

Attachment A - **WORKING DRAFT RESPONSES**

Table of Recommended Revisions

The table below identifies the revisions that Evergreen Islands, Washington Environmental Council, RE Sources, and Guemes Island Planning Advisory Committee propose to address the Shoreline Management Act’s mandate to protect state shorelines as fully as possible. The table includes the page number for the text to be revised and the individual subsection or paragraph.

Revisions are identified as follows: (1) language to be removed is shown in strike-through, and (2) language to be added is shown in underline. In addition, we have inserted the rationale for the recommendation in the fourth column.

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
7	6A-Introduction The SMA vests counties and cities with the primary responsibility for comprehensively planning and reasonably regulating shoreline development and use. The goals, shoreline area designations, policies, regulations, and procedures set forth in the shoreline management master program are essential to the protection of the public health, safety, and general welfare of the people of Skagit County.	6A-Introduction The SMA vests counties and cities with the primary responsibility for comprehensively planning and reasonably regulating shoreline development and use. The goals, shoreline area designations, policies, regulations, and procedures set forth in the shoreline management master program are essential to the protection of the public health, safety, and general welfare of the people of Skagit County, <u>including potable, safe drinking water.</u>		Change not recommended. The existing policy broadly encompasses the suggested addition and many other similar items.
12	Management Policies 6B-1.2 New overwater structures should be allowed for water-dependent uses, public access, or ecological restoration.	6B-1.2 New overwater structures should be allowed for water-dependent uses, public access, or ecological restoration, <u>where they will not shade submerged aquatic vegetation like seagrasses and macroalgae.</u>	<i>When constructed over submerged aquatic vegetation, overwater structures cause impacts to their viability by shading out sunlight, even when grated.¹</i>	Change not recommended. The suggested edit is addressed in the regulations, rather than in the policy language here. There are other protection measures in place to ensure submerged aquatic habitats are protected (See SCC 14.26.420).

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12	6B-1.4 In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of overwater facilities should be encouraged.	6B-1.4 In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of <u>the same</u> overwater facilities should be encouraged.	<i>This edit would promote the use of individual facilities for multiple uses to avoid the need to construct multiple overwater facilities for each use.</i>	<u>Change not recommended</u> This clarification is not necessary. As currently written, multiple uses already implies multiple uses of the same structure.
13	Natural Purpose The purpose of the Natural environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions. Only low intensity uses should be allowed in order to maintain the ecological functions and ecosystem-wide processes.		<i>This section would benefit from a definition of “low intensity” or examples of low intensity uses.</i>	<u>Change not recommended</u> The descriptions in the SMP are from WAC173-26-211(5)(a). Additionally, the SMP includes descriptions of the types of uses in the Management Policies 6B-3.2 through 6B-3.8 .

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15	<p>Rural Conservancy Designation Criteria</p> <p>6B-4.1 A Rural Conservancy environment designation should be assigned to shoreline areas outside incorporated municipalities and urban growth areas, as defined by RCW 36.70A.110, if any of the following characteristics apply:</p> <ul style="list-style-type: none"> a. The shoreline is currently supporting lesser-intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170; b. The shoreline is currently accommodating lesser-intensity residential development outside urban growth areas and incorporated cities or towns; c. The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep slopes, feeder bluffs, floodplains or other flood-prone areas; d. The shoreline is of high recreational value; or e. The shoreline contains unique historic or cultural resources; or f. The shoreline contains low intensity water-dependent uses. 	<p>6B-4.1 A Rural Conservancy environment designation should be assigned to shoreline areas outside incorporated municipalities and urban growth areas, as defined by RCW 36.70A.110, if any of the following characteristics apply:</p> <ul style="list-style-type: none"> a. The shoreline is currently supporting lesser-intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170; b. The shoreline is currently accommodating lesser-intensity residential development outside urban growth areas and incorporated cities or towns; c. The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep slopes, feeder bluffs, floodplains or other flood-prone areas; d. The shoreline is of high recreational value; or e. The shoreline contains unique historic or cultural resources; or f. The shoreline contains low intensity water-dependent uses; <u>or</u> g. <u>The shoreline contains low intensity water-dependent uses.</u> 		<p>Change not recommended. Repeats the existing item "f."</p>

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15-16	<p>6B-4.2 Uses in the Rural Conservancy environment should include those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Agriculture, commercial forestry, and aquaculture when located on natural resource lands and consistent with provisions of this SMP are preferred by the County and allowed uses under the SMA. Low-intensity, water-oriented commercial and industrial uses may be permitted where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the use. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated. Mining and related activities may be an appropriate use within the rural conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26- 241 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070</p>	<p>6B-4.2 Uses in the Rural Conservancy environment should include those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Agriculture, commercial forestry, and aquaculture when located on natural resourcelands and consistent with provisions of this SMP are preferred by the County and allowed uses under the SMA. Low-intensity, water- oriented commercial and industrial uses may be permitted where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the use. Water- dependent and water-enjoyment recreation facilities that do not deplete the resource overtime, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated. Mining and related activities may be an appropriate use shall not be allowed within the rural conservancy environment- when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26- 241 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070</p>		<p><u>Change not recommended:</u> There are existing sand and gravel extraction operations on river shorelines; the Department recommends they be allowed to continue, with appropriate standards, permitting, and mitigation.</p> <p>Per the Use and Modifications Matrix (SMP Section 14.26.405) and the Mining provisions in SMP Section 14.26.460, mining waterward of the OHWM is prohibited except for in rivers and streams where the locations will not adversely affect the natural processes of gravel transportation for the system as a whole, will not have significant adverse impacts to habitat for priority species, nor cause a net loss of ecological functions of the shoreline. Mining in upland areas is only allowed through a conditional use permit in Rural Conservancy and High Intensity shoreline environments.</p> <p>WAC 173-26-241(h) recognizes mining in shoreline areas and the master program needs to accomplish two purposes in addressing mining:</p>

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				<p><i>First, identify where mining may be an appropriate use of the shoreline, which is addressed in this section and in the environment designation sections above. Second, ensure that when mining or associated activities in the shoreline are authorized, those activities will be properly sited, designed, conducted, and completed so that it will cause no net loss of ecological functions of the shoreline.</i></p>
16	6B-4.3 Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed	6B-4.3 Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should <u>will</u> not be allowed		<p>Change not recommended. “Should” is an appropriate statement in a policy.</p>
19	<p>Urban Conservancy 6B-7.6 Mining and related activities may be an appropriate use within the Urban Conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-241 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.</p>	<p>6B-7.6 Mining and related activities <u>are not allowed</u> may be an appropriate use within the Urban Conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-240 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.</p>		<p>Change not recommended WAC 173-26-241(h) recognizes mining in shoreline areas and the master program needs to accomplish two purposes in addressing mining:</p> <p><i>First, identify where mining may be an appropriate use of the shoreline, which is addressed in this section and in the environment designation sections above. Second, ensure that when mining or associated activities in the shoreline are</i></p>

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				<p><i>authorized, those activities will be properly sited, designed, conducted, and completed so that it will cause no net loss of ecological functions of the shoreline.</i></p>
19	<p>Agriculture Policies 6C-1.1 General d. The creation of new agricultural lands by diking, or filling of those tidelands, tidal marshes, and associated wetlands which are potentially more productive in their long term natural state should be discouraged.</p>	<p>d. The creation of new agricultural lands by diking, or filling of those tidelands, tidal marshes, and associated wetlands which are potentially more productive in their long term natural state should be discouraged <u>is not allowed</u>.</p>		<p>Change not recommended. This is policy language. Anyone proposing to do so would have to meet the strict standards found in 14.26.305. 14.26.410 requires a shoreline permit for this scenario, and 14.26.440(4)(b)(iv) sets forth when fill waterward of the OHWM is allowed. Fill for the creation of new agricultural lands is not one of the items listed.</p>
21	<p>Aquaculture Policies 6C-2.1 Aquaculture is an activity of statewide interest and should be encouraged. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Shellfish aquaculture provides ecosystem services such as wildlife habitat and improved water quality through filtration.</p>	<p>6C-2.1 Aquaculture is an activity of statewide interest and should be encouraged <u>where it will not adversely impact shoreline ecology</u>. Properly managed <u>and sited</u>, <u>aquaculture can largely avoid impacts it can result in long term over short term benefit and can protect</u> the resources and ecology of the shoreline. Shellfish aquaculture <u>can</u> provides ecosystem services such as wildlife habitat and improved water quality through filtration.</p>	<p><i>To the extent that aquaculture replaces existing shoreline habitat and species with a different habitat or species, or by intensifying the use of that habitat with a mono-crop, it causes ecological impacts and should be recognized as such.</i></p>	<p>Change not recommended. Aquaculture language was established during work by the shoreline advisory committee. There is evidence that shows some forms of shellfish aquaculture provide structure, which allows colonization by a variety of vegetative species. 14.26.415(4) addresses design and siting requirements to address the concerns raised here.</p>

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				<p>WAC173-26-241(2)(b) Aquaculture states in part:</p> <p><i>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.</i></p>
22	6C-2.11 Commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck operations without significant clearing and grading.	6C-2.11 Commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck operations without significant clearing and grading.	<i>This change reflects the impacts caused by clearing and grading.</i>	<p>Change not recommended.</p> <p>This is verbatim language from WAC173-26-231(3)(b)(ii).</p>

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31	<p>Mining Policies</p> <p>6C-13.1 Recognizing that certain earth materials are in demand, yet limited in quality and quantity, and that shorelines are a valuable and limited resource where mining can have irreversible impacts, mining activities should primarily be encouraged to take place outside of shoreline areas.</p> <p>a. Mining activities, if allowed, should not occur in shoreline areas of high environmental, cultural, recreational, or historical value.</p> <p>b. Recognizing the limited quantity and quality of natural marine and lake shores, especially accretion shoreforms, and recognizing the increasing demand for other uses of these shorelines and the existence of alternative sources of earth materials, mining activities should be limited on these shorelines.</p> <p>c. Surface mining of river and stream point bars for sand and gravel or other materials should be allowed provided there is annual accretion and replacement of these materials.</p>	<p>6C-13.1 Recognizing that certain earth materials are in demand, yet limited in quality and quantity, and that shorelines are a valuable and limited resource where mining can have irreversible impacts, mining activities should primarily be encouraged to take place outside of shoreline areas.</p> <p>a. Mining activities, if allowed, should not occur in shoreline areas of high environmental, cultural, recreational, or historical value.</p> <p>b. Recognizing the limited quantity and quality of natural marine and lake shores, especially accretion shoreforms, and recognizing the increasing demand for other uses of these shorelines and the existence of alternative sources of earth materials, mining activities should be limited on these shorelines.</p> <p>c. Surface mining of river and stream point bars for sand and gravel or other materials should be allowed provided there is annual accretion and replacement of these materials.</p>	<p><i>Mining should not occur in or along shoreline areas and their buffer zones.</i></p>	<p><u>Change not recommended:</u></p> <p>WAC 173-26-241(h) recognizes mining in shoreline areas and the master program needs to accomplish two purposes in addressing mining:</p> <p><i>First, identify where mining may be an appropriate use of the shoreline, which is addressed in this section and in the environment designation sections above. Second, ensure that when mining or associated activities in the shoreline are authorized, those activities will be properly sited, designed, conducted, and completed so that it will cause no net loss of ecological functions of the shoreline.</i></p>
33	<p>Recreational Development</p> <p>6C-14.2 Unique and Fragile Shoreline Areas</p> <p>a. Accretion shoreforms, marshes, estuaries, and wetlands that are susceptible to damage from more intensive recreational development should be protected and preserved for less intensive forms of recreation.</p>	<p>6C-14.2 Unique and Fragile Shoreline Areas</p> <p>a. Accretion shoreforms, marshes, estuaries, and wetlands that are susceptible to damage from more intensive recreational development should must be protected and preserved for less intensive forms of recreation.</p>		<p><u>Change not recommended.</u></p> <p>“Should” is an appropriate statement in a policy.</p>

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33	<p>6C-14.3 Design</p> <p>f. Recreational or access development should be designed to protect and preserve scenic views and aesthetic values of the shoreline environment.</p>	<p>f. Recreational or access development should be designed to protect and preserve scenic views, and aesthetic values, <u>and ecological health</u> of the shoreline environment.</p>		<p><u>Change not recommended.</u></p> <p>6C-14.2 identifies unique and fragile shoreline areas that should be protected and preserved for less intensive forms of recreational development.</p> <p>6C-14.6 addresses potential environmental impacts on the existing shoreline environment.</p> <p>The statement here is to specifically address protection of views and aesthetic values.</p> <p>Ecological functions and values are addressed in 14.26.305 and 14.26.465(4)(c) Recreational developments must be located, designed and operated in a manner consistent with the purpose of the environment designation in which they are located and so that no net loss of shoreline ecological functions or ecosystem-wide processes results.</p>

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33	<p>Residential Development Policies</p> <p>6C-15.1 Where allowed by this SMP, residential development should not significantly damage, diminish, or adversely affect shoreline ecological function, natural resource uses, archaeological and historic sites, or important scenic vistas.</p>	<p>6C-15.1 Where allowed by this SMP, residential development should not significantly damage, diminish, or adversely affect shoreline ecological function, natural resource uses, archaeological and historic sites, or <u>important scenic vistas, or groundwater quality, such as through salt water intrusion.</u></p>		<p>Change not recommended. Change is not necessary. Groundwater impacts are included as part of the shoreline ecological functions.</p>
44	<p>Critical Areas Policies</p> <p>6G-2.11 Ensure adequate design, construction, management, and operations to protect groundwater quality and quantity.</p> <p>a. Existing and future beneficial uses of groundwater should be maintained and protected.</p> <p>b. Wherever groundwater is determined to be of a higher quality than the criteria established for said waters, the existing water quality should be protected, and contaminants that will reduce the existing quality thereof should not be allowed.</p>	<p>6G-2.11 Ensure adequate design, construction, management, and operations to protect groundwater quality and quantity.</p> <p>a. Existing and future beneficial uses of groundwater should be maintained and protected, <u>including against loss or degradation of potable water due to sea water intrusion.</u></p> <p>b. Wherever groundwater is determined to be of a higher quality than the criteria established for said waters, the existing water quality should be protected, and contaminants that will reduce the existing quality thereof should not be allowed.</p>		<p>Change not recommended. Change is not necessary. The language as written is appropriate for this policy.</p>

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57-59	Part III: General Regulations 14.26.305 Environmental Protection	Mitigation	<i>This section must be revised to insert provisions that address Skagit County's ongoing oversight of mitigation projects once a project is permitted. Such provisions would include a timeline for achieving successful mitigation and steps to cure any failures to achieve that success.</i>	Change not recommended. Permit monitoring requirements are applied by PDS at the time of permit issuance. The information being requested here will be part of the mitigation plan that is required in 14.26.305(6) and becomes part of the conditions of approval for the permit.
59	(8) New development and uses must be designed to mitigate significant adverse impacts on other shoreline uses and values.	(8) New development and uses must be designed to mitigate significant adverse impacts on other shoreline uses and values.	<i>The SMP doesn't establish a threshold for the significance of impacts that must be mitigated. Instead, all impacts must be addressed. Instead, SMPs must conserve remaining ecological functions and promote the restoration of impaired ecological functions. WAC 173-26-181, -186(8), -201(2)(c), -201(2)(f), -221(2), -221(5), -221(6).</i>	Change not recommended. This describes the design phase only. If significant adverse impacts are identified, the design needs to be revised to bring those impacts down to a less than significant impact on other shoreline uses and values. The higher standard that they suggest may be impossible to meet. The applicant would need to propose mitigation for impacts identified, but not necessarily redesign their proposal.

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59	<p>14.26.310 Dimensional Standards</p> <p>(1) When a development or use is proposed that does not comply with the dimensional standards of this SMP, such deviations from the SMP bulk, dimensional, or performance standards can only be authorized by approval of a Shoreline Variance. If a proposal meets requirements allowing administrative reductions or modifications, it is considered compliant with the SMP and does not require a Shoreline Variance.</p>	<p>(1) When a development or use is proposed that does not comply with the dimensional standards of this SMP, such deviations from the SMP bulk, dimensional, or performance standards can only be authorized by approval of a Shoreline Variance. If a proposal meets requirements allowing administrative reductions or modifications, it is considered compliant with the SMP and does not require a Shoreline Variance.</p>	<p><i>The term "use" should be deleted because variances apply to dimensional standards, rather than uses, which are addressed through the conditional use permit process.</i></p>	<p>Change not recommended.</p> <p>Any deviations from the dimensional standards of the SMP, whether bulk, dimensional, or performance standards, without administrative reduction, will need a shoreline variance. Deviations in uses may require a conditional use permit.</p>
60	<p>(4) Water-dependent uses, shoreline access, and shoreline restoration may be authorized within the required buffer without a Shoreline Variance provided mitigation sequencing is applied and the project demonstrates adequate compensatory mitigation to achieve no net loss of shoreline ecological functions.</p>	<p>(4) Water-dependent uses, shoreline access, and sShoreline restoration may be authorized within the required buffer without a Shoreline Variance provided mitigation sequencing is applied and the project demonstrates adequate compensatory mitigation to achieve no net loss of shoreline ecological functions.</p>	<p><i>The development of uses and access in the buffer defeats the purpose of the buffer, which the most current science recommends remain largely undeveloped.² Consequently, any development in that area should occur only subject to the review that occurs through the variance process.</i></p>	<p>Change not recommended.</p> <p>Water dependent uses and shoreline physical access must, by their very nature, be within the shoreline buffer.</p>

Table 14.26.310-1 Dimensional Standards

The following table sets out minimum buffer widths and other dimensional standards for each shoreline environment designation. For other dimensional standards, see [SCC 14.26.420](#) Boating Facilities and Related Structures and Uses

Dimensional Standard	Shoreline Environment Designation					
	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Buffers for Upland Uses¹						
from marine or lake shorelines	200 ft	150 ft	150 ft	100 ft	140 ft	n/a
from river or stream shorelines	200 ft	200 ft	200 ft	200 ft	200 ft	n/a
Height Limits for Residential Development²						
for uses waterward of the OHWM	n/a	n/a	n/a	n/a	n/a	n/a
for upland uses within required buffer	25 ft	25 ft	25 ft	25 ft	25 ft	n/a
for upland uses outside required buffer	35 ft	35 ft	35 ft	35 ft	35 ft	n/a
accessory structures on Guemes Island	15 ft	15 ft	15 ft	15 ft	15 ft	n/a
Height Limits for All Other Uses²						
for uses waterward of the OHWM	n/a	n/a	n/a	n/a	n/a	5 ft
for upland uses within required buffer	25 ft	25 ft	25 ft	25 ft	25 ft	n/a
for upland uses outside required buffer	35 ft	35 ft	35 ft	35 ft	35 ft	n/a
Hard Surface Limits						
for all commercial and industrial upland uses	n/a	<u>30</u> 10%	70%	n/a	70%	n/a
recreational uses	5%	<u>25</u> 10%	30%	30%	40%	n/a
for all other upland uses	5%	<u>30</u> 10%	30%	30%	40%	n/a
Signs and Outdoor Advertising						
Max Height	n/a	5 ft	5 ft	10 ft	25 ft	5 ft
Max sign area per side	n/a	15 sq ft	15 sq ft	20 sq ft	100 sq ft	6 sq ft

The County should track the many instances in which it approves development that conflicts with these standards.

We recommend applying a hard surface limit of 10% for Rural Conservancy lands consistent with the Guidelines' statement that "[s]cientific studies support density or lot coverage limitation standards that assure that development will be limited to a maximum of ten percent total impervious surface area within the lot or parcel, will maintain the existing hydrologic character of the shoreline. WAC 173-26-211(5)(b)(ii)(D).

Change recommended: WAC 173-26-211(3)(b)(ii)(D) does recognize that scientific studies support a maximum lot coverage of 10 percent in the Rural Conservancy environment. However, this same subsection goes on to state, "Master programs may allow greater lot coverage to allow development of lots legally created prior to the adoption of a master program prepared under these guidelines. In these instances, master programs shall include measures to assure protection of ecological functions to the extent feasible such as requiring that lot coverage is minimized and vegetation is conserved." The County suggests adding a footnote to Table 14.26.310-1 to acknowledge that new lots in Rural Conservancy created after the adoption of the SMP would need to comply with this 10 percent hard surface coverage limitation.

Footnotes:
 1. Water-dependent developments are allowed within the buffer provided mitigation sequencing is applied per SCC 14.26.305 to avoid, minimize, and mitigate adverse impacts to result in no net loss of shoreline ecological function
 2. Additional height for utility facilities, bridges, and industrial uses may be approved when necessary for the functions of a permitted use, provided such structures must be designed to minimize obstruction of views. For such heights proposed over 35 feet above average grade the applicant shall demonstrate that it will not obstruct the view of a substantial number of residences and overriding consideration of the public interest will be served.

14.26.320 General Provisions Applicable Upland of the OHWM

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61	(1) Location of upland development. (a) New development must be located and designed to avoid the need for future shoreline stabilization to the extent feasible.	(1) Location of upland development. (a) New development must be located and designed to avoid the need for future shoreline stabilization to the extent feasible.	<i>The SMA requires that new development be</i>	Change not recommended. The use of “to the extent feasible” acknowledges that this requirement may not fit all situations.
61-62	(2) Design features for compatibility. Shoreline use and development must be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors, where feasible.	(2) Design features for compatibility. Shoreline use and development must be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors, where feasible.		Change not recommended. The use of “where feasible” acknowledges that this requirement may not fit all situations.
62	(3) Screening. (a) Building mechanical equipment must be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen must be provided consistent with building exterior materials that obstructs views of such equipment.	(3) Screening. (a) Building mechanical equipment must be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen must be provided consistent with building exterior materials that obstructs views of such equipment.		Change not recommended. The use of “to the maximum extent possible” acknowledges that this requirement may not fit all situations.
62	(8) Lighting. Interior and exterior lighting must be designed and operated to avoid illuminating nearby properties or public areas; prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas; and to prevent hazards.	(8) Lighting. Interior and exterior lighting must be designed and operated to avoid illuminating nearby properties or public areas; prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas; and to prevent hazards. Methods of controlling spillover light	<i>Lighting must be directed downward to limit its impacts.</i>	Change recommended. There may be some instances where downlighting is not the best option. The County recommends adding the following to SMP Section 14.26.360(4)(d) Lighting.

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	Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening. Lighting must be directed away from critical areas, unless necessary for public health and safety	include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening. Lighting must be directed <u>downward</u> and away from critical areas, unless necessary for public health and safety		<u>Directional sign lighting must be directed away from critical areas, unless necessary for public health and safety.</u> Outdoor advertising may not move or fluctuate in lighting or position in any manner.

14.26.330 General Provisions Applicable Waterward of the OHWM

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63	(2) Buffers. Water-dependent in-water structures, activities, and uses are not subject to the shoreline buffers established in this SMP provided mitigation sequencing is applied per SCC 14.26.305 to avoid, minimize, and mitigate adverse impacts to result in no net loss of shoreline ecological function.	(2) Buffers. Water dependent in-water structures, activities, and uses are not subject to the shoreline buffers established in this SMP provided mitigation sequencing is applied per SCC 14.26.305 to avoid, minimize, and mitigate adverse impacts to result in no net loss of shoreline ecological function.	<i>The SMA does not exempt water-dependent in-water structures, activities, and uses from the need to address ecological impacts. Thus, to the extent that such development can comply with buffers, it should do so. And for those aspects that cannot meet buffer standards, impacts must be minimized and compensated.</i>	Change not recommended. Water dependent uses and specifically “in-water structures” must, by their very nature, be within the shoreline buffer. The proposed language includes the requirement to conduct mitigation sequencing.

14.26.405 Uses and Modifications Matrix

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83-84	<p>Table 14.26.405-1</p> <p><u>Shoreline Use</u></p> <p>Aquaculture (see SCC 14.26.415)</p> <p>General aquaculture: CU, SD/E, SD/E, SD/E, SD/E, upland Non-commercial freshwater hatcheries: CU, CU,SD/E, SD/E,SD/E, upland</p> <p>Net-pens; CU, CU, CU, CU, CU, upland</p> <p>Commercial geoduck aquaculture: CU, CU, CU, CU, CU, upland</p>	<p>Table 14.26.405-1</p> <p><u>Shoreline Use</u></p> <p>Aquaculture (see SCC 14.26.415)</p> <p>General aquaculture: CU, SD/E, SD/E, SD/E, SD/E, upland <u>Aquaculture activities other than geoduck or finfish; X, SD/E without exemptions, SD/E without exemptions, SD/E without exemptions, upland</u></p> <p>Non-commercial freshwater hatcheries: CU, CU,SD/E, SD/E, SD/E, upland</p> <p>Net-pens; CU, CU, CU, CU, CU, upland X, X, X, X, X, upland</p> <p>Commercial geoduck aquaculture: CU, X, CU, CU, CU, CU, upland</p>	<p><i>“General aquaculture” in Table 14.26.405-1, Shoreline Use and Modifications Matrix should be further defined so it is clear that geoduck and finfish/net pen activities are not included in this generalized category to better delineate more specifically the various aquaculture uses and applications in the SMP. We suggest having the use be called “Aquaculture activities other than geoduck or finfish” and be prohibited in “Natural” designation and Shoreline Development permit without any exceptions in the remaining designations. The letter of Exception negates having to get a SSDP or CUP and is too permissive.</i></p>	<p>Change Recommended.</p> <p>New commercial net pens are not currently proposed to be prohibited. Rather, applications for new net pens would go through a Shoreline Conditional Use permit review per the Uses and Modification Matrix in SMP Section 14.26.405 and comply with specific application requirements per SMP Section 14.26.415 which includes a requirement that the applicant demonstrate “that the native fish and wildlife resources will not be significantly impacted.”</p> <p>The department recommends adjusting the provisions related to finfish aquaculture and prohibit all non-native finfish net pen aquaculture. The use of SD/E indicates that the proposed use or modification requires either a shoreline substantial development permit, or an exemption and that it is addressed more fully in the text for that specific use or modification.</p>

14.26.415 Aquaculture

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89-90	<p>(1) Applicability</p> <p>(a) This section applies to “aquaculture,” meaning 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.</p> <p>Upland finfish rearing facilities constitute “agriculture” and are not regulated by this section</p>		<p><i>Any finfish raising/rearing, native or nonnative, should be required to take place in upland facilities with proper pollution controls and appropriate requirements for each Shoreline Environmental Designation. Under Section 14.26.415 Aquaculture, it states that “upland finfish rearing facilities constitute “agriculture” and are not regulated by this section.” However, in reviewing section 14.26.410 Agriculture, there is no mention of regulating upland finfish rearing facilities. Can you please direct us to where in the SMP updated document upland finfish rearing facilities are regulated and how they will be regulated?</i></p>	<p>Change not recommended.</p> <p>RCW 90.58.065: (2)(a) defines Agricultural activities and includes <i>producing, breeding or increasing agricultural products.</i> (2)(b) defines Agricultural products and includes upland finfish. (2)(c) defines Agricultural equipment and agricultural facilities and includes upland finfish rearing facilities.</p> <p>Part VIII of this Master Program also includes these definitions. Upland finfish are regulated under 14.26.410 Agriculture and fall under the definitions and descriptions described here.</p>

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91	<p>(4) General requirements.</p> <p>e. Aquaculture operations must be designed, located, and managed to minimize impactsto native eelgrass and macroalgae.</p> <p>i. Aquaculture operations are not requiredto avoid impacts on eelgrass or macroalgae that colonizes an aquaculture operation.</p> <p>ii. Aquaculture operations are not requiredto avoid impacts on non-native eelgrass.</p>	<p>e. Aquaculture operations must be designed,located, and managed to minimize <u>avoid</u> impacts to native eelgrass and macroalgae, <u>with the exception that</u></p> <p>i. Aquaculture operations are not required to avoid impacts on eelgrass or macroalgae that colonizes an aquacultureoperation.</p> <p>ii. Aquaculture operations are not requiredto avoid impacts on non-native eelgrass.</p>	<p><i>The BAS requires avoidance of impacts to these sensitiveand critical habitats.</i></p>	<p><u>Change not recommended.</u></p> <p>Aquaculture language was established during work by the shoreline advisory committee.</p> <p>14.26.305 requires that the mitigation sequence be followed and a mitigation plan must be prepared as part of the permit application process.</p> <p>From the SMP Handbook – Chapter 16 Aquaculture: <i>The state Noxious Weed Control Board listed Zostera japonica (non-native eelgrass) as a Class C noxious weed in 2012. This state listing changed the policy interpretation of the SMP Guidelines regarding eelgrass protection [WAC 173-26-221(2)(c)(iii) and WAC 173-26-241(3)(b)(i)(C)]. Local governments are now required to protect only native eelgrass – Zostera marina. Important management considerations for local governments include distinguishing between Zostera japonica and Zostera marina and determining proximity of aquaculture to eelgrass beds.</i></p> <p><i>The aquaculture provisions</i></p>

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				<p><i>in the SMP Guidelines state that aquaculture “should not be permitted where it would adversely impact eelgrass” [WAC 173-26-241(3)(b)(i)(C)]. WAC 173-26-201(3)(c)(ii) lists “native aquatic vegetation” among the information required for the shoreline inventory and characterization. The SMP Guidelines also provide for invasive, noxious and non-native species such as Z. japonica to be treated differently from other species in vegetation management and conservation elements of an SMP [WAC 173-26-020(36), WAC 173-26-221(5)]. The scientific and regulatory communities agree that the overall habitat value of native eelgrass is very high, especially for salmon, forage fish and crab. SMPs should be written to avoid or mitigate impacts to Z. marina, without constraining legal control of Z. japonica. Given the two eelgrass species occur in close proximity or in mixed beds (Figure 16-4), protection of mixed beds will result in protection of Z. japonica as well.</i></p>

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92	<p>(5) Shorelines of Statewide Significance.</p> <p>b. Applications for new aquaculture within Shorelines of Statewide Significance must address the policies of RCW 9A0.58.020.</p> <p>c. Mechanical disturbance of bottom materials for shellfish harvest is prohibited on Shorelines of Statewide Significance, except the traditional mechanical (drag) dredge shellfish harvest method may be allowed as a conditional use. All hydraulic harvest methods require a Conditional Use Permit.</p>		<p><i>We are very concerned that aquaculture use is allowed in Shorelines of Statewide Significance under section 14.26.415(6). It is unclear in the SMP how implementation will be consistent with RCW 90.58.020.</i></p>	<p><u>Change not recommended.</u></p> <p>Aquaculture language was established during work by the shoreline advisory committee.</p> <p>WAC173-26-241(2)(b) Aquaculture states in part:</p> <p><i>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.</i></p> <p>Chapter 16 of the SMP Handbook states in part: For shorelines of statewide</p>

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				<p>significance, including all marine waters below the line of extreme low tide, the SMA establishes the following order of preference for shoreline uses: (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; [RCW 90.58.020]. The Legislature has also provided relevant policy direction regarding the statewide interest through the Aquaculture Marketing statute (see box*) administered by the Department of Agriculture, and the Washington Shellfish Initiative, listed in the "Policy and regulatory landscape" section, above. In the early days of statehood, the Legislature encouraged the growth of an oyster industry by selling</p>

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				<p>state-owned tidelands to private parties. The Bush Act and Callow Act, Laws of 1895, were changed over the years to allow for other shellfish cultivation. RCW 79.135.010 is the current law regarding Bush and Callow lands. The State stopped the sale of tidelands into private ownership in 1971. Bush Act and Callow Act lands are located in the following counties: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, and Thurston. (Refer to DNR’s Bush and Callow Act Aquatic Land Maps.) Many acres of tidelands sold under the Bush Act and Callow Act are currently used for shellfish cultivation.</p> <p>*Language from the box: RCW 15.85.010: “The legislature declares that aquatic farming provides a consistent source of quality food, offers opportunities of new jobs, increased farm income stability, and improves balance of trade. The legislature finds that</p>

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				<p>many areas of the state of Washington are scientifically and biologically suitable for aquaculture development, and therefore the legislature encourages promotion of aquacultural activities, programs, and development with the same status as other agricultural activities, programs, and development within the state. ... It is therefore the policy of this state to encourage the development and expansion of aquaculture within the state."</p>
93	<p>(7) Net pens. (a) In addition to the General requirements, a net pen application must include: (i) Site characterization survey: (A) Bathymetric survey (bottom features) (B) Hydrographic survey (current velocity and direction, drogue tracking, vertical profiles of temperature, salinity and dissolved oxygen) (C) Underwater photographic</p>	<p>(7) Net pens. (a) <u>New commercial net pen aquaculture operations to propagate non-native finfish or native finfish species in marine waters is prohibited.</u> (a) In addition to the General requirements, a net pen application must include: (i) Site characterization survey: (A) Bathymetric survey (bottom features) (B) Hydrographic survey (current velocity and direction, drogue tracking, vertical</p>	<p><i>Net pen finfish aquaculture, especially nonnative, includes many adverse impacts including organic waste from salmon farms changing the physio-chemical properties and microflora biodiversity of benthic sediments below the pens, increased growth of algae, chemical and drug contaminants introduced into the environment, the disruption of marine food webs by attracting carnivorous birds and mammals, and the escape</i></p>	<p>Change recommended. New commercial net pens are not currently proposed to be prohibited. Rather, applications for new net pens would go through a Shoreline Conditional Use permit review per the Uses and Modification Matrix in SMP Section 14.26.405 and comply with specific application requirements per SMP Section 14.26.415 which includes a requirement that the applicant demonstrate "that the native fish and wildlife resources will not be significantly impacted."</p>

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	<p>survey(presence of critical habitat)</p> <p>(ii) Baseline benthic survey conducted once the net pens are in place, but before they are stocked with fish:</p> <p>(A) Sediment chemistry</p> <p>(B) Infauna sampling</p> <p>(b) A net pen application must demonstrate:</p> <p>(i) that the native fish and wildlife resources will not be significantly impacted; and</p> <p>(ii) that state parks, wildlife refuges or reserves, or habitats of local importance found in Part V, Critical Areas, will not be significantly impacted.</p> <p>(c) A net pen facility must be located at least 1,500 feet from the OHWM, except a lesser distance may be authorized through a Shoreline Variance if a visual impact analysis demonstrates a lesser distance will not result in a significant adverse impact to aesthetic qualities of the shoreline.</p>	<p>profiles of temperature, salinity and dissolved oxygen)</p> <p>(C) Underwater photographic survey(presence of critical habitat)</p> <p>(ii) Baseline benthic survey conducted once the net pens are in place, but before they are stocked with fish:</p> <p>(A) Sediment chemistry</p> <p>(B) Infauna sampling</p> <p>(b) A net pen application must demonstrate:</p> <p>(i) that the native fish and wildlife resources will not be significantly impacted; and</p> <p>(ii) that state parks, wildlife refuges or reserves, or habitats of local importance found in Part V, Critical Areas, will not be significantly impacted.</p> <p>(c) A net pen facility must be located at least 1,500 feet from the OHWM, except a lesser distance may be authorized through a Shoreline Variance if a visual impact analysis demonstrates a lesser distance will not result in a significant adverse impact to aesthetic qualities of the shoreline.</p>	<p><i>of farmed salmon with the potential to transmit disease and compete with wild salmon.³ We believe that this change is consistent with the SMP Guidelines requirements for no net loss of shoreline ecological functions.</i></p>	<p>Add new item to (7) to read: (d) New commercial net pen aquaculture operations proposing to propagate a nonnative finfish species are prohibited.</p> <p>Add another item to Table 14.26.405 Uses and Modification Matrix – to differentiate net pens for native finfish propagation, which would retain the same permit classifications as the current net pens shoreline use, from net pens for propagation of nonnative finfish species which would be prohibited in all shoreline environment designations across the matrix.</p>

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93-95	<p>(8) Geoduck aquaculture.</p> <p>(a) A Conditional Use Permit is required for new commercial geoduck aquaculture.</p> <p>(b) Geoduck aquaculture should be located where sediments, land and water access, and topography support geoduck aquaculture without significant clearing or grading</p> <p>(e) A Conditional Use Permit for geoduck aquaculture:</p> <ul style="list-style-type: none"> i. may include conditions to avoid or limit impacts from geoduck aquaculture siting and operations; ii. must identify that the permit entails a right to harvest planted geoduck; iii. must include mitigation measures as necessary to ensure no net loss of ecological functions; iv. must include reasonable monitoring and reporting requirements to verify the permitted activity is in compliance with permit conditions. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirement. <p>(f) Notice of an application for geoduck aquaculture must be provided to all</p>	<p>(8) Geoduck aquaculture.</p> <p>(g) A Conditional Use Permit is required for new commercial geoduck aquaculture.</p> <p>(h) Geoduck aquaculture should be located where sediments, land and water access, and topography support geoduck aquaculture without significant clearing or grading.</p> <p>(e) A Conditional Use Permit for geoduck aquaculture:</p> <ul style="list-style-type: none"> i. may must include conditions to avoid or limit impacts from geoduck aquaculture siting and operations; ii. must identify that the permit entails a right to harvest planted geoduck; iii. must include mitigation measures as necessary to ensure no net loss of ecological functions; iv. must include reasonable monitoring and reporting requirements to verify the permitted activity is in compliance with permit conditions. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirement. <p>(f) Notice of an application for geoduck aquaculture must be provided to all property owners within 300 <u>1000</u> feet of</p>	<p><i>To ensure consistency across the SMP planning goals and development regulations, and in particular the goal of 6C-2.7 (and WAC 173-26-241(3)(b)(i)(C)) that “new and expanded aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adverse impacts to eelgrass and macroalgae,...,” we recommend that the County adopt specific requirements to avoid, first and foremost, any impacts to eelgrass and macroalgae.</i></p> <p><i>To meet this goal, any clearing and grading of the shoreline must be prevented because any clearing and grading of the shoreline for commercial geoduck operations is significant and would thus contravene the goal.</i></p> <p><i>Further, eelgrass and macroalgae protection and recovery is a state and federal priority and should be a county priority as well given the huge amount estimated</i></p>	<p><u>Change not recommended.</u> Aquaculture language was established during work by the shoreline advisory committee and reflects state guidelines identified below.</p> <p>This is language verbatim from WAC 173-26-241(3)(b)(ii).</p>

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	property owners within 300 feet of the proposed project boundary and to tribes with usual and accustomed fishing rights to the area.	the proposed project boundary and to tribes with usual and accustomed fishing rights to the area.	<p><i>to have already been lost. We are concerned that the SMP does not provide a process for monitoring no net loss of ecological functions and/or cumulative impacts analysis to eelgrass and macroalgae from geoduck aquaculture.</i></p> <p><i>We recommend that the language in 14.26.415(8)(f) be expanded beyond the suggested 300 yards to 1000 yards to capture property owners who may be situated across the bay or inlet and thus would be impacted by geoduck operations. We fully support notification to all Tribes with usual and accustomed fishing rights to the area, and request that similar notice be provided for all new, existing, and expanded aquaculture facilities.</i></p>	

14.26.420 Boating Facilities and Related Structures and Uses

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97	<p>(4) Development Standards.</p> <p>(a) Generally. Structures and uses must:</p> <p>(i) minimize the area of water covered;</p>	<p>(4) Development Standards.</p> <p>(a) Generally. Structures and uses must:</p> <p>(i) <u>be located at least twenty-five</u></p>	<p><i>When constructed over submerged aquatic vegetation, overwater</i></p>	<p><u>Change not recommended</u></p> <p>(i) and (ii) will be part of WDFW criteria to be</p>

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	<ul style="list-style-type: none"> (ii) minimize hazards and obstructions to navigation; (iii) minimize obstructions to the use of neighboring docks or recreational floats; (iv) minimize the need for new or maintenance dredging; (v) minimize impacts on public swimming beaches, valuable public fishing areas, or aquaculture facilities; (vi) avoid blocking or obstructing lawfully existing or planned public shoreline access; (vii) avoid the need for new shoreline stabilization, or where stabilization is demonstrated as necessary by a study prepared consistent with SCC 14.26.480 Structural Shoreline Stabilization, and minimize to only that necessary to adequately protect facilities, users, and watercraft from floods or destructive storms; (viii) design the facility so that any moored boats must be located in water deep enough to prevent prop scour, unless the applicant can demonstrate that prop scour will not adversely impact aquatic vegetation or increase suspended sediment loads; (ix) on lakes with anadromous fish, a floating structure's landward edge must be at least 7 feet above the lake bottom when measured at ordinary 	<p><u>feet(measured horizontally from the nearest edge of the structure) and four vertical feet away from seagrass and kelp beds (measured at extreme low water);</u></p> <ul style="list-style-type: none"> (ii) <u>in documented herring spawning areas, be located at least twenty-five feet (measured horizontally from the nearest edge of the structure) and four vertical feet from macroalgae beds on which herring spawn (measured at extreme low water);</u> (iii) <u>if artificial nighttime lighting is used in the project, use low-intensity lights that are located and shielded to prevent light from attracting fish or disrupting fish migration behavior, unless there are safety constraints.</u> 	<p><i>structures cause impacts to their viability by shading out sunlight, even when grated.⁴</i></p> <p><i>Thus, the revisions are necessary to consistency with the most current, accurate, and complete scientific and technical information available, as well as WDFW regulations at 220-660-380(3)(b), which will avoid confusion for applicants.</i></p>	<p>applied differently depending upon locale and waterbody through their Hydraulic Project Approval permit. It is not necessary for the County to include these requirements.</p> <p>(iii) 14.26.330, General Provisions Applicable Waterward of the OHWM, already includes measures to minimize lighting impacts to the aquatic environment applied to all projects.</p>

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	<p>low water;</p> <p>(x) use open frameworks for any safety railings (which do not count toward the height limit) that do not unreasonably interfere with shoreline views;</p> <p>(xi) mark structures with reflectors or other devices to prevent hazardous conditions for other water surface users;</p> <p>(xii) prevent grounding of floating structures or objects (using float stoppers as needed);</p> <p>(xiii) use a generally non-reflective exterior finish when necessary to reduce glare;</p> <p>(xiv) avoid use of any new skirting;</p> <p>(xv) avoid use of any overhead wiring or plumbing;</p> <p>(xvi) provide and maintain garbage and recycling receptacles at locations convenient to users;</p> <p>(xvii) provide utilities (e.g. water, electricity, sewer) for the use concurrent with the development unless situated where they are already available.</p>			

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99	<p>(b) Docks.</p> <p>(i) Standards for all docks.</p> <p>(B) Minimum height.</p> <p>(l) The bottom of any piers or the landward edge of any ramp must be the maximum practical height from the ground, but not less than 1.5 ft above the OHWM.</p>	<p>(B) Minimum height.</p> <p>(l) The bottom of any piers or the landward edge of any ramp must be the maximum practical height from the ground, but not less than <u>6 ±.5 ft above the bed at the landward end</u>OHWM.</p>	<p><i>This will provide consistencywith WDFW regulations at WAC 220-660-380(4)(a) and decrease shading per theBAS.</i></p>	<p>Change not recommended. In its application to both freshwater and marine environments, the existing proposed language is appropriate.</p>

14.26.435 Dredging and Dredge Material Disposal

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110	<p>(e) Dredging is prohibited in the followinglocations, except for maintenance dredging and for beneficial public purposes consistent with this SMP:</p> <p>(i) In estuaries, natural wetlands, andmarshes.</p> <p>(ii) Along net positive drift sectors andwhere geohydraulic processes are active and accretion shoreforms would be damaged or irretrievablylost.</p> <p>(iii) In shoreline areas and bottom soils that are prone to sloughing, refilling, and continual maintenance dredging.</p> <p>(iv) In officially designated fish, shellfish,and wildlife spawning,</p>	<p>(e) Dredging is prohibited in the followinglocations, except for maintenance dredging, <u>and only if the impacts are fully addressed through application of the mitigation sequence and for beneficial public purposes consistent with this SMP:</u></p> <p>(i) In estuaries, natural wetlands, andmarshes.</p> <p>(ii) Along net positive drift sectors andwhere geohydraulic processes are active and accretion shoreforms would be damaged or irretrievably lost.</p> <p>(iii) In shoreline areas and bottom soils that are prone to sloughing, refilling, and continual maintenance dredging.</p>	<p><i>For consistency with the BASregarding the significant impacts associated with dredging, new dredging should be prohibited in these ecologically and geologicallysensitive areas. Further, any impacts from maintenance must be addressed through mitigation.</i></p>	<p>Change not recommended. This language is included in Part III General Regulations, 14.26.305, Environmental Protection, which applies to all modifications and uses.</p> <p>Dredging is prohibited in these areas, except for maintenance dredging and dredging for beneficial public purposes, for instance shoreline habitat and systems enhancement projects as noted in WAC 173-26-231(3)(g), which reads in part:</p> <p><i>Master programs should include provisions fostering habitat and natural system</i></p>

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	<p>nesting, harvesting, and concentration areas.</p> <p>(v) Where water quality would be degraded below permitted state and federal standards.</p> <p>(vi) Where current and tidal activity are significant, requiring excessive maintenance dredging.</p>	<p>(iv) In officially designated fish, shellfish, and wildlife spawning, nesting, harvesting, and concentration areas.</p> <p>(v) Where water quality would be degraded below permitted state and federal standards.</p> <p>(vi) Where current and tidal activity are significant, requiring excessive maintenance dredging</p>		<p><i>enhancement projects. Such projects may include shoreline modification actions such as modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.</i></p>

14.26.460 Mining

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126	<p>(2) When Allowed. These uses are allowed in the shoreline environment designations listed in SCC 14.26.405 Uses and Modifications Matrix, subject to the following:</p> <p>(a) Mining is only allowed when the Administrative Official determines it is dependent on a shoreline location based on an evaluation of geologic factors such as the distribution and availability of mineral resources in the County; the need for such mineral resources; and economic, transportation, and land use factors.</p> <p>(b) For marine and lake shorelines, mining waterward of the OHWM is prohibited.</p> <p>(c) For rivers and streams, mining</p>	<p>(2) When Allowed. These uses are allowed in the shoreline environment designations listed in SCC 14.26.405 Uses and Modifications Matrix, subject to the following:</p> <p>(a) Mining is only allowed when the Administrative Official determines it is dependent on a shoreline location based on an evaluation of geologic factors such as the distribution and availability of mineral resources in the County; the need for such mineral resources; and economic, transportation, and land use factors; <u>and where there are no known or suspected geologic hazards.</u></p> <p>(b) For marine and lake shorelines, mining waterward of the OHWM is</p>	<p><i>Consistent with the most current science, and public safety standards, as well as critical areas regulations that require avoidance if the risk cannot be reduced or mitigated (WAC 365-190-120), mining should not be allowed in areas of coastal geologic hazards.</i></p>	<p>Change not recommended. The Mineral Resource Overlay (MRO) designation is codified in SCC 14.16.440. There are no areas identified as MRO within the marine shoreline areas in Skagit County. There are no existing mining operations within the marine shoreline areas. Based on existing code language in SCC 14.16.440, mining would not be permitted in areas outside the MRO (in marine shoreline areas).</p>

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	<p>waterward of the OHWM is prohibited unless:</p> <ul style="list-style-type: none"> (i) Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the system as a whole; and (ii) The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline. (iii) Evaluation of impacts should be integrated with the relevant environmental review requirements of SEPA. 	<p>prohibited.</p> <p>(c) For rivers and streams, mining waterward of the OHWM is prohibited unless:</p> <ul style="list-style-type: none"> (i) Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the system as a whole; and (ii) The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.; <u>and</u> (iii) Evaluation of impacts should be integrated with the relevant environmental review requirements of SEPA.; <u>and</u> (iv) <u>There are no known or suspected geologic hazards.</u> 		

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126	(3) Application Requirements. In addition to the requirements in SCC 14.26.710 Applications, and the special use permit application requirements in SCC 14.16.440 Mineral Resource Overlay, an application requires the following:	(3) Application Requirements. In addition to therequirements in SCC 14.26.710 Applications, and the special use permit application requirements in SCC 14.16.440 Mineral Resource Overlay, an application requires thefollowing: (a) <u>Identification of any geologically hazardous areas within 200 feet of the parcel to be mined and evaluation of therisk that the proposed mining poses to those geologically hazardous areas.</u>	<i>This addition is necessary to ensure that mining applications are reviewed forconsistency with coastal geologic hazards.</i>	Change not recommended. See previous comment and code sections.

14.26.465 Recreational Development

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
132	(4) Development Standards. (e) Fertilizers, pesticides, and herbicides. (i) Recreational developments requiringthe use of fertilizers, pesticides, and herbicides must leave a chemical freeswath at least 25 feet in width from water bodies and wetlands, unless another BMP achieving equivalent results can be incorporated or near- shore or waterward application isdeemed necessary and applied consistent with manufacturer specifications	(4) Development Standards. (e) Fertilizers, pesticides, and herbicides. (i) Recreational developments requiring the use of fertilizers, pesticides, and herbicides must leave a chemical free swath at least 25 <u>100</u> feet in width from water bodies and wetlands, unless another BMP achieving equivalent results can be incorporated or near- shore or waterward application isdeemed necessary and applied consistent with manufacturer specifications	<i>We recommend revising the separation between pesticides and water bodies from 25 to 100 feet, consistent with Best Management Practices identified in the Washington Department ofEcology's 2014 and 2019 Stormwater Management Manuals for Western Washington, as adopted bySkagit County.</i>	Change not recommended. The suggested change may be larger than some regulatory buffers. See SMP section 14.26.390, Water Quality, Stormwater, and Nonpoint Pollution, where we acknowledge that shoreline uses and development may be subject to other authorities outside the SMA and SMP and one that we list is SCC 14.32.

14.26.470 Residential Development

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
133	<p>(4) Development Standards. In addition to the general provisions of SMP Part III, development must comply with the following standards:</p> <ul style="list-style-type: none"> (a) Plats and subdivisions must be designed, configured and developed in a manner that ensures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots. (b) Residential development must be located and designed to avoid the need for flood hazard reduction measures, including shoreline stabilization. (c) The use of fill for expansion or creation of upland areas to support residential development is prohibited, except for supporting infrastructure such as roads when there is no feasible alternative. (d) Wherever feasible, utilities for new residential development must be installed underground and consistent with SCC 14.26.490 Utilities. (e) Residential development must implement Low-Impact Development where feasible 	<p>(4) Development Standards. In addition to the general provisions of SMP Part III, development must comply with the following standards:</p> <ul style="list-style-type: none"> (a) Plats and subdivisions must be designed, configured and developed in a manner that ensures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots. (b) Residential development must be located and designed to avoid the need for flood hazard reduction measures, including shoreline stabilization. (c) The use of fill for expansion or creation of upland areas to support residential development is prohibited, except for supporting infrastructure such as roads when there is no feasible alternative. (d) Wherever feasible, utilities for new residential development must be installed underground and consistent with SCC 14.26.490 Utilities. Residential development must implement Low-Impact Development where feasible through compliance with MR5 in the Stormwater Management Manual. (f) Residential development must comply with SCC 14.26.380 Vegetation Conservation. 	<p><i>We recommend adding the proposed language for consistency with SCC 14.26.465 (Recreational Development) and Part V Critical Areas.</i></p>	<p><u>Change not recommended.</u> See previous comment.</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
		(e) <u>Residential development requiring the use of fertilizers, pesticides, and herbicides must leave a chemical free swath at least 100 feet in width from water bodies and wetlands, unless another BMP achieving equivalent results can be incorporated or near-shore or waterward application is deemed necessary and applied consistent with manufacturer specifications</u>		

14.26.475 Shoreline Habitat and Natural Systems Enhancement Projects

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
133	<p>(1) Applicability.</p> <p>(a) This section applies to activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines, including, but not limited to:</p> <ul style="list-style-type: none"> (i) floodplain restoration projects; (ii) fish passage barrier removal or improvement; (iii) projects to increase shoreline habitat complexity; or (iv) stabilization of eroding banks provided that the purpose of the project is restoration or enhancement of the natural character and ecological functions of the shoreline, and the project uses appropriate erosion control techniques 	<p>(1) Applicability.</p> <p>(a) This section applies to activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines, including, but not limited to:</p> <ul style="list-style-type: none"> (i) floodplain restoration projects; (ii) fish passage barrier removal or improvement; (iii) projects to increase shoreline habitat complexity; or (iv) stabilization of eroding banks provided that the purpose of the project is restoration or enhancement of the natural character and ecological functions of the shoreline, and the project uses appropriate erosion control techniques and approaches, 	<p><i>For consistency with the impacts that the BAS identifies for hard elements like boulders, we recommend that shoreline habitat and natural systems enhancement projects omit boulders from the materials to be used.</i></p>	<p>Change not recommended. Boulders are part of natural systems and when used appropriately, can help mimic natural conditions while increasing stability and improving habitat. In this section, they are only used for the purposes of “restoration or enhancement.”</p>

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	and approaches, including limited use of rock as stabilization only at the toe of the bank as necessary, with primary emphasis on using native vegetation to control erosive forces.	including limited use of rock as stabilization only at the toe of the bank as necessary, with primary emphasis on using native vegetation to control erosive forces.		
134	<p>(2) Application Requirements. In addition to the requirements SCC 14.26.710 Applications, an application must include the following:</p> <p>(a) Detailed construction plans that include the following:</p> <p>(i) Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.</p> <p>(ii) Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation. The sizing and placement of all materials must be selected to accomplish the following objectives:</p>	<p>(2) Application Requirements. In addition to the requirements SCC 14.26.710 Applications, an application must include the following:</p> <p>(a) Detailed construction plans that include the following:</p> <p>(i) Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.</p> <p>(ii) Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation. The sizing and placement of all materials must be selected to accomplish the following objectives:</p>	<p><i>For consistency with the impacts that the BAS identifies for hard elements like boulders, we recommend that shoreline habitat and natural systems enhancement projects omit boulders from the materials to be used.</i></p>	<p>Change not recommended. See previous comment response.</p>

14.26.480 Structural Shoreline Stabilization

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>(1) Applicability.</p> <p>(a) This section applies to</p>	<p>(1) Applicability.</p> <p>(a) This section applies to “structural</p>	<p><i>With the priority given soft armoring over hard</i></p>	<p>Change not recommended. There is not a definition for soft shoreline stabilization in RCW 90.58, WAC 173-26 or WAC</p>

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133	<p>“structural shoreline stabilization,” meaning physical improvements to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action.</p> <p>(i) “Hard shoreline stabilization” means shoreline stabilization involving solid, hard surfaces, such as concrete bulkheads.</p> <p>“Soft shoreline stabilization” may include the use of gravels, cobbles, boulders, and logs, as well as vegetation</p>	<p>shoreline stabilization,” meaning physical improvements to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action.</p> <p>(i) “Hard shoreline stabilization” means shoreline stabilization involving solid, hard surfaces, such as concrete bulkheads.</p> <p>“Soft shoreline stabilization” <u>means shore erosion limitation structures and measures that maintain or enhance ecological functions and are composed of primarily semi-rigid or flexible materials, bioengineering tailored to site-specific natural conditions, and vegetation, organized in a nonlinear, sloping arrangement, that dissipates wave energy and minimizes erosion in a way that mimics natural shoreline processes.</u> Soft stabilization may include the use of <u>sands, gravels, cobbles, boulders, and logs, and as well as vegetation</u></p>	<p><i>armoring, these proposed changes better reflect the type of construction necessary to prevent some of armoring’s impacts.</i></p>	<p>173-27. The proposed language may prove limiting for the use of soft shoreline stabilization measures if this definition is included in the SMP. The actual stabilization measures may not maintain or enhance all ecological functions, but are preferable to hard shoreline stabilization measures, and will require review under 14.26.305 Environmental Protection, An application for shoreline stabilization also requires additional information in 14.26.480(3) and must meet Development Standards found in 14.26.480(4). The language in 14.26.480 is derived from WAC 173-26-231(3)(a) Shoreline Stabilization. The SMP Handbook, Chapter 15 Shoreline Stabilization, recognizes that:</p> <p><i>“Soft shoreline stabilization techniques include a variety of different approaches that preserve or mimic shoreline functions.”</i></p> <p><i>“The Guidelines distinguish between “hard” and “soft” stabilization measures and provide a list of options generally arranged from soft to hard.”</i></p> <p><i>“Some of these techniques are more appropriate in some</i></p>

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				<p><i>settings than others. In addition, what is considered soft along a heavily developed shoreline may have significant adverse impacts in a more natural environment."</i></p> <p>The department believes that 14.26.480, read in its entirety and context, complies with the requirements of WAC 173-26-231(a) and meets the intent of the SMP Handbook Chapter 15 Shoreline Stabilization.</p>
134	<p>(2) When Allowed. These modifications are allowed in the shoreline environment designations listed in SCC 14.26.405 Uses and Modifications Matrix.</p> <p>(a) New hard shoreline stabilization structures are prohibited, except when an analysis confirms that there is a significant possibility that an existing primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard shoreline stabilization structures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions.</p> <p>(b) In all cases, the feasibility of soft shoreline stabilization must be evaluated prior to a request for hard structural stabilization.</p> <p>(c) New or enlarged stabilization structures are prohibited except in the</p>	<p>(2) When Allowed. These modifications are allowed in the shoreline environment designations listed in SCC 14.26.405 Uses and Modifications Matrix.</p> <p>(a) New hard shoreline stabilization structures are prohibited, except when an analysis confirms that there is a significant possibility that an existing primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard shoreline stabilization structures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions.</p> <p>(b) In all cases, the feasibility of soft shoreline stabilization must be evaluated prior to a request for hard structural stabilization.</p> <p>(c) New or enlarged stabilization structures are prohibited except in the</p>	<p><i>Consistent with the most current science description of the many ecological impacts associated with armoring, as well as the Puget Sound Partnership goal to reduce the amount of armoring and the US Endangered Species Act requirement to recover listed species harmed by armoring, like the endangered Puget Sound Chinook and Southern Resident Killer Whales, armoring should not be allowed for new development. New development must be designed, located, and constructed to avoid the need for new armoring. Two excellent references discuss the harm that armoring causes: (1)</i></p>	<p><u>Change not recommended.</u></p> <p>These allowances are consistent with the SMA.</p>

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	<p>following situations:</p> <p>(i) To protect an existing primary structure, including a residence, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate onsite drainage issues and address drainage problems away from the shoreline edge before considering hard or soft shoreline stabilization.</p> <p>(ii) In support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:</p> <p>(A) The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.</p> <p>(B) Nonstructural measures, such as placing the proposed development farther from the shoreline, planting vegetation, or installing onsite drainage improvements, are not feasible or not sufficient to adequately address erosion impacts.</p> <p>(C) The need to protect primary structures from damage due to</p>	<p>following situations:</p> <p>(i) To protect an existing primary structure, including a residence, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate onsite drainage issues and address drainage problems away from the shoreline edge before considering hard or soft shoreline stabilization.</p> <p>(ii) In support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:</p> <p>(A) The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.</p> <p>(B) Nonstructural measures, such as placing the proposed development farther from the shoreline, planting vegetation, or installing onsite drainage improvements, are not feasible or not sufficient to adequately address erosion impacts.</p> <p>(C) The need to protect primary structures from damage due to</p>	<p><i>northweststraitsfoundation.org; and (2) Shoreline Master Program Planning and Implementation Guidance by Kelsey Gianou, MS through Dept. Of Ecology.</i></p> <p><u>Soft Shoreline Stabilization: Shoreline Master Program Planning and Implementation Guidance</u> (Number of pages: 117) (Publication Size: 6752KB):</p> <p><i>Due to concerns about shoreline armoring impacts to the nearshore environment, the Puget Sound Partnership has developed the following Shoreline Armoring Target: More armoring removed than added during the time period of 2011-2020. In 2005-2010 there was a net gain of about 6 miles of armoring, despite armoring regulations and armoring removal restoration projects. There was also about 14.5 miles of replacement armoring. Single-family residences accounted for 76% of the new shoreline armoring length and 25% of armoring removal length</i></p>	

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	<p>erosion is demonstrated through a geotechnical analysis. The damage must be caused by natural processes, such as currents or waves.</p> <p>(iii) In support of water- dependent development when all of the conditions below apply:</p> <p>(A) The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.</p> <p>(B) Nonstructural measures, such as planting vegetation, or installing onsite drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.</p> <p>(C) The need to protect primary structures, including residences, from damage due to erosion is demonstrated through a geotechnical analysis.</p> <p>(iv) To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing onsite drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.</p>	<p>erosion is demonstrated through a geotechnical analysis. The damage must be caused by natural processes, such as currents or waves.</p> <p>(iii) In support of water- dependent development when all of the conditions below apply:</p> <p>(A) The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.</p> <p>(B) Nonstructural measures, such as planting vegetation, or installing onsite drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.</p> <p>(C) The need to protect primary structures, including residences, from damage due to erosion is demonstrated through a geotechnical analysis.</p> <p>(iv) To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing onsite drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.</p>	<p><i>(Puget Sound Partnership, 2012). Therefore, single family residences represent an opportunity to impact the PSP Shoreline Armoring Target and other environmental policy goals through new armoring prevention, armoring removal, and implementation of hard armoring alternatives such as soft shoreline stabilization.</i></p>	

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143	<p>(4) Development standards</p> <p>(i) The soft shoreline stabilization design must size and arrange any gravels, cobbles, logs, and boulders so that the project remains stable during a two- year flood event on rivers and under typical boat- and wind-driven wave conditions on lakes and marine waters, including storm and tidal events, and dissipates wave and current energy, without presenting extended linear faces to oncoming waves or currents.</p>	<p>(4) Development standards</p> <p>(ii) The soft shoreline stabilization design must size and arrange any gravels, cobbles, <u>and logs, and boulders</u> so that the project remains stable during a two- year flood event on rivers and under typical boat- and wind-driven wave conditions on lakes and marine waters, including storm and tidal events, and dissipates wave and current energy, without presenting extended linear faces to oncoming waves or currents.</p>	<p><i>As discussed above, boulders are an element of hard shoreline stabilization and should not be included in soft stabilization measures.</i></p>	<p><u>Change not recommended.</u></p> <p>See previous response above. Boulders are part of natural systems and when used appropriately, can help mimic natural conditions while increasing stability and improving habitat.</p>

Part V: Critical Areas

14.26.515 Standard Critical Areas Review and Site Assessment

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157	<p>(3) Determination that Critical Areas are not Present or Affected.</p> <p>(a) If the Administrative Official determines that critical areas or critical area buffers are not present within 300 feet of the proposed activity or within a distance otherwise specified in this Part; or</p> <p>(b) The project does not expand an existing single-family residence by more than 200 square feet of floor area and does not adversely impact or encroach into critical areas or their buffers; or</p>	<p>(3) Determination that Critical Areas are not Present or Affected.</p> <p>(a) If the Administrative Official determines that critical areas or critical area buffers are not present within 300 feet of the proposed activity or within a distance otherwise specified in this Part; or</p> <p>(b) The project does not expand an existing <u>structure</u> single-family residence by more than 200 square feet of floor area, <u>does not alter the use or increase septic affluent</u>, and does not adversely impact or</p>	<p><i>We recommend combining paragraphs (b) and (d) to apply the same critical area protections evenly to both residential and non-residential development that would impact critical areas.</i></p> <p><i>We also recommend inserting language into paragraph (3)(c) to ensure that applicants</i></p>	<p><u>Change not recommended.</u></p> <p>The County prefers to keep the language as proposed.</p> <p>This proposal creates inconsistencies with the CAO, instead of integrating the two within the shoreline area.</p> <p>Sections (b) and (d) were intentionally written as such to keep these sections separated for clarity to applicants and planners. The change to (c) is not necessary</p>

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	<p>(c) The vertical expansion of an existing single-family residence located within a critical area or its buffer may be allowed if the expansion does not adversely impact or encroach into critical areas of their buffers; or</p> <p>(d) The project does not expand an existing structure, other than a single-family residence, by more than 200 square feet of floor area, does not alter the use or increase septic effluent, and does not adversely impact or encroach into critical areas or their buffers; then</p> <p>(e) The review required pursuant to this Part is complete. Any proposed change in use or scope of activity from that contained in the application shall be subject to further review under this Part.</p>	<p>encroach into critical areas or their buffers; or</p> <p>(c) The vertical expansion of an existing single-family residence located within a critical area or its buffer may be allowed if the expansion <u>complies with height limitations established elsewhere in this code and</u> does not adversely impact or encroach into critical areas of their buffers; or</p> <p>(d) The project does not expand an existing structure, other than a single-family residence, by more than 200 square feet of floor area, does not alter the use or increase septic effluent, and does not adversely impact or encroach into critical areas or their buffers; then</p> <p>(e) The review required pursuant to this Part is complete. Any proposed change in use or scope of activity from that contained in the application shall be subject to further review under this Part.</p>	<p><i>understand that vertical limitations other than critical areas standards may apply.</i></p>	<p>as height restrictions are already included in the code and additional reference is not necessary.</p>
158-59	<p>(4) Determination that Critical Areas are Present or Affected. If the Administrative Official determines that critical area indicators are present within 200 feet of the proposed activity or within a distance otherwise specified in this Part, then the Administrative Official shall note this determination in the application file and the applicant shall be required to provide the critical areas site assessment specified in this Part. Development of a site assessment may precede a County site visit; provided, that no</p>	<p>(4) Determination that Critical Areas are Present or Affected. If the Administrative Official determines that critical area indicators are present within 200 <u>300</u> feet of the proposed activity or within a distance otherwise specified in this Part, then the Administrative Official shall note this determination in the application file and the applicant shall be required to provide the critical areas site assessment specified in this Part. Development of a site assessment may precede a County site visit; provided, that no</p>	<p><i>We recommend using a 300-foot distances for reviews for consistency with the CAO and proposed 14.26.515(2).</i></p> <p><i>We also recommend removing the discretion to adjust the area of review based on applicant's wishes rather than a standardized approach.</i></p>	<p>Change recommended. The critical areas section (SCC 14.26.515) already includes 300 feet as a review distance. This should be adjusted throughout Part V. County could consider using 300-foot critical area review consistently across the board.</p>

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	<p>disturbance of vegetation or land surface occurs prior to County authorization. If the applicant chooses, the siteassessment may be limited to 300 feet surrounding a proposed development only if there are no other activities occurring or proposed on the remainder of the parcel whichare in conflict with this Part. If the applicant, together with assistance from the Administrative Official, cannot obtain permission for access to properties within 300 feet of the project area, then the site assessment may also be limited accordingly.</p> <p>The site assessment shall be completed asfollows:</p> <ul style="list-style-type: none"> (a) The site assessment shall be prepared by a qualified professional for the type of critical area or areas involved and shall contain the information specified for eachtype of critical area. The qualified professional may consult with the Administrative Official prior to or during preparation of the site assessment to obtain County approval of modifications to the contents of the site assessment. (b) The site assessment shall use scientificallyvalid methods and studies in the analysis of critical areas data and field reconnaissance and reference the source of science used. (c) The site assessment shall include: <ul style="list-style-type: none"> (i) Project description that includes a detailed narrative describing the project, its relationship to the criticalarea and its potential 	<p>disturbance of vegetation or land surface occurs prior to County authorization. If the applicant chooses, tThe site assessment may be limited to 300 feet surrounding a proposed development only if there are no other activities occurring or proposed on the remainder of the parcel whichare in conflict with this Part. If the applicant, together with assistance from the Administrative Official, cannot obtain permission for access to properties within 300 feet of the project area, then the site assessment may also be limited accordingly.</p> <p>The site assessment shall be completed asfollows:</p> <ul style="list-style-type: none"> (a) The site assessment shall be prepared by a qualified professional for the type of critical area or areas involved and shall contain the information specified for eachtype of critical area.-The qualified professional may consult with the Administrative Official prior to or during preparation of the site assessment to obtain County approval of modifications to the contents of the site assessment. (b) The site assessment shall use scientificallyvalid methods and studies in the analysis of critical areas data and field reconnaissance and reference the source of science used. (c) The site assessment shall include: <ul style="list-style-type: none"> (i) Project description that includes a detailed narrative describing the project, its relationship to the criticalarea and its potential 	<p><i>We recommend removing the unlimited authorization to modify the contents of thesite assessment, and relianceon the standard provisions below for site assessments.</i></p> <p><i>The maintenance corridor provision should locate thatcorridor outside of critical areas and buffers to avoid unnecessary impacts to those areas.</i></p>	

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	<p>impact to the critical area; and</p> <p>(ii) A copy of the site plan for the projectproposal including a map to scale depicting critical areas, buffers, the development proposal, and any areasto be cleared; and</p> <p>(iii) Identification and characterization of all critical areas and buffers adjacent to the proposed project area; and</p> <p>(iv) An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;and</p> <p>(v) A description of the proposed stormwater management plan for thedevelopment and consideration of impacts to drainage alterations; and</p> <p>(vi) A description of efforts made to applymitigation sequencing pursuant to SCC 14.26.305; and</p> <p>(vii)A proposed mitigation plan includingland use restrictions and landowner management, maintenance and monitoring responsibilities; and</p> <p>(viii) Regulatory analysis including a discussion of any Federal, State, Tribal, and/or local requirements, or special management recommendations which have been developed for species and/or habitatslocated on the</p>	<p>impact to the critical area; and</p> <p>(ii) A copy of the site plan for the projectproposal including a map to scale depicting critical areas, buffers, the development proposal, and any areasto be cleared; and</p> <p>(iii) Identification and characterization of all critical areas and buffers adjacentto the proposed project area; and</p> <p>(iv) An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;and</p> <p>(v) A description of the proposed stormwater management plan for thedevelopment and consideration of impacts to drainage alterations; and</p> <p>(vi) A description of efforts made to applymitigation sequencing pursuant to SCC 14.26.305; and</p> <p>(vii) A proposed mitigation plan includingland use restrictions and landowner management, maintenance and monitoring responsibilities; and</p> <p>(viii) Regulatory analysis including a discussion of any Federal, State, Tribal, and/or local requirements, or special management recommendations which have been developed for</p>		

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	<p>site.</p> <p>(ix) If necessary, designate a maintenance corridor to provide an area for construction and maintenance of buildings and other structures. The standard width of the maintenance corridor shall be 15 feet. This distance may be modified with approval of the Administrative Official. The following may be allowed within the maintenance corridor area:</p> <p>(A) Landscaping with non-invasive species only;</p> <p>(B) Uncovered decks;</p> <p>(C) Building overhangs if such overhangs do not extend more than 18 inches into the setback area;</p> <p>(D) Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to special drainage provisions adopted for the various critical areas; and</p> <p>(E) Trails.</p> <p>(d) If necessary to ensure compliance with this Part, the Administrative Official may require additional information from the applicant, separate from the critical areas site assessment</p>	<p>species and/or habitats located on the site.</p> <p>(ix) If necessary, designate a maintenance corridor <u>outside of critical areas and their buffers</u> to provide an area for construction and maintenance of buildings and other structures. The standard width of the maintenance corridor shall be 15 feet. This distance may be modified with approval of the Administrative Official. The following may be allowed within the maintenance corridor area:</p> <p>(A) Landscaping with non-invasive species only;</p> <p>(B) Uncovered decks;</p> <p>(C) Building overhangs if such overhangs do not extend more than 18 inches into the setback area;</p> <p>(D) Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to special drainage provisions adopted for the various critical areas; and</p> <p>(E) Trails.</p> <p>(d) If necessary to ensure compliance with this Part, the Administrative Official may require additional information from the applicant,</p>		

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		<p>separate from the critical areas site assessment</p>		
159-160	<p>(5) General Mitigation Requirements. (a) Mitigation. All proposed alterations to critical areas or associated buffers shall require mitigation sufficient to ensure no net loss of ecological functions, prevent risk from a critical areas hazard, where applicable, and shall give adequate consideration to the reasonable and economically viable use of the property.</p> <p>(6) Financial Assurance. The Administrative Official shall require the mitigation proposed in the site assessment to be completed prior to final approval of the development permit. For all projects with an estimated mitigation cost of \$10,000 or more, the Administrative Official may require financial assurance which will guarantee compliance with the mitigation plan if the mitigation proposed in the site assessment cannot be completed prior to final approval of the development permit. Financial assurance shall be in the form of either a surety bond, performance bond, assignment of savings account or an</p>	<p>(5) General Mitigation Requirements. (a) Mitigation. <u>Where All proposed alterations to critical areas or associated buffers are permitted by this Shoreline Master Program to allow reasonable use of a property,</u> they shall require mitigation sufficient to ensure no net loss of ecological functions and, prevent risk from a critical areas hazard, where applicable, and shall give adequate consideration to the reasonable and economically viable use of the property.</p> <p>(6) Financial Assurance. The Administrative Official shall require the mitigation proposed in the site assessment to be completed prior to final approval of the development permit. For all projects with an estimated mitigation cost of \$10,000 or more, the Administrative Official may <u>shall</u> require financial assurance which will guarantee compliance with the mitigation plan if the mitigation proposed in the site assessment cannot be</p>	<p><i>Consistent with the most current science, alterations of shoreline critical areas and buffers should be limited to those instances where the Shoreline Master Program would otherwise prevent all reasonable, economically viable use of the property.</i></p> <p><i>The financial assurance must guarantee compliance with the mitigation plan. Per Ecology's SMP Handbook, counties must demonstrate that an alternate approach will address cumulative impacts and no net loss of shoreline ecological functions and will include:</i></p> <ul style="list-style-type: none"> · Mitigation for any associated adverse impacts. · Significant public 	<p>Change not recommended. Existing proposed language is consistent with State guidance. Financial assurance may not be appropriate for all projects (specifically small ones).</p>

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	irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the County Prosecuting Attorney, shall be in the amount of 125% of the estimated cost of the uncompleted actions or construction, and shall be assigned in favor of Skagit County Planning and Development Services. The term of the financial assurance shall remain in place until the required mitigation is complete.	completed prior to final approval of the development permit. Financial assurance shall be in the form of either a surety bond, performance bond, assignment of savings account or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the County Prosecuting Attorney, shall be in the amount of 125% of the estimated cost of the uncompleted actions or construction, and shall be assigned in favor of Skagit County Planning and Development Services. The term of the financial assurance shall remain in place until the required mitigation is complete.	<i>benefits, such as shoreline ecological restoration.</i> · <i>Significant public access to enhance opportunities for the public to enjoy the shoreline.</i>	

14.26.520 Protected Critical Areas (PCA) Requirements

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
160-61	(2) PCA Field Identification and Buffer EdgeMarkers. (a) Temporary Markers. During construction phases of development, distinct temporary marking consisting of flagging and/or staking shall be maintained along the outer limits of the delineated PCA or the limits of the proposed site disturbance outside of the PCA. Prior to the start of construction activity, and as necessary during construction, temporary markings shall be inspected by the Administrative Official or qualified professional. Written confirmation is	(2) PCA Field Identification and Buffer EdgeMarkers. (a) Temporary Markers. During construction phases of development, distinct temporary marking consisting of flagging and/or staking shall be maintained along the outer limits of the delineated PCA or the limits of the proposed site disturbance outside of the PCA. Prior to the start of construction activity, and as necessary during construction, temporary markings shall be inspected by the Administrative Official or qualified professional.	<i>To ensure that future activities will not harm critical area buffers and to avoid the significant expense for future property owners of re-marking critical area buffer boundaries, the County should not establish an exception to the permanent marker provisions.</i>	Change not recommended. Providing PCA field markers may not be applicable 100% of the time. This allows the Admin Official needed flexibility.

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>to be included in the record as to requirements prior to commencement of the permitted activity.</p> <p>(b) Permanent Buffer Edge Markers. Except as provided under Subsection (2)(b)(i) of this Section, the outer edges of all PCAs, with the exception of aquifer recharge areas, shall be clearly marked on-site by the applicant or landowner with permanent stakes and critical areas markers. Critical areas markers may be either approved critical areas signs or inexpensive steel posts painted a standard color approved by the Administrative Official that is clearly identifiable as a critical areas marker. Installation of permanent markers shall be the responsibility of the landowner.</p> <p>(i) The Administrative Official may waive or modify the requirement for permanent buffer edge markers; provided, that any such decision shall be based on a site-specific determination that future verification of PCA locations will not be substantially more difficult without the placement of permanent markers and that such waiver or modification will not result in reduced long-term protection of critical areas. whether or not the flagging has been installed consistent with the permit</p>	<p>Written confirmation is to be included in the record as to whether or not the flagging has been installed consistent with the permit requirements prior to commencement of the permitted activity.</p> <p>(b) Permanent Buffer Edge Markers. Except as provided under Subsection (2)(b)(i) of this Section, the outer edges of all PCAs, with the exception of aquifer recharge areas, shall be clearly marked on-site by the applicant or landowner with permanent stakes and critical areas markers. Critical areas markers may be either approved critical areas signs or inexpensive steel posts painted a standard color approved by the Administrative Official that is clearly identifiable as a critical areas marker. Installation of permanent markers shall be the responsibility of the landowner.</p> <p>(i) The Administrative Official may waive or modify the requirement for permanent buffer edge markers; provided, that any such decision shall be based on a site-specific determination that future verification of PCA locations will not be substantially more difficult without the placement of permanent markers and that such waiver or modification will not result in</p>		

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
		reduced long term protection of critical areas.		

14.26.522 Hazard Tree Removal

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
164	<p>(1) In a critical area or critical area buffer, removal of hazardous, diseased or dead trees and vegetation by the landowner may be permitted when necessary to:</p> <p>(a) Control fire; or</p> <p>(b) Halt the spread of disease or damaging insects consistent with the State Forest Practice Act, Chapter 76.09 RCW; or</p> <p>(c) Avoid a hazard such as landslides; or</p> <p>(d) Avoid a threat to existing structures or aboveground utility lines.</p>	<p>(1) In a critical area or critical area buffer, removal of hazardous, diseased or dead trees and vegetation by the landowner may be permitted when necessary to:</p> <p>a. Control fire; or</p> <p>b. Halt the spread of disease or damaging insects consistent with the State Forest Practice Act, Chapter 76.09 RCW; or</p> <p>c. Avoid a hazard such as landslides; or</p> <p>d. Avoid an <u>imminent threat of physical damage to an existing primary</u> structures or aboveground utility lines.</p>	<p><i>We recommend that hazard trees not be defined to include all trees that could contribute to fire because combustibility is an inherent characteristic of all trees, and thus any tree could be characterized as a hazard tree and be subject to removal.</i></p> <p><i>Tree removal should be limited to those that actually pose a threat to a structure, and dead trees generally should be retained due to their high value habitat.</i></p>	<p><u>Change not recommended.</u></p> <p>County would prefer to keep the language as proposed. Fire safety and prevention is an important factor.</p>
164	<p>(2) Before hazardous, diseased or dead trees and vegetation may be removed by the landowner pursuant to Subsection (1) of this Section:</p> <p>a. Unless there is an emergency pursuant to SCC14.26.720, the landowner shall obtain prior written approval from</p>	<p>(2) Before hazardous, diseased or dead trees and vegetation may be removed by the landowner pursuant to Subsection (1) of this Section:</p> <p>a. <u>The landowner shall obtain and submit to Planning and Development Services a report from a qualified professional that:</u>(1) the tree or trees</p>	<p><i>This commonsense and broadly used measure will help ensure that only truly hazardous trees will be removed.</i></p>	<p><u>Change not recommended.</u></p> <p>This proposal creates inconsistencies with the CAO, instead of integrating the two within the shoreline area.</p> <p>The County is obligated to</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>Planning and Development Services. This consent shall be processed promptly and may not be unreasonably withheld. If the Administrative Official fails to respond to a hazard tree removal request within 10 business days, the landowner's request shall be conclusively allowed; and</p> <p>b. The removed tree or vegetation should be left within the critical areas or buffer unless the Administrative Official, or a qualified professional, warrants its removal to avoid spreading the disease or pests; and</p> <p>c. Any removed tree or vegetation shall be replaced by the landowner with an appropriate native species in appropriate size. Replacement shall be performed consistent with accepted restoration standards for critical areas within 1 calendar year;</p> <p>d. For this Section only, a "qualified professional" shall mean a certified arborist, certified forester or landscape architect.</p>	<p><u>sought to be removed have a high probability of falling due to disease; and (2) removal of the tree will halt the spread of disease or damaging insects, avoid a hazard such as landslides, or avoid an imminent threat of physical damage to an existing primary structure or aboveground utility lines.</u></p> <p>b. Unless there is an emergency pursuant to SCC14.26.720, the landowner shall obtain prior written approval from Planning and Development Services. This consent shall be processed promptly and may not be unreasonably withheld. If the Administrative Official fails to respond to a hazard tree removal request within 10 business days, the landowner's request shall be conclusively allowed; and</p>		<p>respond expeditiously in an emergency where there is danger of a blowdown damaging residences and endangering inhabitants.</p>

14.26.533 Wetland Protection Standards

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
166	<p>(1) Wetland Buffer Widths.</p> <p>(a) Standard Wetland Buffers. Standard buffers are based on land use impact. The following standard buffers shall be required for regulated wetlands unless otherwise provided for in this Section:</p>	<p><u>(1) Wetland Buffer Setbacks.</u></p> <p><u>(a) New and expanded development shall be setback a minimum of 30 feet from the outer edge of wetland buffers to avoid the need to impact the buffer to conduct maintenance activities on that development or to clear trees in the buffer to achieve defensible space around that development as a fire consideration.</u></p>	<p><i>We recommend a 30-foot setback consistent with recommendations by state agencies, such as that found at: DNR.wa.gov/fightingfire. This is also consistent with the National Fire Protection Association recommendations for preparing homes for wildlife.⁵</i></p>	<p>Change not recommended. The County prefers to keep the language as proposed. A maintenance corridor of 15 feet is already included in SCC 14.26.515(4)(c)(ix) under general standards for all critical areas.</p>
168	<p>(2) Buffer Width Averaging. Buffer averaging allows limited reductions of buffer width in specified locations, while requiring increases in others. Averaging of required buffer widths will be allowed only if the applicant demonstrates that all of the following criteria are met:</p> <p>(a) Averaging is necessary to accomplish the purpose of the proposal and no reasonable alternative is available; and</p> <p>(b) Averaging width will not adversely impact the wetland functions and values; and</p> <p>(1)</p> <p>(c) The total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging; and</p> <p>(d) The buffer width shall not be reduced below 75% of the</p>	<p>(2) Buffer Width Averaging. Buffer averaging allows limited reductions of buffer width in specified locations, while requiring increases in others. Averaging of required buffer widths will be allowed only if the applicant demonstrates that all of the following criteria are met:</p> <p>(a) Averaging is necessary to <u>achieve reasonable use of the parcel</u> accomplish the purpose of the proposal and no reasonable alternative is available; and</p> <p>(b) Averaging width will <u>improve</u> the wetland functions and values; and</p> <p>(c) The total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging; and</p> <p>The buffer width shall not be reduced below 75% of the standard buffer width.</p>	<p><i>These revisions are necessary for compliance with the most current scientific information.⁶ According to that Ecology wetland guidance, buffer averaging would be limited to those instances where it “will improve the protection of wetland functions, or if it is the only way to allow for reasonable use of a parcel.”⁷ In addition “[t]he width of the buffer at any given point after averaging should be no smaller than 75% of the standard buffer.”⁸ Ecology’s buffer approach is based on a moderate-risk approach with a medium likelihood of causing impacts.</i></p> <p><i>In describing the importance of buffers, the wetlands guidance states that, “[t]he</i></p>	<p>Change not recommended. The County prefers to keep the language as proposed. Use of the language “reasonable use” is typically used as an Exception under most critical areas regulations. In shoreline jurisdiction, use of such a reasonable use exception is viewed as a shoreline variance. Typically, buffer averaging will protect areas of better function while developing areas of lesser existing function. The result is to ensure the protection of the functions and values of the wetland.</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	standard buffer width.		<p><i>scientific literature is unequivocal that buffers are necessary to protect wetland functions and values."⁹ In addition, "Ecology's buffer recommendations are also based on the assumption that the buffer is well vegetated with native species appropriate to the ecoregion."¹⁰ Where the buffer does not contain vegetation adequate to protect the wetland functions, it should either be planted or increased in size.¹¹</i></p>	
169	<p>(3) Buffer Width Decreasing. Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing as required in SCC 14.26.305. In all circumstances where a substantial portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native vegetation in the degraded portions of the remaining buffer area and shall include a five-year monitoring and maintenance plan.</p> <p>(a) High impact land use projects may apply moderate intensity buffers if measures to minimize impacts to wetlands from high impact land uses are implemented. Some of the measures that may be used can be found in Department of Ecology</p>	<p>(4) Buffer Width Decreasing. Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing as required in SCC 14.26.305. In all circumstances where a substantial portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native vegetation in the degraded portions of the remaining buffer area and shall include a five-year monitoring and maintenance plan.</p> <p>(b) High impact land use projects may apply moderate intensity buffers if measures to minimize impacts to wetlands from high impact land uses are implemented. Some of the measures that may be used can be found in Department of Ecology Publication No. 05-06-008, Wetlands in Washington State, Volume 2, Appendix 8C (as updated in 2014),</p>	<p><i>There is no science to support buffer width decreases generally.</i></p> <p><i>In addition, such decreases are inconsistent with the Washington Growth Management Hearings Board's decision in <u>ReSources, Inc. v. City of Blaine</u>, where it rejected buffer averaging that allowed reductions of 40% and 60%, even where "all anticipated impacts to the critical area and its required buffer have been mitigated and, for averaging, the total buffer area is not reduced below</i></p>	<p>Change not recommended.</p> <p>County prefers to keep the existing language. Such buffer reductions have been accepted by Ecology in other jurisdictions.</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	Publication No. 05-06-008, Wetlands in Washington State, Volume 2, Appendix 8C (as updated in 2014), listed in the ImpactMinimization Measures table	listed in the Impact Minimization Measures table	<i>the area that would result from use of the standard buffer.”¹² The Board noted the lack of BAS to justify the buffer reductions, and quoted with approval Ecology recommendations that, [t]he widths of buffers may be averaged if this <u>will improve the protection of wetland functions, or if it is the only way to allow for reasonable use of a parcel. There is no scientific information available to determine if averaging the widths of buffers actually protects functions of wetlands.</u>”¹³</i>	

14.26.535 Wetland Alternative Compensation Projects

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
171-72	(1) Off-Site Compensation. On-site compensation is generally preferred over off-site compensation. Off-site compensation allows replacement of wetlands away from the site on which the wetland has been impacted by a regulated activity. The following conditions apply to off-site compensation: (a) Off-site compensation shall occur within shoreline jurisdiction of the same drainage basin of the same watershed where the wetland loss occurs; provided, that Category IV wetlands	(1) Off-Site Compensation. On-site compensation is generally preferred over off-site compensation. Off-site compensation allows replacement of wetlands away from the site on which the wetland has been impacted by a regulated activity. The following conditions apply to off-site compensation: (a) Off-site compensation shall occur within shoreline jurisdiction of the same drainage basin of the same watershed where the wetland loss occurs; provided, that Category IV wetlands	<i>We recommend deleting section 14.26.535 as inapplicable in a Critical Area.</i>	Change not recommended. The County prefers to keep the language as proposed. Off-site mitigation has been found to be a reasonable alternative when on-site mitigation is not feasible or the success of on-site mitigation is severely disadvantaged.

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>may be replaced outside of the watershed if there is no reasonable alternative. In such instances, the stormwater storage function provided by Category IV wetlands must be provided for within the design of the development project.</p> <p>(b) Off-site compensation can be allowed only under 1 or more of the following circumstances:</p> <p>(i) On-site compensation is not feasible due to hydrology, soils, or other physical factors;</p> <p>(ii) On-site compensation is not practical due to probable adverse impacts from surrounding land uses or would conflict with a Federal, State or local public safety directive;</p> <p>(iii) Potential functions and values at the site of the proposed restoration are greater than the lost wetland functions and values;</p> <p>(iv) When the wetland to be altered is of a limited function and value and is degraded, compensation shall be of the wetland community types needed most in the location of compensation and those most likely to succeed with the highest functions and values possible.</p>	<p>may be replaced outside of the watershed if there is no reasonable alternative. In such instances, the stormwater storage function provided by Category IV wetlands must be provided for within the design of the development project.</p> <p>(b) Off-site compensation can be allowed only under 1 or more of the following circumstances:</p> <p>(i) On-site compensation is not feasible due to hydrology, soils, or other physical factors;</p> <p>(ii) On-site compensation is not practical due to probable adverse impacts from surrounding land uses or would conflict with a Federal, State or local public safety directive;</p> <p>(iii) Potential functions and values at the site of the proposed restoration are greater than the lost wetland functions and values;</p> <p>(iv) When the wetland to be altered is of a limited function and value and is degraded, compensation shall be of the wetland community types needed most in the location of compensation and those most likely to succeed with the highest functions and values possible.</p>		

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
173	<p>(4) Innovative Wetland Mitigation Projects. The Administrative Official may encourage, facilitate and approve innovative wetland mitigation projects. Advance compensation or mitigation banking are examples of innovative compensation projects allowed under the provisions of this Section wherein 1 or more applicants, or an organization with demonstrated capability, may undertake a compensation project together if it is demonstrated that all of the following circumstances exist:</p> <p>(a) Creation of 1 or several larger wetlands may be preferable to many small wetlands; and</p> <p>(b) The group demonstrates the organizational and fiscal capability to act cooperatively; and</p> <p>(c) The group demonstrates that long-term management of the compensation area will be provided; and</p> <p>(d) There is a clear potential for success of the proposed compensation at the identified compensation site; and</p> <p>(e) Wetland mitigation banking programs consistent with the provisions outlined in the Department of Ecology's publications No. 06-06-011A and No. 06-06-011B (Wetland Mitigation in Washington State, Part 1 and Part 2), Chapter 90.84 RCW and Chapter 173-700 WAC will be considered as a method of compensation for unavoidable, adverse wetland impacts associated with future development.</p>	<p>(4) Innovative Wetland Mitigation Projects. The Administrative Official may encourage, facilitate and approve innovative wetland mitigation projects. Advance compensation or mitigation banking are examples of innovative compensation projects allowed under the provisions of this Section wherein 1 or more applicants, or an organization with demonstrated capability, may undertake a compensation project together if it is demonstrated that all of the following circumstances exist:</p> <p>(a) <u>The innovative project is anticipated to replace the same kind and type of functions and values and at a replacement ratio of 3:1.</u></p> <p>(b) Creation of 1 or several larger wetlands may be preferable to many small wetlands; and</p> <p>(c) The group demonstrates the organizational and fiscal capability to act cooperatively; and</p> <p>(d) The group demonstrates that long-term management of the compensation area will be provided; and</p> <p>(e) There is a clear potential for success of the proposed compensation at the identified compensation site; and</p> <p>(f) Wetland mitigation banking programs consistent with the provisions outlined in the Department of Ecology's publications No. 06-06-011A and No. 06-06-011B (Wetland Mitigation in</p>	<p><i>Given the experimental nature of innovative wetland mitigation projects, we recommend that the replacement ratio include a margin for error.</i></p>	<p><u>Change not recommended.</u> This proposal creates inconsistencies with the CAO, instead of integrating the two within the shoreline area.</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
		Washington State, Part 1 and Part 2), Chapter 90.84 RCW and Chapter 173-700 WAC will be considered as a method of compensation for unavoidable, adverse wetland impacts associated with future development.		

14.26.540 Aquifer recharge areas intent

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
173	(2) Existing and future beneficial uses of groundwater shall be maintained and protected. Degradation of groundwater quality that would interfere with or become injurious to beneficial uses shall be avoided or minimized.	(2) Existing and future beneficial uses of groundwater shall be maintained and protected. Degradation of groundwater quality that would interfere with or become injurious to beneficial uses shall be avoided or or minimized.	<i>Consistent with Washington's drinking water laws, we recommend avoiding the degradation of groundwater quality that would interfere with beneficial use.</i>	Change not recommended. The County prefers to keep the language as proposed. The State DOH rules must also be adhered to when addressing impacts to groundwater utilized as drinking water sources.
174	(3) Wherever groundwater is determined to be of a higher quality than the criteria established for said waters under this Section, the existing water quality shall be protected, and contaminants that will reduce the existing quality thereof shall not be allowed to enter such waters, except in those instances where it can be demonstrated that: (a) An overriding consideration of the public interest will be served; and (b) All contaminants proposed for entry into said groundwater(s) shall be provided with all known, available, and	(3) Wherever groundwater is determined to be of a higher quality than the criteria established for said waters under this Section, the existing water quality shall be protected, and contaminants that will reduce the existing quality thereof shall not be allowed to enter such waters, except in those instances where it can be demonstrated that: (a) An overriding consideration of the public interest will be served; and (b) All contaminants proposed for entry into said groundwater(s) shall be provided with all known, available, and reasonable	<i>Consistent with state water quality laws and principles of anti-degradation, the SMP should not allow contamination of groundwater.</i>	Change not recommended. The County prefers to keep the language as proposed. See the above response.

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	reasonable methods of prevention, control, and treatment prior to entry.	methods of prevention, control, and treatment prior to entry.		

14.26.543 Aquifer recharge areas site assessment requirements

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
177	(3) Additional Site Assessment Elements. After the initial project review, 1 or more of the site assessment elements listed below may be required based upon the proposed project activity, aquifer recharge area classification, complexity of underlying hydrogeological conditions, and/or the perceived potential to adversely impact hydraulically downgradient receptors. One or more of these additional site assessment elements may also be required if the applicant chooses to demonstrate that certain mitigation measures are not necessary to protect the quantity or quality of the underlying aquifer(s), or that the project does not pose a detrimental risk to hydraulically downgradient receptors. Additional site assessment elements include:	(3) Additional Site Assessment Elements. After the initial project review, 1 or more of the site assessment elements listed below may <u>shall</u> be required <u>if warranted</u> based upon the proposed project activity, aquifer recharge area classification, complexity of underlying hydrogeological conditions, and/or the perceived potential to adversely impact hydraulically downgradient receptors. One or more of these additional site assessment elements may also be required if the applicant chooses to demonstrate that certain mitigation measures are not necessary to protect the quantity or quality of the underlying aquifer(s), or that the project does not pose a detrimental risk to hydraulically downgradient receptors. Additional site assessment elements include:	<i>This language clarifies the intent to let site conditions dictate when additional review should be required.</i>	Change not recommended. The County prefers to keep the language as proposed. The commenters suggested edit is saying the same thing as the County's proposed text. Some site assessment elements may be necessary depending upon the proposed activity and CARA features.

14.26.563 Geologically hazardous area mitigation standards.

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
195	<p>The mitigation plan shall be prepared by a qualified professional and include a discussion on how the project has been designed to avoid and minimize the impacts discussed under SCC 14.26.562 and meet the provision for no net loss of ecological functions. The plan shall also make a recommendation for the minimum setback from the geologic hazard. Mitigation plans shall include the location and methods of drainage, locations and methods of erosion control, a vegetation management and/or restoration plan and/or other means for maintaining long-term stability of ecologic hazards. The plan shall also address the potential impact of mitigation on the hazard area, the subject property and affected adjacent properties. The mitigation plan must be approved by the Administrative Official and be implemented as a condition of project approval.</p>	<p>The mitigation plan shall be prepared by a qualified professional <u>using Best Available Science and Best Management Practices</u> and include a discussion on how the project has been designed to avoid and minimize the impacts discussed under SCC 14.26.562 and meet the provision for no net loss of ecological functions. The plan shall also make a recommendation for the minimum setback from the geologic hazard. Mitigation plans shall include the location and methods of drainage, locations and methods of erosion control, a vegetation management and/or restoration plan and/or other means for maintaining long-term stability of geologic hazards. The plan shall also address the potential impact of mitigation on the hazard area, the subject property and affected adjacent properties. The mitigation plan must be approved by the Administrative Official and be implemented as a condition of project approval.</p>	<p><i>We recommend this change as a reminder of the standards that apply to mitigation plans.</i></p>	<p>Partial change recommended To 14.26.515 Standard Critical Areas Review and Site Assessment Procedures.</p> <p>(4)(b) The site assessment shall use scientifically valid methods and studies, <u>using best available science and best management practices</u>, in the analysis of critical areas data and field reconnaissance and reference the source of science used.</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
196-97	<p>(1) Mitigation Standards.</p> <p>(a) A construction stormwater pollution prevention plan per SCC Chapter 14.32(Stormwater Management).</p> <p>(b) A plan for the collection, transport, treatment, discharge and/or recycling of stormwater in accordance with the requirements of SCC Chapter 14.32, as amended. Surface drainage shall not be directed across the face of a landslide hazard (including marine bluffs or ravines).If drainage must be discharged from the hazard area into adjacent waters, it shall be collected above the hazard and directedto the water by tight line drain and provided with an energy dissipating device at the point of discharge.</p> <p>(c) All proposals involving excavation and/orplacement of fill shall be subject to structural review under the appropriate provisions of the International Building Code (IBC) as amended by Skagit County.</p> <p>(d) Critical facilities as defined under Chapter 14.04 SCC shall not be sited within designated geologically hazardous areas with the exception of volcanic hazard areas. No critical facilities shall be locatedwithin 1/4 mile of an active fault.</p> <p>(e) All infiltration systems, such as stormwaterdetention and retention facilities and curtain drains utilizing buried pipe or French drains, are prohibited in geologically hazardous</p>	<p>(1) Mitigation Standards.</p> <p>(a) A construction stormwater pollution prevention plan per SCC Chapter 14.32(Stormwater Management).</p> <p>(b) A plan for the collection, transport, treatment, discharge and/or recycling of stormwater in accordance with the requirements of SCC Chapter 14.32, as amended. Surface drainage shall not be directed across the face of a landslide hazard (including marine bluffs or ravines). If drainage must be discharged from the hazard area into adjacent waters, it shall be collected above the hazard and directed to the water by tightline drain and provided with an energy dissipating device at the point of discharge.</p> <p>(c) All proposals involving excavation and/orplacement of fill shall be subject to structural review under the appropriate provisions of the International Building Code (IBC) as amended by Skagit County.</p> <p>(d) Critical facilities as defined under Chapter 14.04 SCC shall not be sited within designated geologically hazardousareas with the exception of volcanic hazard areas. No critical facilities shall belocated within 1/4 mile of an active fault.</p> <p>(e) All infiltration systems, such as stormwater detention and retention facilities and curtain drains utilizing buried pipe or French drains, are</p>	<p><i>We recommend these underlined revisions to protect existing and future owners of the properties to be altered and the properties that would be affected by those alterations.</i></p>	<p><u>Change not recommended.</u></p> <p>The County prefers to keep the language as currently proposed.</p> <p>The suggested proposed language in (g) is already included in SCC 14.26.305 as part of mitigation sequencing requirements. The other additions in (h) through (o) may be better considered during an upcoming update of the County’s critical areas ordinance that will apply County-wide.</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>areas and their buffers unless the mitigation plan indicates such facilities or systems will not affect slope stability.</p> <p>(f) Existing vegetation shall be maintained in landslide and erosion hazard areas and associated buffers. Any replanting that occurs shall consist of native trees, shrubs, and ground cover that is compatible with the existing surrounding native vegetation, meets the objectives of erosion prevention and site stabilization, and does not require permanent irrigation for long-term survival. Normal nondestructive pruning and trimming of vegetation for maintenance purposes; or thinning of limbs of individual trees to provide a view corridor, shall not be subject to these requirements.</p> <p>(g) A minimum buffer width of 30 feet shall be established from the top, toe and all edges of all landslide and erosion hazard areas. For landslide and erosion hazard areas with a vertical relief greater than 50 feet, the minimum buffer shall be 50 feet. The buffer may be increased by the Administrative Official for development adjacent to a marine bluff or ravine which is designated as Unstable in the Coastal Zone Atlas, Washington, Volume Two, Skagit County (1978) or where the Administrative Official determines a</p>	<p>prohibited in geologically hazardous areas and their buffers unless the mitigation plan indicates such facilities or systems will not affect slope stability.</p> <p>(f) Existing vegetation shall be maintained in landslide and erosion hazard areas and associated buffers. Any replanting that occurs shall consist of native trees, shrubs, and ground cover that is compatible with the existing surrounding native vegetation, meets the objectives of erosion prevention and site stabilization, and does not require permanent irrigation for long-term survival. Normal nondestructive pruning and trimming of vegetation for maintenance purposes; or thinning of limbs of individual trees to provide a view corridor, shall not be subject to these requirements.</p> <p>(g) <u>The proposed alteration includes all appropriate measures to avoid, eliminate, reduce, or otherwise mitigate risks to health and safety.</u></p> <p>(h) A minimum buffer width measuring the <u>same width as the height of the slope of 30 feet</u> shall be established from the top, toe and all edges of all landslide and erosion hazard areas. For landslide and erosion hazard areas with a vertical relief greater than 50 feet, the minimum <u>width of the buffer shall be 1.5 times the height of the slope</u> 50 feet. The buffer may be</p>		

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>largerbuffer is necessary to prevent risk of damage to existing and proposed development</p> <p>(h) Structural development proposals within seismic hazard areas shall meet all applicable provisions of the IBC as amended by Skagit County. The Administrative Official shall evaluate documentation submitted pursuant to SCC14.26.562(2) and condition permit approvals to minimize the risk on both the subject property and affected adjacent properties. All conditions shall be based on known, available, and reasonable methods of prevention, control and treatment. Evaluation of geotechnical reports may also constitute grounds for denial of the proposal.</p> <p>(i) No residential structures shall be located in geologic hazard areas or their buffers if that hazard cannot be fully mitigated.</p>	<p>increased by the Administrative Official for development adjacent to a marine bluff or ravine which is designated as Unstable in the Coastal Zone Atlas, Washington, Volume Two, Skagit County (1978) or where the Administrative Official determines a larger buffer is necessary to prevent risk of damage to existing and proposed development</p> <p>(i) Structural development proposals within seismic hazard areas shall meet all applicable provisions of the IBC as amended by Skagit County. The Administrative Official shall evaluate documentation submitted pursuant to SCC 14.26.562(2) and condition permit approvals to minimize the risk on both the subject property and affected adjacent properties. All conditions shall be based on known, available, and reasonable methods of prevention, control and treatment. Evaluation of geotechnical reports may also constitute grounds for denial of the proposal.</p> <p>(j) No residential habitable structures shall be located in geologic hazard areas or their buffers if that hazard cannot be fully mitigated.</p> <p>(k) <u>Structures and improvements shall minimize alterations to the slope contour, and shall be designed to minimize impervious lot coverage unless such alterations or impervious surfaces are needed to maintain</u></p>		

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
		<p><u>slope stability.</u></p> <p>(l) <u>The development will not decrease slope stability on adjacent properties. The development shall not increase the risk or frequency of landslide occurrences.</u></p> <p>(m) <u>The development will not increase or concentrate surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions.</u></p> <p>(n) <u>The development is outside of the area of potential upslope or downslope surface movement or potential deposition in the event of a slope failure.</u></p> <p>(o) <u>The proposed alterations will not adversely impact other critical areas.</u></p>		
197	(2) Landslide or Erosion Hazard Buffer Reduction. Buffers of landslide or erosion hazard areas may be reduced to a minimum of 10 feet for development meeting all of the following criteria:	(2) Landslide or Erosion Hazard Buffer Reduction. Buffers of landslide or erosion hazard areas may be reduced to a minimum of 10 feet for development meeting all of the following criteria:	<i>This section should be stricken to avoid increasing the risk of harm to people and development.</i>	Change not recommended. County prefers to keep the existing language. The County may consider such a change during its next formal review of the critical areas ordinance in upcoming years.

14.26.573 Fish and wildlife habitat conservation area protection standards.

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	(1) Riparian Buffers. Riparian buffers apply only to streams and rivers. (a) Intent of Riparian Buffers. The intent of riparian buffers is to protect the	(1) Riparian Buffers. Riparian buffers apply only to streams and rivers. (a) Intent of Riparian Buffers. The intent	<i>These additions to the functions are from all BAS, but taken directly from</i>	Change recommended. A detailed review of BAS, including riparian areas, was completed as part of the

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
201	<p>following 5 basic riparian forest functions that influence in-stream and near-stream habitat quality:</p> <ul style="list-style-type: none"> (i) Recruitment of Large Woody Debris (LWD) to the Stream. LWD creates habitat structures necessary to maintain salmon/trout and other aquatic organisms' productive capacity and species diversity. (ii) Shade. Shading by the forest canopy maintains cooler water temperatures and influences the availability of oxygen for salmon/trout and other aquatic organisms. (iii) Bank Integrity (Root Reinforcement). Bank integrity helps maintain habitat quality and water quality by reducing bank erosion and creating habitat structure and in-stream hiding cover for salmon/trout and other aquatic organisms. (iv) Runoff Filtration. Filtration of nutrients and sediments in runoff (surface and shallow subsurface flows) helps maintain water quality. (v) Wildlife Habitat. Functional wildlife habitat for riparian-dependent species is based on sufficient amounts of riparian vegetation to provide protection for nesting and feeding. 	<p>of riparian buffers is to protect the following 5 basic riparian forest functions that influence in-stream and near-stream habitat quality:</p> <ul style="list-style-type: none"> i. Recruitment of Large Woody Debris (LWD) to the Stream. LWD creates habitat structures necessary to maintain salmon/trout and other aquatic organisms' productive capacity and species diversity. ii. Shade. Shading by the forest canopy maintains cooler water temperatures and influences the availability of oxygen for salmon/trout and other aquatic organisms. iii. Bank Integrity (Root Reinforcement). Bank integrity helps maintain habitat quality and water quality by reducing bank erosion and creating habitat structure and in-stream hiding cover for salmon/trout and other aquatic organisms. iv. Runoff Filtration. Filtration of nutrients and sediments in runoff (surface and shallow subsurface flows) helps maintain water quality. v. Wildlife Habitat. Functional wildlife habitat for riparian-dependent species is based on sufficient amounts of riparian 	<p><i>James S. Brennan, Marine Riparian Vegetation Communities of Puget Sound, Puget Sound Nearshore Partnership Technical Report 2007-02, 1-2 (2007).¹⁴</i></p> <p><i>In addition, this language does not indicate how lakeside ecological transition zones between aquatic and terrestrial habitats are protected or How lakeside vegetation functions and values such as shade, bank integrity, runoff filtration and wildlife habitat are protected.</i></p>	<p>County's critical areas ordinance update. The County acknowledges that since that time, the Washington Department of Fish and Wildlife (WDFW) has issued new management recommendations for riparian management zones.</p> <p>The County recommends including the suggested additional language as subsections vi and vii:</p> <ul style="list-style-type: none"> vi. <u>Microclimate. Riparian vegetation creates small-scale microclimates upon which plants, fish, and wildlife depend.</u> vii. <u>Nutrient inputs. Riparian vegetation supports substantial populations of insects, which are important for the diet of marine fishes like juvenile salmon.</u>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response																								
		<p>vegetation to provide protection for nesting and feeding.</p> <p>vi. <u>Microclimate. Riparian vegetation creates small-scale microclimates upon which plants, fish, and wildlife depend.</u></p> <p>vii. <u>Nutrient inputs. Riparian vegetation supports substantial populations of insects, which are important for the diet of marine fishes like juvenile salmon.</u></p>																										
201-202	<p>(c) Standard Riparian Buffer Widths. Riparian areas have the following standard buffer widths:</p> <table border="1" data-bbox="241 738 772 1258"> <thead> <tr> <th>DNR Water Type</th> <th>Riparian Buffer</th> </tr> </thead> <tbody> <tr> <td>S</td> <td>See SCC 14.26.310</td> </tr> <tr> <td>F > 5 feet wide*</td> <td>150 feet</td> </tr> <tr> <td>F ≤ 5 feet wide*</td> <td>100 feet</td> </tr> <tr> <td>Np</td> <td>50 feet</td> </tr> <tr> <td>Ns</td> <td>50 feet</td> </tr> </tbody> </table> <p>*Bankfull width of the defined channel(WAC 222-16-010).</p>	DNR Water Type	Riparian Buffer	S	See SCC 14.26.310	F > 5 feet wide*	150 feet	F ≤ 5 feet wide*	100 feet	Np	50 feet	Ns	50 feet	<p>(c) Standard Riparian Buffer Widths. <u>Buffer widths in Riparian areas shall be equal to or greater than the Site Potential Tree Height (SPTH) for the area where the buffer is located.</u> have the following standard buffer widths:</p> <table border="1" data-bbox="829 803 1348 1323"> <thead> <tr> <th>DNR Water Type</th> <th>Riparian Buffer</th> </tr> </thead> <tbody> <tr> <td>S</td> <td>See SCC 14.26.310</td> </tr> <tr> <td>F > 5 feet wide*</td> <td>150 feet</td> </tr> <tr> <td>F ≤ 5 feet wide*</td> <td>100 feet</td> </tr> <tr> <td>Np</td> <td>50 feet</td> </tr> <tr> <td>Ns</td> <td>50 feet</td> </tr> </tbody> </table> <p>*Bankfull width of the defined channel(WAC 222-16-010).</p>	DNR Water Type	Riparian Buffer	S	See SCC 14.26.310	F > 5 feet wide*	150 feet	F ≤ 5 feet wide*	100 feet	Np	50 feet	Ns	50 feet	<p><i>We recommend that Skagit County apply buffer widths similar to the most current, accurate, and complete scientific and technical information available, which is the Washington Department of Fish and Wildlife’s Riparian Ecosystem management recommendations.¹⁵ WDFW recommends applying Riparian Management Zones similar to buffers, and sized the same regardless of stream type, to protect all streams because they “found no evidence that full riparian ecosystem functions along non-fish-bearing streams are less important to aquatic ecosystems than full riparian ecosystem functions along fish-bearing streams.”¹⁶ In addition, WDFW found that</i></p>	<p>Change not recommended. Water Type “S” are considered Shorelines of the State. Buffer widths for lakes and streams are in the Dimensional Standards table listed in SCC 14.26.310.</p> <p>This table lists buffers for Fish and wildlife habitat conservation areas. These may apply when looking at less than standard shoreline buffers, or if there are adjacent CAOs to the shoreline.</p> <p>A detailed review of BAS, including riparian areas, was completed as part of the County’s critical areas ordinance update.</p>
DNR Water Type	Riparian Buffer																											
S	See SCC 14.26.310																											
F > 5 feet wide*	150 feet																											
F ≤ 5 feet wide*	100 feet																											
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Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
			<p><i>non-fish-bearing streams: (1) support a unique community of aquatic and riparian-obligate wildlife; (2) provide movement corridors for wildlife, particularly in the face of changing climate conditions; (3) provision fish-bearing streams with matter and energy; and (4) provide cool water to downstream reaches. These RMZs should be based on site potential tree height, and the following should be avoided within them: (1) clearing, grading, and filling; (2) new development that would require bank hardening; (3) on-site sewage systems without habitat monitoring plans; or (4) removal of hazard trees without proper evaluation and avoidance and minimization of impacts.¹⁷ In addition, WDFW notes that its recommendations for RMZs apply to urban areas as well as non-urban areas.¹⁸ In addition, the RMZs should begin at the outer edge of the Channel, Channel Migration Zone, or active floodplain, whichever is wider.¹⁹</i></p> <p><i>According to WDFW, "[p]rotection and</i></p>	

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
			<i>restoration of riparian ecosystems continues to be critically important because: (a) they are disproportionately important, relative to area, for aquatic species (e.g., salmon) and terrestrial wildlife; (b) they provide ecosystem services such as water purification and fisheries...; and (c) by interacting with watershed-scale processes, they contribute to the creation and maintenance of aquatic habitats.²⁰</i>	

14.26.574 Fish and wildlife habitat conservation area performance-based buffer alternatives and mitigation standards.

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
202	<p>(1) Buffer Width Increasing. The Administrative Official may require the standard buffer width to be increased or to establish a nonriparian buffer, when such buffers are necessary for 1 of the following:</p> <p>(a) To protect priority fish or wildlife using the HCA.</p> <p>(b) To provide connectivity when a Type S or F water body is located within 300 feet of:</p> <p>(i) Another Type S or F water body; or</p> <p>(ii) A fish and wildlife HCA; or</p> <p>(iii) A Category I, II or III wetland;</p>	<p><u>(1) Fish and Wildlife Habitat Conservation Areas Buffer Setbacks.</u></p> <p><u>(a) New and expanded development shall besetback a minimum of 30 feet from the outer edge of wetland buffers to avoid the need to impact the buffer to conduct maintenance activities on that development or to clear trees in the buffer to achieve defensible space around that development as a fire consideration.</u></p>	<p><i>We recommend a 30-foot setback consistent with recommendations by state agencies, such as that found at: DNR.wa.gov/fightingfire, as well as WDFW's Riparian Handbook. This is also consistent with the National Fire Protection Association recommendations for preparing homes for</i></p>	<p>Change not recommended.</p> <p>The County prefers to keep the language as proposed. A maintenance corridor of 15 feet is already included in SCC 14.26.515(4)(c)(ix) under general standards for all critical areas. See same response on Page 42.</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
			<i>wildlife.</i> ²¹	
204	<p>(2) Buffer Width Averaging. Buffer width averaging allows limited reductions of buffer width in specified locations, while requiring increases in others. Averaging of required buffer widths shall be allowed only where the applicant demonstrates to the Administrative Official that all of the following criteria are met:</p> <p>(a) Averaging is necessary to accomplish the purpose of the proposal and no reasonable alternative is available; and</p> <p>(b) The habitat contains variations in sensitivity due to existing physical characteristics; and</p> <p>(c) Averaging will not adversely impact the functions and values of fish and wildlife conservation areas; and</p> <p>(d) Averaging meets performance standards for protecting fish species; and</p> <p>(e) The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging; and</p> <p>(f) The buffer width shall not be reduced below 75% of the standard buffer width.</p> <p>(e) To allow for greater flexibility in a development proposal, an applicant has the opportunity to remove timber within</p>	<p>(2) Buffer Width Averaging. Buffer width averaging allows limited reductions of buffer width in specified locations, while requiring increases in others. Averaging of required buffer widths shall be allowed only where the applicant demonstrates to the Administrative Official that all of the following criteria are met:</p> <p>(a) Averaging is necessary to <u>achieve reasonable use of the parcel</u> accomplish the purpose of the proposal and no reasonable alternative is available; and</p> <p>(b) The habitat contains variations in sensitivity due to existing physical characteristics; and</p> <p>(c) Averaging width will <u>improve</u> the wetland functions and values; and</p> <p>(d) Averaging meets performance standards for protecting fish species; and</p> <p>(e) The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging; and</p> <p>(f) The buffer width shall not be reduced below 75%<u>25%</u> of the standard buffer width.</p> <p>(e) To allow for greater flexibility in a development proposal, an applicant has the opportunity to remove timber within the standard buffer widths shown above if the applicant's mitigation measures</p>	<p><i>These revisions are necessary for compliance with the most current science, as noted above, which is Wash. Dept. of Ecology, Wetland Guidance for CAO Updates, Western Washington Version, Pub. No. 16-06-001, 13 (June 2016).</i></p> <p><i>We recommend removing this section because there is no BAS to allow logging in buffers generally and trees should be protected where possible to provide functions to FWHCAs like moderating water temperatures. For example, the Department of Ecology found in March 2020 that the eight Lower Skagit tributaries are impaired under the Clean Water Act, with water temperatures exceeding Total Maximum Daily Loads. Efforts to improve water temperature, an important variable in salmon survival, have fallen short because of the inability to reach voluntary tree planting</i></p>	<p>Change not recommended.</p> <p>The County prefers to keep the language as proposed. See the response on Page 50.</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>the standard buffer widths shown above if the applicant’s mitigation measures incorporate allof the performance standards based upon water type listed in the table below. In conformance with professional standards usedby the Washington Department of Natural Resources for forest practices in sensitive areas, all removal of timber within HCA buffersshall be subject to conditioning specified by the Administrative Official in conjunction with an on-site technical team review in which participation by representatives of the proponent, Ecology, WDFW, WDNR and natural resource representatives of affected Indian tribes is solicited.</p> <p>The intent of this Section is to provide an additional oppportunity for an applicant to propose some level of timber removal within the riparian habitat zone, as long as it can be demonstrated that the function of the buffer can be maintained at the levels described below. If the buffer, in its current state, cannotmeet these standards, then the Administrative Official will not be able to give its approval for any activity which would inhibit recovery of or degrade the current buffer.</p> <p>The current performance of a given buffer area is compared to its potential performance as rated by the Soil Conservation Service, Soil Survey of Skagit County, 1989. In consultation with a representative from the Natural Resource</p>	<p>incorporate all of the performance standards based upon water type listed in the table below. In conformance with professional standards used by the Washington Department of Natural Resources for forest practices in sensitive areas, all removal of timber within HCA buffers shall be subject to conditioning specified by the Administrative Official in conjunction with an on-site technical team review in which participation by representatives of the proponent, Ecology, WDFW, WDNR and natural resource representatives of affected Indian tribes is solicited.</p> <p>The intent of this Section is to provide an additional opportunity for an applicant to propose some level of timber removal within the riparian habitat zone, as long as it can be demonstrated that the function of the buffer can be maintained at the levels described below. If the buffer, in its current state, cannot meet these standards, then the Administrative Official will not be able to give its approval for any activity which would inhibit recovery of or degrade the current buffer.</p> <p>The current performance of a given buffer area is compared to its potential performance as rated by the Soil Conservation Service, Soil Survey of Skagit County, 1989. In consultation with a representative from the Natural Resource Conservation Service, Soil Conservation District or professional forester, the applicant will determine the</p>	<p><i>goals within riparian buffers. The Puget Sound Partnership Leadership Council adopted a resolution to implement a strategy to improve the situation but it failed.</i></p> <p><i>Tree retention also provides carbon sequestration benefits that address climate change.</i></p>	

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>Conservation Service, Soil Conservation District or professional forester, the applicant will determine the capability of the site for woodland management, using the most suitable tree species according to the soilsurvey, and establish the stand characteristics that would be expected from a mature stand of those species established on site:</p> <p>If the current stand can exceed the riparian protection that could be expected based on site potential, then additional activity may be allowed provided the following performance standards can be met. For Type S streams, an alternative method may be utilized to allow limited timber harvest within the outer 100 feet of a buffer:</p>	<p>capability of the site for woodland management, using the most suitable tree species according to the soil survey, and establish the stand characteristics that would be expected from a mature stand of those species established on site:</p> <p>If the current stand can exceed the riparian protection that could be expected based on site potential, then additional activity may be allowed provided the following performance standards can be met. For Type S streams, an alternative method may be utilized to allow limited timber harvest within the outer 100 feet of a buffer:</p>		

14.26.575 Additional Provisions for Fish and Wildlife Habitat Conservation Areas

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
206	<p>(2) Critical Saltwater Habitat Standards. Any proposed uses or modifications may not intrude into or over critical saltwater habitat except when all of the conditions below are met:</p> <p>(a) The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;</p> <p>(b) Avoidance of impacts to critical saltwater habitats by an alternative</p>	<p>(2) Critical Saltwater Habitat Standards. Any proposed uses or modifications may not intrude into or over critical saltwater habitat except when all of the conditions below are met:</p> <p>(a) The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;</p>	<p><i>We recommend removing this section because there is no BAS that suggests that destruction of critical saltwater habitats is permissible in exchange for an unspecified "public need."</i></p>	<p>Change not recommended. The County prefers to keep the language as proposed. The SMP, as written here, recognizes proposed uses or modifications in critical saltwater habitat that are for beneficial public purposes, for instance shoreline habitat and systems enhancement projects as noted in WAC 173-26-231(3)(g), which reads in part:</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;</p> <p>(c) The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat; and</p> <p>(d) The project is consistent with the state's interest in resource protection and species recovery.</p>	<p>(b) Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;</p> <p>(c) The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat; and</p> <p>(d) The project is consistent with the state's interest in resource protection and species recovery.</p>		<p><i>Master programs should include provisions fostering habitat and natural system enhancement projects. Such projects may include shoreline modification actions such as modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.</i></p> <p>The department believes the language as written here protects critical saltwater habitats, but allows for restoration of the natural character and ecological functions of the shoreline. Any such public need would be firmly established prior to approval. State and federal agencies would also have jurisdiction over such development and would require their own permits/review.</p>
206-207	<p>(4) The following additional activities may be permitted within fish and wildlife HCAs:</p> <p>(a) Water-dependent uses. Consistent with the use allowances for each</p>	<p>(4) The following additional activities may be permitted within fish and wildlife HCAs:</p> <p>(a) Water-dependent uses. Consistent with the use allowances for each</p>	<p><i>This section requires the recommended sideboards to prevent unnecessary impacts to critical habitats.</i></p>	<p>Change not recommended.</p> <p>The County prefers to keep the language as proposed. In this instance "should" is appropriate and consistent</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>environment designation, water-dependent uses and activities may be located at the OHWM or as prescribed by conditions added to a permit.</p> <p>(i) Uses, developments, and activities accessory to water-dependent uses should be located outside any applicable standard or reduced shoreline buffer unless at least one of the following is met:</p> <p>(A) a location in the buffer is necessary for operation of the water-dependent use or activity (e.g., a road to a boat launch facility);</p>	<p>environment designation, water-dependent uses and activities may be located at the OHWM or as prescribed by conditions added to a permit.</p> <p>i. Uses, developments, and activities accessory to water-dependent uses should <u>shall</u> be located outside any applicable standard or reduced shoreline buffer unless <u>all of the following conditions apply at least one of the following is met:</u></p> <p>(A) <u>the water-dependent use or activity is essential for the public welfare and a location in the buffer is necessary for operation of the water-dependent use or activity (e.g., a road to a boat launch facility);</u></p>		with WAC 173-26-191(2) due to the listed exceptions in (4)(a)(i)(A).

Part VI: Legally Established Pre-Existing Uses and Structures

14.26.610 Purpose and Applicability

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
209	(1) Purpose. Consistent with RCW 90.58.620 and WAC 173-27-080, shoreline uses and developments that were legally established prior to the effective date of this SMP, but do not conform to the regulations of this SMP, enjoy certain limited rights to continuation,	(1) Purpose. Consistent with RCW 90.58.620 and WAC 173-27-080, shoreline uses and developments that were legally established prior to the effective date of this SMP, but do not conform to the regulations of this SMP, enjoy certain limited rights to	<i>We recommend removal of this provision because previously-developed structures that are inconsistent with current regulations</i>	Change not recommended. County prefers to keep the existing language. Legally established pre-existing uses and structures are allowed to continue, including repair, modifications, and limited expansions.

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>maintenance, and expansion. Single-family residences and appurtenant structures, located landward of the OHWM, that were legally established prior to the effective date of this SMP but do not conform to the regulations of this SMP, are considered conforming structures and uses for purposes of this SMP.</p>	<p>continuation, maintenance, and expansion. Single-family residences and appurtenant structures, located landward of the OHWM, that were legally established prior to the effective date of this SMP but do not conform to the regulations of this SMP, are considered conforming structures and uses for purposes of this SMP.</p>	<p><i>are, by definition, nonconforming, and this appellation allows their continued use.</i></p>	

14.26.620 Pre-Existing Single-Family Residences and Appurtenant Structures

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
209-210	<p>(3) Enlargement or expansion. A pre-existing residential or appurtenant structure that is nonconforming with respect to dimensional standards may be enlarged or expanded in accordance with the following provisions.</p> <p>(a) Minor. Enlargement or expansion by the addition of space to the main structure, or by the addition of space to an appurtenant structure, may be approved by the Administrative Official if all of the following criteria are met:</p> <p>(i) the enlargement does not extend farther waterward than the existing primary residential structure or farther into the minimum side yard setback;</p> <p>(ii) the enlargement does not expand the footprint of the existing structure by more than 200</p>	<p>(3) Enlargement or expansion. A pre-existing residential or appurtenant structure that is nonconforming with respect to dimensional standards may be enlarged or expanded in accordance with the following provisions.</p> <p>(a) Minor. Enlargement or expansion by the addition of space to the main structure, or by the addition of space to an appurtenant structure, may be approved by the Administrative Official if all of the following criteria are met:</p> <p>(i) the enlargement does not extend farther waterward than the existing primary residential structure or farther into the minimum side yard setback;</p> <p>(ii) <u>the enlargement does not extend further into critical</u></p>	<p><i>We recommend this addition for consistency with the most current science and to provide clear notice to landowners of the parameters for expansion.</i></p>	<p><u>Change not recommended</u></p> <p>This section is clear that expansion waterward is not allowed, and any expansion toward a critical area or its buffer is mitigated on site (per subsection (iv)) below:</p> <p><i>(iv) potential adverse impacts to shoreline or critical area ecological functions or processes from the expansion are mitigated on site, in accordance with SCC 14.26.305; and</i></p>

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	<p>square feet;</p> <p>(iii) the enlargement does not cause the existing structure to exceed the height limit, or in the case of an existing over-height structure, the enlargement does not increase the structure's existing height;</p> <p>(iv) potential adverse impacts to shoreline or critical area ecological functions or processes from the expansion are mitigated on site, in accordance with SCC 14.26.305; and</p> <p>(v) any applicable requirements of SCC 14.34 are met.</p>	<p><u>areas or their associated buffers or setbacks;</u></p> <p>(iii) the enlargement does not expand the footprint of the existing structure by more than 200 square feet;</p> <p>(iv) the enlargement does not cause the existing structure to exceed the height limit, or in the case of an existing over-height structure, the enlargement does not increase the structure's existing height;</p> <p>(v) potential adverse impacts to shoreline or critical area ecological functions or processes from the expansion are mitigated on site, in accordance with SCC 14.26.305; and</p> <p>(vi) any applicable requirements of SCC 14.34 are met.</p>		

Part VII: Administration

14.26.710 Applications

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
215	<p>(2) Application Level. Shoreline applications are reclassified by application level in SCC Chapter 14.06 Permit Procedures.</p> <p>(a) Shoreline exemptions are a type of Level I application. A Notice of Development Application is not</p>	<p>(2) Application Level. Shoreline applications are reclassified by application level in SCC Chapter 14.06 Permit Procedures.</p> <p>(a) Shoreline exemptions are a type of Level I application. A Notice of Development Application is not</p>	<p><i>Consistent with every other Level I and Level II decision, letters of exemption must require public notice.</i></p>	<p>Change not recommended.</p> <p>The existing code language in SCC 14.06.050 Application level, reads as follows:</p> <p><i>(1) Applications for development permits and</i></p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	required for shoreline exemptions.	required for shoreline exemptions.		<p><i>other administrative determinations shall be categorized as one of four levels as follows; provided, that shoreline applications shall be processed as described in the Skagit County Shoreline Management Master Program.</i></p> <p>The department prefers to remain consistent with notification requirements of the shoreline rules and guidelines.</p>

14.26.730 Conditional Use Permit

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
219-220	<p>(2) Review Criteria. A Shoreline Conditional Use Permit may be granted only if the applicant can demonstrate all of the following:</p> <p>(a) That the proposed use will be consistent with the policies of RCW 90.58.020, WAC 173-27-160, and the policies of this SMP; and with the regulations in any applicable use sections in Part IV;</p> <p>(b) That the proposed use will not interfere with the normal public use of public shorelines;</p> <p>(c) That the proposed use of the site and design of the project is</p>	<p>2) Review Criteria. A Shoreline Conditional Use Permit may be granted only if the applicant can demonstrate all of the following:</p> <p>(a) That the proposed use will be consistent with the policies of RCW 90.58.020, WAC 173-27-160, and the policies of this SMP; and with the regulations in any applicable use sections in Part IV;</p> <p>(b) <u>The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located;</u></p> <p>(c) That the proposed use will not interfere with the normal public use of public shorelines;</p>	<p><i>We recommend these revisions for consistency with standard CUP criteria.</i></p>	<p>Change not recommended. County prefers to keep the existing language, which reflects what is found in WAC 173-27-160, Review criteria for conditional use permits. The proposed edit of added item (b) is covered in existing item (d). The additions proposed to existing item (e) or added item (g) is repetitive of what is already addressed.</p> <p>The special privilege language is specific to variances, not conditional uses, so it does</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP;</p> <p>(d) That the proposed use will result in no significant adverse effects or a net loss to the shoreline environment in which it is to be located;</p> <p>(e) That the public interest will suffer no substantial detrimental effect; and</p> <p>(f) That the proposed use will not result in substantial adverse effects or net loss of shoreline ecosystem functions and that consideration has been given to the cumulative impact of additional requests for like actions in the area</p>	<p>(d) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP;</p> <p>(e) That the proposed use will result in no significant adverse effects or a net loss to the shoreline environment in which it is to be located;</p> <p>(f) That the public interest will suffer no substantial <u>significant</u> detrimental effect; and</p> <p>(g) That the proposed use will not result in substantial adverse effects or net loss of shoreline ecosystem functions and that consideration has been given to the cumulative impact of additional requests for like actions in the area <u>The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval;</u></p> <p>(i) <u>Approval of the proposed use will not confer a special privilege on the applicant that is not enjoyed by others in the vicinity of the property.</u></p>		<p>not belong in this section. The local government and Department of Ecology jointly administer the program and the conditional use permit review criteria need to be consistent at the state and local levels.</p>

14.26.735 Shoreline Variance

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
220	<p>(2) Types. There are two types of variances: administrative variances and Hearing Examiner variances.</p> <p>(a) Administrative variance. An application to reduce a standard buffer width by 50% or less is an administrative variance.</p> <p>(b) Hearing Examiner variance. Any other variance application, e.g., for relief from specific bulk, dimensional, or performance standards of this SMP, is a Hearing Examiner variance.</p>	<p>(2) Types. There are two types of variances: administrative variances and Hearing Examiner variances.</p> <p>(a) Administrative variance. An application to reduce a standard buffer width by 5025% or less is an administrative variance.</p> <p>(b) Hearing Examiner variance. Any other variance application, e.g., for relief from specific bulk, dimensional, or performance standards of this SMP, is a Hearing Examiner variance.</p>	<p><i>To avoid granting excess discretion at the staff level and to ensure proper public review of significant variance requests, we recommend limiting the amount of variance that may be approved by staff to a maximum of 25%.</i></p>	<p>Change not recommended</p> <p>The variance criteria remains the same between an administrative variance and a standard variance in identical fashion. The only difference between the two is one may be approved administratively by the Director versus a more extensive review process before a hearing examiner.</p> <p>See comment response matrix, Issue Ref. No. 15c. County proposes to modify this language to clarify that an administrative variance is for buffer reductions between 25 and 50 percent. Below 25 percent may be approved administratively through an SSDP or exemption.</p>
221	<p>(4) Review Criteria. These criteria apply to the review of both administrative and Hearing Examiner variances.</p> <p>(a) The Shoreline Variance may be authorized only if the structure will not obstruct views from public property or a substantial number of residences, as informed by the view analysis.</p> <p>(b) Per WAC 173-27-170(2), for</p>	<p>(4) Review Criteria. These criteria apply to the review of both administrative and Hearing Examiner variances.</p> <p>(a) The Shoreline Variance may be authorized only if the structure will not obstruct views from public property or a substantial number of residences, as informed by the view analysis.</p> <p>(b) Per WAC 173-27-170(2), for development or a use to be located landward of the</p>	<p><i>We recommend the proposed revisions for clarity and to avoid impacts to wetlands, a critical area.</i></p>	<p>Change not recommended.</p> <p>The County prefers to keep the language as proposed. The suggested edits are not needed as the existing language provides the necessary level of detail. The language as proposed reflects what is found in WAC 173-27-170(2) and (3), Review criteria for</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>development or a use to be located landward of the OHWM, or landward of any wetland as defined in RCW 90.58.030(2)(h), a variance may be authorized if the applicant can demonstrate all of the following:</p> <ul style="list-style-type: none"> (i) That the strict application of the bulk, dimensional, or performance standards set forth in this SMP precludes, or significantly interferes with, reasonable use of the property; (ii) That the hardship described in criterion (i) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this SMP, and not, for example, from deed restrictions or the applicant's own actions; (iii) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP and will not cause adverse impacts to the shoreline environment; That the variance will not constitute a grant of special 	<p>OHWM, or landward of any wetland as defined in RCW 90.58.030(2)(h), a variance may be authorized <u>only</u> if the applicant can demonstrate all of the following:</p> <ul style="list-style-type: none"> (i) That the strict application of the bulk, dimensional, or performance standards set forth in this SMP precludes, or significantly interferes with, reasonable use of the property; (ii) That the hardship described in criterion (i) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this SMP, and not, for example, from deed restrictions or the applicant's own actions; (iii) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP and will not cause adverse impacts to the shoreline environment; (iv) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area; (v) That the variance requested is the minimum necessary to afford relief; and 		<p>variances. The local government and Department of Ecology jointly administer the program and the variance review criteria need to be consistent at the state and local levels.</p>

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
	<p>privilege not enjoyed by the other properties in the area;</p> <p>(v) That the variance requested is the minimum necessary to afford relief; and</p> <p>(vi) That the public interest will suffer no substantial detrimental effect.</p> <p>(c) Per WAC 173-27-170(3), for development or a use to be located waterward of the OHWM, or within any wetland as defined in RCW 90.58.030(2)(h), a variance may be authorized if the applicant can demonstrate all of the following:</p> <p>(i) That the strict application of the bulk, dimensional, or performance standards set forth in this SMP precludes all reasonable use of the property;</p> <p>(ii) That the proposal is consistent with the other review criteria of subsections (a) and (b)(ii) – (vi) above; and</p> <p>(iii) That the public rights of navigation and use of the shorelines will not be adversely affected.</p>	<p>(vi) That the public interest will suffer no substantial detrimental effect.</p> <p>(c) Per WAC 173-27-170(3), for development or a use to be located waterward of the OHWM, or within any wetland as defined in RCW 90.58.030(2)(h), a variance may be authorized if the applicant can demonstrate all of the following:</p> <p>(i) That the strict application of the bulk, dimensional, or performance standards set forth in this SMP precludes all reasonable use of the property;</p> <p>(ii) That the proposal is consistent with the other review criteria of subsections (a) and (b)(ii) – (vi) above; and</p> <p>(iii) That the public rights of navigation and use of the shorelines will not be adversely affected.</p>		

14.26.780 Permit Appeals

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
224	<p>(1) Administrative appeals must be in accordance with SCC Chapter 14.06. Where standards or procedures in this Part differ from those in SCC Chapter 14.06, the provisions of this Part control.</p> <p>(a) Any person aggrieved by the granting, denying, rescinding or revision of a conditional use, or Hearing Examiner shoreline variance permit may request a reconsideration before the Hearing Examiner or submit an appeal to the Board of County Commissioners in accordance with SCC 14.06, provided all requests for reconsideration or appeals must be submitted within five days of the date of the Hearing Examiner’s written decision, or decision after reconsideration.</p>	<p>(1) Administrative appeals must be in accordance with SCC Chapter 14.06. Where standards or procedures in this Part differ from those in SCC Chapter 14.06, the provisions of this Part control.</p> <p>(a) Any person aggrieved by the granting, denying, rescinding or revision of a conditional use, or Hearing Examiner shoreline variance permit may request a reconsideration before the Hearing Examiner or submit an appeal to the Board of County Commissioners in accordance with SCC 14.06, provided all requests for reconsideration or appeals must be submitted within five <u>fourteen</u> days of the date of the Hearing Examiner’s written decision, or decision after reconsideration.</p>	<p><i>We recommend revising the time period for filing an administrative appeal from five to fourteen days to ensure adequate opportunity to appeal and to address due process considerations.</i></p>	<p>Change not recommended. The County prefers to keep the language as proposed. The local administrative reconsideration or appeal process provides opportunity for additional consideration at the local level. The five-day filing period timeline has proven to be adequate to complete the filing process.</p>

14.26.790 Monitoring

Page Number	Skagit County Proposed Language	Recommended language	Rationale for recommendation	Department Response
224-25	<p>(1) Skagit County must track all shoreline permits and exemption activities to evaluate whether this SMP is achieving no net loss of shoreline ecological functions.</p> <p>(2) Consistent with WAC 173-26-201(2)(b), Skagit County must conduct system-wide monitoring of shoreline conditions and development activity that occur in shoreline jurisdiction outside of critical areas and</p>	<p>(2) Consistent with WAC 173-26-201(2)(b), Skagit County must conduct system-wide monitoring of shoreline conditions and development activity that occur in shoreline jurisdiction outside of critical</p>	<p><i>We recommend the proposed revisions to help identify all areas of necessary information.</i></p> <p><i>With regard to 14.26.790, we have not seen evidence in this process of a tracking mechanism for all</i></p>	<p>Change not recommended. The County prefers to keep the language as proposed. The monitoring program, as described here, provides some examples of what will be evaluated. Item (2) needs to be considered with (1) and (3) to get the extent of the reporting required.</p>

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	<p>their buffers, whenever practical. Such monitoring should include permit tracking of development, conservation, restoration, and mitigation, such as:</p> <ul style="list-style-type: none"> (a) new shoreline development; (b) Shoreline Variances and the nature of the variance; (c) compliance issues; (d) net changes in impervious surface areas, including associated stormwater management; (e) net changes in fill or armoring; (f) net change in linear feet of levee and distance between OHWM and any levees; (g) net changes in vegetation including in area and character. <p>(3) Using this information and information about the outcomes of other actions and programs of other County departments, the Administrative Official must prepare a no-net-loss report every eight years as part of the SMP evaluation or Comprehensive Plan Update process. If the no-net-loss report shows degradation of the baseline condition documented in the County's Shoreline Analysis Report (2012), the Administrative Official must propose changes to this SMP, or Shoreline Restoration Plan, or both, at the time of the eight-year update to prevent further degradation and address the loss of ecological function.</p>	<p>areas and their buffers, whenever practical. Such monitoring should <u>must</u> include permit tracking of <u>conditions of approval, mitigation requirements, and required landowner maintenance and/or monitoring responsibilities for all approvals, including the following development or information, conservation, restoration, and mitigation, such as:</u></p> <ul style="list-style-type: none"> (a) new shoreline development; (b) Shoreline Variances and the nature of the variance; (c) <u>shoreline conditional use permits;</u> (d) <u>shoreline development approved pursuant to an exemption;</u> (e) compliance issues; (f) net changes in impervious surface areas, including associated stormwater management; (g) net changes in fill or armoring; (h) net change in linear feet of levee and distance between OHWM and any levees; <u>and</u> (i) net changes in vegetation including in area and character. 	<p><i>shoreline permits and exempt activities.</i></p>	

Citations:

¹ See K. Fresh, *et al.*, *Using light-permeable grating to mitigate impacts of residential floats on eelgrass Zostera marina L. in Puget Sound, Washington*, Ecol. Eng. (2006), doi:10.1016/j.ecoleng.2006.04.012 (concluding that grating up to 50% of a float deck either did not affect dock shading impacts on seagrass or that such effect could not be detected), attached to the associated comments as Attachment R; W. Gladstone and G. Courtenay, *Impacts of docks on seagrass and effects of management practices to ameliorate these impacts*, Estuarine, Coastal and Shelf Science 136, 53-60 (2014) (concluding that grating reduced, but did not eliminate, the loss of seagrass biomass under docks), attached to the associated comments as Attachment S.

² Washington Department of Fish and Wildlife, *Riparian Ecosystems, Vol. 2: Management Recommendations*, 24-25 (Dec. 2020), attached as Attachment T to the associated letter.

³ A. Buschmann, *et al.*, *Salmon aquaculture and coastal ecosystem health in Chile: Analysis of regulations, environmental impacts and bioremediation systems*, Ocean & Coastal Management *3 (2009), doi:10.1016/j.ocecoaman.2009.03.002, available at:

⁴ See K. Fresh, *et al.*, *Using light-permeable grating to mitigate impacts of residential floats on eelgrass Zostera marina L. in Puget Sound, Washington*, Ecol. Eng. (2006), doi:10.1016/j.ecoleng.2006.04.012 (concluding that grating up to 50% of a float deck either did not affect dock shading impacts on seagrass or that such effect could not be detected), attached hereto as Attachment R; W. Gladstone and G. Courtenay, *Impacts of docks on seagrass and effects of management practices to ameliorate these impacts*, Estuarine, Coastal and Shelf Science 136, 53-60 (2014) (concluding that grating reduced, but did not eliminate, the loss of seagrass biomass under docks), attached hereto as Attachment S.

⁵ Nation Fire Protection Association “preparing homes for wildfire” webpage, available at: <https://www.nfpa.org/Public-Education/By-topic/Wildfire/Preparing-homes-for-wildfire> (last visited June 7, 2021).

⁶ Wash. Dept. of Ecology, *Wetland Guidance for CAO Updates, Western Washington Version*, Pub. No. 16-06-001, 13 (June 2016), attached hereto as Attachment U.

⁷ *Id.* (emphasis added).

⁸ *Id.* (emphasis added).

⁹ ECY Guidance, at 11 (emphasis in original).

¹⁰ ECY Guidance, at 13.

¹¹ *Id.*

¹² WWGMHB No. 09-2-0015, FDO, 17 (March 29, 2010).

¹³ *Id.* (emphasis in original)

¹⁴ Attached to the associated letter as Attachment V.

¹⁵ WDFW, *Riparian Ecosystems, Volume 2: Management Recommendations*, 7-8 (Dec. 2020) (hereafter “Riparian Recommendations”).

¹⁶ WDFW, *Riparian Ecosystems, Volume 2: Management Recommendations*, 7-8 (Dec. 2020) (hereafter “Riparian Recommendations”).

¹⁷ *Id.* at 25-27. (See original response by K. Loring)

¹⁸ *Id.* at 29-30. (See original response by K. Loring)

¹⁹ *Id.* at 5. (See original response by K. Loring)

²⁰ *Id.* at 4. (See original response by K. Loring)

²¹ Nation Fire Protection Association “preparing homes for wildfire” webpage, *available at*: <https://www.nfpa.org/Public-Education/By-topic/Wildfire/Preparing-homes-for-wildfire> (last visited June 7, 2021).