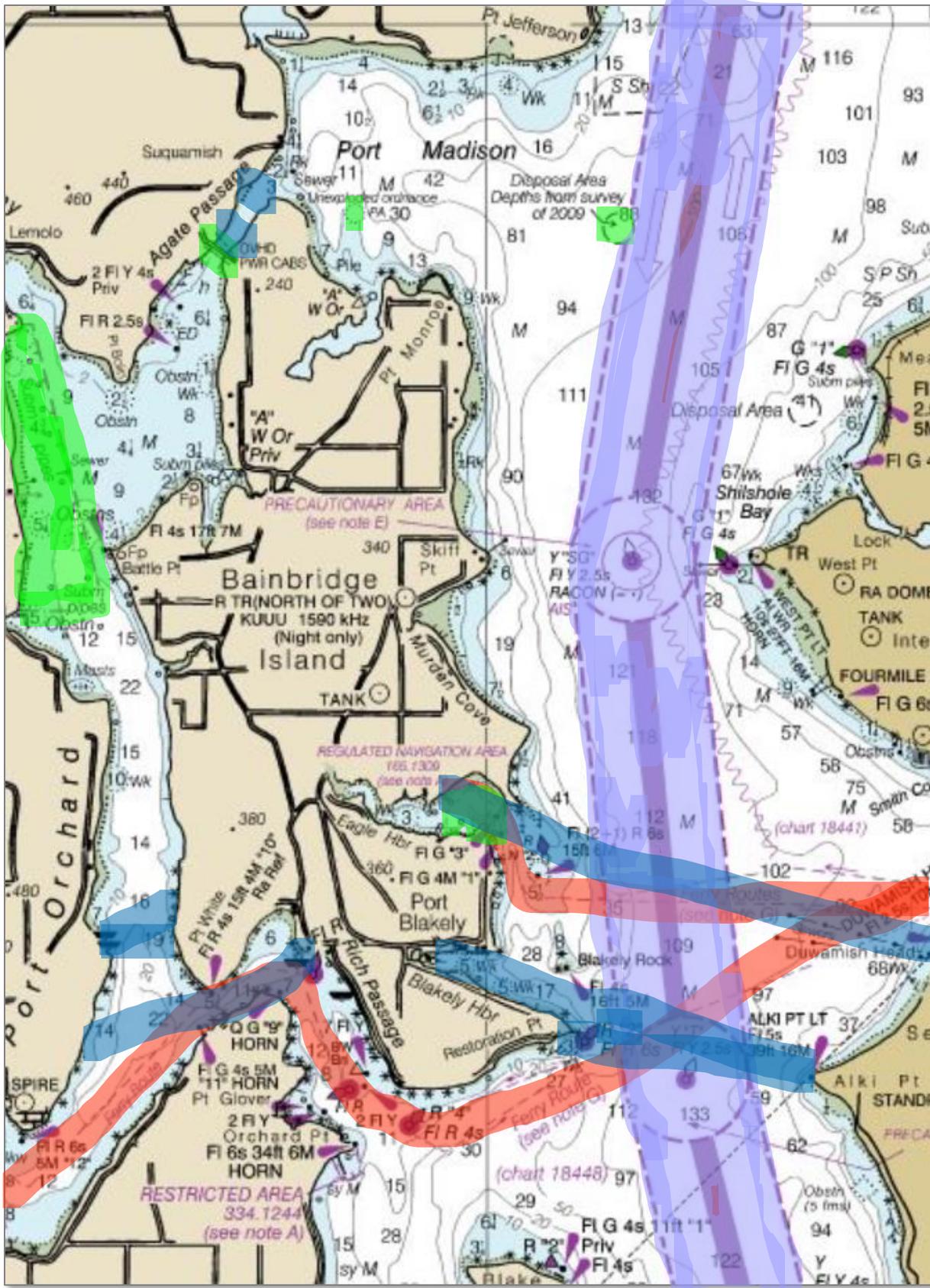
Anticipated Outcomes - Intertidal Aquaculture

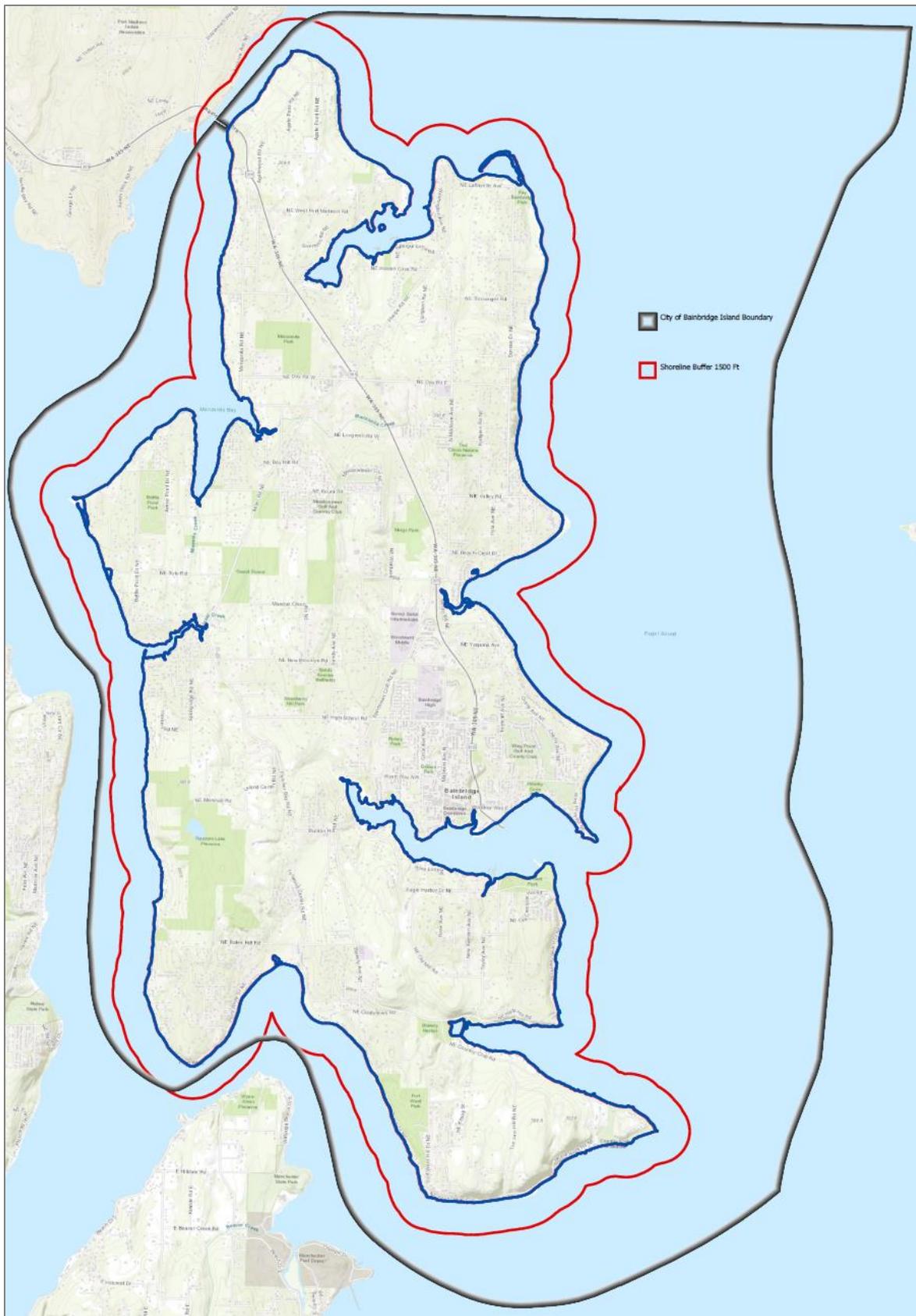
- Sustainable aquacultural practices that support recreation, subsistence and cultural practices, education, science, and ecosystem/species recovery are preferred and encouraged
- Geographic areas are reserved for:
  - The above uses where a clear defensible basis can be identified
  - Cultural/historic preservation
  - Undersea cable and pipeline areas
- Existing SMP regulations would continue to prohibit commercial aquaculture in certain shoreline designations
- The scale of commercial aquaculture will be managed by a new density standard (measured in acres/linear mile of shoreline)

Anticipated Outcomes - Offshore Aquaculture

- Aquacultural practices for ecosystem/species recovery and climate mitigation/adaptation are preferred and encouraged
- Geographical areas are reserved for:
  - The above uses where a clear defensible basis can be identified, including for the restoration of historic bull kelp beds highlighted yellow in the map below
  - Federal, state, or local marine protected areas, including Orchard Rocks Conservation Area in Rich Passage
  - Navigation channels (see purple in chart below) and ferry routes (see red in chart below)
  - Undersea cable and pipeline areas (see blue in chart below)
  - Other restricted areas (e.g. unexploded ordinance, torpedo range, disposal areas, bridges, etc – see green in chart below)
- Setback 1,500-foot offshore (as shown in red in the map below), except as necessary for ecosystem/species recovery.
- The existing fish farm in Rich Passage would become nonconforming and can be replaced, but not expanded, under the recently adopted SMP amendment (Ordinance 2020-17).







## **Alternative #2 – Minimal Revisions to the 2016 Amendment Necessary to bring it into Compliance**

### Objectives

In addition to the overall objectives above, this alternative is guided by the following objectives:

- Assume the Council's directive (above) is to prepare a draft amendment based on Ordinance 2016-06 with only minimal revisions, as necessary, to bring it into compliance with the SMA.
- Incorporate elements of the Pierce County SMP, as appropriate, to replace non-compliant sections of the 2016 aquaculture amendment.

### Anticipated Outcomes

- Geographic restrictions on commercial aquaculture will only include:
  - Existing SMP regulations that would continue to prohibit commercial aquaculture in certain shoreline designations
  - Kelp beds
  - Native eelgrass beds
  - City-owned tidelands
  - Navigation channels
- Specific location, design, and operational standards will only apply to commercial aquaculture.
- Kelp restoration or kelp farming for climate change mitigation/adaption (as described in Alternative #1) would not be allowed.

## **Alternative #3 - No Action**

### Objectives

In addition to the overall objectives above, this alternative is guided by the following objectives:

- Stop allocating city resources to this amendment.
- Avoid future litigation.

### Anticipated Outcomes

- Stop work on the aquaculture amendment.
- The City would continue implementing the 2014 SMP aquaculture provisions, which were approved by Ecology and are no longer subject to appeal.



## SMP Periodic Review

### Policy White Paper on Flooding from Sea Level Rise

3/28/2021

**Prepared by:**

Peter Best, MMA  
Senior Planner  
City of Bainbridge Island  
[pbest@bainbridgewa.gov](mailto:pbest@bainbridgewa.gov)  
206-780-3719

**Note Regarding the Scope of this Policy White Paper**

This policy white paper is not intended to be an exhaustive summary on the complex issue of flooding from sea level rise, but rather a concise summary relevant to supporting policy-level discussions within the scope of authority the City of Bainbridge Island has under the Washington State Shoreline Management Act, Growth Management Act, and other authorities.

**Contents**

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What Development is vulnerable to flooding from sea level rise? ..... 10

What are adaptive actions? ..... 16

Policy Issues for Consideration ..... 18

Attachment A – City Policies Regarding Sea Level Rise and Flooding

Attachment B – Sea Level Rise on Bainbridge Island: A Preliminary Assessment

Attachment C – Tides, Water Levels, & Relative Sea Level Rise Projections for Bainbridge Island

    How to Use the Information in this Attachment

    Tides, Waves, and Water Levels

    Sea Level Rise Projections

Attachment D – Preliminary Maps of Key Vulnerabilities to Sea Level Rise

Attachment E – Island County Sea Level Rise Adaptation Best Practices Matrix

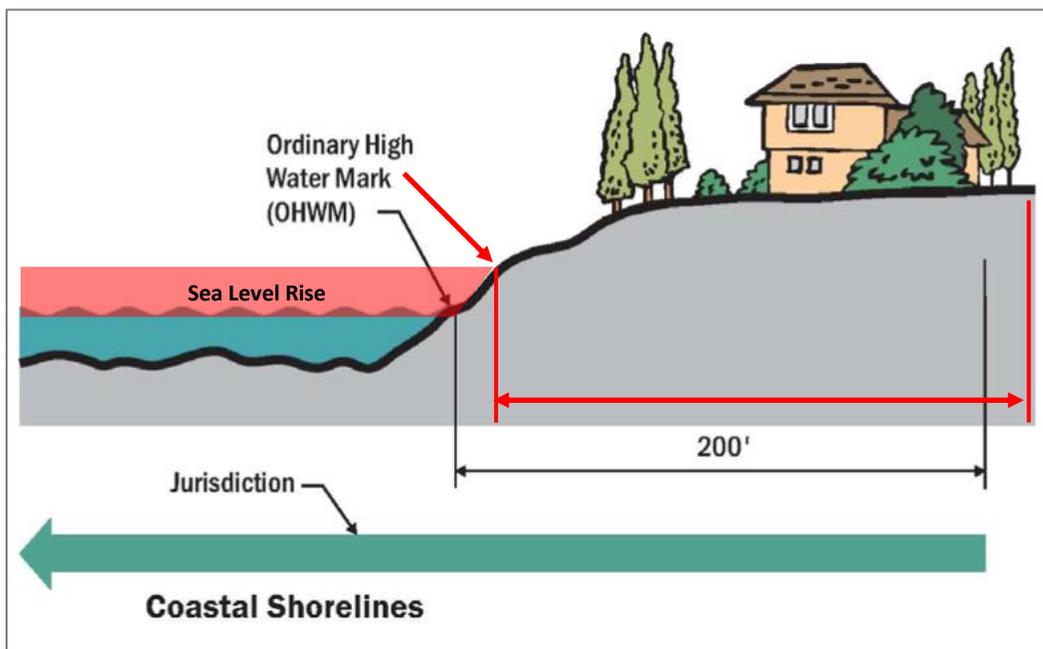
## Introduction

The City of Bainbridge Island has been very proactive in understanding and planning for the likely impacts of climate change. In 2016 the City completed a [Climate Impact Assessment](#) and updated to the [Comprehensive Plan](#) with significant changes related to climate change. In 2019 the City prepared an updated assessment of Sea Level Rise on Bainbridge Island (Attachment B) and in 2020 the City adopted a [Climate Action Plan](#). Through this work, the City has made it official policy to adapt to projected sea level rise (See Attachment A). Therefore, the policy discussion associated with this amendment is not about the causes of sea level rise, but rather the discussion is about when and how the community of Bainbridge Island will implement existing policy, using the most recent sea level rise projections for Washington State, to adapt to the rising seas around us. The City has intentionally chosen to address flooding from sea level rise in this amendment and to address bluff erosion from sea level rise in a future amendment currently anticipated in 2-3 years.

## Shoreline Jurisdiction

The SMP manages an area commonly referred to as “shoreline jurisdiction” which extends from the City boundary half-way between Bainbridge Island and the opposite shoreline to approximately 200-feet inland from the ordinary high water mark (see Figure 1). The ordinary high water mark is a key regulatory line from which setbacks and buffers are measured. The ordinary high water mark is a bio-physical line that, by law, moves as the shape of the shoreline changes (e.g. from erosion or development) and with sea level rise, which means setbacks, buffers, and shoreline jurisdiction will move with it over time.

**Figure 1. Shoreline Jurisdiction**



(Source: WA Dept of Ecology Shoreline Master Programs Handbook, Dec 2017)

**King Tides**

“King Tide” is the term used to describe the highest tide of the year. These are “still water” levels that may include storm surge caused by low atmospheric pressure and winds, but no additional wave height is included in the tidal elevation. King Tides today help us imagine what regular high tides will look like in the future. Figure 2 shows a still water “sunny day” flood event (i.e. when there is no storm and little to no wind generated waves) on Point Monroe during the January 4, 2021 King Tide. Using Risk Profile 4 (Low Risk of Future Flooding) in Attachment C:

**Note:** Attachment C has more info on tides and water levels.  
*EHW = Extreme High Water*  
*MHHW = Mean Higher High Water*  
*MLLW = Mean Lower Low Water*

- This King Tide (red line) is projected to be the approximate ordinary high water mark by 2040 and our future MHHW (i.e. average daily high tide) by the 2080s.
- Approximate future base flood elevations (BFE) for the flood zone at this location will be the yellow dash line by 2030 and the green dash line by the 2080s.

**Figure 2. January 4, 2021 “King Tide” Flooding on Bainbridge Island**



(Annotation by COBI with water levels in MLLW. Photo Credit: Pat McCabe. 9am 1/4/2021)

In contrast, the February 4, 2006 King Tide was at a similar tidal elevation but occurred during a significant storm event with winds up to 50 MPH and high waves. The combination of extreme tide and strong winds caused widespread flooding and property damage (see Figure 3), including lifting the decks of some piers off the top of their piling on Bainbridge Island.

**Figure 3. February 4, 2006 King Tide Flooding and Damage**

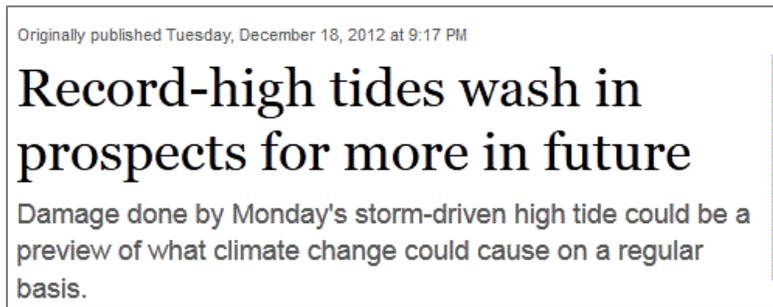


(Source: WA Department of Ecology. 2016. [Determining the Ordinary High Water Mark for Shoreline Management Act Compliance in Washington State](#); Double Bluff Park, Whidbey Island; Credit: Hugh Shipman)

On December 17, 2012, the King Tide reached the extreme high water (EHW) level (i.e. the highest tide ever recorded in Seattle) during a significant storm event resulting in widespread flooding and property damage (see Figures 4 and 5).

- Accounting for the waves, this storm likely represents an event quite close to the 1% annual chance flood event (FKA 100-year flood event) used to map current flood zones.
- Under the “very low risk of future flooding” risk profiles in Attachment C, we would project that this 14.48’ MLLW tide could be our future MHHW (i.e. average daily high tide) by the 2070s. Under the “moderate risk of future flooding” risk profile, we would project that it would be our future MHHW by the 2130s.

**Figure 4. Headline Following December 17, 2012 Extreme High Water Storm Event**



**Figure 5. Photo of the December 17, 2012 Extreme High Water Storm Event**



(Figure 4 & 5 Source: Cliff Mass Weather Blog. 12/19/2012. [“Record Water Levels in Seattle: Why did it occur and is global warming important?”](#); Headline Credit: The Seattle Times; Photo Credit: West Seattle Blog)

## Sea Level Rise Projections

Sea level rise projections have evolved over time and will continue to improve. As with any forecasting effort, there is always *uncertainty*, and of course projections never precisely predict the future. However, there is:

- *Certainty* about the trend: sea levels are rising, and the pace of change is accelerating.
- *High confidence* that the amount of sea level rise will not be small or easy to manage.

For an example of a sea level rise impact assessment from another Puget Sound island, see the [Squaxin Island Sea Level Rise Story Map](#).

Washington is fortunate to have what may be the best sea level rise projections in the United States because they account for localized vertical land movement and provide a range of risk profiles on a decade-by-decade basis (see Attachment B). This provides us with localized projections that can be applied in a context-sensitive way.

Attachment C contains the sea level rise projections for Bainbridge Island following the guidance provided by the City’s Climate Change Advisory Committee in Attachment B to use only the high (RCP 8.5) greenhouse gas scenario in the Washington Coastal Resilience Project model (Miller, et al 2018). Five risk profiles are presented using charts and data tables to:

- Visualize sea level rise curves
- Compare current datums to future elevations (i.e. today’s EHW elevation will become the future MHHW elevation by the year-x and will go from a 2% chance per year event to a near daily occurrence)
- Compare data points from the projections to real world tidal and land elevations for buildings, infrastructure, and habitats.
- Visualize different water levels on a map using the NOAA [Sea Level Rise Viewer](#).

The risk profiles are presented in a way that is intended to simplify the very complex topic of future probabilities. See Attachment C for more information and examples for using the risk profiles.

## Impacts of Sea Level Rise (SLR)

Sea levels have fallen and risen many times over geologic time scales and have reshaped coastal landscapes through flooding and erosion processes. The period of rapidly increasing sea level rise we are now beginning to experience will reshape the shorelines around Bainbridge Island within a human lifetime, not only physically, but also economically, socially, and ecologically. While these impacts will affect our entire community, the greatest personal impacts will materialize for the next generations who live and work closest to our shorelines. The following is a summary of anticipated impacts.

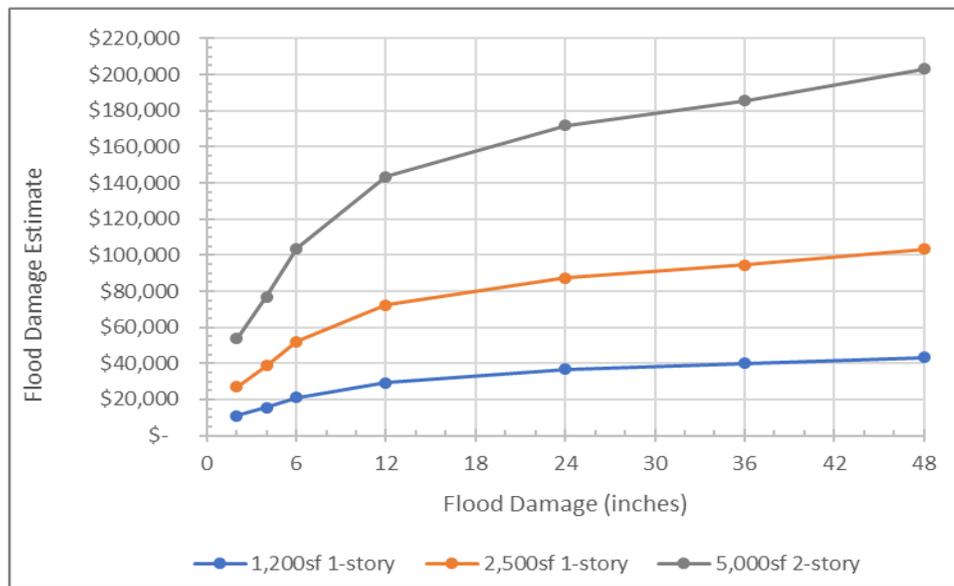
**Economic Impacts**

- Decreasing property values in the SLR risk area
- Increasing property values outside of the SLR risk area
- Decreasing tax revenues
- Increasing infrastructure costs
- Increasing flood damage costs (see Figure 6)
- Increasing private costs to adapt existing development
- Increasing public costs to assist with adaptation

**Social Impacts**

- Increasing road closures and detours
- Decreasing access for emergency services, residents, employees, and customers
- Increasing displacement of community members who will need housing elsewhere in the community or will leave the community
- Decreasing shoreline access and park uses (although this could increase if some shoreline property is acquired and opened for public use)
- Increasing saltwater intrusion into aquifers
- Higher groundwater levels will alter conditions for building foundations, septic systems, vegetation, and stormwater infiltration

**Figure 6. Estimated Flood Damage Costs for Single-family Residence**



(Source: FEMA [Flood Damage Cost Calculator](#))

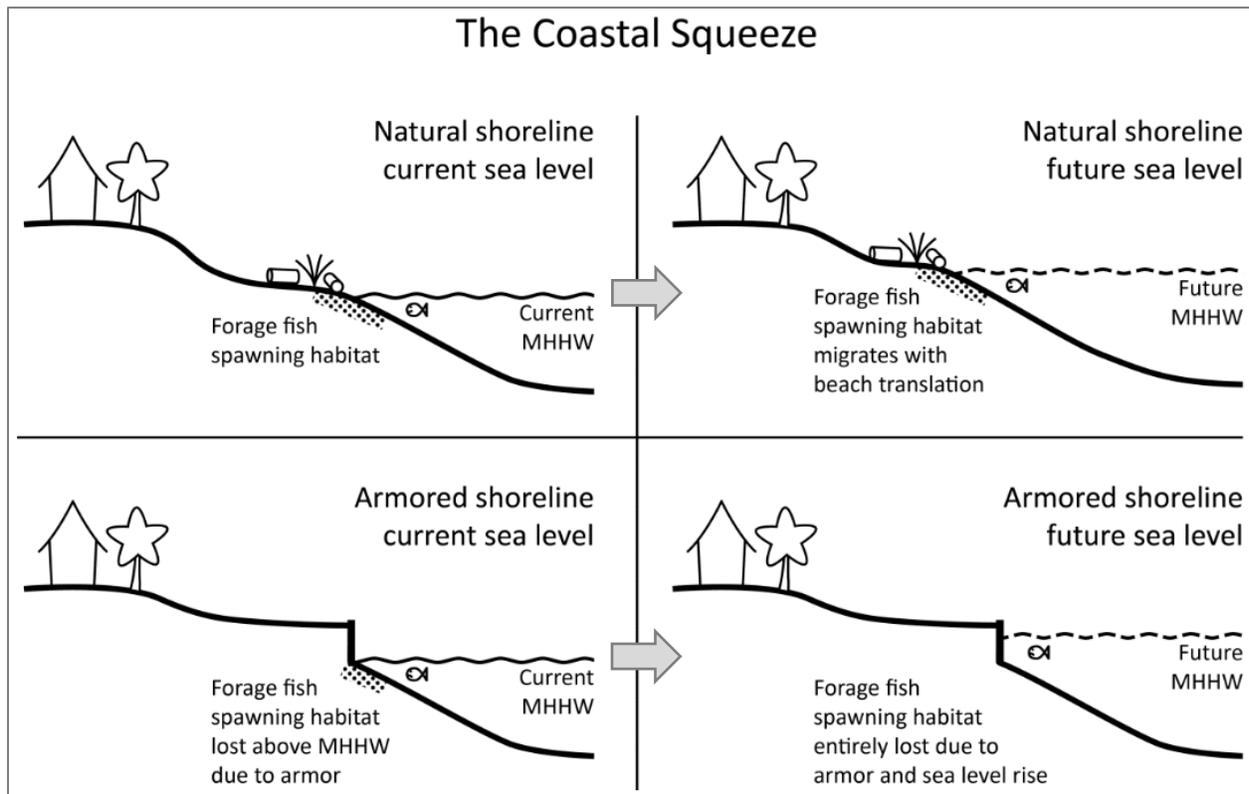
## Ecological Impacts

- Designated critical areas in the sea level rise risk area include:
  - Submerged aquatic vegetation (eelgrass, kelp, etc)
  - Shellfish beds
  - Forage fish spawning habitat
  - Coastal wetlands
  - Other fish and wildlife habitat areas associated with listed species and species of local important, including salmon
  - Marine riparian areas (shoreline buffers)
  - Aquifer recharge areas
- Most of these critical areas are dependent on certain water depth gradients, salinity gradients, proximity to tidal water, and/or the long-term movement and sorting of sediments, which are all impacted by not just the rising water level but also the pace at which it rises.
- Some types of critical areas can “migrate” landward as water levels rise, but this is largely dependent on having suitable substrate and hydraulic conditions. If they cannot migrate at the same pace as water levels rise, they will essentially be “drowned” out.
- If there is no available area for elevation-dependent critical areas to migrate due to shoreline armoring or natural banks, then these critical areas will be “squeezed” out (see Figure 7).
- Restoration and enhancement efforts, including the intentional retreat of certain development, will be needed in order to maintain as much of the valuable ecological functions and values as possible provided by these critical areas and will need to be [designed to accommodate sea level rise and habitat migration](#). A net loss of at least certain ecological functions and values is expected to be inevitable in the long-term.

Read more about “coastal squeeze” in the Salish Sea:

- [San Juan Islands](#)
- [Fraser River Delta, British Columbia](#)

Figure 7. Example of Coastal Squeeze



(Source: [Encyclopedia of Puget Sound](#). Credit: Coastal Geologic Services)

### What Development is vulnerable to flooding from sea level rise?

Several risk assessments have been completed for Bainbridge Island, all of which have generally described the risk and vulnerability to sea level rise, including:

- [2012 Bainbridge Island Hazard Identification and Vulnerability Assessment](#)
- [2015 FEMA Risk Report for Kitsap County](#)
- 2019 Sea Level Rise on Bainbridge Island: A Preliminary Assessment (Attachment B)

In order to complete a more detailed vulnerability assessment and draft code amendments necessary to facilitate adaptation to sea level rise, we need to know the risk profile(s) to which we are going to be managing (see Attachment C).

For comparison, current special flood hazard zones are based on the historic 1% annual chance of flooding (formerly known as the 100-year flood event). Based on this risk profile, we know that Bainbridge Island is more vulnerable to current flood risks than most other parts of Kitsap County (see Table 1).

**Table 1. Special Flood Area Assessment**

Community	Total Estimated Building Value	Percentage of Buildings in the Special Flood Hazard Area	Building Dollar Loss for a 1% Annual Chance Flood Event	Loss Ratio (Dollar Losses/Total Building Value)	Number of Buildings in Zones AE, A	Number of Buildings in Zone VE
Bainbridge	\$2.6 Billion	1.5%	\$3.6 Million	1.4%	136	8
Bremerton*	\$1.7 Billion	<1%	\$404,000	<1%	21	0
Port Gamble S'Klallam Tribe**	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Suquamish Tribe	\$474 Million	<1%	\$175,000	<1%	3	0
Port Orchard	\$966 Million	<1%	\$579,000	<1%	24	0
Poulsbo	\$865 Million	<1%	\$3.4 Million	<1%	7	0
Unincorporated County	\$9.7 Billion	<1%	\$5.2 Million	<1%	164	175
<b>Total</b>	<b>\$16.3 Billion</b>	<b>&lt;1%</b>	<b>\$13.4 Million</b>	<b>&lt;1%</b>	<b>355</b>	<b>183</b>

Note: Loss information is included for communities in the coastal floodplain. The table includes both dollar losses and a loss ratio, which is calculated as total losses/total building value. Also included is a count of the buildings in Zone VE, which is the 1-percent-annual-chance coastal flood zone with wave action, and in Zones A and AE, which are riverine or coastal 1-percent-annual-chance floodplains. The loss information for the county is only for coastal SFHAs; the rest of the county's SFHAs are identified as Zones AE or A.

\*Information from the military base was not included in the assessment for the City of Bremerton.

\*\*No building data was available from Kitsap County for the Port Gamble S'Klallam Indian Reservation, so the results are listed as unknown.

(Source: [2015 FEMA Risk Report for Kitsap County](#))

The following tables summarize the potential vulnerability of various areas and assets on Bainbridge Island and maps indicating these areas are provided in Attachment D. These are preliminary vulnerability assessments based on the EHW curve on the sea level rise projections for Risk Profile 3 (Moderate Risk of Future Flooding) in Attachment C and based on a visual assessment using the NOAA [Sea Level Rise Viewer](#). Vulnerability will be greater where a lower risk profile is more appropriate and vulnerability will be less where a higher risk profile is more appropriate. Keep in mind that current flood risk will get worse and those areas impacted by 2050 will be more impacted by 2120.

**Table 2. Sea Level Rise Visualization Parameters**

Visualize flooding risk from sea level rise for yourself using the following parameters for water level above MHHW in the NOAA <a href="#">Sea Level Rise Viewer</a>				
Risk Profile		Currently	By 2050	By 2120
1	Very High Risk of Future Flooding (99% chance)	+3.1'	+3.2'	+3.8'
2	High Risk of Future Flooding (90% chance)	+3.1'	+3.5'	+4.7'
3	Moderate Risk of Future Flooding (50% chance)	+3.1'	+3.9'	+5.9'
4	Low Risk of Future Flooding (10% chance)	+3.1'	+4.3'	+7.4'
5	Very Low Risk of Future Flooding (1% chance)	+3.1'	+4.7'	+10'

Once the City has identified which risk profile(s) will be used to manage future flooding risk from sea level rise, this vulnerability assessment should be refined in the future utilizing more detailed topographic mapping on an Island-wide basis, neighborhood basis, or during site planning for specific projects.

**Table 3. Commercial and Industrial Development Vulnerable to Coastal Flooding**

Coastal Flooding Risk	Commercial	Industrial
<b>Currently</b>	Auto shop (head of Eagle Harbor)	WSF Maintenance Facility Wyckoff Superfund Site
<b>By 2050</b>	Lower Parfitt Way	
<b>By 2120</b>	Lynwood Center^	

^ Potential flooding through stormwater system

**Table 4. Residential Areas Vulnerable to Coastal Flooding**

Coastal Flooding Risk	Higher Density	Lower Density
<b>Currently</b>	Pt Monroe Rolling Bay Walk Yeomalt Pt Lower Hawley neighborhood Lower Lynwood Center	Various parcels and small areas Manitou Beach Area south of Fay Bainbridge Park Inner Eagle Harbor (varies) Pleasant Beach Pt White (varies) Tolo Lagoon West Port Madison (varies)
<b>By 2050</b>	Eagle Harbor Condos Rockaway Beach	Various parcels and small areas Crystal Springs (varies)
<b>By 2120</b>	Place 18 Condos	Various parcels and small areas Wing Pt Lagoon Lower Skinner Rd neighborhood Rich Passage Estates (by Ft Ward Park)

**Table 5. Roads and Neighborhood Access Vulnerable to Coastal Flooding**

Coastal Flooding Risk	Flooded Roads	Neighborhoods with no Road Access during Floods	Neighborhoods with Detoured Road Access during Floods
<b>Currently</b>	Euclid Ave* Pt Monroe Drive* Rolling Bay Walk* Manitou Beach Drive* Yeomalt Pt Dr* Pt White Drive* (by Schel Chelb)	Pt Monroe Manitou Beach Rolling Bay Walk Yeomalt Pt	
<b>By 2050</b>	Eagle Harbor Drive* Crystal Springs Dr*	Pt White/Crystal Springs	South Shore Eagle Harbor Rockaway Beach
<b>By 2120</b>			

(\*) Documented presence of critical fish and wildlife habitat areas, saltwater habitat areas, shoreline associated wetlands that will be vulnerable to “coastal squeeze”

**Table 6. Utilities Vulnerable to Coastal Flooding**

Coastal Flooding Risk	City	TBD
<b>Currently</b>	Yeomalt Stormwater	Winslow Sewer Treatment Plant Facilities co-located with at risk roads Urban Stormwater Sewer Water (private wells) Power
<b>By 2050</b>	Eagle Harbor sewer main Lynwood Center stormwater (likely)	
<b>By 2120</b>		

**Table 7. Parks and Shoreline Access Vulnerable to Coastal Flooding**

Coastal Flooding Risk	Shoreline Parks	Other Shoreline Access
<b>Currently</b>	Fay Bainbridge Park Manitou Beach Park Hawley Cove Park Pritchard Park Strawberry Plant Park Blakely Harbor Park	Waterfront Trail (Winslow Way to Shepard Way) Lytle Road End Dock Street Road End Other Road Ends (TBD)
<b>By 2050</b>	Waterfront Park Schel-Chelb Park Pt White Dock	Other Road Ends (TBD)
<b>By 2120</b>		Other Road Ends (TBD)

## How is flood risk managed?

The City has adopted policies regarding flood management and aquatic resources (see Attachment A and [BIMC 15.16.010](#)) and several codes related to flood management, which include the following. One management challenge is that none of the following codes apply to the entire area at risk of flooding from sea level rise (see Figure 8), so some type of jurisdictional adjustment will most likely be necessary to ensure effective management of future flood risk from sea level rise.

### **BIMC 15.16 (Flood Damage Prevention)**

This code satisfies the National Flood Insurance Program and is the City's primary flood management code. This code currently applies only in the flood zones mapped by FEMA and contains standards for construction, such as:

- Anchoring of the building and accessories
- Building the lowest floor at least 1' above the base flood elevation
- Nonconforming standards which require the entire structure to conform to the existing regulations when any repair, reconstruction, or improvement to a structure is equal to or greater than 50% of the structures market value
- A habitat assessment may also be required under the Endangered Species Act

The City could expand the area where BIMC 15.16 applies. One example of this was adopted by King County in 2020 by which they [created a Sea Level Rise \(SLR\) Risk Area and updated some of the flood-related development standards](#). This approach did not address issues related to coastal squeeze.

### **Frequently Flooded Areas (SMP 4.1.5 and BIMC 16.20)**

The City is mandated by state law to regulate "frequently flooded areas" as one type of "critical area". City critical area regulations are in both the Critical Areas Ordinance (BIMC 16.20) and the SMP (4.1.5), however the SMP and BIMC 16.20 both regulate frequently flooded areas through direct reference to BIMC 15.16. Under the SMP, the City is required to ensure no net loss of ecological functions and values associated with frequently flooded areas and other critical areas, as discussed under the impacts section of this paper.

Frequently flooded areas are currently defined as the FEMA flood zone, which is designated based on historic flooding rather than future flood risk from sea level rise. The City is allowed by [WAC 365-190-110](#) to expand the definition of frequently flooded areas to include a future flood risk from sea level rise. This expanded "frequently flooded area" could be managed without fragmented jurisdiction either through BIMC 16.20 or by expanding SMP shoreline jurisdiction (discussed below).

Figure 8. FEMA Flood Hazard Area (left) can Extend Beyond Shoreline Jurisdiction (right)



(Source: COBI [Critical Areas Online GIS Map](#))

**SMP**

Beyond frequently flooded requirements, the SMP also is required to address flood hazard reduction (SMP 4.1.7), shoreline stabilization (SMP 6.2), fill (SMP 6.5), and dredging (6.4) consistent with the state guidelines in WAC 173-26 adopted under the Shoreline Management Act. Flood control projects could be allowed by the SMP under some circumstances and is less restrictive in Pt Monroe than elsewhere on the Island. Shoreline stabilization projects could also be allowed by the SMP under some circumstances, however new development must ensure that shoreline stabilization will not be required for the life of the structure and stabilization proposals for pre-existing structures must rule out alternatives, including elevation or relocation of the structure. No net loss of ecological functions must be achieved in all development actions.

## Other Regulatory Programs

Other regulatory programs that could require adjustments due to flood risks include:

- Septic and well requirements administered by the Kitsap Public Health District to address flood proofing and public health
- Fire code requirements administered by the Bainbridge Island Fire Department to address emergency service access and public safety
- Critical aquifer recharge area requirements administered by the City to address saltwater intrusion issues
- City design standards for roads and other public infrastructure to address design elevations, culvert or bridge sizing, and flood proofing

## What are adaptive actions?

Because of observable changes and the quality of the available science, communities around the world have made the shift to planning and investing for ongoing and significant changes in their coastal areas knowing that adaptation to rising seas will continue to be an evolving process for a long time to come.

Adaptative actions to sea level rise are typically grouped into three broad strategies:

1. **Protect** – Usually involves building walls but can also include “soft approaches” and [restoration of habitats that help reduce flooding](#). This approach generally creates the greatest long-term risk of losing ecological functions and values to coastal squeeze.
2. **Accommodate** – Usually involves raising structures and finding ways to live with increasing flooding. This approach is likely to result in a mix of losing, protecting, and restoring ecological functions and values.
3. **Retreat** – Usually involves an extended and coordinated period of phasing out structures and infrastructure as well as habitat restoration. This approach will generally minimize the loss of ecological functions and values.

Existing City policies in Attachment A and in [BIMC 15.16.010](#) do not prohibit but also do not prioritize the use of protection strategies.

Different communities seem to adopt different solutions largely based on risks and timeframes. Some high-density urban areas feel they have no choice but to invest in protection measures whatever the cost. [Some communities may prioritize the “now”](#), which emphasizes investment in protection actions in the near term, likely increasing the long-term costs to the community, and as time passes the community may find they have fewer options because some adaptive actions are no longer feasible. Other communities may prioritize the “future” and adopt plans to [relocate their entire community](#). Other communities may take a “context-sensitive” approach that includes protection of high-consequence facilities/areas, [accommodating flood waters in areas where that is feasible \(at least for a while\)](#), and [retreating over time in areas as risks increase](#). Some communities have accommodated flooding to the extent that households

have gutted first floors and retreated to their second floor. Sea level rise planning [may be controversial, but elected leaders and citizens are increasingly recognizing that action is necessary.](#)

Island County has completed a sea level rise strategy study that includes a summary table of adaptive actions along with examples of where they are being implemented (see Attachment E). King County has a [buyout and building elevation assistance program](#) and recently [adopted zoning rules expanding accommodation actions](#) to a “SLR risk area”. One creative idea from Virginia worth noting includes using some type of buyout, transfer of development right, or conservation easement with the owner retaining life use of the property (or at least until a specified safety threshold is triggered).

This paper will not go into further detail regarding adaptive actions at this time because a higher-level policy discussion needs to happen first regarding risk profiles and general policy direction regarding the three broad adaptation strategies.

## Policy Issues for Consideration

The following are questions that build off the content presented in this policy white paper which are intended to frame a high-level policy discussion that will inform the planning department's proposed amendments.

- 1. When should actions be taken to adapt PRIVATE development in low-lying areas to sea level rise?**
  - a. Well before any flooding occurs
  - b. Not too early, but before flooding occurs
  - c. Only after flooding has become a problem
  
- 2. When should actions be taken to adapt PUBLIC infrastructure in low-lying areas to sea level rise?**
  - a. Well before any flooding occurs
  - b. Not too early, but before flooding occurs
  - c. Only after flooding has become a problem
  
- 3. What level of risks (i.e. risk profiles) should we be planning for? Should the management of flood risk from sea level rise be more context-sensitive or should we generally apply the same standards in all situations?**
  - For example:
    - Should there be (1) standard risk profiles for different types of structures and uses (e.g. 90% chance for accessory building vs. 50% chance for SFR vs. 10% chance for multi-family vs. 1% chance for critical infrastructure) or (2) one risk profile for all development and uses (e.g. 50% chance)?
    - Should landowners be (1) allowed to develop to their own custom risk profile and prepare a plan for how and when the property would adapt in the future to comply with a standard risk profile or (2) required to develop to a standardized risk profile to provide equal protection to current and future owners?
    - Should (1) neighborhood adaptation plans be developed so that adaptive actions (i.e. protect, accommodate, or retreat) for public infrastructure and private development can be coordinated or (2) should the City and other public service providers coordinate only regarding the adaptation of public infrastructure.
  
- 4. How should the costs of adaptive actions be allocated between at-risk landowners and the community at large (i.e. through public expenditures and infrastructure projects)? Should some sort of financial incentive or compensation be considered to encourage adaptive actions where there is existing development or the potential for new development? What incentives or compensation tools seem appropriate?**
  - Adaptation technical assistance
  - Adaptation grants

- Transferable Development Rights (TDR)
- Bonus TDRs
- Buyout (i.e. voluntary sale of property to the government at market rate or program-specific prices that are usually below market rate)
- Life use (i.e. after the sale or transfer of a property, the seller retains the right to use the property for the remainder of one's life or until some sort of risk threshold is triggered)



## Attachment A – City Policies Regarding Sea Level Rise and Flooding

### 2020 Climate Action Plan Goals, Targets, & Actions

**Goal 5.B. Establish procedures to ensure buildings and infrastructure are resilient to climate change impacts (e.g., higher precipitation, sea level rise, wildfire risk and temperatures).**

**Target 5.B.1.** By 2025, COBI will complete an analysis, develop a plan, and design a process for regularly updating the plan to ensure all City-owned assets will be resilient from sea level rise over the lifespan of the infrastructure.

**Action 5.B.1.a.** (By 2022) As recommended by the 2019 CCAC Report on Sea Level Rise, conduct a systematic, high-resolution analysis of exposure of City assets to sea level rise

**Action 5.B.1.b.** (By 2023) As recommended by the 2019 CCAC Report on Sea Level Rise create a prioritized list for addressing COBI assets at high risk of sea level rise (e.g., roadways that are expected in the coming decades to be sufficiently flooded that they will not be functional for motorized transit.)

**Action 5.B.1.c.** (By 2024) As recommended by the 2019 CCAC Report on Sea Level Rise integrate sea level rise analysis into all City planning to identify and avoid or minimize risk to planned infrastructure and development.

**Target 5.B.1.** By 2025, COBI will complete an analysis, conduct public outreach activities, and identify those properties at highest risk from sea level rise impacts over the next 50 years.

**Action 5.B.2.a.** (By 2025-2030) Conduct a high-resolution analysis of all shoreline properties to inform landowners of exposure to sea level rises, make this information widely available for property owners to use in decision-making, and provide guidance on possible solutions and regulatory requirements.

**Action 5.B.2.a.** (By 2025-2030) COBI integrates sea-level rise analysis into all City permitting to help applicants identify and avoid or minimize risk to existing infrastructure and land uses and planned infrastructure and development from sea level rise or other climate impacts.

**Action 5.B.2.c.** (By 2023) COBI hosts community workshops on climate impacts, how they might impact buildings, and how to prepare buildings for these impacts.

**Goal 6.C. Steward our Island's shorelines to allow for resilience in the face of climate impacts including sea level rise.**

**Action 6.C.1.a.** (By 2025) Ensure that planning for sea level rise on the timeframe relevant to any proposed action's lifetime impact is explicitly incorporated into the SMP, including incorporating capacity for inundation and change to natural shoreline features, such as planting for shifting vegetative communities, infrastructure movement or abandonment to adapt to habitat loss at shoreline.

**2016 Comprehensive Plan Content  
Most Relevant to Flooding from Sea Level Rise**

**ENVIRONMENTAL VISION 2036**

It is well understood that the integrity of our environment – the foundation of our quality of life – sets limits on the growth of our population and our economic life. We have faced some distressing events within the changing natural order and have survived as a stronger community.

A culture of stewardship has preserved and even improved the varied landscapes, forests and views that contribute so much to the sense of place that is valued here. Monitoring and regulation of the impacts of human activities on the Island's natural resources has been successful in maintaining their resilience. Public policies and many initiatives of citizens and businesses have been proactive in response to the anticipated effects of climate change, such as sea level rise, adapting where necessary and mitigating impacts to the extent possible.

**CAPITAL FACILITIES VISION 2036**

Capital facilities planning has kept up with changes in the natural and built environments, meeting the needs of a population that expects a high level of service. The City's *Capital Improvement Plans* were coordinated with the strategic plans and budgets of the special purpose districts (e. g., Schools, Parks and Fire).

Planning and budgeting for facilities has been concurrent with subarea planning for the *designated centers*, and to a large extent, recent population growth and commerce have been concentrated in and near those centers. Planning and budgeting has kept pace with maintenance and expansion of recreational facilities and public lands preserved for agriculture or conservation.

Over the past twenty years, Capital Improvement Plans have responded to anticipated impacts of climate change and sea level rise. New construction and retrofits have made public buildings energy efficient and models of low impact design.

**Guiding Policy 2.4**

Anticipate and prepare for the consequences of *climate change* on our *aquatic resources*. These changes include sea level rise, altered precipitation patterns, as well as any other changes in climate and community response to climate in order to ensure ample quality, quantity and seasonal integrity of surface water and *groundwater* for the Island's people and ecosystems.

**Guiding Policy 7.3**

Evaluate the climate vulnerabilities and implications of City actions and identify policies that alleviate those vulnerabilities. Consider the effects of shifting conditions (sea level rise, changing rainfall patterns, increasing temperatures and more extreme weather events) and the effects they cause (altered vegetation, changing water demands, economic shifts).

**Policy EN 1.2**

Taking into account the present and future need to reduce the potential for personal injury, loss of life, or property damage due to flooding, erosion, landslides, seismic events, *climate change* or soil subsidence, properties adjoining or adjacent to *critical areas* must be developed in observance of the following principles in descending order:

- Avoid the impact if possible.
- Minimize or limit the degree or magnitude of the action and its implementation by using appropriate technology to avoid or reduce impacts.
- Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action.
- Rectify by repair, rehabilitation or restoration of the affected environment.
- Compensate for unavoidable impacts by replacing, enhancing or providing substitute resources or environments.

*Critical areas* are identified in order to flag concerns during the review process and to make applicants aware of potential hazards or areas where development may be constrained.

Compatible development will be allowed which avoids designated *critical areas*, minimizes the impact or mitigates potential problems through engineering, siting or design. Proposals will be examined on a case-by-case basis to allow for creative solutions and to assure that the special combinations of factors in a particular case are addressed.

**FREQUENTLY FLOODED AREAS****GOAL EN-6 - Protect the natural functions of frequently flooded areas.****Policy EN 6.1**

Minimize public and private losses due to flood conditions by limiting development in *frequently flooded areas* as shown on the Flood Insurance Rate Maps. Educate property owners and residents in proximity to *frequently flooded areas* about vulnerability over time.

*Frequently flooded areas* can and do migrate over time. Increased development may affect the level of occurrence and location of *frequently flooded areas*. The Flood Insurance Rate Maps adopted by the City were originally produced in 1975 and updated in 1977, and need to be kept current.

**Policy EN 6.2**

Limit the alteration of natural floodplains, *stream* channels and natural protective barriers that help accommodate, dissipate, or channel floodwaters.

**Policy EN 6.3**

Emphasize nonstructural methods such as setbacks and vegetation, to prevent or minimize flood damage.

**Policy EN 6.4**

Locate public facilities such as sewer and water lines outside of *frequently flooded areas* and with

consideration of future sea level rise in order to minimize damage to both the *public facility* and the natural environment. *Public facilities* may be located within *frequently flooded areas* only if no environmentally preferable alternative exists to mitigate environmental concerns. Additional development is not encouraged in *frequently flooded areas*.

## SEA LEVEL RISE

### **GOAL EN-7 - Anticipate and prepare for the consequences of sea level rise.**

Sea level rise may happen as the result of natural or human activity such as geologic subduction or *climate change*. Here in the Puget Sound we experience the effects of both the geologic and climatological forces. Cumulative sea level rise has serious implications for the shorelines and lowland areas of the Island such as beach and bluff erosion and loss of intertidal zones. These areas serve such purposes as nursery habitat, feeding grounds for fish and fowl, stormwater collection and water filtration.

#### **Policy EN 7.1**

Consider the implications of sea level rise in all relevant decision-making by using regional sea level rise projections and shoreline instability maps (as provided by the WA Department of Ecology and utilized and interpreted with the Bainbridge Island Climate Impact Assessment).

#### **Policy EN 7.2**

Coordinate with Tribal, Federal, State and local agencies to address issues related to sea level rise.

## SURFACE WATER PROTECTION AND MANAGEMENT

### **GOAL WR-3 - Achieve no net loss of ecological functions and processes necessary to sustain aquatic resources including loss that may result from cumulative impacts over time.**

Over recent decades awareness has grown of the importance of preserving and protecting *aquatic resources*. *Aquatic resources* have a number of important ecological functions, processes and values. These functions vary but include providing water quality protection, flood plain control, shoreline stabilization, contributions to *groundwater* and stream flows, and wildlife and fisheries habitat. *Aquatic resources* also have values as natural areas providing aesthetic, recreational and educational opportunities that *should* be preserved for future generations.

#### **Policy WR 3.1**

Development in regulated aquatic *critical areas* or their associated water quality buffers shall not be allowed unless application of *development regulations* would deny any reasonable use of property. In such cases, minimize the allowed use and associated impacts, to maximize environmental protection.

#### **Policy WR 3.11**

Consider the impacts of *climate change* and ocean acidification when developing regulations or approving capital projects related to *aquatic resources* including marine nearshore, *wetlands*, *streams*, lakes, creeks, associated vegetated areas and *frequently flooded areas*.

## CAPITAL FACILITIES

### Policy CF 1.3

Evaluate and prioritize proposed *capital improvement* projects using the following long-term financial strategy principles and guidelines:

- Preserve and maintain physical infrastructure.
- Use an asset management approach to the City's capital facilities.
- Use unexpected one-time revenues for one-time costs or reserves.
- Pursue innovative approaches.
- Maintain capacity to respond to emerging community needs.
- Address unfunded mandates.
- Selectively recover costs.
- Recognize the connection between the operating and capital budgets.
- Utilize partnerships wherever possible.
- Remain committed to City *goals* over the long run.
- Anticipate and respond to the impacts of *climate change*, including sea level rise.

## ACTIONS

**EN Action #3** Consider *climate change* in all relevant City decisions, including capital projects, budgeting, staffing, and program creation.

**EN Action #10** Coordinate with organizations and governments at all levels to prepare for and respond to *climate change*.

## GLOSSARY

**Frequently Flooded Areas:** Lands subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, floodplains adjacent to streams, lakes, coastal areas, and wetlands.

Attachment B – Sea Level Rise on Bainbridge Island: A Preliminary Assessment

# Sea Level Rise on Bainbridge Island

## A Preliminary Assessment



Manitou Beach, December 20, 2018, 3:40 pm. Water level: 9.91 ft NAVD88 (12.25 ft MLLW).

*Report to the City of Bainbridge Island,  
Climate Change Advisory Committee  
October 24th, 2019*



## Acknowledgements

The Climate Change Advisory Committee was established in 2017 by the City Council of Bainbridge Island to take action on climate change and increase the community's resilience (Ordinance no. 2017-13). The Committee's work plan calls for an evaluation of climate impacts and recommendations to the City for adaptation and mitigation actions.

The following document fulfills Action 10.1 in the 2019-20 Draft Work Plan, which specifically calls for an evaluation of the vulnerability of City assets and other infrastructure to the impacts of sea level rise. Identified by the Committee as a high priority action item, this report is also intended to provide a template for subsequent assessments.

The principal author of and photographer for this report is James Rufo Hill, who began the effort while serving on the Climate Change Advisory Committee. This report builds upon the 2016 Bainbridge Island Climate Impacts Assessment, which was written by Lara Hansen, Stacey Nordgren, and Eric Mielbrecht. Finally, generous assistance was provided by City of Bainbridge Island staff, especially Christy Carr and Gretchen Brown. Thank you, all.

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## Summary

Among climate change impacts, sea level rise stands out because even if humans stopped emitting greenhouse gases today, global oceans would continue to absorb excess heat, expand, and rise for centuries (Clark et al 2016). Because we are nowhere close to stopping greenhouse gas emissions, sea level rise is among the more certain impacts—it's not a question of if, but rather when. Given that Bainbridge is an island, we are acutely vulnerable to this phenomenon.

Puget Sound has risen by more than 9 inches during the past century (NOAA 2019). Continued global warming is expected to accelerate rising sea levels over the next century and beyond. The most likely projections, i.e. central estimates, from the best available science (Miller et al 2018) indicate that relative to the year 2000, Bainbridge Island will experience one foot of sea level rise by the year 2060, 2.3 feet by 2100, and 3.8 feet by 2150. High end projections give Bainbridge one foot of sea level rise by 2040, 5.2 feet by 2100, and 10.4 feet by 2150. Considerable uncertainty remains with respect to emissions scenarios and timing, but again each of the above amounts are certain to eventually occur around Puget Sound and worldwide.

This preliminary assessment provides the City of Bainbridge Island with mapping and planning methodologies, a framework for adaptation, and an understanding of its exposure to sea level rise. It is expected that the City follow-up this report by using high-resolution Geographic Information Systems (City of Seattle 2019) to analyze and inform final decision-making at the parcel level.

## Key Findings:

- Most of the City's infrastructure is not immediately vulnerable to sea level rise. A limited number of assets, primarily related to sewer service around Eagle Harbor, plus some low-lying streets, already experience or will soon experience inundation from sea level rise, especially during astronomical high tides, a.k.a. king tide events.
- The most significant impact will be to private property owners around the island, many of whom currently experience occasional nuisance flooding (EPA 2019). By the middle of this century, many of these waterfront residences will face severe inundation. Areas most exposed include Hedley Spit/Point Monroe, Manitou Beach, and Schel Chelb Estuary/Point White Drive.
- Other vulnerable community assets include Washington State Ferries (both the terminal and maintenance facility), the Wyckoff Superfund site, Fay Bainbridge Park, and to a lesser extent, the Winslow Wastewater Treatment Plant.
- Accelerated bluff erosion will threaten additional high-bank properties and septic systems.
- Increased saltwater intrusion will stress water resources adjacent to the shoreline.
- Next steps include meeting with City staff, briefing City council, engaging community members, and performing additional high-resolution analyses.

# 1. Introduction

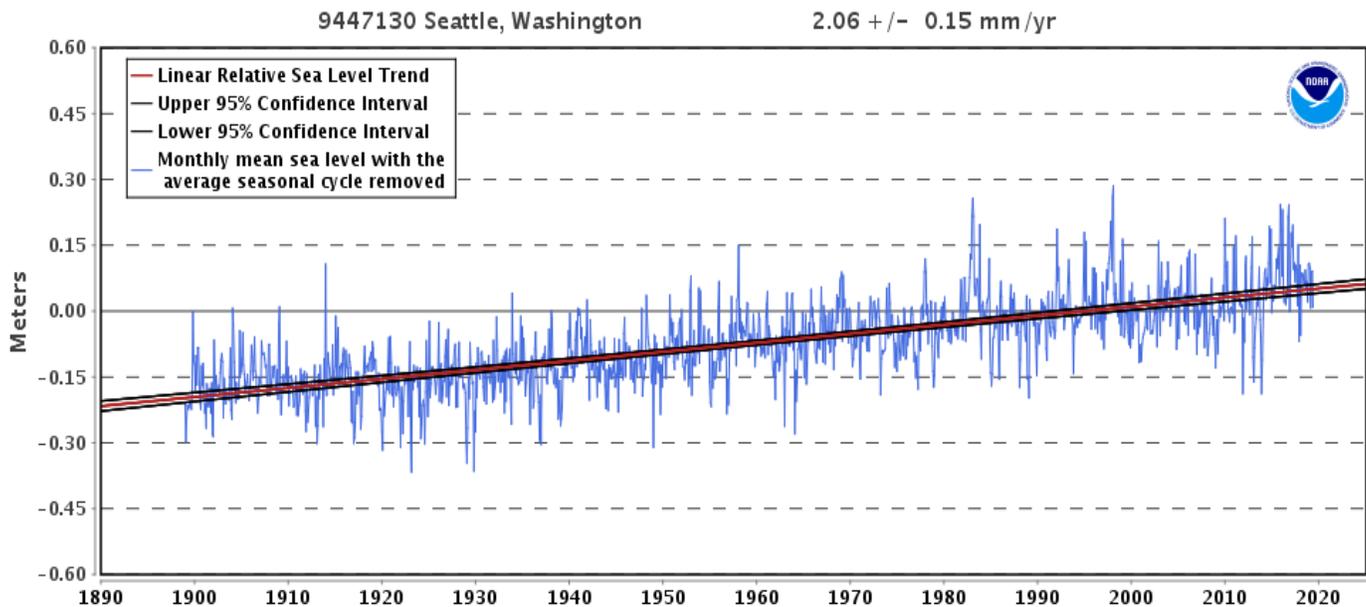
## 1.1 Sea Level Trends

Sea levels have been rising globally for a century or two, but the heating of oceans and melting of ice has caused sea level rise to accelerate in recent decades. Local water levels have risen slowly and steadily since measurements began in 1899. Figure 1 below details the trend, which has averaged approximately 2.06 millimeters per year, good for almost 10 inches of sea level rise.

Whereas coastal flooding once rarely occurred on Bainbridge Island, “nuisance flooding” has become at least an annual event in some areas (EPA 2019, NOAA 2019). Sea level rise is especially apparent each winter during “King Tide” events when gravitational forces acting on Earth are strongest.

Planners globally and locally noticed these trends and have started to act. Around Puget Sound, organizations are collaborating to minimize risk. The City of Olympia, which has experienced a rapid increase in flooding events, has developed a detailed adaptation plan (City of Olympia 2019). The City of Seattle, The Port of Seattle, and King County are in the process of writing joint sea level rise guidance and policies (City of Seattle 2019). The Swinomish Tribe is already monitoring adaptive management practices (Swinomish Indian Tribal Community 2009).

**Figure 1: Long-term sea level trend, Colman Dock, Seattle.**



Above: since records began in 1899 (x-axis), sea levels have risen locally at a rate of 2.06 millimeters per year (y-axis), which equals almost 10 inches total.

Source: [https://tidesandcurrents.noaa.gov/sltrends/sltrends\\_station.shtml?id=9447130](https://tidesandcurrents.noaa.gov/sltrends/sltrends_station.shtml?id=9447130)

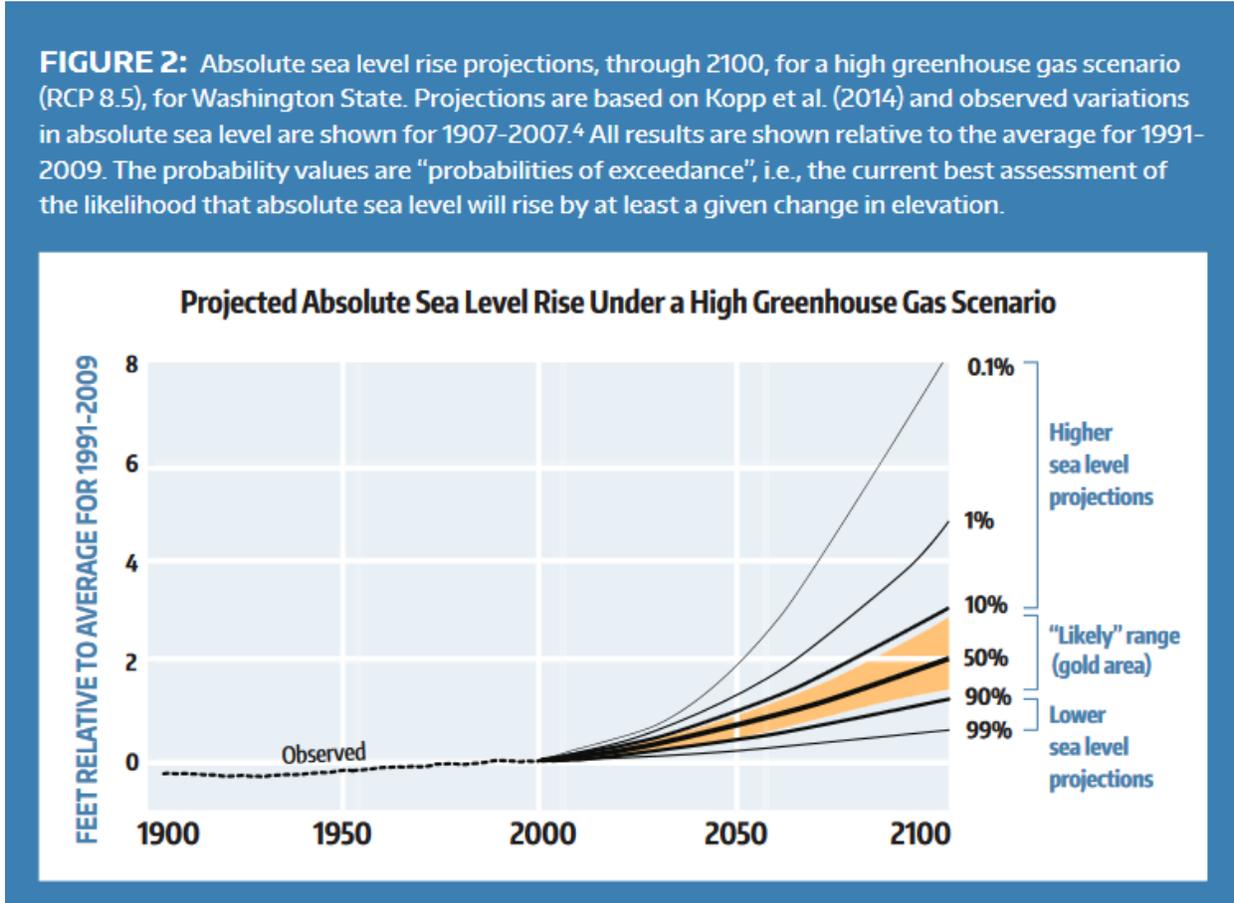
Correction: SLR from 1899 to 2020 was 0.68 feet (8.16 inches).

## 1.2 Sea Level Rise Projections

Changes in sea level will be both absolute and relative. The former refers to the height of the ocean surface in response to global warming. The latter includes local geological, hydrological, and

atmospheric effects. For example, the Olympic Mountains are undergoing post-glacial rebound, meaning they are still rising in response to the weight of ice sheets having been removed. Therefore, communities along the Strait of Juan de Fuca are currently experiencing *dropping* sea levels, because the rate of rebound is outpacing the rate of sea level rise. Eventually, the rate of sea level rise in such locations will surpass the rate of rebounding vertical land movement.

Absolute projections tend to make splashy headlines, but for planning purposes, relative projections are required. For example, Hansen and Sato (2011) assert that “multi-meter sea level rise on the century time scale are not only possible, but almost dead certain.” That said, sea level rise is driven by global phenomena, and absolute projections represent a baseline from which relative projections are made. Figure 2 (Miller et al 2018) below underscores the large range in absolute projections.



Fortunately, over the past few decades there have been a series of studies that account for local Puget Sound geography. The most recent report, Projected Sea Level Rise for Washington State (Miller et al 2018), represents the best available science. Beyond having updated methods, the report is unique in that it features new probabilistic projections, and it provides community-scale information, including four different, albeit nearly identical projections for Bainbridge Island.

Considerable uncertainty exists for the rate at which polar ice will contribute to sea level rise. Uncertainty related to global emissions scenarios is perhaps even more complex. Despite warnings and

policy efforts, humanity has generally followed the path of high greenhouse gas scenarios. This report therefore only examines this “business as usual” approach. If we start emitting fewer greenhouse gases, then lower sea level projections could be considered across Puget Sound and worldwide.

Central (“most likely”) estimates from the best available science indicate that Bainbridge Island will experience 1 foot of sea level rise by the year 2060, 2.3 feet by 2100, and 3.8 feet by 2150 (see yellow box below). The “one percent chance” scenario, i.e. rapid ice melt, projects 10.4 feet of rise by 2150 (see red box below). Again, due to climate dynamics sea level rise is likely to accelerate over the course of the next century, and it’s less a matter of how much, but when.

**Table 1: Projected average sea level magnitude, in feet, for different assessed likelihoods and time periods (Bainbridge Island).**

		Assessed Probability of Exceedance:									
19 year period centered on:	99	95	90	83	50	17	10	5	1	0.1	
2010	-0.1	0	0	0	0.1	0.2	0.2	0.2	0.3	0.3	
2020	0	0	0.1	0.1	0.2	0.3	0.4	0.4	0.5	0.6	
2030	0	0.1	0.2	0.2	0.4	0.5	0.6	0.7	0.8	0.9	
2040	0	0.2	0.3	0.3	0.6	0.8	0.9	1	1.1	1.4	
2050	0.1	0.3	0.4	0.5	0.8	1.1	1.2	1.3	1.6	2.1	
2060	0.2	0.4	0.5	0.7	1	1.4	1.6	1.7	2.1	3.1	
2070	0.2	0.6	0.7	0.9	1.3	1.8	2	2.2	2.7	4.2	
2080	0.3	0.7	0.9	1.1	1.6	2.2	2.4	2.7	3.4	5.7	
2090	0.4	0.9	1.1	1.3	1.9	2.6	2.9	3.2	4.2	7	
2100	0.5	1	1.3	1.5	2.3	3.1	3.5	3.9	5.2	8.8	
2110	0.6	1.1	1.4	1.7	2.4	3.4	3.7	4.2	5.8	10.2	
2120	0.7	1.3	1.6	1.9	2.8	3.9	4.3	4.9	6.9	11.8	
2130	0.8	1.4	1.8	2.1	3.1	4.3	4.9	5.6	8	14	
2140	0.9	1.6	1.9	2.3	3.5	4.9	5.5	6.3	9.1	16.5	
2150	0.9	1.7	2.1	2.5	3.8	5.4	6.1	7.1	10.4	18.8	

Note: similar to how climate is often defined as 30-year average weather, tides are observed and summarized over a 19-year period known as an “epoch,” hence the centering around decades.

Source: <http://www.wacoastalnetwork.com/files/theme/wcrp/SLR-Report-Miller-et-al-2018.pdf>

## 2. Methods

### 2.1 Datums

A tidal datum is a standard elevation tied to a certain height or phase of the tide (NOAA 2019). When measuring and planning for sea level rise it is critical that datums and references to elevation remain consistent.

Because of its importance to marine navigation, the most popular datum (e.g., often cited by NOAA) is mean lower-low-water (MLLW). Mean higher-high water (MHHW) is frequently used in sea-level rise literature because of the implied risk associated with “average daily” high tides. Under Washington State’s Public Trust Doctrine, public ownership of tidelands, with some exceptions, begins at extreme low water. Sometimes municipalities use their own references (e.g., King County METRO datum). Land-based surveys, including most Geographic Information systems, use the North American Vertical Datum (NAVD88).

Note: tidal datums are updated on a regular basis. NOAA’s National Ocean Service uses a 19-year period (National Tidal Datum Epoch, 1983-2001) as the standard. The epoch is revised every 20-25 years. Certain regions with anomalous sea level changes, including Puget Sound, use a modified epoch; however, this report references the 1983-2001 epoch. Since this assessment is examining land-based assets, all elevations reference NAVD88 unless otherwise noted.

### 2.2 Station Datum

The National Oceanic and Atmospheric Administration has been measuring water levels nationally for over a century. When measuring and planning for sea level rise it is critical that the highest quality datums available are used.

There are a handful of official NOAA tide gages in the Central Puget Sound region. The closest to Bainbridge Island exist in Poulsbo, Brownsville, and Bremerton. Each of those gages, however, suffers from incomplete data or relatively short periods of record.

We are fortunate in to have a gage close by with one of the longest periods of record in NOAA’s entire network (Coleman Dock, Seattle). Established on January 1, 1899 NOAA’s Seattle tide gage not only provides quality data, but it puts long-term global climate change and sea level rise into perspective. Furthermore, a comparison of current water levels between all functioning Central Puget Sound tide gages reveals only minor differences in datums (NOAA 2019).

Given Coleman Dock’s superior data quality and regional consistency, it is used exclusively in this report to reference water levels on Bainbridge Island.

### 2.3 Tidal Datums and Exceedance Probability Levels

As previously mentioned, when measuring and planning for sea level rise it is critical that datums and references to elevation remain consistent. Just as important is an understanding of exceedance probabilities. For example, an asset located near mean lower-low water will almost always be under

water. An asset located at mean higher-high water will experience, on average, daily flooding. A “50<sup>th</sup> percentile” water level should be expected to occur every other year, and so forth.

Locally, Mean Higher-High Water (MHHW), also known as an average daily high tide, measures 9.02 feet NAVD88. An annual extreme water level, or a 99<sup>th</sup> percentile event, measures 10.50 feet NAVD88. A biennial extreme water level measures 11.29 feet NAVD88, and a “100-year” water level, or 1% event measures 12.20 feet NAVD88.

These distinctions are especially important to consider when viewing maps. Maps can only depict one datum at a time, typically MHHW. A map highlighting 3 feet of sea level rise on Bainbridge at the same time depicts today’s 1% water level.

## 2.4 Mapping

The first step in assessing sea level rise usually involves mapping, which typically involves manipulating geographic information systems (GIS) to portray future inundation. The most common method in which a single (sea) surface is raised, is referred to as the “bathtub” approach. More sophisticated methods, such as hydraulic grade line analyses, better capture local variability and features.

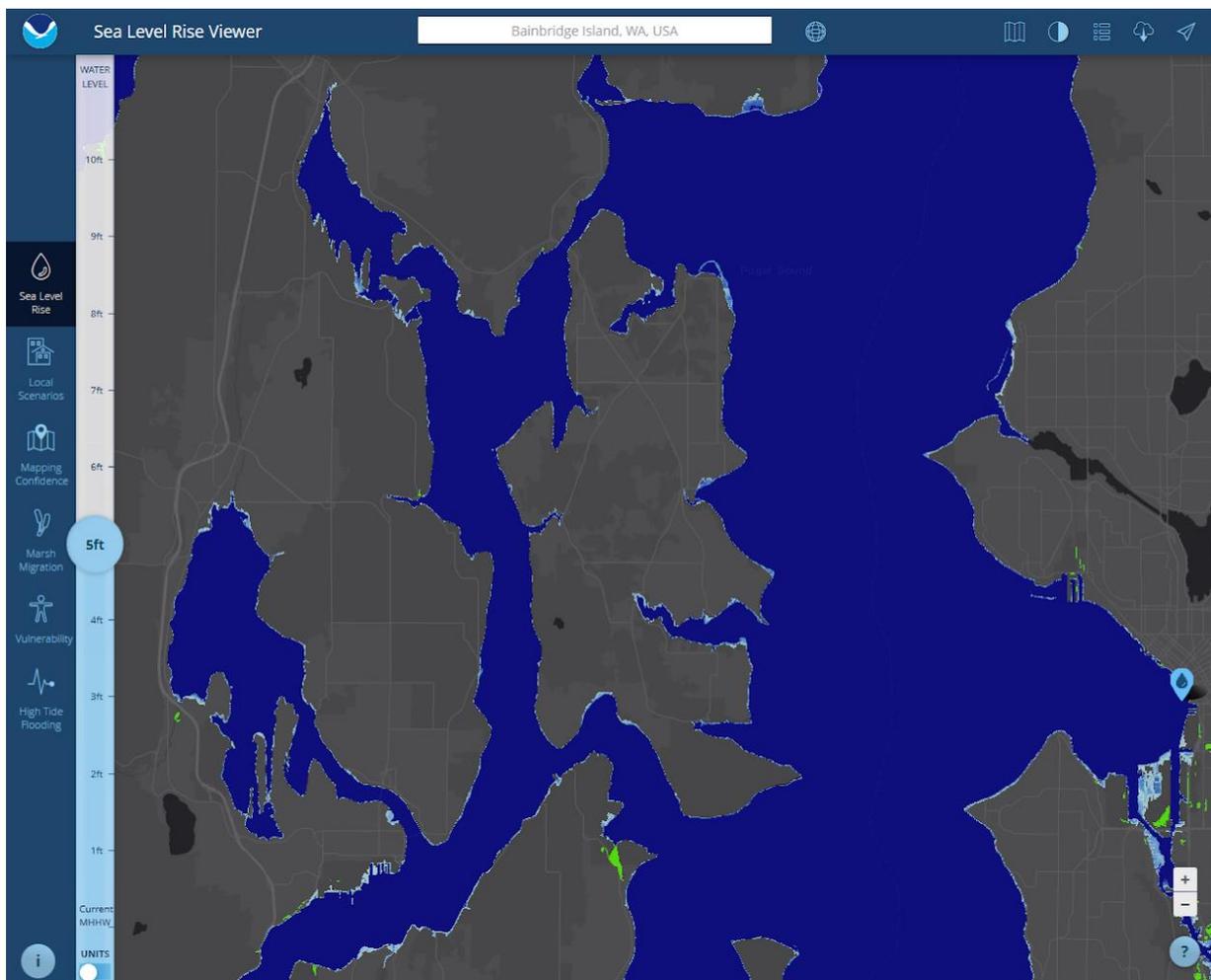
**This assessment and report build upon methods developed by NOAA, which they describe as a modified bathtub approach (NOAA 2017), but it is necessary that COBI replicate the NOAA methods using its own GIS.** For example, Seattle Public Utilities’ high-resolution maps have been used for planning for a decade and were featured in the 2014 National Climate Assessment (City of Seattle 2019).

### 3. Results

Fortunately, the resolution and accuracy of web-based GIS maps have advanced in recent years. Initial drafts and related presentations of this report utilized low resolution GIS (Kitsap County Parcel Search and Google Earth). In 2019, NOAA published a Sea Level Rise Viewer (Figure 5) that incorporates the latest digital elevation model (Puget Sound LiDAR Consortium). NOAA's viewer should be used as a first order assessment tool—it only zooms-in so far.

**It is recommended that City of Bainbridge Island staff utilize full GIS when surveying coastal assets, so that elevations can be assessed at the parcel level or even smaller.** That said, a user need not zoom-in to fully understand basic risk. Some areas simply stand out. What follows in the results section are a series of screen captures of Bainbridge Island's most obviously vulnerable areas.

**Figure 5: NOAA Sea Level Rise Viewer.**



Source: <https://coast.noaa.gov/slr/#/layer/slr/5/-13641138.69260028/6043609.973720823/13/dark/93/0.8/2050/interHigh/midAccretion>

Note: there are a few ways to interpret the water level of 12 feet NAVD88 depicted in the following series of screen captures. That water level has been exceeded twice on record, most recently in 2012, and has nearly been exceeded a handful of other times (NOAA 2019). It therefore represents today's

extreme water level. According to central estimates, the depicted water level will occur annually by the 2060s, monthly by the 2090s, and nearly every day by the 2030s.

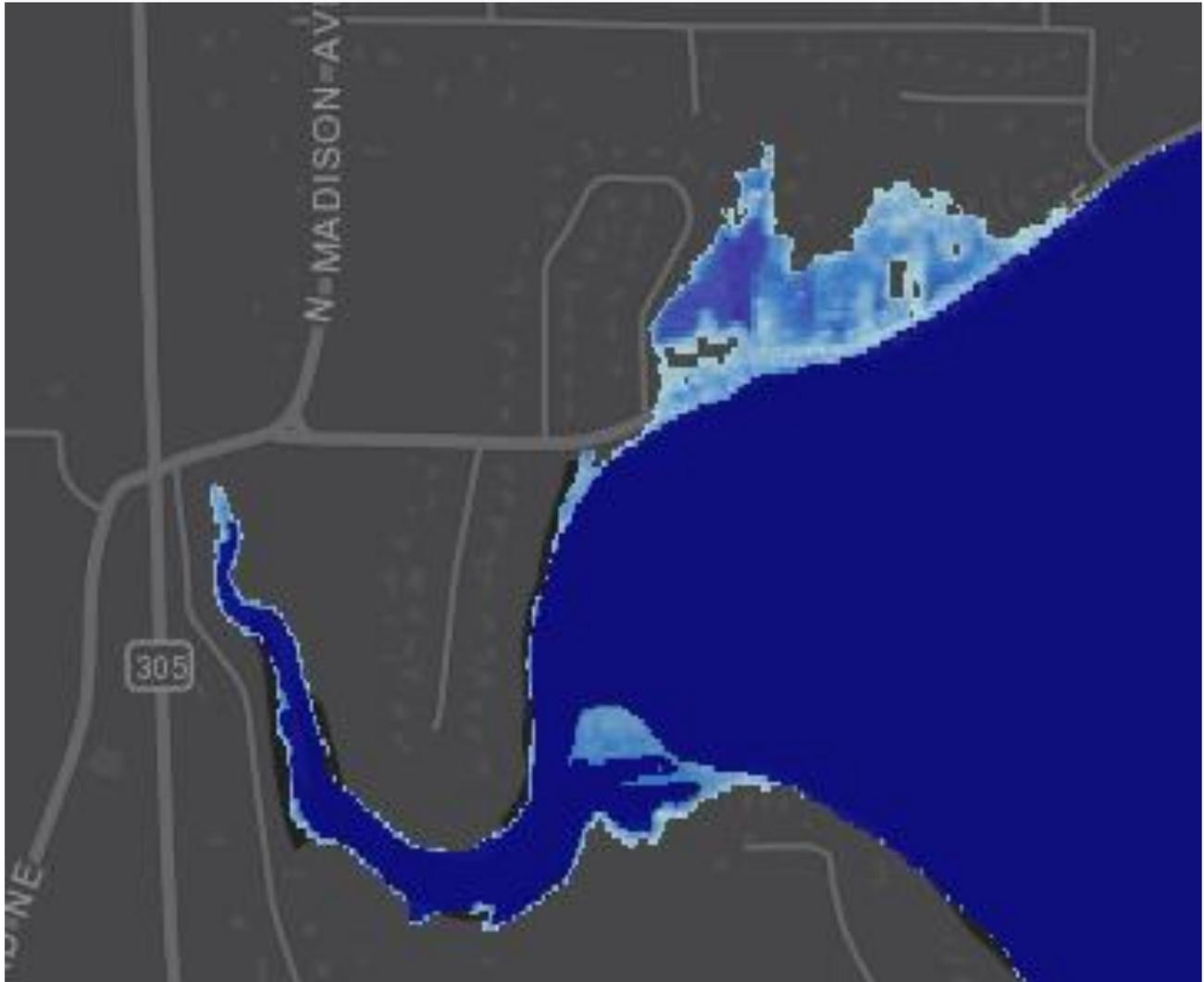
According to the “rapid ice loss” scenario, the depicted water level of 12 feet NAVD88 would occur annually by the 2040s, monthly by the 2060s, and daily by the 2070s. For further reference, the photograph on the cover of this report features a water level of less than 10 feet NAVD88.

**Figure 6: Eagle Harbor (12 feet NAVD88)**



The depicted water level of 12 feet NAVD88 represents today’s extreme tide. According to central estimates it will occur annually by the 2060s, monthly by the 2090s, and daily (MHHW) by the 2130s. According to the “rapid ice loss” scenario, 12 feet NAVD88 will occur annually by the 2040s, monthly by the 2060s, and daily (MHHW) by the 2070s.

From north to south, notably low-lying areas of Eagle Harbor include beach deposits on Wing Point (approximately 6 properties), Hawley Cove (approximately 4 properties), the modified land that is the Washington State Ferries maintenance facility, the old Strawberry Cannery area, much of the inner harbor, Pritchard Park, and the Wykoff Superfund Site.

**Figure 7: Murden Cove, Manitou Beach**

The depicted water level of 12 feet NAVD88 represents today's extreme tide. According to central estimates it will occur annually by the 2060s, monthly by the 2090s, and daily (MHHW) by the 2130s. According to the "rapid ice loss" scenario, 12 feet NAVD88 will occur annually by the 2040s, monthly by the 2060s, and daily (MHHW) by the 2070s.

Approximately 15 affected properties, mostly behind Manitou Beach Drive. Areas around Murden Cove will also likely face increased erosion. For reference, see cover photo and Figure 14 (Appendix).

**Figure 8: Hedley Spit, Fay Bainbridge Park**



The depicted water level of 12 feet NAVD88 represents today's extreme tide. According to central estimates it will occur annually by the 2060s, monthly by the 2090s, and daily (MHHW) by the 2130s. According to the "rapid ice loss" scenario, 12 feet NAVD88 will occur annually by the 2040s, monthly by the 2060s, and daily (MHHW) by the 2070s.

Up to 70 properties exposed along the spit and beside the park. "Nuisance flooding" is already common in these locations. For reference, see Figure 15 (Appendix).

**Figure 9: Manzanita Bay**

The depicted water level of 12 feet NAVD88 represents today's extreme tide. According to central estimates it will occur annually by the 2060s, monthly by the 2090s, and daily (MHHW) by the 2130s. According to the "rapid ice loss" scenario, 12 feet NAVD88 will occur annually by the 2040s, monthly by the 2060s, and daily (MHHW) by the 2070s.

Only a few properties affected around Manzanita Bay. Notable are potential impacts to the creek at Peterson Hill Road and the Bergman/Manzanita street connection.

**Figure 10: Point White, Lynwood Center, and Pleasant Beach**

The depicted water level of 12 feet NAVD88 represents today's extreme tide. According to central estimates it will occur annually by the 2060s, monthly by the 2090s, and daily (MHHW) by the 2130s. According to the "rapid ice loss" scenario, 12 feet NAVD88 will occur annually by the 2040s, monthly by the 2060s, and daily (MHHW) by the 2070s.

Approximately 15-20 properties affect between Pleasant Beach and Point White, plus Point White Drive and Schel Chelb Estuary.

### ***3.1 City of Bainbridge Island Assets and Infrastructure***

The City of Bainbridge Island (COBI) owns and manages a relatively limited number of assets in areas exposed to sea level rise. Most obvious are public streets, many of which run adjacent to coastlines or end at the beach. Other exposed assets include City Sewer Service Areas, notably Winslow, Rockaway, South Island, Pleasant Beach, Lynwood Center and Point White.

It is recommended that every COBI asset be listed in a table, created using COBI GIS, then sorted by (“invert”) elevation and then ranked by criticality. The table could then be used as a foundation for a more complete risk assessment.

**Figure 11: Sewer Service Areas**

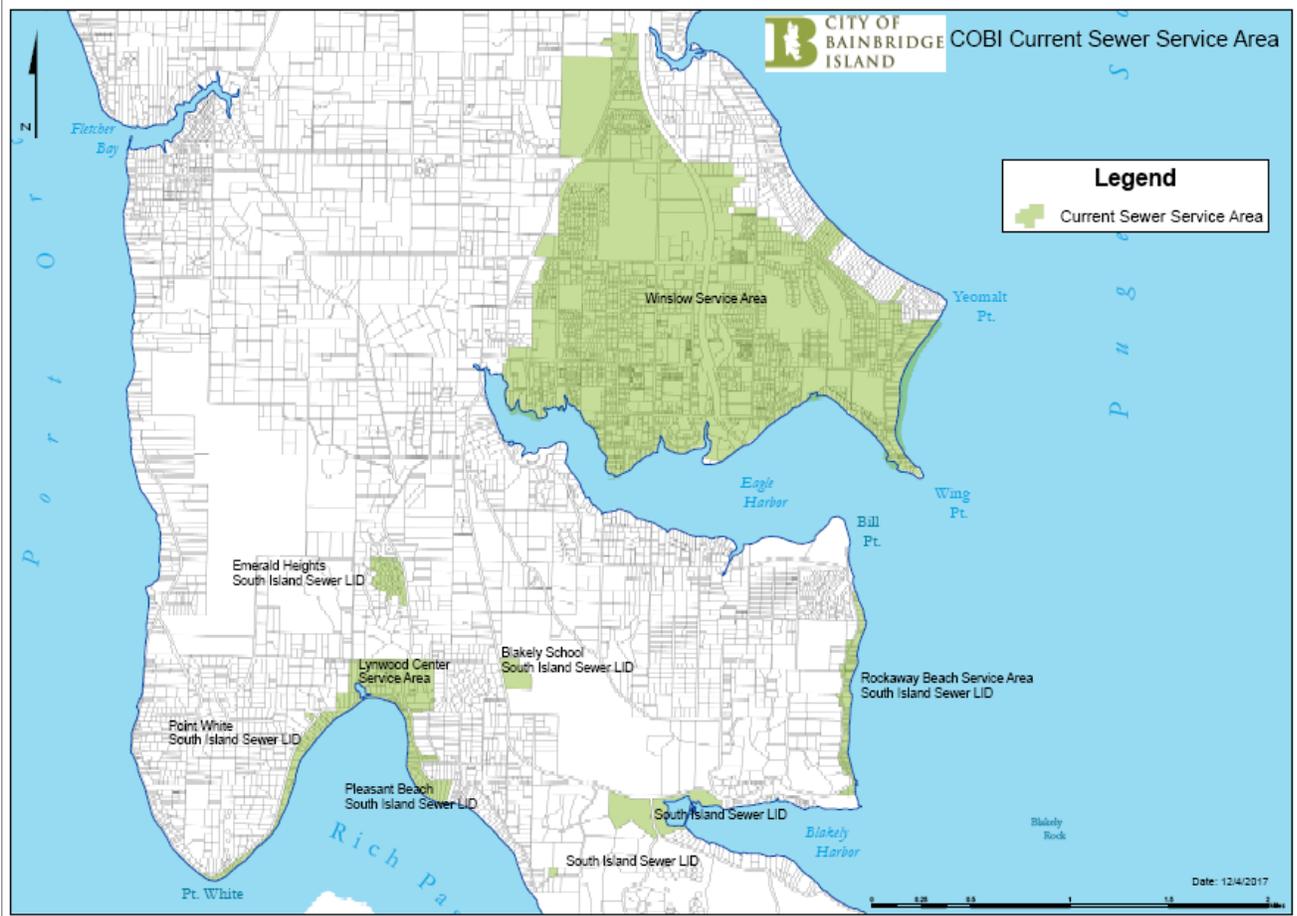
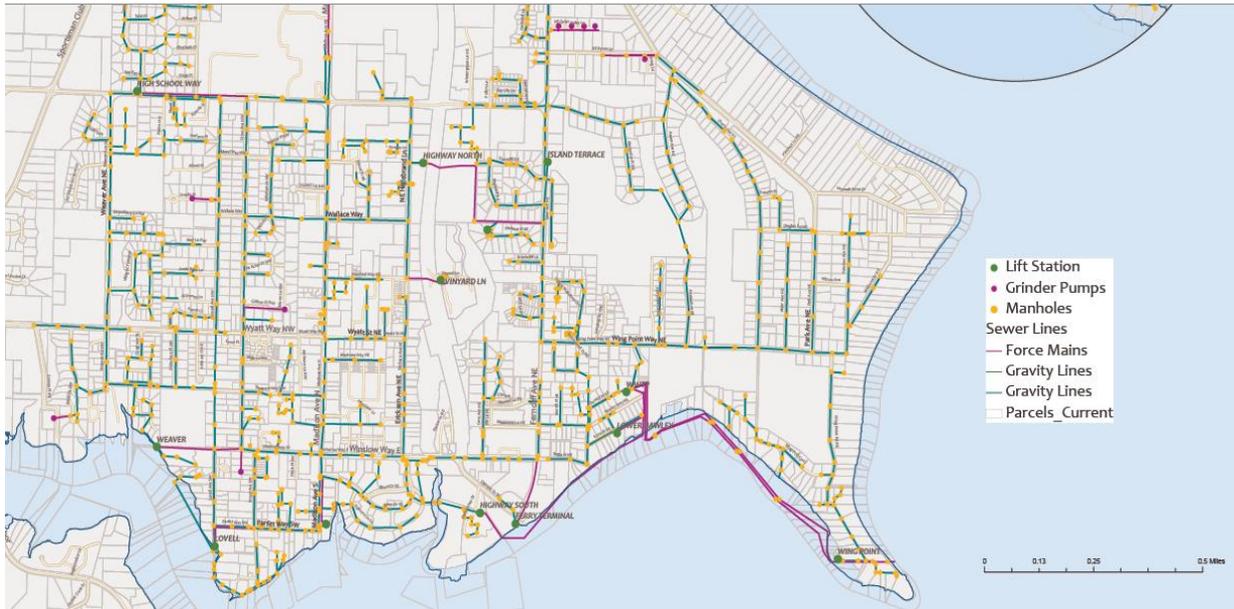
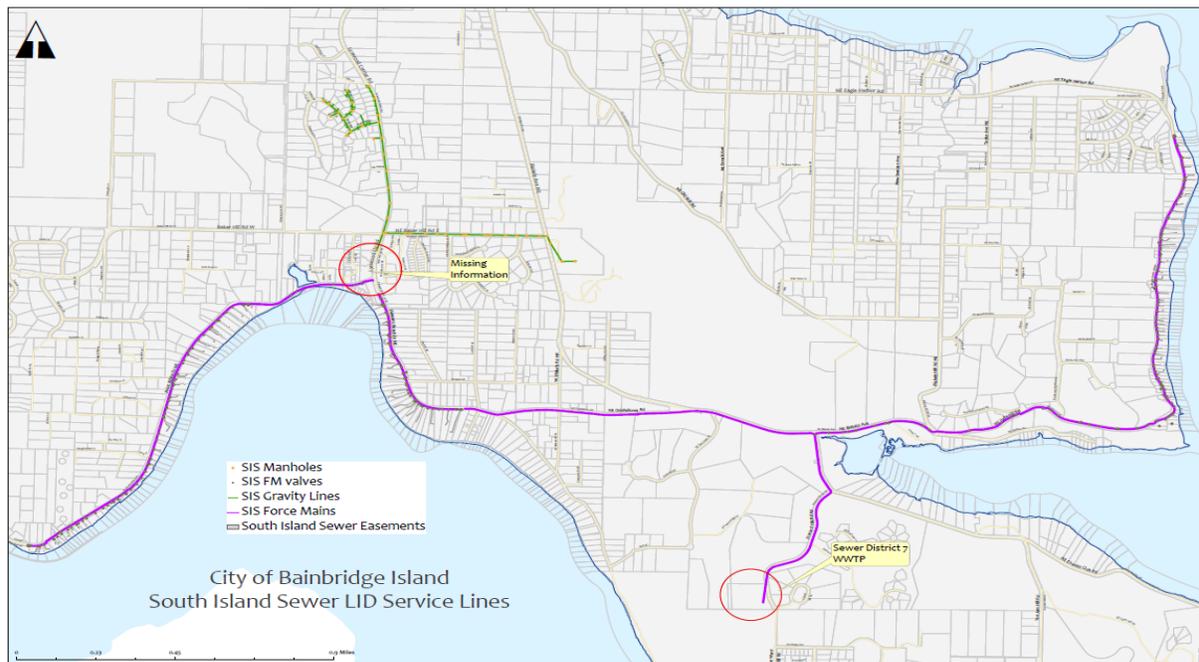


Figure 12: Winslow Sewer Service Area



Of the City’s 500 “manholes,” approximately 36 are exposed to sea level rise, as are 5 pump stations and 3 force mains (Figure 12). These estimates were “eyeballed” and underscore the need to use high-resolution GIS for planning purposes. Interviews with City staff also indicate that some of these assets, such as maintenance holes with water-tight lids, are designed to function while submerged.

Figure 13: South Island Sewer Service Lines



## 4. Discussion

This preliminary assessment attempts to provide an understanding of sea level rise and the ways in which it will impact Bainbridge Island. Puget Sound's shoreline has risen over the past century, and it is certain to rise much more for centuries to come. In some ways, The City of Bainbridge Island is fortunate to have relatively few critical assets exposed. In other ways, it is expressly challenged as a significant portion of the community will be directly impacted. Given this assessment, what follows are some suggested strategies to adapt and increase resilience.

### 4.1 Adaptation Strategies

One of the more challenging aspects to planning for and adapting to sea level rise is picking a number, year, and/or scenario. Outlined in this report, and in the best available science, are myriad options. It is recommended that any asset being considered for adaptation, build to an elevation no lower than the central estimate, or 50<sup>th</sup> percentile projection using the "business as usual" scenario. It is also recommended, based on the experiences of the municipalities and agencies cited in this report, that plans articulate a way in which adaptation to the 1% (rapid ice loss) projection *can* happen. In other words, **COBI should protect and build to the "middle" number now and demonstrate a way to get to the "high" number when necessary.**

Regarding specific assets, approximately 36 of COBI's 500 "manholes" and three or more force mains are exposed to sea level rise (Figures 12 & 13). Most appear to be vulnerable within the next 50 years, if not sooner. Each should be inspected, inventoried, and retrofitted (for example, with locking lids) or replaced if necessary. These inherently resilient assets should be able to function when submerged.

At least 5 lift/pump stations are exposed (Figures 12 & 13). Each should be inspected, and elevations of critical elements (for example, electrical panels) should be recorded. Such facilities can be redesigned, protected with barriers, or eventually be replaced.

A handful of roadways are particularly exposed. Some streets could be closed to motorized traffic in anticipation of broader action. Emergency access should be preserved, and non-motorized access could be increased (which itself is a co-benefit that furthers other COBI climate change goals). Examples include:

- Manitou Beach Drive (Figure 14) in the vicinity of the Manitou Beach Open Space area. This road and a few adjacent landward properties already experience regular flooding. Consider re-routing motorized Rolling Bay and Skiff Point area traffic to Valley Rd or alternate routes.
- Point White Drive at Schel Chelb Estuary. Consider re-routing motorized Crystal Springs and Point White area traffic to Baker Hill Rd or alternate routes.
- Manzanita Road at Manzanita Bay. All motorized traffic, notably that which uses the arterial to avoid Highway 305, could be re-routed.
- Eagle Harbor Drive at the head of the Harbor is the primary pathway between the south end of Bainbridge and Winslow. Maintaining a connection to Wyatt Way, if desired, will likely require large and costly infrastructure. A possible alternative would be to re-route traffic to High School Road via Fletcher Bay Road.
- Point Monroe Drive, as seen in Figure 8, cannot be re-routed.

Many private properties, both low-lying and high bank, will be impacted. Conventional flood protection such as bulkheads and seawalls will not prevent sea level rise and in some cases may exacerbate the problem. New waterfront construction or re-development, if not prohibited outright, should be guided by prudent shoreline policy. The City should evaluate whether current building and shoreline regulations sufficiently mitigate risk associated with the impacts of sea level rise on shoreline stability and flooding.

Mentioned in the summary but not addressed in the results is saltwater intrusion, bluff erosion, and septic systems. Rising seas will alter the nature of water resources adjacent to the shoreline. It is recommended that COBI add sea level rise to its water resources monitoring program. Additional study of septic systems given future inundation and increased bluff erosion is also recommended.

Ultimately, community-wide retreat or redevelopment should be managed by COBI in coordination with regional, state, and federal partners. In the near-term, it is recommended that City staff meet with Climate Change Advisory Committee members to review this preliminary assessment. Ample time should also be provided for City Council to be briefed and to further study the issue. And all members of the community, but especially those who presently enjoy living beside rising waters, should be engaged to determine an equitable and resilient path forward.

Sea level rise is a form of displacement. We may not be sure how quickly it will occur, but we are certain that it will occur. We must plan proactively and pursue no-regrets strategies. Rising to this challenge will cost us much less than waiting until the next flood.

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**Appendix**

**Figure 14: Manitou Beach Drive**



December 20, 2018. Water level: approximately 10 feet NAVD88

**Figure 15: Point Monroe Drive**



December 20, 2018. Water level: approximately 10 feet NAVD88

## Attachment C – Tides, Water Levels, & Relative Sea Level Rise Projections for Bainbridge Island

This attachment provides:

- Background information on tides and water levels relevant to Bainbridge Island so that past and future coastal flooding events can be understood in context with current and future sea levels.
- Sea level rise projections for tidal and flood datums are presented based on five different “risk profiles” which are intended to help translate the complexity of future probabilities into relatable terms to support policy-level discussions. Background on the sea level rise projections is provided in Attachment B.

Notes on how to use tidal and land elevations:

- Land elevations can be compared to the topographic lines and building elevations on a map, land survey, site plan, design drawing, or a GPS reading. Make sure the map, drawing, or GPS is using the NAVD88 datum.
- Tidal elevations can be compared to the bathymetric lines and water depths on a navigational chart, marine survey, site plan, design drawing, or a corrected tide observation. Make sure the map or drawing is based on the MLLW datum for the current tidal epoch (1983-2001).
- Land elevations can be easily converted to current tidal elevations by adding 2.34 feet (i.e. 13’ MLLW + 2.34’ = 15.34’ NAVD88).
- Current tidal elevations can be easily converted to land elevations by subtracting 2.34 feet (i.e. 10’ NAVD88 – 2.34’ = 7.66’ MLLW).

### How to Use the Information in this Attachment

Step 1. Determine the appropriate “risk profile” for the situation. The risk profile should be selected to reflect the acceptable tolerance of the subject area, project, structure type, or habitat type to tidal flooding. The risk profiles are summarized in Table C-1 below and detailed in graphs and tables later in this attachment.

**Table C-1. Flood Risk Profiles for Sea Level Rise Projections**

Profile	Risk of Future Flooding	What does this mean?
1	Very High Risk	99% chance that actual water levels will exceed this projection
2	High Risk	90% chance that actual water levels will exceed this projection
3	Moderate Risk	50/50 chance that actual water levels will exceed this projection
4	Low Risk	10% chance that actual water levels will exceed this projection
5	Very Low Risk	1% chance that actual water levels will exceed this projection

**Step 2.** Determine the appropriate timeframe for the situation (e.g. lifespan of a structure).

**Step 3.** Use the tables and figures in this attachment to:

- Align the location and design of a project to the appropriate risk profile as demonstrated in Example #1 below.
- Assess the vulnerability of an existing area, structure, or habitat as demonstrated in Example #2 below.

**Example #1: Where should something I value (e.g. building, infrastructure, habitat) be located based on the appropriate risk profile?**

If you want to build a single-family residence with an expected lifespan of 100 years along a shoreline in the AE Flood Zone (14' BFE) and in a location where the shoreline buffer is 100' from the OHWM and you want a low risk (10% chance) of future flooding from sea level rise, then use Risk Profile 4 to identify that:

- A. The approximate OHWM is projected to be 17.3' MLLW (15' NAVD88) in 100 years.
- B. The AE Flood Zone (14' BFE) is projected to be 20.6' MLLW (18.3' NAVD88) in 100 years.

Therefore, build the house 100' landward of the 15' NAVD88 topographic line and make sure the first floor of the house is no lower than 19.3' NAVD88 (18.3' NAVD88 plus the 1-foot currently required freeboard).

**Example #2: What is the risk of flooding to something I value (e.g. building, infrastructure, habitat) at its current elevation?**

If you have an existing boathouse with a current floor elevation of 14' MLLW, the remaining lifespan of the structure is estimated at 30 years, and you are willing to tolerate a moderate risk (50% chance) of future flooding from sea level rise, then use Risk Profile 3 to identify that:

- A. An Extreme High Water (EHW) event would currently result in 0.7 feet (i.e. 14.68' – 14') of still water flooding in the boathouse (not including wave height).
- B. In 30-years there is a 50% chance the still water flooding from an EHW event would exceed 1.3 feet (i.e. 15.28' – 14').
- C. Add significant wave height from Figure C-8 to model total water levels like those experienced on 12/17/2012.

Use Figure C-5 to identify the frequency (i.e. the chance of occurring each year) that a certain still water level might be exceeded.

- D. The frequency of the still water level exceeding 14' MLLW currently is on average every 7 years (or about a 14% chance of occurring each year).
- E. The likelihood of an EHW event happening currently is on average every 50 years (or about a 2% chance of occurring each year).

- F. In 30 years, the frequency of the still water level exceeding 14' MLLW will be on average every 1.5 years (about a 67% chance of occurring each year). This is because in 30 years the recurrence frequency at 14' MLLW needs to be adjusted to account for sea level rise (i.e.  $14' - 1.3' \text{ SLR} = 13.2' \text{ MLLW}$ ) and will occur as frequently as the 13.2' MLLW water level today on the historic return frequency curve.

### Tides, Waves, and Water Levels

The water levels we experience along the shorelines of Bainbridge Island are due to the combination of the following components. (see Figure C-1)

- Astronomically predicted tides, which are what you will find in a tide table and is the water level as affected only by the gravitational forces of the moon and sun
- Storm surge, which is the affect on the water level by the combined forces of atmospheric pressure, offshore winds, freshwater flowing into coastal waters, and oceanic temperature oscillations
- Waves and wave run-up, which are driven by localized winds and affected by the shape of the sea bottom and the shoreline

A tide station measures the “still water level”, which is the combination of the first two components. Our shorelines experience the “total water level”, which is the combination of all three components. (see Figure C-1) This distinction is important to keep in mind.

The [FEMA flood zones](#) along the Bainbridge Island shoreline essentially reflect where there is a 1% chance in any given year of the total water level exceeding the defined base flood elevation (BFE). It is important to note that FEMA flood zones are based on historic data (not future sea level rise) and are often not updated frequently enough to stay current.

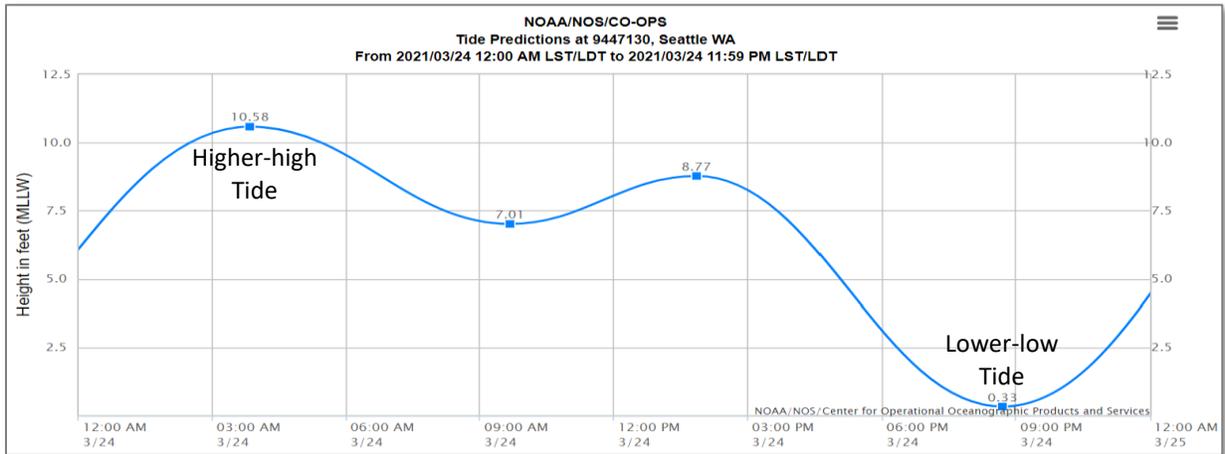
**Figure C-1. Water Level Components**



Bainbridge Island experiences two high tides and two low tides each day, all of which are normally of unequal height (see Figure C-2). Therefore, we have a daily higher-high tide and a daily lower-low tide. These are averaged into mean higher-high water (MHHW) and mean lower-low water (MLLW). MLLW is used as the zero datum from which all tidal elevations are measured. For example, MHHW is 11.36 feet above MLLW (or in shorthand: 11.36' MLLW). The National Oceanic and Atmospheric Administration (NOAA) is responsible for measuring and

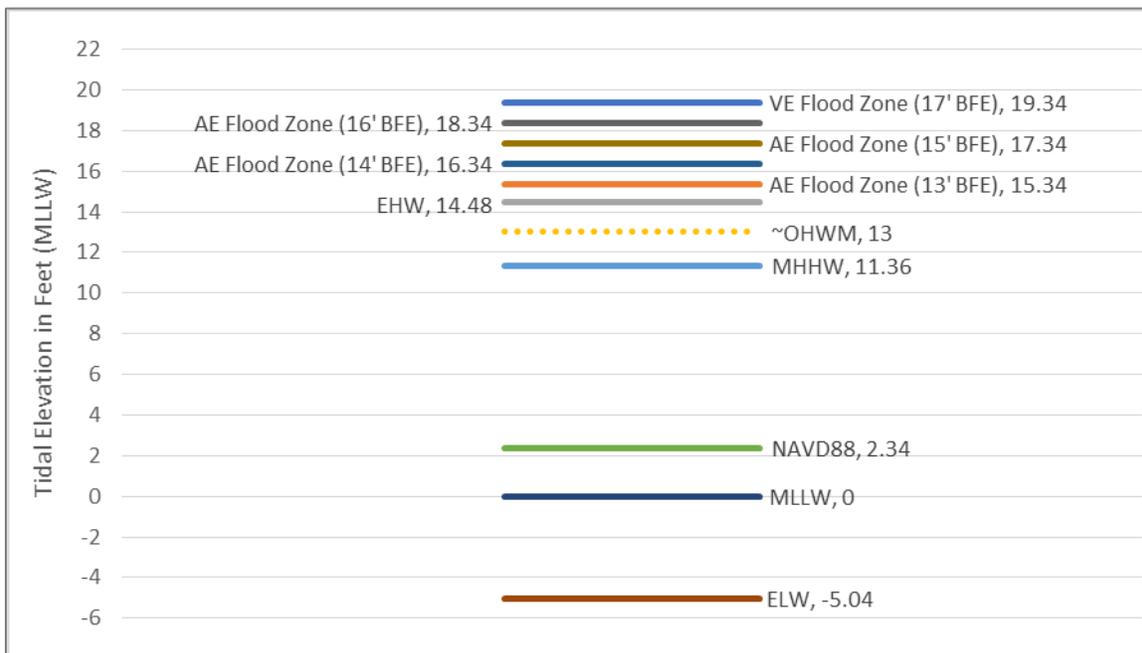
defining tidal elevations in the United States. Bainbridge Island uses the tidal elevation datums defined for the Seattle Tide Station (ID 9447130) located in Elliot Bay (see Figure C-3 and Table C-1). Tidal datums are recalculated every 19-years based on the long-term astronomical cycle that affects tides.

**Figure C-2. Daily Tides**



(Source: NOAA [Seattle Tide Predictions](#))

**Figure C-3. Coastal Water Levels for Bainbridge Island**



(Source: NOAA [Seattle Tide Station Datums](#), 3/15/2021; Flood zones from [WA RiskMAP](#))

Note: The Ordinary high water mark (OHWM) cannot be defined by a specific tidal elevation however it has been observed at approximately 13' MLLW around Bainbridge Island.

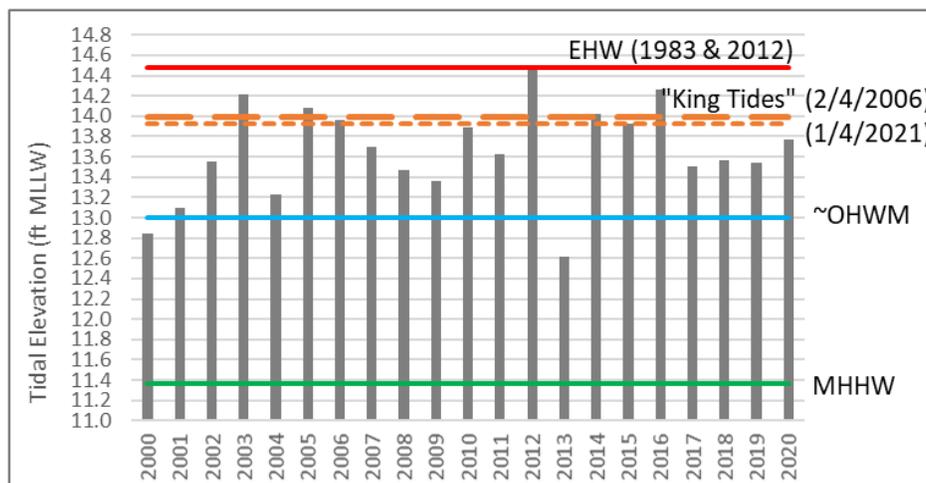
**Table C-1. Coastal Water Levels for Bainbridge Island**

Datum	Tidal Elevation (ft MLLW)	Land Elevation (ft NAVD88)	Description
VE Flood Zone (17' BFE)	19.34	17	Static Base Flood Elevation for Flood Zone VE
AE Flood Zone (16' BFE)	18.34	16	Static Base Flood Elevation for Flood Zone AE
AE Flood Zone (15' BFE)	17.34	15	Static Base Flood Elevation for Flood Zone AE
AE Flood Zone (14' BFE)	16.34	14	Static Base Flood Elevation for Flood Zone AE
AE Flood Zone (13' BFE)	15.34	13	Static Base Flood Elevation for Flood Zone AE
EHW	14.48	12.14	Extreme High Water (Highest Observed Tide on 1/27/1983 and 12/17/2012)
Approx. OHWM	13	10.66	Approximate Ordinary High Water Mark
MHHW	11.36	9.02	Mean Higher-High Water
NAVD88	2.34	0	North American Vertical Datum of 1988
MLLW	0	-2.34	Mean Lower-Low Water
ELW	-5.04	-7.38	Extreme Low Water (Lowest Observed Tide on 1/4/1916)

(Source: NOAA [Seattle Tide Station Datums](#) on 3/15/2021; Flood zones from [WA RiskMAP](#))

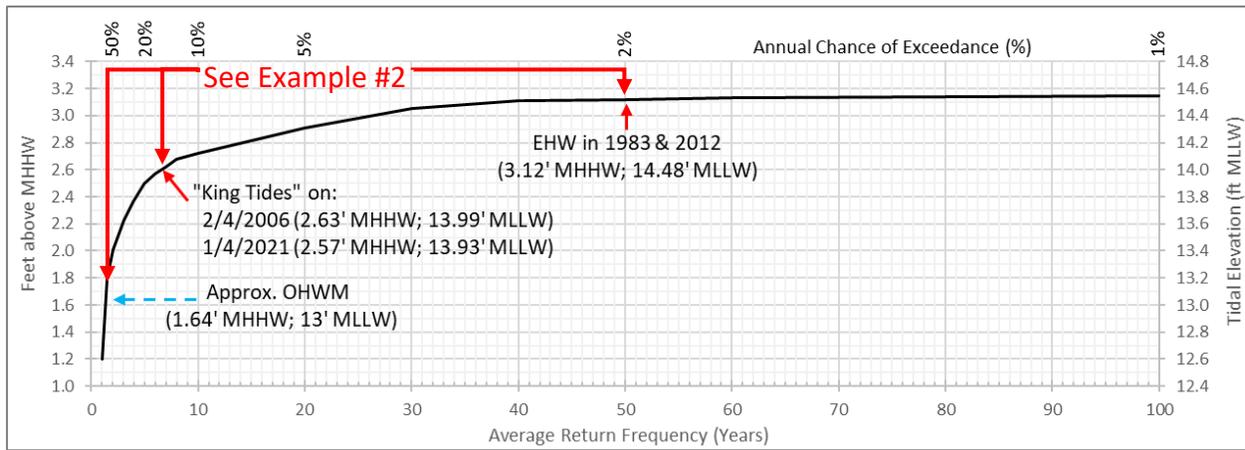
“King Tide” is the term used to describe the highest observed tide of the year (Figure C-4). These typically include a significant tidal surge component (e.g. 1.64 feet of tidal surge on 12/17/2012, see Figure C-6). The highest tide ever observed becomes the Extreme High Water (EHW) datum, which has been measured only twice at 14.48’ MLLW in 1983 and on 12/17/2012. Figure C-5 documents the historic frequency of King Tides at certain elevations and the likelihood a certain water level will be exceeded in any given year. As sea levels rise, today’s extreme high water levels will increasingly become more common.

**Figure C-4. Recent King Tides for Bainbridge Island**



(Source: NOAA [Seattle Tide Station Observations](#))

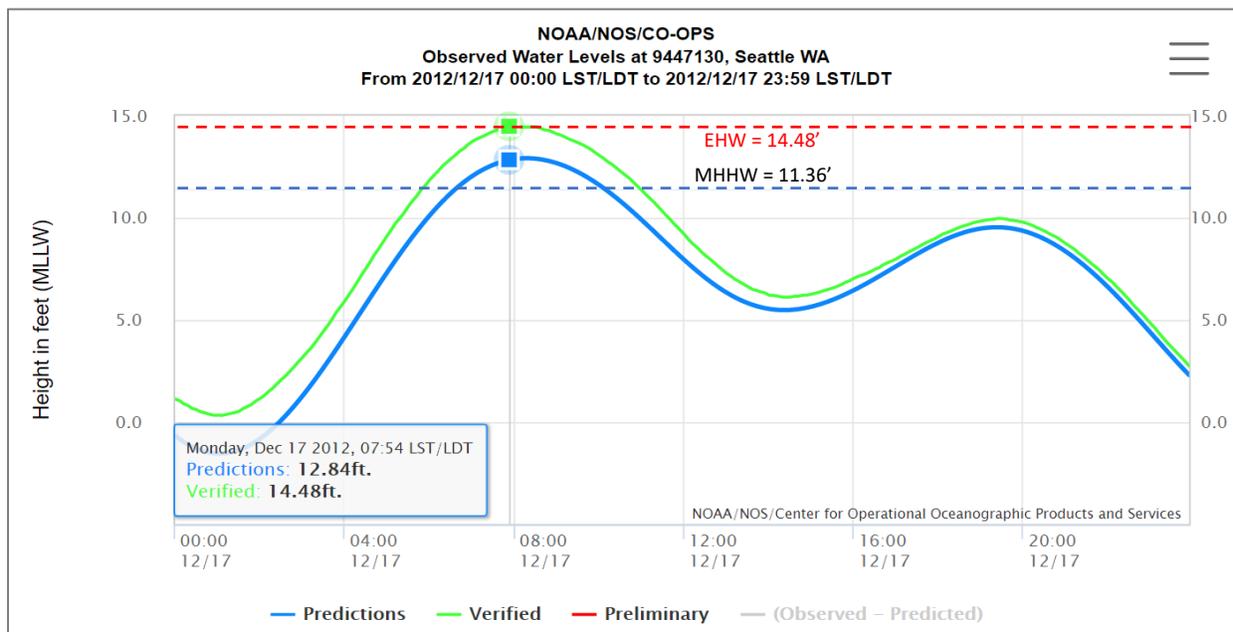
**Figure C-5. King Tide Historic Return Frequency Curve for Bainbridge Island**



(Source: Miller et al. 2019. [Extreme Coastal Water Level in Washington State: Guidelines to Support Sea Level Rise Planning](#))

Note: The frequency curve is based on the highest annual tides (i.e “King Tides”) recorded at the Seattle Tide Station since it began operating in 1898 (adjusted to the current tidal datum). Measurements are given in feet above the current MHHW datum (on the left) and in the current MLLW datum (on the right).

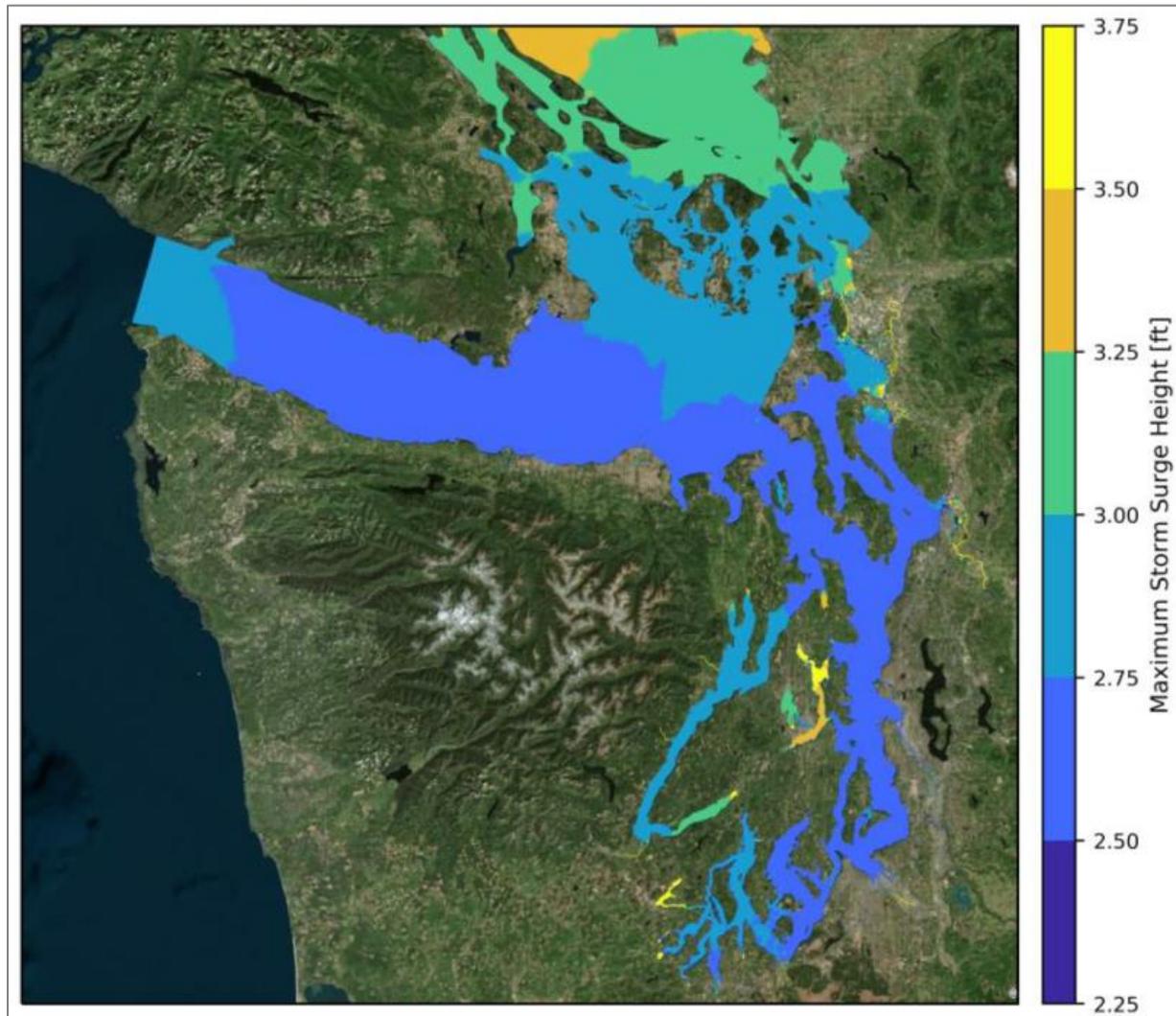
**Figure C-6. December 17, 2012 King Tide at the Extreme High Water Level**



Source: NOAA [Tides and Currents website](#) (Seattle Tide Station 9447130)

Figure C-7 models the maximum storm surge that is likely to occur around Bainbridge Island, which varies significantly from 2.5 feet along our northern, eastern, and southern shorelines to 3.25 feet along our southwest shoreline and 3.5 feet along our northwest shoreline.

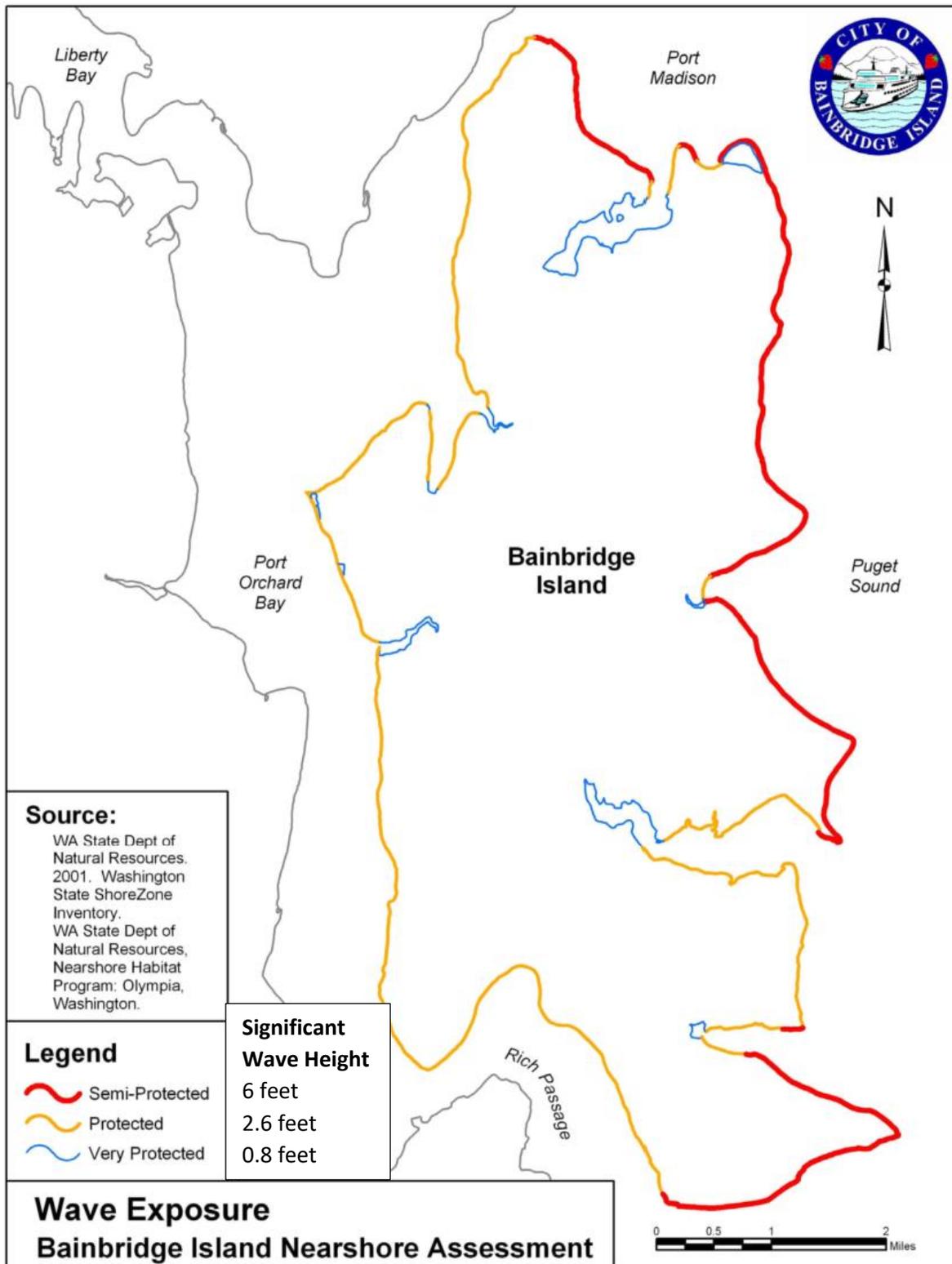
**Figure C-7. Maximum Storm Surge for Puget Sound**



(Source: Miller et al. 2019. [Extreme Coastal Water Level in Washington State: Guidelines to Support Sea Level Rise Planning](#))

“Significant wave heights” (i.e. an engineering standard based on the average of the highest 1/3 of waves) around Bainbridge Island were documented in the Bainbridge Island Nearshore Assessment and associated with the wave exposure classifications as shown in Figure C-8. Note the maximum wave height may be nearly twice as high as the significant wave height.

Figure C-8. Wave Exposure and Significant Wave Heights for Bainbridge Island



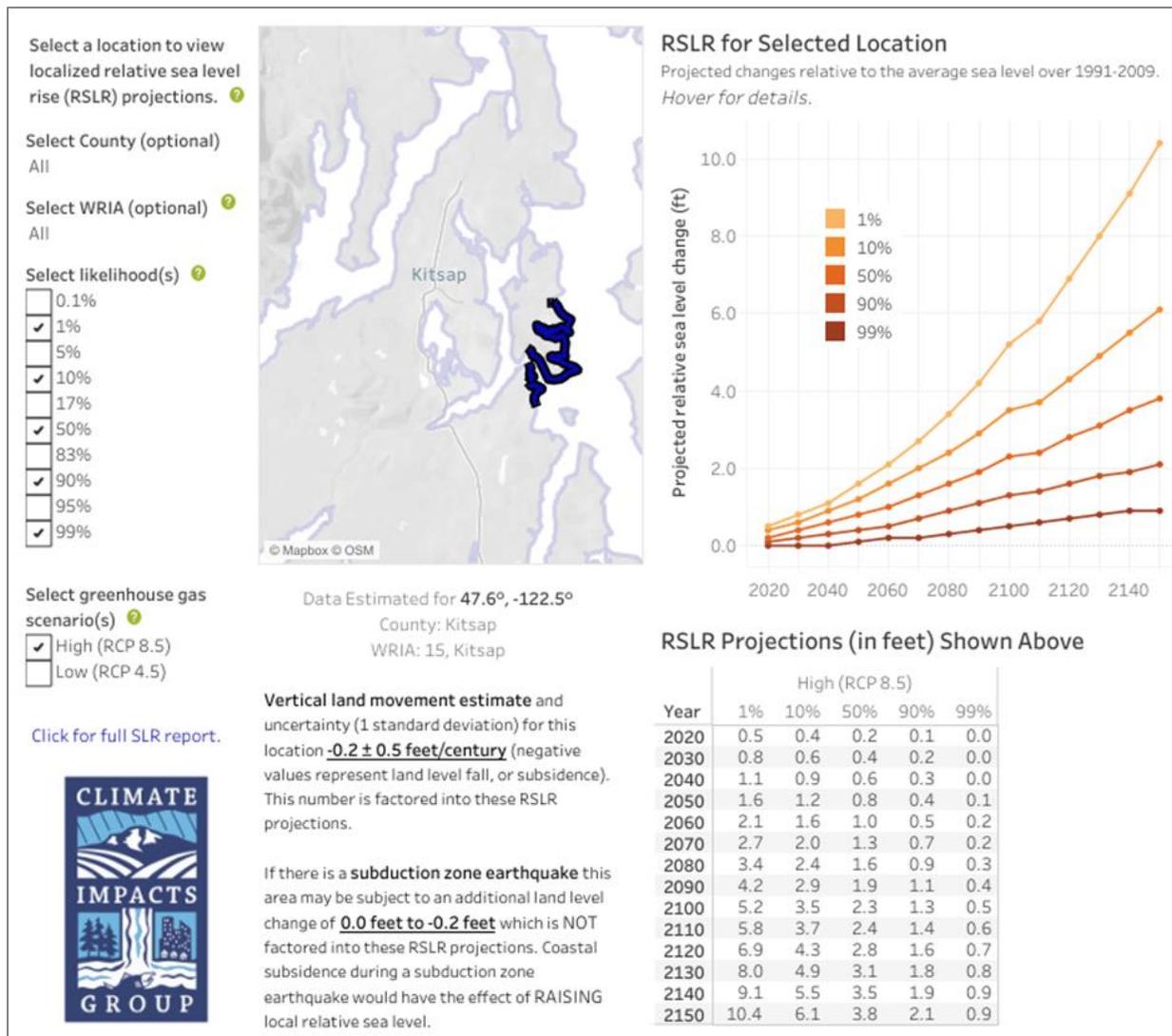
(Source: Williams et al. 2003. Bainbridge Island Nearshore Assessment: Summary of Best Available Science)

Sea Level Rise Projections

See Attachment B for background information. The following charts and tables are based on the model results in Figure A-1.

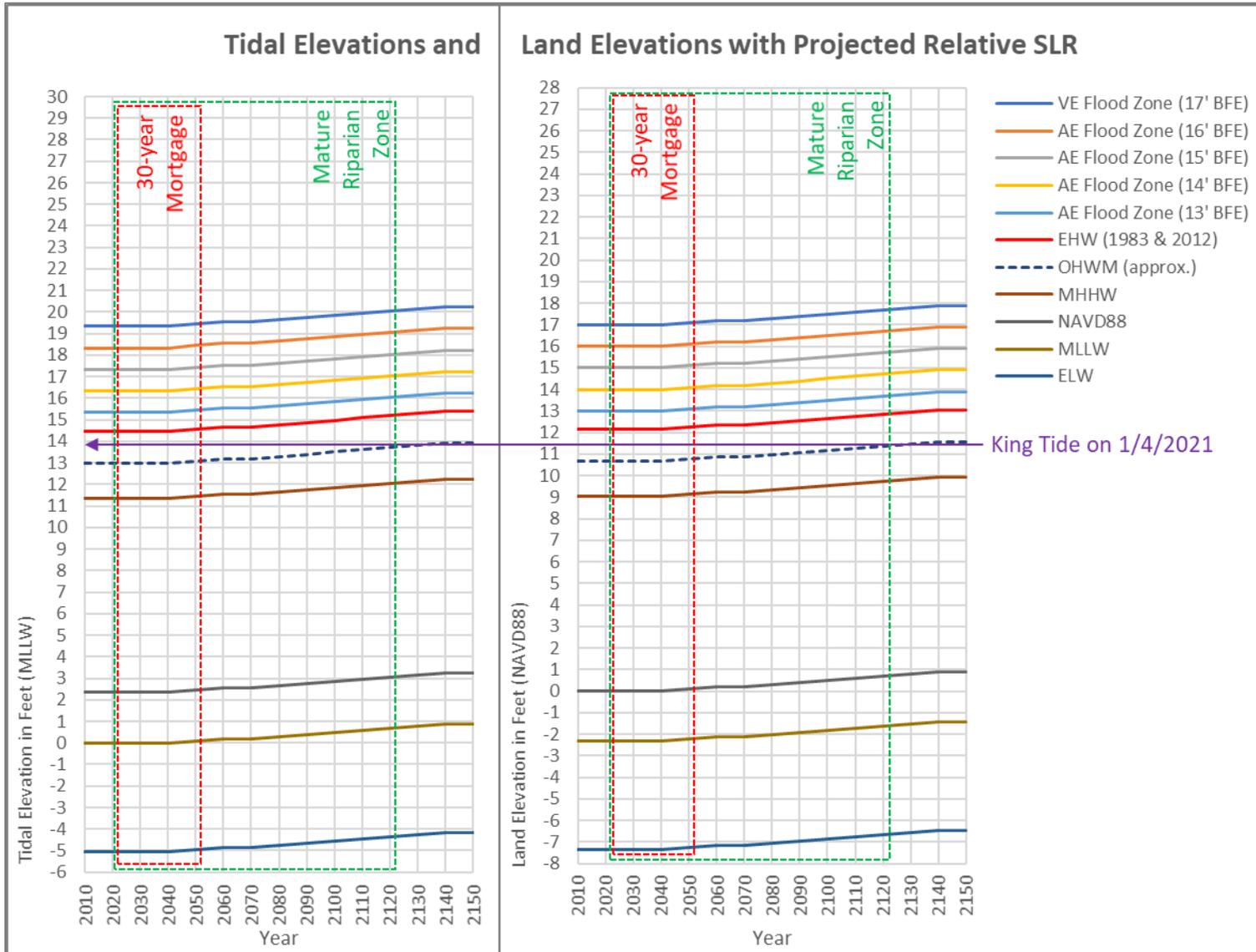
Note: Projecting tidal elevations based on relative sea level rise is considered a reliable methodology while projecting flood zone elevations based only on relative sea level rise is less reliable and ignores other factors accounted for in flood zone analysis that may change due to climate change, such as sea level rise effects on wave run up and changes in freshwater flows into coastal waters. The USGS is developing a model called [PS-CoSMoS](#) that is intended to address such issues.

Figure A-1. Relative Sea Level Rise Model Inputs and Results



(Source: UW Climate Impacts Group. [Interactive Sea Level Rise Data Visualization](#))

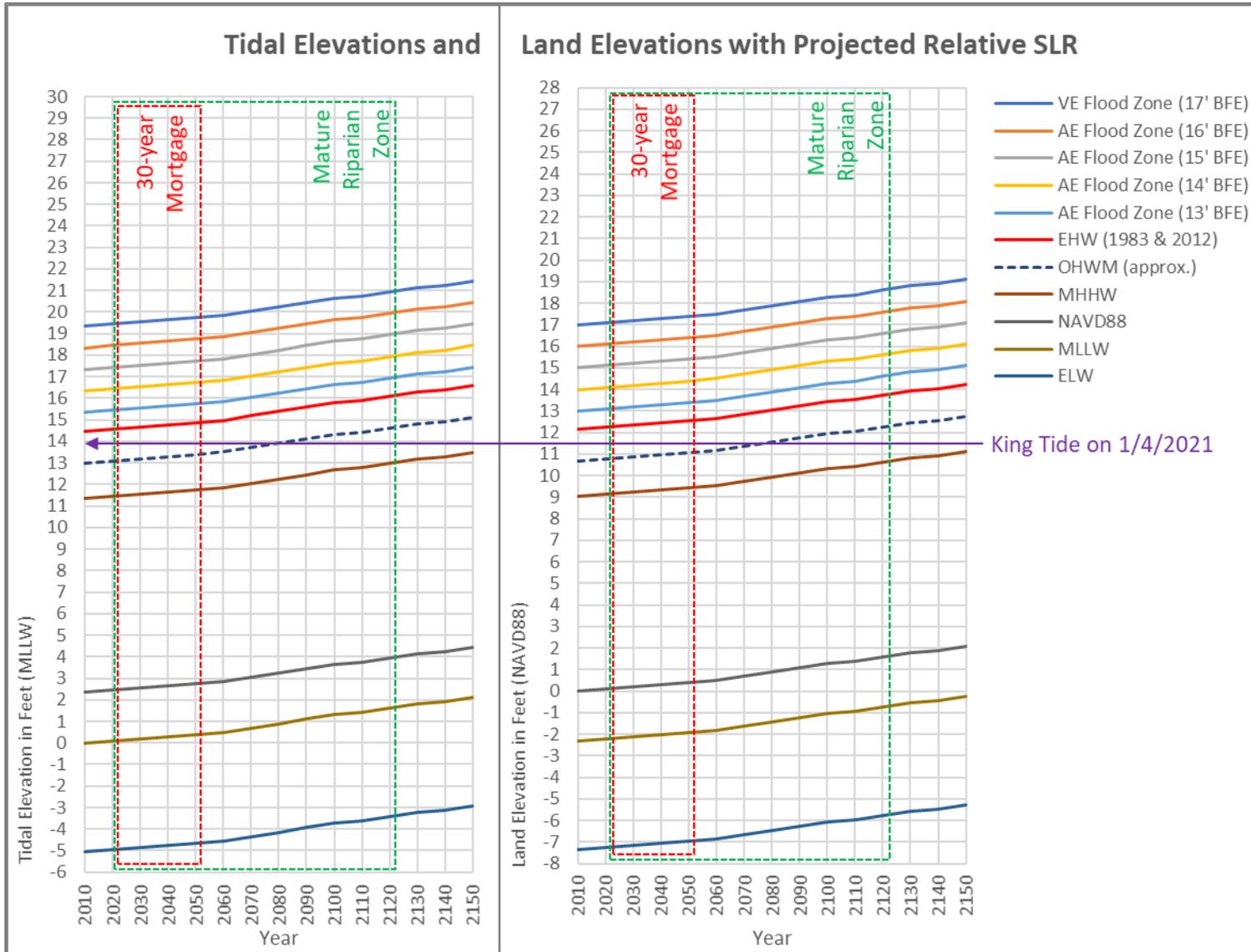
**Risk Profile 1. Very High Risk of Future Flooding** (99% chance that actual water levels will exceed these projections)



**Risk Profile 1. Very High Risk of Future Flooding (99% chance that actual water levels will exceed these projections)**

		Datum	Projected Elevation with Relative Sea Level Rise													
		2010	2020	2030	2040	2050	2060	2070	2080	2090	2100	2110	2120	2130	2140	2150
VE Flood Zone (17' BFE)	Tidal Elevation (ft MLLW)	19.34	19.34	19.34	19.34	19.44	19.54	19.54	19.64	19.74	19.84	19.94	20.04	20.14	20.24	20.24
AE Flood Zone (16' BFE)		18.34	18.34	18.34	18.34	18.44	18.54	18.54	18.64	18.74	18.84	18.94	19.04	19.14	19.24	19.24
AE Flood Zone (15' BFE)		17.34	17.34	17.34	17.34	17.44	17.54	17.54	17.64	17.74	17.84	17.94	18.04	18.14	18.24	18.24
AE Flood Zone (14' BFE)		16.34	16.34	16.34	16.34	16.44	16.54	16.54	16.64	16.74	16.84	16.94	17.04	17.14	17.24	17.24
AE Flood Zone (13' BFE)		15.34	15.34	15.34	15.34	15.44	15.54	15.54	15.64	15.74	15.84	15.94	16.04	16.14	16.24	16.24
EHW (1983 & 2012)		14.48	14.48	14.48	14.48	14.58	14.68	14.68	14.78	14.88	14.98	15.08	15.18	15.28	15.38	15.38
OHWM (approx.)		13	13.00	13.00	13.00	13.10	13.20	13.20	13.30	13.40	13.50	13.60	13.70	13.80	13.90	13.90
MHHW		11.36	11.36	11.36	11.36	11.46	11.56	11.56	11.66	11.76	11.86	11.96	12.06	12.16	12.26	12.26
NAVD88		2.34	2.34	2.34	2.34	2.44	2.54	2.54	2.64	2.74	2.84	2.94	3.04	3.14	3.24	3.24
MLLW		0	0.00	0.00	0.00	0.10	0.20	0.20	0.30	0.40	0.50	0.60	0.70	0.80	0.90	0.90
ELW		-5.04	-5.04	-5.04	-5.04	-4.94	-4.84	-4.84	-4.74	-4.64	-4.54	-4.44	-4.34	-4.24	-4.14	-4.14
<b>Current Planning Horizons</b>		CIP CIP CIP		Capital Improvement Plans (6-yr mandatory horizon)												
		Comp Plan		Comprehensive Plan w/ Capital Facilities Plan (20-year mandatory horizon)												
				Comprehensive Plan (City 100-yr extended horizon)												
		Datum	Projected Elevation with Relative Sea Level Rise													
		2010	2020	2030	2040	2050	2060	2070	2080	2090	2100	2110	2120	2130	2140	2150
VE Flood Zone (17' BFE)	Land Elevation (ft NAVD88)	17	17.00	17.00	17.00	17.10	17.20	17.20	17.30	17.40	17.50	17.60	17.70	17.80	17.90	17.90
AE Flood Zone (16' BFE)		16	16.00	16.00	16.00	16.10	16.20	16.20	16.30	16.40	16.50	16.60	16.70	16.80	16.90	16.90
AE Flood Zone (15' BFE)		15	15.00	15.00	15.00	15.10	15.20	15.20	15.30	15.40	15.50	15.60	15.70	15.80	15.90	15.90
AE Flood Zone (14' BFE)		14	14.00	14.00	14.00	14.10	14.20	14.20	14.30	14.40	14.50	14.60	14.70	14.80	14.90	14.90
AE Flood Zone (13' BFE)		13	13.00	13.00	13.00	13.10	13.20	13.20	13.30	13.40	13.50	13.60	13.70	13.80	13.90	13.90
EHW (1983 & 2012)		12.14	12.14	12.14	12.14	12.24	12.34	12.34	12.44	12.54	12.64	12.74	12.84	12.94	13.04	13.04
OHWM (approx.)		10.66	10.66	10.66	10.66	10.76	10.86	10.86	10.96	11.06	11.16	11.26	11.36	11.46	11.56	11.56
MHHW		9.02	9.02	9.02	9.02	9.12	9.22	9.22	9.32	9.42	9.52	9.62	9.72	9.82	9.92	9.92
NAVD88		0	0.00	0.00	0.00	0.10	0.20	0.20	0.30	0.40	0.50	0.60	0.70	0.80	0.90	0.90
MLLW		-2.34	-2.34	-2.34	-2.34	-2.24	-2.14	-2.14	-2.04	-1.94	-1.84	-1.74	-1.64	-1.54	-1.44	-1.44
ELW		-7.38	-7.38	-7.38	-7.38	-7.28	-7.18	-7.18	-7.08	-6.98	-6.88	-6.78	-6.68	-6.58	-6.48	-6.48

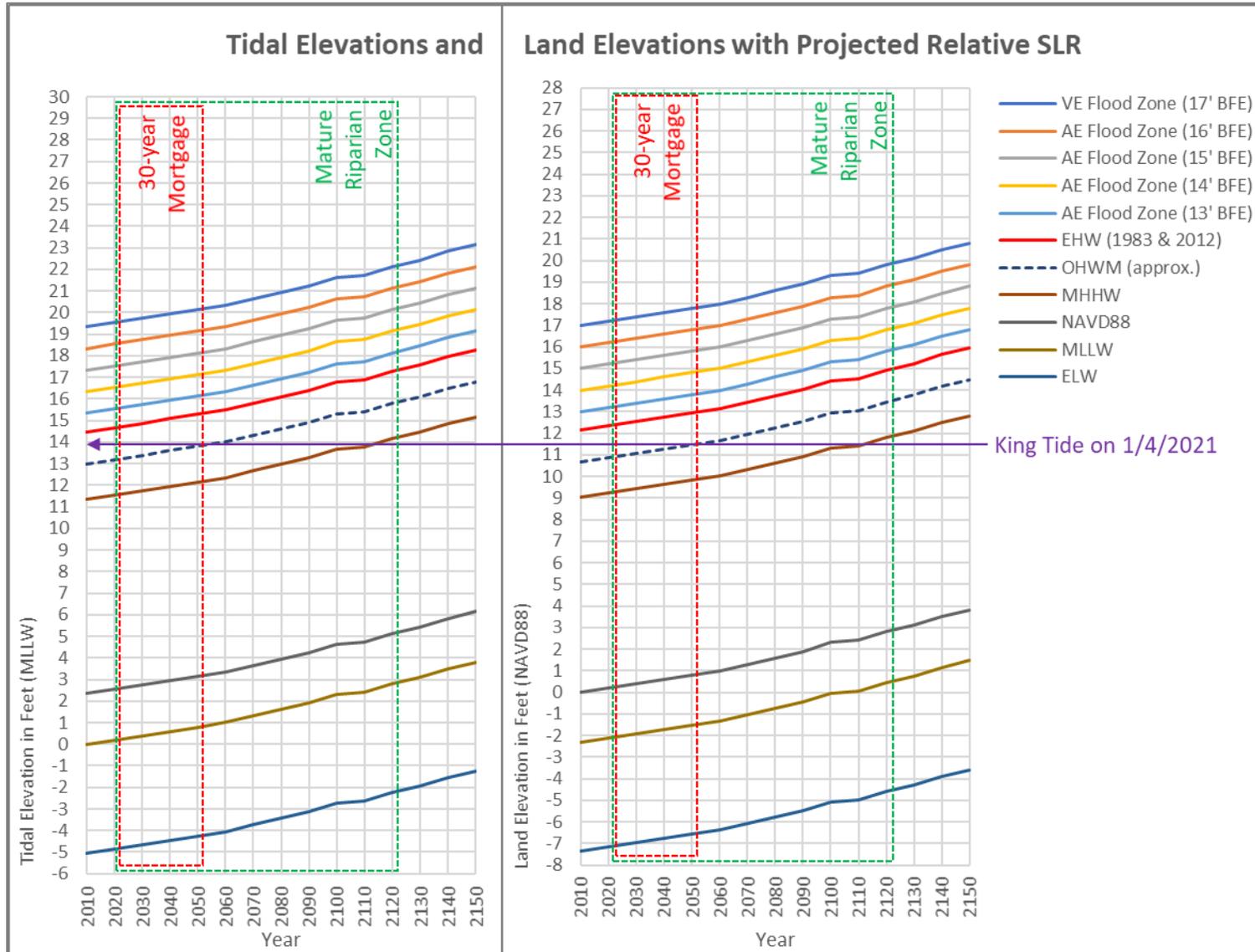
**Risk Profile 2. High Risk of Future Flooding** (90% chance that actual water levels will exceed these projections)



**Risk Profile 2. High Risk of Future Flooding (90% chance that actual water levels will exceed these projections)**

		Datum	Projected Elevation with Relative Sea Level Rise													
		2010	2020	2030	2040	2050	2060	2070	2080	2090	2100	2110	2120	2130	2140	2150
VE Flood Zone (17' BFE)	Tidal Elevation (ft MLLW)	19.34	19.44	19.54	19.64	19.74	19.84	20.04	20.24	20.44	20.64	20.74	20.94	21.14	21.24	21.44
AE Flood Zone (16' BFE)		18.34	18.44	18.54	18.64	18.74	18.84	19.04	19.24	19.44	19.64	19.74	19.94	20.14	20.24	20.44
AE Flood Zone (15' BFE)		17.34	17.44	17.54	17.64	17.74	17.84	18.04	18.24	18.44	18.64	18.74	18.94	19.14	19.24	19.44
AE Flood Zone (14' BFE)		16.34	16.44	16.54	16.64	16.74	16.84	17.04	17.24	17.44	17.64	17.74	17.94	18.14	18.24	18.44
AE Flood Zone (13' BFE)		15.34	15.44	15.54	15.64	15.74	15.84	16.04	16.24	16.44	16.64	16.74	16.94	17.14	17.24	17.44
EHW (1983 & 2012)		14.48	14.58	14.68	14.78	14.88	14.98	15.18	15.38	15.58	15.78	15.88	16.08	16.28	16.38	16.58
OHWM (approx.)		13	13.10	13.20	13.30	13.40	13.50	13.70	13.90	14.10	14.30	14.40	14.60	14.80	14.90	15.10
MHHW		11.36	11.46	11.56	11.66	11.76	11.86	12.06	12.26	12.46	12.66	12.76	12.96	13.16	13.26	13.46
NAVD88		2.34	2.44	2.54	2.64	2.74	2.84	3.04	3.24	3.44	3.64	3.74	3.94	4.14	4.24	4.44
MLLW		0	0.10	0.20	0.30	0.40	0.50	0.70	0.90	1.10	1.30	1.40	1.60	1.80	1.90	2.10
ELW		-5.04	-4.94	-4.84	-4.74	-4.64	-4.54	-4.34	-4.14	-3.94	-3.74	-3.64	-3.44	-3.24	-3.14	-2.94
<b>Current Planning Horizons</b>		CIP CIP CIP	Capital Improvement Plans (6-yr mandatory horizon)													
		Comp Plan	Comprehensive Plan w/ Capital Facilities Plan (20-year mandatory horizon)													
		Comprehensive Plan (City 100-yr extended horizon)														
		Datum	Projected Elevation with Relative Sea Level Rise													
		2010	2020	2030	2040	2050	2060	2070	2080	2090	2100	2110	2120	2130	2140	2150
VE Flood Zone (17' BFE)	Land Elevation (ft NAVD88)	17	17.10	17.20	17.30	17.40	17.50	17.70	17.90	18.10	18.30	18.40	18.60	18.80	18.90	19.10
AE Flood Zone (16' BFE)		16	16.10	16.20	16.30	16.40	16.50	16.70	16.90	17.10	17.30	17.40	17.60	17.80	17.90	18.10
AE Flood Zone (15' BFE)		15	15.10	15.20	15.30	15.40	15.50	15.70	15.90	16.10	16.30	16.40	16.60	16.80	16.90	17.10
AE Flood Zone (14' BFE)		14	14.10	14.20	14.30	14.40	14.50	14.70	14.90	15.10	15.30	15.40	15.60	15.80	15.90	16.10
AE Flood Zone (13' BFE)		13	13.10	13.20	13.30	13.40	13.50	13.70	13.90	14.10	14.30	14.40	14.60	14.80	14.90	15.10
EHW (1983 & 2012)		12.14	12.24	12.34	12.44	12.54	12.64	12.84	13.04	13.24	13.44	13.54	13.74	13.94	14.04	14.24
OHWM (approx.)		10.66	10.76	10.86	10.96	11.06	11.16	11.36	11.56	11.76	11.96	12.06	12.26	12.46	12.56	12.76
MHHW		9.02	9.12	9.22	9.32	9.42	9.52	9.72	9.92	10.12	10.32	10.42	10.62	10.82	10.92	11.12
NAVD88		0	0.10	0.20	0.30	0.40	0.50	0.70	0.90	1.10	1.30	1.40	1.60	1.80	1.90	2.10
MLLW		-2.34	-2.24	-2.14	-2.04	-1.94	-1.84	-1.64	-1.44	-1.24	-1.04	-0.94	-0.74	-0.54	-0.44	-0.24
ELW		-7.38	-7.28	-7.18	-7.08	-6.98	-6.88	-6.68	-6.48	-6.28	-6.08	-5.98	-5.78	-5.58	-5.48	-5.28

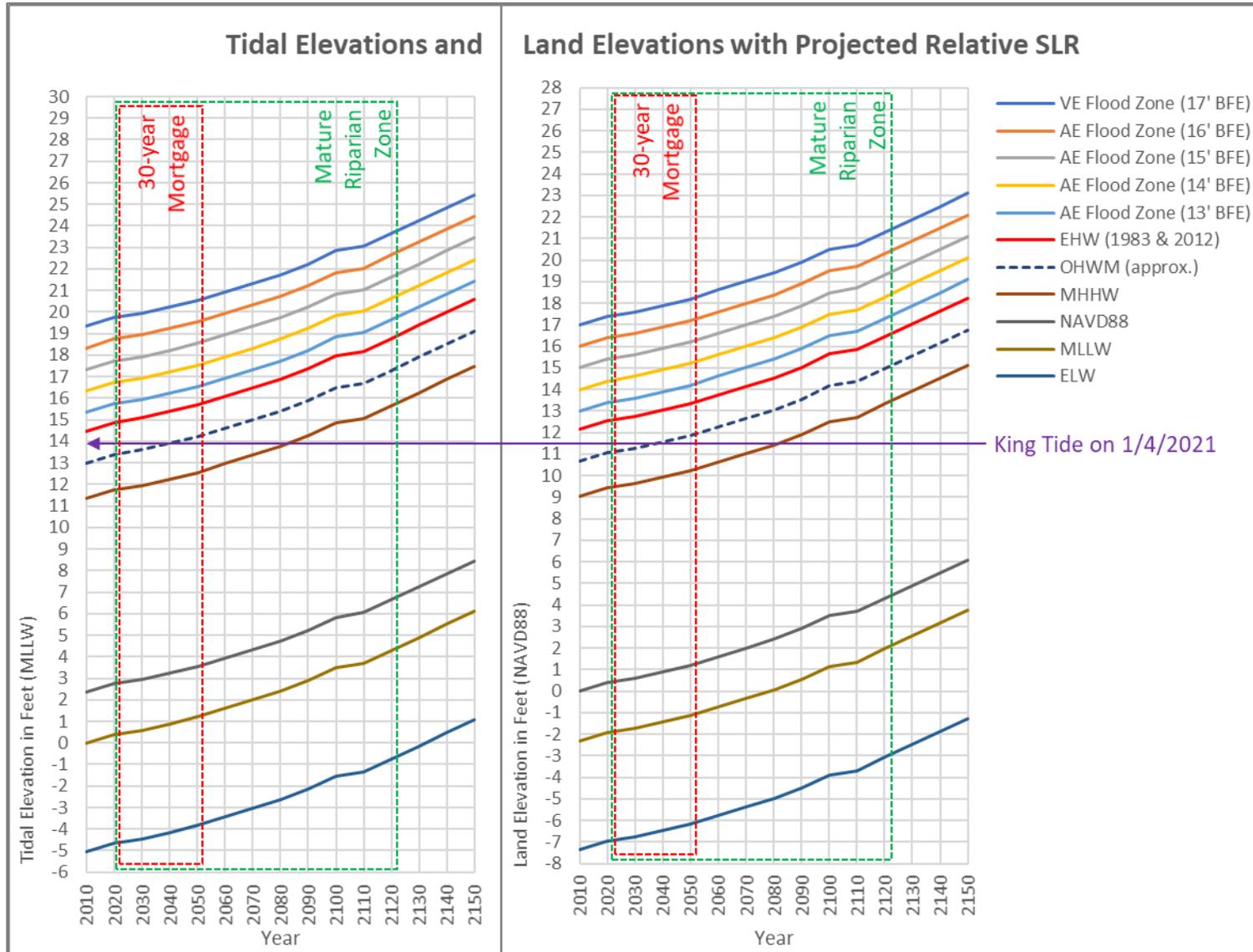
**Risk Profile 3. Moderate Risk of Future Flooding** (50% chance that actual water levels will exceed these projections)



**Risk Profile 3. Moderate Risk of Future Flooding (50% chance that actual water levels will exceed these projections)**

		Datum	Projected Elevation with Relative Sea Level Rise													
		2010	2020	2030	2040	2050	2060	2070	2080	2090	2100	2110	2120	2130	2140	2150
VE Flood Zone (17' BFE)	Tidal Elevation (ft MLLW)	19.34	19.54	19.74	19.94	20.14	20.34	20.64	20.94	21.24	21.64	21.74	22.14	22.44	22.84	23.14
AE Flood Zone (16' BFE)		18.34	18.54	18.74	18.94	19.14	19.34	19.64	19.94	20.24	20.64	20.74	21.14	21.44	21.84	22.14
AE Flood Zone (15' BFE)		17.34	17.54	17.74	17.94	18.14	18.34	18.64	18.94	19.24	19.64	19.74	20.14	20.44	20.84	21.14
AE Flood Zone (14' BFE)		16.34	16.54	16.74	16.94	17.14	17.34	17.64	17.94	18.24	18.64	18.74	19.14	19.44	19.84	20.14
AE Flood Zone (13' BFE)		15.34	15.54	15.74	15.94	16.14	16.34	16.64	16.94	17.24	17.64	17.74	18.14	18.44	18.84	19.14
EHW (1983 & 2012)		14.48	14.68	14.88	15.08	15.28	15.48	15.78	16.08	16.38	16.78	16.88	17.28	17.58	17.98	18.28
OHWM (approx.)		13	13.20	13.40	13.60	13.80	14.00	14.30	14.60	14.90	15.30	15.40	15.80	16.10	16.50	16.80
MHHW		11.36	11.56	11.76	11.96	12.16	12.36	12.66	12.96	13.26	13.66	13.76	14.16	14.46	14.86	15.16
NAVD88		2.34	2.54	2.74	2.94	3.14	3.34	3.64	3.94	4.24	4.64	4.74	5.14	5.44	5.84	6.14
MLLW		0	0.20	0.40	0.60	0.80	1.00	1.30	1.60	1.90	2.30	2.40	2.80	3.10	3.50	3.80
ELW		-5.04	-4.84	-4.64	-4.44	-4.24	-4.04	-3.74	-3.44	-3.14	-2.74	-2.64	-2.24	-1.94	-1.54	-1.24
<b>Current Planning Horizons</b>		See Example #2		Capital Improvement Plans (6-yr mandatory horizon)												
				Comprehensive Plan w/ Capital Facilities Plan (20-year mandatory horizon)												
				Comprehensive Plan (City 100-yr extended horizon)												
		Datum	Projected Elevation with Relative Sea Level Rise													
		2010	2020	2030	2040	2050	2060	2070	2080	2090	2100	2110	2120	2130	2140	2150
VE Flood Zone (17' BFE)	Land Elevation (ft NAVD88)	17	17.20	17.40	17.60	17.80	18.00	18.30	18.60	18.90	19.30	19.40	19.80	20.10	20.50	20.80
AE Flood Zone (16' BFE)		16	16.20	16.40	16.60	16.80	17.00	17.30	17.60	17.90	18.30	18.40	18.80	19.10	19.50	19.80
AE Flood Zone (15' BFE)		15	15.20	15.40	15.60	15.80	16.00	16.30	16.60	16.90	17.30	17.40	17.80	18.10	18.50	18.80
AE Flood Zone (14' BFE)		14	14.20	14.40	14.60	14.80	15.00	15.30	15.60	15.90	16.30	16.40	16.80	17.10	17.50	17.80
AE Flood Zone (13' BFE)		13	13.20	13.40	13.60	13.80	14.00	14.30	14.60	14.90	15.30	15.40	15.80	16.10	16.50	16.80
EHW (1983 & 2012)		12.14	12.34	12.54	12.74	12.94	13.14	13.44	13.74	14.04	14.44	14.54	14.94	15.24	15.64	15.94
OHWM (approx.)		10.66	10.86	11.06	11.26	11.46	11.66	11.96	12.26	12.56	12.96	13.06	13.46	13.76	14.16	14.46
MHHW		9.02	9.22	9.42	9.62	9.82	10.02	10.32	10.62	10.92	11.32	11.42	11.82	12.12	12.52	12.82
NAVD88		0	0.20	0.40	0.60	0.80	1.00	1.30	1.60	1.90	2.30	2.40	2.80	3.10	3.50	3.80
MLLW		-2.34	-2.14	-1.94	-1.74	-1.54	-1.34	-1.04	-0.74	-0.44	-0.04	0.06	0.46	0.76	1.16	1.46
ELW		-7.38	-7.18	-6.98	-6.78	-6.58	-6.38	-6.08	-5.78	-5.48	-5.08	-4.98	-4.58	-4.28	-3.88	-3.58

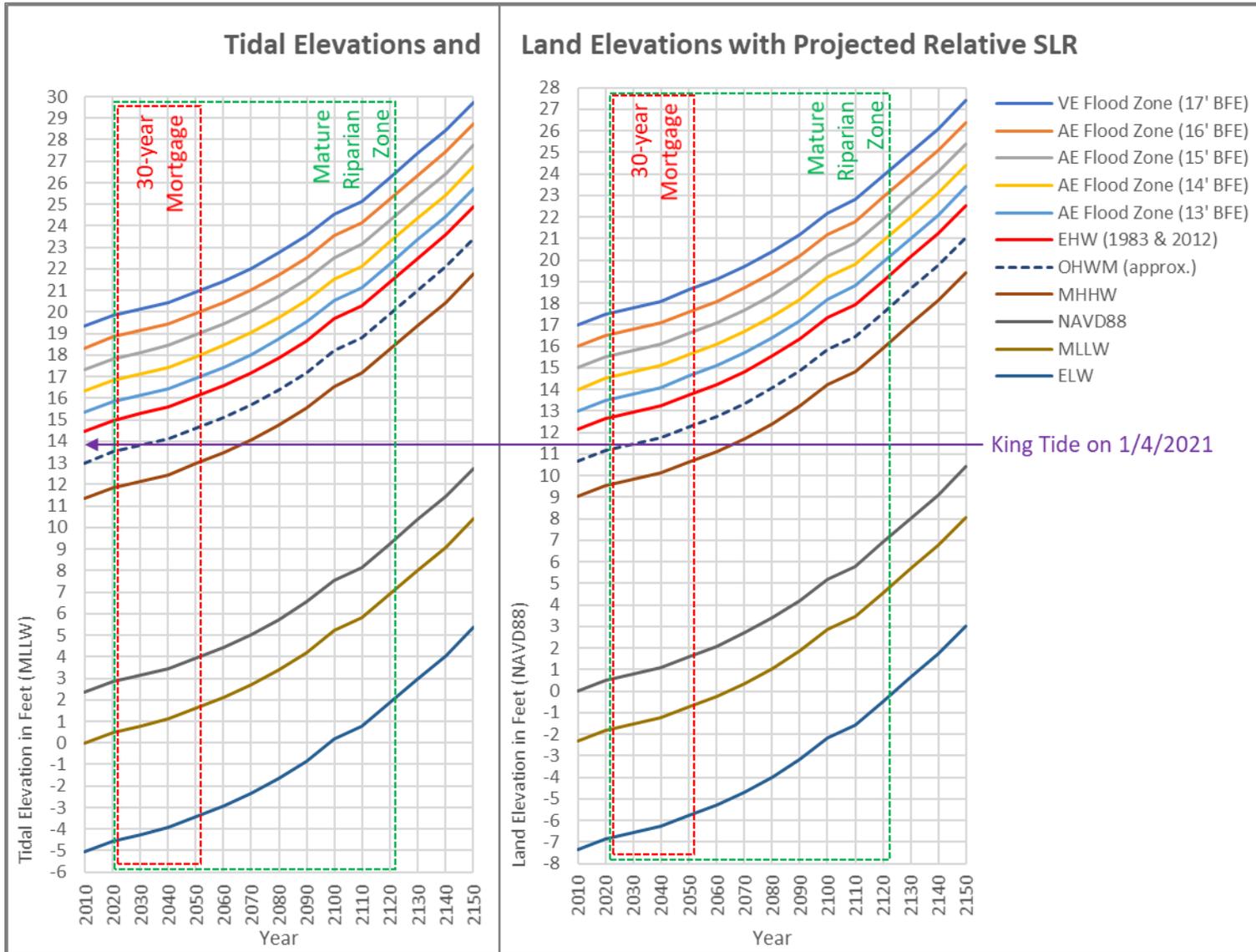
**Risk Profile 4. Low Risk of Future Flooding** (10% chance that actual water levels will exceed these projections)



**Risk Profile 4. Low Risk of Future Flooding (10% chance that actual water levels will exceed these projections)**

		Datum	Projected Elevation with Relative Sea Level Rise													
		2010	2020	2030	2040	2050	2060	2070	2080	2090	2100	2110	2120	2130	2140	2150
VE Flood Zone (17' BFE)	Tidal Elevation (ft MLLW)	19.34	19.74	19.94	20.24	20.54	20.94	21.34	21.74	22.24	22.84	23.04	23.64	24.24	24.84	25.44
AE Flood Zone (16' BFE)		18.34	18.74	18.94	19.24	19.54	19.94	20.34	20.74	21.24	21.84	22.04	22.64	23.24	23.84	24.44
AE Flood Zone (15' BFE)		17.34	17.74	17.94	18.24	18.54	18.94	19.34	19.74	20.24	20.84	21.04	21.64	22.24	22.84	23.44
AE Flood Zone (14' BFE)		16.34	16.74	16.94	17.24	17.54	17.94	18.34	18.74	19.24	19.84	20.04	20.64	21.24	21.84	22.44
AE Flood Zone (13' BFE)		15.34	15.74	15.94	16.24	16.54	16.94	17.34	17.74	18.24	18.84	19.04	19.64	20.24	20.84	21.44
EHW (1983 & 2012)		14.48	14.88	15.08	15.38	15.68	16.08	16.48	16.88	17.38	17.98	18.18	18.78	19.38	19.98	20.58
OHHW (approx.)		13	13.40	13.60	13.90	14.20	14.60	15.00	15.40	15.90	16.50	16.70	17.30	17.90	18.50	19.10
MHHW		11.36	11.76	11.96	12.26	12.56	12.96	13.36	13.76	14.26	14.86	15.06	15.66	16.26	16.86	17.46
NAVD88		2.34	2.74	2.94	3.24	3.54	3.94	4.34	4.74	5.24	5.84	6.04	6.64	7.24	7.84	8.44
MLLW		0	0.40	0.60	0.90	1.20	1.60	2.00	2.40	2.90	3.50	3.70	4.30	4.90	5.50	6.10
ELW		-5.04	-4.64	-4.44	-4.14	-3.84	-3.44	-3.04	-2.64	-2.14	-1.54	-1.34	-0.74	-0.14	0.46	1.06
Current Planning Horizons			CIP CIP CIP			Capital Improvement Plans (6-yr mandatory horizon)										
		Comp Plan			Comprehensive Plan w/ Capital Facilities Plan (20-year mandatory horizon)											
		Comprehensive Plan (City 100-yr extended horizon)														
		Datum	Projected Elevation with Relative Sea Level Rise													
		2010	2020	2030	2040	2050	2060	2070	2080	2090	2100	2110	2120	2130	2140	2150
VE Flood Zone (17' BFE)	Land Elevation (ft NAVD88)	17	17.40	17.60	17.90	18.20	18.60	19.00	19.40	19.90	20.50	20.70	21.30	21.90	22.50	23.10
AE Flood Zone (16' BFE)		16	16.40	16.60	16.90	17.20	17.60	18.00	18.40	18.90	19.50	19.70	20.30	20.90	21.50	22.10
AE Flood Zone (15' BFE)		15	15.40	15.60	15.90	16.20	16.60	17.00	17.40	17.90	18.50	18.70	19.30	19.90	20.50	21.10
AE Flood Zone (14' BFE)		14	14.40	14.60	14.90	15.20	15.60	16.00	16.40	16.90	17.50	17.70	18.30	18.90	19.50	20.10
AE Flood Zone (13' BFE)		13	13.40	13.60	13.90	14.20	14.60	15.00	15.40	15.90	16.50	16.70	17.30	17.90	18.50	19.10
EHW (1983 & 2012)		12.14	12.54	12.74	13.04	13.34	13.74	14.14	14.54	15.04	15.64	15.84	16.44	17.04	17.64	18.24
OHHW (approx.)		10.66	11.06	11.26	11.56	11.86	12.26	12.66	13.06	13.56	14.16	14.36	14.96	15.56	16.16	16.76
MHHW		9.02	9.42	9.62	9.92	10.22	10.62	11.02	11.42	11.92	12.52	12.72	13.32	13.92	14.52	15.12
NAVD88		0	0.40	0.60	0.90	1.20	1.60	2.00	2.40	2.90	3.50	3.70	4.30	4.90	5.50	6.10
MLLW		-2.34	-1.94	-1.74	-1.44	-1.14	-0.74	-0.34	0.06	0.56	1.16	1.36	1.96	2.56	3.16	3.76
ELW		-7.38	-6.98	-6.78	-6.48	-6.18	-5.78	-5.38	-4.98	-4.48	-3.88	-3.68	-3.08	-2.48	-1.88	-1.28

**Risk Profile 5. Very Low Risk of Future Flooding** (1% chance that actual water levels will exceed these projections)



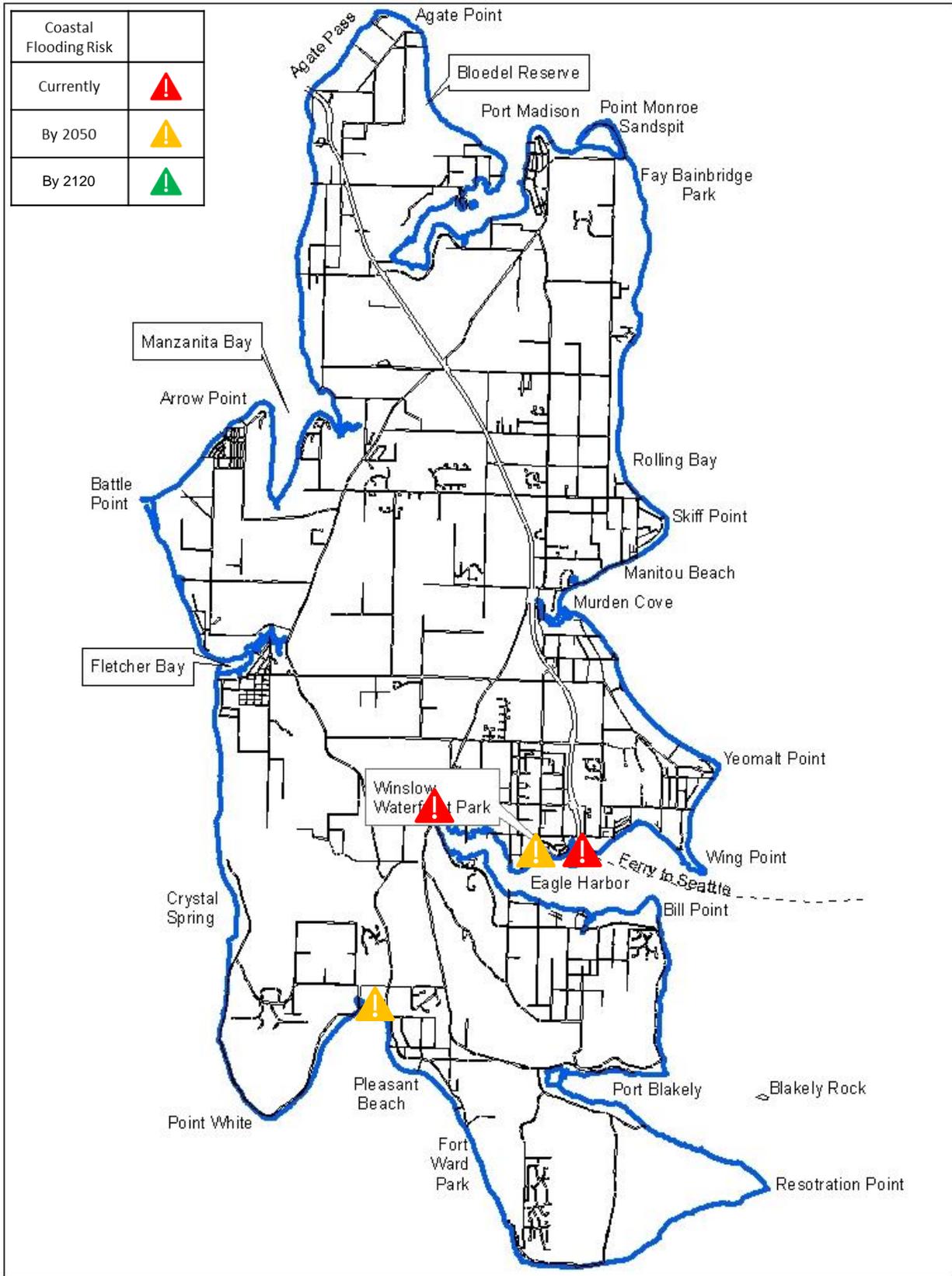
**Risk Profile 5. Very Low Risk of Future Flooding (1% chance that actual water levels will exceed these projections)**

		Datum	Projected Elevation with Relative Sea Level Rise													
		2010	2020	2030	2040	2050	2060	2070	2080	2090	2100	2110	2120	2130	2140	2150
VE Flood Zone (17' BFE)	Tidal Elevation (ft MLLW)	19.34	19.84	20.14	20.44	20.94	21.44	22.04	22.74	23.54	24.54	25.14	26.24	27.34	28.44	29.74
AE Flood Zone (16' BFE)		18.34	18.84	19.14	19.44	19.94	20.44	21.04	21.74	22.54	23.54	24.14	25.24	26.34	27.44	28.74
AE Flood Zone (15' BFE)		17.34	17.84	18.14	18.44	18.94	19.44	20.04	20.74	21.54	22.54	23.14	24.24	25.34	26.44	27.74
AE Flood Zone (14' BFE)		16.34	16.84	17.14	17.44	17.94	18.44	19.04	19.74	20.54	21.54	22.14	23.24	24.34	25.44	26.74
AE Flood Zone (13' BFE)		15.34	15.84	16.14	16.44	16.94	17.44	18.04	18.74	19.54	20.54	21.14	22.24	23.34	24.44	25.74
EHW (1983 & 2012)		14.48	14.98	15.28	15.58	16.08	16.58	17.18	17.88	18.68	19.68	20.28	21.38	22.48	23.58	24.88
OHWM (approx.)		13	13.50	13.80	14.10	14.60	15.10	15.70	16.40	17.20	18.20	18.80	19.90	21.00	22.10	23.40
MHHW		11.36	11.86	12.16	12.46	12.96	13.46	14.06	14.76	15.56	16.56	17.16	18.26	19.36	20.46	21.76
NAVD88		2.34	2.84	3.14	3.44	3.94	4.44	5.04	5.74	6.54	7.54	8.14	9.24	10.34	11.44	12.74
MLLW		0	0.50	0.80	1.10	1.60	2.10	2.70	3.40	4.20	5.20	5.80	6.90	8.00	9.10	10.40
ELW		-5.04	-4.54	-4.24	-3.94	-3.44	-2.94	-2.34	-1.64	-0.84	0.16	0.76	1.86	2.96	4.06	5.36
<b>Current Planning Horizons</b>		CIP CIP CIP		Capital Improvement Plans (6-yr mandatory horizon)												
		Comp Plan		Comprehensive Plan w/ Capital Facilities Plan (20-year mandatory horizon)												
				Comprehensive Plan (City 100-yr extended horizon)												
		Datum	Projected Elevation with Relative Sea Level Rise													
		2010	2020	2030	2040	2050	2060	2070	2080	2090	2100	2110	2120	2130	2140	2150
VE Flood Zone (17' BFE)	Land Elevation (ft NAVD88)	17	17.50	17.80	18.10	18.60	19.10	19.70	20.40	21.20	22.20	22.80	23.90	25.00	26.10	27.40
AE Flood Zone (16' BFE)		16	16.50	16.80	17.10	17.60	18.10	18.70	19.40	20.20	21.20	21.80	22.90	24.00	25.10	26.40
AE Flood Zone (15' BFE)		15	15.50	15.80	16.10	16.60	17.10	17.70	18.40	19.20	20.20	20.80	21.90	23.00	24.10	25.40
AE Flood Zone (14' BFE)		14	14.50	14.80	15.10	15.60	16.10	16.70	17.40	18.20	19.20	19.80	20.90	22.00	23.10	24.40
AE Flood Zone (13' BFE)		13	13.50	13.80	14.10	14.60	15.10	15.70	16.40	17.20	18.20	18.80	19.90	21.00	22.10	23.40
EHW (1983 & 2012)		12.14	12.64	12.94	13.24	13.74	14.24	14.84	15.54	16.34	17.34	17.94	19.04	20.14	21.24	22.54
OHWM (approx.)		10.66	11.16	11.46	11.76	12.26	12.76	13.36	14.06	14.86	15.86	16.46	17.56	18.66	19.76	21.06
MHHW		9.02	9.52	9.82	10.12	10.62	11.12	11.72	12.42	13.22	14.22	14.82	15.92	17.02	18.12	19.42
NAVD88		0	0.50	0.80	1.10	1.60	2.10	2.70	3.40	4.20	5.20	5.80	6.90	8.00	9.10	10.40
MLLW		-2.34	-1.84	-1.54	-1.24	-0.74	-0.24	0.36	1.06	1.86	2.86	3.46	4.56	5.66	6.76	8.06
ELW		-7.38	-6.88	-6.58	-6.28	-5.78	-5.28	-4.68	-3.98	-3.18	-2.18	-1.58	-0.48	0.62	1.72	3.02



## Attachment D – Preliminary Maps of Key Vulnerabilities to Sea Level Rise

Figure D-1. Commercial/Industrial Development Vulnerable under the Moderate Risk Profile



**Figure D-2. Residential Areas Vulnerable under the Moderate Risk Profile**

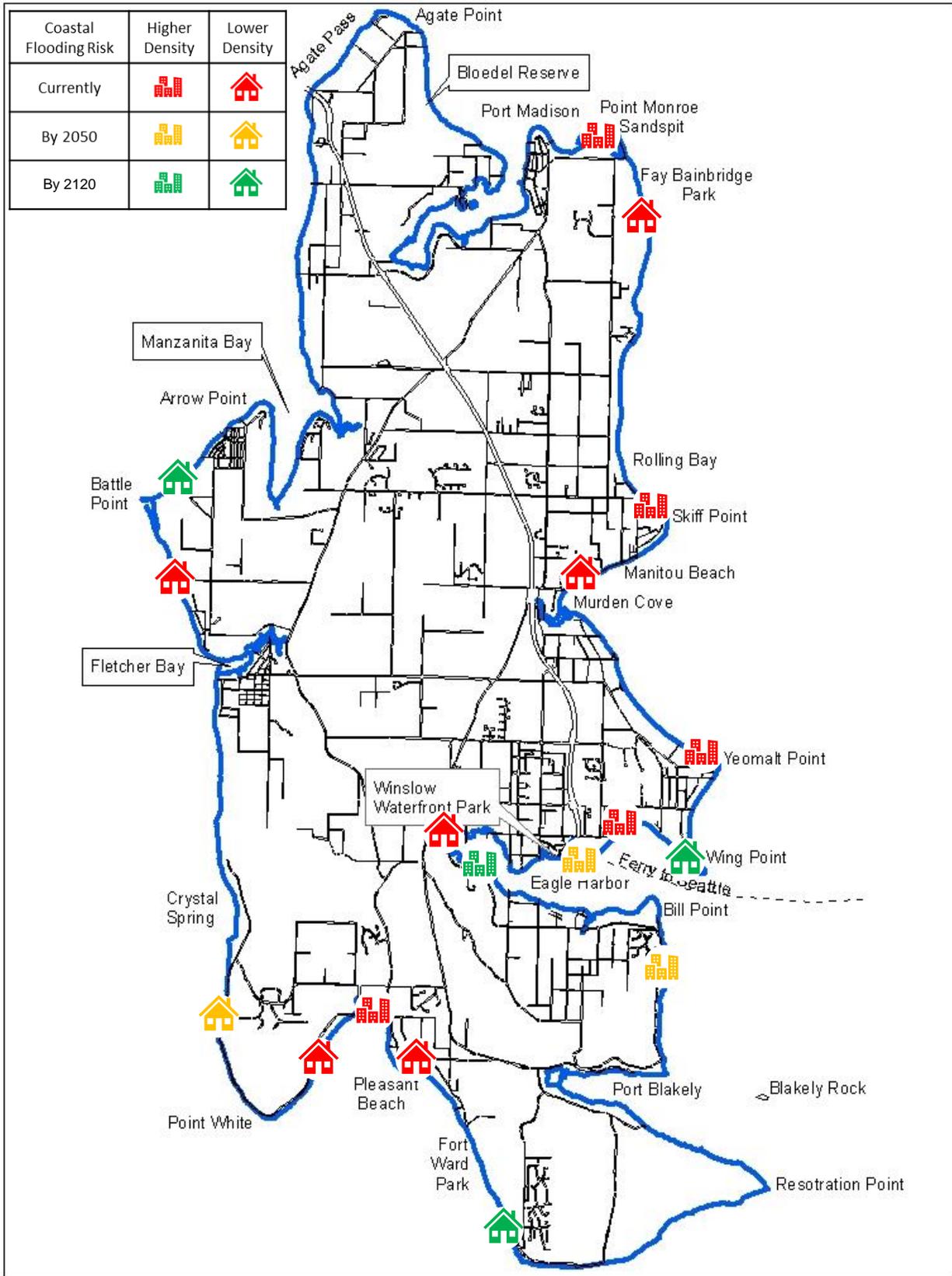


Figure D-3. Roads Vulnerable under the Moderate Risk Profile

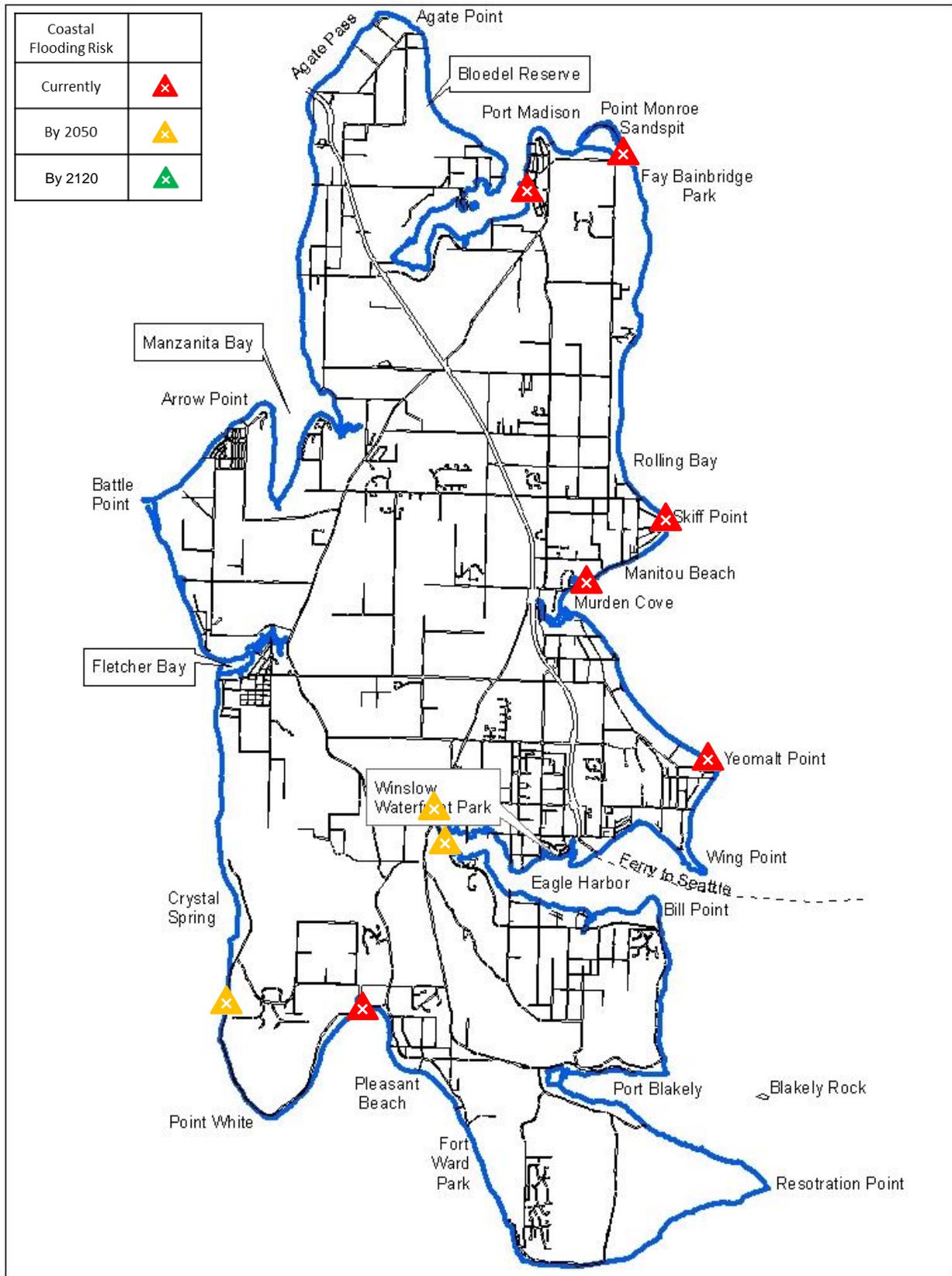
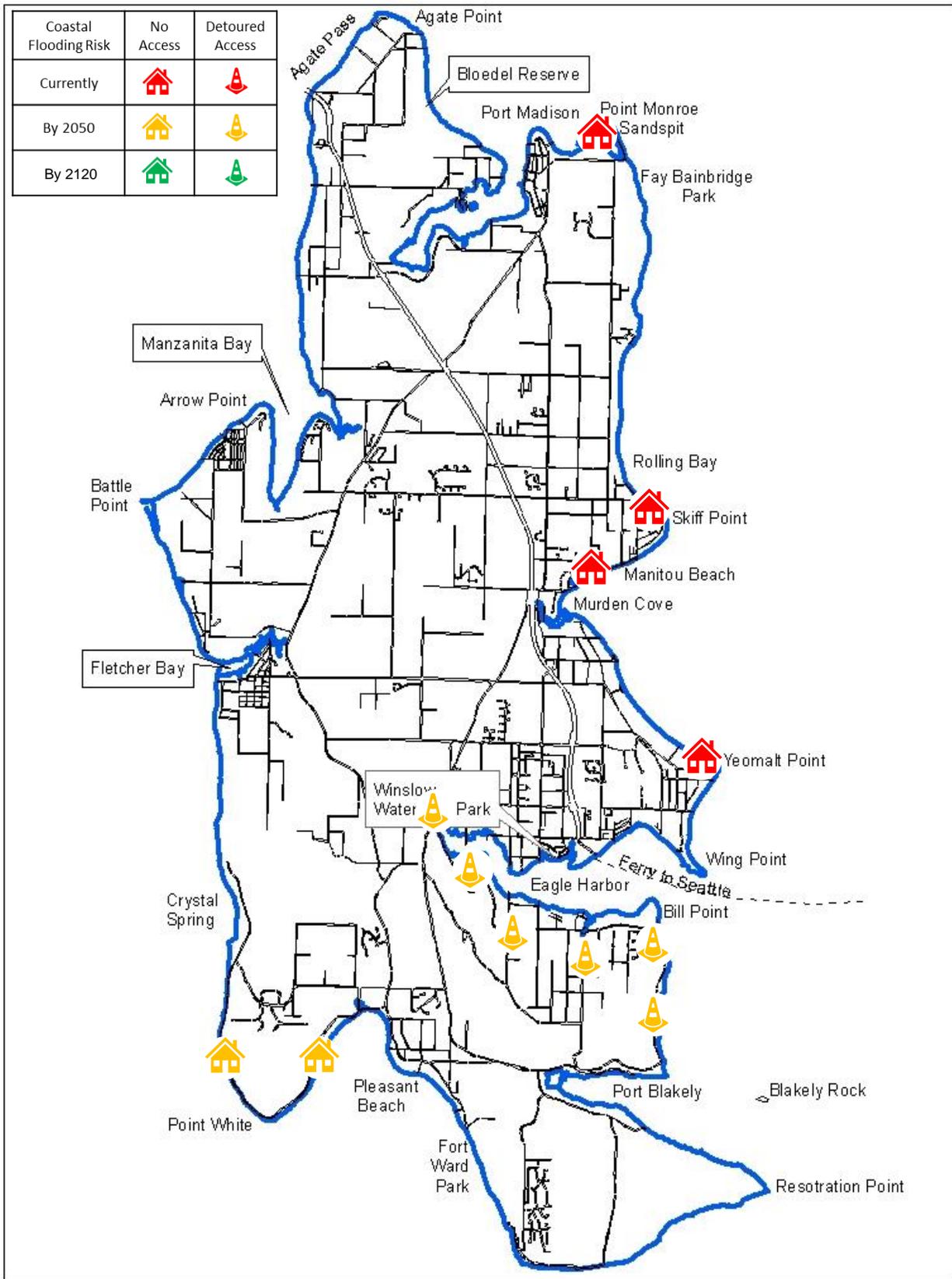


Figure D-4. Neighborhood Access Vulnerable under the Moderate Risk Profile





## Attachment E – Island County Sea Level Rise Adaptation Best Practices Matrix

**Island County Sea Level Rise Strategy Study  
Best Practices for Sea Level Rise Adaptation**

**Appendix 2A: Best Practices Matrix**

Strategy	Practice	Description	Community Applicability H - Historic Beach B - Coastal Bluff C - Canal	Timeframe S - Short-term M - Medium-term L - Long-term	Permitting P - permitted X - prohibited C - conditional SED - shoreline environmental designation	Scale I - Individual Homeowner S - Small Groups N - Neighborhood	Example/+	Location	Link
Protect	PROTECT	"Protection" seeks to control natural systems through hard and soft barriers and reduces impacts on a "zone that would be impacted without protection."							
	Soft Protection Measures	"Green solutions utilize ecological and environmental principles and practices to provide flood protection, as well as reduce erosion and stabilize shorelines, while also enhancing habitats and improving aesthetics (as compared to hard solutions). Often, soft solutions are less expensive than hard solutions and lower in maintenance, but they are not permanent and are subject to erosion." (AI, 2018)							
	Soft Shorelines	Soft Shorelines are designed coastal areas that reduce shoreline erosions through the use of natural materials. They are often "gently sloping natural banks" that "protect coastal ecosystems, and help reduce storm surge strengths along the coastline." (AI, 2018) Designers limit the amount and type of hardscape elements used and emphasize the use of plants and sands. The goal is to return to or reinforce natural systems along coastlines.	H, B, C	S, M, L	P	I, S, N	South Bay Sponge Hampton Roads Sea Level Rise/Flooding Adaptation Forum Olympic Sculpture Park More information	Bay Area, CA, USA Hampton Roads, VA, USA Seattle, WA, USA	<a href="http://www.resilientbayarea.org/south-bay-sponge">http://www.resilientbayarea.org/south-bay-sponge</a> <a href="https://digitalcommons.odu.edu/hraforum/">https://digitalcommons.odu.edu/hraforum/</a> <a href="http://www.weissmanfredi.com/project/seattle-art-museum-olympic-sculpture-park">http://www.weissmanfredi.com/project/seattle-art-museum-olympic-sculpture-park</a> <a href="https://fortress.wa.gov/ecy/publications/publications/1406009.pdf">https://fortress.wa.gov/ecy/publications/publications/1406009.pdf</a>
	Beach Nourishment	"Replacement of augmentation of beach sand removed by ocean waters." (Watson & Adams, 2011) May occur naturally or artificially.	H, B	S, M	P	S, N	Marine Park City of Del Mar Sea-Level Rise Adaptation Plan Local Coastal Program Update, Land Use Plan	Bellingham, WA, USA Del Mar, CA, USA Santa Monica, CA, USA	<a href="https://wdfw.wa.gov/sites/default/files/publications/01583/wdfw01583.pdf">https://wdfw.wa.gov/sites/default/files/publications/01583/wdfw01583.pdf</a> <a href="https://www.delmar.ca.us/DocumentCenter/View/3580/Revised-Adaptation-Plan-per-Council-May-21">https://www.delmar.ca.us/DocumentCenter/View/3580/Revised-Adaptation-Plan-per-Council-May-21</a> <a href="https://www.smgov.net/uploadedFiles/Departments/PCD/Plans/Local-Coastal-Plan/LUP%20FINAL%20DRAFT%2011.19.18.pdf">https://www.smgov.net/uploadedFiles/Departments/PCD/Plans/Local-Coastal-Plan/LUP%20FINAL%20DRAFT%2011.19.18.pdf</a>
	Hard Protection Measures	"Often developed by civil and environmental engineers, are flood protection structures that are (almost always) permanent. Hard solutions focus on controlling flooding and sea level rise... The downside of these projects is their disruption of ecological systems. They are generally expensive and require maintenance." (AI, 2018)							
	Bulkhead	"Wall or other structure, often wood, steel, stone, or concrete, designed to retain or prevent sliding or erosion of the land. Occasionally bulkheads are used to protect against wave action." (Watson & Adams, 2011) Similar to seawalls.	H, B, C	S, M	P/C	I, S, N	Marine Park Golden Gate National Recreation Area	Bellingham, WA, USA San Francisco, CA, USA	<a href="https://wdfw.wa.gov/sites/default/files/publications/01583/wdfw01583.pdf">https://wdfw.wa.gov/sites/default/files/publications/01583/wdfw01583.pdf</a> <a href="https://www.nps.gov/subjects/climatechange/upload/CAS_Case_Study_22.pdf">https://www.nps.gov/subjects/climatechange/upload/CAS_Case_Study_22.pdf</a>
	Breakwater	"A structure that forms a harbor and basin to protect the shore from the effects of waves, as well as to provide a safe place for fishing vessels to berth." Functions to "calm water, reduce wave height, and prevent shoreline erosion." (AI, 2018)	C	M	C in Aquatic and High Intensity SED	S, N	Scape Living Breakwaters	Staten Island, NY, USA	<a href="https://www.scapestudio.com/projects/living-breakwaters-competition/">https://www.scapestudio.com/projects/living-breakwaters-competition/</a>
	Dikes	"A constructed wall or embankment along a shore to prevent flooding of low-lying land." (Watson & Adams, 2011) Also known as a levee.	H, C	S, M	C/X (in natural SED) P in High Intensity SED	I, S, N	Motorway Dike	Netherlands	<a href="https://www.holland.com/global/tourism/destinations/provinces/friesland/the-afsluitdijk.htm">https://www.holland.com/global/tourism/destinations/provinces/friesland/the-afsluitdijk.htm</a>
	Dry Floodproofing	"prevents water from entering a structure through watertight designs." (AI, 2018)	H, B, C	S, M	P	I	University of Texas Perimeter Wall and Dry Floodproofing Project	Houston, TX, USA	<a href="https://www.fema.gov/media-library-data/1541615774329-170190ea05d8bb6f6dc5f1170a018d41/P-936_11-06-18_508r.pdf">https://www.fema.gov/media-library-data/1541615774329-170190ea05d8bb6f6dc5f1170a018d41/P-936_11-06-18_508r.pdf</a>
	Floodwall	"Floodwalls are vertical artificial barriers, either temporary or permanent, designed to withstand waters from a river, waterway or ocean." (AI, 2018) "A floodwall can surround a structure or, depending on flood depths, site topography, and design preferences, can protect isolated openings such as doors, windows, and basement entrances, including entry doors and garage doors." (FEMA, 2007)	H, B, C	S, M	P/C	I, S, N	Mobile Floodwall	Grein, Austria	<a href="https://interestingengineering.com/mobile-flood-walls-keeps-austrian-town-safe">https://interestingengineering.com/mobile-flood-walls-keeps-austrian-town-safe</a>
	Revetment	"(i) A facing of stone or concrete to protect an embankment or shore structure against erosion by wave action or currents; (ii) a retaining wall, typically sloped." (Watson & Adams, 2011) Includes riprap. Often material that is not anchored or has little anchoring like rocks placed on beach.	H, B, C	S, M	P/C	I, S	Cleveleys Coastal Protection	Cleveleys, United Kingdom	<a href="https://www.wvre.gov.uk/info/200485/coastal-defence/1293/cleveleys-coastal-defence-scheme">https://www.wvre.gov.uk/info/200485/coastal-defence/1293/cleveleys-coastal-defence-scheme</a>
	Seawall	"Seawalls are vertical structures designed to protect habitation from major wave and tidal action." (AI, 2018) See bulkhead.	H, B, C	S, M	P/C	I, S	The Seawall	Vancouver, Canada	<a href="https://vancouver.ca/parks-recreation-culture/seawall.aspx">https://vancouver.ca/parks-recreation-culture/seawall.aspx</a>
	Surge barrier	"Surge barriers, fixed dam structures with movable gates, provide some of the highest levels of protection from coastal storm surge." (AI, 2018)	H, B, C	M	potentially C in aquatic SED	N	Marina Bay Barrage Lake Borgne Storm Surge Barrier	Singapore New Orleans, LA, USA	<a href="https://www.pub.gov.sg/marinabarrage/aboutmarinabarrage">https://www.pub.gov.sg/marinabarrage/aboutmarinabarrage</a> <a href="https://www.floodauthority.org/the-system/lake-borgne-surge-barrier/">https://www.floodauthority.org/the-system/lake-borgne-surge-barrier/</a>



**Island County Sea Level Rise Strategy Study  
Best Practices for Sea Level Rise Adaptation**

**Appendix 2A: Best Practices Matrix**

Strategy	Practice	Description	Community Applicability H - Historic Beach B - Coastal Bluff C - Canal	Timeframe S - Short-term M - Medium-term L - Long-term	Permitting P - permitted X - prohibited C - conditional SED - shoreline environmental designation	Scale I - Individual Homeowner S - Small Groups N - Neighborhood	Example/+	Location	Link
ACCOMMODATE	Advanced Septic Systems	Accommodation allows natural systems to occur and "human impacts are minimized by adjusting human use of the coastal zone via changing land use/crop types, applying flood resilience measures, etc." (Zommers & Alverson, 2018)							
	Anchored Septic Systems	A system that uses a secondary treatment before releasing waste into leechfield.	H, B, C	S, M	P	I, S	Rhode Island Coastal Property Guide	Rhode Island, USA	<a href="http://climatechange.ri.gov/documents/rhode-island-coastal-property-guide-2014.pdf">http://climatechange.ri.gov/documents/rhode-island-coastal-property-guide-2014.pdf</a>
	Community Drainfield & other alternative on-site sewer systems	Using concrete blocks or other anchoring materials to prevent septic systems from floating up from the ground.	H, B, C	S	P	I, S	Septic Tank Buoyancy Control Workshop, Infiltrator Water Technologies	Connecticut, USA	<a href="http://neiwpc.org/wp-content/uploads/2019/04/Lentz_Septic-Tank-Buoyancy-101_040219.pdf">http://neiwpc.org/wp-content/uploads/2019/04/Lentz_Septic-Tank-Buoyancy-101_040219.pdf</a>
	Water supply diversification	Placing septic tanks and drainfields away from coastlines and flood/erosion risk; either through community consolidation (e.g. cluster systems or alternative site design).	H, B, C	S, M, L	P	I, S, N	University of Rhode Island Cooperative Extension	Rhode Island, USA	<a href="http://cels.uri.edu/rinemo/publications/WWW.CreativeDesignAndManagement.pdf">http://cels.uri.edu/rinemo/publications/WWW.CreativeDesignAndManagement.pdf</a>
	Elevated Structures	Diversification of water supply to decrease coastal groundwater extraction rates. Includes on-site recycled water systems and service agreements for increased discharge at upland wells and well relocation.	H, B, C	S, M, L	P	I, S, N	Sea-Level Rise Impacts on Drinking Water: A Groundwater Modeling Study in Newmarket, NH	Newmarket, NH, USA	<a href="http://www.strafford.org/cmsAdmin/uploads/final_groundwater-modeling-report_001.pdf">http://www.strafford.org/cmsAdmin/uploads/final_groundwater-modeling-report_001.pdf</a>
	Utility Relocation	A structure where "all or most of vital building infrastructure is raised above the flood line." (AI, 2018)	H, B, C	S, M	P	I	Perez Art Museum	Miami, FL, USA	<a href="https://www.yaleclimateconnections.org/2018/10/museum-protects-art-from-sea-level-rise/">https://www.yaleclimateconnections.org/2018/10/museum-protects-art-from-sea-level-rise/</a>
	Floodable Plain	Elevating or relocating septic and other at risk utilities.	H, B, C	S, M, L	P	I, S, N	Seagate Rehabilitation & Nursing Center	Brooklyn, NY, USA	<a href="https://toolkit.climate.gov/case-studies/engaging-stakeholders-planning-sea-level-rise">https://toolkit.climate.gov/case-studies/engaging-stakeholders-planning-sea-level-rise</a>
	Floodable Square	"Flat areas adjacent to a river or body of water that can be flooded when the water body's capacity is exceeded." (AI, 2018)	H, B, C	M, L	P - under ecological restoration	S, N	Road Elevation	Florida Keys, FL, USA	<a href="https://www.miamiherald.com/news/local/environment/article197735369.html">https://www.miamiherald.com/news/local/environment/article197735369.html</a>
	Raised Ground (fill)	"Floodable squares and parks are lowered urban areas that become pools during heavy rainfall or flooding from the sea or river." (AI, 2018)	H, B, C	M, L	P - under ecological restoration	S, N	Cumberland Park	Nashville, TN, USA	<a href="https://www.nashville.gov/parks-and-recreation/parks/cumberland-park.aspx">https://www.nashville.gov/parks-and-recreation/parks/cumberland-park.aspx</a>
	Wet Floodproofing	"A strategy that invites water to penetrate waterfront districts while elevating infrastructure such as roads to sustain human use during floods. This technique provides the opportunity for development for residential, office, hotel, retail, and transit uses." (AI, 2018)	H, B, C	S, M	C/P (grading and fill)	I, S, N	Benthemplein Water Square	Rotterdam, The Netherlands	<a href="https://www.publicspace.org/works/-/project/h034-water-square-in-benthemplein">https://www.publicspace.org/works/-/project/h034-water-square-in-benthemplein</a>
MANAGED RETREAT	On-Site	"Retreat" or "planned retreat" allows natural systems to occur without human intervention. "Human impacts are minimized by pulling back from the coast via land use planning, development controls, planned migration, etc." (Zommers & Alverson, 2018) In some cases, retreat may be an unavoidable response. However, "this option is economically feasible only if it is possible to relocate within their existing property, either to higher ground or with a greater setback from a flood source." (Watson & Adams, 2011)							
	Off-Site	"allows floodwater to enter and leave a structure through designated openings and thus requires non occupied space." (AI, 2018)	H, B, C	S, M	P	I	Hafencity	Hamburg, Germany	<a href="https://www.urbangreenbluegrids.com/projects/hafencity-hamburg-germany/">https://www.urbangreenbluegrids.com/projects/hafencity-hamburg-germany/</a>
	Off-Site	Relocating upland away from flood risk within property.	H, B, C	S, M	P	I	Burnham Hall	Lincoln, VT, USA	<a href="https://accd.vermont.gov/sites/accdnew/files/documents/CD/CPR/CPR-VERI-Toolkit-Floodproofing-CaseStudies.pdf">https://accd.vermont.gov/sites/accdnew/files/documents/CD/CPR/CPR-VERI-Toolkit-Floodproofing-CaseStudies.pdf</a>
Retreat	Off-Site	Relocating upland away from flood risk to a different property.	H, B, C	M, L	P - requires land acquisition	I, S, N	Rio Bogota Flood Control	Colombia	<a href="http://documents.worldbank.org/curated/en/113621513887766611/Colombia-Rio-Bogota-Environmental-Recuperation-and-Flood-Control-Project-restructuring">http://documents.worldbank.org/curated/en/113621513887766611/Colombia-Rio-Bogota-Environmental-Recuperation-and-Flood-Control-Project-restructuring</a>
	Off-Site	Relocating upland away from flood risk to a different property.	H, B, C	M, L	P - requires land acquisition	I, S, N	Village of Soldiers Grove Managed Retreat at Surfer's Point	Soldiers Grove, WI, USA Ventura Beach, CA, USA	<a href="https://dma.wi.gov/DMA/divisions/wem/mitigation/docs/stories/Soldiers_Grove_LTerm_Benefits_Relocation.pdf">https://dma.wi.gov/DMA/divisions/wem/mitigation/docs/stories/Soldiers_Grove_LTerm_Benefits_Relocation.pdf</a> <a href="https://www.arcgis.com/apps/MapJournal/index.html?appid=bea8d4142fcf47bc90078e845e296d64">https://www.arcgis.com/apps/MapJournal/index.html?appid=bea8d4142fcf47bc90078e845e296d64</a>
Retreat	Off-Site	Relocating upland away from flood risk to a different property.	H, B, C	M, L	P - requires land acquisition	I, S, N	Isle De Charles Resettlement	Isle De Charles, LA, USA	<a href="http://isledejeancharles.la.gov/">http://isledejeancharles.la.gov/</a>



SMP Periodic Review Timelines for Process Alternatives

2021												2022												2023																																																																																													
4-Jan	11-Jan	18-Jan	25-Jan	1-Feb	8-Feb	15-Feb	22-Feb	1-Mar	8-Mar	15-Mar	22-Mar	29-Mar	5-Apr	12-Apr	19-Apr	26-Apr	3-May	10-May	17-May	24-May	31-May	7-Jun	14-Jun	21-Jun	28-Jun	5-Jul	12-Jul	19-Jul	26-Jul	2-Aug	9-Aug	16-Aug	23-Aug	30-Aug	6-Sep	13-Sep	20-Sep	27-Sep	4-Oct	11-Oct	18-Oct	25-Oct	1-Nov	8-Nov	15-Nov	22-Nov	29-Nov	6-Dec	13-Dec	20-Dec	27-Dec	3-Jan	10-Jan	17-Jan	24-Jan	31-Jan	7-Feb	14-Feb	21-Feb	28-Feb	7-Mar	14-Mar	21-Mar	28-Mar	4-Apr	11-Apr	18-Apr	25-Apr	2-May	9-May	16-May	23-May	30-May	6-Jun	13-Jun	20-Jun	27-Jun	4-Jul	11-Jul	18-Jul	25-Jul	1-Aug	8-Aug	15-Aug	22-Aug	29-Aug	5-Sep	12-Sep	19-Sep	26-Sep	3-Oct	10-Oct	17-Oct	24-Oct	31-Oct	7-Nov	14-Nov	21-Nov	28-Nov	5-Dec	12-Dec	19-Dec	26-Dec	2-Jan	9-Jan	16-Jan	23-Jan	30-Jan	6-Feb	13-Feb	20-Feb	27-Feb	6-Mar	13-Mar	20-Mar	27-Mar	3-Apr
Deadline																																																																																																																					

Recommended SMP Joint Review Process (with updated schedule)



"Typical" COBI SMP Joint Review Process



- Public Input
- Staff
- Planning Commission
- City Council
- Ecology
- Appeal Period
- W = Workshop
- SS = Study Session
- J-PH = Joint Public Hearing
- PH = Public Hearing
- R = Recommendation
- D = Decision
- #1 = Draft SMP (version number)
- F = Final SMP
- Holidays/School Breaks

### SMP Periodic Review Stakeholder Focus Group

Name	Organization, if applicable
Alison Dennison	Aspect Consulting
Brenda Padgham	Bainbridge Island Land Trust
Greg Nance	
Helen Pitts	
Josh Bouma	Puget Sound Restoration Fund
Karl Shearer	
Kathleen Hansen	Rich Passage Estates Homeowners' Association
Kevin Bright	Cooke Aquaculture Pacific
Kyle LaBrache	Homeowner/Restaurateur
Maradel Gale	Coalition to Protect Puget Sound, Bainbridge Beach Naturalists, Sustainable Bainbridge
Marcus Cziesla	
Michael Cox	Climate Change Advisory Committee
Michael Whalen	
Paul B Greenawalt	
Paul Benz	
Rob Satterwhite	

### SMP Periodic Review Agency Group

Name	Agency
Nicole Faghin	WA Sea Grant
Dana Coggen	Kitsap Noxious Weed Control Board
Peter Corelis	COBI/Public Works
Nam Siu	WDFW
Hugo Flores	WDNR
Maria Sandercock	Ecology
Kathlene Barnhart	Suquamish Tribe
Kevin Bartoy	WSDOT/Washington State Ferries
Matt Pahs	WSDOT/Olympic Region
Perry Barrett	BI Metro Parks & Recreation District

SHORELINE MASTER PROGRAM PERIODIC REVIEW

# Summary of the Periodic Review Rule (WAC 173-26-090)

## Introduction

This document is an annotated version of Ecology’s rule ([WAC 173-26-090](#)) on conducting periodic reviews of Shoreline Master Programs (SMPs) under the Shoreline Management Act (SMA). The rule was based on [Department of Commerce rules](#) that guide local governments in meeting the analogous Growth Management Act (GMA) “periodic review” requirement.

The following is a brief summary of each section of the rule.

### Section 1: Locally initiated review

This brief section is from a long-standing rule that encourages local governments to review their SMPs to reflect changing local circumstances, new information or improved data. Ecology retained this section to clarify that local governments may prepare SMP amendments outside the statutorily mandated review period. The rule encourages local governments to consult guidance materials available from Ecology that may inform their reviews.

### Section 2: Periodic review requirements

The second section summarizes and explains statutory requirements. The SMA requires each city and county to review, and, if necessary, revise their SMP at least once every eight years. The legislature set a staggered schedule that alternates with similar reviews under the Growth Management Act (GMA).<sup>1</sup>

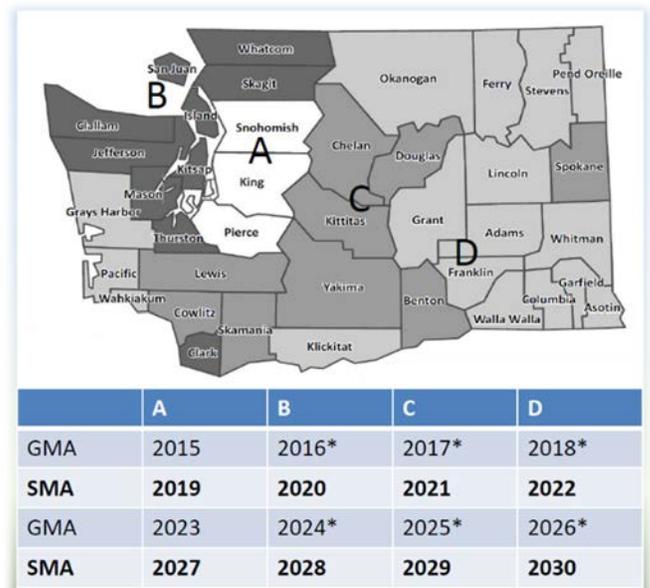


Figure 1. Periodic review schedules under the SMA and GMA. (NOTE \*For GMA reviews, the law gives an extra 2 years for smaller, slower-growing jurisdictions in groups B, C, and D.)

Figure 1 illustrates how GMA and SMA review deadlines alternate over time. For example, Column A indicates that King, Pierce and Snohomish counties and the cities within them have GMA review deadlines in 2015 and eight years later in 2023, interspersed with SMA reviews in 2019 and 2027.

The rule clarifies that local legislative action is required to complete the review, even when a local government determines no changes are needed. It also clarifies how the scope of the periodic review differs from the comprehensive updates that were conducted starting in 2005.

<sup>1</sup> RCW 90.58.080(4)  
 Summary of Periodic Review Rule (WAC 173-26-090)  
 Shorelands and Environmental Assistance Program, September 20, 2017

**Section 3: Procedures**

The third section of the rule outlines local and state procedures for conducting periodic reviews. The rule follows the GMA periodic review process, with unique steps to reflect Ecology’s formal approval role (see Figure 2).

The rule requires Ecology to maintain a checklist that includes potential review elements. The checklist is used at the beginning to help determine what to review, and at the end to identify where each applicable issue is addressed in the SMP.

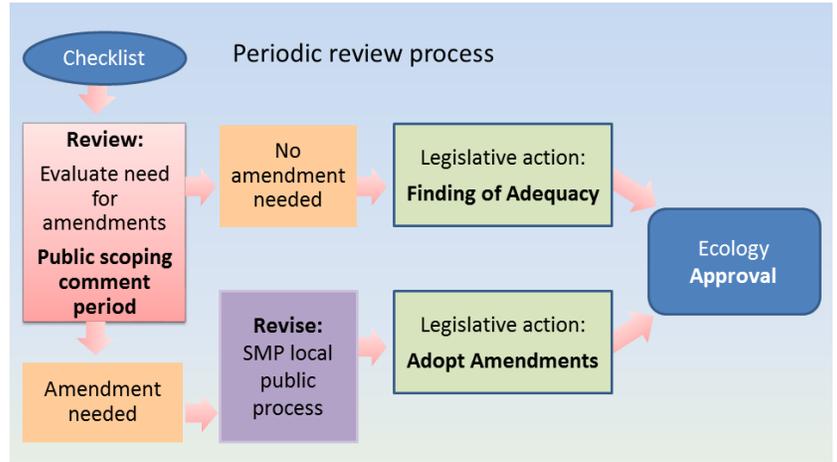


Figure 2. Schematic outline of SMP periodic review process. Ecology final approval triggers an appeal period.

The rule requires a public participation program that provides for early and continuous involvement of interested parties throughout the review process.

For jurisdictions that find no amendments are needed, the scoping could lead directly to final legislative action determining that no amendments are needed (“Finding of Adequacy”). Under the SMA, amendments to SMPs are final only after approval by Ecology. Even when it is determined locally that no amendments are necessary under the periodic review, local governments will submit their Findings of Adequacy to Ecology for review of the local determination and to ensure a definitive conclusion to the periodic review process. If in agreement, Ecology would issue a formal approval. This would provide certainty to all parties that Ecology has concurred with the local determination.

Ecology’s approval triggers the appeal period. Any appeals would be of Ecology’s action as well as the local government action.

Below is the complete text of Ecology’s rule outlining the periodic review requirements and process. The annotation in colored boxes provides context and explanation for each section and is not part of the formally adopted rule.



## WAC 173-26-090 - Locally initiated review—Periodic review—Public involvement and approval procedures.

### (1) Locally initiated master program reviews

Each local government should review its shoreline master program and make amendments deemed necessary to reflect changing local circumstances, new information or improved data.

Local governments are encouraged to consult department guidance for applicable new information on emerging topics such as sea level rise.

The first sentence of §1 has been in place for decades. Ecology retained this direction to emphasize that local governments may amend their SMPs at any time to address changing circumstances, new information or improved data. Ecology’s 2017 amendments suggests local governments consult Ecology guidance for information on emerging issues such as sea level rise. Addressing sea level rise is an example of the kind of work that might be most effectively tackled as part of a broader comprehensive plan initiative, rather than during a focused SMA periodic review. Note that §(3)(b)(iii) calls on local governments to consider these kinds of amendments during the mandatory periodic review. The periodic review can be considered a minimum time period to convene a public process to consider as a community whether your SMP remains relevant with changing conditions. However, these kinds of amendments can be conducted at any time.

### (2) Periodic review requirements.

(a) Following the comprehensive updates required by RCW 90.58.080(2), each local government shall conduct a review of their master program at least once every eight years on a schedule established in the act. Following the review, local governments shall, if necessary, revise their master programs. This review and revision is referred to in this section as the periodic review.

§ 2 (a) starts with direct quotes from the SMA at RCW 90.58.080(4), with an additional clarification that the rule uses the term “periodic review” for the mandatory eight-year review. The term “comprehensive update” refers to the one-time updates required under RCW 90.58.080(2) with deadlines from 2005 – 2014.

#### (2)(b) Deadlines for periodic review.

Local governments must take action to review, and if necessary, revise their master programs according to the schedule established in RCW 90.58.080(4)(b). Deadlines for completion of periodic review are as follows:

*Table WAC 173-26-090.1 Deadlines for Completion of Periodic Review*

Reviews must be completed on or before June 30 of:	Affected counties and the cities and towns within:
2019/2027*	King, Pierce, Snohomish
2020/2028*	Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, Whatcom
2021/2029*	Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, Yakima
2022/2030*	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, Whitman

\* And every eight years thereafter.



§ 2(b) quotes the statutory directive to review and revise if needed and presents the deadlines in a table.

The statutory requirement is to conduct a periodic review *at least* once every 8 years by June 30 of the year listed. There is no absolute direction in law or rule for how early you can adopt, but as a general guide Ecology recommends conducting periodic review within two years of the deadline. For SMA reviews in particular it will actually be beneficial if local periodic review adoptions are “spread out” around the deadline to distribute the review workload, and ensure Ecology can provide adequate help to individual jurisdictions.

Note that if a local governments simply ignores their deadlines they are potentially vulnerable to a “failure to act” claim before the Growth Management Hearings Boards (for fully planning jurisdictions), or before the Shorelines Hearings Board (for partially planning jurisdictions). Ecology also has authority to adopt SMP amendments by rule under RCW 90.58.070.

**(2)(c) Taking legislative action.**

(i) The periodic review must be accomplished through legislative action. Legislative action means the adoption of a resolution, motion, or ordinance following notice and a public hearing including, at a minimum, findings that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefore. Legislative findings that no revisions are needed are referred to in this section as "findings of adequacy."

(ii) Legislative action includes two components. It includes a review of the shoreline master program and it includes the adoption of either findings of adequacy or any amendments necessary to bring the program into compliance with the requirements of the act.

(iii) Legislative actions concluding the periodic review must be followed by department approval.

§ 2(c) clarifies that statutory review must be concluded with legislative action. In other words, a local government cannot simply conduct a staff-level review, conclude no local action is needed, and be done with the review obligation. Just like under GMA reviews, the review is a formal public process concluding with elected officials taking formal action after a public hearing.

§ 2(c)(i) creates a new term – locally adopted findings that revisions to the SMP are not needed are called “Findings of Adequacy.” § 2(c)(ii) clarifies that legislative action includes a formal public review and formal action, whether the review results in amendments, or simple findings of adequacy where the review reveals no changes to the SMP are needed. § 2(c) (iii) clarifies Ecology approval is needed to conclude local reviews. This provides a definitive end to the local process. Note that an appeal of local periodic review amendments or local findings of adequacy would also be appeals of Ecology’s approval.

**(2)(d) The required minimum scope of review.**

(i) The purpose and scope of the periodic review as established by the act is:

(A) To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and

(B) To assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

(ii) The review process provides the method for bringing shoreline master programs into compliance with the requirements of the act that have been added or changed since the last review and for



responding to changes in guidelines adopted by the department, together with a review for consistency with amended comprehensive plans and regulations. Local governments should also incorporate amendments to reflect changed circumstances, new information, or improved data. The review ensures that shoreline master programs do not fall out of compliance over time through inaction.

(iii) The periodic review is distinct from the comprehensive updates required by RCW 90.58.080(2). The presumption in the comprehensive update process was that all master programs needed to be revised to comply with the full suite of ecology guidelines. By contrast, the periodic review addresses changes in requirements of the act and guidelines requirements since the comprehensive update or the last periodic review, and changes for consistency with revised comprehensive plans and regulations, together with any changes deemed necessary to reflect changed circumstances, new information or improved data. There is no minimum requirement to comprehensively revise shoreline inventory and characterization reports or restoration plans.

§ 2(d)(i) and (ii) define the required scope of review consistent with the purpose set in statute.

§ 2(d)(iii) is intended to distinguish the periodic reviews from the one-time comprehensive SMP update. Comprehensive updates involved a complete review of the SMP based on Ecology’s 2003 SMA rules, and included extensive inventory work to determine shoreline jurisdiction and analyze existing conditions. Periodic reviews are focused on new laws or rules that were not effect when the comprehensive update was adopted, or new information a local government finds warrants local amendments.

### (3) Procedures for conducting periodic reviews.

#### (3)(a) Public participation program.

(i) In conducting the periodic review, the department and local governments, pursuant to RCW 90.58.130, shall make all reasonable efforts to inform, fully involve and encourage participation of all interested persons and private entities, tribes, and agencies of the federal, state or local government having interests and responsibilities relating to shorelines of the state and the local master program. Local governments may follow the public participation procedures under either the standard local process outlined in WAC 173-26-100, or the optional joint review process outlined in WAC 173-26-104.

§ 3(a)(i) clarifies that the periodic review is a public process. Even though conducting the review may lead to the conclusion no actual revisions are necessary, the direction in statute for public involvement applies.

(ii) Counties and cities shall establish and broadly disseminate to the public a public participation program identifying procedures whereby review of the shoreline master program will be considered by the local governing body consistent with RCW 36.70A.140. Such procedures shall provide for early and continuous public participation through broad dissemination of informative materials, proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, and consideration of and response to public comments.

The public participation program should include a schedule for the periodic review and identify when legislative action on the review and update component are proposed to occur. The public participation program should also inform the public of when to comment on the scope of the review and proposed changes to the master program. Counties and cities may adjust the public participation program to best meet the intent of the participation requirement.

§ 3(a)(ii) require a public participation program for all jurisdictions, not just those fully planning under GMA. The new additions under (A) and (B) are modified from GMA rules [WAC 365-196-610(2)(a)(i) and (ii)]. The recommendation for a schedule and public scoping addresses Growth Management Hearings Board decisions – highlighting the importance of definitive notice when taking action on periodic reviews.

### (3)(b) Review and analysis to determine need for revisions.

#### (i) Review amendments to the act and shoreline master program guidelines.

Local governments must review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments are needed to maintain compliance. The department will maintain a checklist of legislative and rule amendments to assist local governments with this review. The department will provide technical assistance to ensure local governments address applicable changes to the act and master program guidelines.

#### (ii) Review relevant comprehensive plans and regulations.

Local governments must review changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them.

WAC 173-26-191(1)(e) and 173-26-211(3) provide guidance on determining internal consistency. It is the responsibility of the local government to assure consistency between the master program and other elements of the comprehensive plan and development regulations. Local governments should document the consistency analysis to support proposed changes.

#### (iii) Additional review and analysis.

Local governments should consider during their periodic review whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data as described under subsection (1) of this section. Local governments should consider whether the significance of the changed circumstances, new information or improved data warrants amendments.

§ 3(b) is based on the Commerce GMA periodic update rule [WAC 365-196-610(2)(b)].

§ 3(b)(i) borrows from the Commerce rule in requiring Ecology to maintain a checklist of statutory and rule amendments.

§ 3(b)(ii) references Ecology's existing rules on how to review SMPs for consistency with GMA plans and regulations. (Those rules clarify that local governments are responsible for determining whether their SMP is consistent with other local plans and regulations, and not Ecology).

§ 3(b)(iii) acknowledges local governments may combine locally initiated amendments together with the periodic review.

### (3)(c) Take legislative action.

(i) At the end of the review process, counties and cities must take legislative action declaring the review process complete.

(ii) The notice of hearing for legislative actions that are intended to address the periodic review process must state that the actions to be considered are part of the periodic review process under RCW 90.58.080(4).



(iii) The findings for any legislative action on the periodic review process must state that the action is intended to satisfy the requirements of RCW 90.58.080(4).

(iv) A local government that determines after review that amendments are not needed shall adopt a resolution, motion, or ordinance declaring findings of adequacy. Findings of adequacy are a local written determination that no revisions to a shoreline master program are needed to comply with the requirements of RCW 90.58.080(4).

§ 3(c)(i) – (iii) is based on the GMA periodic update rule [WAC 365-196-610(2)(c)]. These rules are based on Growth Management Hearings Board decisions that found procedural errors in some local GMA periodic review adoptions. It is important to definitively conclude the periodic review in legislative findings.

§ 3(c)(iv) clarifies that when no changes are needed a local government will adopt formal “Findings of Adequacy.”

**(3)(d) Submittal to the department.**

(i) A local government that determines amendments are needed shall submit the amendments to the department consistent with WAC 173-26-110.

(ii) A local government that determines amendments are not needed shall submit the following in lieu of the requirements of WAC 173-26-110:

(A) A resolution or ordinance declaring findings of adequacy.

(B) Evidence of compliance with applicable public notice and consultation requirements.

(C) Copies of all public, agency and tribal comments received during any applicable public comment periods, or where no comments have been received, a statement to that effect.

(D) A completed checklist demonstrating review elements have been considered, and are either inapplicable or have already been addressed through previous locally initiated amendments prior to the scheduled periodic review.

§ 3(d)(i) clarifies that when there are amendments, local governments will follow the normal amendment process.

§ 3(d)(ii) provides submittal requirements when there are no amendments – these are the required elements for complete submittal to accompany “findings of adequacy.”

**(e) State process for approving periodic reviews.**

(i) The department must issue a formal approval of any amendment or findings of adequacy. Department approval is necessary to affirmatively conclude the periodic review process, to confirm that state review of local action has occurred, and to establish a definitive appeal window consistent with RCW 90.58.190.

(ii) Where the local government final action includes master program amendments, local governments and the department shall follow applicable adoption procedures described in WAC 173-26-120.



(iii) Where the local government final action is to adopt findings of adequacy, the department shall follow applicable adoption procedures described in WAC 173-26-120. The department shall review the findings of adequacy solely for consistency with RCW 90.58.080(4) and this section.

§ 3(e)(i) clarifies that Ecology must approve any amendment as well as the “findings of adequacy.” Any appeals would be of Ecology’s approval rather than the local government determination.

§ 3(e)(ii) clarifies that the normal adoption process applies if there are amendments.

§ 3(e)(iii) provides submittal requirements where there are no amendments. Ecology will follow the normal adoption process but substitute review of the local “findings of adequacy” with evaluation of actual amendments.

## SHORELINE MASTER PROGRAM GUIDANCE FOR LOCAL GOVERNMENT

## Using the optional joint review process for amending Shoreline Master Programs per WAC 173-26-104

### Introduction

This is a step-by-step guide for city or county planners amending their Shoreline Master Program (SMP) using the optional joint review process authorized under [WAC 173-26-104](#).

The joint review process consolidates the local and state public comment periods, speeding up the approval process. The joint review process can be used for any locally initiated SMP Amendments or for the scheduled Periodic Reviews required under RCW 90.58.080(4).

Local governments completing their one-time comprehensive updates under RCW 90.58.080(2) must follow the standard two-step approval process, which includes a separate state comment period after local adoption.

Involve your Ecology planner as you draft amendments. It is especially crucial to coordinate on the timing of the joint local/state public comment period to ensure the public has a clear understanding of when and how to comment on proposed amendments and to avoid procedural errors.

### Step 1. Draft proposed revisions and engage the public

1. Begin public engagement as outlined in your Public Participation Plan. The level of public involvement will vary according to the level of complexity, anticipated controversy, and range of issues anticipated to be covered in the SMP amendment.
2. Notify your Ecology Regional Planner of your intent to use the optional joint review process. This can be done via email and should include a proposed work plan or adoption schedule.
3. Make all reasonable effort to consult with and solicit comments of any persons; groups; federal, state, regional, or local agencies; adjacent local governments; and tribes having interests or responsibilities relating to the subject shorelines or any special expertise with respect to any environmental impact.
4. Maintain a list of interested parties over the amendment process to use for the public notice and as required for final submittal. Keep Ecology informed of your outreach efforts.

#### FIVE STEPS TO A SUCCESSFUL JOINT REVIEW

1. Draft your SMP and engage the public
2. Conduct joint comment period
3. Get initial determination of consistency from Ecology
4. Adopt SMP locally
5. Submit final SMP to Ecology

Coordinate closely with your [Ecology regional planner](#) for best results.

Visit [Ecology's Shoreline Planners Toolbox](#) for more information.

## Step 2. Plan and conduct joint public comment period with Ecology

1. Notify Department of Commerce of your intent to adopt shoreline policies or regulations.
2. Begin SEPA process.
3. Coordinate with Ecology on dates for 30-day joint comment period and hearing date/time.
4. Post proposed SMP amendment materials on your website. Include:
  - a. Strikethrough/underline text.
  - b. A map of any proposed designation changes.
  - c. A summary of proposed amendments, together with explanatory text indicating the scope and intent of the proposal.
  - d. A copy of the Ecology checklist.
  - e. Other supporting material indicating how the proposed amendment is consistent with the policy of RCW 90.58.020 and applicable guidelines.
  - f. Where to send comments (local planner's email and mailing address).
  - g. Location where hard copy of proposed amendments will be available for public viewing during the comment period.
5. At least two weeks prior to the start of the comment period, send Ecology a live link to your SMP amendment web page, including items outlined above.
6. Provide notice of the 30-day comment period and opportunity for written comment to all parties of record who expressed interest regarding the proposal. See [Appendix A](#) for sample template.
7. Publish notice of the joint local-state hearing in one or more newspapers of general circulation in the area in which the hearing is to be held. See [Appendix B](#) for a sample template. The notice must include:
  - a. Reference to local authority to amend under the SMA.
  - b. Date, time, and location of the hearing.
  - c. Statement or summary of proposed changes.
  - d. Reference to where the draft proposal is available for review (web page and physical address).
8. Conduct public hearing. Local government takes the lead role in these proceedings. See [Appendix C](#) for a list of our suggestions for running an effective joint local-state public hearing. Ecology staff will attend as long as schedules allow.
9. Within 30 days of the close of the comment period, prepare a response to public comments and identify any changes proposed in that response. If it will take longer than 30 days contact your Ecology regional planner.

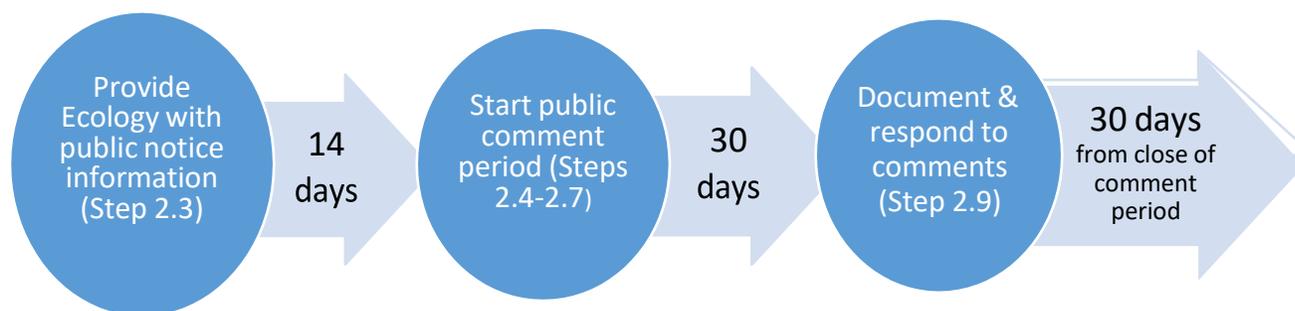


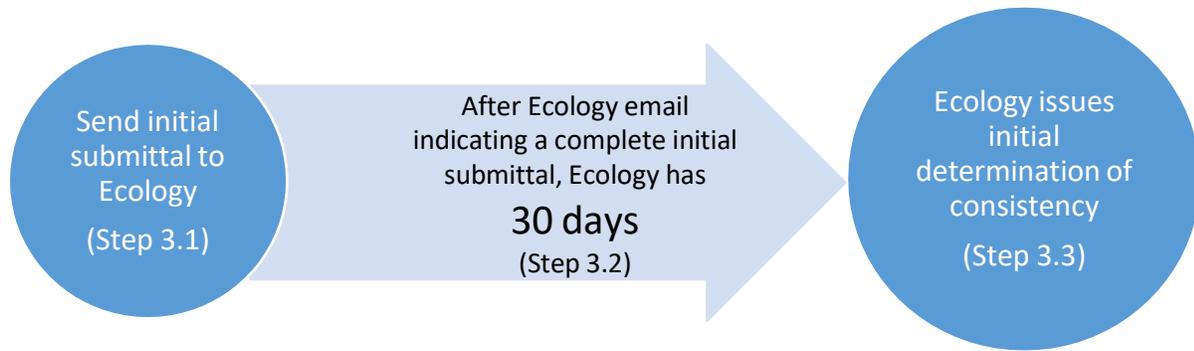
### Step 3. Get initial determination of consistency from Ecology

1. Send Ecology your proposed SMP amendments with the following:
  - a. Public comment record of materials (e.g., staff report, agenda packet, legal notice, minutes).
  - b. Comments received during comment period.
  - c. Your responses to comments.
  - d. Any modification to the amendment that resulted from public comment.
  - e. Current text and map amendments. Include the Critical Areas Ordinance (CAO) if you are incorporating an updated CAO by reference or amending the CAO as part of this proposal.
  - f. Supporting findings of consistency of the proposed amendments with the policy of RCW 90.58.020 and applicable guidelines of WAC 173-26. (You may use the Comprehensive SMP update submittal checklist as applicable).
2. Ecology will send you an email letting you know whether the initial submittal is complete.
3. Ecology will then send you an initial determination of consistency within 30 days of complete submittal. Ecology may request an additional 15 days. Ecology will provide either:
  - a. A written statement of initial concurrence, or
  - b. A written statement describing the specific areas of concern. This could include required and/or recommended changes.



### Key timeline considerations by step before local adoption of SMP amendments





### Step 4. Adopt SMP Amendments locally

1. Consider Ecology’s initial determination of consistency, including any required or recommended changes.
2. Make any necessary modifications. Work with your Ecology planner if proposing alternative language to the required changes.
3. Adopt the amendment through ordinance following required local adoption process.

### Step 5. Submit Final SMP Amendment to Ecology for formal action

1. Submit for final agency approval as outlined in WAC [173-26-110](#). See [Appendix D](#) for SMP submittal requirements worksheet.



August 2019

## APPENDIX A - EMAIL NOTICE TEMPLATES FOR START OF JOINT LOCAL-STATE PUBLIC COMMENT PERIOD

*These are examples of email notices for SMP amendments using the optional joint review process under WAC 173-26-104. The joint review process requires a public comment period of at least 30 days and at least one public hearing.*

### For Locally Initiated SMP Amendments

**Subject:** [City/County] Shoreline Master Program Amendment Joint Local-State Public Comment Period – [date] to [date] at 5 p.m.

The [City/County] and Washington Department of Ecology are seeking comments on proposed amendments to the [City/County] Shoreline Master Program. The joint local/state public comment period will run from [date] through [date, at 5pm].

The [City/County] has prepared draft amendments to [provide a brief summary of the scope and intent of the proposed amendments].

### For Periodic Review SMP Amendments

**Subject:** [name of local government] Shoreline Master Program Periodic Review Amendment Joint Local-State Public Comment Period – [date] to [date] at 5 p.m.

The [name of local government] and Washington State Department of Ecology (Ecology) are seeking comments on the [City's/County's] Shoreline Master Program (SMP) periodic review and proposed SMP amendments. The joint local/state public comment period will run from [date] through [date, at 5 p.m.].

Authority for the periodic review is based on Washington's Shoreline Management Act (Ch. 90.58 RCW) and related rules. These amendments were developed by the [City/County] to comply with [WAC 173-26-090](#), which requires all local governments to review their SMPs on an eight-year schedule set in state law, and revise it if necessary. The review ensures the SMP keeps up with changes in state law, changes in other [City/County] plans and regulations, and other changed circumstances. The [City/County] has elected to use the optional joint review process to combine the local and Ecology comment periods, as allowed under WAC 173-26-104. No additional comment period will occur during the state review process. Comments provided to the [City/County] will be reviewed by both the [City/County] and Ecology. There is no need to send comments directly to Ecology.

### For all SMP Amendments

**Comments may be submitted to:** [local government email address and physical mailing address]

**Comments can also be made in person during the public hearing noted below. Joint Public Hearing is to be held [date], at [time] and [location]**

**Comments are due by [date] at 5:00 p.m.**

**Documents are available for review at:** [Website] and [Physical local government location]

At the conclusion of the comment period, the [City/County] will prepare a response to comments and determine whether changes are needed. Public comments and [City/County] responses will be shared with Ecology. After local adoption, the SMP amendment will be formally submitted to Ecology for final action per [WAC 173-26-104](#) and [WAC 173-26-110](#). Ecology will review amendments for consistency with state laws and rules. Ecology may either approve the program as adopted, or may recommend changes.

## APPENDIX B - PUBLICATION NOTICE FOR JOINT LOCAL-STATE PUBLIC COMMENT PERIOD AND HEARING

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### For Locally Initiated SMP Amendments

*This is an example of a public notice for a locally initiated SMP amendment occurring outside the periodic review or comprehensive update cycle using the optional joint review process under WAC 173-26-104. The joint review process requires a public comment period of at least thirty days and at least one public hearing.*

#### **[Name of local government] and Department of Ecology**

Shoreline Master Program Amendment Public Comment Period and Public Hearing.

The [name of local government] and Washington Department of Ecology are seeking comments on proposed amendments to the [City's/County's] shoreline master program (SMP). The [City/County] has prepared draft amendments to [provide a brief summary of the scope and intent of the proposed amendments]. The joint local-state public comment period will run from [date] through [date, at 5pm]. A joint local-state public hearing is set for [date and time] at the [location]. Send comments to [City/County] staff member [name] at [address, email]. Comments sent to the [City/County] will be forwarded to the Department of Ecology. Proposed amendments to the [City/County] SMP are available for review at [insert local government website] and the [City/County Planning Department] at [insert physical address].

### For Periodic Review SMP Amendments

*This is an example of a public notice for a periodic review under WAC 173-26-090, where the jurisdiction is adopting amendments and is using the optional joint review process under WAC 173-26-104. Ecology rules require publishing a notice per WAC 173-26-090(2)(c)(i). The joint review process requires a public comment period of at least thirty days and at least one public hearing.*

#### **[Name of local government] and Department of Ecology**

Shoreline Master Program Periodic Review Public Comment Period and Public Hearing

The [name of local government] and Washington Department of Ecology are accepting comments on a periodic review of the [City's/County's] shoreline master program (SMP) under RCW 90.58.080(4). The [City/County] has prepared draft SMP amendments to keep the SMP current with changes in state law, changes in other [City/County] plans and regulations, and other changed local circumstances.

Public comments will be accepted from [date] to [date] at 5 p.m. A joint local-state public hearing is set for [date and time] at the [location]. Send comments to [City/County] staff member [name] at [address, email]. Comments sent to the [City/County] will be forwarded to the Department of Ecology.

Proposed amendments to the [City/County] SMP are available for review at [insert local government website] and the [City/County Planning Department] at [insert physical address].

## APPENDIX C – SUGGESTIONS FOR RUNNING AN EFFECTIVE JOINT LOCAL-STATE PUBLIC HEARING

### 1. Start off with a reminder of the authorities for this amendment.

For all SMP amendments, reference the SMA and the guidelines of WAC 173-26.

For periodic reviews, specifically reference WAC 173-26-090(2), including the requirement that the review:

- i. Ensures compliance with the requirements of the SMA or state rules that have been added or modified since the last SMP update.
- ii. Ensures the SMP remains consistent with amended comprehensive plans and regulations.
- iii. Incorporates amendments deemed necessary to reflect changed circumstances, new information, or improved data.

### 2. Refer to the scope and intent of the proposed amendment and Ecology's review criteria found in WAC 173-26-201(1)(c) to ensure the proposed amendment:

- i. Will not foster uncoordinated and piecemeal development of the state's shorelines.
- ii. Is consistent with all applicable policies and standards of the SMA.
- iii. Meets all procedural rule requirements for public notice and consultation.
- iv. Satisfies master program guidelines analytical requirements and substantive standards, including that the amendment will not result in a net loss of shoreline ecological functions.

### 3. Clarify that the public hearing is only one of the ways the public can provide comments on the proposed SMP amendments.

Restate the start and end of the 30-day comment period and provide email and mailing addresses for additional written comments.

### 4. Explain that this public hearing is an opportunity to provide testimony on the record for this amendment.

Ecology staff and local government staff will not be responding to comments or questions during the hearing. Instead we will consider comments received, and the local government will prepare a response to comments as part of the formal amendment package that you will submit to Ecology. Other opportunities for Q&A can occur outside of the hearing itself.

### 5. Remind people to sign in with appropriate contact information so they can be added to the interested parties list and stay informed as the amendment proceeds.



APPENDIX D - SHORELINE MASTER PROGRAM AMENDMENT SUBMITTAL REQUIREMENTS WORKSHEET

This worksheet is for use by counties, cities, and towns proposing to amend SMPs under the Shoreline Management Act. The worksheet will help ensure proposed amendments are accompanied by a “complete submittal” under [WAC 173-26-110](#). The submittal shall include the following where applicable:

Submittal requirements (see WAC 173-26-110)	Notes
1. <b>Signed Ordinance or Resolution.</b> This documents local approval.	
2. <b>Amended SMP text.</b> Use <del>striketrough</del> / <u>underscore</u> or other means to clearly identify changes. ( <i>Preferred format: MS Word or compatible software.</i> )	
3. <b>Amended environment designation map(s).</b> Show existing and proposed designations. Include justification for changes.	
4. <b>Summary of proposed amendments.</b> Indicate the scope and intent of the proposal, documenting the need for changes to the master program. This will ensure Ecology has adequate information to determine whether amendments are consistent with the policy of the SMA and applicable rules. Include applicable staff reports, records of the hearing, or other materials supporting the proposal.	
5. <b>SEPA documents.</b> Include environmental checklist, threshold determination, and notification list.	
6. <b>Evidence of public notice and consultation.</b> See requirements of WAC 173-26-100. At minimum include GMA notice documentation and legal notices related to public hearings.	
7. <b>Copies of all written comments received, or where no comments have been received, a comment to that effect.</b> Include: - Interested parties list. - Names and email ( <i>preferred</i> ) or street address of people who commented, testified, or indicated they wanted to be notified during the amendment process. This will be used for the notice of the comment period and/or for final notice of state adoption. ( <i>Preferred software is MS Word or Excel. Adobe PDF is not preferred.</i> )	
8. <b>Summary of amendments made in response to comments.</b>	
9. <b>Checklist.</b> Checklists are required for all SMP amendments. Use the periodic review checklist for periodic review amendments. For locally initiated amendments, use the applicable portion of the comprehensive update checklist.	



CITY OF  
BAINBRIDGE ISLAND

## Special City Council Meeting Agenda Bill

**MEETING DATE:** May 4, 2021

**ESTIMATED TIME:** 15 Minutes

**AGENDA ITEM:** (8:05 PM) Update on Triangle Property – Executive and Planning,

**SUMMARY:** City staff will provide an update on the status of activities at the Triangle Property.

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** Executive

**RECOMMENDED MOTION:** Discussion.

**STRATEGIC PRIORITY:** Green, Well-Planned Community

**FISCAL IMPACT:**

<b>Amount:</b>	
<b>Ongoing Cost:</b>	
<b>One-Time Cost:</b>	
<b>Included in Current Budget?</b>	

**BACKGROUND:** This discussion will center on the current status of activities at a site known as the "Triangle Property." This property is located adjacent to intersections of Lynwood Center Road, Bucklin Hill Road, and Fletcher Bay Road.

The attached memo provides current status and anticipated next steps at this property.

**ATTACHMENTS:**

[Triangle Property Update for CC 05042021 - FINAL.docx](#)

[DNR letter 20210324](#)

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**



Executive Department

## Memorandum

Date: April 30, 2021  
To: City Council  
Cc: Heather Wright, PCD Director; Dave Greetham, PCD Planning Manager; Chris Wierzbicki, Public Works Director; Joe Levan, City Attorney  
From: Ellen Schroer, Interim City Manager  
Subject: Triangle Property – April 2021 Status Update

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The purpose of this memo is to describe current status of the site commonly referred to as the Triangle Property. Council has requested an update and briefing on this property. The key change since the last status update provided in December 2020 is the site operator's decision to cease mining and enter the site reclamation phase.

### December 2020 Status

The Triangle Property is located at the intersection of Bucklin Hill, Fletcher Bay, and Lynwood Center Roads. The City issued a Grade and Fill permit for a project at the site in 2008. In 2009, due to the size of the project (i.e., more than three acres), the project was determined to be a mine reclamation site under state law. Jurisdictional authority was transferred to the State Department of Natural Resources ("DNR") as lead agency under a state mining reclamation permit. Mining activities have occurred sporadically at the site, both before and subsequent to issuance of the 2008 Grade and Fill permit. Activity levels were relatively high during late 2019 and early 2020 as the site operator excavated sand materials for export to local projects and imported fill as part of ongoing site reclamation. At various times over the years, nearby residents have raised concerns about the impacts mining operations may be having on the drinking water aquifer, including as relates to local wells.

The City has been in ongoing communications with DNR related to jurisdictional authority over ongoing mining activities, including but not limited to enforcement of the original Grade and Fill Permit conditions relating to surface and groundwater protections. At the time the City received information that the project was transitioning to the reclamation phase and that active mining would no longer be occurring (see below), the City was in the process of obtaining additional information from DNR and other state agencies to clarify issues related to jurisdictional authority. That effort by the City continues, although the fact that the project has entered the reclamation phase is very significant. The City is seeking to facilitate a reclamation that is timely and complete based on legal requirements.

### Agency Oversight

Different agencies have oversight responsibilities for this property, including the DNR, the Department of Ecology ("Ecology"), the Department of Health, and the City of Bainbridge Island. The agencies are currently in discussions about various aspects of the activities on this property.

### April 2021 Status

In March and April 2021, City staff met with the DNR and Ecology to review current project status and discuss outstanding questions. A summary of recent developments follows:

- DNR provided a response to the City's request for clarification of outstanding issues/questions (March 24, 2021, attached). A summary of DNR's response follows:
  - Resource delineation: The applicant replied to DNR's request for a delineation of remaining resources available to be mined at the site. DNR reviewed and ultimately rejected the estimate. DNR had not received an updated estimate as of the March communication. Once DNR receives and approves a resource estimate they will share that with the City.
  - Hydrogeology: DNR's hydrogeology summary is attached. In summary, the letter refers to the 2009 Aspect Consulting hydrogeological report and describes the relationship between the "semi-perched aquifer" and the "sea level aquifer," and how they are separated by a 100 foot plus thick silty clay layer. The letter addresses the higher susceptibility of the upper semi-perched aquifer and describes the required minimum allowable separation between the permitted depth of the mine and the water table in the upper aquifer (30 feet). The letter also addresses the potential travel time for surface water into existing wells that were analyzed in the project vicinity, which are drilled into the lower sea level aquifer (estimated time of travel is approximately 3700 years).
  - Completion of prior (2008) grade and fill project: DNR clarified that they were specifically referring to the "Lynwood Center Blossom Hill project" when stating that the original 2008 grade and fill project had been completed. DNR's position is that the project was completed based on review of aerial photographs between 2007 and 2009 showing changes to disturbance at the site commensurate with grading plans.
- In early April 2021, the site operator notified the City and State agencies of his intention to enter the reclamation phase of the Triangle Pit operations. Doing so will mean no further mining of sand at the site. The previously stockpiled sand pile at the north end of the mine site may still be utilized. A large pile of soil was previously set aside to be utilized as fill for the mining hole from the most recent excavation. Site reclamation activities will include filling the existing hole once the stockpiled sand has been removed, regrading the site, and replanting in accordance with DNR standards. While the DNR permit allows two years for site reclamation, the operator has stated his intent to complete the work much earlier, beginning during the 2021 dry season (April–October).
- DNR will oversee site reclamation via the existing Mining Reclamation Permit. The site must meet the requirements of RCW 78.44.141 (minimum standards) as well as the conditions of the permit. In general, DNR has indicated that they will be focused on the following requirements as the site moves toward termination of the reclamation permit:

- Grade work – The site will be graded generally flat with a gentle slope to the south-southeast to facilitate drainage. All slopes on site will be graded to a 2:1 (horizontal: vertical) slope or less.
  - Revegetation – The site will be seeded with grasses to establish vegetative cover for erosion protection.
  - Control of invasive species – Scotch broom and other invasive species will need to be controlled per guidance from the County weed board.
- Ecology will continue to oversee the Sand and Gravel General Permit (“SGGP”) until the reclamation process is complete. The following is a summary of Ecology’s requirements for permit completion:
    - Once a permittee has completed all activities associated with permit coverage with no intent to return, the permittee may request termination of their SGGP by submitting a “Change Request Form” to Ecology.
    - Ecology will not complete the request until they receive confirmation that the permittee has completed site restoration.
    - A site with a DNR Reclamation Permit is considered restored when the DNR permit requirements have been fulfilled and the permit is terminated, or if DNR determines that minimum standards for reclamation have been achieved.
    - Once Ecology receives this confirmation, they will proceed with processing the Change Request Form to terminate permit coverage.
    - The permittee must continue to comply with all conditions of the permit until Ecology terminates the permit. This includes conducting routine water quality sampling and submitting quarterly discharge monitoring reports.
  - Ecology conducted a site inspection with the operator on April 12, 2021 to determine SGGP permit compliance. A summary of the inspection results follows:
    - Overall, the site has been determined to be in compliance with the requirements for the permit. Ecology observed some small “housekeeping” items, i.e., repairing vandalized or damaged silt and protective fencing, and an old oil stain at the site entrance that the site operator stated he would excavate on the day of inspection. Apparently, trespassing has been a recurring issue at the site since it is vacant and inactive, so stockpiles of cinderblocks and asphalt slabs were present that the site operator stated he would return to haul out as well.
    - The site operator was informed that he would need to place the facility in an “active” status once he mobilizes equipment for reclamation and resume the required monitoring. Otherwise, he is allowed to remove sand or gravel material from any of the stockpiles on-site while “inactive” and without any required monitoring.

### Summary

The project direction has changed significantly since the December 2020 update. As of April 2021, the site operator has provided written confirmation that he intends to cease mining and enter the site reclamation process. The operator is currently coordinating with DNR and Ecology to start that process as it relates to the State Mining Reclamation and Sand and Gravel General permits. While the DNR permit allows up to two years to complete site reclamation, the operator has indicated a desire to begin during the 2021 construction “dry season.” Site reclamation must comply with applicable standards of

RCW 78.44.141, which at a minimum will include filling the existing mine hole, regrading the site for proper stormwater control, replanting the site in grass, and controlling invasive species.

I look forward to the conversation on May 4 and will be happy to take questions as we continue to work with the community, site operator, and state agencies on questions related to activities at this site.



March 24, 2012

Interim City Manager Ellen Schroer  
280 Madison Ave North  
Bainbridge Island, WA 98110

**HYDROGEOLOGY SUMMARY FOR SURFACE MINING RECLAMATION PERMIT  
#70-013120 (BUCKLIN HILL LYNNWOOD CENTER TRIANGLE)**

Dear Interim City Manager Ellen Schroer,

At the request of the City, the Department of Natural Resources (DNR) is providing this summary letter regarding the hydrogeology of the Triangle Sand Pit area as outlined in the Aspect Consulting (Aspect) report, dated September 4, 2008, as it relates to groundwater protection and potential vulnerabilities.

To begin with we need to define some hydrogeological terms. First thing would be to define what an aquifer is, which can be described as: a body of permeable rock, sand or gravel that can contain and transmit groundwater. This definition is important in that the term "transmit" is a key element in an aquifer. If a unit is unable to transmit water it is known as a "confining layer" or an "aquitard." Aquitards greatly slow the transmission of groundwater, and when they exist between two, permeable bodies of rock or sediment, they create effectively separate aquifers. Aquifers come in two varieties: confined and unconfined. An unconfined aquifer is an aquifer without the presence of an aquitard between the ground surface and the aquifer. A confined aquifer is overlain by a confining layer (or aquitard) that limits the rate at which water is permeated into the aquifer.

The Triangle Sand Pit area overlies both an unconfined aquifer, noted in the Aspect report as the "Semi-Perched Aquifer" (SPA) and a confined aquifer noted in the report as the "Sea Level Aquifer" (SLA). The Aspect report notes that these two aquifers are separated by a greater than 100-foot thick silty-clay aquitard noted in the report as the lower confining unit (C2). The Aspect report cites a 1999 study performed by CH2MHill for the nearby Bainbridge Island Landfill cleanup action that the hydraulic conductivity (the measurement of how quickly water can move through a geologic unit) of the silty-clay

layer is on the order of  $2 \times 10^{-7}$  cm/sec (or about 6.3 cm/year). That report calculated a travel time of approximately 3,700 years (using an average thickness of the aquitard layer of 150 feet) for water to move from the upper aquifer (SPA) to the lower aquifer (SLA). This confining layer is the main protective feature of the SLA, which is the aquifer that most of the water supply wells, including the Washington Water Service Gamble Bay No. 2 (part of the Bucklin Hill water supply) are completed in.

There has been some confusion between the wellhead protection zone maps displayed on the Department of Health (DOH) and Ecology websites and the map provided by the Washington Water Service (Service) in their letter dated January 13, 2006 as to which is the map of record. Per the requirements of the Source Water Protection Program administered by DOH, the Service map is the correct map of record for the wellhead protection area. The Service letter also states that DOH lists the well as "Low Susceptibility" and "Low Vulnerable" of contamination from activities within the wellhead protection area. While the map indicates the Triangle Sand Pit is situated in an area in which shallow subsurface flow is interpreted to have a 10-year travel time to the wellhead, it should be noted that the travel time is a modeled estimate that corresponds to travel time through the shallow aquifer to the wellhead, but does not include the time for water to move from the SPA to the SLA. The well is finished in the lower SLA; therefore, water is estimated to have a travel time of 10 years to reach the well through the permeable SPA plus approximately 3,700 years for downward percolation through the aquitard before it could be drawn in to the well for use.

According to the Aspect report, the Semi Perched Aquifer (SPA) is the upper, unconfined aquifer and is made up of glacial advance outwash correlative with sands exposed at the mine. The SPA does not have a continuous confining layer (aquitard) to protect it. The lack of a confining layer makes the SPA more vulnerable to surface water contamination that is infiltrated into the ground. This includes all roadway and residential roof runoff and any commercial or industrial uses that discharge to the ground. A standard protection for unconfined aquifers is to ensure adequate separation exists between the ground surface where an activity is taking place and the top of the water table to ensure that any spills on the surface could be cleaned up before entering the aquifer. The Aspect report calculated the water table elevation in the SPA at approximately elevation 110 feet at the project site, which gives a minimum 30-feet of separation between the permitted depth of the mine and the water table. This separation is approximately three times the general separation used for groundwater protection at mine sites.

Ellen Schroer  
3/24/2021  
Page 3 of 3

This letter is intended to summarize and assist in understanding of the hydrogeology of the Triangle Sand Pit area as it's described in the Aspect report. Supplemental to and referenced in the Aspect report, another information source with respect to groundwater on Bainbridge Island is associated with the nearby Bainbridge Island Landfill. The landfill was listed by Ecology as a Level 1 (the most severe hazard) Cleanup site under the Model Toxics Control Act (MTCA). A cleanup action was completed in 2001 which removed hundreds of tons of contaminated waste and sludge. As part of the investigation and cleanup action, groundwater contamination was observed. Volatile Organic Compounds (VOCs) associated with paints and solvents were found in the groundwater. Post cleanup concentrations of these chemicals are below cleanup levels and an investigation by DOH found that contamination did not pose a risk to human health. Groundwater in the unconfined aquifer (SPA) will continue to be monitored through 2030 as part of this cleanup action. No monitoring of the SLA was proposed or required as part of that action. This provides good context in that even a large scale, known contaminant release was not deemed a threat to the SLA due to the separation and protection provided by the confining layer.

The Department of Ecology's Sand and Gravel General permit covers both surface and groundwater discharges during mining. Further inquiries regarding water quality protection should be directed to the Department of Ecology Sand and Gravel General permit manager for the mine, Jay Fennell  
[jfen461@ecy.wa.gov](mailto:jfen461@ecy.wa.gov).

Thank you,



Rian Skov  
Surface Mine Reclamation Program  
Washington Geological Survey

Enclosures (0)

c: File #70-013120



CITY OF  
BAINBRIDGE ISLAND

## Special City Council Meeting Agenda Bill

**MEETING DATE:** May 4, 2021

**ESTIMATED TIME:** 10 Minutes

**AGENDA ITEM:** (8:20 PM) Appointments to the Ethics Board - Mayor Nassar,

**SUMMARY:** A call for participation was issued for volunteers to serve on the Ethics Board. A series of interviews were conducted. Mayor Nassar recommends the appointments as shown in the suggested motions.

Pursuant to Subsection A.3.a. of Article V of the City's Ethics Program: "Members of the Ethics Board shall be nominated by the Mayor and confirmed by the City Council by a supermajority vote of at least five Councilmembers."

Pursuant to Subsection A.3.b. of Article V of the Ethics Program, in part: "Nominations shall be presented at meetings of the City Council in which all seven Councilmembers are present, unless exceptional circumstances exist (e.g., a Council vacancy exists and has not yet been filled, or other good cause)."

**AGENDA CATEGORY:** Appointment

**PROPOSED BY:** Executive

**RECOMMENDED MOTION:** I move to confirm the Mayor's appointment to the Ethics Board of Donna Davison to currently vacant Position 5 to complete an existing term expiring in June 2022.

I move to confirm the Mayor's appointment to the Ethics Board of Lisa Neal to currently vacant Position 6 to complete an existing term expiring in June 2022.

I move to confirm the Mayor's reappointment to the Ethics Board of David Mallon to Position 3 for a three year term expiring in June 2024 and that this term will be effective as of July 1, 2021.

I move to confirm the Mayor's appointment to the Ethics Board of Rosemary Hollinger to Position 4 for a three year term expiring in June 2024 and that this term will be effective as of July 1, 2021.

**STRATEGIC PRIORITY:** Good Governance

**FISCAL IMPACT:**

<b>Amount:</b>	
<b>Ongoing Cost:</b>	
<b>One-Time Cost:</b>	
<b>Included in Current Budget?</b>	

**BACKGROUND:**

**ATTACHMENTS:**

[Bonker - Ethics Board \(Redacted\).pdf](#)

[Davison - Ethics Board \(Redacted\).pdf](#)

[Godwin - Ethics Board \(Redacted\).pdf](#)

[McFadden - Ethics Board \(Redacted\).pdf](#)

[Neal - Ethics Board \(Redacted\).pdf](#)

[Hollinger - Ethics Board \(Redacted\).pdf](#)

[Mallon - Ethics Board \(Redacted\).pdf](#)

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**

## Roz Lassoff

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**From:** noreply@civicplus.com  
**Sent:** Monday, March 1, 2021 9:20 AM  
**To:** CityAdmin  
**Subject:** Online Form Submittal: Ethics Board Volunteer Application

**CAUTION:** This email originated from outside the City of Bainbridge Island organization. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

## Ethics Board Volunteer Application

### Step 1

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#### *Ethics Board Volunteer Application Form*

*The City of Bainbridge Island welcomes the participation of volunteers in serving our Island community through advisory groups. Please complete the form below if you are interested in serving. Once completed, this form will become part of the City's Volunteer Roster. Please note: once submitted, this application becomes a public record. Your address and contact information will not be shared. We thank all applicants for their interest, however only those candidates selected for interviews will be contacted.*

*Application Deadline – Friday, March 19, 2021 at 4 pm. Applicants must be available in April for interviews.*

#### **Applicant Information**

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Name Don Bonker

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Email

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Daytime Phone

---

Address

---

City Bainbridge Island

---

State WA

---

Zip 98110

---

Current Employer Retired

---

Current Position former U.S. Congressman

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#### **Experience & Qualifications**

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Have you served on any city committees, commissions, boards or task forces in the past?	No
If yes, please indicate which group(s).	<i>Field not completed.</i>
Please share your qualifications for this appointment (skills, activities, training, education) if any?	Served as elected official (County Auditor, Congressman) for 22 years. Author of A Higher Calling - Faith and Politics in the Public Square. Theme: In public life, placing public interest and common good above self interest and political advantage. Book signing at Eagle Harbor Book Store, article in Bainbridge Review.
Please share your community interests (groups, committees, organizations) if any:	Not involved in local community groups. Served 10 years on the Columbia Gorge NSA Commission, presently on the Jane Weber Arboretum in Vancouver.
Do you have potential conflicts of interest? If so, please explain:	No conflicts
Feel free to attach a cover letter, resume', or other materials, if you wish (optional):	
Type the Year	2021

Email not displaying correctly?

FAITH, POLITICS AND PARTISANSHIP

## Former congressman's memoir recounts pursuit of 'A Higher Calling'

BY LUCIANO MARANO  
Kitsap News Group

Former congressman Don Bonker is looking back to look ahead. The Bainbridge Island resident's new memoir, "A Higher Calling," is a reflection on the man's own time in government, a demand for "moral leadership and decency" in Washington, D.C., and a challenge to the next generation of political leaders.

He will visit Eagle Harbor Book Company at 3 p.m. Sunday, Jan. 26 to discuss the book, his career, and the state of government today. The event is free and open to all; visit [www.eagleharborbooks.com](http://www.eagleharborbooks.com) for more information.

Bonker, a Washington Democrat, served as a member of the U.S. House of Representatives from 1975 to 1989, representing Washington's 3rd Congressional district.

During his time in the House, Bonker was a senior member of the House Foreign Affairs Committee and chairman of the Subcommittee on International Economic Policy and Trade. He also served on the President's Export Council and headed former House Speaker Tip O'Neill's Trade Task Force, which led to passage of the 1988 Omnibus Trade Act. Also, he helped establish the Grays Harbor National Wildlife Refuge and the Mount Saint Helens National Volcanic Monument, added Protection Island to the National Wildlife Refuge system, preserved the Point of Arches in the Olympic National Park, added some 250,000 acres to the 1984 Washington Wilderness Act and banned the export of Western red cedar.

Recently, Bonker, 82, chatted with the Review about writing, the role of faith in public service, climate change, impeachment, and the upcoming election.

*\* This interview has been edited for length and clarity.*

**BIR:** Do you have an ideal reader in mind for this book? You mentioned it began as something through which your younger relatives and descendants could know you, but did that change as it grew in scope?

**DB:** It started as a memoir of sorts, a family legacy with great-grandchildren one day ask-

ing, "He was a congressman, what was that all about?" It took on more meaning as I dug through the stacks of files and news clips covering my 22 years in public service. Along the way plenty of serendipity that shaped my career, way beyond expectations at the outset yet with notable accomplishments that made writing this book more all the more gratifying.

**BIR:** You've said that the act of re-living one's past is revealing, but more than a memoir about yourself, the book ultimately became a call to action to be shared. What do you intend for readers take away from "A Higher Calling" and what action do you hope to inspire?

**DB:** The act of re-living one's past actually helped me to understand who I was and to solidify the ultimate golden question: Why am I here? That line of inquiry led me to a rather creative epiphany: It wasn't so much a memoir but a clarion call for others seeking moral leadership to restore trust and confidence in today's public square. Also, I began to realize how the national leaders I worked closely with had a profound effect on my personal and public life — it was their character, integrity, and how they put the best interest above their self interest.

**BIR:** A major topic in the book are the conflicts that often arose for you being a Democrat and openly a person of faith, specifically Christian. According to a 2016 National Geographic feature, more people than ever are identifying as atheist, agnostic or "otherwise nonreligious." What role should personal belief play in a public servant's performance of their duty in an increasingly secular world?

**DB:** Religion and politics are worthy of a good conversation, but to combine them can prove contentious. That's why our founding fathers wisely put the Separation Clause in the U. S. Constitution. To be both a Christian and Democrat put me in a quandary, for sure. My support base included some who were very skeptical, saying, "Is he part of the Moral Majority movement, does he embrace their social agenda?" On the flip side, the Evangelical Right seldom supports a Democrat, even if he or she has a deep personal faith.

It comes down to how we define who we are. It is either a set of principles, a moral compass that guides

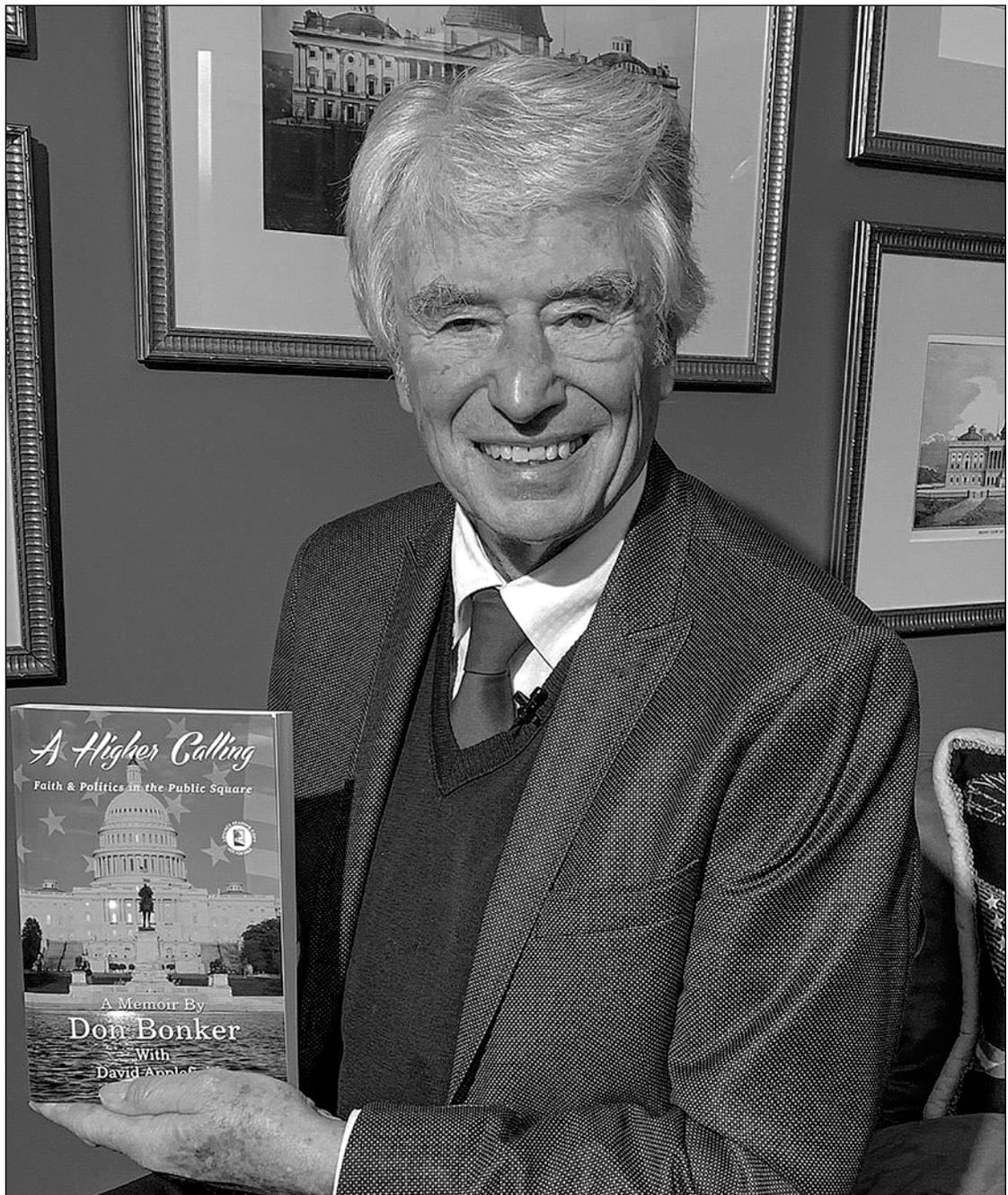


Photo courtesy of Don Bonker

**Former congressman, and Bainbridge Island resident, Don Bonker will visit Eagle Harbor Book Company at 3 p.m. Sunday, Jan. 26 to discuss his new memoir "A Higher Calling."**

our actions, or it may be the powerful political forces that will shape who we are, how we are perceived and will be remembered. My book is revealing of how faith has made a big difference in both my personal life and public service.

**BIR:** I know you're especially proud of your work in the field of environmentalism, addressed most prominently in the book in the "Nature's Cathedral" section. What was it like compiling that part of your memoir even as the effects of climate change are being felt?

**DB:** I represented a district in Southwest Washington that had the state's most pristine national resources. It was also a time when the timber and lumber mills were vital to the area's economy. So protection [of] an area for future generations could also shut down mills and damage local economies. That was another dilemma for me. Yet I had to do what was right and took the lead on legislation to establish the Columbia Gorge National

Scenic Act, the Mount Saint Helens Volcanic Area, Protection Island, Grays Harbor National Wildlife Refuge, and more.

I led the effort in the on the House side but the true hero was Dan Evans, former governor and senator. His Republican base, as well as the Senate and White House leadership, were skeptical and generally opposed, but Sen. Evans made it happen. It was evidence of how bipartisanship and doing what's right can make the difference, get things accomplished.

**BIR:** You talk expressly in the book about the corrosion of political discourse in America, saying that in "my 14 years in Congress, I witnessed first-hand the civility and trust among the leadership of both political parties that trickled down to the committee rooms and in the House Chamber that led to notable accomplishments." From the vantage point of 2020, that sounds like pure fantasy. How do we get

back to some semblance of the Washington you remember?

**DB:** When I served in Congress in the mid-1970s–1980s, it was a different environment. Civility and trust were in evidence at the leadership level, both Republicans and Democrats, and trickled down to the committee rooms and was the norm in both the Senate and House. Regrettably, civility has been replaced by combativeness. Politics reigns over trust. The Senate and House chambers now have become a political battlefield. What makes it worse is the digital culture that's fueling the flow of false and misleading information, replacing the more traditional independent press that is devoted to facts and truthful reporting

Is this the new reality or do we return to how it was like when I served? It can only happen at the ballot box, electing new leaders who will rise to the high 317.

**From:** noreply@civicplus.com  
**Sent:** Sunday, March 14, 2021 5:51 PM  
**To:** CityAdmin  
**Subject:** Online Form Submittal: Ethics Board Volunteer Application

**CAUTION:** This email originated from outside the City of Bainbridge Island organization. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

## Ethics Board Volunteer Application

### Step 1

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#### *Ethics Board Volunteer Application Form*

*The City of Bainbridge Island welcomes the participation of volunteers in serving our Island community through advisory groups. Please complete the form below if you are interested in serving. Once completed, this form will become part of the City's Volunteer Roster. Please note: once submitted, this application becomes a public record. Your address and contact information will not be shared. We thank all applicants for their interest, however only those candidates selected for interviews will be contacted.*

*Application Deadline – Friday, March 19, 2021 at 4 pm. Applicants must be available in April for interviews.*

#### **Applicant Information**

---

Name Donna Davison

---

Email

---

Daytime Phone

---

Address

---

City Bainbridge Island

---

State WA

---

Zip 98110

---

Current Employer Olympic Medical Center

---

Current Position Risk & Compliance Officer

---

#### **Experience & Qualifications**

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Have you served on any city committees, commissions, boards or task forces in the past?	Yes
If yes, please indicate which group(s).	Not with COBI, Yet previously I was a member of the City of Port Angeles Planning Commission and the Clallam County Healthy Families Board.
Please share your qualifications for this appointment (skills, activities, training, education) if any?	<p>My career has been working for public entities; initially with the Clallam County Board of Commissioners, followed by the majority of years with a Public Hospital District. I am currently their Risk &amp; Compliance Officer. In this role I oversee the compliance plan that covers such areas as business ethics, Code of Behavior, business relationships, and conflicts of interest. In my role I develop policies and provide staff education on federal and state regulations relating to my areas of responsibility. I am also the Public Records Officer and the HIPAA Privacy Officer. I have certification as a Professional in Healthcare Risk Management. I've attended trainings over the course of many years in these subjects to include those offered by the Municipal Research and Services Center (MRSC) for governmental agencies.</p> <p>In the past I played a lead role in the development and implementation of the hospital district's first ethics committee. While a good portion of the topics were related to bio-ethics for patient care, we also discussed business ethics.</p> <p>The Public Hospital District where I work has an elected Board of Commissioners. I have attended their meetings regularly for many years and maintain a good understanding of the role public officials perform for the municipality itself and in our communities. I have been in the background of that assisting with adherence to appropriate governmental practices.</p>
Please share your community interests (groups, committees, organizations) if any:	<p>In the past my commute out of the area has limited my opportunities for local involvement. Yet I love B.I. and stay up on city news, activities and events. My spouse is involved in the local arts community and we've volunteered with recycling efforts.</p> <p>Previously I was a member of the Exchange Club, a volunteer organization supporting civic and community service.</p>
Do you have potential conflicts of interest? If so, please explain:	None.

Feel free to attach a cover letter, resume', or other materials, if you wish (optional):

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Type the Year

2021

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Email not displaying correctly?

## Roz Lassoff

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**From:** noreply@civicplus.com  
**Sent:** Wednesday, March 3, 2021 12:57 PM  
**To:** CityAdmin  
**Subject:** Online Form Submittal: Ethics Board Volunteer Application

**CAUTION:** This email originated from outside the City of Bainbridge Island organization. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

## Ethics Board Volunteer Application

### Step 1

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#### *Ethics Board Volunteer Application Form*

*The City of Bainbridge Island welcomes the participation of volunteers in serving our Island community through advisory groups. Please complete the form below if you are interested in serving. Once completed, this form will become part of the City's Volunteer Roster. Please note: once submitted, this application becomes a public record. Your address and contact information will not be shared. We thank all applicants for their interest, however only those candidates selected for interviews will be contacted.*

*Application Deadline – Friday, March 19, 2021 at 4 pm. Applicants must be available in April for interviews.*

#### **Applicant Information**

---

Name Peter Godwin

---

Email

---

Daytime Phone

---

Address

---

City Bainbridge Island

---

State WA

---

Zip 98110

---

Current Employer Enog, Inc.

---

Current Position Owner

---

#### **Experience & Qualifications**

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Have you served on any city committees, commissions, boards or task forces in the past?	Yes
If yes, please indicate which group(s).	City of Evanston, Illinois Board of Ethics
Please share your qualifications for this appointment (skills, activities, training, education) if any?	I have served on the Board of Ethics for the City of Evanston for nearly a decade and ran for Mayor of Evanston during our time living in the City. I have been an attorney for nearly 30 years, having worked for law firms, in house with large and small private and public companies, and as a sole practitioner. I am licensed to practice in Georgia, Washington, D.C., and Illinois, and have applied for membership in the Washington State Bar. My legal training has and continues to include matters of ethics and professional responsibility. Every two years I must maintain current with Continuing Legal Education requirements, including at least 6 hours of Professional Responsibility Education. I have a great deal of experience dealing with administrative law matters and the municipal, state and federal level. My educational background: BA Economics and MA Social Science, University of Chicago 1989. JD with Specialization in International Legal Affairs, Cornell Law School, 1992. I'm more than happy to elaborate on any of these qualificaitons.
Please share your community interests (groups, committees, organizations) if any:	Since moving to Bainbridge last year, and despite the COVID pandemic, I have been making every effort to get to know the Island, its residents and local businesses. As a woodworker, I am very much interested in joining BARN (the Bainbridge Artisan Resource Network), although right now is not the best time to do so. As a family (spouse, Hilary, works in the School of Public Health at UW) and Jake (attends Bellevue College, remotely), we have been enjoying exploring the Island, which is fantastic -- we live near Battle Point Park and the Grand Forest. I hope that by joining the Board of Ethics I can learn more about local governance and contribute in any way I can.
Do you have potential conflicts of interest? If so, please explain:	I do not believe I have any potential conflicts of interest, no more than any resident would have.
Feel free to attach a cover letter, resume', or other materials, if you wish (optional):	<i>Field not completed.</i>
Type the Year	2021

## Roz Lassoff

---

**From:** noreply@civicplus.com  
**Sent:** Tuesday, March 9, 2021 1:48 PM  
**To:** CityAdmin  
**Subject:** Online Form Submittal: Ethics Board Volunteer Application

**CAUTION:** This email originated from outside the City of Bainbridge Island organization. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

## Ethics Board Volunteer Application

### Step 1

---

#### *Ethics Board Volunteer Application Form*

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*Application Deadline – Friday, March 19, 2021 at 4 pm. Applicants must be available in April for interviews.*

#### **Applicant Information**

---

Name Elizabeth Tilghman McFadden

---

Email

---

Daytime Phone

---

Address

---

City Bainbridge Island

---

State WA

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Zip 98110

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Current Employer self employed

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Current Position CFP, CDFA

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#### **Experience & Qualifications**

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Have you served on any city committees, commissions, boards or task forces in the past?	Yes
If yes, please indicate which group(s).	Memphis Collaborative Alliance, Financial Planning Association, Shady Grove Presbyterian Church
Please share your qualifications for this appointment (skills, activities, training, education) if any?	In my professional life, I have been a vocal voice for a uniform fiduciary standard of practice across the financial services industry (currently lacking). As a CFP (Certified Financial Planner), I am bound to this standard of care in both my personal and professional life. I also happen to be a family mediator, trained in alternative conflict resolution and mindful communication, skills that may be beneficial to the City and its various civic groups at large. Additionally, I hold a BA in psychology and I am a CDFA (Certified Divorce Financial Analyst). I have served on various committees, and as an elder, at our former community of faith (Shady Grove Presbyterian Church, Memphis, TN). I am a past board member of the Financial Planning Association of Greater Memphis, a past board member of the Memphis Collaborative Alliance, and a past member of the Financial Planning Association Government Relations Council.
Please share your community interests (groups, committees, organizations) if any:	Bainbridge Island Land Trust, Member of Kitsap Dispute Resolution Center, Member of Collaborative Professionals of Washington State, Member of King County Collaborative Law, former Member, Kitsap Community Foundation Investment Committee.
Do you have potential conflicts of interest? If so, please explain:	None that I'm aware of.
Feel free to attach a cover letter, resume', or other materials, if you wish (optional):	
Type the Year	2021

Email not displaying correctly?

## CIRRICULUM VITAE OF ELIZABETH TILGHMAN MCFADDEN, CFP®

### CREDENTIALS

**CERTIFIED FINANCIAL PLANNER™ Professional.** Awarded in 2004 by the Certified Financial Planner™ Board of Standards. Requires approximately two years of post-baccalaureate study, 6000 professional work hours, a comprehensive two-day, 15-hour examination and 30 hours of continuing education bi-annually.

**STATE OF TENNESSEE SUPREME COURT RULE 31 FAMILY MEDIATOR.** Awarded in 2015 by the Tennessee State Supreme Court Alternate Dispute Resolution Commission. Requires (A) have a baccalaureate degree with ten years full time work experience in psychiatry, psychology, counseling, family mediation, social work, education, law, or accounting. Full time work experience shall be defined as 35 hours or more of work per week.

(B) be a Certified Public Accountant and have four years of full-time work experience in psychiatry, psychology, counseling, social work, education, law, or accounting. Full time work experience shall be defined as 35 hours or more of work per week.

(C) have a graduate degree and have four years of full-time work experience in psychiatry, psychology, counseling, social work, education, law, or accounting. Full time work experience shall be defined as 35 hours or more of work per week.

Complete and provide proof of attendance of 40 hours of training in family mediation which includes the curriculum components specified by the ADRC for Rule 31 Mediators in family cases and which also includes four hours of training in screening for and dealing with domestic violence in the mediation context; and complete and provide proof of attendance of six additional hours of training in Tennessee family law and court procedure.

**CREDENTIALLED COLLABORATIVE PRACTICE FINANCIAL NEUTRAL** (2009). Individuals must have attended 5 days of approved collaborative training and must complete not fewer than six continuing education hours per year.

**FINRA LICENSED PROFESSIONAL.** Series SIE, Series 7, Series 63, Series 65

**LICENSED INSURANCE PRODUCER.** State of Washington licenses held in Life, Health and Variable lines. 24 CE hours required bi-annually.

## PROFESSIONAL EXPERIENCE

**Elizabeth T. McFadden, CFP® Divorce Planning and Mediation,** | Memphis, TN & Seattle, WA | 2009 – Present.

Divorce Planning, Collaborative Practice, Estate Administration, Financial Therapy and Family Mediation

**Heritage Wealth Advisors,** | Mercer Island, WA | 2019 – Present

Heritage Manages over \$2B AUM across the Pacific Northwest, California, Oregon and Arizona and serves over 500 HNW client accounts. We provide comprehensive financial planning and investment management advice to HNW individuals and families. I onboard new clients facilitating the financial planning process and am responsible for new business development. Lead financial planner and subject matter expert on divorce planning and working with women and/or families, including intergenerational wealth preservation strategies. I coordinate services with client's CPAs and estate and family law attorneys to reach holistic planning goals. I manage on-going relationship management & annual review process, ensuring clients are meeting their short- and long-term goals. Ensure planning and client service processes adhere to regulatory compliance standards.

**Private Wealth Manager, Creative Planning, Inc.** | Leawood, KS & Memphis, TN | 2012 – 2014

Creative Planning, named #1 on Barron's List of Independent RIAs, manages over \$50B AUM across all 50 states. Engaged new clients, delivered comprehensive financial planning services, developed investment allocations, recommendations and investment management implementation. Worked with in-house estate-planning attorneys to review estate plans and implement necessary updates and/or changes. Worked with in-house insurance advisors to implement insurance recommendations. Responsible for client investment portfolio performance review. Managed all aspects of the client relationship with the firm & was sole point of contact, service and support for clients. Represented the firm across the middle & eastern United States. Responsible for \$30M of new assets under management in first twelve months of practice. Worked closely with TD Ameritrade advisors to close business through their Advisor Direct Program.

**Partner and Vice President, Lifetime Planning, Inc.** | Memphis, TN | 2009-2010

Fee-only state-registered RIA. Responsibilities include: Both comprehensive and modular fee-only financial planning for high net-worth individuals and divorce planning clients, including new and existing client engagement, data-gathering, plan input and analysis, plan delivery, implementation and continual monitoring of changing client circumstances.

**Director of Financial Planning, Kelman- Lazarov, Inc.** | Memphis, TN | 2006-2009

Kelman-Lazarov manages over \$400M AUM to a niche market in Memphis. Responsibilities include: Working with new and existing investment clients to create both modular and comprehensive financial plans, including client interview and data-gathering, plan input, analysis, presentation and implementation. Worked with principals to develop investment policy statements, risk tolerance and coordination of asset-allocation with investment assets held away from Kelman-Lazarov. Responsibilities also included existing insurance review, coordination of insurance underwriting, estate-planning document review, divorce planning and financial planning software management.

**Vice President and Financial Planner, First Horizon Bank** | Memphis, TN | 2000-2005

First Horizon (First Tennessee Bank) provides banking, personal financial planning, wealth management and trust services. Responsibilities include client profiling, client data assessment, analysis of client's financial situation, including data gathering, developing a customized financial plan based on individual client circumstances, assessment of client's risk tolerance, coordination of broker, insurance and/or trust officer and client with appropriate execution for product specific implementation. Responsible for training of new

planners for field work, responsible for training of paraplanners with introduction of new software products and marketing and coordination training of retail banking staff.

**Sales Assistant, Brookfield Capital Corporation** | Memphis, TN | 1998- 2000

Sales assistant: Created and instituted operational plan for broker/dealer, aided in management of NASD compliance & supervisory procedures, oversight of back-office procedures and trade execution, and participated in marketing of private placements.

**Weibel Huffman Keegan, Inc.** | Memphis, TN | 1997-1998

Operations Assistant

## EDUCATION

**Rhodes College**, Bachelor of Arts, Psychology, 1997.

**Denver State Metropolitan College**, Certificate in Financial Planning, 2002

**Memphis Collaborative Alliance**, Collaborative Law Training, 2009

Facilitative Divorce and Mediation, **Tennessee Rule 31 Mediation Training**, 2015

**The University of Georgia and The Licensed Marriage and Family Therapist Association of Georgia**, Complex Grief and Trauma in Families, 2018

**The Institute of Certified Divorce Financial Analysts**, CDFA Curriculum, 2021

## MEMBERSHIPS

Certified Financial Planner™ Board of Standards

Financial Planning Association (National)

Financial Planning Association of Puget Sound

International Association of Collaborative Professionals

King County Collaborative Law

Kitsap Dispute Resolution Center

Collaborative Professionals of Washington State

The Institute of Divorce Financial Analysts™

## PHILANTHROPIC

Kitsap Community Foundation, Investment Committee Member

The Seattle Times Money Makeover, Pro Bono Financial Planner

The University of Memphis Department of Psychology and The Neimeyer Grief and Loss Research Lab

Volunteer Speaker and Guest Series

Shelby County General Sessions Court, The Honorable Deborah Henderson, Memphis, TN, pro bono civil mediator

Junior Achievement, financial literacy volunteer, Memphis City Schools

International Association for Suicide Prevention, District Leader

## HONORS

Rhodes College, 2010 Distinguished Alumnus Award Nominee

## Roz Lassoff

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**From:** noreply@civicplus.com  
**Sent:** Friday, March 19, 2021 1:34 PM  
**To:** CityAdmin  
**Subject:** Online Form Submittal: Ethics Board Volunteer Application

**CAUTION:** This email originated from outside the City of Bainbridge Island organization. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

## Ethics Board Volunteer Application

### Step 1

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#### *Ethics Board Volunteer Application Form*

*The City of Bainbridge Island welcomes the participation of volunteers in serving our Island community through advisory groups. Please complete the form below if you are interested in serving. Once completed, this form will become part of the City's Volunteer Roster. Please note: once submitted, this application becomes a public record. Your address and contact information will not be shared. We thank all applicants for their interest, however only those candidates selected for interviews will be contacted.*

*Application Deadline – Friday, March 19, 2021 at 4 pm. Applicants must be available in April for interviews.*

---

#### **Applicant Information**

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Name Lisa Neal

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Email

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Daytime Phone

---

Address

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City Bainbridge Island

---

State WA

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Zip 98110

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Current Employer Self

---

Current Position Lawyer

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#### **Experience & Qualifications**

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Have you served on any city committees, commissions, boards or task forces in the past?	Yes
If yes, please indicate which group(s).	Island Center Subarea Planning Process Steering Committee, Salary Commission
Please share your qualifications for this appointment (skills, activities, training, education) if any?	<p>To the Mayor and any advisory reviewers -</p> <p>I am a lawyer, licensed to practice law since 1992 (Texas) and Washington (1996). I attended law school on a full Dean's Scholarship due to my high LSAT score. I graded onto the school's Law Review (top 10% of 1st year class), and graduated Order of Barons (top 15% of class). In law school, I was elected to the school's Honor Court as a judge. In my capacity as Honor Court judge, I participated in the prosecution of law students for alleged Honor Code violations, and wrote Findings of Fact and Conclusions concerning the cases, once decided. My interest in professional Ethics issues is lifelong, and includes my assisting my Ethics professor with the editing of his book on Ethics.</p> <p>I am no newcomer to this community, having lived on Bainbridge Island for more than 25 years. I have demonstrated my interest in the formation of the Ethics Program over the past several years, exchanging many communications with Councilmembers regarding proposed revisions. Specifically, I communicated with several Council members, with then-Mayor Medina, and with the Council during public comment to oppose revision of the Ethics Program to allow persons to serve on committees without disclosing financial conflicts. My specific example regarding that proposed change was that at least two members on the Island Center Subarea Planning Process Steering Committee are actively seeking expansion of the NC zoning to their properties, including selecting plans that potentially include their properties, without adequately disclosing their personal financial interests in that outcome. The referenced change was proposed by the former Ethics Board, which included Maradel Gale, who is also Chair of the Island Center Committee.</p> <p>While serving on the Island Center Committee as its Vice Chair from Nov 2017 to Aug 18, when I was removed, I repeatedly advocated to the Committee that they fully comply with the Ethics Program, and sought advice from the Council liaison and City Attorney regarding the Committee's repeated failures to adequately disclose interest conflicts. After my removal, changes were made to the disclosures made by the Committee</p>

members.

As I said, I actively opposed the proposed change to the Ethics Program that would have allowed persons to serve on committees without disclosing financial conflicts. Implementing that change would have reduced transparency while benefiting decisionmakers charged with implementing the public's will at Island Center, not to mention the impact on current/future citizen committees. While I do not know exactly why Council decided against the change, the change was not made, and the Island Center committee members who own property subject to upzone remain obligated to fully disclose their potential conflicts.

I have applied for a seat on the Ethics Board 3 times to date, and have been interviewed 3 times, but have never been appointed. I make application once again, this time bearing the personal recommendation of the outgoing Ethics Commission Chair, Jennifer Hodges, who said about my qualifications for her seat: ". . . I specifically recommended you to Mayor Schneider as the ideal candidate to fill my seat.", followed by, "[P]ersonally I feel you'd be a great asset to the Board and that you'd be a great fit for the team."

Thank you for your consideration.

Lisa

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Please share your community interests (groups, committees, organizations) if any:

I am interested in governmental transparency, preservation of the quality of life on the Island, and preservation and improvement of the environment.

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Do you have potential conflicts of interest? If so, please explain:

No.

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Feel free to attach a cover letter, resume', or other materials, if you wish (optional):

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Type the Year

2021

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Email not displaying correctly?

**From:** Jennifer Hodges jen@[REDACTED]es.com  
**Subject:** Intro- Lisa Neal, Tyler Weaver  
**Date:** December 22, 2020 at 3:28 PM  
**To:** Lisa Neal neal4law@gmail.com  
**Cc:** was [REDACTED]ot@gmail.com

---



Hi Lisa,

Just circling back around to let you know that in conjunction with my recent resignation from the Ethics Board, I specifically recommended you to Mayor Schneider as the ideal candidate to fill my seat. She thanked me for the suggestion and told me the Council would likely take the matter up in mid January.

In the meantime, I'd like to introduce you to Tyler Weaver, who has been elected the new Chair. Tyler is a great guy and also an attorney - and I think you'd both really enjoy making each other's acquaintance and (hopefully) working together in the New Year.

Best of luck with your appointment! Personally I feel you'd be a great asset to the Board and that you'd be a great fit for the team, too. But even if it doesn't work out I hope we can stay in touch.

Best,

Jennifer Hodges

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## Roz Lassoff

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**From:** noreply@civicplus.com  
**Sent:** Sunday, April 18, 2021 2:19 PM  
**To:** CityAdmin  
**Subject:** Online Form Submittal: Ethics Board Volunteer Application (Due: 4/21 at 4pm)

**CAUTION:** This email originated from outside the City of Bainbridge Island organization. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

## Ethics Board Volunteer Application (Due: 4/21 at 4pm)

### Step 1

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#### Ethics Board Volunteer Application

Members should represent a diverse set of backgrounds and interests. At least one member of the Ethics Board should be a former judicial officer or have expertise in ethics acquired through education or experience. The Board reviews complaints alleging violations of the Code of Conduct and Code of Ethics.

*The City of Bainbridge Island welcomes the participation of volunteers in serving our Island community through advisory groups. Please complete the form below if you are interested in serving. Once completed, this form will become part of the City's Volunteer Roster. Please note: once submitted, this application becomes a public record. Your address and contact information will not be shared. We thank all applicants for their interest, however only those candidates selected for interviews will be contacted.*

*Application Deadline – Wednesday, April 21, 2021 at 4 pm. Applicants must be available in May for interviews.*

#### Applicant Information

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Name Rosemary Hollinger

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Email

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Daytime Phone

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Address

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City BAINBRIDGE ISLAND

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State WA

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Zip 98110

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Current Employer	Rosemary Hollinger
Current Position	Owner, Career Coach, Faculty-Continuing Legal Education

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**Experience & Qualifications**

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Have you served on any city committees, commissions, boards or task forces in the past?	No
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If yes, please indicate which group(s).	<i>Field not completed.</i>
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Please share your qualifications for this appointment (skills, activities, training, education) if any?	I am a graduate of Georgetown University Law Center. I worked for most, but not all, of my career for the US Commodity Futures Trading Commission. As the head of the Enforcement program in the Chicago Regional Office, I served as the Ethics Officer. In addition, in 2011, I wrote my Master's Thesis on comparative legal ethics. In addition, as a small business owner, I develop and teach professional responsibility classes mostly to attorneys over Zoom. I have also spoken at numerous conferences about consumer protection issues and I have done a lot of regulator training.
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Please share your community interests (groups, committees, organizations) if any:	I joined Rotary almost as soon as we moved here. I have been on the Covid Relief Committee. I also do other volunteer work, but on the national level.
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Do you have potential conflicts of interest? If so, please explain:	None.
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Feel free to attach a cover letter, resume', or other materials, if you wish (optional):	
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Type the Year	2021
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## Rosemary Hollinger

### EXPERIENCE

#### **PARTNER UP LLC-2019-present**

##### **Owner**

Founded company offering career and personal development coaching and professional skills coaching to lawyers and members of the legal profession.

Approved MCLE provider

Developed and delivered courses approved for MCLE including

Taking and Defending Online Depositions

Success Strategies for Women

Lawyers and ADHD

Communicating in the Intergenerational Courthouse

How to be More Inclusive

#### **COMMODITY FUTURES TRADING COMMISSION- 1986-2019**

##### **Regional Administrator 2009-2019**

Managed regional office with staff of 150 analysts, economists, auditors, lawyers and other professionals

Developed cooperative relationships with other agency heads in Central Region

Fostered a climate where the professional Divisions collaborated and shared scarce resources

Regional Ethics Officer

Developed in-house coaching program and participated as coach

##### **Regional Counsel (Associate Director/Deputy Director) 2002-2019**

Supervised Division of Enforcement staff of 25-38 attorneys, investigators, paralegals and support staff in Chicago Regional Office

Developed and taught at in-house training programs

Made presentations before government, industry and professional groups regarding regulation of commodity futures

Planned and directed teams engaged in complex investigations of potential violations of the Commodity Exchange Act

##### **Litigation Manager 1997-2002**

Lead litigation teams from units located in Washington, Los Angeles and Chicago

Served as lead counsel in complex cases

Trained new staff in trial and investigative techniques

##### **Team Leader 1988-1997**

Supervised trial team composed of 5-10 investigators and lawyers

Investigated and filed cases in federal district court and before CFTC administrative law judges

Drafted appeal briefs to the Commission

Developed in-house training programs  
**Trial Attorney 1986-1988**  
Investigated and prosecuted violations of the Commodity Exchange Act

**DePaul University College of Law 1985-1998**  
Lecturer  
Taught courses in Basic Trial Advocacy and Advanced Trial Advocacy  
Developed and taught class in Complex Litigation

**DePaul University School of Public Service 2012-2013**  
Adjunct Faculty-Capstone course in the Master Degree Program

**National Institute for Trial Advocacy 1991-2019**  
Midwest Deposition Program  
Faculty 1991-1996  
Team Leader 1997-2008  
National and Regional Trial Programs 2000-2008  
In-house Trial and Deposition programs 2008-2014  
Midwest Regional Trial Advocacy Program 2019-2020

## **EDUCATION**

Loyola University of Chicago  
A.B. (Honors Program) Magna Cum Laude  
1975

Georgetown University Law Center  
Washington, DC  
Juris Doctor  
1979

DePaul University  
School of Public Service  
M.S. International Public Service  
With Distinction  
2011

Associate Certified Coach-International Coach Federation (ICF) 2019  
National Futures Association  
Arbitrator 2019-  
Hearing Committee 2019-2021

## Roz Lassoff

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**From:** noreply@civicplus.com  
**Sent:** Monday, April 19, 2021 2:17 PM  
**To:** CityAdmin  
**Subject:** Online Form Submittal: Ethics Board Volunteer Application (Due: 4/21 at 4pm)

**CAUTION:** This email originated from outside the City of Bainbridge Island organization. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

## Ethics Board Volunteer Application (Due: 4/21 at 4pm)

### Step 1

---

#### Ethics Board Volunteer Application

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*Application Deadline – Wednesday, April 21, 2021 at 4 pm. Applicants must be available in May for interviews.*

#### Applicant Information

---

Name David Mallon

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Email

---

Daytime Phone

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Address

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City Bainbridge Island

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State WA

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Zip 98110

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Current Employer	Deloitte Consulting LLP
Current Position	Vice President
<b>Experience &amp; Qualifications</b>	
Have you served on any city committees, commissions, boards or task forces in the past?	Yes
If yes, please indicate which group(s).	Current Ethics Board member
Please share your qualifications for this appointment (skills, activities, training, education) if any?	I have had the honor and privilege to be part of the Ethics Board for the current term. I have found the experience to be quite rewarding and have enjoyed working with my fellow board members. I think that I've been able to contribute meaningfully, bringing a practical voice to the dialogue informed by my career as a human capital consultant and researcher.
Please share your community interests (groups, committees, organizations) if any:	Avid cook and traveler (when possible). Parent to two BI kids (Odyssey and Sakai) who are active in local sports (BIFC, Island Aikido).
Do you have potential conflicts of interest? If so, please explain:	No
Feel free to attach a cover letter, resume', or other materials, if you wish (optional):	<i>Field not completed.</i>
Type the Year	2021

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