Comment Matrix: Pre-PAC Hearings

-SMP Update-

Note: *The reference numbers and letters refer to the January 2013 draft. For example, the Use Regulations in the 2013 draft is 17.50.060, but it is 17.50.065 in the revised draft ("17-A").*

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COMPREHENSIVE PLAN

IX-1 The Shoreline Management Program

Note: The shoreline policies, including intro were merged into the SMP, and will no longer be in the Comprehensive Plan.

A. Introduction	Port of Shelton Letter dated April 26, 2013: Within the WAC are several references to Ports that strengthen the argument why consideration or specific acknowledgement of Ports should be given: WAC 173-26-201(3)(d)(iii) talks about how local governments must work with Ports to ensure consistency with harbor area statutes and regulations, address Port plans, and identify measures and strategies to encourage appropriate uses. WAC 173-26-201 (d) (ix) encourages special area planning including Port development master planning. WAC 173-26-211 (5) (d) talks about "high intensity" shoreline environment designations should be given to water-dependent uses. WAC 173-26-231 (3) (f) addresses dredging and WAC 173-26-241 (3) (d) and (f) talks about commercial and industrial uses and their priority over non-water dependent uses of the shoreline. Yet the current draft Mason County Comprehensive Plan, Chapter IX update suggests the removal of the second paragraph from the opening page. Within that paragraph was the acknowledgement that, "Alterations of the natural condition . . . shall be given priority for . . . Ports . . . including marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial development which are particularly dependent on their location . . .". The Jan 2013 draft reads: ***A. Introduction*** ... ~~The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shorelines. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences, **ports**, shoreline recreational uses, including but not limited to, parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial development which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state.~~ ~~Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water (RCW 90.58.020).~~	This language is still in IX part D: Use preferences: **D. Shoreline Use Preferences** 1. The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shorelines. 2. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, **ports**, shoreline recreational uses, including but not limited to, parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial development which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state. 3. Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water (RCW 90.58.020).

C. Shorelines of Statewide Significance	S. Cowan: Why do the marine waters and shore lands of hood Canal extend 200 feet landward of the LHWM but the marine waters of So Puget Sound are seaward from extreme low tide? Is it the same or different?	The proposed changes clarify the extent of areas that meet the statutory definition of "shorelines of statewide significance (SSWS)." Please see RCW 90.58.030(2)(f). All marine waters in the state below extreme low tide are SSWS. In Hood Canal, this statutory designation also extends to "shorelands" areas 200 feet landward of the Ordinary High Water Mark. This designation is defined in statute.
IX-2 General Policies		
A. Ecological Protection Policies		
A(1)(c)	J. Richert and M. Young: RCW 90.50.065 is a law that gives existing farmers the "right to farm". That law reads that the existing farmer is exempt from the Shoreline Act, not just exempt from the Permit requirements. Under this law the existing farmer is not obligated to maintain the shoreline ecological function. Chapter IX and Title SMP 17.50.055.A.1 should not suggest anything different!	Staff recommendation: revise to ensure there is no confusion that activities specifically excluded from regulation by the SMA are not subject to the SMP. **PAC Decision on 2/25/2013:** Revise to: c. Ensuring that all uses and developments regulated under the Act, including preferred uses and uses that are exempt from a shoreline substantial development permit, will not cause a net loss of shoreline ecological functions.
	J. Richert & M. Young: In order to measure 'No Net Loss' you need to have a starting date! I vote that the starting date be the date of SMP adoption by the Board of County Commissioners. The No Net Loss begins on that date. It is already a given that the ecological function has deteriorated in most of the Conservancy Designation to some degree when comparing them to 'Natural'. But that is alright because the term No Net Loss accepts that prior loss. It seems to me that it is necessary that a No Net Loss goal must be established for each Environmental Designation so that future development can measure their need for mitigation! Can you provide any information on ecological function that Mason County has developed? Or is the county planning on inventorying the projects on a site-by-site basis?	With regard to the "starting date" for measuring Ecological functions, policies under IX-2.A incorporate the word "current" and "existing" consistent with Ecology guidelines at WAC 173-26-191(2)(c). This regulation describes the No Net Loss Requirement, including the following direction: "the master program should ensure that development will be protective of ecological functions necessary to sustain **existing** shoreline natural resources and meet the standard. The concept of "net" as used herein, recognizes that any development has potential or actual, short-term or long-term impacts and that through application of appropriate development standards and employment of mitigation measures in accordance with the mitigation sequence, those impacts will be addressed in a manner necessary to assure that the end result will not diminish the shoreline resources and values as they currently exist. Where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect **existing** ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions." With regard to questions about information on ecological function, and site-by-site analysis: Ecology guidelines at WAC 173-26-201 clarify that "Master programs shall contain policies and regulations that assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources. To achieve this standard while accommodating appropriate and necessary shoreline uses and development, master programs should establish and apply: • Environment designations with appropriate use and development standards; and

		• Provisions to address the impacts of specific common shoreline uses, development activities and modification actions; and • Provisions for the protection of critical areas within the shoreline; and • Provisions for mitigation measures and methods to address unanticipated impacts." Mason County has prepared a summary of information on ecological functions in an Inventory and Characterization Report, but this document does not establish a definitive baseline of information. Instead, it presents a consolidation of existing information, organized by reach. The report was used to inform the environment designations, analyze existing and planned uses, and to prepare the restoration plan. There is no requirement to establish a baseline for each environment designation. The county will ensure mitigation for unavoidable impacts is adequate based on more detailed information that will only be available for particular projects evaluated site-by-site. In many cases, a project will be able to follow the protective standards such as buffers and setbacks, thereby protecting existing functions. In cases where a project must unavoidably alter functions for a preferred use, mitigation will be required to compensate for those impacts.
C. Flood Hazard Reduction Policies		
2	Mason County does not have a 'flood control management plan.' We have a 'Flood Damage Prevention Ordinance' and a 'Skokomish River Comprehensive Flood Hazard Management Plan.' Development in floodplains should not significantly or cumulatively increase flood hazard or be inconsistent with an adopted comprehensive flood ~~control~~ hazard management plan.	Recommend correcting the typo. **PAC Decision** on 2/25/2013: make correction.
E. Ecological Restoration Policies		
	Staff: This section is redundant with specific policies for restoration under the Use Regulations chapter. Policy 1 encouraging voluntary restoration is covered in the Restoration projects section. Policy 2 refers to a task that has already been completed under Ecology's grant.	Staff recommendation: delete the "Ecological Restoration" section from the General Policies as restoration is covered as a specific use. **PAC Decision on 10/21/2013:** Agreed that section should be deleted and addressed in the use regulations.
G. Public Access Policies		
	WA Parks 9/1/2015: The public access goal (3) notes that "strategic efforts to find and fund new shoreline public access are encouraged to meet increasing demands and that "the County should cooperate with local, state, tribal and non-governmental organizations to preserve and enhance lands that provide physical access to public waters for public use". Policy (1)(a) states that public access shall be required for public developments. If public access shall be required of public developments, then such a development would be subject to requirements and regulations governing accessibility. Accessible public development will require specific design elements that may or may not be consistent with the allowed uses in the permit matrix or the setbacks and impervious surface requirements. Parks	PAC Decision was to add language to Recreational Chapter regarding ADA improvements.

	does not wish to permit future projects as conditional uses or variances to the SMP regulations simply to meet the requirements for accessible design standards. See recommendation in comment #1 for existing built shoreline structures. Consider using administrative discretion rather than the conditional use or variance process for permitting public developments needing exemptions to meet accessible design requirements (i.e. for accessible parking, roads, accessory facilities, trails/pathways, docks, and beach access structures).	
IX-3 Use Policies		
A. Agriculture Policies		
(1)	J. Richert & M. Young: This sentence is easy to say but difficult to abide by.	
(1)&(2)	Staff: What about Expansion of existing agricultural lands and uses? Does not seem to be addressed.	PAC authorized adding "and expanded" on 3/2/2015. This master program shall not require modification of or limit existing and ongoing agricultural practices located on agricultural lands. The policies and regulations in this master program only apply to new <u>or expanded</u> agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities."
(4 thru 9)	J. Richert & M. Young: Add "new" and/or "on new agricultural land."	These recommendations were not presented to the PAC at the 5/20/13 workshop. This was unintentional, but policy #2 clearly makes the point that the SMP does not regulate existing agriculture.
B. Aquaculture Policies		
	Staff: If "gravel enhancement" for aquaculture ("frosting") is not to be treated as fill, should the definition include this clarification? Also, beach nourishment and restoration projects may involve placement of materials below the ordinary high water mark but are not about creating dry land. Consider clarifying these are not "fill."	**PAC Decision on 5/20/2013:** Amend definition to clarify the definition of fill: Fill. The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. Depositing topsoil in a dry upland area for normal landscaping purposes is not considered a fill. <u>Aquaculture gravel enhancement projects, beach nourishment protection projects, and restoration projects are not considered fill.</u>
	DCD Staff: Recommend we allow for some small scale farm stands without Conditional Use.	The definition is direct from RCW 90.58.065 and cannot be changed – it is linked to clarification of what is "existing and ongoing" and not subject to change in local SMPs. The final sentence was retained from the existing SMP: "Excluded from this definition are transportation of products, related commercial or industrial uses such as wholesale and retail sales or final processing. Therefore, if the county wants to authorize small-scale farm stands, should it properly be addressed in Commercial use regulations?
(9)	Staff: Last sentence too detailed for policy language. The issue is addressed	**PAC Decision on 5/20/2013:** Delete final sentence, issue is covered in regulations.

	adequately in Regulations.	In regards to the specific issue of eelgrass/macroalgae that move onto aquaculture structures, see Aquaculture General Regulations 10(b), which adds clarification that regulatory protections do not apply to eelgrass or macroalgae that colonizes aquaculture.
(11)	"Structures or activities associated with aquaculture should be located inland from **shoreline areas** or landward of shoreline buffers unless clearly shoreline dependent." Staff: Does this mean upland of OHWM or upland of 200'? Suggest editing to match the use regulations and Resource Ordinance requirements.	**PAC Decision on 5/20/2013:** Revise to match the use regulations and Resource Ordinance requirements as follows: Structures or activities associated with aquaculture should be located ~~inland from shoreline areas or~~ landward of shoreline buffers unless clearly shoreline dependent.
C. Boating Uses Policies		
(5) in '17A'	WA Park 9/1/2015: Both the use and development of public boat launches should be preferred over the development of individual boat launches. PROPOSED CHANGE: *Use <u>and</u> <u>development</u> of public boat launches are preferred rather than the development of individual boat launches for private, non-commercial pleasure craft.*	**PAC Decision on 12/21/2015:** Add "and developmetn" to #5 after "use."
(6)	S. Cowan: Is the reference to use community ones as opposed to individual residential ones only apply to new subdivisions not yet built? Can it be limited for the use of the property owners of the subdivision only?	The answer to both questions is yes. See MCC 17.50.060.3.B.6: "*Prior to final project approval of a residential subdivision or short plat*, a usable area shall be set aside for one (1) community pier or dock, unless no suitable area exists or a public moorage facility is available to residents within a 1-mile perimeter of the development." Also, see the definition section, at MCC 17.50.040. "**Community Dock.** A dock providing moorage for watercraft and recreational activities for use in common by residents of a certain subdivision, or community, or for use by patrons of a public park or quasi-public recreation area, including rental of water craft. Marinas are not considered community docks."
(9) in '17A'	WA Parks 9/1/2015: Policy (9) reads "Joint-use and/or community use of docks are favored, especially in tidal waters." As the policy statement clearly articulates that the development of community use docks is a preferred use, we propose the following policy statement be added: PROPOSED CHANGE: <u>The use and development of public recreational docks and floats should be encouraged.</u>	PAC decision on 12/21/2015: Add sentence to #9. Joint-use and/or community use of docks are favored, especially in tidal waters. <u>The use and development of public recreational docks should be encouraged.</u>
	J. Reece (2/11/2013 letter): Mason County upgraded the Mason Lake boat ramp without noxious weed control provisions. John Keates and Tim Sheldon promised Mason Lake residents that noxious weed control would be included. Mason Lake property owners are taxed through a Lake Management District. It bothers me that property owners must pay for damage caused by the County.	Not sure what Mr. Reece is recommending here. The SMP and/or the Department of Community Development cannot regulate boats and maintenance of boats.

Section	Comment	Staff Response/PAC Decision
'17A' PAC revised draft	J Diehl in 6/8/2015 letter: The effort to prohibit boathouses and covered moorages "where incompatible with environmental conditions" (p. 83) is either an empty, useless restriction or, because of its vagueness, subject to arbitrary application to a few individuals who happen to incur the wrath of government officials or their neighbors. Development regulations, like all laws, should be written so that a reasonable man knows when he has crossed the line, and does or proposes to do what is prohibited.	The language you refer to on page 83 is policy, which tend to be more general in nature. The regulation that pertains to this policy is on page 149 (subpart (i)). It, as well as the use matrix on page 50, prohibit overwater boathouses except in marinas.
D. Commercial Development Policies		
(5)	"Commercial developments should be encouraged to be located inland from the shoreline area unless they are dependent on a shoreline location." DCD Staff: What does "inland of shoreline area" mean?	"Inland of shoreline areas" is existing SMP language, and is imprecise. Given the use regulations and the Resource Ordinance requirements to follow buffers unless the use is water-dependent, consider revising. **PAC Decision** on 4/7/2014: change to: 5. Commercial developments should be encouraged to be located ~~inland from the shoreline area~~ <u>landward of shoreline buffers</u> unless they are dependent on a shoreline location.
(7)	North Forty Lodging LLC: The Comprehensive Plan reflects the preference of the Shoreline Management Act (SMA) for water dependent or related uses, such as the Marina's boat moorage, fueling station and water- related commercial uses, but does not prohibit non-water oriented uses. The proposed language could be improved, however , through the express recognition that non-water oriented uses are allowed in some circumstances. The language about new nonwater oriented commercial uses reflects WAC 173-26-241(3)(d)(i). We request the addition of the following language: Preference shall be given to water-dependent commercial uses over nonwater-dependent commercial uses; and second, preference shall be given to water-related and water- enjoyment commercial uses over non-water-oriented commercial uses. <u>New non -water oriented commercial uses are allowed outright if the use is part of a mixed use project that includes water-dependent uses and provides a significant public benefit such as providing public access or ecological restoration . Other new non- water-oriented uses may be allowed with a conditional use permit.</u>	Staff recommend incorporating the first sentence of the suggested amendments, which is consistent with Ecology guidelines at WAC 173-26-241(3)(d)(i): **PAC Decision on 11/10/2014:** include language from Ecology's Guidelines. "And is subordinate to" was a recommended addition by PAC: In areas designated for commercial use, new non-water oriented commercial development should be prohibited on shorelines except when: a. It is physically separated from the shoreline by another property or public right-of-way; or b. Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or c. The use is part of a mixed use project that includes, and is subordinate to, water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration. (Subordinate is defined in the Commercial chapter regulations.)
F. In-Stream Structures Policies		
(1)	DCD Staff: If a dam is for private use it will not be permitted?	Not necessarily. It depends on the cultural, physical, and ecological impacts.
(6)	DCD Staff: This answers my question above, but not sure exact wording is carried into the regs.	The policy states, "The County shall take appropriate measures and precautions to prevent the proliferation of small- scale power generating apparatus as necessary to prevent cumulative adverse impacts." Regulations 1, 3-7, and 10 address impacts, and in the SED's where instream structures are allowed, a Conditional Use Permit is required (CUP's require addressing cumulative impacts).

G. Mining Policies		
(3/4)	DCD Staff: Combine #3 and 4. They have an identical purpose.	**PAC Decision on 5/20/2013**: Combine policies as follows: 3. Screening and buffering measures shall, as far as is reasonably feasible, utilize natural vegetation and topography of the site. ~~4.~~ Screening and buffering shall use topography and natural vegetation to the extent feasible and shall be maintained in effective condition.
I. Economic Development Policies		
(5)	North Forty Lodging LLC (2/5/2013): We suggest an addition to Section 5 (new language underlined): Accommodate and promote, in priority order, water-dependent, water-related and water- enjoyment economic development, and non-water oriented economic development that is part of a mixed use project that includes water-dependent uses and provides a significant public benefit such as providing public access or ecological restoration. Such development should occur in those areas already partially developed with similar uses consistent with this Program, areas already zoned for such use consistent with the Mason County Comprehensive Plan, or areas appropriate for water-oriented recreation.	Staff recommends incorporating the suggested amendments, which is consistent with Ecology guidelines at WAC 173-26-241(3)(d)(i): **PAC Decision on 3/2/2015:** Since PAC decided to add such language to the Commercial and the Industrial Chapters, address here as well.
J. Port Districts Policies		
	J. Richert and M. Young: RCW 90.58.030 (3)e the last sentence states clearly "The following shall not be considered substantial development for the purpose of this chapter. (iv) Construction and practices normal or necessary for farming." The exempted farming activities are not considered substantial developments, therefore these activities are exempt from the SMP, not just exempt from getting a permit. The Exemption definition must clearly make this distinction.	It is correct that the SMA exempts normal and necessary farming activities from the need for an SDP. It is also true that in addition, the SMA states that, the SMP may not modify or limit agricultural activities on agricultural lands.
	Port of Shelton (5/8/2013): Insert a statement to recognize that Ports are not only a water dependent use in Mason County but also constitute a vital element of the community's economic strength.	Many port uses are not water dependent. Policy 3 clarifies that port districts, like other entities, shall follow the relevant regulations. This explains why there are no specific regulations for port districts.
	Port of Shelton (5/8/2013): SMP guidance states that there should be an economic development element for location and design of industries, ... , port facilities, tourist facilities, commerce facilities and other developments that are particularly dependent on their location or use of the shorelines. Therefore Ports should be given great deference in Comprehensive Plans.	The importance of economic development and of ports is both addressed in the SMP/Comp Plan use policies (later moved to the general policies section).
	Port of Shelton (5/8/2013): SMA guidance requires consideration of all plans of local agencies when preparing SMP's. Consequently, the approved Comprehensive Plans (schemes of harbor improvement) of Ports in Mason County are to be used as primary guides when considering shoreline related projects on port properties within SMA jurisdiction.	The county consulted with ports in adopting a definition of "Port District" that defines the authority and purpose of port districts, and consulted with the Port districts to adopt the following policies under "J. Port Districts:" 1. Mason County recognizes the importance of Port Districts in providing jobs, supporting local business, and facilitating economic stability. 2. Mason County should collaborate with Port Districts in development and implementation of their comprehensive port district plans to support common

		goals and objectives. 3. Port District developments should be regulated according to the proposed use of the shoreline. For example, if a port district proposed marina development, boating facility regulations would apply. If a port district proposed a marine terminal, industrial and marine terminal regulations would apply. 4. In the implementation of shoreline regulations the county should recognize and seek to further the goals of approved Port Districts comprehensive plans.
3	"Port District developments should be regulated according to the proposed use of the shoreline. For example, if a port district proposed marina development, boating facility regulations would apply. If a port district proposed a marine terminal, industrial and marine terminal regulations would apply." DCD Staff: Unclear as to what this is supposed to mean	This policy clarifies that port districts, like other entities, shall follow the relevant regulations. This explains why there are no specific regulations for port districts.
L. Recreational Policies		
(8)	"Off-shore recreational **devices** should be allowed and should be designed to not unduly interfere with navigation of waterways." DCD Staff: Devices?	"Off-shore recreational devices" is existing SMP language. LHCWC also asked what these are and if it could include floating islands. Consider replacing the word "devices" with "structures," which are defined consistent with Ecology WACs and are clearly regulated. **PAC Decision on 4/21/2014:** 8. Off-shore recreational ~~devices~~ structures should be allowed and should be designed to not unduly interfere with navigation of waterways.
M. Residential Policies		
(5)	"Subdivisions should maintain usable waterfront areas for the common use of all property owners within the development. Subdivisions of more than four lots should provide public access consistent with the provisions of this Master Program." S. Cowan: Is this for only new subdivisions yet to be built?	**PAC Decision on 12/16/2013:** Delete policy #5. This is consistent with Ecology's SMP guidelines at WAC 173-26-191(2)(a)(iii)(A): "While the master program is a comprehensive use regulation applicable to all land and water areas within the jurisdiction described in the act, *its effect is generally on future development and changes in land use*."
(3)	DCD Staff: Geologically hazardous areas include erosion hazard areas. This is too restrictive.	**PAC Decision on 3/2/2015**: Make the following changes: Residential development~~, including subdivisions,~~ in ~~geologically~~ landslide hazardous areas, channel migration zones or in the floodway should not be permitted.
N. Restoration Proj. Policies		
(6)	"This program recognizes the importance of restoring shoreline ecological functions and processes. Mason County supports cooperative restoration efforts **by strategically organizing programs** between local, state, and federal public agencies, tribes, non-profit organizations, and landowners to improve shorelines with impaired ecological functions and/or processes." DCD Staff: Recommend delete phrase "by strategically organizing programs" because this is not a realistic goal.	**PAC Decision on 10/21/2013:** Delete phrase.

P. Utilities Policies		
(1)	PW Staff: Would like to see an exception to the prohibition of utilities within shoreline jurisdiction unless infeasible. For example, what if a sewer line is going in to actually reduce the pollution resulting from failed septics? Recommend allowing for utilities near water if it improves environmental conditions.	**PAC Decision**: Recommend change policy #1 to: New utilities should be located outside shoreline jurisdiction unless the utility requires a location adjacent to the water; alternative locations are infeasible; utilities are required for permitted shoreline uses; or the development is expected to improve environmental conditions.
	DCD Staff: I don't see anything under Utilities about sewage treatment plants. Am I to assume #1 applies and they would need a variance? I have had 2 shoreline SDP's in the last couple of years for a sewage treatment plant replacement and sewage discharge line replacement without much Utilities criteria to follow for review. Are we going to carry on and just not address it?	
IX-4 Modification Activities Policies		
	DCD Staff: Why isn't marina (mooring) incorporated with port uses or cargo off-loading?	The draft SMP follows the practice of most other SMPs by addressing marinas with other boating facilities. After conversations with the port districts, the county decided to retain the existing category of "port development" but changes the term to "Marine Terminal." This has a more distinct focus on transfer of cargo or passengers, rather than long-term moorage and recreation.
C. Dredging Policies		
(1)	Public Works: Proposed language edit "follow established state and federal work windows to ensure to" delete "ensure to"	Typo fixed.
(2)(e)	Public Works: Recommend that the language read *"required to provide public access."* strike and remove all language following. Who defines and determines what a *"substantial number of people"* represents, this language seems to negate the spirit of the SMP in protecting the public interest and access to shorelines.	'Substantial number of people' is a vague phrase, but vagueness is acceptable in the policies. (PAC recommended deleting the phrase in the regulations.)
(5)	Public Works: What is the rationale behind this requirement? Why is it a concern for parent material to be placed back into the shoreline from whence it came? If a project can prove the material placement has no effect on backwater and/or flooding impacts why should this be prohibited? This policy will limit the use of parent material for culvert replacement and bridge projects that require placement of streambed gravel for fish spawning. Is there any best available science to require this policy?	Ecology guidelines discourage dredge spoil within channel migration zones, but they do not discourage dredge spoil elsewhere within the shoreline jurisdiction as long as ecological impacts are avoided, minimized, and mitigated. Also the policy conflicts with regulation #5 which allows disposal within shoreline jurisdiction as long as it is contained. Staff recommends striking all but the language that discourage disposal in CMZ's. **PAC Decision** on 6/30/2014: Revise to: Dredge spoil disposal is discouraged in shoreline jurisdiction, especially within channel migration zones. It may be allowed at approved in-water disposal sites, as part of an approved restoration or clean-up projects.
E. Grading, Fill, and Excavation Policies		
(1)	PW Staff (5/2/2014): Recommend change in sentence structure so that it is easier to interpret. "no significant damage to existing ecological functions or	**PAC Decision on 5/5/2014:** Leave formatting, but change 'local currents' to 'water flow.'

Section	Comment	Staff Response/PAC Decision
	natural resources...creating a hazard to ecological functions, or natural resources." almost represents double talk and adds confusion. Instead recommend the following "Any permitted grading, fills or excavation should be designed so that no significant damage or hazards occur to ecological functions, natural resources, life, property, or alterations to local water flow." PW Staff (5/2/2014): Recommend language edit, instead of "currents" change to "water flow" for consistency.	
(2)	PW Staff (5/2/2014): What does priority get an applicant? Is there a process identified in the SMP for priority applications? If not, recommend establishing a priority process, removing this sentence and/or add an exemption for these types of actions/projects.	**PAC Recommendation on 5/5/2014:** Strike policy 2.
F. Shoreline Stabilization Policy		
(1) & (10)	"1. Unarmored shorelines should be preserved *to the greatest extent feasible* to protect the ecological functions that shorelines provide." "10. New development should be located and designed to avoid the need for future shoreline stabilization *to the extent feasible*." J. Diehl (letter dated 10/19/2014): Given that policies are not themselves regulations, they should always be interpreted as setting forth desired goals, which are desiderata "other things being equal." In this context, it would make sense to say simply, "Unarmored shorelines should be preserved to protect the ecological functions that shorelines provide," and "New development should be located and designed to avoid the need for future shoreline stabilization." Such language does not preclude allowing bulkhead development under specified circumstances, but merely acknowledges what everyone should concede, viz., that bulkheads are generally harmful and undesirable.	**PAC Decision on 1/5/2015:** Replace language with Ecology's Guidelines (which uses the phrase) to assure consistency.
Miscellaneous comments on policies		
	J. Reece (2/11/2013 letter): Mason County replaced the 3 culverts with 5 culverts and raised the road bed about 3 feet at the over flow of Mason Lake into Sherwood Creek so that cars would not need to drive through water flowing over the Mason Lake Road. Now, during heavy rains and run off, the 5 culverts fill up and the excess water is unable to flow over the road so it backs up into homes, etc, causing damage to pre-existing structures. This seems like an unfair burden of private property owners.	This comment does not appear to be directed towards the Comprehensive Plan or SMP...
	J. Reece (2/11/2013 letter): I cannot find the part about regulating streams that flow at over 20 cubic feet per second. A friend of ours has timber land with a rock road that has run off that the state claims exceeds 20 cubic feet per second, and they want him to build a $100,000 bridge over a mostly dry area in place of using a scrap flatbed rail car.	Streams with a 20 cfs flow are shoreline streams and are regulated by the Shoreline Master Program and chapter IX of the Comprehensive Plan.

SHORELINE MASTER PROGRAM

17.50.030 Application of Regulations

Tables listing shorelines	DCD Staff: Check lists of waters and asterisks. pg 7 - WRIA 14b, #25 - Skokomish River should have an asterisk (*) next to it because it is considered to be a shoreline of statewide significance = "Skokomish River beginning at confluence of North Fork and South Fork and then downstream." WRIA 14(a) #11 Johns Lake does not exist, to my knowledge.	**PAC Decision:** Make correction to the errors in the list.
Shoreline jurisdiction	J. Richert and M. Young (2/11 PAC): where the confluence is located on the ground in the valley has changed since SMP first adopted and questioned the map accuracy	The map relied on existing available information. The map is just a guide – the confluence will be located/determined in the field by the county staff, when determining shoreline jurisdiction for development review.
Shoreline jurisdiction	GREEN DIAMOND: There are certain locations where Green Diamond disagrees with the proposed increased jurisdiction. Green Diamond specifically opposes the proposed increased jurisdictions at multiple streams based on local lithography and hydrologic data. A detailed set of comments to support Green Diamond's position will be delivered in a future comment letter.	The data layer indicating the upward starting point for shoreline jurisdiction (where rivers flow at 20 cfs mean annual flow) was prepared by USGS under contract to Ecology. Ecology can consider revisions to those data points if adequate information is provided. Received data from GREEN DIAMOND on 7/25/2013. Forwarded to Ecology for review. The recommended changes were accepted and have been reflected in the revised map.
Shoreline jurisdiction	J. Reece: I cannot find the part about regulating streams that flow at over 20 cubic feet per second. A friend of ours has timber land with a rock road that has run off that the state claims exceeds 20 cubic feet per second, and they want him to build a $100,000 bridge over a mostly dry area in place of using a scrap flatbed rail car.	Section 17.50.030 (17.50.020 for 2015 draft) is the section of the SMP that references specific waterbodies. The starting point for those waterbodies (locations where they reach 20 cfs mean annual flow) was prepared by USGS under contract to Ecology.
Shoreline jurisdiction	J. Richert and M.Young: If Skokomish Valley is not under the Shoreline Master Program, then it is regulated under the Growth Management Act. It appears that there is a benefit to the existing Ranches in Skokomish Volley if the FEMA 100 yr flood line is adopted as the Shoreline Jurisdiction under SMP. We recommend that the jurisdiction include the FEMA 100 yr flood line and be extended up stream on the South Fork Skokomish to include Section 12, T21N, R5W, WM. Referring to the Mason County Shoreline Master Program-Proposed Shoreline Environmental Designation Map. - We suggest that all of the area designated as "Conservancy"(Green) should be managed under SMP!	The minimum shoreline jurisdiction includes the FEMA floodway, In the case of the Skokomish Valley, the current FEMA floodway maps refer to the Mason County floodway, which is identified as the 100-year floodplain. The effect is the minimum shoreline jurisdiction extends to the 100-year floodplain. The Resource Ordinance still applies along streams, channel migration zones, and floodplains even if within shoreline jurisdiction. However, where the two conflict, the SMP applies, except for floodplain management.
	Richert and Young: To protect the rancher's right to farm under RCW 90.58.065, recommend that a sixth paragraph be added. F. The provisions of this Program shall not apply to lands defined under Agricultural Activities under Title 17.50.040 and/or RCW 90.58.065.	RCW 90.58.065 states, "The guidelines adopted by the department and master programs developed or amended by local governments according to RCW 90.58.080 shall not require modification of or limit agricultural activities occurring on agricultural lands. In jurisdictions where agricultural activities occur, master programs developed or amended after June 13, 2002, shall include provisions addressing new agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and development

		not meeting the definition of agricultural activities. Nothing in this section limits or changes the terms of the *current exception to the definition of substantial development in RCW 90.58.030(3)(e)(iv). This section applies only to this chapter, and shall not affect any other authority of local governments." Therefore, it protects existing ag activities, whereas the commenter's recommendation would protect even new ag activities from having to meet SMP requirements. PAC decision: Add language that the SMP does not apply to *existing* ag activities. The provisions of this Program shall not apply to the following: 1. Lands held in trust by the United States for Indian Nations, tribes or individuals. 2. Existing agricultural activities. ...
17.50.040 Definitions		
Agricultural Activity	DCD Staff: Recommend we allow for some small scale farm stands without Conditional Use.	The definition is direct from RCW 90.58.065 and cannot be changed – it is linked to clarification of what is "existing and ongoing" and not subject to change in local SMPs. The final sentence was retained from the existing SMP: "Excluded from this definition are transportation of products, related commercial or industrial uses such as wholesale and retail sales or final processing. Therefore, if the county wants to authorize small-scale farm stands, should it properly be addressed in Commercial use regulations?
Appurtenance	DCD Staff: Add fences and septic tank/drainfields.	Fences and drain fields were included in the 11/13 version but dropped in the 1/17 version. Recommend changing definition back to the 11/13 version: Appurtenance. An appurtenance is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances s include a garage; deck; driveway; utilities; septic tank and drainfield; fences; storage shed which is one story and has less than a 600 square foot footprint; woodshed; pump house; landscape wall and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark." PAC Agreed to change.
Aquaculture	"Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing." DCD Staff: I recommend we include freezing and small retail sales – farm stand? And wholesale?	This is existing SMP language. Admittedly, here is a bit of gray area between the farming activity and final processing (see Marnin discussion below in comments on Aquaculture regs). However, it seems the county can address both agriculture and aquaculture sales in the Commercial Development chapter.
	DCD Staff: 5th line of definition should say "shellfish" rather than clams and oysters OR add geoducks and mussels after clams and oysters.	The wording "includes but is not limited to" in the 4th line allows for the non-named shellfish.
Archaeological Area	DCD Staff: Are shell middens under "Biological byproducts?" Would it be	Although shell middens are not named here, the first part of the sentence captures

	helpful to say shell middens or not necessary?	such areas.
Boat Lift	"A boat lift is to be differentiated from a hoist or crane used for the launching or haul-out of vessels." DCD Staff: Shouldn't we specify how to regulate these hoists/cranes (in the boating facilities use section)?	There is a semantics issue that might be worth clarifying. Davits are small cranes that lift pleasure boats from the water. They are often attached to docks or bulkheads. It may be appropriate to include them as permitted uses, provided they remain uncovered. There are environmental advantages to removing boats from the water, not the least of which is reduced degradation of bottom paint into the water. This clarification is supposed to distinguish boat lifts from large hoists and cranes used at marinas to haul out vessels. They can weigh may tons. At marinas, the hoists are mobile and are driven to a boat launch or specially configured dock. Regulating them would be like regulating a forklift, but the fixed ones should be regulated, like any other development or structure. **PAC Decision 8/4/2014**: define davit. **Davit**. A small crane on or landward of the bulkhead or Ordinary High Water Mark (upland davit) or located on a dock (overwater davit) that is used for suspending or lowering a vessel.
	"Boat lift. An in-water structure used to berth and launch a single vessel, suspended over the water's surface. A boat lift is generally a manufactured unit without a canopy cover and may be placed in the water or attached to a dock. A boat lift may be designed either for boats or personal watercraft. Boat lifts with canopies are considered covered moorage." TG: There are many canopies on small boat lifts, esp on lakes. The current SMP prohibits covered moorage except in marinas. Perhaps these personal lifts have not been considered covered moorage over the years? Boat lifts may come with canopies.	Worth discussing, e.g., how will the county regulate Personal Watercraft canopies as "covered moorage?" There are many of these in place now (e.g., Mason Lake), and most users probably never think to ask for permission. The new language makes covered boat lifts illegal. It might make sense to take the canopy cover restriction out of the definition and add it to the Boating Facilities section, but only restrict them on saltwater. I don't think we discussed this, or came to a decision?
Boating Facilities	"Any facility for launching or wet storage of vessels or watercraft. This includes marinas, overwater or upland boat houses, boat launches, boat lifts, mooring buoys, piers, floats and docks or any other similar single-use or shared-use facility for public recreational use or private residential use." DCD Staff: Does this exclude single family residential and community swim floats – or swim docks?	PAC Decision on 3/10/14: "Boating Facilities" term is no longer used in revised draft . Change definition of dock to: **Dock.** A structure built over or floating upon the water that abuts the shore, used to provide water access or ~~as~~ a landing and moorage facility for watercraft. Docks do not include recreational decks, storage facilities or other appurtenances. Docks include any combination of pier, ramp and float attached to the shore.
	"Any facility… Commercial boat repair shops and upland (dry) boat storage structures are considered under Commercial use regulations." DCD Staff: Edit to 'Commercial boat repair shops and commercial upland (dry) boat storage structures are considered under Commercial use regulations.'	N/A. "Boating Facilities" term is no longer used in revised draft.
Boat Launch	DCD Staff: "set of pads" where did this wording come from? I believe they are called ribbons but could check with WDFW for appropriate language. Also - the second line of boat launch definition implies saltwater and we want to cover freshwater too. DCD Staff: Out of alphabetical order. Move above Boat Lift.	Recommend removing "set of" from definition to read, "An inclined slab, concrete boat ramp, ~~set of~~ pad~~s~~, plank~~s~~, marine rail~~s~~, or graded slope used for transferring marine vessels or equipment to or from land or water." **PAC Decision on 8/26/2013:** Delete 'set of.'
Bogs	DCD Staff: Should we ADD cranberries to last lines where it says sometimes	This level of detail is probably not necessary here.

	mined for peat?	
Commercial Development	DCD Staff: Should we exclude "aquaculture" from this definition, per SHB 91-33 and 07-21?	See response to Marnin Q. in CAC response document: Diane Cooper asked: "Please check SHB Decision on Marnin where I believe it was determined that all related activities (even upland storage) were to be considered wholly within the SMP Aquaculture policies and regulations." The answer in the CAC Response document: The Shorelines Hearings Board in the Marnin decision noted that "Mr. Marnin's operation does not include a final processing or freezing plant under the MCSMP aquaculture exception, nor do his activities include either final processing or freezing of oysters." The Board also stated that "Mr. Marnin does not transact oyster sales at the site in question. He has no retail outlet, and he does not provide oysters to wholesale customers at the property. Instead, he transports all the oysters to offsite wholesale distributors in a truck - including those oysters he both cultivates and harvests on-site, those he harvests from off-site tidelands, and those he obtains from tribal/third party harvesters." So the Board still allowed for some differentiation of uses, consistent with the County's existing language. Also, Diane asked about processing plants and why they are included if they don't meet the definition. The response was: As noted, the definition of aquaculture specifically excludes "related commercial or industrial uses such as… final processing and freezing." This is consistent with other recently approved SMPs. The SMP also retains the existing 1988 SMP Regulation 9: "Proposed aquaculture processing plants shall provide adequate buffers to screen operations from adjacent residential uses." Note that existing Regulation 8 requires that "Aquaculture structures and activities that are not shoreline dependent or have a functional relationship with the water shall be located landward of shoreline buffers required by this program." The county recommends retaining both these regulations. Regulation 9 acknowledges there may be aspects of "culture and farming" that involve some degree of processing (e.g., sorting, grading, temporary storage) but are not "final processing plants and freezing" or wholesale or retail commercial activity.
Commercial Development	"Uses and facilities that are involved in the retail or wholesale trade or other business activities. Water dependent commercial uses are those commercial activities that cannot exist in other than a waterfront location and are dependent on the water by reason of the intrinsic nature of its operation." DCD Staff: Strike second sentence, as it is already defined under "Water-dependent use?"	Recommend deleting second sentence as suggested. The term Industrial doesn't include the qualifier, so for consistency it doesn't make sense to call this out in Commercial. **PAC Decision** on 4/7/2014: Strike sentence. Commercial Development. Uses and facilities that are involved in the retail or wholesale trade or other business activities. ~~Water dependent commercial uses are those commercial activities that cannot exist in other than a waterfront location and are dependent on the water by reason of the intrinsic nature of its operation~~
Commercial Feedlot	Recommend a modification to the definitions of feedlot: A commercial enclosure or facility used or capable of being used <u>where</u>	The definition is from the SMA, embedded in a key definition of "substantial development" it seems the proposed change narrows the definition. RCW

	livestock are gathered to be fattened from resale but shall not include land for growing crops or vegetation for livestock feeding and I or grazing, nor shall it include normal livestock wintering operations.	90.58.030(3)(e)(iv) states the following: "A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations." **PAC Decision on 5/20/2013:** Delete entire definition of "commercial feedlot" because 'feedlot' is defined. No change to definition of 'feedlot.'
Dock	"Dock. A structure built over or floating upon the water that abuts the shore, used as a landing and moorage facility for watercraft. Docks do not include recreational decks, storage facilities or other appurtenances. Docks include any combination of pier, ramp and float attached to the shore." DCD Staff: Should we add "swimming" to the definition?	Consider adding *recreation* or *to provide water* access to the definition of dock to remove any arguments that a dock can't be used for fishing or swimming as a primary activity: **PAC Decision** on 3/10/2014: **Dock.** A structure built over or floating upon the water that abuts the shore, used to provide water access or a landing and moorage facility for watercraft. Docks do not include recreational decks, storage facilities or other appurtenances. Docks include any combination of pier, ramp and float attached to the shore.
Dredging	PW Staff (5/2/2014): Recommend replacing the word "ditches" with "canals" ditches are not shorelines nor jurisdictional.	**PAC Decision** on 6/30/2014: delete ditches.
Dredging	PW Staff (5/2/2014): Recommend omitting the following sentences "Maintenance dredging" means dredging for the purpose of maintaining a prescribed minimum depth previously authorized by a federal, state, and/or local permit as part of any specific waterway project. Maintenance dredging also includes dredging that maintains the previously authorized width of a channel, boat basin or berthing area. "Non-maintenance dredging" means any dredging that is not maintenance dredging. Maintenance of a lawfully established structure or development is exempt under RCW 90.58 and WAC 173-27-040 normal maintenance. Maintenance is not a "use" or change in use, on the contrary, it is maintenance of an existing use.	This definition is not stating whether something requires a Substantial Development Permit. For all development proposals, one would look to the shoreline exemptions in WAC 173-27-040 (or in the draft SMP's 17.50.080 (D)) to determine whether a Shoreline Exemption could be issued rather than a Substantial Development Permit. In either case (exemption or SDP), the activity is subject to the shoreline regulations.
Ecological Functions or Shoreline Functions	J. Richert and M. Young This definition does not explain to me what Ecological Function is. Ecology's WAC 173-26-201(3)(d)(i)(C) gives examples of functions that are difficult to understand.	The definition is from Ecology's rule. See response in General Comments. As described there, Ecology's requirement is to adopt regulations designed to achieve "no net loss of functions necessary to protect shoreline resources over time." The regulations must translate what is known about ecological functions into specific requirements. Mason County's approach integrates existing Resource Ordinance requirements, with some modifications. For example, buffers are specific areas where functions are known to occur – the regulations require an applicant to apply the mitigation sequence for each proposal – if a project can stay out of the buffer, impacts are presumed to have been avoided. However, the SMP also implements the requirement to plan for an foster all reasonable and appropriate uses. The SMA outlines preferred uses. Where impacts from preferred uses are unavoidable, the regulations outline a process to mitigate those impacts. In many cases a site-specific evaluation will be done by a professional (e.g., through a Habitat Management Plan). The county is also seeking to provide pathways for single-family residences to develop custom individualized mitigation plans.
Exemption	J. Richert and M. Young: RCW 90.58.030 (3)e the last sentence states clearly	It is correct that the SMA exempts normal and necessary farming activities from

	"The following shall not be considered substantial development for the purpose of this chapter. (iv) Construction and practices normal or necessary for farming." The exempted farming activities are not considered substantial developments, therefore these activities are exempt from the SMP, not just exempt from getting a permit. The Exemption definition must clearly make this distinction.	the need for an SDP. It is also true that in addition, the SMA states that, the SMP may not modify or limit agricultural activities on agricultural lands.
Fetch	DCD Staff: I realize definition of fetch was written for marine waters but we also need to measure fetch on lakes. "Channel or inlet" implies we may only measure fetch on saltwater and it seems we often need to limit dock length on curved shorelines on lakes. Only time we use "fetch" is to limit dock lengths. Can we instead say something like - "distance across the water body"?	**PAC Decision on 1/13/2014:** **Fetch.** The perpendicular distance between Ordinary High Water Marks across ~~the channel or inlet~~ a body of water.
Fill	DCD Staff: If "gravel enhancement" for aquaculture ("frosting") is not to be treated as fill, should the definition include this clarification? Also, beach nourishment and restoration projects may involve placement of materials below the ordinary high water mark but are not about creating dry land. Consider clarifying these are not "fill."	**PAC Decision on 5/20/2013:** Add following sentence to clarify the definition of fill: **Fill**. The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. Depositing topsoil in a dry upland area for normal landscaping purposes is not considered a fill. Aquaculture gravel enhancement projects, beach nourishment protection projects, and restoration projects are not considered fill.
Add Floating Business?	DCD Staff: "Floating house" is well defined but what about floating businesses such as a floating oyster bar or parked party (restaurant) barge? I don't see that these are addressed anywhere and we have had inquiries for applications for both.	Seethe aquatic column in the project classifications table: **Commercial** Water-dependent uses: P, C, C, C, X, * Water related & water enjoyment: C, C, C, C, X, See regs. Non-water oriented Without waterfront[1]: P, X, X, X, X, n/a With waterfront: C[2]/X, X, X, X, X, X Part of a mixed use project[3]: C, C, C, C, X, X Also it is addressed in the Commercial regulations, mainly: 4. (now #6) Those portions of a commercial development which are not water dependent are prohibited over the water, except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.
Floodway	Staff: Change to match current statute at RCW 90.58.030 (2)(b).	**PAC Decision on 3/2/2015:** Make the following changes: **Floodway.** The area established in effective Federal Emergency Management Agency (FEMA) flood insurance rate maps or floodway maps.~~Those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition.~~ The floodway shall not include those lands that can reasonably be

		expected to be protected from flood waters by flood control devices maintained by or maintained under license from the Federal Government, the state, or a political subdivision of the state. See RCW 90.58.030. ~~The limit of the floodway is that which has been established in flood regulation ordinance maps or by a reasonable method that meets the objectives of the Act (WAC 173-22-030(3)).~~
ADD Footprint	Staff: Need definition for footprint.	**PAC Decision on 6/17/2013:** footprint should be defined as, Footprint. The total area within the perimeter of a structure (including roof eves, if applicable), or the perimeter of a development other than a structure. However, for the vertical expansions of 'grandfathered' structures and the horizontal expansion allowance for manufactured homes, footprint does not include uncovered decks or patios, nor does it include illegally established structures or additions. The first portion is taken from the Resource Ordinance.
Forest Practices	Need definition of 'forest land' or a reference to the definition in the WAC or RCW. "Forest Practices. Any activity conducted on or directly pertaining to **forest land** and related growing, harvesting, or processing of timber including but not limited to: (1) road and trail construction, (2) harvesting, (3) pre-commercial thinning, (4) reforestation, (5) fertilization, (6) prevention and suppression of diseases and insects, (7) salvage of timber, (8) brush control, and (9) slash and debris disposal. Excluded from this definition is preparatory work such as tree marking, surveying and removal of incidental vegetation such as berries, greenery, or other natural product whose removal cannot normally be expected to result in damage to shoreline natural features. Log storage away from forestlands is considered under Industry."	Change needed. It seems the definition in the 1/17/2013 version did not include edits made by the CAC (e.g. including biomass, etc.) TG NOTE: This issue was not discussed on 5/20 when Forestry was being discussed. Recommend adding "(as defined in WAC 222-16-010)" after the term 'forest land'. PAC Reviewed definitions on 3/2/2015 and ok'd the following definition: **Forest Practices.** Any activity conducted on or directly pertaining to forest land (as defined in WAC 222-16-010) and related growing, harvesting, or processing of timber including but not limited to: (1) road and trail construction, (2) harvesting, (3) pre-commercial thinning, (4) reforestation, (5) fertilization, (6) prevention and suppression of diseases and insects, (7) salvage of timber, (8) brush control, ~~and~~ (9) slash and debris disposal, and (10) borrow pits, as regulated by WAC 222-24-010. Excluded from this definition is preparatory work such as tree marking, surveying and removal of incidental vegetation such as berries, greenery, or other natural product whose removal cannot normally be expected to result in damage to shoreline natural features. Log storage away from forestlands is considered under Industry.
Forest Practices	Question posed by E. Schallon during PAC discussion of mining. What about borrow pits used to mine gravel for the logging roads?	Borrow pits are regulated by DNR as a Forest Practices Activity. There is a regulatory framework under Forest Practices, should the SMP include a regulation that says something like. Staff recommends revising definition of Forest Practices. PAC Reviewed definitions on 3/2/2015 and ok'd the above definition with borrow pits added.
~~Lot Coverage~~ Impervious	DCD Staff: This definition is vague and shouldn't it match the wording in	Recommend change definition to that used in terminology in 17.50.055 C or using

Section	Comment	Staff Response/PAC Decision
Surface	17.50.055.C which states, "impervious lot coverage is calculated by dividing the total area of impervious surface (e.g., driveways, buildings, patios, parking lots) located in shoreline jurisdiction by the total lot area that is within shoreline jurisdiction (landward of the OHWM) and then multiplied by one-hundred (100) to convert to percentage points.	the first 2/3rd of the definition in the 2012 Stormwater Manual. Also recommend changing terminology in definition, text (17.50.055 C) and Table (17.50.055-1) from "lot coverage" and "impervious lot coverage" to "impervious surface area" or consistency. 2012 Stormwater Manual for Western Washington's definition, "A non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling." **PAC Decision on 8/26/2013:** Replace term with Impervious surface and revise definition to match stormwater manual. After that, Staff changed the term from Impervious Surface Area to Impervious Coverage because this definition is not an area, it's a ratio. The following definitions were ok'd by PAC on 3/2/2015: ~~**Lot Coverage.** The percent or square footage of a lot that will be covered by the modification.~~ **Impervious Surface**. A non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. **Impervious Coverage**. The percentage calculated by dividing the total area of impervious surfaces by the total lot area (landward of the OHWM) and then multiplied by one-hundred (100) to convert to percentage points.
Marina	V. Wilson: Should 'boat houses' be added to the list in the 2nd sentence?	Was this discussed at a PAC meeting?
Mixed use development	North Forty Lodging LLC: We request the addition of a definition of "mixed use" as "a project including both water oriented and non -water oriented uses as part of a coordinated development."	The term is used in the commercial chapter and in the industrial chapter, but Staff has concerns (Tim?) about defining it. The language where the term is used within those chapters already essentially defines mixed use. **PAC Decision**: Pending? Was this was ever considered by the PAC?
Normal Repair	DCD Staff: The 5 years for bulkheads was a typo in the current SMP because it was supposed to say 2 years, consistent with the sentence before it that has	This definition varies slightly from the definition in the shoreline Exemptions. The Existing Structures subsection (as revised) of the General Regulations allows repair

	now been deleted. I am ok with 5 years being the amount of time but prefer to keep the wording that has been stricken from this policy (page IX 23, #8(d))saying "the burden of proof is on the applicant." Why was that removed. It is helpful for staff when challenged.	and replacement within five years, not one. **PAC Decision on 3/2/2015:** Delete definition because the term is only used in the shoreline exemption subsection, where it is defined.
Normal Protective Bulkhead	DCD Staff: Delete statement - "or lot upon which a single family residence is being constructed" - why add that? DCD Staff: Out of alphabetical order.	That wording is needed because bulkheads are only exempt from Substantial Development Permits ("normal protective bulkhead") when they are to protect a property with a single family residence.
Recreational Development	"Recreational Development. It includes facilities such as campgrounds, recreational vehicle parks, day use parks, etc. This applies to both publicly and privately owned shoreline facilities intended for use by the public or private club, ~~individual~~ group or association." DCD Staff: Delete "individual." DCD Staff: Also, add "educational" to definition.	Individual should be deleted from the definition because the Recreational Chapter applies to community and public parks, not docks or similar owned by individuals. **PAC Decision** on 4/21/2014: Revise to: **Recreational Development.** ~~It includes~~ Facilities such as campgrounds, recreational vehicle parks, day use parks, as well as those used for scientific or environmental education, etc. This applies to both publicly and privately owned shoreline facilities intended for use by the public or a private club, individual group, or association.
Rec Dev and Campgrounds	WA Parks 9/1/2015: For clarification purposes, we propose adding an amended recreational development and campground definitions to the SMP. Recreational Development: Recreational development means the modification of the natural or existing environment to accommodate public and commercial facilities designed and used to provide water-enjoyment recreational use opportunities to the public. Recreational development includes boating, swimming, hiking, nature study, camping facilities, picnic shelters, recreational vehicle parks, day use parks, trailheads and trails, benches, viewing platforms, as well as uses for scientific or environmental education. Campground: Campground and camping facilities means an area or site that is offered for overnight accommodations for persons using tents, personal portable overnight shelters, boats, recreational vehicles, cabins, yurts or platform tents, specifically designated and operated for temporary overnight camping	**PAC Decision on 12/21/2015:** Add definition for campground as proposed, but leave definition of Recreational Development as is.
Setback	DCD Staff: Why does it say "footprint or foundation" when should say "any portion of a structure"? Are we proposing to change that setbacks are measured from rooflines? If so, have serious concern with this.	See recommended definition for footprint, which includes roof eves.
Shorelands	DCD Staff: Should fix formatting (semi colons) so that it matches Ecology's definition in RCW 90.58.030 (2)(d), which is easier to understand.	Recommend change. PAC approved change.
Streams	H. Koeman: Where did this definition come from? Why is it different from and more vague than the Resource Ordinance? The following comment is made on the proposed SMP (additional comments may be forthcoming). Koeman-1: On the definition of "stream": the proposed definition is compared with the	**PAC Decision on 3/2/2015:** Revise definition of streams (per public comment received) to match the definition in the Resource Ordinance: **Streams:** Those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds and defined channel swales. The channel or bed need not contain water year round. This

	existing definition. The portion where substantial differences occur is highlighted by the commenter. **Stream.** An area where surface waters produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the annual passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined channel swales. The channel or bed need not contain water year round. ***This definition includes drainage ditches or other artificial water courses where natural streams existed prior to human alteration***, and/or the waterway is used by anadromous or resident salmonid or other fish populations. **Observation:** The commenter perceives the proposed definition to be far more restricted than the current definition. Better environmental protection is not achieved by imposing setback requirements where an existing enclosed irrigation or storm water ditch already exists that provides protection against possible pollutants that may enter the water carried by the irrigation or storm water ditch. This condition should be grandfathered and not affect newly proposed setback requirements. It is agreed that no new enclosed or artificial protective irrigation or storm water ditches should be constructed as the new SMP is adopted. It is also not clear how far back in time one has to go to determine whether the original bed of the stream actually is at the location where a current irrigation or storm water ditch is. Various run-offs from uphill lands have modified the locations of stream beds and the coast line over time. Therefore the statement "***where natural streams existed prior to human alteration"*** is ambiguous and must not be used.	definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses, unless they are used by salmon or used to convey streams naturally occurring prior to construction. For regulatory purposes under this Chapter once streams are identified, the streams are typed following the Washington State Department of Natural Resources Stream Typing System: "Type S Streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030(1) as now or hereafter amended, as a Type S Water and are inventoried as "Shorelines of the State" under the Shoreline Management Master Program for ~~Kitsap~~Mason County, pursuant to RCW Chapter 90.58. Type S waters contain salmonid fish habitat. "Type F Streams" are those surface waters, which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030(2) as now or hereafter amended, as Type F Water. Type F streams contain habitat for salmonid fish, game fish and other anadromous fish. "Type Np Streams" are those surface waters, which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030(3) as now or hereafter amended, as Type Np Water. Type Np waters do not contain fish habitat. "Type Ns Streams" are those surface waters, which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030(4) as now or hereafter amended, as a Type Ns Water. These streams are areas of perennial or intermittent seepage, ponds, and drainage ways having short periods of spring or storm runoff. Type Ns waters do not contain fish. "Type Ns Water" means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters. (5) For purposes of this section: (d) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation." "Type SP Streams" In addition to the DNR stream typing system, the county has proposed to identify specific streams of high value for anadromous fish for a higher level of habitat protection when they have limiting factors that are dependent on buffer width.
Substantial Development	J.Richert and M. Young: Any development of which the total cost or fair market value exceeds Six thousand four hundred sixteen ($6,416) Dollars… I believe that in 1971the fair market value was set at $5,000. This increase to $6,416 is not representative. In 1971Single family homes were selling for around $30,000. Today that same home is valued at $120,000. That is a 400% increase! In order for the $5,000 to be representative it would have to be increased to $20,000. We understand that the $6,416 is set by state legislature, but that does not make	The commentor correctly notes that this definition is set in statute and cannot be changed within the Mason County SMP. Note that the original limit in 1971 was $2,500, it was subsequently changed to $5,000, then to $6416 and is currently revised to account for inflation every 5 years.

	it representative.	
Transportation Facilities	Two definitions are included: Transportation Facilities. Facilities consisting of the means and equipment necessary for the movement of passengers or goods. Road and Railway Development. Includes also related bridges and culverts, fills, embankments, causeways, parking areas, truck terminals and rail switchyards, sidings and spurs. DCD Staff: What about commercial, recreational and residential (multifamily) parking areas?	Should these definitions be combined? Note that in the 11/13 version the definition of roads and railways was included under Transportation Facilities chapter. Also, in the 1/17/2013 version the Project Classification table says "Transportation (Roads and Railways)." It seems there was an intent to combine or simply use "Transportation?" A word search reveals that "Roads and railway development" is not used as a phrase in the SMP anymore. Would single-family residential roads always be interpreted as driveways and thus appurtenant? (Is there a concern about regulation of private roads?) Parking is addressed is relevant sections. Residential parking is appurtenant. **PAC Decision on 8/26/2013 and 12/16/2013**: Agreed that they should be combined and that it should clarify that it does not include driveways and parking for single family residential: **Transportation Facilities.** Facilities consisting of the means and equipment necessary for the movement of passengers or goods including roads and railways and related bridges and culverts; pedestrian, bicycle, and public transportation systems; related fills and embankments; causeways; parking areas; truck terminals and rail switchyards; sidings; and spurs. Transportation Facilities do not include parking and driveways for single family residential use.
Water Enjoyment, Related, Dependent Use	DCD Staff: Why were some of the examples such as restaurants, fresh seafood only retail sales, parks, etc. removed? Is staff to make judgment call that use is "oriented" vs. "related"?	**PAC Decision on 4/7/2014:** Add the following to Water Enjoyment: **Water Enjoyment Use**. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. <u>Primary water-enjoyment uses may include, but are not limited to, parks, piers and other improvements facilitating public access to the shorelines of the state; and general water-enjoyment uses may include, but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, and resorts/hotels (as part of mixed-use development or with significant public access or restoration components).</u>

17.50.050 Environment Designations

(1)(A)(1&2) Natural environment Designation Criteria	J. Richert and M. Young: By reviewing the "Map" the areas designated as Natural are not in areas that have a potential for high impact by human influence. In the administration of this program we must be very cautious that the county does not use these same priorities in other areas designations that have not been degraded by	The designation criteria sited is from Ecology's WAC 173-26-211(5)(a). The county translated those criteria into specific indicators through the characterization process with the assistance of the CAC and JTAC.

	human influence.	
(1)(A)(2) Natural environment Designation Criteria	We are having a problem with words and phrases that do not have a clear definition. RE: "a) perform irreplaceable ecological functions or ecosystem -wide processes." We haven't got a clear definition of ecological function, how do we define irreplaceable! RE: c) High quality estuaries; and d) High quality accretional spits; Who determines high quality? Or medium or low quality? RE: "h) areas that are critical for the support of priority wildlife species." Who is going to define the priority wildlife. Under No Net Loss it would not just be those species endangered.	The areas meeting this criteria were determined with the help of the JTAC. The areas are then mapped and whether or not those areas meet the criteria was subject to further review.
(1)(A)(2) Natural SED	WA Parks 9/1/2015: Public recreational development is a valuable component of the natural environment. Non-intensive facilities such as trails, marine trail campsites and viewing platforms facilitate public access to remote shorelines. The development of Interpretive and educational facilities in the natural shoreline further connect the public to the environmental and cultural importance of the shoreline environment. The purpose and the designating criteria for the Natural ED do not include a mention of recreation. If the intent of Natural is to allow for non-intensive recreational use or development then the Natural designation purpose and criteria should be changed to reflect the use of natural shorelines for public water-oriented recreational uses and developments. Revise the Natural designation purpose and criteria to allow for public water-oriented recreational uses, including those facilities that support "parks, campgrounds, trails, viewing platforms, interpretive and educational signs".	PAC Decided 12/21/2015 to instead revise the Natural designations (map) on some of the parks to less restrictive SED's, and to revise the Proj Classification Table for Recreational use.
(1)(B)(1)	Jerry Richert and Marley Young: I do not see agriculture mentioned anywhere in the Conservancy designation! The Kamilche Valley (along State Route 108 going toward McCleary) and the Skokomish Valley are designated as Conservancy but agriculture is missing from the 'Purpose'. Both areas are high quality agricultural activities. Also, the areas designated as Conservancy is where most of the farming is located, but under '1. Purpose' there is no mention of agriculture. However! "Rural 1.Purpose" is the only criteria that mentions agriculture!! This needs to be corrected.	In the Skokomish Valley it appears the Conservancy designation was applied based on existing conditions and the county's existing designation of the entire floodplain as a "floodway" which includes protective regulations consistent with state and federal floodplain regulations. The Skokomish River up to the confluence is also designated a Shoreline of Statewide Significance. On Skookum Creek, existing conditions also guided the recommended Conservancy designation (see ICR Report, p 6-132). **PAC Decision on 8/26/2013:** Add "agriculture" to the list of uses within the Conservancy criteria.
(1)(B)(1)	Jerry Richert and Marley Young: If Skokomish Valley is not regulated under the Shoreline Master Program then it is regulated under the Growth Management Act. It appears that there is a benefit to the existing Ranches in Skokomish Valley if the FEMA 100 yr flood line is adopted as the Shoreline Jurisdiction under SMP. We recommend that the jurisdiction include the FEMA 100 yr flood line and be extended up stream	As pointed out in a May 6th 2013 meeting, the Resource Ordinance (and Growth management Act)regulations still apply in critical areas even if it is also within shoreline jurisdiction, except for the instances where the Resource Ordinance is found inconsistent with the SMP (draft SMP 17.50.055 (B)(1)(3)). The draft SMP does clearly state that the program does not restrict existing or ongoing agricultural activities occurring on agricultural lands.

	on the South Fork of the Skokomish to include Section 12, T21N, R5W, WM.	
Shoreline Designations Green Diamond Resource Company	Green Diamond: Green Diamond is opposed to the proposed SEDs at four specific locations/sites on GREEN DIAMOND property. The sites are listed below with details to explain Green Diamond's opposition at each site, but first I want to give you an overview of Green Diamond's concerns. Once they are adopted by the Board of County Commissioners, the policies of the SMP will become part of the County's Comprehensive Plan, and the SMP's regulations will be subject to the requirements of the Growth Management Act. This means that the new SMP regulations must be consistent not only with the new shoreline element of the Comprehensive Plan, but also with the existing elements of the Comprehensive Plan, including its Future Land Use Map. The existing SMP was adopted before the County adopted its Comprehensive Plan and implementing development regulations, and it is the Comprehensive Plan and DCD StaffA- compliant development regulations, not the existing SMP, that express the County's policy choices for the future. If the PAC wishes to recommend that the County Commissioners make different policy choices in the new SMP than those that are made in the Future Land Use, the PAC also must recommend changes to the Future Land Use Map, and to the existing policies that provide the foundation for the Future Land Use Map, in order to achieve the consistency that the DCD StaffA requires. In addition, in each instance discussed below, the draft SMP proposes that Green Diamond's land be designated conservancy, but this proposed designation will be inconsistent with the purpose of the conservancy designation as described in the draft SMP at 17.50.050.B.l: "The purpose of the Conservancy designation is to protect and restore ecological functions and conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use and recreational opportunities." None of the areas discussed below is appropriate for sustained resource use, nor are these areas publicly owned and therefore suitable for recreational opportunities. In addition, Green Diamond has seen no analysis of how the Designation Criteria for the conservancy environment in proposed subsection 17.50.050.B.2 are met, and Green Diamond does not believe these criteria can be met, particularly when almost all the land that is owned by others on these lakes is proposed for either a Rural or a Residential designation (the only exception is a small area at Forbes Lake where approximately 38 acres of land owned by others also is proposed for a Conservancy designation). The proposals are inherently discriminatory, as well as inconsistent with the proposed SMP itself and with the Future Land Use Map and zoning code, which designate these lands for residential use. The draft SMP proposes to take away existing development rights, restrict Green Diamond 's use of its land more than the SMP will restrict other owners use of their land on the same water bodies, and create conflicts with the Comprehensive Plan and existing development regulations, all without any articulated policy basis for doing so.	The shoreline environment designations were based upon detailed criteria that were developed and reviewed by the JTAC and CAC groups. There were back and forth discussions of these criteria and revisions made based upon CAC and JTAC comments. When the proposed SEDs were mapped, the county consultant team used an approach that considering the following: 1. The designation criteria for each proposed SED; 2. The existing conditions as described in the Mason County Shoreline Inventory & Characterization Report, and summarized on the specific "Reach Sheet" for that section of the County's shoreline; 3. Current aerial photographs depicting land use, vegetative cover and development patterns; and 4. The zoning and comprehensive plan designations as an indicator of future intended land use and community vision. This process therefore considers multiple factors as required by the WAC in designating shorelines in the state, and does not rely solely on the zoning or future land use classification. While there are some differences in allowed uses and several regulatory differences among the different designations, the primary method for protecting ecological functions in SMP jurisdiction will be the Resource Ordinance, which will be adopted by reference and is proposed to be retained largely unchanged. As part of the SMP update, the county proposes to make targeted modifications to the Resource Ordinance, especially where those provisions only apply in shoreline jurisdiction. The Resource Ordinance regulations require that new impacts to ecological functions be avoided or mitigated, and these provisions apply regardless of environment designation.

	The SMP update proposes increased regulation and restrictions disproportionately by focusing on undeveloped properties. The result is punitive to landowners who have not yet developed their property and who will have less flexibility and options for future development. Past development whether done poorly or well is exempted and the remaining undeveloped properties in Mason County are identified and proposed to carry a disproportionate amount of the environmental cost of development. Green Diamond opposes this approach and requests that Mason County, at a minimum, provide evidence and analysis to support proposed SEDs that are inconsistent with upland zoning, adjoining properties, or are based on ownership rather than physical characteristics of the property.	
SED Hanks Lake	Green Diamond: Hank's Lake -Approximately 22 acres in size with RR5 zoning on the upland property surrounding the lake. Currently the entire lake carries a Rural SED which is consistent with the upland zoning and existing development at Hanks Lake. The SMP update proposes to change the SED at Hanks Lake from Rural to Conservancy. The lake is approximately 50% developed with rural residential 5 acre properties. Increasing the regulatory constraints from the current Rural SED to Conservancy SED as proposed is unwarranted and has no basis in policy or regulation. Green diamond formally requests that the SED remain unchanged at Hanks Lake. See attached Exhibit A.	Staff Recommendation**:** Retain Conservancy designation. Current conditions indicate the area meets Conservancy criteria (a) Partially developed or relatively intact areas that include wetlands, high quality riparian areas…; (b) Areas that are currently supporting resource-based uses, such as forestry… and (e) can support low-intensity recreational activities… As noted above, Conservancy designation is also consistent with Rural Residential zoning. PAC Decision on 7/29/2013: Retain (draft) Conservancy Designation. PAC Re-Decision on 9/9/2013: Voted to designate as Rural. **PAC Re-Decision on 10/27/2014:** Return to Conservancy designation, but allow smaller lot widths for lots created in performance subdivisions.
SED Lake Nahwatzel	Green Diamond: Lake Nahwatzel -is an approximately 219 acre lake with RR5 zoning on the uplands surrounding the lake. The lake is approximately 75% developed with residences varying in lot size from 1/1Oth acre lots up to 15 acre lots. The developed portion of the lake is currently in Urban Residential SED while the portion owned by Green Diamond is currently in the Rural SED. The SMP update proposes to change the SED from Rural to Conservancy for only those portions of the lake owned by Green Diamond. This proposed change is inconsistent with the upland zoning and the adjoining properties . Green Diamond formally requests that the SED be changed from Rural to Residential to reflect the current zoning of its upland properties. See attached Exhibit B.	Staff Recommendation: Retain Conservancy designation. Current conditions indicate the subject large lot parcels meet Conservancy criteria (a) relatively intact areas that include… wetlands and high quality riparian areas, and (b) Areas that are currently supporting resource-based uses, such as forestry…, and (e) can support low-intensity recreational activities. The lake supports coho and cutthroat Priority Habitats and Species. The area does not meet the Rural criteria of a mix of uses, or agricultural lands designation. As the comment indicates, the remainder of the lake is developed with residences, and those areas meet the criteria for a Residential designation. The subject parcels by contrast do not exhibit any of the characteristics of residential designation such as a) areas that are predominantly developed with single-family or multifamily residential development; b) Areas planned and platted for residential development, but are not predominantly characterized by critical areas, floodplains and/or channel migration zones; or c) areas with a proliferation of docks/piers and structural armoring. PAC Decision: Retain (draft) Conservancy Designation. PAC Re-Decision on 9/9/2013: Voted to designate as Residential. **PAC Re-Decision on 10/27/2014:** Return to Conservancy designation, but allow smaller lot widths for lots created in performance subdivisions.
SED Forbes Lake	Green Diamond: Forbes Lake - Approximately 38 acre in size with RR5 zoning on the uplands surrounding the lake. The lake is approximately 50% developed with residences varying in lot size from 2 acre lots up to 20 acre lots. The SMP Update proposes to change the current Urban Residential SED to Residential SED for the developed portion of the lalce. The remaining undeveloped portion of the lake	Staff Recommendation: Retain Conservancy designation. Current conditions indicate subject parcels meet Conservancy criteria (a) relatively intact areas that include… wetlands and high quality riparian areas, and (b) Areas that are currently supporting resource-based uses, such as forestry…, and (e) can support low-intensity recreational activities. The lake does not support endangered species, but does support bald eagle PHAS, a state 'sensitive' species. As the comment

	belonging to Green Diamond and others is proposed to be changed from Urban residential to the Conservancy SED. This is inconsistent with the upland zoning and adjoining properties. Green Diamond formally requests that the Urban residential SED at Forbes Lake be changed to the Residential SED to reflect the current zoning of its upland properties and to be consistent with adjoining properties. See attached Exhibit C.	indicates, the remainder of the lake is developed with residences - those areas meet the criteria for a Residential designation, while the subject parcels do not PAC Decision: Retain (draft) Conservancy Designation PAC Re-Decision on 9/9/2013: Voted to designate as Residential. **PAC Re-Decision on 10/27/2014:** Return to Conservancy designation, but allow smaller lot widths for lots created in performance subdivisions.
SED Mason Lake	Green Diamond: Mason Lake - Approximately 1,000 acres in size and four miles long with 57,550 feet of shoreline. The lake is currently designated urban residential for 94% of its shoreline. The remaining 6% is owned by GREEN DIAMONDo, most of which was designated conservancy before the County adopted its DCD StaffA regulations and zoned the upland RR5. The shoreline area at the westem end of the lake has been altered for over 60 years, however. At the eastern end of Mason Lake the SMP Update proposes to change the current SED from urban residential to the Conservancy SED for an additional 2,800 lineal feet of GREEN DIAMONDo property. This would result in GREEN DIAMONDo being the only owner on the lake burdened with the Conservancy SED and the associated increased restrictions. Mason Lake is currently 89% developed with residences varying in lot size from .25 acre lots up .to 47 acre lots. Imposing the Conservancy SED at each end of the lake on GREEN DIAMONDo property as proposed is unwarranted and punitive to Green Diamond. The proposal has no basis in policy or regulation. GREEN DIAMONDo formally requests that the SED at both ends of the lake be consistent with the other 89% of the shoreline as residential. See attached Exhibit D.	Staff Recommendation: Retain Conservancy designation. Current conditions on both the northeast and southwest end indicate subject parcels meet Conservancy criteria (a) relatively intact areas that include… wetlands and high quality riparian areas, and (b) Areas that are currently supporting resource-based uses, such as forestry…, and (e) can support low-intensity recreational activities. Note the lake supports federally threatened steelhead; and coho, trout, cutthroat, and chum Priority Habitats and Species. As the comment indicates, the remainder of the lake is developed with residences, and those areas meet the criteria for a Residential designation. PAC Decision: Retain (draft) Conservancy Designation **PAC Re-Decision on 9/9/2013:** Voted to designate as Residential.
SED Watts & Sinnit (Southwest Harstine Island)	C. E. Watts: RE: *GL* 2, *3, and 4, Sec. 36 Twp 20N, R 5 WWM/1763 E Burgundy Rd/Harstine Island* on the Southwest end of Harstine Island almost directly east of the south end of Squaxin Island. We believe that only GL 4 should be classified as "Natural" under the proposed SMA of Mason Cy (Ch. 17.50.050). It is the only part of the entire area that has the "bluff backed beaches" and perhaps the "feeder bluffs" referred to in the SMA proposal. GL 3, except the north 161.48 feet is undeveloped but with no bluffs or any other features spelled out in the "Natural" classification. See Google aerials and professional survey attached. GL 3 south of the north 161.48 feet does not meet the criteria of either the "Natural" or the "Conservancy" classifications because it slopes gently away from the line of OHW, is fully capable of being developed and simply does not fall within the defining characteristics of those two categories. In short, it is submitted that Gls 2 and 3 fall squarely within the "Rural" classification. Here is why: We are outside UGAs and other high density areas with sparse residential development, We are "large lots" ranging from 3.67 acres to 37.24 acres (See attached survey map incorporated into the Partition Judgment in the Mason County Superior Court in the early 1990s), We are partially designated as "Forest Land" by the Assessor and have	Staff Recommendation: Change subject parcels from Natural to Conservancy designation. The property owners provided more detail on existing development and conditions on subject parcels not indicated in the Inventory and Characterization Report. The area had been proposed as Natural based on incomplete information. Conservancy designation is consistent with the adjacent designation to the North which has similar conditions. (Applicant had noted adjoining lands were designated “Rural” but they are Conservancy). Extending Conservancy designation to include subject parcels is consistent with the overall approach to “lump, not split.” Additional notes: The cutting of trees on the property is considered forestry, rather than a “tree farm.” **PAC Decision on 7/29/2013:** Change from (draft) Natural to Conservancy Des.

	operated as a "tree farm" for decades, Finally, we meet the "purpose" statement on the "Rural" classification perfectly as (A) restricting "intensive development," and (B) "maintaining open spaces." The size of the lots compare *very* favorably and are in many cases larger than those of the subdivisions adjoining to the north and south (e.g., Burgundy Fruit Tracts to the north and Island Estates to the south). Our lots are at least as large as those if not larger and yet they are classed "Rural" and we are not. There are improvements/houses on the GL 2 and a part of GL 3 that have been in place in some cases since the 1950s and in all cases since the late 1970s. All were permitted and approved by both the Building and the Health Departments. There are 4 cabins/homes and several outbuildings on GL 2 and the north 161.48 feet of GL 3. This area cannot be said to be "relatively free of human influence" as required for the "Natural" classification. Nor is it a "valuable historic and cultural area" as required for the "Conservancy" classification. This area fits neatly and properly into the "Rural" purpose of "restricting intensive development along undeveloped shorelines." It is recognized that "residential" is a permitted use in both the Rural and Conservancy classes but the additional 50 foot setback is a major difference without justification on our property especially with the adjoining subdivisions on the north and south with the "Rural" classification. The maximum impervious surface restrictions in the Natural and Conservancy classes is also and undue burden given the existing development on our property and the developments adjoining which have been classified as "Rural" on the SMA maps. The area of Gls 2 and 3 should be classified "Rural" and that the "Natural" classification be withdrawn in recognition that it does comport with the facts on the ground including existing development, topography, and uses of adjoining lands classified as "Rural" as ours should be.	
SED Davis Family Farm	Davis Family: The Davis Family Farm granted a 1994 Deed of Conservation Easement to the Great Peninsula Conservancy. Amongst other conservation values the property has farming and agricultural along with protection of aquatic habitat, stream protection and scenic vista preservation. Along most of the Union River which bisects the Farm property there is a mature riparian buffer. With this in mind we would like to request that the Planning Advisory Commission change the "draft" freshwater shoreline designations for the affected portions of parcels 12320-34-00020 (2.3acres),12320-43-00040 (2.17 acres),12320-34-00000 (12.7 acres) and ,12329-20-03000 (46.54 acres), which border the Union River, from a Rural designation to Conservancy.	Staff Recommendation: Redesignating subject parcels as Conservancy would be consistent with Conservancy criteria. Reviewing adjacent parcels and possibly lump with Conservancy designation to the South. **PAC Decision on 8/12/2013:** Change draft designation to Conservancy**.**
SED Union Rural Activity Center	Hood Canal Improvement Club: The proposed SMP assigns an Urban Commercial SED for the entire shoreline of the Union Rural Activity Center. The HCIC recommends that pockets of existing legal commercial, multi- family, resort-type development be designated commercial and that the rest of the shoreline, be Rural Residential.	The county agrees it is confusing to apply an environment designation that includes the word “Urban” in Rurally zoned lands such as RACs and hamlets. See revised map. Options discussed include: Retaining UC only for existing pockets of commercial zoning, and using a

		"Residential" designation for others. Deleting the Urban Commercial and simply using the most appropriate designation which would typically be residentially, and perhaps clarifying that commercial uses are allowed in Residential designations where zoning allows. Retaining an "Urban" designation that is not limited to Urban-Commercial but is limited to use within UGAs. It would be for developed areas where other criteria do not apply. **PAC Decision on 8/12/2013:** Change 'Urban Commercial' SED term to 'Commercial,' and apply to all commercially (and Rural Tourist) zoned and used sites. The RR2.5 and Multi-family within RAC's will be redesignated as 'Residential.' Mapping changes needed. **PAC Decision on 9/9/2013:** After the above decision was made, it became apparent that several properties that are zoned Rural Tourist are not used commercially and are instead relatively natural and contain nonprofit campgrounds and/or environmental learning areas and forested areas. Therefore, in order to exclude such natural, non-commercial areas, Staff recommends (highlighted text) revising the Commercial (formerly Urban Commercial) designation criteria to the following: "~~Urban~~ Commercial" Shoreline Environmental Designation Purpose The purpose of the Commercial designation is to ensure optimum utilization of shorelines within ~~urbanized areas while managing~~ commercial ~~development~~ areas. Designation Criteria Shorelines ~~inside UGA's, RAC, or Hamlets~~ that do not qualify for a Natural or Conservancy designation and that have one of the following qualities: i. ~~Existing or planned high intensity commercial land uses in already developed areas~~ Areas zoned Commercial within an Urban Growth Area; or ii. Areas zoned Rural Commercial or Rural Tourist; or iii. Areas ~~developed with water-dependent commercial uses requiring frontage on navigable waters~~ with commercial development.
SED Dry Creek near Lake Cushman	K. VanBuskirk: The area was extensively logged when dam was built on Lake Cushman. Currently a recreational trail exists which was established on top of an old road. It is not currently a shoreline stream, but is proposed as a 'Natural' designation. Shouldn't it be designated Conservancy rather than Natural?	Dry Creek headwaters are in the Olympic National Forest, except that the last 2000 feet (before it outlets into Lake Cushman) is within Tacoma Power's property where they manage it as 'wildlife lands.' The site was logged when dam was built on Lake Cushman around 1925, therefore the trees in this second generation forest are now around 90 years old and meet Washington Department of Fish and Wildlife's definition of a Priority Habitat and Mature Forest. The presence of "old growth" is not a requirement for the Natural SED. The area around the creek is also listed on WDFW's PHS database as containing active Spotted Owl and Marbled Murrelet breeding habitat. The area meets criteria 'a', 'h', 'i', and 'j' within the Natural designation and 'a', 'b', and 'e' within the Conservancy criteria, therefore Staff recommends that the draft Natural designation be retained.

		PAC Decision on 9/9/2013: The PAC agreed to keep Dry Creek designated as Natural.
SED NW Shore of Lake Cushman	K. Vanbuskirk: On the west shore of Lake Cushman, in the vicinity of the causeway, there are 17 to 18 residential parcels, and the zoning is Rural Residential 5. Currently, the area is designated as Rural, and the draft designation is Conservancy. Wouldn't a Residential designation better fit the area?	These parcels are not served by utilities or infrastructure: There is no electricity, running water, minimal onsite waste treatment and, therefore, rural in character. In addition, per the Washington Department of Fish & Wildlife, the area contains Marbled Murrelet and Spotted Owl Priority Habitats. The area may meet criteria 'b' for the Residential SED, but meets 'a' and 'e' for the Conservancy SED, therefore staff recommends retaining the draft Conservancy designation. **PAC Decision on 9/9/2013:** PAC agreed the designation would remain Conservancy.
SED Section One Pond	K. VanBuskirk: The draft SMP map shows shoreline jurisdiction on parcels 12306-00-60000, 12307-22-60000, and 22301-22-22222, but the draft SMP's lists of shoreline lakes and streams do not contain this shoreline area. Why it is proposed Natural and Conservancy. Ken suggested that the entire shoreline should be designated Conservancy.	This is 'Section One Pond' and is listed in the draft SMP. It is both DNR and private land. The Natural designation is due to the Long Term Forestry and the RR-20 is where the Conservancy designation falls. **PAC Decision on 9/9/2013:** PAC decided to revise the SED's on Section One Pond so that the entire shoreline is Conservancy.
Parcel in Lynch Cove # 12331-24-60010	K. VanBuskirk: Parcel # 12331-24-60010 is zoned Rural Residential 5. The past uses have been as a trailer park and currently as a community park with structures. The entire area was filled when property was created, and it does not meet Natural criteria.	Although most of the shoreline in Lynch Cove is undeveloped, this parcel is unique along this stretch of shoreline. It is much smaller, developed, and has a PSNRP[1] score of 'more degraded.' The Residential designation criteria includes Rural Residential 5 zoning and "Areas developed with or planned for highly intensive recreational uses." Therefore, Staff recommends the draft designation change from Natural to Residential. **PAC Decision on 9/9/2013:** Change designation to Residential.
Parcel in Lynch Cove # 12331-12-00000	K. VanBuskirk: Parcel # 12331-12-00000 is zoned Rural Residential 5. It is 25 acres and was recently purchased by WDFW. The parcel formerly contained a home and the foundation still exists. The property has invasive weeds and barb wire fencing and does not meet the Natural criteria.	Although the PSNRP score is 'more degraded,' this property also has a relatively undeveloped, high quality estuarine shoreline. There are no existing structures in use. (WDFW were active participants in the TAC and CAC and do not object to the Natural designation.) Staff recommends the draft designation change from Natural to Conservancy designation. **PAC Decision on 9/9/2013:** Change designation to Conservancy.
Parcel in Lynch Cove # 12332-50-00090	K. VanBuskirk: Parcel # 12332-50-00090 is zoned Agricultural Resource Lands. It was extensively diked in 1950's with a recreation trail on top. This parcel does not meet the Natural criteria.	Although the PSNRP[1] score is 'more degraded,' this site is undergoing active environmental restoration. The dike is being breached, and an estuarine habitat is returning. WDFW and other landowners do not object to the Natural designation. County, State and Federal government have all approved this restoration. Staff recommends that the draft designation remain Natural. **PAC Decision on 9/9/2013:** Change designation to Conservancy.
(2)(A)(8) Environmental Designations Map	Oly Master Builders (3/22/2013): Language that is nearly undecipherable and provides great opportunity for confusion. One example of this is the "Mapping Boundaries" section 8 states, "8. Where existing physical or cultural features are at variance with those shown on the environment designation map and cannot be determined with certainty by applying subsections 1 through 6 above, the County shall determine the location or existence of such features utilizing the provisions of WAC 173-272-211."	

	Other sections of the document use similarly confusing language.	
Schafer State Park	WA Parks 9/1/2015: Schafer State Park is a 119-acre camping park on the Satsop River. The park is a state and national historic site as designated by the Washington Heritage Register and National Register of Historic Places. Popular recreation activities are camping, hiking, fishing, and swimming. Existing Park facilities located within the shoreline jurisdiction include park roads, parking areas, hand boat launch, campground, restroom facilities, and multiple non-motorized trails. A mixed Rural and Conservancy SED is more accurately suited to the level of recreational development present at Schafer State Park. The Rural designation is proposed where existing intensive recreation uses and developments are located. A designation of Conservancy on lands within Parks long-term boundary is consistent with the future development of less intensive recreational uses like trails, and interpretive facilities in the future.	**PAC Decision on 12/21/2015:** Change some of the Conservancy SED to Rural (but leave a bit more as Conservancy than per the request.
Hope Isl State park	WA Parks 9/1/2015: Hope Island Marine State Park is a 106-acre marine camping park with old-growth forests, saltwater marshes, and 1.5 miles of saltwater beach. The park is a popular destination for hiking, camping, crabbing, clamming, fishing, and beach exploration. Existing recreational developments on the island include a campground, two vault toilets, a park residence and storage building. Parks believes the Conservancy SED to be more accurately suited to the level of existing recreational use and development at Hope Island Marine State Park. The purpose and designating criteria for the Natural designation does not include mention of recreational uses and developments, and the water-oriented developments necessary for supporting recreational use are considered conditional in this environment designation. It is therefore not fitting for Hope Island to be designated within a Natural designation. The Conservancy SED would allow Parks to continue maintaining, and upgrading where necessary, the existing recreational facilities on Hope Islan	**PAC Decision on 12/21/2015:** Change the portion of the island that has higher use and development from Natural Conservancy.
McMicken Isl State Park	McMicken Island Marine State Park is an 11.5-acre marine park with 1,661-feet of saltwater shoreline. Visitors can enjoy the many hiking trails, viewing an active bald eagle nest, and shellfish harvesting. There is a sand bar that appears at low tide and connects McMicken Island to Harstine Island. The entirety of this small island park is located in shoreline jurisdiction. Existing park developments include two vault toilets, five recreational mooring buoys, kitchen shelter, and private residence. Parks believes that a Conservancy SED is more accurately suited to the level of recreational development present at McMicken Island Marine State Park. The purpose and designating criteria for the Natural designation does not include mention of recreational uses and developments, and the water-	**PAC Decision on 12/21/2015:** Change the portion of the island that has higher use and development from Natural Conservancy.

	oriented developments necessary for supporting recreational use are considered conditional in this environment designation. It is therefore not fitting for McMicken Island to be designated within a Natural designation. The Conservancy designation would allow Parks to continue maintaining, and upgrading where necessary, the existing recreational facilities on McMicken Island. Changes to the natural designation of the Harstine Island State Park Property located across the tombolo from McMicken Island are not proposed as facilities do not exist there.	
Jarrell's Cove State Park	WA Parks 9/1/2015: Jarrell Cove State Park is a 43-acre marine camping park with 3,500-feet of saltwater shoreline on the northwest end of Harstine Island in south Puget Sound. Popular recreational activities include boating, camping, hiking, fishing, and wildlife viewing. Existing shoreline recreational facilities include mooring buoys, two piers with moorage floats, a boat sewage pump out facility, campground, restroom facility, picnic shelter, trails, park roads, park residence and a shop building. Parks believes a mixed Residential and Conservancy SED to be more accurately suited to the mixed levels of recreational development at Jarrell Cove State Park. Within the proposed Residential designation area are mooring buoys, two piers with moorage floats, a boat sewage pump out facility, park roads, campground, restroom facility, picnic shelter, park residence and a shop building. This high level of existing recreational development contrasts with the intent of the Conservancy designation. A mixed designation of Residential and Conservancy would allow the high intensity recreational uses within the core of the Jarrell Cove property and the low-intensity recreational uses in the undeveloped portions of the property to continue. The proposed Residential designation is consistent with the designation of Twanoh State Park and the proposed designation change to Belfair State Park.	**PAC Decision on 12/21/2015:** Change the area that has a higher intensity of use (dock, picnic, camping) from draft Conservancy to Residential, but keep the narrow inlet as Conservancy.
Belfair State Park	WA Parks 9/1/2015: Belfair State Park is a 65-acre, year-round camping park on 3,720-feet of saltwater shoreline located at the southern end of the Hood Canal. Recreational uses of the park include camping, day-use picnicking, beach walking, shellfish harvesting, and hiking. Existing developments within the shoreline are a paved parking lot, restroom facility, picnic shelter, tent and RV campgrounds, and trails. Parks believes the Residential SED to be more accurately suited to the level of recreational development at Belfair State Park. The draft shoreline designation maps limit this section of Conservancy designation to the park boundary despite the presence of high-intensity	**PAC Decision on 12/21/2015:** Due to the existing uses such as drive in camping on both sides of the creek and due to the surrounding moderately dense residential lots, change all of the park from draft Conservancy to Residential.

	recreational developments, including parking and extensive camping facilities, within the park's shoreline jurisdiction. Similar to the Residential designation of Twanoh State Park on the opposite shore of the Hood Canal, a Residential designation for Belfair would allow State Parks to continue maintaining and developing the park as needed to meet recreational demand.	

17.50.055 General Regulations

A. No Net Loss & Mitigation

	J Diehl in 6/8/2015 letter: Unfortunately, the rubric of "no net loss of ecological functions" is a vague standard, which has spawned a minor industry in which net loss is tolerated, on the basis that it may be to some degree mitigated. The result is to continue a long-term trend toward environmental degradation, accepting mitigation as a palliative, but not a remedy. The problematic character of the No Net Loss standard is most evident where the impacts are least evident, i.e., in development of a single-family residence. It is hard for even a conscientious preparer of a habitat management plan to identify adverse impacts of a single residence on a small lot, even though there would undoubtedly be significant impacts of 1,000 such residences. This difficulty in identifying incremental impacts is an important factor in allowing long-term substantial loss of ecological functions even under a No Net Loss standard.	
(1)	J. Richert & M. Young: It appears that Mason County is attempting to put the exempted, existing, normal agricultural activities back into their shorelines jurisdiction. Please consider subtracting adding the words shown in red for better clarification "All shoreline use and development, ~~including preferred use and~~ except uses that are exempt from permit requirements, shall be located, designed, constructed, conducted, and maintained in a manner that maintains shoreline ecological functions."	Under the Shoreline Management Act, activities that don't require permits still need to meet SMP requirements. See Ecology rules at WAC 173-26-191(2)(a)(iii)(A). Therefore, the specific suggested changes would be inappropriate. However, the commenter correctly notes that SMPs are precluded from limiting or modifying existing and ongoing agricultural activities by RCW 90.58.065 (i.e., existing agricultural activities are not only exempt from permitting they are also exempt from regulation). Furthermore, there are other statutory exceptions to SMA policies and procedures as outlined in the draft rule at MCC 17.50.080.J. **PAC Decision on 2/25/2013:** Add the word "new" to this sentence, and the additional preface to match Ecology rules and reflect the statute. 1. Except when specifically exempted by statute, ~~A~~all new shoreline use and development, including preferred use and uses that are exempt from permit requirements, shall be located, designed, constructed, conducted, and maintained in a manner that maintains shoreline ecological functions.
(3)(a-f)	Public Works: Mitigation measures… recommend this list be written verbatim of WAC 220-110-020(66)(a), (b), (c), (d), (e) and (f). This will allow consistency	The language in (3)(a-f) is direct from Ecology's SMP guidelines at WAC 173-26-201(2)(e), which in this case is the appropriate source of established rule. WAC 220

	of already established law and statute.	applies to hydraulic project approvals issued by WDFW. [Note however, that the mitigation sequence in both state rules is almost identical as they were both derived from the SEPA mitigation sequence in WAC 197-11-768.]
(7)	T. King: At 2/25/13 PAC workshop – The first sentence gives no direction or priority on where compensatory mitigation measures shall occur. For example: must the applicant demonstrate they can't mitigate in the vicinity of the impact first, before going off-site? Is it necessary to look in the same marine reach before using a site in the same watershed?	Staff recommendation: Add the following to the end of A(7), consistent with compensatory mitigation sequence requirements of the Mason County Wetlands ordinance MCC 17.01.070.F(4).: 7. Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative location within the same watershed or marine shoreline reach that provides greater and more sustainable ecological benefits. a. When determining whether offsite mitigation provides greater and more sustainable benefits, the County shall consider limiting factors, critical habitat needs, and other factors identified by a locally adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan. b. Considerations for determining whether off-site mitigation is preferable include, but are not limited to: (i) On-site conditions do not favor successful establishment of functions, such as lack of proper soil conditions or hydrology; (ii) On-site compensation would result in a habitat that is isolated from other natural habitats or severely impaired by the effects of the adjacent development; (iii) Off-site location is crucial to one or more species that is threatened, endangered, or otherwise of concern, and the on-site location is not; (iv) Off-site location is crucial to larger ecosystem functions, such as providing corridors between habitats, and the on-site location is not; and (v) Off-site compensation has a greater likelihood of success or will provide greater functional benefits. c. The County may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved and sanctioned by the Department of Ecology and other applicable state and federal agencies. **PAC Decision on 8/26/2013:** Agreed with the recommendation.
(8)	Comment at 2/25/13 PAC workshop: In cases where mitigation is provided by a mitigation bank, the monitoring is not done by the applicant.eee	**PAC Decision on 2/25/2013:** Revise to clarify that a project proponent's *designee* may perform any required monitoring , as follows: 8. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions. Mitigation activities shall be monitored and maintained by the applicant or their designee to ensure they achieve intended functions.
(9)	J. Richert and M. Young: Recommend striking "or would be considered non-conforming". 9. Land that is constrained by critical areas and buffers shall not be subdivided to create parcels that are only buildable through a shoreline variance. ~~or would be considered non-conforming.~~	**PAC Decision on 8/26/13:** Delete the last five words because it's redundant - anything that would require a variance would be nonconforming.
B.1 Critical Areas - Applicability		

(3)	J. Diehl/ ARD: We are concerned that the Shoreline Master Program (SMP) update not weaken any existing protection of critical areas contained in the Resource Ordinance and Flood Damage Prevention Ordinance. The draft of § 17.50.055(B)(1)(3) provides that if a provision in the Resource Ordinance is inconsistent with the "standards and requirements" of the SMP, the SMP shall govern, not the "more applicable." This appears to imply that if the SMP is less restrictive than the Resource Ordinance, then the Resource Ordinance shall no longer apply to those areas deemed within the jurisdiction of the SMP. Are there sections of the SMP where its "standards and requirements" are weaker than the corresponding development regulations in the Resource Ordinance? One possibility, at least an area of ambiguity, is with regard to Frequently Flooded Areas (FFAs), one of the five designated types of critical areas for which the Growth Management Act requires protection. We applaud the stated intent of the regulations. Within the policies related to residential development is this clear statement: "Residential development, including subdivisions, in geologically hazardous areas, channel migration zones or in the floodway should not be permitted." This is consistent with the county's existing Flood Damage Prevention Ordinance, which properly prohibits such development, as required to achieve compliance with the Growth Management Act, as interpreted by the Western Washington Growth Management Hearings Board and Mason County Superior Court. Apart from the need to comply with the law, keeping residential development out of floodways and channel migration zones makes sense, both because it spares landowners from making costly mistakes that may jeopardize the lives of those who try to live in such locations, and also because it spares taxpayers extra costs for emergency services and to provide subsidized flood insurance. But it is not so clear that the draft SMP would prohibit residential development in floodways and channel migration zones. There is no express regulatory prohibition – as distinct from the policy statement – in the draft. Because the Resource Ordinance is subordinate to the SMP where they overlap, and because the Resource Ordinance effectively incorporates by reference the development regulations pertaining to FFAs found in the Flood Damage Prevention Ordinance (MCC 14.22) by means of § 17.01.90.D, it might be argued that the Flood Damage Prevention Ordinance's prohibition of residential development in floodways and channel migration zones is not applicable to areas within the jurisdiction of the SMP. At least, the draft SMP, § 17.50.050(1) [which perhaps should be 17.50.050(3)?], states that shoreline development shall be consistent with the Flood Damage Prevention Ordinance. However, it is not clear that such residential development would be prohibited if the draft became law, for if the Flood Damage Prevention Ordinance is effectively incorporated by reference in the Resource Ordinance, and if the Resource Ordinance is subordinate to the SMP where the two overlap, then it might be argued that the SMP allows, at least by omission, residential development in floodways.	Commenter correctly notes there are provisions in the FDPO (e.g., provisions specifically required by federal rules regarding replacement or repair of damaged structures) that may be more restrictive than the SMP but must continue to apply in all floodplains. There should be no ambiguity in the SMP that where provisions of the FDPO are more restrictive, those provisions apply. **PAC Decision on 2/25/2013:** Relocate MCC 17.01.055. B.6.1 to the Applicability section and clarify that in the case of the FDPO, where there are inconsistencies, the more restrictive provisions shall prevail. Changes to SMP: 3. In the event provisions of MCC 17.01 are found inconsistent with standards and requirements in this Program, this Program shall govern, except as provided below. MCC 17.01.050D, which states that in the case of overlapping regulations, the more applicable regulation shall prevail, does not apply in shoreline jurisdiction. 4. Shoreline uses and developments shall be consistent with MCC Chapter 14.22 Flood Damage Prevention, as amended. Where provisions of the FDPO and the SMP conflict, the more restrictive provisions shall apply. Changes to Resource Ordinance: D. SHORELINE MASTER PROGRAM AND FLOOD DAMAGE PREVENTION REGULATIONS The intent of Mason County is that ~~All~~ policies and regulations of this Chapter ~~are~~ be compatible ~~and consistent~~ with the following adopted County policies and regulations: 1. Mason County Flood Damage Prevention Ordinance (MCFDPO) 2. Mason County Shoreline Master Program (MCSMP) While there are no inherent conflicts between this Chapter and the MCFDPO, and the MCSMP, there may be sections that overlap as in the case of Section 17.01.100 Landslide Hazard Areas. Where such Sections overlap, the more ~~applicable~~ restrictive policy or regulation between either of the above documents and this Chapter shall prevail, except where substantive or procedural requirements are specified in the MCSMP. All activities and developments that are subject to approval under provisions of this Chapter that also require approval of the MCFDPO, shall be processed under provisions of the MCFDPO and shall meet all the standards of this Chapter. Granting of approval of the MCFDPO shall constitute compliance with this Chapter. Where provisions of the FDPO and the SMP conflict, the more restrictive provisions shall apply. All activities and developments that are subject to approval under provisions of this Chapter that also require approval of the MCSMP, shall be processed concurrently with provisions of the MCSMP and shall meet all the requirements of this Chapter.

	The language of the draft needs to be clarified. One way to achieve such clarification would be to provide expressly in § 17.50.050(2)(3) that it shall not be construed to reduce the restrictions on development and uses contained in MCC 14.22.	
(5)	DCD Staff: We need to make it clear that when activity within a critical area or buffer that is allowed with an MEP in the Resource Ordinance, will now require a Shoreline Variance instead. Or create an administrative variance? For example: currently to build within a wetland buffer, one needs to submit a Mason Environmental Permit (administrative) and a mitigation plan.	**PAC Decision on 9/9/2013:** make this clarification. Deleted specific permit names because on 9/9/13 PAC recommended that an administrative CUP process be developed: 5. The following procedural provisions differ from MCC 8.52 within shoreline jurisdiction: i. Applications that are processed as a Mason Environmental Permit per MCC 8.52.190.C, and do not require a Shoreline Variance, Shoreline Substantial Development Permit, or Shoreline Conditional Use shall instead be processed as a Shoreline Exemption. ii. The general exemptions in section 8.52.200 do not apply. For Exemptions to the SMP, see section 17.50.020(E) and WAC 173-27-045. For exemptions from the Substantial Development Permit process, see section 17.50.080 and WAC 173-27-040. iii. "New residential construction" does not include any replacements or repairs of legally established structures. iv. Development applications that are processed according to the Reasonable Use Exception provisions of MCC 8.52.190.K or Variance provisions of MCC 8.52.220 shall instead be processed as a shoreline variance. MCC 8.52.210 regarding nonconforming use and development shall instead be subject to MCC 17.50.055(H) within shoreline jurisdiction. MCC 8.52.250 regarding Appeals does not apply within shoreline jurisdiction. MCC 8.52.260 regarding Judicial Review does not apply within shoreline jurisdiction.
B.3 Critical Areas - Wetlands		
(1)	PW Staff: Why are wetland designations and procedures not applicable to wetlands in shoreline jurisdiction? Why are we doing different things and not consistent?	**PAC Decision on 2/25/2013:** Revise Wetland chapter in Resource Ordinance to refer to federal wetland manual and delete this regulation (B)(3)(1). (see response below)
(1)	Staff presentation at 2/25/13 PAC workshop: should the current wetlands manual be corrected in the Resource Ordinance and Regulation 1 deleted?	**PAC Decision on 2/25/2013:** Revise the Resource Ordinance to refer to the current federal manual for delineations, and delete MCC 17.50.055.B.3.1. ~~1. MCC 17.01.070.B and C regarding Wetland Designations and Procedures are not applicable to wetlands in Shoreline Jurisdiction. Instead, identification of wetlands and delineation of their boundaries pursuant to this SMP shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the County's Shoreline Jurisdiction meeting wetland designation criteria are subject to the provisions of this program.~~ Revision to the Resource Ordinance: 8.52.110.B Designations In making a determination regarding a wetland, Washington State Wetland

		Identification and Delineation Manual (Ecology #96-94), or as amended hereafter, shall serve as the technical resource guide on determining if an area possesses hydrophytic vegetation, hydric soils, and/or wetland hydrology. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements, as required by WAC 173-22-035. 8.52.110.C Procedures 1. Responsibilities for the determination of wetland boundaries: a. Formal determination of wetland boundaries is the responsibility of the County. The responsibility to provide all necessary and accurate data to the County for its determination rests with the applicant. This information will include a field delineation by a qualified wetland professional applying the ~~Washington State Wetland Identification and Delineation Manual (Ecology #96-94)~~ current approved federal wetland delineation manual and applicable regional supplements, ~~or~~ as amended hereafter. When, in the opinion of the Director, sufficient information exists from the County's wetland inventory, or other sources, the requirement for a full or partial delineation may be waived. For instance, in some cases, the applicant may only be required to determine the wetland boundary, or portion thereof, of the wetland system. The Director shall determine when a permit application is required and what additional information may be necessary. Wetland delineations shall be performed in accordance with the procedures as specified in the ~~Washington State Wetland Identification and Delineation Manual (Ecology #96-94)~~ current approved federal wetland delineation manual and applicable regional supplements, ~~or~~ as amended hereafter. Evidence documenting the results of any boundary survey, or other submitted data, may be required by the Director.
(2)	Staff presentation at 2/25/13 PAC workshop: should this regulation be deleted, as the Forest Practices Act regulates timber harvest practices?	**PAC Decision at 2/25/2013 workshop:** Delete (2). Ecology SMP guidelines and the draft SMP clarifies that timber harvest practices shall follow the Forest Practices Act (with the exception of the timber cutting limits on "shorelines of statewide significance" set in 90.58.150).
B.4 Critical Areas - Landslide Hazard Areas		
(1)(a) & (b)	Staff presentation at 2/25/13 workshop: the concern was raised that these regulations seem to be redundant.	**PAC Decision at 2/25/2013 workshop:** Delete (1)(a) and (1)(b). Regulation 1(a) adds no value, because Conservancy and Natural environments have Fish and Wildlife Habitat buffers of 150', it is not clear what would be gained by requiring a shoreline variance for reduction of landslide hazard buffers. Regulation 1(b) simply repeats an existing requirement in the Resource ordinance that would apply in any environment designation.

(c)	Staff: "75 year period plus 20 feet" -Where did this come from and is Resource Ordinance going to be revised to reflect it?	The suggestion to incorporate erosion rates into assessment of landslide hazard risk was borrowed from the Port Townsend SMP. **PAC Decision on 2/25/2013:** Delete this from the SMP and addressing the issue in the Resource Ordinance. However after receiving comment from geotech professionals that this rate over 75 years would be very difficult to really predict. **PAC Decision on 6/8 and 7/20/2015:** Instead of the erosion rate over 75 years, the following was added to the Resource Ordinance: (a) For marine bluffs, the minimum buffer shall be the *larger* of the following: (i) Equal to or greater than a distance from the Ordinary High Water Mark landward at a slope of 2:1 (horizontal to vertical) that intersects with the existing topography of the site; (ii) Fifty (50) feet from Landslide Hazard Area; and (iii) The minimum distance recommended by the geotechnical professional in the Geotechnical Report.
(d)	Staff: "Puget Sound Nearshore Estuary Program shoreform mapping:" How are the criteria that were used to map "bluff-backed beaches" relevant to shoreline hazard areas? This regulation provides "fuzzy" direction to "consider" bluff-backed beaches but is not definitive about how that information should be considered. Don't existing criteria already capture areas subject to hazards? Ecology geologist Hugh Shipman noted that the criteria for "bluff-backed beaches" is too broad to be used as a reliable indicator of hazard areas.	**PAC Decision on 2/25/2013:** Delete (d) because existing Resource Ordinance criteria are more specific and relevant.
B.5 Critical Areas - Fish & Wildlife Habitat Conservation Areas		
See the GENERAL/MISCELLANEOUS section for more comments on mitigation and monitoring requirements that pertain to the SMP and the FWHCA Chapter of the Resource Ordinance.		
FWHCA RO draft Common line	J Madden in 8/23/2015 letter: Recommended change: When determining Common Lines throughout this section, recommend using two criterial: a. Use the existing foundation walls of the adjacent homes as the setback for the proposed foundations. b. Use the existing roof eves of the adjacent homes to establish the maximum projection for eves toward the water for the proposed new home/project. Reasoning: Only using the roof eves projection to establish the common line does not account for the vast differences in house roof designs and home orientations. Some homes have huge cantilevered roofs that can project up to 15ft or more shoreward. This would allow a proposed home designed with a minimally cantilevered roof to have a foundation many feet shoreward into the protected areas and might also potentially block the views of other homeowners.	PAC Decision: Keep just one common line, based on roof eves.

FWHCA RO draft Common Line	N Thomas 8/31/2015 email: I agree with Jim Madden's comment of using the foundation as determining the common line setback and with his logic for not using the roof line or eave line. I believe, instead of having a second common line for the roof eves, there should be a maximum roof projection beyond the building face of something not too restrictive, such as three feet.	PAC Decision: Keep just one common line, based on roof eves.
FWHCA RO draft	N Thomas in 8/31/2015 email: In the RFWHCA chapter of RO - There needs to be a better definition to clarify the distinction between a deck and a covered porch. Are they to be treated the same? Is a covered porch to be regarded as part of the structure because it has a roof over it? Or is it to be regarded as a deck, for which there are different rules than the primary structure? I ask this because our old family home, which clearly sits within the setbacks being considered, has a covered porch across its full width facing Oakland Bay. If I were to rebuild the house to modernize it and correct some serious deterioration I would want to be able to rebuild the porch, which is so much a part of the house. But if it is to be treated as a deck then I would not as I understand the rules for decks. And what of existing accessory structures such as carports and garages in the setbacks. Can they be rebuilt if their present location if needed?	PAC Decision: Keep the upward expansion allowance as revised, to apply to total footprint of roof eves of residence.
(1) CMZ	Staff: CMZ – How does this apply? Ecology prepared a report and data layer with CMZs. In the existing RO, the buffer is measured from either the OHWM or the edge of the CMZ, whichever is greater. CMZ boundaries do not expand shorelines jurisdiction. Should the buffer area continue to be measured from the edge of the CMZ, or should the county revise the Resource Ordinance to address channel migration differently? For example, take the Clallam or Clark County approach of adding the CMZ to the edge of the F+W buffer.	**PAC Decision on 3/25/2013:** Delete Regulation 1 and instead amend the Resource Ordinance based on the approach in the approved Clark County SMP that extends the CMZ. MCC 8.52.170.D.1(a) (ii) On streams where Channel Migration Zones have been mapped and adopted by the County, the buffer shall be 150 feet or shall extend to the outer edge of the channel migration zone, whichever is larger.
(1) CMZ	PW Staff: CMZ – How does this apply? And regards to shorelines jurisdiction – it shouldn't expand on this authority.	The PAC decided to delete the FWHCA subsection and instead update the Resource Ordinance.
(2)&(6)	Staff: The draft SMP includes JTAC-recommended changes to the buffers that apply in shoreline jurisdiction. These amend the buffers from 100' to 150 on Natural and Conservancy saltwater shorelines, and clarifying that a 15' setback applies to all buffers, to protect the integrity of the buffer. These changes have a sound scientific and practical basis. However, should the county modify the buffer widths directly in MCC 17.01.110.D(2), Table 3 rather than modifying them in the SMP? The changes to the table would only apply in shoreline jurisdiction. It would be more direct and clear to amend the Resource Ordinance and delete this regulation.	**PAC Decision on 3/11/2013:** Delete Regulations 2 and 6. Revise table in the FWHCA chapter of the Resource Ordinance to match the SMP.
(3)	Staff: This regulation would require a shoreline Variance where any reduction	**PAC Decision on 3/11/2013:** Move regulation up to 'buffers and setbacks and

	in a common-line buffer is proposed less than 50' from the OHWM. The current threshold for a Variance is when the buffer plus setback is less than 35'. Is changing the Variance threshold the best approach to addressing the concern about small common-line buffers? The real issue is that staff and permit applicants need more clarity on mitigation requirements associated with use of the common-line buffer. The SMP might consider incorporating more explicit mitigation ratios (e.g., draft Kitsap County provisions) to provide more certainty for both the regulated community and permit staff? These ratios could acknowledge more explicitly what the existing conditions are, and what the requirements would be. Note that common-line provisions only apply within shoreline jurisdiction, so amending this section of the Resource Ordinance will only affect shoreline jurisdiction.	change "buffer" to "setbacks." Requiring a Variance does not address the real issue with the use of the common line. Keep 35' rather than 50' minimum for common line and develop an alternative approach to clarifying mitigation requirements in the Resource ordinance. This draft mitigation document is Appendix B to the Resource Ordinance.
(4)	Staff: This regulation adds specific types of water-oriented developments that may be permitted within a shoreline buffer without a Variance. Most of the uses listed are water-dependent and the Resource Ordinance already authorizes these in the buffer without a Variance. The one exception is beach access structures, the SMP use regulations could clarify that these do not require a Variance to go within a buffer. Teri King, WA Sea Grant: Science, research and education facilities do not have a chapter in the SMP. It is not clear how they would be regulated and what provisions they would have to follow.	**PAC Decision on 3/11/2013:** Delete Regulation 4. The listed facilities are covered by provisions in MCC 8.52.170.D.2(b) allowing for water-dependent uses without a Variance. Amend the Beach access structure regulations to clarify a Shoreline Variance would not be required to build such structures within a buffer. In addition, add the same kind of clarification to the recreational chapter addressing science education facilities (Recreational language agreed to by PAC on 4/21/2014). MCC 17.50.075.A(1) Beach access structures Beach access structures may be located within the shoreline buffer and setback without a Variance, provided that:... MCC 17.50.065.J(10) Recreational Development 19. No recreation building or structure, except for docks, ~~or~~ bridges, or water dependent scientific or educational facilities, may be built waterward of the Ordinary High Water Mark. Allowed overwater structures shall minimize habitat and visual impacts. Note: Later, on 4/21/2015, this language was revised to: No recreation building or structure, except for ~~piers or~~ docks, ~~or~~ bridges, or water dependent scientific or environmental educational facilities, ~~shall~~ may be built ~~over the water~~ waterward of the Ordinary High Water Mark. Allowed overwater structures shall minimize habitat impacts and visual impacts.
(5)	Staff: This regulation addresses requirements for new projects on sites where buffers don't have native vegetation "throughout." What about mixed buffer sites that happen to be most common? Also, the requirement is to plant the buffer with woody trees and shrubs proportionate to impacts of the proposed development. What does this mean for staff - how to implement without guidance? Is specific description of this given elsewhere AND does this mean if they have lawn and landscaping they cannot maintain it?	**PAC Decision on 3/25/2013:** Delete Regulation 5. Clarify mitigation requirements for new development in Resource Ordinance Appendix B instead. See proposed changes in row above.
RO	Staff: proposed changes to the Resource Ordinance as discussed above are presented in a separate handout.	**PAC Decision on 7/8/2013:** PAC reviewed the draft changes to the FWHCA of RO and the draft Appendix B (Common Line Mitigation) at the 7/8/13, 4/22/13, and 7/8/13 workshops.
B.6 Critical Areas - Frequently Flooded Areas		
(1)	J Diehl & A.R.D: Need to better clarify that the SMP does not supersede the Flood Damage Prevention Ordinance (see full comment under MCC	**PAC Decision on 3/11/2013:** The SMP should not supersede the FDPO, which is developed to comply with federal regulations. Relocate Regulation MCC

Section	Comment	Staff Response/PAC Decision
	17.50.055.B.1(3) above.	17.50.055.6(1) to the Applicability section with clarifications. See discussion under that section.
(2)	Staff: Regulation 2 addressing "balanced cut and fill" requirements in floodplains is derived from section 7.6 of Floodplain Management and the Endangered Species Act: A Model Ordinance, January 2012, available on the FEMA Region Website. Should the provisions be incorporated into the Flood Damage Prevention Ordinance? Or as a second option, the Resource Ordinance, in MCC 17.01.090 (Frequently Flooded Areas)? Note that staff have detailed questions about this provision that can only be answered by FEMA. For example: Is the definition for "Effective Flood Storage Volume" clear? Does this include any fill, or is there a threshold? How is it determined whether or not the excavation will affect habitat? Should a Habitat Management Plan be required, or is it clear that one is already required in the Resource Ordinance? Isn't mitigation required for grading in the buffer? Should provisions addressing compensatory storage include cross-references to other permit requirements? For example, grading and compensatory storage within the floodplain should requires a grading permit, SEPA review" per MCC 14.44.070(3). Note that these are required per MCC14.44.070(3) when grading is in a critical area (including floodplains), but in the SEPA WAC's a SEPA is not required unless >500 cy and/or over or in waters. Also, will an engineered stormwater plan be required by MCC 14.48? Public Works staff have also recommended changes to 2.c wherever this regulation is ultimately found. It may not be reasonable or feasible for many projects that are completed in phases. This could increase project cost substantially and require re-working of soils to grade. Recommend 2. C be revised as follows: Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins (September 30) to the greatest extent possible. A note on this recommendation: The FEMA model ordinance was written to implement the NMFS BiOp "Reasonable and Prudent Alternative 3.A.3.b, which does not specify that the "balanced cut and fill program" needs to provide compensatory storage in the same season as when the displacement occurs. The Model Ordinance language is not mandatory, it provides one option for addressing the BiOp. FEMA needs to clarify what is required.	**PAC Decision on 3/11/2013:** Delete Regulation 2**.** The PAC should formally recommend to the BOCC that the issue of compensatory storage should be addressed in the following locations (in order of priority): 1) the FDPO, or 2) the Resource Ordinance 17.01.090 (Frequently Flooded Areas).
(2)(c)	Related to fill in the floodplain, Jerry Richert and Marley Young submitted the following written request 2/11/2013: "Under RCW 86.16.190, the state has authorized livestock flood sanctuary areas in floodplains. The SMP has to include livestock flood sanctuary areas.	**PAC Decision on 3/11/2013:** As noted above, the PAC recommended "comp storage" be addressed in the floodplain ordinance. Especially if the county doesn't adopt the full 100-year floodplain as jurisdiction, regulations regarding livestock flood sanctuary areas (critter pads) should properly be addressed in the county FDPO, which is developed pursuant to RCW 86.16.190, where livestock sanctuary areas are authorized. (See comment attached) Note: Will not be addressed in the 2014 revision to FDPO, per BA. Will open FDPO again to add comp storage later (?).

(2)(c)	PW Staff: This may not be reasonable or feasible for many projects that are completed in phases. This could increase project cost substantially and require re-working of soils to grade. Recommend language "to the greatest extent possible".	**PAC Decision on 3/11/2013:** Delete Regulation 2. The PAC should formally recommend to the BOCC that the issue of compensatory storage should be addressed in the following locations (in order of priority): 1) the FDPO, or 2) the Resource Ordinance 17.01.090 (Frequently Flooded Areas).
(3)	Staff: Regulation 3 and 4 are broadly stated prohibitions. With the PACs decision to add CMZ boundaries to the FWHCA buffer, the general prohibition is covered in the Resource Ordinance. In addition, Regulations 3 and 4 do not address Ecology's CMZ guidelines which include specific "uses and activities that may be appropriate and/or necessary within the channel migration zone or floodway…" The list of activities allowed by Ecology guidelines are already authorized in the Resource Ordinance with appropriate limitations (see MCC 17.01.110.G).	**PAC Decision on 3/25/2013:** Delete Regulations 3 and 4 from the SMP, as the Resource Ordinance provisions address Ecology's guidelines, including addressing allowed activities within CMZs.
(3) CMZ	PW Staff: Recommend removal of the language completely. This will be a hindrance to constructing roadway realignments within these areas and likely prevent projects that could be a net-benefit to the environment. This language would also prove problematic to WSDOT CED program. Increases cost of projects substantially.	**PAC Decision on 3/25/2013:** Delete Regulations 3 and 4 from the SMP, as the Resource Ordinance provisions address Ecology's guidelines, including addressing allowed activities within CMZs.
(4) CMZ	PW Staff: Recommend more flexibility in allowing development in these areas. To prevent development completely in an area that **may** cause an adverse impact to property or public improvement seems irresponsible and irrational. The language left as-is has the opportunity to adversely impact Transportation departments from completing roadway and bridge realignments that have a potential net-benefit to ecological functions and the environment.	**PAC Decision on 3/25/2013:** Delete Regulations 3 and 4 from the SMP, as the Resource Ordinance provisions address Ecology's guidelines, including addressing allowed activities within CMZs.
(3)-(5) CMZ	PW Staff (11/18/2013): [General Comment about use of CMZ] Prior to use of CMZ language throughout the SMP document, we would like clarification on the use of a Draft document in the establishment of rulemaking for the County SMP. It is our understanding that all documents that are used to condition permits have gone through the administrative procedures act process for rule-making. It is questionable that this document represents "best available science", the document has not been peer reviewed and mentions the following within the text, DRAFT Channel Migration Assessment Mason County December 2011 Chapter 1.2 Introduction (pg 4, 4th paragraph) states "The delineations included in this report represent the "general location" because they relied on GIS data and did not include a detailed analysis of historic migration rates, nor did they include field verification or geotechnical assessments done as part of delineating a CMZ using the more detailed method described in Rapp and Abbe (2003)." (pg 5, paragraph 5) "The streamlined method did not include field verification or detailed analysis of channel migration rates" We would like to know if this document meets the intent of WAC 173-26-201(2)(a) Use of scientific and technical information? If determined the use of the draft document does not meet administrative procedures act process for rule-making and WAC 173-26-201 we recommend	The CMZ Assessment has been available on Mason County's SMP update page of the website since 2012. The CMZ *map* has been viewable on the website since 2012 (Shoreline Master Program Map Viewer). Staff consulted with an engineer, a gis technician, and a stormwater manager from the Public Works Department (as well as the Ecology engineer who prepared the assessment) for about a year (2014/2015) and the final result was that PW staff had no recommended revisions to the CMZ map. Since the SMP guidelines state that the community shall map the "general" location of the channel migration zone, which is sufficient for applying SMP regulations that apply to CMZs and is not just advisory. Working with other communities on this issue, Ecology has generally agreed to use the planning level maps as they pertain to SMP jurisdiction. If there are conflicts or a property owner disputes the CMZ location than a more detailed assessment by a qualified person(s) would need to be done. An analogy to this is the FEMA FIRM unnumbered A zone which is not supported by flood models. A map amendment is required to change the A-zone boundaries and generally requires an assessment.

	Chapter 13 Transportation Facilities Section 1(d) be eliminated and the rest of the Use Regulations and SMP draft document be evaluated to determine if they need to be updated and revised appropriately. It is our understanding that based on the draft maps a project proponent will be tasked with procuring a professional licensed engineer to make a recommendation determining whether or not the proponents' property is within or outside of a CMZ. We believe it is more appropriate to include CMZ regulation and information in a guidance or guideline format until the draft document has been fully vetted through a public review process.	
(3)-(5) CMZ	PW Staff (11/18/2013): It is concerning that the local government will require an applicant to pay for an assessment to delineate the CMZ, based on language in the guidance that development **may** cause significant adverse impact. How is this justifiable? If the use of the draft Channel Migration Assessment is considered appropriate for the SMP we would like the following exemptions from WAC 173-26-221(3)(b) be included in this subsection 1 - All areas separated from the active channel by a legally existing artificial structure(s) (as defined in RCW 90.58.030) that is likely to restrain channel migration, including transportation facilities, built above or constructed to remain intact through the one hundred-year flood, should not be considered to be in the channel migration zone. 2 - In areas outside incorporated municipalities and urban growth areas, channel constraints and flood control structures built below the one hundred-year flood elevation do not necessarily restrict channel migration and should not be considered to limit the channel migration zone unless demonstrated otherwise using scientific and technical information. Under the above criteria we also propose a process be created that allows a regulator the authority to make a determination that a professional CMZ evaluation be required or not. There should be some simple field parameters and criteria to help in this determination so that a project proponent not be required to procure a licensed engineer and pay for a report only because the property falls within a GIS CMZ polygon.	The CMZ has been delineated by a hydrogeologist at the department of Ecology. These two provisions of WAC 173-26-221(3)(b) were used by the hydrologist when delineating the CMZ. The report requirements (revised and moved to FWHCA Chapter of Resource Ordinance) applies when someone proposes to develop within a CMZ, and these requirements are pretty straight forward. **PAC Decision on 3/25/ 2013:** Delete 3-5. Instead, amend Resource Ordinance to allow for individual assessments. **PAC Decision on 7/24/2015 (and 7/7/2015):** add language in Resource Ordinance to state: (ii) On streams where Channel Migration Zones have been mapped and adopted by the County, the buffer shall be 150 feet or shall extend to the outer edge of the channel migration zone, whichever is larger. Major new development within a Channel Migration Zone (CMZ) is prohibited unless one of the following is submitted: a. A report prepared by a qualified professional demonstrating that the proposed development would not result in interference with the process of channel migration, cause significant adverse impacts to property or public improvements, and/or result in a net loss of shoreline ecological functions within the rivers and streams. Based on the results of the report, the Director may limit development in the CMZ and require a buffer of undisturbed natural vegetation from the edge of the CMZ; or b. A report prepared by an experienced geologist, hydrologist, or civil engineer with at least 5 years experience with fluvial systems of the Pacific Northwest. The report shall include a review of historic and current aerial photos and maps; a field analysis of specific channel and valley bottom characteristics; and, based on the guidance provided by Ecology on channel migration assessments, the report shall demonstrate the following: I. The site upon which the development is proposed is effectively disconnected from the CMZ due to levies, or infrastructure such as roads and bridges constructed and maintained by public agencies; and II. The risk that the channel will migrate during the next 75 years is minimal as indicated by the existing channel type, intact land cover

		(and low likelihood future alterations in land cover); stable surficial geology, low soil and potential; lack of evidence of likely avulsion pathways (include area upstream of, but proximate to, the site); low inundation frequency(ies). The assessment shall include review of all available data regarding historical channel locations at the site; identification of the site within a broader area. (Taken from Clallam County's draft SMP)
C. Dimensional Standards		
(2)	PW Staff: The 35 foot height limit is from a direct statutory requirement in RCW 90.58.320. However, that statute authorizes exceptions where "…overriding considerations of the public interest will be served." Consider incorporating the statutory language directly, and perhaps add bridges and utilities as examples. Recommended adding the following language: Pursuant to RCW 90.58.320, exceptions are allowed when overriding considerations of the public interest will be served. Bridge structures are examples of structures that serve the public interest.	**PAC Decision on 9/9/2013**: Address the allowances in RCW 90.58.320: 2. A standard height limit of thirty-five feet (35') shall apply within shoreline jurisdiction, unless Mason County zoning code requires a lesser height. Height is measured according to MCC 17.50.040, Definitions. Power poles and transmission towers associated with allowed uses and developments are not subject to height limits but shall not be higher than needed to achieve the intended purpose. Consistent with MCC 17.01.061D, agricultural buildings, cell towers, antennas and water tanks are also not subject to height limits. Pursuant to RCW 90.58.320, exceptions are allowed when overriding considerations of the public interest will be served. Bridge structures are examples of structures that serve the public interest.
(3)	PW Staff: Request exemption for transportation and roadway projects. This would be unattainable for majority of transportation projects.	Recommend retaining the 10% limit in Conservancy and Natural environments, but clarify that it applies to residential development, consistent with Ecology guidelines at WAC 173-26-211(5)(b)(ii)(D). The numeric value of 2,550 square feet was included for consistency with a Resource Ordinance provision that also applies only to residential developments. **PAC Decision on 4/22/2013?:** Limit #3 to residential development: In Conservancy and Natural shoreline environments maximum impervious coverage for residential development shall be limited to ten percent (10%) or 2,550 square feet, whichever is greater. The impervious ~~lot~~ coverage is calculated by dividing the total area of impervious surface (e.g., driveways, buildings, patios, parking lots) located in shoreline jurisdiction by the total lot area that is within shoreline jurisdiction (landward of the OHWM) and then multiplied by one-hundred (100) to convert to percentage points.
(3)	PW Staff: There is a maximum of 10% impervious designated for Conservancy and Natural environments, but not the other designations. This is also spelled out in Table 17.50.055-1. What is the typical lot size in the Natural and Conservancy environments? Anything less than ~ 1/2 acre would be restricted to the 2550 sq ft. What are we hoping to accomplish by setting a max impervious, and will this do it?	The Conservancy designation is primarily in forest lands and other resource based uses, which tend to be larger lots. Also, it includes Landslide Hazard Areas, feeder bluffs, wetlands, channel migration zones and high quality riparian buffers – therefore much of the area should not be developed anyway. The Natural designation occurs in areas with high value wetlands, estuaries, feeder bluffs, and critical habitat for priority and endangered species. It predominantly occurs on Olympic National Forest lands, Long Term Commercial Forest lands, Rural Natural Resource lands, which consist of larger lot sizes.
Table 17.50.055-1 Row 1	Staff: "Minimum Fish & Wildlife Habitat Conservation Areas buffer (in feet)" should say "Standard… Table 055-1 displays what the Resource Ordinance indicates as "standard"	**PAC decision** on 3/25/2013: Amend row 1: 1. ~~Minimum~~Standard Fish & Wildlife Habitat Conservation Area buffer (in feet)

	buffers. These numbers are not always the "minimum" buffer because there are pathways for buffers to be reduced or increased in the Resource Ordinance (following a detailed process including a public hearing). In addition there are "common-line" buffers that vary from the standard.	
Table 17.50.055-1 Row 5	PW Staff: Please remove the reference to the "Current Adopted Stormwater Manual for Standards" (it does *not* establish max % impervious) and instead reference MCC 14.48 and 17.80, although neither of these specify a maximum % impervious.	**PAC Decision on 3/25/2013:** Change Commercial, Residential and Rural to "Not Applicable." **PAC Decision on 6/2/2015:** Keep "See Current Adopted Stormwater Manual for Standards" because it is accurate that the manual contains stormwater standards.
Table	J. Diehl in 6/8/2015 letter: The Stormwater Manual should not be given precedence over the Shoreline Management Program (p. 64 of '17')), thus exempting commercial, residential, and rural property from any maximum impervious surface coverage except whatever is found in the Stormwater Manual. So far as weare aware, the Stormwater Manual has not been reviewed under GMA or SMA standards.	**PAC decision:** retaining reference to the stormwater manual for Urban, Residential, and Rural.
Table	J. Diehl in 6/8/2015 letter: It appears that buffer widths for marine bluffs have been watered down, when compared to the buffers required in the Resource Ordinance for protection of geologically hazardous areas (p. 64 of '17A'). We note that there is no reliable way to determine how much a given bluff will erode over the next 75 years. Even expert guesses are not definitive, and are subject to the pressure a client exerts on a consultant to put his house where he desires, not necessarily where it will be safe for it to remain without hard armoring of the bluff. Yet, these guesses would be made definitive under the proposed provision allowing bluff buffers to be limited to a distance equal to the sum of the bluff erosion rate over at least 75 years plus 20 feet. (Nor is it clear whether the lower standard for marine bluffs would prevail, for a staff person we reached conjectured that the more restrictive standard of the Resource Ordinance might prevail.)	**PAC Decision:** Replace the requirement for bluff setbacks based on the erosion rate over 75 years with a 2:1 ratio.
E. Vegetation Conservation		
(1)	Staff: To address questions that arose at the PAC meeting, amend Regulation 1 to clarify that vegetation conservation provisions apply to new uses and development. When it says "maintain shoreline vegetation" can this be all vegetation or does it need to say "native vegetation"?	**PAC Decision on 3/25/2013:** Amend regulation 1 as follows: 1. Unless otherwise specified, all <u>new</u> shoreline uses and development shall comply with the buffer provisions of this program to protect and maintain <u>native</u> shoreline vegetation.
(2)	Staff: Should regulation 2 be amended to clarify that requirements do not retroactively require existing uses and developments to be removed, unless required as mitigation? Consider incorporating Kitsap County example language.	**PAC Decision on 3/25/2013:** Clarify Regulation 2 as follows: 2. Vegetation clearing in shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development. Outside shoreline buffers, vegetation removal shall comply with applicable requirements for clearing and grading, forest practices, and protection standards for fish and wildlife habitat. Clearing non-native vegetation is allowed. <u>Vegetation conservation standards shall not be applied retroactively in a way which requires lawfully existing uses and developments including residential landscaping and gardens to be removed, except when required as</u>

		mitigation for new or expanded development.
F. Views and Aesthetics		
	Oly Master Builders (3/22/2013): The section on "Views and Aesthetics" establishes extremely restrictive requirements over and above the building code for architecture and building materials without any corresponding environmental benefit.	Decision – see below.
(1)(b) – (e)	Staff: Regulations (1)(a) – (d) will be hard to implement consistently, especially because shoreline neighbors have differing opinions on design. Under (1)(c), what surface qualify as those that minimize reflective light? Under (1)(d), are staff going to have to inspect plans for "mechanical equipment"? (1)(e) is redundant, as other regulations apply whether or not it is stated here?	**PAC Decision on 6/3/2013:** Retain requirement to maintain view corridors but eliminate subjective requirements: ~~1. The following standards shall apply to developments and uses within the jurisdiction of this Program~~: a. Where commercial, industrial, multifamily and/or multi-lot developments are proposed in locations that would interrupt existing shoreline views, primary structures shall provide for reasonable view corridors. ~~b. Buildings shall incorporate architectural features that reduce scale such as setbacks, pitched roofs, offsets, angled facets, and recesses.~~ ~~c. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.~~ ~~d. Building mechanical equipment shall 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 shall be provided consistent with building exterior materials that obstructs views of such equipment.~~ ~~e. Any other design standards included in community plans or regulations adopted by Mason County.~~ **PAC Decision:** Move the one remaining View regulation (1)(a) to the Public access section. And add "as seen from water..." wording to Policies IX-2 (D).
(2)	Staff: Recommend delete regulation (2) as a view issue, and addressing the issue of fences in the Resource Ordinance instead. Proposed Regulation (2) led to significant confusion, and concern about how to address the varied circumstances where fences might affect views with a single numeric standard. However, the main affect of Regulation 2 was to provide some allowance for fences inside buffers where the area is already developed. A more direct approach to addressing that would be to amend the Resource Ordinance to authorize use of fences in existing landscaped areas.	**PAC Decision:** The PAC (6/17) recommended clarifications to the Resource Ordinance at MCC 17.01.110.F.2. On 7/8/13, PAC agreed to delete part 2 in the SMP and add a 3 foot fence allowance to maintenance of landscaped areas in RO-FWHCA: (d) *Fences*. Fences limited to three (3) feet in height are allowed in the buffer and setback, provided they do not extend waterward of the Ordinary High Water Mark and provided the removal of native vegetation does not exceed the ratio allowed in subsection (F)(21) (View Corridors). PAC ok'd the above language on 8/31/2015.
(2)	PW Staff: Does this mean that a property owner would not be allowed to construct a fence within the Shoreline Buffer plus the setback – so 215-ft? Why or how was 24-inches chosen for a fence height? How is this justifiable?	Currently (the existing Resource Ordinance) no fence is allowed within the buffer (which range from 20 to 100' for FWHCA's) without special permitting. This added regulation (in the Jan 2013 draft) is allowing for 2 feet. **N/A. PAC decided on 7/8/2013** to delete #2, and revise the maintenance paragraph of the Resource Ordinance FWHCA's chapter to allow for 3 foot high fences (in areas already landscaped).
	J Diehl in 6/8/2015 letter:	**PAC Decision**: Retain decision to delete the views and aesthetics section.

	We question the deletion of the section on views and aesthetics (p. 65). It is inadequate and invites confusion to treat these concerns under the heading of "access." So, for example, the proposed regulations call for commercial development to provide "public visual or physical access to the shoreline" (p. 109), but make no provision for aesthetic compatibility. Even if "access" may be stretched to cover views, it plainly does not cover aesthetics. Moreover, conflating access and views seems to lead to oblivious disregard for views from the water or from across the water on other land. These are important to all those who visit or live on shorelines and their adjoining waters. Concern for views should not be limited to blocking views of water. Consider the ugliness of many urban waterfronts (and some waterfronts with dense residential development), and then ask whether "the interests of all the people" are adequately weighed when regulations are limited to constraints on blockage of water views. The manner in which the shoreline is developed has much to do with the pleasure experienced by access to water, whether physically or visually at a distance. Blind complacency about the aesthetic impacts of development along shorelines ultimately has economic impacts, as well as subjective impressions of pleasure or displeasure. Tourists are less likely to visit where the waterfront is unpleasant, and property values in waterfront areas perceived as unattractive are reduced. The fact that new or expanded marina facilities may be required to perform "a visual assessment of views from surrounding residential properties, public viewpoints, and the view of the shoreline from the water surface" (p. 117) is a step in the right direction, but inexplicably is not a condition for any other development and is not necessarily required even for marinas.	
G. Water Quality / Quantity		
(2)	PW Staff: Please revise to clarify as follows:17.50.055(G)(2) Please revise to say: "…shall use effective erosion control, treatment, and flow control methods in compliance with MCC 14.48 and 17.80."	**PAC Decision** on 4/22/2013: All shoreline uses and activities shall use ~~effective~~ stormwater and erosion control and treatment methods during both project construction and operation. At a minimum, ~~effective~~ erosion control methods shall require compliance with the provisions of MCC Chapter 14.48 (Stormwater Management) and 17.80 (Low Impact Development).
Overall comments on Water Quality	J. Reece: Maintaining water quality is very important, but I am unable to find any place in the documents that mentions the excessive number of geese that leave 5 pounds per goose per day in the water and on the shorelines. Jim Reece: I would really like to see more effort expended into education about the environment (shorelines, storm water runoff, noxious weeds, etc). Most of our friends are interested in saving the environment, but they are unsure what to do. It is still difficult to find details on how to filter downspout storm water before it enters waterways. Education of responsible people seems so much better than reams of regulations that are far too difficult to read and understand ....and interpret.	The Shoreline Act and Ecology guidelines do not direct the county to address impacts to water quality from wildlife. Rather, the SMP is required to addresses human use and development. Mason County agrees that education is a crucial element in protecting shorelines. Geese tend to prefer areas that have mowed grass. Therefore, by planting native trees, shrubs, and grasses you would likely be discouraging geese and improving water quality, erosion protection, and habitat/food/shelter for native species. The WSU extension office has a Shore Stewards program and useful information, including a useful Guide to Shoreline Living posted at: http://county.wsu.edu/mason/nrs/water/Documents/Guide%20to%20Shoreline%20Living.pdf
H. Public Access		
	Oly Master Builders (3/22/2013): Concerned about the requirement for	See PAC decision below – removed requirement for public access for subdivisions,

	public access to shorelines within substantial developments.	retained requirement for community access for 4 or more lots...
(1)(c) and (d) And (3)(b)		**PAC Decision 7/8/2013:** Decision to not require public access for residential subdivisions, but community access is addressed in residential use chapter. Delete rows (1) c and d and delete "of four (4) or fewer units" in (3)(b).
(1)(h) [Citation should be (1)(e)(iii), as noted above]	Staff: "subject to Public Trust Doctrine" – what does this mean?	Ecology's web site includes the following description: The Public Trust Doctrine is a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses and that this trust is not invalidated by private ownership of the underlying land. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state. (Visit the MSRC Web site and search for the State Supreme Court case Caminiti v. Boyle, 107 Wn. 2d 662, 732 P.2d 989) The Public Trust Doctrine does not allow the public to trespass over privately owned uplands to access the tidelands. It does, however, protect public use of navigable water bodies below the ordinary high water mark. Protection of the trust is a duty of the State, and the Shoreline Management Act is one of the primary means by which that duty is carried out. The doctrine requires a careful evaluation of the public interest served by any action proposed. This requirement is fulfilled in major part by the planning and permitting requirements of the Shoreline Management Act. (Court case: MSRC Web site and search for Portage Bay v. Shorelines Hearings Bd., 92 Wn.2d 1, 593 P.2d 151) More information with links to cases are at: http://www.ecy.wa.gov/programs/sea/sma/laws_rules/public_trust.html
(6)	PW Staff: Clarify that providing visual access to the shoreline is not intended to encourage removing vegetation from buffers?	**PAC Decision on 7/8/2013:** move the regulation in the Views and Aesthetics subsection to the public access subsection: Visual access shall not be provided by removing vegetation from required vegetative buffers.
17A PAC Revised draft	J Diehl in 6/8/2015 letter: The question of view corridors needs more careful consideration (p. 68 of 17A). It is a sad reflection on human nature that nearly everyone seems to want a maximum water view – preferably at least 180 degrees – from his own house, but does not appreciate his neighbors removing so much vegetation as to give themselves the same view. So, a reasonable view corridor, particularly when removal of vegetation is involved, needs to balance the public interest in maintaining a predominately natural view of a shoreline, particularly outside urban areas, with the desire of owners to expand their water views. Under the law, the public interest must be paramount, at least along Shorelines of Statewide Significance.	It's not clear which regulation the commenter is referring to and what the recommended change is.
(9)	Staff: The cited statute includes a broader basis for vacating county roads abutting shorelines. Recommend clarifying this.	**PAC Decision on 7/8/2013:** 9. Public shoreline access provided by public road ends, public road rights-of-way, public utilities and rights-of-way shall not be diminished by the County, neighboring property owners, or other citizens, unless ~~the property is zoned for~~

		~~industrial uses~~ in accordance with RCW Chapter 36.87.130. NOTE: Here is the cited statute in its entirety: RCW 36.87.130 Vacation of roads abutting bodies of water prohibited unless for public purposes or industrial use. "No county shall vacate a county road or part thereof which abuts on a body of salt or freshwater unless the purpose of the vacation is to enable any public authority to acquire the vacated property for port purposes, boat moorage or launching sites, or for park, viewpoint, recreational, educational or other public purposes, or unless the property is zoned for industrial uses."
(12)	PW Staff: What is considered "fully developed"? Who will maintain the public access? Is this the responsibility of the applicant, proponent, private property owner (in case of dwelling of 4 or more) or a public agency (such as Public Works)? What does final occupancy of such use or development mean and how is it defined? If a project requires public access, who will be responsible to maintain that access? (DNR, Parks, Public Works, etc.?) Who will become liable for maintenance of garbage, vandalism, restrooms and other maintenance needs - etc?	This question was also raised under the Public Access section of the General Regulations. The current SMP does not address ongoing maintenance. For an example, of how to address this, see Kitsap County locally approved SMP: Maintenance of the public access facility over the life of the use or development shall be the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal agreement recorded with the County Auditor's Office. **PAC Decision on 7/8/2013:** Insert recommended sentence to regulation 12. Delete 'fully developed.'
(17)	PW Staff: Language states the "*proponent shall provide visual access to the shoreline via view corridors within the subdivision...*" Same question regarding #6 above - this seems contradictory of the SMP and would require removal of vegetation within buffers or at least require it be allowed.	**PAC Decision on 7/8/2013:** Delete regulation. Don't require residential subdivisions to provide public access. Community access is still required per the Residential chapter.
I. Archaeological & Historic		
(1)	"Any project within the shoreline jurisdiction that has a ground breaking component shall be **sent** to the Department of Archaeology and Historic Preservation and the applicable Tribe~~s within County jurisdiction~~ for archaeological review, as soon as Mason County has been notified of the project proponent's intent in writing." DCD Staff: What should be sent – all applications and related documents or just a location and project description?	The first sentence needs work. The last sentence clarifies that if the project triggers SEPA, then SEPA will be the notification process, so the first part of this regulation seems to be an attempt to capture notice of projects exempt from SEPA. It says "any *project*" shall be sent to DAHP and the tribes as soon as the county has been notified of the proponent's intent in writing. It's not clear *who* is sending exactly *what* to DAHP and the tribes. **PAC Decision** on 6/16/2014: Make significant revisions to the Arch chapter, including: The County shall forward the site assessment to DAHP and the applicable Tribe, who will have 14 days to provide comment. If they have found that the site assessment submitted by the applicant is not complete (per (d) above), the permit will be placed on hold by the County until 14 days after the County forwards the revised assessment to DAHP and the applicable Tribe.
(2)	Staff: Does this apply only on shoreline permits or all permits such as building permits within shoreline jurisdiction? Policy is clear it applies only to shoreline permits but the regulations are not as clear.	**PAC Decision:** The following language has been agreed to by PAC on 6/16/2014, except that adding "or exemption" was ok'd by PAC on 5/18/2015**.** (a) Archaeological Areas. ... ii. Prior to issuing a development permit *or exemption* with a ground breaking or ground covering component for a project within 500 feet of a known, documented archaeological area the applicant shall provide a cultural

		resource site assessment, conducted by a professional archaeologist, to determine the presence of archaeological resources in the area of the proposal. The professional archaeologist shall coordinate the site assessment with the affected Indian Tribe. This requirement for a site assessment may be waived w if the applicant can demonstrate the proposed development clearly will not disturb the ground or impact a known site or resource, or with consent from the Washington Department of Archaeology and Historic Preservation (DAHP) or from the affected Indian Tribe. The County shall forward the site assessment to DAHP and the applicable Tribe, and the permit shall be placed on 'hold' until the Tribe or DAHP has authorized that the proposed development may proceed. b. Historic Structures. Prior to issuing a development permit for a project within shoreline jurisdiction on a property within 100 feet of a known, documented historic structure, the applicant shall provide a cultural resource site assessment, conducted by a historic preservation professional. This site assessment may be waived if the applicant can demonstrate the proposed development clearly will not impact a known site, or with consent from DAHP. The County shall forward the site assessment with the relevant information (such as a site plan, the location, and proposed activity) to DAHP, and the permit shall be placed on 'hold' until DAHP has authorized that the proposed development may proceed.
(2)	Staff: Clarify that the conditioning of permits only applies to the shoreline permits where there is earthwork or other activities that may damage archaeology: Where possible, sites should be permanently preserved for scientific study and public observation. In areas known to contain archaeological data, the County shall attach a special condition to the shoreline permit in which the project that could disturb such data providing for a site inspection and evaluation by an archaeologist to ensure that possible archaeological data is properly managed. Shoreline permits involving earthwork should contain provisions which require developers to stop work and notify appropriate state and tribal authorities if archaeological data is uncovered during excavation.	**PAC Decision on 6/16/2014:** See revised language above. "With a ground breaking or ground covering component" was added. Prior to issuing a development ~~application~~ permit or exemption with a ground breaking or ground covering component for a project ~~within shoreline jurisdiction on a property~~ within 500 feet of a known, documented archaeological area ~~or historic site, the County shall require~~ or within 100 feet of a known, documented historic structure, the applicant shall~~to~~ provide a cultural resource site assessment to determine the presence of ~~historic or significant~~ archaeological or historic resources in the area of the proposal.
	Comment from Mason Historical Society at 6/16/16 workshop: They expressed agreement with the 500 foot buffer for archaeological sites and the 100 foot for historic structures (buffers within which to require a cultural survey, etc) as shown in Alternative A in the 6/13/14 Staff report.	See PAC draft (November 2015).
J. Existing Residential Structures		
PAC Decisions on 6/3/2013, 6/17/2013, 9/9/2013, 4/21/2013, and 4/13/2015. Merge parts (J) and (K) of the Jan 2013 draft and revise to form 'H: Existing Uses and Structures.'		
	A. White (OMB): The SMP should not call a structure conforming when it will still be treated as non- conforming in the regulations. This would make things	**PAC Decision on 6/17/2013 and 9/9/2013:** Revise the section on Existing uses. The revised draft classifies existing uses and structures that do not conform with new

	confusing and set up expectations that the structure would be treated as conforming instead of being treated as non-conforming. When a lender and or insurer looks at loaning or insuring a structure they are looking at whether it can be re-built when deciding to lend or insure, they are not looking at what it is called in the regulation.	regulations as "grandfathered" rather than "conforming," to avoid confusion with uses or structures that are "conforming" because they actually do conform to new regulations.
(1)	Attendee of 2/11/13 PAC Workshop: Why don't we change the word from "conforming" to "grandfathered?"	**PAC Decision on 6/17/2013 and 9/9/2013:** See revised SMP section on existing uses, which uses "grandfathered" to describe the status of existing uses and structures.
(2)	"*Expansion* of legally established residential structures located overwater or in hazardous areas, such as floodways, floodplains or geologically hazardous areas is *prohibited*. Redevelopment or replacement of such structures may be considered as a conditional use and subject to limitations that ensures public health and safety." Staff: Revise consistent with New development in floodplains is currently allowed (with proper design and a Habitat Assessment). New development in Landslide Hazard Areas is also allowed (with a Geotechnical Report). To prohibit new development in erosion hazard areas seems extreme. I suggest that we omit any restriction floodways, floodplains, and hazardous areas, since these are already addressed in the Resource Ordinance and FDPO.	See revised SMP section on existing uses and uses, which addresses expansion consistent with the SMA, which authorizes *limits* to expansion of existing structures in hazardous areas but does not require prohibition of expansion in all these areas in all the cases described in draft Regulation 2. Note that revised regulations retain the prohibition on expansions in areas that are prohibited by the SMP (and other laws, e.g. the prohibition on residential construction in floodways found in RCW 86.16.041)
(2)	DCD Staff: Shoreline "Conditional use" permit or some new "conditional use" permit?	In the SMP, CUP should always mean Shoreline CUP.
(4)	DCD Staff: Should say "legal conforming structure" to comply with #1 above.	N/A. Section has been deleted/combined with part 'L' and rewritten per PAC approval.
(4)	A. White (OMB): I think this version [Option 3] is much clearer and easier to follow and I can definitely support most of the content. The section 1.4 was a bit confusing. Will expansion be allowed? Are you able to expand a structure upland of the ordinary high water mark?	N/A. Section has been deleted/combined with part 'L' and rewritten per PAC approval.
(5)	"Expansion to the main structure or the addition of a normal appurtenance shall only be accomplished by addition of space above the building footprint of the main structure; and/or by addition of space onto or behind that side of the main structure which is farthest away from the ordinary high-water mark and/or critical area. a. Applications for expansions upward shall demonstrate that impacts to existing views are minimized to the greatest extent practical. b. Applications for expansions outside the existing footprint in a buffer shall submit a Habitat Management Plan that identifies measures to protect habitat and mitigates for unavoidable impacts." DCD Staff: This conflicts with Regulation (2) above.	N/A. Section has been deleted/combined with part 'L' and rewritten per PAC approval.
(5)(b)	DCD Staff: This is inconsistent w/statement in 5 above. first saying cannot go out of footprint. then saying can with an HMP.	N/A. Section has been deleted/combined with part 'K' and rewritten per PAC approval.
	WA Parks 9/1/2015: The SMP must comply with the Washington Administrative Code 51-5-1101, the 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design and the 2013 U.S. Access Board's	**PAC Decision on 12/21/2015**: Add the following sentence to #1: c. Renovating existing structures for compliance with applicable accessibility

	Accessibility Standards for Federal Outdoor Developed Areas. The SMP does not adequately consider the requirements for accessible design when addressing public development in the shoreline. For existing facilities, renovation is often needed to meet current accessibility design standards, often resulting in an increase in the size of existing facilities. This updating of public recreational facilities will likely trigger a CUP or variance. We find that the going through the CUP and variance processes for accessible design is expensive and without added value to the project. Is there a way to permit stream-line or exempt these types of projects that are of a standard design? We suggest that the SMP be reviewed for consistency with the ADA accessibility laws and regulations. Parks does not wish to permit future projects as conditional uses or variances to the SMP regulations simply to meet the requirements for accessible design standards. Recommend adding the following language to Section 17.50.055 (H) Existing Uses and Structures: Renovating existing structures for compliance with applicable accessibility regulations shall not trigger a CUP or variance.	regulations shall not trigger a CUP or variance, provided that impacts to ecological functions are mitigated.
'17A' PAC revised draft And FWHCA RO	J Madden in 8/23/2015 letter: Remodel, Repair and Replacement. Recommended change: In paragraph (E).(4).(I).d. strengthen this paragraph to state that increasing the height of a non-conforming structure above the existing height within a buffer area shall not cause a restriction to the views or light afforded the neighbor's existing homes nor shall it restrict light to the water or shoreline habitats. Reasoning: Blocking light to water or the shoreline would impact plant at the waterline and fish habitat which is not in keeping with the SMP. It would also be appropriate that the height be restricted where it negatively impacts neighbors existing views or light since the impacted neighbors could not expand shoreward to regain that lost view or light in their homes particularly since many have had restrictions placed on their building permits that cause their footprint to be pulled back away from the shoreline leaving risk of this upward building blocking their rights of view and light. This limitation would be fair to all homeowners not just allowing the non-conforming homeowners additional unbalanced rights.	PAC Decision: Retain allowance for vertical expansion
'17A' PAC revised draft And FWHCA RO	N Thomas 8/31/2015 email: I disagree with Madden that the upward expansion should be allowed but be subject to an evaluation of restrictions of views and light. This is too ambiguous and leaves the County open as the interpreter of who's view is restricted to what degree. Better to set this at a height no greater than the height of the existing structure.	
'17A' PAC revised draft And FWHCA RO	J Madden letter dated 8/23/2015: **(E). (4).(I)** Remodel, Repair and Replacement.	PAC decision: Retain language that footprint applies to roof eves.

	Recommended change: Clearly identify that the definition of footprint in (E).(4).(l).d applies to all paragraphs in Section (E).(4).(l). Define footprint as the area of land covered by a legally built structure's foundation (excluding the roof cantilever) and does not include covered or uncovered decks, boat houses, sheds, or other appurtenances. Reasoning: Some non-conforming homes have extreme cantilevered roofs which could then be used to build new enlarged foundations into the buffer or shoreward and in essence vastly increase the footprint of the existing home shoreward. Clearly defining what a "footprint" is will eliminate future problems/questions after this document is enacted.	
'17A' PAC revised draft And FWHCA RO	J Madden in 8/23/2015 letter: **Section (E). (4).(l)** Remodel, Repair and Replacement. Recommended change: In paragraph (E).(4).(l).d. strengthen this paragraph to state that increasing the height of a non-conforming structure above the existing height within a buffer area shall not cause a restriction to the views or light afforded the neighbor's existing homes nor shall it restrict light to the water or shoreline habitats. Reasoning: Blocking light to water or the shoreline would impact plant at the waterline and fish habitat which is not in keeping with the SMP. It would also be appropriate that the height be restricted where it negatively impacts neighbors existing views or light since the impacted neighbors could not expand shoreward to regain that lost view or light in their homes particularly since many have had restrictions placed on their building permits that cause their footprint to be pulled back away from the shoreline leaving risk of this upward building blocking their rights of view and light. This limitation would be fair to all homeowners not just allowing the non-conforming homeowners additional unbalanced rights.	PAC Decision: Retain allowance for vertical expansion
'17A' PAC revised draft And FWHCA RO	N Thomas 8/31/2015 email: I disagree with Madden that the upward expansion should be allowed but be subject to an evaluation of restrictions of views and light. This is too ambiguous and leaves the County open as the interpreter of who's view is restricted to what degree. Better to set this at a height no greater than the height of the existing structure.	
'17A' PAC revised draft And FWHCA RO	J Madden letter dated 8/23/2015: **(E). (4).(l)** Remodel, Repair and Replacement. Recommended change: Clearly identify that the definition of footprint in (E).(4).(l).d applies to all paragraphs in Section (E).(4).(l). Define footprint as the area of land covered by a legally built structure's foundation (excluding the roof cantilever) and does not include covered or uncovered decks, boat houses, sheds, or other appurtenances. Reasoning: Some non-conforming homes have extreme cantilevered roofs	PAC decision: Retain language that footprint applies to roof eves.

	which could then be used to build new enlarged foundations into the buffer or shoreward and in essence vastly increase the footprint of the existing home shoreward. Clearly defining what a "footprint" is will eliminate future problems/questions after this document is enacted.	
'17A' PAC revised draft And FWHCA RO	J. Diehl in 6/8/2015 letter: Vertical expansion of grandfathered structures (p. 75) is inconsistent with the standard of no net loss of ecological function. Upward expansion does not only interfere with the water views of others. A larger house, whether enlarged horizontally or vertically, creates the prospect of more human use of the shoreline property, and inevitably of greater interference with ecological functions. Given that a grandfathered structure by definition is already not in compliance with current efforts to maintain ecological functions, vertical expansion is no more compatible with maintaining these functions than horizontal expansion. Both intrude in ways that might have been accepted in an era when natural resources seemed unlimited, but should be restricted to avoid intensifying uses that regretfully were once allowed. The same comments apply to allowing increased footprints to replace grandfathered factory-built structures. We also note that these provisions for expansion are inconsistent with H.2.b's prohibition of expansion (p. 76).	**PAC Decision:** retain recommendation to allow vertical expansion of nonconforming residences.
'17A' PAC revised draft And FWHCA RO	J Madden 8/23/2015 letter: 6. **Section (E). (4).(l)** Remodel, Repair and Replacement. Recommended change: Recommend adding an additional sentence onto paragraph (E).(4).(l).c.i to say: "Under no circumstances will the existing foundation footprint of a non-conforming structure be permitted to extend shoreward of existing legal foundation." Reasoning: In order to protect existing shoreline habitats and wildlife, this a very reasonable expectation that will not diminish the existing use of homeowners. Any future change in the footprint shape of existing structures should be away from shore lands and instead be in the direction landward for all the reasons that the SMP exists.	**PAC decision:** Retain language that footprint applies to roof eves.
K. Nonconforming Uses and Structures		
PAC Decisions on 6/3/2013, 6/17/2013, 9/9/2013, 4/21/2013, and 4/13/2015. Merged parts (J) and (K) of the Jan 2013 draft and revise to form 'H: Existing Uses and Structures.'		

17.50.060 Use Regulations

1. Agriculture		
	J.Richert and M. Young: RCW 90.58.030 (3)e the last sentence states clearly "The following shall not be considered substantial development for the purpose of this chapter. (iv) Construction and practices normal or necessary for farming." The exempted farming activities are not considered substantial developments, therefore these activities are exempt from the SMP, not just exempt from getting a permit. The Exemption definition must clearly make this distinction.	It is correct that the SMA exempts normal and necessary farming activities from the need for an SDP. It is also true that in addition, the SMA states that, the SMP may not modify or limit agricultural activities on agricultural lands.

Section	Comment	Staff Response/PAC Decision
(1)	J. Richert & M. Young: add the word "only" to second sentence. Staff: amend introductory statement to match RCW 90.58.065	**PAC Decision** on 5/20/2013: Make changes. 1. In accordance with RCW 90.58.065, this Program shall not ~~restrict existing or ongoing~~ require modification of or limit agricultural activities occurring on agricultural lands. The regulations in this master program apply only to: a. new agricultural activities on land not meeting the definition of agricultural land, b. conversion of agricultural lands to other uses, and c. other development on agricultural land that does not meet the definition of agricultural activities.
	See requests from Richert and Young 5/20/2013 RE: adding "new" to a number of regulations for clarity	**Decision at 5/20/2013 PAC**: Leave as is. Regulation #1 clearly makes this point.
(2)	DCD Staff: Would like to add "and expansion" to sentence - "New and expansion of existing agricultural uses and development..." because the new expansion should be subject to current regs, right?	Expansion into new areas would not meet the definition of "agricultural land" so it would be subject to regulation.
(3)	J. Richert & M. Young: In the Skokomish Valley during the winter months ground water becomes surface water. Keeping animals away from this water source in not feasible or practical. What triggers the need for a stream crossing? The necessity or frequency of cattle crossing, daily or by season has not been evaluated. The likelihood of being able to secure a permit from the WDF&W to construct a new bridge or culvert crossing over a small stream also needs to be evaluated. In regards to the Skokomish Rivers, it is not practical to require a bridge or culvert as a means to keep animals out of the rivers. Bank protection has more chance of success.	The regulation would only apply to new farms on new agricultural land, and thus would not apply to existing agricultural practices (e.g., existing Skokomish Valley farms). Should a new farm be proposed on land that does not meet the statutory definition of "agricultural land," planning the farm to avoid direct animal access to the water would avoid impacts to ecological functions. Crossings might be necessary depending on the circumstances of the particular parcel.
(7)	DCD Staff: Can we add "floodplains" after wetlands to this statement? (ie: Tahuya River floodplain). It would read - "Wetlands and floodplains shall not be used…	See below, the direction from PAC was to consolidate by adding wetlands to Regulation 8.
(7)	PAC: Should Regulation 7 be combined with Regulation 8?	**PAC Decision on 5/20/2013**: Combine regulations and eliminate potential redundancy with Resource Ordinance buffer regulations: 7. Wetlands shall not be used as animal containment sites. 8. Confinement areas shall be located away from ~~perennial and intermittently flowing~~ streams, wetlands and other waterbodies in shoreline jurisdiction. A fenced buffer of permanent native vegetation consistent with MCC 17.50.060, General Use Regulations ~~and at least 100 feet in width~~ shall be maintained between such confinement areas and water bodies.
(10)	J Diehl in 6/8/2015 letter: One hopes that feedlots are not in the future for local shorelines. But even allowing them as close as 200 feet from the ordinary high water mark (p. 93) poses insurmountable waste disposal problems. They should be prohibited, not only in Urban, Residential, Conservancy, Natural and Aquatic nvironments, but also in Rural shoreline environments.	

(11)	Strike the word "commercial" from this regulation. Also, see definition section, the existing SMP had included two definitions, "Commercial Feedlot," and "Feedlot." Consolidate by just using "Feedlot."	**PAC Decision on 5/20/2013**: Delete the word "Commercial" 11. ~~Commercial~~ Feedlots are prohibited in Urban, Residential, Conservancy, Natural and Aquatic environments.
(11)	J. Richert & M. Young: In looking at the PROPOSED SHORELINE ENVIRONMENT DESIGNATIONS MAP, it seems odd that a COMMERCIAL FEEDLOT is considered as a Conditional Use in only the Rural (purple area) shoreline environments. If a COMMERCIAL FEEDLOT would be considered in those portions of Mason County labeled "No Designation", and shown as grey colored on the map, shouldn't that be expressed in this section? (Even if the "No Designation" area is outside of the Shoreline Master Plan jurisdiction?).	The SMP only applies in areas that meet the statutory definition of shoreline jurisdiction.
(15)	DCD Staff: Would like to add "and expansion" to sentence - "New <u>and expansion of existing</u> agricultural uses and development..."	Expansion into new areas would not meet the definition of "agricultural land" so it would be subject to regulation.
2. Aquaculture		
	P. Wolff: In reading thru the proposed regulations it seems the shellfish industry was afforded the ability to write their own regulations. In fact in reading the regulations aquaculture use can even dictate what waterfront property owners can do with their property. Were Port's marina's and other marine trade groups allowed the same opportunity? I am all for aquaculture as long as tourism interests and waterfront property owners have a strong handing writing regulations which affect their they value and enjoyment of shoreline properties.	The comment is non-specific. The commenter does not identify which regulations are perceived to have been written by "the shellfish industry". The shellfish industry, along with representatives of the Ports, building industry, resources agencies, tribes, and other stakeholder groups participated in the Citizens Advisory Committee in the development of the initial draft SMP. The majority of the draft General Aquaculture Regulations are unchanged from the existing SMP. Many of these provisions are derived from the Ecology guidelines in WAC 173-26-241. For example, provisions related to consideration of upland uses are existing language and consistent with WAC 173-27-241. Added (new) provisions in the General Regulations section include language requiring no net loss of ecological functions and requirements for a Habitat Management Plan. New sections related to geoduck aquaculture and finfish net pens have been added. Provisions regulating geoduck are taken directly from WAC 173-26-241. Provisions regulating finfish net pens were derived from Ecology's siting guidelines and include a prohibition of commercial net pens in Hood Canal and extensive documentation and habitat analysis to accompany any proposed installation in other County waters.
A. General Aquaculture		
(2)	P. Wolff: "Should is a poor choice of word usage in writing regulations. These types of "good ideas" should be located in another section.	The Shoreline Planner's Toolbox states, "Use the verb form "should" in policy statements to indicate intent and provide direction while at the same time allowing needed administrative flexibility. (<u>Rule citation</u>) Use the verb form "shall" when stating mandatory regulations. (<u>Rule citation</u>)" **PAC Decision on 4/13/2015:** change all should in this chapter to shall.
(4)	T. King: Should the word "non-native" be added to 4(b)? For example, this	**PAC Decision: add 'non-native' as recommended by public comment.**

	would allow an existing operation to change the species in an existing operation to grow native cockles for example, without a permit.	4 b. The facility proposes to cultivate non-native species not previously cultivated in the state of Washington.
(5)	Staff: Should Regulation (5) and (12) be combined? Regulation 5 was an existing regulation that was modified to virtually match Regulation 12.	**PAC Decision on 5/20/2013**: Delete Regulation 5 and amend Regulation 12 to consolidate as follows: ~~5. Floating aquacultural structures placed in such a manner, and be suitably sized and so as to minimize interference with navigation.~~ 12. Aquacultural structures shall be placed in such a manner, and be suitably sized and marked, so as to minimize interference with navigation.
(7)	DCD Staff: Does this statement mean that in the case of a practice that did not need a permit, yet has a groin of some sort and adjacent beaches are being starved, staff should do enforcement? This is a current staff question.	Yes, if it is a result of development that occurred since the regulation was in place.
(8)	Staff: Non-water dependent components of aquaculture are required to be landward of buffers, so this statement is redundant.	**PAC Decision on 5/20/2013:** Delete last sentence. 8. Aquaculture structures and activities that are not shoreline dependent or do not have a functional relationship to the water shall be located landward of shoreline buffers required by this Program to minimize the detrimental impact to the shoreline. ~~Overwater work shelters and overwater sleeping quarters accessory to non-water dependent aquaculture uses are prohibited.~~
(10)	DCD Staff: Is #10 requiring a Habitat Management Plan for new aquaculture? If so, it should be stated. The FWHCA chapter of the Resource Ordinance requires an HMP for the "removal, excavating, grading, dumping, and discharging of any fill and for "clearing, harvesting, **shading**, ..." The Wetland Chapter and the Landslide Hazard Areas Chapter requires an HMP for new aquaculture use.	**PAC Decision on 4/27/2015:** add "in a Habitat Management Plan or equivalent report (e.g. Biological Assessment or Biological Evaluation)." i. ~~10.~~ Aquaculture activities shall, to the greatest extent feasible with regard to the economic viability of the operation and protection of the environment be located, designed and operated so that native plant and animal populations, their respective habitats and the local ecological balance are maintained. i. ~~a.~~ New or expanded a~~A~~quaculture shall be located, designed and maintained to assure no net loss of ecological functions, as demonstrated in a Habitat Management Plan or equivalent report (e.g. Biological Assessment or Biological Evaluation). ii. ~~b.~~ As required by MCC ~~17.01.110.G~~8.52.170(g), all activities in saltwater shall avoid impacts to eelgrass and kelp beds to the maximum extent practicable. Aquaculture use and development shall minimize shading and other adverse impacts to macroalgae and eelgrass beds. If eelgrass or macroalgae is known or suspected, an aquatic vegetation survey is required. Unavoidable impacts shall be addressed in a Habitat Management Plan or equivalent report (e.g. Biological Assessment or Biological Evaluation) that presents an acceptable mitigation plan. NOTE: regulatory protections do not apply to eelgrass or macroalgae that colonize a shellfish farm. iii. ~~c.~~ Floating aquaculture uses and developments that require attaching structures to the bed or bottomlands shall use anchors, such as helical anchors, or other methods that minimize disturbance to substrate. Potential adverse impacts shall be mitigated. iv. ~~d.~~ Disease and pest control may be authorized, provided methods are

		allowed by federal and state regulations and follow best management practices. To the maximum extent practicable, ~~A~~aquaculture use and development shall employ the least harmful best management practices to control birds and mammals.
(10)(c)	DCD Staff: What about pilings being driven to hold floating aquaculture? This should be allowed with mitigation and stated with explanation that least amount of piling were used, etc.	**PAC Decision on 4/13/2015**: Add language to allow for pilings. iii. ~~c.~~ Floating aquaculture uses and developments that require attaching structures to the bed or bottomlands shall use anchors, such as helical anchors, or other methods that minimize disturbance to substrate. Potential adverse impacts shall be mitigated.
(10)(d)	PAC: Add the phrase "To the maximum extent practicable," that was contained in Regulation 11. Move to the front of the sentence for clarity.	**PAC Recommendation on 5/20/2013**: Add the phrase "To the maximum extent practicable," that was contained in Regulation 11. Move to the front of the sentence for clarity. (d) Disease and pest control may be authorized, provided methods are allowed by federal and state regulations and follow best management practices. To the maximum extent practicable, aquaculture use and development shall employ the least harmful best management practices to control birds and mammals.
(11)	Staff: Delete last sentence, as it is redundant with Regulation 10(d) above which applies to all types of aquaculture. But add the phrase "to the maximum extent practicable" that was found in regulation 11.	**PAC Decision on 5/20/2013**: Delete redundant sentence. 11. Floating aquaculture structures shall not substantially detract from the aesthetic qualities of the surrounding area, provided methods are allowed by federal and state regulations and follow best management practices. ~~Aquaculture use and development shall employ the least harmful best management practices to control birds and mammals to the maximum extent practicable.~~
(18)	DCD Staff: Gravel enhancement. Not to be treated as fill? If so, we should state that.	**PAC Decision on 5/20/2013**: Clarified this in the definition of "fill," as follows: Aquaculture gravel enhancement projects, beach nourishment protection projects, and restoration projects are not considered fill.
(20)	DCD Staff: Need new application form so that applicant will respond to criteria of this chapter. Also, is there going to be an actual Exemption # to cite OR are we to continue with Basic Letter we have written in past citing AG Opinion??	Unless it the aquaculture proposal meets the definition of development, there will not be an exemption in WAC to cite. If this is too confusing, we could change the terminology to a 'Letter of Non-Development' or an 'Authorization to Commence Aquaculture Activities.' The letter that is currently being written is not sufficient because you should indicate that Staff has found the project to comply with the Aquaculture policies and regulations including the requirement for a BA or BE that meets the requirements of an HMP.
(20)	"A written statement of exemption is required for aquaculture activities that do not constitute substantial development or otherwise require a Shoreline Permit. A written statement of exemption constitutes a valid authorization to conduct new or expanding aquaculture activities. A written statement of exemption shall provide a summary of the consistency of the aquaculture activities with this SMP and the Shoreline Management Act." DCD Staff: This language isn't ideal because shoreline exemption implies that it is a development activity, whereas the point of this regulation is to include the aquaculture operations that do not involve development in the review	**PAC Decision on 5/20/2013:** Keep regulation #20 as is.

	process. I recommend that we "An ~~written statement of exemption~~ 'authorization of aquaculture non-development' is required for aquaculture activities that do not constitute ~~substantial~~ development or otherwise require a Shoreline Permit or Exemption. An ~~written statement of exemption~~ 'authorization of aquaculture non-development' constitutes a valid authorization to conduct new or expanding aquaculture activities that do not involve 'development.' ~~A written statement of exemption~~ The authorization shall provide a summary of the consistency of the aquaculture activities with this SMP and the Shoreline Management Act." We could either enter them in the permit database as exemptions or create a new category and a new fee (current fee for Shoreline Exemption is $255).	
'17A' PAC revised draft	J Diehl in 6/8/2015 letter: If this county is serious about giving priority to aquaculture uses in areas having a high potential for such uses (p. 78), then it needs development regulations that either really stop septic nutrients from reaching surface waters or it needs to prohibit residential development in such areas having a high potential for aquaculture. At the same time, it should be recognized that the interests of one sector of the economy do not necessarily coincide with the broader public interest. For example, if it is recognized that aquacultural activities may have negative impacts on "the aesthetic quality of the shoreline area" (p. 79), specific regulations are needed to ensure that the public interest is heeded. But the regulations (pp. 93-100) give scant attention to aesthetic impacts. To the extent that the proposed regulations call for "best management practices to minimize visual impacts"(p. 95), this is virtually meaningless unless best management practices are specified.	
B. Finfish Net Pens		
(1)	DCD Staff: Is the exception going to require a shoreline permit and how is staff to make this determination? ie: WDFW and Skokomish Tribe proposals only? PAC: Should the exception only apply to salmon species? Other wild stocks may benefit from this kind of facility.	**PAC Decision on 5/20/2013**: Amend to clarify permit requirement and siting criteria, and also delete the word "salmon" so the exception is not necessarily limited to one wild species of finfish. 1. Because of persistent low dissolved oxygen conditions, finfish net pen facilities shall not be located in the waters of Hood Canal, except for limited conservation needs targeting the cultivation of wild ~~salmon~~ stocks during a limited portion of their lifecycle to enhance restoration of native stocks. ~~when s~~ Such activities may be considered as a conditional use, must meet the criteria in Regulation 2(a)-(e), and must involve minimal supplemental feeding and no use of chemicals or antibiotics.
(2)(e)	Staff: The CAC had suggested deleting this and it was inadvertently retained in the 1/17/2013 version of the SMP. The issue was that Mason County DCD is not the appropriate authority to whom a fish kill should be reported – the facility would have reporting requirements to other state agencies.	**PAC Decision on 5/20/2013**: Delete (2)(e), as other agencies monitor and track operations at such facilities.
C. Commerc. Geoduck		

Section	Comment	Staff Response/PAC Decision
Proj class Table	PAC: Upland facilities related to geoduck requires a CUP - Why would upland facilities for geoduck be different than for other aquaculture, which are allowed with 'P' in upland except Natural?	**PAC Decision on 5/20/2013:** Upland facilities should not require a CUP except in Natural. Non-floating P P P P C P Floating P P P P C P Finfish net pens n/a na/ n/a n/a n/a C/X1 Gravel enhancement projects >1,000 cy n/a n/a n/a n/a n/a C Commercial geoduck P P P P C C
(1)(10)(11)&(13)	P. Wolff: "Should is a poor choice of word usage in writing regulations. These types of "good ideas" should be located in another section.	**PAC Decision on 4/13/2015:** change all should in this chapter to shall.
(2)	"As determined by Attorney General Opinion 2007 No. 1, the planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit if a specific project or practice causes substantial interference with normal public use of the surface waters, but not otherwise." DCD Staff: Isn't this true for ALL aquaculture, not just geoduck?	The CAC recommended retaining the geoduck section intact. The sentence is a citation to Attorney General Opinion 2007 No. 1 which was specifically about the "extent to which hydraulic project approval permits or shoreline substantial development permits are required for the planting, growing, and harvesting of farm-raised geoduck clams."
(3 – 6)	DCD Staff: It would make sense to create a sub-part related to CUPs?	Could be re-organized, however CAC was wary about changes to Ecology guidelines so there is no question about the origins. The current draft follows Ecology's rule.
(3)	"Conditional use permits are required for new commercial geoduck aquaculture. Conversions from non-geoduck to geoduck aquaculture within existing farm boundaries do not require a conditional use permit." DCD Staff: Why does the wording slightly differ from Ecology's guidelines, which appear to have slightly more clarity?	Recommend slight change to match Ecology's guidelines WAC 173-26-241(3)(b)(iv)(A):, as follows: Conversions from existing non-geoduck aquaculture to geoduck aquaculture within existing farm boundaries do not require a conditional use permit. **PAC Decision on 5/20/2013:** make the minor edits so that it matches WAC.
(6)	6. "A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within county shoreline jurisdiction." DCD Staff: Could this also be true for non-geoduck where CUP is required?	Text is direct from Ecology rule, and specific to geoduck. It could be made a general regulation, however, the only other kind of aquaculture that needs a CUP is finfish net pens.
(8)	DCD Staff: Does evidence that this has been started or completed need to be provided to County before exemption or permit is issued or can county permit be conditioned as such?	All geoduck proposals need a Conditional Use Permit (reg #3) , so yes the noticing procedure will be completed before issuance.
(10)	DCD Staff: How is this to be coordinated by County with other agencies when timelines at federal level normally take much longer than county permits? Are we to hold permits or request mitigation from applicant or agencies? with a timeline?	**PAC Decision on 5/20/13:** Amend grammar to match Ecology rule. Conditional U~~u~~se P~~p~~ermits are required for new commercial geoduck aquaculture. Conversions from existing non-geoduck aquaculture to geoduck aquaculture within existing farm boundaries do not require a conditional use permit.
(13)	DCD Staff: Why does it say County "should consider"? Again, timelines, it would be better for County to know up front if these are going to be prohibited or mitigated.	**PAC Decision on 4/13/2015:** change all should in this chapter to shall.
	DCD Staff: Is this the criteria that the applicant must address so that staff can relay it in either an Exemption or a CUP?	Per table 17.50.050-1, commercial geoduck aquaculture always requires a CUP. Yes these items a-l should be addressed.

(a)	DCD Staff: Pools not prohibited on sediments?	No, but as the regulation (copied from Ecology guidelines) indicates, siting pools on tidelands should be carefully reviewed and conditioned.
(13) (b, d and f)	DCD Staff: Should some of these regs (see b, d and f) apply to permitting for all aquaculture, not just geoduck?	They could be moved. The general guidance from the CAC was to keep geoduck regulations intact so there is no question they directly implement state regulations. (They did move one regulation that was in the geoduck section up to the general regulations, though.)
3. Boating Facilities		
The Boating Facilities chapter was broken up into the following: Marinas (Use regs) Boat Launches (Modification regs) Docks, Unattached Floats, Boat Lifts, Mooring Buoys, and Covered Moorage (Modification regs)		
Proj Class Table - Docks	V. Wilson (2/21/2014): Should our discussion about encouraging joint-use or community docks be extended to lakes (means changing P under residential to C/P). See Regulation B.4.	This doesn't appear to have been addressed by the PAC. However regulation (B)(4) requires all new dock applications (marine and freshwater) to demonstrate that they have contacted adjacent property owners, and none are willing to join in. (The proj class table goes further for marine docks by prohibiting single use docks in Hood Canal Conservancy SED and requiring a Conditional Use Permit for single use docks in Puget Sound Residential SED).
A. General Boating Fac		
(1) Or (D)(1)(a) in '17A'	WA Parks 9/1/2015: It is unclear if public access, as included in policy (a), allows for overwater structures related to public recreational access. Overwater structures should be allowed for primary water-enjoyment uses as well as for water dependent use or for public access. Public recreational facilities help to concentrate use of the shoreline in a carefully managed and maintained environment. PROPOSED CHANGE: 1. (a) Overwater structures shall be allowed only for water dependent, water-enjoyment uses, and for public access.	This recommendation is contrary to SMA statute.
	J. Reece (2/11/2013 letter): We have two oversized docks, with two boat slips each, that were built following all rules, including the purchase of the bottom land that the pilings were driven into. See the county survey maps. A few years ago we needed to replace the decking on one of the docks. It was a very long process to get a permit which cost $973, and two people (not just one person) had to visit the site to confirm that we really had a dock to start with. The intent of the SMP update is to prohibit docks like ours, and I am fearful that by making it cost prohibitive to maintain the docks they will disappear by neglect. In my option, if you make the process very difficult and very expensive it amounts to confiscation of private property.	Minor repairs can be made to docks (like decking replacement) without needing County permits, exemption, and review.
	J. Reece (2/3/2014 letter): This Ordinance, as now written, would prohibit developments like Mason Lake Estates, given an arbitrary limit of 10 boat slips and one dock. It would also prohibit Mason Lake's SSBC (Sunny Slope Beach Club) with one boat ramp, one boat docks, one swimming dock, and one swimming float for the use of 107 families. What about more reasonable	PAC recommended deleting much of the limitation on docks, floats, ramps, lifts, buoys but retained that you can only have one dock per waterfront lot. It is the role of public docks to provide the water access for those who do not have waterfront, or those who have waterfront but who do not have the necessary site conditions and finances to construct their own private dock, etc.

	limits and grandfathering?	**PAC Recommendation on 2/24/2014:** Only limit # of docks. (3)(A)(7) If allowed under this Program, no more than one (1) dock ~~or one (1) unattached float; and one (1) boat lift or one (1) private boat launch; and one (1) mooring buoy~~ may be permitted on a single waterfront lot ~~owned for residential use or private recreational use~~. **PAC Recommendation on 8/4/2014:** Delete limitation on # of lifts. ~~(3)(C)(2) No more than one (1) free-standing or deck-mounted boatlift per waterfront lot; or one (1) personal watercraft lift or one (1) fully grated platform lift may be permitted on a single waterfront lot owned for residential use or private recreational use.~~
	J. Reece: Provisions should be provided for maintaining, updating, etc to remain in use under grandfathering with some kind of simplified paperwork.	See Boating Facilities B(14), which allows for repair and maintenance. Existing regulations (section 17.50.080.D(2) in 2013 draft) and WAC's already provide for simplified permitting for normal repair and maintenance and some replacements with Shoreline Exemptions and SEPA exemptions.
	L. and K. Rentz (2/18/2014 letter): while we realize that it is convenient to treat all facilities within the broad category of "Freshwater" the same, it might be more useful to create rules that were specific to each lake and its characteristics.	This is an option, however the added complexity would add more review time to permits, etc. It might be more efficient to have basic standards (as proposed) for all lakes, and leave any added fine tuning to the lake management districts and home owner associations.
	L. and K. Rentz (2/18/2014 letter): We are also very concerned about the proposed regulations concerning replacement of parts of the dock. We suggest that there might be less impact if regular maintenance could just replace dock components as needed, rather than requiring a new rebuild and sinking of new pilings to meet new standards. We suggest that existing docks should be grandfathered in, with only the requirement that replacement materials meet the new codes, such as substituting plastic decking materials for treated boards. We are particularly concerned that current dock owners do not know the proposed requirement that if any repairs are done they must bring their complete dock into compliance with new regulations.	See Boating Facilities B(14), which allows for repair and maintenance. Existing regulations (section 17.50.080.D(2) in 2013 draft) and WAC's already provide for simplified permitting for normal repair and maintenance and some replacements with Shoreline Exemptions and SEPA exemptions.
(4)	"Public boating facilities shall provide restroom and sewage and solid waste disposal facilities in compliance with applicable health regulations." DCD Staff: "Restroom and sewage" - what exactly was intended by this statement? Porta potties can meet health department requirements. The Health Dept does not require garbage or "solid waste" disposal at the public sites. State agencies, for example. Because this statement says "shall" is staff to assume that if they cannot install restroom hooked up to septic or sewer, a shoreline variance is required? Porta potties are not considered "structures" and vandalism is a major concern for public boating facilities that are unattended. they are hesitant to install permanent restroom facilities. they should be allowed to install and maintain portable restrooms at reasonable setbacks.	**PAC Decision on 6/8/2015:** Delete 4 and 5 because these issues are addressed in the Recreational Chapter.
(4)	J. Reece: What is a public dock?? HOA community, rental properties, etc.? This seems unclear and leads to all docks (boating facilities) requiring a	See response above.

	restroom, sewage, solid waste disposal facilities??? Please note that all of this is not even provided for the Mason Lake County Park Boat Launch!	And – Docks at HOA communities and rental properties are not 'public.' Merriam Webster defines public as: "of, relating to, or affecting all or most of the people of a country, state, etc; : of, relating to, paid for by, or working for a government; supported by money from the government and from private contributors rather than by commercials."
(6)	DCD Staff: The County does not enforce by removing the hazard. Check with Building department on Abatement Code. this is easier said than done.	The County has the authority to remove the hazard. The language states the County 'may' remove the hazard.
(7)	DCD Staff: Please explain this better. It is very confusing the way it is written. It sounds like an owner cannot have a dock with a chain anchored float further out in this statement. Why are we limiting them now? This is new and not sure this is best way to word it and assume intent is limiting activity in the resource.	PAC Recommendation on 2/24/2014: Only limit # of docks. If allowed under this Program, no more than one (1) dock or one (1) unattached float; and one (1) boat lift or one (1) private boat launch; and one (1) mooring buoy may be permitted on a single waterfront lot owned for residential use or private recreational use.
(7)	J. Reece: How can the ordinance now restrict property owners to only one of the following: dock, float, buoy, lift, or ramp? Please note that currently some properties have a ramp, a dock, a float, 4 lifts (boat. PWC, plane), and a buoy – and this apparently needs to be reduced to only one of the foregoing?	That statement is incorrect. The draft language restricts a residential owner to the following: 1 dock or 1 unattached float, <u>and</u> 1 boat lift or 1 boat launch, <u>and</u> 1 mooring buoy. The commentor'ssecond statement is also incorrect. The regulations allow for existing, legally established structures to remain and be repaired and replaced. N/A. PAC Recommendation on 2/24/2014: Delete regulation (A.7).
(7) Or (D)(2)(b) and (D)(3)(e) in '17A'	WA Parks 9/1/2015: Mooring Buoys (e) limits mooring buoys for each waterfront lot to no more than one buoy. State Parks maintains 29 recreational mooring buoys in the county with plans to expand to more buoys in the future fronting public parks. Mooring buoys provide opportunities for recreational users to access remote shorelines without the need for expanding boating facilities, such as docks, piers, or unattached floats. Provide clarification that public recreational mooring buoys are not limited to one buoy per lot.	PAC Decision on 12/21/2015: Clarify that the 1 dock is not meant to apply to public recreational use. Add sentence to regulation: <u>This does not apply to public recreational use.</u>
(8)	"Vessels shall be restricted from extended mooring on waters of the state except as allowed by state regulations and provided that a lease or permission is obtained from the state and impacts to navigation and public access are mitigated." RM (DOE Staff): After a closer look, I think that this approach has a couple of minor flaws. * The term "waters of the state" is a comprehensive term, which can include "aquatic lands" that are not owned by the state and thus under more limited jurisdiction. For example, the state could not give or restrict permission to moor on private bedlands. DNR has jurisdiction over "state-owned aquatic lands". * A general statement about consistency with state regulations is not very helpful for local planners. It creates a challenging burden on local staff to	**PAC Decision on 2/24/2014:** Change 'waters of the state' to 'State Owned Aquatic Lands.' Vessels shall be restricted from extended mooring on ~~waters of the state~~ <u>'State Owned Aquatic Lands'</u> except as allowed by state regulations and provided that a lease or permission is obtained from the state and impacts to navigation and public access are mitigated

	determine consistency with DNR (and possibly DOH) regulations. Interestingly, DOH does not prohibit or regulate moorage. They just start to close shellfish beds when moorage reaches certain thresholds. Not sure how to remedy this with different language and, since it is in the guidelines, this may be the closest thing one could get to an enforceable regulation. I still think that the approach is redundant with RCW 79.100. DNR actively implements this law and has significant $$$ to do so. I would change "waters of the state" to "state-owned aquatic lands".	
B. Piers and docks		
	DCD Staff: Watch the use of the words "docks", "piers", "ramps", and "floats". They appear to be misused which will create a LOT of confusion. The definition of dock includes piers, ramps, and attached floats – any combination thereof.	**PAC Decision on 1/13/2014:** Change "docks and piers" and "piers and docks" and "docks and floats" to "docks" (and to "docks and unattached floats" where applicable.
	DCD Staff: We also need to address the size of "landings" that usually constructed as part of the dock (landward of the pier). Since the length of a dock is measured waterward from OHWM, there should be language addressing the landing landward of OHWM.	**PAC Decision on 3/10/2014:** Add regulation to address size of landing upland of OHWM, omit any dimensional requirement. The portion of a dock that is landward of the OHWM, shall only be as long as that necessary to adequately anchor the dock.
(3)	DCD Staff: Add something like "or adjacent to it" because people want to build residential decks along shoreline before stepping onto dock. For example: (3) No pier, dock, or float or similar device shall have a residential structure constructed upon it <u>or adjacent to it</u>.	**PAC Decision on 3/10/2014:** Add clarification on dimensions for any landing upland of OHWM, omit any dimensional requirement. <u>The portion of a dock that is landward of the OHWM, shall only be as long as that necessary to adequately anchor the dock.</u>
(4)	DCD Staff: This is new so staff will have to alter applications to require this.	Yes, applications should be revised after the SMP is updated.
(5)(c)	DCD Staff: Is "replenishment" going to require a shoreline permit or exemption?	Exemption?
(5)(g)	L. and K. Rentz (2/18/2014 letter): Chemical impacts of treated lumber could certainly have an impact upon the lake, and we agree that treated materials should not be used. Perhaps the regulations could spell out appropriate substitutes	It might be more appropriate to list substitutes in guidance documents and permit applications, because the potential substitutions could change as technology availability changes.
(7)	DCD Staff: On second line = what does "on the opposite shoreline" mean? need example to understand how to apply for the public.	Opposite shoreline means the shoreline across from the dock structure. You may include a drawing in your revised application or revised guidance documents for applicants.
(9)	DCD Staff: Does the "ten inches" requirement come from DNR requirements?	WDFW HPA.
(11)(a) freshwater	DCD Staff: Can the entire dock be floating if floats are designed to keep most of bottom of float off the lake-bed? This sentence seems to require a pier, a ramp, and a float.	**PAC Decision on 3/24/2014**: Delete sentence requirement for having a pier, a ramp, and a float in your dock design.
(11)(b) freshwater	DCD Staff: The 8 requirements in (b) for freshwater docks should have reference numbers or letters so that we may refer to each separately (such as when communicating with an applicant or hearing examiner or when writing a staff report. So the 8 requirements in the table format would be (i) through	**PAC Decision**: Reformat chapter.

	(viii).	
(11)(b) freshwater Max Length	DCD Staff: What about floats in the main length (perp to bank)?? Limit width to 4' and grating. The existing configuration and wording does not work because it ignores that many freshwater docks are mostly or all floats. Recommend that in the table after "Maximum Length" add a row for "Maximum width of dock perpendicular to shore" of 4 except 6 feet for joint use piers'.	**PAC Decisions:** Make changes and clarifications, delete T's and L's, etc.
(11)(b) freshwater Max Length	DCD Staff: Bottom of second paragraph = "minus 8 feet" Questions is: Can they only have one or other as specified in #7 of Boating facilities? This kind of makes it sound like they can have both dock and float.	**PAC Decision 2/10/14:** Delete sentence. An attached float is already allowed, and without depth requirements. (Also see response to A.7 above).
(11)(b) freshwater Max Length	J. Reece: Seven feet of water depth maximum does not permit the safe use of a diving board or the safe mooring of water items in some areas.	**PAC Decision on 2/24/2014:** Delete max length based on depth minus 7 feet at OLW on lakes.
(11)(b) freshwater Pier Width & Ramp Width	Jim Reece: Docks have been 6, 8, and 10 feet wide for years. Now a maximum of 4 feet in width is being proposed. This is very restrictive in width and does not consider wheel chairs, walkers, canes, golf carts, tractors, fueling equipment, storage boxes, pull push carts, etc. Also, it would be an excessive expense to reduce a 6, 8, or 10 foot wide dock down to 4 feet in width as piling would need to be removed, and replaced. Is 4 feet Coast Guard approved?	The width of 4 feet applies to piers and ramps only (not floats). The regulations do not require that the width of a non-conforming pier or ramp be reduced for normal maintenance and repair. The WDFW HPA and the USACE RGP6 requirements allow for piers to be up to 6 feet wide, but require grating (30%) for piers wider than 4 feet. Therefore, Staff recommends either changing the regulation to allow 6' but require grating for over 4' like wdfw and usace, or adding an allowance for ADA design. **PAC Decisions on 3/10/2014:** Increase max pier width to 6 feet on both fresh and saltwater (for single and joint use). Keep ramp width 4 feet max to align with state requirements and because ramps are usually prefabricated to this width anyways so that one can hold on to both railings. Delete state requirement that underside of piers be at least 1.5 feet above OHWM. Delete draft state grating requirements (2/10/2014), and direct the reader to the state jurisdictions. So it will read: The width of piers, not including the pilings, lot shall not exceed six (6) feet. Note: The amount of functional grating required by state jurisdictions may increase for piers that are greater than 4 feet wide.
(11)(b) freshwater Pier Width & Ramp Width	L. and K. Rentz (2/18/2014 letter): Based upon long personal experience, we do not think that a four foot wide dock is safe. If you are going to restrict dock size, at least make it six feet so that two people can pass each other safely while on the dock. We similarly do not agree with the limitation on the width of the dock "T" portion parallel to the shoreline; it should also measure six feet in width for safety. If you look at the entirety of impact upon the lake of having a narrower dock, you might be talking about the advantage of helping one or two fish more per year survive. Or not. The shading factor of the docks might actually be an advantage for some species in periods of extremely warm weather. This is anecdotal evidence, but during warm periods we have often observed small fish staying in the shadow of a dock, presumably to stay	See response above.

	cooler. The four foot dock width requirement asked for by WDOE whether for the ramp, elevated, or floating portions of the dock) is the type of "bright green line" planning without regard to whether any impacts can be adequately mitigated that the courts are consistently rejecting in the planning context for GMA and will likely be rejected for shorelines if tested. The County should not pick a single number (such as the four-foot limit in question), which may or may not be appropriate under the wide variety of circumstances encountered on the County's shorelines. The SMA actively encourages access to the water, which includes private residences and associated docks. Private residences and appurtenant structures are priority uses and private docks enable full access for both personal and watercraft use. We believe the fourfoot width raises serious safety concerns and the absolute prohibition on other alternatives proposed by WDOE goes well beyond the "no net loss" requirement that the legislature and agreed guidelines provide for shoreline development set in Chapter 173-26 WAC. Where the "no net loss" test is found to be met through the shoreline review process, the one-size-fits-all approach of a single numeric standard has no legal justification. When the six-foot wide dock, or even wider to meet local needs and conditions, can be adequately mitigated to the no net loss standard, the agency's one-size-fits-all approach goes against the legislative goal of management of our shorelines for "all appropriate uses" and "encouraging" appropriate water-related uses and the **legal requirement of imposing unduly restrictive conditions only when "reasonably necessary"** to meet local conditions under the circumstances of the specific case. We have lived here for 24 years, and in that time we have observed constant visits by birds and mammals, with no sense that there has been an increase or decrease in either the fish or the wildlife that enjoys the fish.	
(11)(b) freshwater Attached Floats T's and L's	J. Reece: It would seem that an ordinance such as building setbacks that would make docks compatible with adjacent docks in length and spacing would be more appropriate.	**PAC Decision on 4/21/2014:** Retain a maximum width (20 feet for single-use) for the end of docks but change from allowable shapes to allowable areas.
(11)(b) freshwater Attached Floats T's and L's	DCD Staff: This language continues (from the existing SMP) the idea that the T or L at the end has to be made up of floats. We have allowed these to be piers or floats because there is no rationale that they should be floats only.	**PAC Decision on 4/21/2014**: Rewrite chapter so that the shape of the dock (such as the T's and L's allowed at the end) are not associated with a particular dock component (such as floats). Delete shape requirements such as T's or L's.
(11)(b) freshwater Unattached Floats	DCD Staff: Is there a max distance from shore for unattached floats?	No, but DNR will have to review in most lakes – can't obstruct navigation, and the following county SMP provision applies: Overwater structures shall be located, designed and operated to not significantly impact or unnecessarily interfere with the rights of adjacent property owners, or adjacent water uses including navigation and boat operation.
(12)(b) saltwater	DCD Staff: This will need to be mapped for Public and Staff. Basically saying you cannot have within one mile. Are all parcels going to be tagged in computer system for staff and applicants?	Public marinas and public boat launches are mapped. We will need to make sure it is on our Planning ArcReader and that it is up to date. Perhaps the shoreline enforcement planner could do this. We could tag the parcels that are affected, but Planners already have to open up ArcReader to check for several different things

		when doing a site preinspection report, a presubmission conference report, a permit review that it is not necessary to tag the parcels. N/A. **PAC Recommendation on 2/24/2014:** Delete. Allow for new single use docks within a mile if public marinas and public boat launches.
(12)(c) saltwater Max Length	DCD Staff: Maximum length, last paragraph - This still makes it sound like you can have both a PRF and a chain anchored float. Is this contrary to Boating Facilities #7?	**PAC Recommendation on 2/24/2014:** Delete limitation in A.7. Also, delete last sentence of B.12.c.first row.
(12)(c) saltwater Max Length	A. Leitman (Marine Surveys & Assessments): Our environmental consulting firm has been involved in the biological reporting on hundreds of pier, ramp, and float (PRF) projects throughout Puget Sound, including many within Mason County. Our foremost concern with each of these projects has been mitigating any environmental harm due to siting and construction. Mason County has had unusually strict total length requirements on PRF's as compared to other counties within Washington. These rigid requirements (100' from OHWM for single use docks, 115' for joint use docks) have actually hindered the goal of achieving minimal environmental impact. This is usually through 2 means: 1. A maximum length requirement forces the dock to end in relatively shallow water, increasing the risk that floats and boats will ground out during low tide and that propeller scour from boats will damage eelgrass or kelp during all tides. By allowing an increase over the prescriptive 100'-115' in cases where deeper water could be reached, impacts to the bottom. and to any ecologically valuable kelp and eelgrass habitat, could be minimized. 2. The shallow depths along much of Mason County shorelines mean that, in combination with the maximum length requirement, any boat moorage requires a separate mooring buoy further seaward. This presents a second opportunity for propeller scour or grounding damage to kelp and eelgrass beds. By allowing a greater maximum dock length, it is possible that the mooring buoy could be eliminated in many cases. As a result of these impacts, we recommend that the SMP update reference dock length requirements from the City of Bainbridge Island: "...the distance necessary to obtain a depth of four feet of water as measured at extreme low tide at the landward limit of the moorage slip" In addition, Jefferson County provides further guidance that could be used in your new SMP: "The administrator may approve a different dock or pier length when needed to: i. Avoid known eelgrass beds, forage fish habitats, or other nearshore resources; or ii. Reach adequate depths to accommodate watercraft; or iii. Accommodate shared use." The Mason County Shoreline Master Plan update is an opportunity to update previous standards in light of the best management practices available. We	**PAC Recommendation on 2/10/2014**: Add sentence allowing for longer saltwater PRF's without a variance, if to avoid eelgrass beds. Up to 150 feet: The Administrator may approve a different dock or pier length when needed, to avoid known eelgrass beds, forage fish habitats, or other near shore resources up to a maximum of 150 feet (as measured from OHWM), beyond which would require a Variance.

	feel that, when regulating PRF, allowing for flexibility in total length is a great way to accomplish this goal.	
(12)(c) saltwater Max Length	D. Fritts: Would like to see max length for residential dock be based on depth from OLW not limited to 100 feet.	**PAC Decision on 2/10/2014:** Keep a maximum length, but increase maximum length for saltwater dock to 120/135' and add sentence allowing for longer saltwater PRF's without a variance, if to avoid eelgrass beds. Up to 150 feet. The overall length of a marine dock for a single use dock shall be only so long so as to obtain a depth of seven (7) feet of water as measured at mean lower low water, unless otherwise required by DNR use authorization or Hydraulic Project Approval. The length shall not exceed 120 feet from OHWM for single waterfront lots (single use).shall not exceed The lengths permitted for joint or community use facilities are shown in Table 17.50.075(B). In addition, see (2)(e) above for length restrictions that protect navigability. For single use and joint use docks, the Administrator may approve a different dock or pier length when needed, to avoid known eelgrass beds, forage fish habitats, or other near shore resources up to a maximum of 150 feet (as measured from OHWM), beyond which would require a Variance.
(12)(c) saltwater Max Length	B. Landrom: While surrounding counties allow installation of a dock/pier to a "tide level", Mason county restricts to a length of, I believe 115' for "single lot" application and 130' for "multiple use". I strongly suggest Mason County implement dock/installation to "zero" tide level or 150' maximum (whichever is less). This will allow for a practical use of shoreline by owners, as well as limit lengths to reasonable lengths.	PAC Decided to retain the limit based on length, which is much easier to implement and enforce.
Max length of docks	J. Diehl in 6/8/2015 letter: We question the wisdom of allowing saltwater docks as long as 120 feet – or even 150 feet in some instances – from the ordinary high water mark for single use waterfront lots (p. 152 of '17A'). Whatever convenience such long docks may provide to owners is more than offset by detriment to the public interest – and to ecological functions – in maintaining an uncluttered shoreline.	PAC Decision: Retain the dock maximum lengths proposed in '17A' draft.
(12)(c) saltwater Piers	DCD Staff: How is staff to check is proposal spans "upper inter tidal vegetation"? Assume HMP or BE will address but this is well into application process.	An HMP (or BE) is required during the County's review, which should include this information. It's not recommended that the County wait until the applicant provides a BE that has been approved by the Corps. **N/A. PAC Decision on 2/10/2014:** Delete detailed grating requirements, and instead refer the reader to state and federal requirements.
(12) saltwater Floats	DCD Staff: Is there a min or max distance to OHWM?	There is no specific distance from OHWM in the current or proposed regs. See B1 and B.2 – there are requirements to avoid impacts to navigation which should suffice for max distance concerns. Opportunity for comment through SEPA for these. The float will either be anchored on private lands, which makes deep water location unlikely, then grounding issues are addressed in regulations. Or the float is located on SOAL and DNR will address depth and navigability.
(12)(c) saltwater	DCD Staff: - why don't we know if 60% meets American Disabilities Act?	**N/A. PAC Decision on 2/10/2014:** Delete detailed grating requirements, and

Grating Standards		instead refer the reader to state and federal requirements.
(13)(b)	b. "If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space…" DCD Staff: Do we need this? DCD Staff: What about private recreational entities like Girl Scouts?	The port districts have expressed concerns that port plans be given adequate consideration. This is captured in draft policies related to port districts. It seems this regulation helps implement that policy. It doesn't seem "private recreational" is on the list unless they are "commercial." Perhaps that leaves out non-profits, etc. **PAC Decision:** Retain regulation.
(13)(d) Or (D)(2)(g)(iv) in '17A'	WA Park 9/1/2015: Recreational piers may need to be higher and/or longer to meet site specific design requirements and to reach a sufficient depth from mean lower low water. Existing piers, with the ramp and float configuration, are longer than the 200 foot length restriction. PROPOSED CHANGE: ~~Recreational docks shall be no higher than eleven (11) feet above mean higher high water and shall not exceed 200 feet in length.~~ The proponent must show the size of the proposal is the minimum necessary to allow the intended use.	**PAC Decision on 12/21/2015:** delete first sentence as recommended.
(14) Repair replacement of docks	DCD Staff: So you cannot replace a 200' long floating dock with a 200' PRF, right?	This regulation would allow you to replace a float with a PRF. What language indicates otherwise to you? However, although replacing a nonconforming dock within the footprint is grandfathered (without a variance), replacing a floating dock with a PRF would not meet the Shoreline Exemption language (and so would require a Substantial Development Permit): Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development **and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance** and the replacement does not cause substantial adverse effects to shoreline resources or environment
(14)(c)	"Proposals involving the addition to or enlargement of existing piers or docks must comply with the requirements for new pier or dock construction. Enlargement beyond prescriptive standards would require a variance." DCD Staff: Does just the addition need to comply or the entire thing? It appears to require the entire "proposal" to comply.	Just the addition needs to comply. If the proposal is for an addition, it seems clear that only the added sections would need to meet the new pier or dock construction requirements (e.g., don't use creosote piles because that material is not allowed for new construction).
(14)(c)	DCD Staff: "beyond prescriptive standards" - is this defined clearly for staff and public?	**PAC Recommendation on 3/10/2014:** Clarify what is grandfathered. Grandfather the length and width (footprint) but require replacements and repairs to use approved materials. Delete 50% criteria. As detailed in MCC 17.50.055(H), Existing Structures, the footprints of existing legally established structures are grand-fathered, therefore repairs and replacements of grandfathered docks, unattached floats, mooring buoys, boatlifts and covered moorage do not need to meet the County's dimensional standards but do need to use approved materials. Replacement structures shall be restricted to the original footprint and size dimensions, except for any variations required by health and safety regulations. ~~Repairs of existing piers~~

		~~and docks must conform with all applicable standards for new construction. (3)(B)(14)(b) Replacement of entire existing pier or dock, including more than fifty percent of the pier support piles and more than fifty percent of the decking or decking substructure (e.g. stringers) must meet the decking and design standards for new piers.~~ Existing skirting shall be removed and may not be replaced.
(15)(a)	DCD Staff: "Where a Conditional Use Permit is required" - does this imply that if you are an all new structure on Hood Canal and Puget Sound? when will CUP be required with revision? only on saltwater for new and not replacement?	CUP's are required for new docks on lakes in the Conservancy SED. CUP's are required for new saltwater docks, except in the Commercial SED.
(15)(a)	DCD Staff: "A balancing of the interests of project proponents, adjacent shoreline property owners and those of the public is necessary." where did this wording come from and how are we to implement? Is denial of a permit "balancing"?	The balancing language is conceptual. Projects are reviewed on their specific merit and individual context, in consideration of policies, regulations (and CUP criteria in this case). One wouldn't deny based on "balancing."One would deny a permit based on the goals of the SMA and the use regulations.
(15)(b)	"The **applicant** shall prepare a cumulative impact analysis report that addresses the following within a defined area such as a drift cell or other appropriate shoreline reach:.." DCD Staff: Can just anyone prepare this report?	The SMP does not specific who can do it. It would be just like any other CUP – the applicant is responsible for addressing all the criteria. This adds some helpful parameters for that analysis, gleaned from SHB orders.
(15)(b)(i)	"The current build-out of the proposed dock area. The report shall determine whether or not the proposed dock would alter an **undeveloped** shoreline reach or high quality habitat area, or compromise development of recreation opportunities." DCD Staff: Define "undeveloped"? Undeveloped with docks, or with other things/bulkheads too?	In the Board cases, this has focused on other docks. This is the applicant's report. Staff can dispute, if they feel the analysis is faulty.
C. Boatlifts		
(1)	J. Reece (2/3/2014): Basically the state owns most freshwater bottom lands, but some property owners do own the bottom lands out 150 feet. Again, I cannot understand C. boatlifts (p. 67) c.1 -2: how can docks, lifts, buoys, etc. that are designed to rest on the bottom land be required/designed so that the grid/lift rests at least 1 foot above the substrate, and furthermore cannot at any time rest on the substrate. It seems to me that the only bottom it can rest on is the substrate.	Most boat lifts have legs/pilings with 'feet' that support the grid/lift, so the grid lift does not rest on the substrate.
D. Mooring Buoys		
(3)	"Mooring buoys shall be located **at sufficient depth** to prevent vessel grounding, and shall design the buoy system so that anchor lines don't drag. Where practicable, use embedment style mooring anchors instead of surface style mooring anchors." DCD Staff: Should we state a min depth at OLW?	PAC decided to not provide a minimum depth.
E. Boat Launches		
(4)	"There is no maximum length or width for commercial industrial or community use boat launches, however, the proponent must demonstrate	Change needed. The 1/17/2013 version at a minimum needs to include commas between the words commercial and industrial. Also, recommend adding public as

	that the size proposed is the minimum necessary to allow the use proposed." DCD Staff: Add "public"	suggested: 4. There is no maximum length or width for commercial, industrial, public or community use boat launches, however… **PAC Decision** on 3/10/2014: There is no maximum length or width for commercial, industrial, or ~~community~~ recreational (public or community) use boat launches, however, the proponent must demonstrate that the size proposed is the minimum necessary to allow the use proposed.
(5)	"Non-motorized residential boat launches shall use gravel or other permeable material. **Removal of existing vegetation** for launch access should be limited to eight (8) feet in width." DCD Staff: Shouldn't this require an HMP if removing natives?	Would this be de minimus? Note the Resource Ordinance allows encroachment into buffer for water –dependent uses, provided it's the minimum needed for the use.
(B)(1(d)(i) in '17a'	A Habitat Management Plan (HMP) would be required for all boat launch proposals in marine waters, as all marine waters of Mason County contain federally listed species. It is unclear if the HMP requirement applies to all proposals or only newly proposed boat launches. Would an HMP be required for shoreline exempt activities or for minor maintenance of and/or modifications to launches where no impacts to federally listed species are anticipated? Provide clarifying language in this section regarding this.	PAC Decision on 12/21/2015: Habitat Management Plan. Proposals for new or expanded boat launches on marine shorelines and on lakes with species listed under the federal Endangered Species Act as either proposed, threatened, or endangered shall include a Habitat Management Plan that identifies measures to protect habitats and mitigate for unavoidable impacts.
F. Covered moorage and boat houses		
	D. Root on 12/21/2015: We have a 1946 wooden Chris Craft that we would not even be able to use if we did not have the awnings to protect it. As you undoubtedly know, lots of people on the lake have awning protection over their boats. New boats with upholstery are very expensive to own and deteriorate fast if not tarped or protected by awnings. With our rainy climate tarping and un-tarping is not very practical if you want to use the boat often. Our vote is to allow boat Awnings on the lake and if there is any restriction it should be as long as neighbors on either side approve of the planned installation.	Staff will present this comment to the PAC at the 1/25/2016 meeting.
(2)	DCD Staff: Why limit to 600 square feet if it meets setback regs? Could just call it a garage and build larger.	Upland boathouses are not an overwater structure. And they are already restricted to meet setbacks and mitigate for buffer impacts per each use chapter and per the General Regulations. **PAC Decision on 8/4/2014:** Delete. Address overwater boat houses separately from upland. For upland, refer to the General Regs/Resource Ordinance for structure setbacks and the specific use chapters (residential, recreational, etc).
4. Commercial Development		
Proj Class Table	North Forty Lodging LLC: Table 17.50.050-1 (page 35) divides commercial uses into water-oriented,	**PAC Decision on 11/10/2014:** Add row in the table for non water oriented that is part of a mixed use and provides public benefit (consistent with Ecology Guidelines). CUP required for the use in Commercial, Residential, Rural and Conservancy.

	non-water dependent with waterfront and non-water dependent without waterfront. Water-oriented and non-water dependent without waterfront are permitted. Non-water dependent with waterfront requires a conditional use permit. We request the addition of another category that would allow "non-water dependent uses that are part of a mixed use project that provides a significant public benefit such as providing public access or ecological restoration " in the Urban Commercial environment.	Prohibited in Natural and Aquatic.
(2)	DCD Staff: Per the definition, 'water oriented' encompasses all water dependent, enjoyment, and related. Therefore, it appears that 'water enjoyment' should replace 'water oriented' in the first sentence. Or should water enjoyment come before water related? "Commercial development may be permitted on the shoreline in the following descending order of priority: water dependent, water related and water ~~oriented~~ enjoyment. In areas designated for commercial use, non-water oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right-of-way."	Correction needed. PAC agreed with correction.
(2)	North Forty Lodging LLC: The proposed language could be improved, however, through the express recognition that non-water oriented uses are allowed in some circumstances. The language about new nonwater oriented commercial uses reflects WAC 173-26-241(3)(d)(i). We request the addition of the following language: Preference shall be given to water-dependent commercial uses over nonwater-dependent commercial uses; and second, preference shall be given to water-related and water- enjoyment commercial uses over non-water-oriented commercial uses. New non -water oriented commercial uses are allowed outright if the use is part of a mixed use project that includes water-dependent uses and provides a significant public benefit such as providing public access or ecological restoration . Other new non- water-oriented uses may be allowed with a conditional use permit.	Staff recommends adding the following language from Ecology guidelines that allows for some non water oriented development. This incorporates the first sentence recommended by North Forty Lodging. **PAC Decision on 4/4/2014, 4/21/2014, and 11/10/2014**: Include language from Ecology guidelines. PAC added 'and is subordinate to.' **PAC Recommendation on 11/10/2014**: provide definition here for subordinate. Therefore, #2 will read: In areas designated for commercial use, new non-water oriented commercial uses and development may only be allowed when: a. The site is physically separated from the shoreline by another property or public right-of-way; or b. Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access or ecological restoration; or c. The use is part of a mixed use project that includes, and is subordinate to, water-dependent uses, and it provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access or ecological restoration. A use is subordinate if: i. It is located landward of a principal water dependent use; and ii. It occupies a surface area of a lot, or of multiple lots developed as a unit, smaller than the water dependent component. The area of the water dependent component includes structures (upland and overwater) occupied by water dependent uses and boat slip areas associated with overwater structures.
(9)	DCD Staff: Shouldn't we address cottage industry (use)?	**PAC Decision on 4/7/2014:** Add definitions of Cottage Industry and Home

	DCD Staff: Allow for non-water-related cottage industry where no development is required?	Occupation to the definitions section of the SMP. Use the definitions in the existing SMP's Commercial chapter (which don't exist in the Jan 2013 draft) but add the language shown below. **Cottage Industry**. Small scale commercial or industrial activities on residential properties performed in the residence or building accessory thereto. The principle practitioner must reside on the property. Cottage Industries are considered as residential uses ~~and minor commercial development~~, provided they do not significantly alter the character of the site as a residential property and wholesale and retail trade is minimal. Cottage Industries ~~must comply with all applicable County Ordinances and~~ require a Conditional Use Permit except in Commercial and Residential SED's. (See also 'home occupations.') **Home Occupation.** A business conducted within a dwelling which is the residence of the principal practitioner. A Home Occupation may be reviewed as a residential use provided it complies with all applicable County Ordinances and no alteration is made to the exterior of the residence or site which would alter the character of the site as residential property including parking and signs. Activities that meet this definition do not require shoreline permitting or exemptions. (See also 'cottage industries.')
6. Industrial and Marine Terminals		
'17A' PAC revised draft	J Diehl in 6/8/2015 letter: Industrial and marine terminal development should be required, not "to avoid **and minimize** impacts to ecological functions" (p. 113) but to avoid such impacts where possible or, where not possible, to minimize and mitigate impacts. Conjoining "avoid" with "minimize" vitiates the meaning of "avoid." A similar criticism applies to the provision (p. 115) that marinas and their accessory facilities shall "avoid, minimize, and mitigate for unavoidable adverse effects on fish, shellfish, wildlife and other biological resources, water quality, and existing geohydraulic shoreline processes." Also, the requirement that breakwaters, jetties and groins shall be located and designed "so as to avoid, minimize and mitigate for any unavoidable adverse impacts" (p. 145) suffers from the same confusion. Obviously, one cannot avoid the unavoidable. Presumably, what is meant is that avoidable adverse effects are to be avoided, and unavoidable adverse effects are to be minimized and mitigated.	Most of this language was revised (after the commenter's letter)to refer to mitigation sequencing.
7. In Stream Structures		
	DCD Staff: I'm not sure why "In stream structures" would be in the uses section rather than in the shoreline modifications section. ?	Since 'in-stream structures' is located in the uses section of Ecology Guidelines as well, recommend it stay where it is.
8. Mining		
(2)	E. Schallon /Green Diamond Resource Company: Would "borrow pits" in shoreline jurisdiction be regulated by the county as mining operations? The definition of mining is very broad, and theoretically use of borrow pits could be interpreted as mining, though the use would be related to necessary	Borrow pits are regulated by DNR as a Forest Practices Activity. There is a regulatory framework under Forest Practices, should the SMP include a regulation that says something like. Staff recommends revising definition of Forest Practices: PAC Decision on 3/2/2015: Add borrow pits to definition of Forest Practices so it's

	forestry operations rather than for commercial sale.	clear that the Mining Chapter does not apply. (And PAC Decision on 3/2/2015: Add reference to WAC.) **Forest Practices.** Any activity conducted on or directly pertaining to forest land (as defined in WAC 222-16-010) and related growing, harvesting, or processing of timber including but not limited to: (1) road and trail construction, (2) harvesting, (3) pre-commercial thinning, (4) reforestation, (5) fertilization, (6) prevention and suppression of diseases and insects, (7) salvage of timber, (8) brush control, ~~and~~ (9) slash and debris disposal, and (10) borrow pits, as regulated by WAC 222-24-010. Excluded from this definition is preparatory work such as tree marking, surveying and removal of incidental vegetation such as berries, greenery, or other natural product whose removal cannot normally be expected to result in damage to shoreline natural features. Log storage away from forestlands is considered under Industry.
9. Outdoor ads, signs, billboards		
	DCD Staff: The Development Regulations seems to heavily regulate signs. Do we need this subsection when we already have very detailed sign regulations?	**PAC Decision on 10/21/2013:** delete all but 4 of the sign regulations.
	WA Parks 9/1/2015: It is unclear as to which setbacks this sign regulation refers to. Recreation related signs are necessary for public recreational developments. Signs that may be within a buffer would include those for property boundaries, trail markings, fee/use regulations signs, and interpretive/educational signs. Add a policy to address public recreational signs: PROPOSED SIGN POLICY ADDITION: 6. Public signage denoting property boundaries, trail markings, fee/use regulations signs and interpretive or educational signs shall be allowed in all environment designations and are exempted from setback requirements.	**PAC Decision on 12/21/2015** add the following new sign regulation: Informational signage denoting property boundaries, trail markings, or fee/use regulations as well as interpretive educational signs shall be allowed in all environment designations and are exempted from setback requirements. And to revise #5 so it does not conflict with this new language.
(2)	"Aquatic Environment a. Only **wall signs** and low profile free-standing signs under thirty **(30) inches in height** for water- uses may be allowed." DCD Staff: Define wall signs? Wall signs of any height? Or are they also subject to 30"?	Deleted regulation 2(a) per PAC.
'17A' PAC revised draft	The provisions related to outdoor advertising, signs and billboards illustrate the hazards of conflating issues of aesthetics with issues of access. The proposed regulation addresses only the impairment of "visual access" to the shoreline and water (pp. 84-85; 122), while the greater problem is impairment of the beauty of the shoreline environment. The main issue is not obstruction of views; it is the commercial usurpation of views, and more generally, of the aesthetic experience of enjoying shorelines. Adherence to the county's Sign Code is inadequate to address the need to protect the public interest in areas of statewide significance.	

10. Recreational Development		
	T. King: The SMP does not include use regulations for Scientific, Education and Research facilities. These should not be "unclassified" uses that would require a CUP.	**PAC Decision on 4/21/2014:** Add 'scientific and environmental educational facilities' to regulation 19, to the definition of Recreational Development, and to the proj class table. Keep research facilities as an unspecified use (CUP required).
	WA Parks 9/1/2015: Trail development is not addressed in the Project Classification Table 17.50.050. State Park's trails are designed for non-motorized passive trail use or water trail use (aquatic) for non-motorized boats. Permitting trails under the county's CAO for fish & wildlife conservation areas requires a 100 foot buffer and would preclude many new shoreline trails. Non-motorized and motorized-trail development could be addressed in the Transportation or Recreation sections. As non-motorized trails typically require less development and result in minimal impact to the shoreline environment, permitting non-motorized trials in all environments would be fitting with the SMP policies and no net loss requirements. Non-motorized trail development should be a permitted (P) use for all shoreline EDs. Additionally, we recommend the change to (4)(b) from the Mason County Resource Ordinance (Page 67) proposed in comment # above to address trail development in buffers.	PAC decided on 12/21/2015 to add the following language to the Recreational Chapter and the proj class table: Informational campsites may be approved in the Natural environment provided they are primitive in nature and not accessible by vehicles. The revised FWHCA chapter of the Resource Ordinance does allow for trails within buffers/setbacks (with an HMP and certain design standards).
(16)	"Accessory facilities, such as restrooms, kiosks, stairways, recreation halls, commercial services, access roads and parking areas shall be located inland from shoreline jurisdiction unless it can be shown that such facilities are shoreline dependent. These areas shall be linked to the shoreline by walkways." DCD Staff: Add kiosks and stairways?	Note this is not meant to be an inclusive list, the examples are preceded by "such as." Stairways to be the shoreline would be regulated under beach access.
11. Residential		
	LS (PW Staff): The proposed language seems to be focused on mitigating any new potential impacts, and does not appear to address restoration or correction of previous impacts. Are we "grandfathering" existing development impacts, or do we want to require restoration of native soils, vegetation, natural drainage patterns, etc.? **My recommendation:** Yes, we should achieve restoration when permit opportunities present themselves. The 2005 Manual addresses stormwater requirements for re-development projects.	We are grandfathering existing development/uses. However, some of the restoration examples you listed, could be restored as part of mitigation for new development.
	LS (PW Staff): The proposed language seems to emphasize subdivisions. Is "residential development" inclusive of single-family residential home construction? My recommendation: Follow the 2005 Manual and existing County codes to identify stormwater requirements for all new development and re-development.	Yes, it includes single family development. However, where it specifies subdivisions, it applies only to subdividing parcels.
(3)(4) &(5)	"3. Subdivision proposals shall identify areas of natural vegetation, storm water retention and erosion control measures consistent with MCC 17.80	This was not discussed at the 12/16/2013 workshop. Needs PAC and MMS review?

	and 17.72" LS (PW Staff): One possible interpretation of this language is: All SMP-regulated subdivisions shall comply with the County's LID ordinance. Another interpretation is: All SMP-regulated subdivisions shall comply with select sections (native vegetation, retention and erosion control) of the County's LID ordinance. The "shall" language means LID is required for all subdivision proposals. If it is the desire to expand LID requirements to SMP-regulated subdivisions, then consider referencing the 2012 Stormwater and LID manuals for guidance, rather than citing MCC. "4. New residential lots created through land division or lots modified by boundary line adjustments shall only be permitted when the following standards are met: a. The applicant must demonstrate that a primary residence can be built on each new lot without any of the following being necessary: i. Significant vegetation removal;" LS (PW Staff): I interpret this as: All subdivisions per Title 16 will only be permitted when it can be demonstrated that significant native vegetation is preserved. The "shall" language means the LID practice of preserving native vegetation is required for all subdivision proposals. If this language is kept, "significant" needs to be quantified and submittal requirements specified that will demonstrate that "significant" vegetation is not removed. "5. Clustering of residential dwellings in all environments except Natural is allowed when consistent with the land division/subdivision standards of the County code and this Program." The language above implies that the LID practice of clustering is "allowed". My recommendation: *Encourage* LID practices for all shoreline projects consistent with the 2012 Stormwater Management Manual for Western Washington and 2012 LID Technical Guidance Manual for Puget Sound. If we elect to "require" LID practices, I recommend citing the 2012 Stormwater Management Manual for Western Washington and 2012 LID Technical Guidance Manual for Puget Sound rather than our LID code language. In my opinion, our code is in need of revision and I'd hesitate to expand its application.	However, there was a **PAC Decision** on 12/16/2013 to delete #5. Unnecessary wording- Development regs regulate clustering, and it seems counterproductive to prohibit clustering in Natural.
(6)	"6. Design and siting of residential development shall not adversely impact water quality. b. Proposed residential developments adjacent to a water body supporting aquaculture operations shall install drainage and storm water treatment measures and facilities to prevent any adverse impact to aquaculture operations. As required by MCC 17.01.110.G, all projects should meet or exceed any stormwater design requirements to avoid any risk of decertification of shellfish beds"	(response to first bullet) Aquaculture is defined. (response to second bullet) A GIS layer exists. (response to third bullet) This was not discussed at the 12/16/2013 workshop. Needs PAC review.

	If we want higher standards and requirements for projects adjacent to aquaculture operations, we then need to • Define aquaculture operations, • Develop a GIS layer of all defined aquaculture operations to cue the reviewer in that higher standards are required for these areas, and • Develop the higher standards and requirements. **My recommendation:** At a minimum, **delete the reference to MCC 17.010110.G**. This citation applies to accessory uses only. Talk with our shellfish industry representatives and ask if there is a perceived need for higher standards/requirements, or need for better implementation of existing code. Homeowners may want the same protections as commercial growers. Do we want to distinguish between the two?	
(8)	"Residential development shall be ~~sufficiently~~ set back as far as possible from steep slopes and shorelines vulnerable to erosion and channel migration so that structural stabilization structures will not be needed during the life of the structure, as determined by a geotechnical analysis. See MCC 17.50.055, General Use regulations, and requirements of MCC 17.50.060, Shoreline Stabilization." DCD Staff: replace "sufficiently" with "as far as possible"	The CAC expressed concern about use of the phrase "as far as possible" in another context (siting of septic tanks) because the actual location should be determined by criteria (in this case, geotechnical analysis). PAC and Staff agreed that the Resource Ordinance adequately addresses these critical areas and reports required. **PAC Decision** on 12/16/2013: "Residential development shall ~~be sufficiently~~ comply with buffers and set backs from steep slopes and shorelines vulnerable to erosion and channel migration so that structural stabilization structures will not be needed during the life of the structure, as determined by a geotechnical analysis. See consistent with MCC 17.50.055, General ~~Use~~ Regulations, and requirements of MCC 17.50.060, Shoreline Stabilization."
(10)	"To preserve aesthetic characteristics and minimize aesthetic impacts: a. For new residential construction, no fence or landscape wall shall be erected, placed or altered closer to the water than the landward edge of the required setback line; b. If an existing primary dwelling encroaches into the required buffer, fences or landscape walls may be allowed in the required buffer consistent with MCC 17.01.110.F(2), provided they do not exceed twenty four (24) inches in height;" DCD Staff: Is an HMP required if they cut down vegetation?	An HMP would be required per the Resource Ordinance. This would also require an MEP, so the SMP should reconcile/clarify what the review and authorization of this would be. Shoreline exemption? **PAC Decision on 9/9/13:** Require a Shoreline Exemption where no Permit or Shoreline Exemption is required, in order to review what was required to be a Mason Environmental Permit. Add the following paragraph to the critical areas subsection of the General Regulations: Applications that are processed as a Mason Environmental Permit per MCC 8.52.190(C), and do not require a Shoreline Variance, Shoreline Substantial Development Permit, or Shoreline Conditional Use shall instead be processed as a Shoreline Exemption.
(10)(c)	"Fences or landscape walls that exceed twenty four (24) inches in height must be sited at or behind the building setback line;" DCD Staff: Doesn't this conflict with trying to get people to construct bulkheads 6' or more higher than OHWM? Which are then landscape walls. DCD Staff: How many can you have? Limit to one per 50' horizontal?	**PAC Recommendation on 12/16/2013:** Delete 10(a-d) because fences and walls would be addressed in the Resource Ordinance.
12. Restoration Projects		
(1)	"Restoration shall be carried out in accordance with an approved restoration plan prepared by a qualified professional containing, where applicable, an	No, the Restoration Projects chapter applies to projects in which the primary purpose is to restore ecological functions. It is not requiring restoration for all

	analysis of existing conditions, identification of the area to be restored, proposed corrective actions, including installation of native species, performance standards, monitoring schedule, planting plans, erosion and sedimentation control plans, and grading plans as necessary and in accordance with the policies and regulations of this Program." J. Richert and M. Young (4/17/2013): I will assume that a Restoration Project includes any mitigation requirements. And that Planning Staff will require all applicants to provide a Study of the existing habitat, the identification of the existing ecological function, and propose to mitigation solution. In other words, "Keep the new development out of the SMP shoreline jurisdiction or expect to provide the professional study in detail and a proposed mitigation plan that will insure that the County will have NNL of ecological function.	development in shoreline jurisdiction. The Resource Ordinance regulates buffers and most of the mitigation requirements.
13. Transportation Facilities		
(1)(d)	"d. That the project will avoid adverse impacts to shoreline ecological functions include the process of channel migration, and mitigate for any unavoidable impacts consistent with General Use Regulations" PW Staff (11/18/2013): The county would like clarification on the definition of "shoreline ecological functions"? Please provide a definition of "Shoreline ecological functions" and guidance for appropriate mitigation.	See Definitions section (17.50.040) for definition of Ecological Functions. Appropriate mitigation would be found in BMP manuals and/or recommendations made by a qualified biologist.
(2)(a)	DCD Staff: I realize this is an existing regulation. But is it really necessary to require a CUP for all bridge construction with sills, abutments, stringers, or girders? Is this a typo (existing), and it really should be requiring a CUP if not outside the OHWM? DCD Staff: What about small streams (w/in 200' of a shoreline lake) where residents drive through/across the stream currently? These are obviously not shoreline streams, but they are within shoreline jurisdiction of a lake or saltwater. Do we really want to require a CUP for these?	Needs discussion?
(2)(b)	PW Staff (11/18/2013): The language as written requires approaches to be constructed with piling and support piers. This will increase project design cost related to reports, studies, assessments and maintenance of the structures in perpetuity as well. It is not understood what scientific or engineering analysis that imposes regulation such as this? Recommend consistency with WAC 220-110-070(1)(h) Abutments, piers, piling, sills, approach fills, etc., shall not constrict the flow so as to cause any appreciable increase (not to exceed .2 feet) in backwater elevation (calculated at the 100-year flood) or channel wide scour and shall be aligned to cause the least effect on the hydraulics of the watercourse.	**PAC Recommendation on 12/16/2013:** replace (b) with the wording in WAC 220-110-070(1)(h), as recommended by Public Works Staff. ~~Bridge approach fills shall not encroach in the floodway of any stream or river. Bridge approaches in floodways shall be constructed on open piling, support piers, or other similar measures to preserve hydraulic processes.~~ Abutments, piers, piling, sills, approach fills, etc., shall not constrict the flow so as to cause any appreciable increase (not to exceed .2 feet) in backwater elevation (calculated at the 100-year flood) or channel wide scour and shall be aligned to cause the least effect on the hydraulics of the watercourse.
(2)(c)	PW Staff (11/18/2013): For consistency, recommend the replacement of the proposed text with WDFW WAC 220-110-070(1)(e) Water Crossing Structures The bridge shall be constructed, according to the approved design, to pass the 100-year peak flow with consideration of debris likely to be encountered. Exception shall be granted if applicant provides hydrologic or other information that supports alternative design criteria.	**PAC Recommendation on 12/16/2013:** replace (c) with the wording in WAC 220-110-070(1)(e), as recommended by Public Works Staff. ~~All bridges shall be high enough (minimum of three feet above 100-year flood elevation) to pass all expected debris and anticipated high water flows from a 100-year flood.~~ The bridge shall be constructed, according to the approved design, to pass the 100-year peak flow with consideration of debris likely to be encountered. Exception shall be granted if applicant provides hydrologic or

		other information that supports alternative design criteria.
(5)	PW Staff: The language as written dictates WDFW Guidelines be required for bridge and culvert design. Forcing WDFW standards for bridge and culvert design WILL compromise project funding when other funding sources are involved. Other funding agencies will not cover the cost of work that is above a federal standard. It is unclear why an applicant would be required to utilize WDFW standards; an agency tasked with protecting fish and wildlife, not bridge design and engineering requirements.	**PAC Decision on 12/16/2013:** strike #5 because WDFW will be issuing an HPA and they can establish their own requirements.
(11)	PW Staff (11/18/2013): Utilize language consistent with Snohomish County SMP (July 27, 2012) pg. 80 of 177 Chapter 3.2.5.17 Transportation Policies 8 - "Encourage low impact development techniques."	PAC Recommended on 11/18/2013: Delete 11 -14 per Public Work's recommendation **PAC Re-decision on 12/16/13:** keep #11.
(13)	PW Staff (11/18/2013): What is defined as "Transportation"?	See Definitions section (17.50.040) for definition of Transportation Facilities.
(11-22)	PW Staff (11/18/2013): At the very least use language "should" instead of "shall". The regulations as written are very strict and can become costly and burdensome on the applicant tasked with implementing or paying for analysis to determine "feasibility". The language of these sections as written, severely limit the public use of the shorelines, especially public that are protected by the Americans with Disabilities Act.	**PAC Decision 12/16/2013:** Strike #12-14
(15-22)	PW Staff (11/18/2013): Question the need for so many regulations on parking? Regulations on parking comprise over 1/3 of this chapter. Utilize language similar to Snohomish County SMP (July 27, 2012)pg. 81 of 177 Chapter 3.2.5.17 Transportation Policy 21 - "Parking is not a preferred shoreline use and should be allowed only to support a use authorized under the SMP." and Policy 22 "Parking facilities should be located outside of shoreline jurisdiction or as far landward from the ordinary high water mark as feasible. When located within shoreline jurisdiction, the location and design of parking facilities should: a. Minimize visual and environmental impacts to adjacent shoreline and critical areas. b. Provide for pedestrian access through the facility to the shoreline; and c. Facilitate public access to and enjoyment of the shoreline." This language meets the intent of the Shoreline Management Act that ensuring public access to shorelines a high importance.	**PAC Decision on 12/16/2013:** Reformat numbering and, Retain 15. Replace 16 with: Perimeters of parking areas shall be landscaped to minimize visual impacts to the shorelines, roadways, and adjacent properties. Delete 17. Delete 18. Retain 19. Retain 20. Retain 21. Revise 22 Parking areas shall be located ~~inland, away from the immediate edge of the water and recreational beaches, and~~ outside critical areas and their buffers, unless there is no area available. Unavoidable impacts shall be mitigated, consistent with General ~~Use~~ Regulations. ~~Provisions shall be made for adequate vehicular parking and safe pedestrian crossings.~~ Design of parking areas shall e~~nsure that surface runoff does not pollute adjacent waters. Design shall provide for storm water retention and shall be reviewed by Mason County Department of Public Works.~~ be consistent with Mason County Stormwater Standards.
14. Utilities		
Proj Class Table	DCD Staff: Nothing mentioned about existing sewage treatment plants in Shelton and Harstine Pointe. I have required SDP's for both when they	It is correct to require a shoreline substantial development permit if the remodel is not restoring a development to a state comparable to its original condition,

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	wanted to re-build and improve facilities.	including but not limited to its size, shape, configuration, location and external appearance, or if the remodel may cause substantial adverse effects to shoreline resource or environment.
Proj Class Table	DCD Staff: At the PAC Discussion on 11/18/2013, many of us wondered why 'Utilities – production and processing' would be prohibited in upland natural SED, but allowed with a CUP in aquatic, regardless of the upland designation. I believe the decision was to ask Tim Gates about this.	Change production and processing from X (prohibited) to C (conditional use permit) in Natural SED? Needs PAC review.
(1)	PW Staff (11/18/2013): Use language similar to Snohomish County SMP (July 27, 2012) pg. 82 of 177 Chapter 3.2.5.18 Utility Facilities Policies 1 - "Utility production and processing facilities, such as power plants and sewage treatment plants or parts of such facilities that are non water oriented should not be located in shoreline areas unless there is no feasible alternative location."	Note: commenter is confusing policy ('should') with regulation.
(1)	J. Diehl in 6/8/2015 letter: In those limited instances where outfalls for sewage treatment are permitted, it does not make sense to require automatic shut-off valves "on both sides of the water body".	
(1)&(2)	PW Staff: Would like to see an exception to the prohibition of utilities within shoreline jurisdiction unless infeasible. For example, what if a sewer line is going in to actually reduce the pollution resulting from failed septics?	**PAC Decision on 11/18/2013**: Add language as recommended by Public Works' Staff: 1. Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are nonwater-oriented, shall be prohibited in shoreline jurisdiction unless it can be demonstrated that no other feasible option is available <u>or that it will improve environmental conditions</u>. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, except in situations where no other feasible alternative exists <u>or where it is expected to improve environmental conditions</u>. In those limited instances when permitted, automatic shut-off valves shall be provided on both sides of the water body. 2. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of shoreline jurisdiction where feasible <u>unless it can be demonstrated that it will likely improve environmental conditions</u>.
(2)&(3)	PW Staff: Recommend using language "should" instead of "shall". The regulations as written are very strict and can become costly and burdensome on the applicant tasked with implementing or paying for analysis to determine "feasibility".	**PAC Decision on 11/18/2013**: Retain draft wording except per changes above for #1 and #2, allowing for environmental benefit.
(5)	PW Staff (11/18/2013): Use language similar to Snohomish County SMP (July 27, 2012) pg 82 of 177 Chapter 3.2.5.18 Utility Policies 6 - "Design and location of utility facilities should provide for no net loss of shoreline ecological functions." Please provide a definition for "shoreline ecological functions" and reference the section of the SMP that allows a project proponent to meet this requirement and determine the appropriate mitigation for this.	Note: commenter is confusing policy with regulatory language. See definitions section (17.50.040) for definition of Ecological Functions. Draft language refers reader to the General Regulations.

17.50.065 Shoreline Modifications

	DCD Staff: It doesn't make sense to me to have Beach Access, Breakwater/Jetties/Groins, Dredging, Flood Protection, Grading, and Shoreline Stabilization separate from all the other uses and development policies. I recommend we delete the '17.50.065' title altogether. Really – 17.50.060 are not broken up into specific "uses" as the title would imply. For example, Boating Facilities includes residential, commercial, recreational, and other uses – in other words, it is not a specific use, so why have a separate section for activities that also are not tied to a specific use? I think it may be better to have them all in alphabetical order in 060. TG response: This follows Ecology guidelines which separate out modification activities from uses.	This follows Ecology guidelines which separate out modification activities from uses. **PAC Decision:** Keep both categories (Uses and Modifications) but move docks, floats, beach access, boat launches, mooring buoys to Modifications section.
1. Beach access structures		
(2)	"Beach access structures are prohibited, if the bank slope where the structure is placed is likely to require shoreline stabilization in the future." DCD Staff: Does this mean a Shoreline Geotechnical Assessment is required?	**PAC Decision on 6/8/2015:** State that a Shoreline Geotechnical Assessment is required. Because the Shoreline Stabilization Chapter require one for the same reason. Otherwise, how would an applicant show they meet this regulation? Beach access structures are prohibited, if the bank slope where the structure is placed is likely to require shoreline stabilization in the future. <u>This shall be demonstrated in a Shoreline Geotechnical Assessment (or a Geotechnical Report if required by the Resource Ordinance).</u>
(3)	Beach access structures may be located within the shoreline buffer <u>without a Variance</u>, provided that:	**PAC Decision on 3/11/13:** This suggestion was made as part of discussion of the General Regulations and the Resource Ordinance, MCC 8.52.170.D(2)(b). This provision allows for water-dependent uses inside a buffer without a Variance. The 1/17/2013 draft SMP had added clarification in the General Regulations that beach access structure also do not need a Variance to build within a buffer. The PAC determined it would be more efficient to address the clarification in the Resource Ordinance and also in the Beach Access use regulations.
3. Dredging		
Proj Class Table	DCD Staff: why does it say NA?	
	J. Richert & M. Young: At many places along the river, the channel is filled with gravel. In the valley, the Skokomish Rivers have lost their capacity to carry the winter drainage. It would be a drastic mistake not to include in the Plan the alternative of removing gravel from the river channel. Please, insert this new item:"3.1.c. If it is necessary to recapture instream channel flow capacity."	The proposed SMP does provide a pathway for dredging to reduce flooding under (1)… "if it is necessary in conjunction with a County-approved comprehensive flood control management plan." Rather than broadly authorizing dredging for instream channel flow capacity, any dredging related to flooding would need to be addressed in a comprehensive fashion.
	PW Staff (5/2/2014): General comment. Is there a way to truncate or modify some of the requirements of this section regarding testing, modeling, bioassays, and reporting requirements if the project is not within a 303(d), 305(b) or TMDL? It is not clear why clean dredged sediments are required to follow the same process and protocol as toxic dredged sediments.	? Not addressed by PAC.
(1)(a)(b)(h)	PW Staff (5/2/2014): Recommend omitting use of word "*maintain*". Maintenance is not considered substantial development for the purposes of SMA RCW 90.58.030 and WAC 173-27-040.	This regulation is not stating whether something requires a Substantial Development Permit. For all development proposals, one would look to the shoreline exemptions in WAC 173-27-040 (or in the draft SMP's 17.50.080 (D)) to determine whether a Shoreline Exemption could be issued rather than a Substantial

		Development Permit. (see regulation #3 which *is* requiring SDP for maintenance dredging) In either case (exemption or SDP), the activity is subject to the shoreline regulations.
(3)	PW Staff (5/2/2014): Recommend omitting use of word *"maintenance"*. Maintenance is not considered substantial development for the purposes of SMA RCW 90.58.030 and WAC 173-27-040.	**PAC Decision on 6/30/2014:** Maintenance dredging that meets the maintenance exemption in WAC 173-27-040 shall be considered as a Shoreline Exemption.~~ or r~~Restoration dredging shall be considered Substantial Development. Non-maintenance dredging (except for restoration dredging for restoration projects) may be considered as a Conditional Use.
(4)	Richert & Young: Instream dredging is expected to remove the over-abundance of gravel that has aggregated into the system. Instream dredging would also be required to reestablish the old river bank as it existed before aggradations. Please, insert this new item: "In stream channel dredging operations shall not cause damage to adjacent shorelines as they existed before channel aggradation."	The proposed regulation may impose inappropriate limitation on the approach to a particular dredging project related to aggradation issues. The regulation assumes that a given project would be restoring a river channel to a particular time period "before channel aggradation." This raises many questions about what the starting point for determining when "channel aggradation" began. The regulations as written are relatively flexible in allowing for dredging to address site-specific issues as long as it is part of a comprehensive approach.
(6)	PW Staff (5/2/2014): Recommend removing the words "shall comply with Puget Sound Dredged Disposal Analysis" and propose referencing and/or recommending the use of Puget Sound Dredged Disposal Analysis Guideline Manual. Guidelines should not be used as policy and regulation. This is not what guidelines are intended for.	**PAC Decision on 6/30/2014:** Dredged material, when not deposited on landwaterward of the Ordinary High Water Mark, shall be placed in spoils deposit sites in water areas to be identified by the County and the Washington Department of Natural Resources and shall comply with the Puget Sound Dredged Disposal AnalysisDredged Material Evaluation & Disposal Procedures User Manual criteria and guidelines and other applicable local, state, and federal regulations. Depositing of dredge material in water areas shall be allowed only for habitat improvement, to correct problems of material distribution adversely affecting adversely fish and shellfish resources, to remediate contaminated sediments, or where the alternatives of depositing material on land are more detrimental to shoreline resources than depositing in water areas.
4. Flood Protection		
Proj Class Table	DCD Staff: What about LWD on river banks (or where they could restrict flow under a bridge)?	Removal of beaver dams and such requires an HPA (or GHPA). The removal of beaver dams would probably be addressed in the Resource Ordinance. Please provide recommended changes to the FWHCA chapter.
5. Grading, Fill and Excavation		
Proj Class Table	DCD Staff: Non water dependent grading fill and excavation is no longer allowed as a CUP in most environments - why?	**PAC Decision on 5/5/2014:** Allow with CUP in all upland SED's. Comm / Res / Rural / Cons / Natural / Aquatic Non-water dependent[1]: C / C / C / C / C / X[2]
	PW Staff: General comment. Recommend including and referencing MCC 14.44.050(b)(1-14) exempt work. Or at a minimum 14.44.050(b)(10) grading	#4 refers to Mason County Stormwater Standards.

	on public rights-of-way.	
	WA Parks 9/1/2015: 17.50.075 Shoreline Modification Regulations, (G) Grading Regulations (Grading: Stripping, cutting, filling, or stockpiling earth to create new grade. Grading includes excavation of material and additional of fill.) Almost all development projects will have an element of grading involved. Consider the installation of a trail bench or an interpretive sign. The development of these structures will likely require very minor grading/filling for the installation of concrete footings or small concrete use pads. Is the intent of the SMP to require a CUP for projects with very minor grading or filling? Does the SMP intend to require a conditional use permit for any grading as part of an otherwise shoreline exempt or permitted use? Why wouldn't a grading permit serve the same purpose as a CUP? Will there be a threshold for grading or fill that would trigger the policies/regulations contained in this section? We propose a threshold of 5 or 10 cubic yards of disturbance for triggering the SMP grading regulations.	Staff recommends adding to the SMP that a CUP for grading is only required if it exceeds a threshold. PAC has not discussed this yet.
(1)	PW Staff (5/2/2014): Believe there was a strike through in the first sentence and "wetlands" was omitted by mistake.	**PAC Decision on 5/5/2014**: Insert 'or in wetlands' Grading ~~and fills~~ waterward of the ordinary high-water mark or in wetlands for ecological restoration projects that have been authorized by a state agency ~~should~~ shall not require a Conditional Use Permit. All other grading ~~and fills are~~ is prohibited waterward of the ordinary high water mark or in wetlands, except that ~~they~~it may be considered as a Conditional Use for the following activities: ...
(2)	"Proposals for grading and fill in wetlands shall follow Resource Ordinance regulations (MCC 17.01.070)." DCD Staff: MEP and shoreline CUP needed?	Consider: allowing for issuance of SHX where appropriate to give county a regulatory action and appealable decision? **PAC Decision on 9/9/13:** Add the following to the General Regulations: Applications that are processed as a Mason Environmental Permit per MCC 8.52.190(C), and do not require a Shoreline Variance, Shoreline Substantial Development Permit, or Shoreline Conditional Use shall instead be processed as a Shoreline Exemption.
(3)	J. Richert & M. Young: Mason County must feel that filling is inevitable. Because if fills were not anticipated the following section could have stopped at fill are not permitted." However, this section continues and allows fill under certain conditions. What this section needs is a method of measuring the increase in flood hazard/damage and/or the decrease in floodplain storage capacity. The following in red is offered for your consideration: 3.- Fills are not permitted in floodplains unless it can be clearly demonstrated that the geohydraulic and floodplain storage capacity will not be altered to increase flood hazard or other damage to life or property and/or any ESA listed species in the floodplain will be impacted by said activities. Fills are not permitted to raise the FEMA 100 Year Flood Elevation by 0.10 feet. (less	PAC agreed that comp storage should be deleted from the General Regulations and instead addressed in FDPO (at some point), but we had forgotten to revise or delete this reg #3 (during review of the grading chapter) to account for that. **PAC Decision on 6/8/2015:** Delete #3 and add 'floodplains and channel migration zones' and deleting #3 above. See comment for #3. ~~3. Fills are not permitted in floodplains unless it can be clearly demonstrated that the geohydraulic and floodplain storage capacity will not be altered to increase flood hazard or other damage to life or property and/or any ESA listed species in the floodplain will be impacted by said activities. Fills are not permitted to displace effective flood storage volume unless compensatory~~

	than 1-1/8 inches and/or fills are not permitted to displace effective flood storage volume unless compensatory storage is provided, consistent with the General Use Regulations.	~~storage is provided, consistent with General Use Regulations.~~ 10. Grading shall only be allowed as part of an approved shoreline use or development activity. When allowed, grading shall be located, designed and constructed in a manner that avoids impacts to the shoreline environment, floodplains, and channel migration zones consistent with General ~~Use~~ Regulations. Unavoidable impacts shall be mitigated.
(6)	"Applications for landfill grading and fill projects shall include the following information (at a minimum): a. Character and source of fill material; b. Method of placement and compaction; c. Type of surfacing proposed, if any; d. Method of perimeter erosion control; e. Proposed use of fill area; f. Location of fill and excavation material relative to natural or existing drainage patterns. g. Proposed revegetation and/or landscaping. h. Proposed location of excavation material." DCD Staff: Which applications is this regulation referring to, just SDP, CUP, and/or VAR or also to the following? Shoreline Exemptions for Single Family Residential (<250 cy)? Shoreline Exemptions for grading costing less than $6418?	This applies to all applications. However, if DCD chooses to not require a letter of exemption for upland grading permits that are associated with single family residential development, then these requirements would not apply (since there is no permit application).
(11)	PW Staff (5/2/2014): Recommend the second part of the sentence read as follows "and are Prohibited in the Natural environment, unless they are an element of an approved restoration project or deemed appropriate for public access or within the public's interest." In no way should the public's interest and access be prevented by the SMP, on the contrary, it should be protected. Allowing access to these environments ingrains and establishes a sense of worth, thereby enhancing the public's desire to protect them.	**PAC Decision on 5/5/2014:** revise regulation to allow grading in Natural with a Conditional Use Permit. 11. For water-dependent uses upland of the ordinary high water mark, ~~fill~~ grading may be permitted in Residential, ~~Urban~~ Commercial and Rural designations; and may be considered as a Conditional Use in the Conservancy and Natural environments~~; and are Prohibited in the Natural environment, unless they are an element of an approved restoration project.~~
(12)	PW Staff (5/2/2014): Recommend the second part of the sentence read as follows "and are prohibited in the Conservancy environments when they are part of a shoreline of statewide significance, and Natural environment unless they are an element of an approved restoration project or deemed appropriate for public access or within the public's interest." In no way should the public's interest and access be prevented by the SMP, on the contrary, it should be protected. Allowing access to these environments ingrains and establishes a sense of worth, thereby enhancing the public's desire to protect them.	**PAC Decision on 5/5/2014:** delete prohibition. The guidelines do not prohibit upland fills. 2. For non-water-dependent uses upland of the ordinary high water mark, ~~fills~~ grading may be considered as a Conditional Use in ~~Urban~~ Commercial, Residential, Rural, ~~and~~ Conservancy, and Natural environments~~; and are Prohibited in the Conservancy environments when they are part of a shoreline of statewide significance, and Natural environment unless they are an element of an approved restoration project.~~
6. Shoreline Stabilization		
	J. Reece (1/3/2015 email): Would like grandfathering of current armament	Existing shoreline stabilization is grandfathered per the Existing Structures

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	and how to maintain or improve without total replacement.	subsection of the General Regulations and per this Shoreline Stabilization chapter. **PAC Decision on 1/5/2015:** #5(a-h) are primarily from Ecology's Guidelines WAC 173-26-231 (3)(a)(ii)(C), with some language retained from the Jan 2013 draft SMP. And the PAC recommended adding #5 (i) as an incentive. 5. Repair and Replacement. a. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves and not caused by normal sloughing, vegetation removal, or poor drainage. b. Replacement of a failed bulkhead shall be permitted in the same location and dimension as the original bulkhead, if such replacement is commenced within five years of failure. The burden of proof of location of the original bulkhead shall be on the applicant. c. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions. d. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. e. When an existing bulkhead is being repaired or replaced, construction shall occur no further waterward of the existing bulkhead than is necessary for construction of the new footing. f. Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure. g. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark. h. For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures. i. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures, except that 'capping' an existing bulkhead may be considered repair if the following criteria are met: i. The cap is one foot in height or less (cumulative over ten years) and no more wide than the bulkhead; and ii. All native trees and shrubs are preserved in place. j. When replacing hard armoring with soft stabilization, fees associated with Community Development applications and reviews shall be reduced by half.

		PAC Decision on 6/8/2015: add (i) allowance for 1 foot capping, based on studies done by UW and WADOE estimating the sea level rise in Puget Sound will range from 3" to 21" within 35 years.
	J. Reece (1/3/2015 email) and J. Egbert: Would like some form of relief in armament permitting for the damage caused by wake/surf boats producing large waves causing shoreline erosion. A petition may be forthcoming from Mason Lake residents to Mason County Administration for some relief from the damage caused by this form of recreation.	Shoreline stabilization is already processed as a Shoreline Exemption for single family residential. Shoreline Exemptions cost much less and are processed much quicker than Substantial Development Permits, so they are already provided some relief. The fees for SEPA determinations are also less for single family residential.
	J. Reece (1/3/2015 email): What about property owners who have planned to install some form of shoreline protection (like adjacent properties) but have not been able to commence construction - will they get any form of "grandfathering" to be able to use their property as envisioned?	Shoreline stabilization (is currently and will be in the future) is allowed and processed as an exemption rather than Substantial Development on properties developed with a single family residence and where you can show that the rate of erosion is threatening the home or septic system. There is a slight difference between what you may protect with new shoreline stabilization. Currently the Resource Ordinance allows shoreline stabilization to protect a legal structure for which a building permit has been issued. And the revised SMP will go a bit further by stating it may protect a primary structure. (The definition of Primary Structure per PAC on 1/5/2015 is "Primary structure means the structure associated with the principal use of the property. It may also include single family residential appurtenant structures that cannot feasibly be relocated.") The current Resource Ordinance states: *Bank Stabilization*: A stream channel and bank, bluff, and shoreline may be stabilized when naturally occurring earth movement threatens existing legal structures (structure is defined for this purpose as those requiring a Building Permit pursuant to the International Building Code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of fish habitat, flood control and improved water quality. Bluff, bank and shoreline stabilization shall follow the standards of the Mason County Shoreline Master Program, Landslide Hazard Areas, and any floodplain management plan adopted by the Board of Commissioners. Mason County may require that bank stabilization be designed by a professional engineer licensed in the State of Washington with demonstrated expertise in hydraulic actions of shorelines. For bank stabilization projects within FWHCAs, **emphasis shall be placed on bioengineering solutions** (techniques used alone or in combination such as beach nourishment, coarse beach fill, gravel berms, or vegetation rather than hard surfaces such as concrete armoring) unless proved by the applicant to be infeasible. Bank stabilization projects may also require a Hydraulic Project Approval from the Washington Department of Fish and Wildlife and will be determined after consultation with WDFW. Therefore, I'm not sure I understand what the property owners would gain from having them grandfathered to current regulations.
	B. Forrester (Tacoma Power): I have some concern about the engineers and geotechs catering to their clients and stating that a structural bulkhead is the only option when there may actually be alternatives. It would be helpful if there was a way to confirm that they have the required expertise	This is a valid concern. Per the definition below, the County would only be verifying the qualifications of the qualified expert by requiring that he/she provide some type of documentation (listing coursework and certificates, etc) that he/she has gained professional expertise of regional shoreline geology and processes.

	("...professional expertise about regional and local shoreline geology and processes..." & "...with demonstrated expertise in hydraulic actions of shorelines..."). I know that won't necessarily guarantee that they will still make a valid determination on the need for structural bulkheads, but at least it would provide a little more assurance that they are indeed qualified to make that call. Is the County planning on establishing some way of verifying the engineer/geotech qualifications that will be required?	**PAC Decision on 10/13/14:** Use the definition provided in Ecology's Guidelines WAC 173-26-020 (definitions). **Shoreline Geotechnical Assessment**. A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.
(1)(b)	#1.b.vi in 10/7/14 Staff Report DNR Comment: define "only feasible access"...	Although we do not have a definition specifically for "only feasible access" within this chapter, "feasible" is defined in the draft SMP. "Feasible. For purpose of this program, feasible means that an action, such as a development project, mitigation, or preservation requirement, meets the following conditions: (1) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (2) The action provides a reasonable likelihood of achieving its intended purpose; and (3) The action does not physically preclude achieving the project's primary intended legal use. In cases where this program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames."
(1)(b)	#1.c.i in 10/7/2014 Staff Report DNR Comment: Imminent threat – define and who makes the call?....	The need for new stabilization is linked to the requirement for a geotechnical report that shows the primary structure is likely to be threatened by shoreline erosion within the next three years. Thus, the assertion of threat must be made or validated by "a qualified professional engineer or geologist who has professional expertise about regional and local shoreline geology and processes." It would be the reviewing County Planner would decide whether the professional engineer or geologist is qualified and whether this professional clearly shows in the report that the primary structure is likely to be threatened within the next three years. Comment is N/A – revised draft per PAC does not use term.
(1)(c)	"Stabilization projects shall use non-structural measures (e.g., managing upland conditions such as drainage), or bioengineering solutions (techniques used alone or in combination such as beach nourishment, coarse beach fill,	Change needed. Include a definition of Shoreline Geotechnical Assessment. A definition was included in the 3/1/2013 Issue paper, and in the 11/13/2012 draft ,

	gravel berms, or vegetation rather than hard surfaces such as concrete armoring) unless proved by the applicant to be infeasible. i. A Shoreline Geotechnical Assessment must demonstrate whether non-structural measures or bioengineering solutions are feasible alternatives to hard structural stabilization structures." DCD Staff: Prepared by who? An engineer? What kind?	but was not included in the 1/17/2013 draft. **PAC Decision on 10/13/2014:** Re-add definition of Shoreline Geotechnical Assessment from Ecology Guidelines WAC 173-26-020 (definitions).
	J. Diehl (letter dated 10/19/2014): We are concerned about the repeated reliance upon the concept of feasibility, which despite an effort to define "feasible" seems to open the door to much uncertainty and possibly to a loophole that will result in little or no progress toward reducing reliance on bulkheads.	**PAC Decision on 1/5/2015**: Retain feasible language in regulations (as copied directly from Ecology's Guidelines).
(1)(b)(iii)	"Primary structure means the structure associated with the principal use of the property including single family residences. It may also include single family residential appurtenant structures (such as garages, attached decks, driveways, utilities, and septic tanks and drainfields) that cannot feasibly be relocated." J. Diehl: This proposed regulation is objectionable on several grounds. First, as discussed above, it relies on a technical definition of "feasibly" that, at best, is confusing and an invitation to litigation. Realistically, given that the public interest is rarely represented by competent legal counsel when such issues arise, it means that consultants and lawyers hired by would-be developers who put their private benefit above the public interest will reign over the permits issued for bulkheads. Second, the regulation would add confusion by offering an internally inconsistent definition of "primary structure." On the one hand, it would seem to limit the use of bulkheads to protecting primary structures, such as single family residences. On the other hand, it includes what would ordinarily be considered secondary structures, including garages, decks, driveways, utilities, septic tanks and drainfields as primary structures. Thus, a single lot may have several primary structures, which subverts the very concept of "primary." It makes no sense to say that a single lot may have multiple primary structures, unless possibly it is zoned to allow multiple detached residences or multiple commercial structures, all of equal importance to the commerce involved. Third, the draft lumps together existing development and new development; water-dependent development and non-water-dependent development. It sets no priorities, putting construction of new bulkheads to protect new construction of a primary structure on a par with construction of bulkheads to protect existing structures. We all have sympathy for the landowner who years ago, perhaps naively, built his house too close to the water and who now recognizes that unless he moves his house, he may lose it if he fails to build a bulkhead. However, we see no reason to extend such sympathy to an owner who has no existing structure to protect, who is aware of the hazards of shoreline erosion, and who can locate his house far enough from the water	**PAC Decision on 1/5/2015:** Copy and paste Ecology's Guidelines to assure consistency. Also, change definition of 'primary structure' (not defined in Ecology's Guidelines) to: "Primary structure means the structure associated with the principal use of the property ~~including single family residences~~. It may also include single family residential appurtenant structures ~~(such as garages, attached decks, driveways, utilities, and septic tanks and drainfields)~~ that cannot feasibly be relocated."

	that it is unlikely ever to require shoreline armoring. But the proposed regulation makes no distinction between the two. We recommend the following language be substituted for Section 1(b)(i): "Existing primary structures may be protected with shoreline structures, provided that (1) a geotechnical report is prepared by a qualified expert showing conclusive evidence that the primary structure will likely be damaged by shoreline erosion within 25 years if no shoreline structure is repaired, replaced, or developed, and (2) the shoreline structure approved is the least damaging to the natural shoreline environment that will be adequate to protect the primary structure. When property is zoned for single family residences, the only existing structure qualifying as primary would be a residence, including attached garages having footprints not exceeding 650 square feet and/or attached decks not exceeding 300 square feet. When a property is zoned for commercial or industrial uses, the only structure considered primary is whatever structure on the parcel is most valuable for the functioning of the commercial or industrial use. Proposed new development may be allowed shoreline protection structures only if such structures satisfy the above requirements pertaining to protection of existing primary structures, and if the proposed new structures cannot be set back far enough from the shoreline on the development site to avoid the need for such armoring." These proposed amendments are consistent with the staff report, which claims that under Department of Ecology guidelines "key" regulations will require new developments to be located so as to avoid the need for new stabilization by setting back structures adequately. Regrettably, the staff report does not follow through with proposed regulations requiring as much. The report also indicates that, under Department of Ecology guidelines, bulkheads and similar armoring "will only be allowed when needed to protect an existing primary structure (as demonstrated in a geotechnical report)." Yet, the proposed regulations do not so limit construction of new armoring. On the other hand, our proposal would be consistent with the Ecology guidelines and with the purported aim of the staff report. Incidentally, our proposed requirement for "conclusive evidence" is taken from the Department of Ecology guidelines.	
(1)(f)	#1.h in 10/7/2014 staff report. DNR Comment: Add language regarding consulting with DNR...	**PAC Decision on 10/13/14:** Add the language requested by DNR. However, the addition was unintentionally omitted from the subsequent staff report (12/29/14). Staff recommends that if we mention DNR and WDFW, we may as well also name the Army Corps of Engineers. Therefore, the following edit to (1)(f), which is #6 in the revised draft, will be highlighted for the PAC for review: 6. Shoreline stabilization projects may also require permits/approvals ~~Hydraulic Project Approval~~ from the Washington Department of Fish and Wildlife (Hydraulic Project Approvals) ~~and will be determined after consultation with WDFW.~~, the Washington Department of Natural Resources (lease authorization on State Owned Aquatic Lands), and the United States Army Corps of Engineers. As required by WDFW rules, projects shall incorporate

		mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. PAC reviewed the above language on 6/8/2015.
(1)(g)	(reference # below is from 10/7/2014 Staff Report) "1. New shoreline stabilization - when allowed (i) Structural stabilization projects on feeder bluffs should not be allowed in naturally vegetated areas not already developed or not already subject to shoreline modification." J. Diehl (letter dated 10/19/2014): This is supposed to be a regulation, but is framed as only a "should," instead of a "shall." Further, taken literally, it does not seem to restrict bulkheads below feeder bluffs, but only "projects on feeder bluffs." Because many bluffs have little or no vegetation, it adds confusion by speaking of not allowing stabilization projects "in naturally vegetated areas not already developed . . .,". Does this mean that bulkheads are allowed where the bluff is relatively bare, but not allowed where there is some natural vegetation? If so, then it would thwart the function of the most productive feeder bluffs: to contribute sediment to replenish beaches and shallow slopes offshore. As an improvement, we propose the following: i. Structural stabilization projects on or below feeder bluffs shall not be allowed except where such construction already exists.	**PAC Decision on 1/5/2015:** Copy and paste Ecology's Guidelines to assure consistency, and change all shoulds to shalls in the regulations.
(3)(c)	#3.a in 10/7/2014 Staff Report. DNR Comment: Confusion between new and replacement...	Replacement applies to constructing new structures in place of an existing one that is in disrepair. Repair by the method of total replacement is a commonplace occurrence and is specifically contemplated by WAC 173-27-040 (and the SEPA rules). Despite this, I agree that treating replacements as a repairs/maintenance creates problems. On the other hand, treating replacement as completely new has its own problems, such as when one applies to replace most of the bulkhead but leave a small portion, as a 'loophole' to be treated as a repair. **PAC Decision on 1/5/2015:** The repair/replacement regulations should be comprised of Ecology's guidelines and portions of the Jan 2013 draft SMP. See first response under Shoreline Stabilization.
'17A' Pac revised draft General comment	J. Diehl in 6/8/2015 letter: As we expressed in our previous comments last October, the provisions pertaining to shoreline stabilization, i.e., bulkheads, for new construction of residences (p. 169) are inconsistent with the public interest. The alternatives to such "stabilization" depend on a dubious and imprecise definition of "feasible"(p. 23), a definition that invites stretching the concept of infeasibility to include whatever is incompatible with the landowner's desire for a maximum view. Basically, on shorelines where the public interest is paramount, new residential construction should not be allowed where bulkheads are needed. Anything short of this does not comply with the overarching SMA policy of protecting the physical and aesthetic qualities of natural shorelines of the state "to the greatest extent feasible consistent with	Both the shoreline stabilization regulations and the definition of feasible are directly from Ecology's Guidelines WAC 173-26. **Pac Decision:** Retain this version which is essentially copied directly from Ecology's guidelines.

	the overall best interest of the state and the people generally." For more detailed discussion, we refer to our previous comments.	
Capping bulkheads	J. Egbert in 6/18/2015 email: "It is my opinion that a bulkhead which is now being overtopped frequently or even occasionally will not benefit significantly by extending the cap by only 1 foot. With a 1 foot limit, extending the height of a bulkhead now being overtopped may only result in a bulkhead becoming "even" or just barely above high water wave levels. The cost of extending a bulkhead cap is huge. The current draft limits raising the cap to 1 foot over 10 years. If sea levels rise as predicted, the owner may be faced with another costly bulkhead cap extension before 10 years have elapsed. From a practical standpoint as well as from an economic standpoint, please consider amending the draft to allow a cap to be extended 2 feet and, maybe, extend the interval to 15 years."	The limit of 1 foot for capping to be considered repair was derived from the University of Washington & WA Department of Ecology's sea level rise estimates. http://cses.washington.edu/db/pdf/moteetalslr579.pdf). It estimates a 8cm (3") to 55cm (21") rise in the next 35 years in Puget Sound. Since the average of the two is 31.5cm (12.4") is right in the middle of those values, yet still well above the medium value (highest probability) of 15cm (6"). The limit of 1 foot does not prevent someone from capping their bulkhead more than 1 foot. The regulation simply allows capping up to one foot to be considered repair (rather than as new/expansion) for permitting.
17.50.080 Permit Criteria and Exemptions		
'17A' PAC revised draft New Reg #A.8	J. Diehl in 6/8/2015 letter: **Vesting of Permit Applications**. An application shall become vested to the current Shoreline Master Program (SMP) on the date a 'determination of completeness' is made. Thereafter, the application shall be reviewed under the SMP in effect on the date of vesting; provided, in the event an applicant substantially changes his/her proposed development after a determination of completeness, as determined by the department, the application shall not be considered vested to the SMP until a new determination of completeness on the changes is made We do not think projects should be vested when no construction has begun, and when development regulations that would substantially affect what construction is allowed have been materially amended. However, if the county wants to allow vesting following a 'determination of completeness,' then at least the SMP should contain clear criteria for issuing a determination of completeness. We see none (p. 178)	The regulations pertaining. to letter of completeness are found in Title 15.05.040.
(D)(1)	Comment: The dollar amount of $6,416 was established by the State but it is very low and not very realistic. A simple agricultural pole building, no bigger than a double garage will have a fair market value of $17,000.	The threshold for SDPs is established by the SMA and cannot be changed in a local SMP.
(D)	PW Staff (5/2/2014): Please provide the citation where the following language existed in the existing use regulations code "The following exempt developments shall not require a Substantial Development Permit, but may require a Conditional Use Permit, Variance and/or a Statement of Exemption. All developments must be consistent with the Shoreline Master Program and Shoreline Management Act."	MCC 15.09.055 (a).
'17A' PAC revised draft	J. Diehl in 6/8/2015 letter: b. ~~(D)(2)~~ Normal maintenance or the repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition,	

	including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment. ~~A reasonable period of time for repair shall be up to one year after decay or partial destruction, except for bulkhead replacement which shall be allowed up to five years. Total replacement which is common practice includes but is not limited to floats, bulkheads and structures damaged by accidents, fire and the elements.~~ We object to the notion that replacement is ever equivalent to repair (p. 179). Replacement is never equivalent to repair, even when it is common not to repair, but to replace.	
(E)	PW Staff (5/2/2014): Place Holder for discussion item regarding Letter of Exemption. Required when there is a triggering action within the shorelines **and** a federal permit is required.	E.2 states: Exempt activities related to any of the following shall not be conducted until a statement of exemption has been obtained from the County: i. Activities that require a U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899 or a Section 404 permit under the Federal Water Pollution Control Act of 1972. The county shall send copies of written statements to the Washington Department of Ecology pursuant to WAC 173-27-050. ii. New aquaculture activities that do not constitute substantial development or otherwise require a Shoreline Permit. A written statement of exemption constitutes a valid authorization to conduct new or expanding aquaculture activities.
(E) Statements of Exemptions	PW Staff (5/2/2014): Recommend change in title from *"Statement of Exemption"* to "Letter of Exemption" for consistency w/ WAC 173-27-050 Letter of Exemption.	The PAC retained "statement of exemption."
(E)(1)	"The County is hereby authorized to grant or deny requests for statements of exemptions from the shoreline substantial development permit requirements for uses and developments within shorelines that are specifically listed above." The Washington State Legislature under RCW 90.58.065 has exempted existing, agricultural activities from the Shoreline Management Act. Any wording that even remotely sounds like Mason County is attempting to grant themselves authority to deny the land owners these State legislated exemptions must be removed. The Washington State Legislature recognized the importance of the existing agricultural activities when they adopted RCW 90.58.065: Mason County should not promote or embrace activities or proposals that would cause a net loss in the agricultural productivity or	**PAC ok'd on 6/8/2015:** 1. Except where activities are exempted from review by statute, the County is hereby authorized to grant or deny requests for statements of exemptions from the shoreline substantial development permit requirements for uses and developments within shorelines that are specifically listed above.

	acreage within Mason County.	

TITLE 15

15.09.055.D Permit Process		
Notice requirements	Hood Canal Improvement Club: The residents overwhelmingly want more not less public notice and hearings on any redevelopment along the shoreline. We hope that Conditional Use permits will provide for adequate public notice and public meetings. Further, upland properties need to be notified as well as adjacent parcels. Mason County, not the applicant, needs to decide on what constitutes appropriate "Notice" of the proposed project (see Chapter 15.09, pages 20-21 in draft).	**PAC Decision:** No change to public noticing except to align with RCW requirements.
Procedural requirements	North Forty Lodging LLC: These procedural regulations require Hearing Examiner review and approval (a Type III process) for a shoreline substantial development permit ("SDP"). MCC 15.09.055.D (proposed). However , the use of a Type II process (with notice) would be more appropriate for smaller scale proposals since the application is subject to the standards contained in the SMP, which require the exercise of limited discretion and may involve limited public interest. *See* MCC 15.03.015.C.3 (proposed). This is how SDPs are reviewed in many jurisdictions. *See,* for example, King County Code Section 20.20.020 (an SDP is a Type II decision made by the director): Snohomish County Code, Section 30.44.210 (an SDP is processed as a Type I department decision unless the department recommends denial or determines it requires hearing examiner review due to the presence of significant economic, health , safety, environmental or land use issues, or conflicts with the SMP); Whatcom County Code, Section 23.60.130 (decision on SDP made by administrator without unless a public hearing is required; a hearing is required when , among other things, the cost or value of the proposal exceeds $100,000, the proposal would result in development of an area larger than 5 acres, or for specifically listed types of proposals); Lewis County Code, Sections 17.25.060, 17.25.080 (SDP reviewed and issued by director unless public hearing is timely requested , the cost of the project exceeds $500,000 or the development is one of broad public significance) ; and Grays Harbor County Shoreline Management Program, Chapter 25, Sections 10, 12 (decision on SDP made by director without a public hearing unless a variance, conditional use permit or other permit requiring a public hearing is also required). Accordingly, we request that Chapter 15 regulations be modified to provide that SDPs are reviewed and issued by staff as Type II decisions with notice unless (1) they result in the development of an area larger than 5 acres; or (2) the cost of the project exceeds $500,000.	Although Brain McGinnis' (North Forty Lodging) letter was provided to the PAC, I do not believe we addressed this specific topic.

	DCD Staff: This (existing) wording has never been clear to me. The second and third sentence of the second paragraph of (D) is confusing a Notice of Complete Application with a Notice of Development Application/Hearing. Also, the 45 days is not a state requirement.	**PAC Decision on 1/26/2015:** Make changes - to resolve confusion and to match requirements in WAC 173-27-110 (2)(e). Edited and moved to SMP "Permits, Exemptions, and Appeals" (17.50.080)(C)(2)(a) D. Permit Process. When a complete application and associated information have been received by the Review Authority, the Review Authority shall schedule a public hearing before the Hearing Examiner in the case of a Conditional Use (non-administrative) Permit, Variance Permit, or a Substantial Development Permit. ~~mail notice of proposed project to all property owners named on the list as supplied by the applicant, and shall post notice in a conspicuous manner on the property upon which the project is to be constructed. The Review Authority shall also be responsible for delivering legal notice to the newspaper, to be published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the development is proposed.~~ Advertising costs will be the responsibility of the applicant. 1. Notice of Development Application/Public Hearing. A Notice of Application/Public Hearing shall be provided according to MCC 15.07.010 and 15.07.030. The public comment period shall be no less than thirty (30) days following the date of Notice of Application. Public comments may be submitted at any time prior to the closing of the record of the open record pre-decision hearing. The public hearing shall not be closed to the receipt of written comments prior to 30 days following the date of the notice. All persons who so submit their views shall be notified in a timely manner of the action taken upon the application.

GENERAL/MISCELLANEOUS COMMENTS

Criteria for Impact Avoidance and Minimization	HCCC: The draft SMP could be clearer about how feasibility and applicability of impact avoidance and minimization are determined.	PAC Decision: Add the following: A HMP shall consider measures to preserve and protect the wildlife habitat and associated buffer and shall consider effects of land use intensity, setbacks, impervious surfaces, erosion control and retention of natural vegetation on the functions and values of the FWHCA and the watershed as a whole. This report shall identify how the impacts from the proposed use or activity will follow 'mitigation sequencing.' The rationale for site selection, using a watershed approach, shall be provided when the applicant proposes to implement mitigation themselves, regardless of whether the mitigation is onsite or offsite.

Section	Comment	Staff Response/PAC Decision
Mitigation for impacts	HCCC: Within the shoreline environment, numerous shoreline uses and developments are required to utilize mitigation strategies (e.g., HMP) set forth in the draft SMP to ensure no-net-loss of ecological functions necessary to sustain shoreline resources. HCCC Recommendation: Define how ecological functions are determined to be necessary to sustain shoreline resources.	
Mitigation requirements/FWHCA of Resource Ordinance	HCCC: A HMP, as required by the draft SMP/Resource Ordinance to mitigate for numerous shoreline uses, must be prepared by a qualified professional and provide a project description, analysis of the effect of the project, and a plan which explains how the applicant will avoid, minimize, or mitigate adverse impacts to fish and/or wildlife habitats created by the proposed project, but no further detail regarding a plan is provided. HCCC Recommendation: Provide additional guidance on work plan requirements, similar to that for wetlands.	PAC Decision: Add some typical requirements of HMP's to the HMP language in the FWHCA Chapter of the Resource ordinance.
Type and extent of mitigation detailed/FWHCA of Resource Ordinance	HCCC: The draft SMP does not explicitly detail the type and extent of required mitigation. A HMP, as discussed in the MCC, must show how salmon habitat will be replaced at a minimum 1:1 ratio however, the MCC does not detail how the ratio is measured (e.g., area, length, habitat type) or whether mitigation is required to be onsite or in-kind. This is the only quantitative mitigation requirement in the MCC. HCC Recommendation: Provide additional detail to guide applicants on the amount of compensatory mitigation that should be required based upon the type of impacts and lost functions (e.g., different mitigation ratios based on the type of project and habitats impacted).	The PAC ok'd the following language in the FWHCA chapter of the RO: (d) A report which contains: (i) A description of the nature, density and intensity of the proposed use or activity in sufficient detail to allow analysis of such land use change upon identified wildlife habitat; (ii) An analysis, including area or linear feet of impact, of the effect of the proposed use or activity upon fish and wildlife species and their habitats and associated buffers listed in this chapter; (iii) A plan which explains how the applicant will apply mitigation sequencing to mitigate for adverse impacts to fish and/or wildlife habitats created by the proposed use or activity. This explanation must address the management goals, policies and recommendations presented in this chapter. While species and site specific management practices will often be required, some general best management practices have been developed in Appendix C and may be used in the plan. Mitigation measures within the plan may include, but are not limited to: a. Habitat enhancement areas, b. Preservation of critically important plants and trees, c. Limitation of access to buffer and habitat enhancement area, d. Seasonal restriction of construction activities, e. Clustering of development and preservation of open space, f. Sign marking habitats or habitat buffer areas, g. Conservation easements.

Section	Comment	Staff Response/PAC Decision
Monitoring requirements/FWHCA of Resource Ordinance	HCCC: A draft SMP mitigation measure includes monitoring the mitigation project to ensure it achieves the intended functions. A HMP requires monitoring when appropriate or necessary to ensure effectiveness; however, it is unclear how these determinations are made, or how to determine an appropriate timeframe or performance standards. HCCC Recommendation: Require monitoring for 5 to 10 years, preferably the latter. Provide guidance for selection of site-appropriate performance standards.	**PAC Decision:** Leave the required duration of monitoring up to the Department, on a case by case basis (FWHCA Chapter of RO): A schedule for monitoring and maintenance of the mitigation. This shall specify it is the property owner's responsibility to submit (to the Department) monitoring reports **on an annual basis for a duration determined by the Department to be appropriate**. The Department may require that these monitoring reports be prepared by a qualified biologist, after he/she physically inspects the site. Performance standards may assess: a. Vegetation (aerial cover, density, composition, percent of natives, etc). b. Water regime, if applicable. c. Water quality and quantity, if applicable. d. Wildlife use. e. Development of habitat structure. f. Condition of habitat features.
Maintenance and contingency plans required/FWHCA of Resource Ordinance	HCCC: A draft SMP mitigation measure includes taking appropriate corrective measures at the mitigation project site to ensure it achieves the intended functions; however, requirements for site maintenance and a specific contingency plan are not discussed. An HMP would likely provide maintenance and contingency plans. HCCC Recommendation: Explicitly require maintenance and contingency plans.	The PAC revised draft contains maintenance/monitoring language, but not contingency plan language.
Financial assurances for Mitigation/FWHCA of Resource Ordinance	HCCC: The County may require an applicant to post a bond or provide other financial surety equal to the estimated cost of the mitigation in order to ensure the mitigation is carried out successfully. HCCC Recommendation: Always require applicants to post a bond for a compensatory mitigation project. Mitigation costs, which are the basis of the bond amount, can be determined using an adaptation of King County's bond quantity spreadsheet. Bond quantities should consider full-cost accounting.	PAC Decision: require a bond consistently: A performance bond, or other security, which shall be posted by the permittee prior to commencing a FHWCA mitigation project. This requirement may be waived by the Director for small scale projects if other measures are used to ensure that compliance is achieved. The security shall be in an amount sufficient to cover the cost of conformance with the recommended mitigation, maintenance, and monitoring measures detailed within the HMP. Security monies shall be released under two options: 1) After the director determines that mitigation has been successfully completed in compliance with the approved HMP, all performance standards have been achieved, and the monitoring period has expired, the bond or other security shall be released, 2) after the director determines that a portion of the mitigation has been successfully completed in compliance with the approved HMP and the appropriate performance standards have been achieved, as documented in an annual mitigation monitoring report,

		a portion of the bond or other security shall be released. The County may collect against the security and require the property owner to sign a property access release form when work, which is not completed, is found to be in violation of the conditions set forth in the HMP and/or the director determines that the site is in violation of the purposes of this section
Protection of Mitigation Area/ FWHCA of Resource Ordinance	HCCC: Language should be added to indicate that mitigation sites need to be preserved in perpetuity, as do buffer mitigation projects.	Although, perpetuity of enhanced areas is required, Staff forgot to recommend (to the PAC) adding this reminder/clarification. However, It was clarified that a Notice of HMP be recorded on the Title.
	J. Richert and M. Young: Chapter IX and Title SMP 17.50 makes it clear that our shorelines are a very fragile ecosystem. We also understand that over time human interference along our shorelines has created the need for tighter rules. We seem to have a contradiction. Title 17.50 calls for more shoreline recreation areas and more public access, but it was clear to me that the authors of Title 17.50 wants the human element removed from the shorelines.	The SMP anticipates ongoing use of the shoreline, as well as new uses. The regulations ensure that ecological functions are protected as that development occurs.
SMP update process: questions about how ecological functions will be protected	J. Richert and M. Young: The definition of ecological functions does not explain to me what Ecological Function is. Ecology's WAC 173-26-201(3)(d)(i)(C) gives examples of functions that are difficult to understand. Think about how Mason County is going to identify and measure a no net loss of the following: **Hydrologic functions:** The Skokomish River is losing capacity, pools and riffles due to aggradation. The pools are not just moving up or down stream they are disappearing. How is Mason County going to mitigate these kinds of changes in our river? **Shoreline vegetation:** The Skokomish River moves from side to side, causing bank erosion and trees and brush to be washed downstream. This is what the river does naturally! This natural erosion causes the loss of shade and the potential for temperature Increase, erosion creates sediment, erosion causes bank instability, erosion and excessive stream flow energy go hand in hand. What does Ecology expect Mason County to do? **Habitat Function:** Is Habitat Function a more understandable definition of Ecological Function? Again, how is Mason County going to measure space and conditions for reproduction, resting, hiding, and migration, and also measure the food production and delivery? This WAC continues and includes similar explanations of ecological functions for lakes, in Marine Waters, in Wetlands. With respect to the inventory process: Under WAC 173-26-201 (2) (c), the Process of preparing an updated Shoreline Master Program is outrageous. Under (2) (a) Basic concepts, the guidelines require the county to "identify and assemble the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern." This right here seems to be an overload of any County's ability to administer! The rules says "The context, scope, magnitude, significance, and potential limitations of the	See response under Definition of Ecological functions as well. The basic concern in this comment seems to be that Ecology's rule could possibly be interpreted as if the county must gain omniscient knowledge about ecological functions, and that the regulations must be written so that all must be protected in a way that cannot be reasonably implemented. Based on a review of other SMPs and their accompanying characterization reports that have been approved to date, it appears Ecology will accept a tailored approach that adopts a balanced common-sense approach that makes use of available information but translates that into specific requirements that achieve the overall standard of "no net loss" without unduly burdening applicants and fosters preferred uses. The following description from Ecology's WAC 173-26-201(2)(c) may help address the questions raised. "Master programs shall contain policies and regulations that assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources. To achieve this standard while accommodating appropriate and necessary shoreline uses and development, master programs should establish and apply: • Environment designations with appropriate use and development standards; and • Provisions to address the impacts of specific common

	scientific information should be considered." How many Counties have the expertise in house to know the potential limitations, etc.? The rules says "At a minimum, make use of and, where applicable, incorporate all available scientific information, aerial photography, inventory data technical assistance materials, manuals and services from reliable sources of science. Local governments should also contact relevant state agencies, universities, affected Indian tribes, port districts and private parties for available information." I expect Ecology was responsible for writing this WAC and Ecology gave the Counties the responsibility to administer this SMP. Will the Ecological Function ever be identified and understood by county staff? While adequate scientific information and methodology necessary for development of a master program should be available. This WAC admits that needed information may not be available, but the Counties are obligated to gather such information! If any person, including local government, chooses to initiate scientific research with the expectation that it will be used as a basis for master program provisions, that research shall use accepted scientific methods, research procedures and review protocols. I'm willing to guess that Counties will not have the budget to gather or maintain all this information. Will that mean that the cost of identifying the shoreline ecological function will be passed along to the applicant?? Local governments are encouraged to work interactively with neighboring jurisdictions, state resource agencies, affected Indian tribes, and other local government entities such as port districts to address technical issues beyond the scope of existing information resources or locally initiated research. With respect to Ecology's rule which requires local governments to "base master program provisions on an analysis incorporation the most current, accurate, and complete scientific or technical information available…" Section (c) states that the concept of ecological functions recognizes that nay ecological system is composed of. What the above paragraph is telling me is that our shorelines have a multitude of environments, all different because of the many and subtle changes in landscape and also in shade, moisture, soil ph and depth, percentage of ground cover, whether grass, brush and/or trees, and the percentage of insects, birds and animals. It looks to me as if the ecological function is a measure of how well the existing habitat supports the existing flora and fauna. Ecological functions are the work performed or role played individually or collectively within ecosystems by these components. The components of an existing ecosystem are the population of flora and fauna, and the Ecological function is the products produced by this flora and fauna. I believe that it will be impossible to measure Ecological Function and/or determine any mitigation. Let's accept for a moment that each ecosystem is unique. It cannot be an easy task to guarantee that mitigation will improve the ecological function. If we add more shade will that be good or bad for the ecosystem? Will the trees, brush and/or grass that is added through mitigation really complement the ecosystem, and how would you tell? If new soil is imported into the shoreline jurisdiction through mitigation will it improve the ecosystem? How would you know? Will the mix of birds and animals change to the betterment of the ecosystem?	shoreline uses, development activities and modification actions; and • Provisions for the protection of critical areas within the shoreline; and • Provisions for mitigation measures and methods to address unanticipated impacts. When based on the inventory and analysis requirements and completed consistent with the specific provisions of these guidelines, the master program should ensure that development will be protective of ecological functions necessary to sustain existing shoreline natural resources and meet the standard. The concept of "net" as used herein, recognizes that any development has potential or actual, short-term or long-term impacts and that through application of appropriate development standards and employment of mitigation measures in accordance with the mitigation sequence, those impacts will be addressed in a manner necessary to assure that the end result will not diminish the shoreline resources and values as they currently exist. Where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions."
Ecological functions "baseline"	J. Richert and M. Young (4/17/2013): IX-2.A.1. states "This program aims to protect adverse effects on the public health, on the land and its vegetation and wildlife and the water and their aquatic life by…" As you read the Policies "public health" will appear many times, but "public health" is not the issue here. Granted the statement "public health" must be Included In the regulations for the regulations to be legal, but I don't see a lot of public (human) health being protected. The real issue is to stop	The Characterization Report is a generalized baseline, not an absolute.

	the degradation of the ecological junction of the shoreline. 'No Net Loss' is defined as: The maintenance of the aggregate total of the County's shoreline ecological functions. The no net loss standard requires that the impacts of shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated such that there are no resulting adverse impacts on ecological functions or processes. Each project shall be evaluated based on its ability to meet the no net loss requirement. 'Ecological Functions or Shoreline Functions' is defined as: The work performed or role played by the physical, chemical and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. The definition of 'Ecological Functions or Shoreline Functions' provided in the draft SMP does not explain to me what Ecological Function is; does it to you? f we may skip around in the WAC 173-26-201 in order to find an explanation: Moving to WAC 173 26 201 (3)(d)(i), on page 8 of 12: (3) Steps in preparing and amending a master program. (d) Analyze shoreline issues of concern. (i) Characterization of functions and ecosystem-wide pocesses. (C) Shoreline ecological functions include, but are not limited to: In the paragraphs below Ecology is giving examples of what are ecological functions. The examples are still very difficult to understand. Think about how Mason County is going to identify and measure a NO NET LOSS of the following. In river and streams and associated flood plains: Hydrologic: Transport of water and sediment across the natural range of flow variability; attenuation flow energy; developing pools, riffles, gravel bars, nutrient flux, recruitment and transport of large woody debris and other organic material. Can you find a clear definition to No Net Loss of Ecological Function? I haven't found it in the SMP. I conclude that the NNL means No Net Loss of the existing habitat within the SMP shoreline jurisdiction. This means that in order to preserve native shorelines vegetation and protect plants and animals species, the existing condition or habitat in the area of the SMP shorelines jurisdiction needs to remain the same as when the County does their shoreline inventory. All of the Counties of the State are buying into on administrative nightmare, because of the lack of a firm definition of the ecological function, and because of the lock of an in-depth review of the habitat within the SMP shoreline jurisdiction. The Counties will be wide open to challenges, project after project. Whatever depth of review a County may require to identify {1) the existing habitat and (2) the potential impact, and {3) the appropriate mitigation, will never be enough. The challengers will question any and all weakness in the mitigation solutions; the inappropriateness of the mix of vegetation; or the imported soils are not producing the right amount of insects to sustain the old habitat. How is the SMP going to not be an administrative nightmare?? 1} Stay out of the SMP shoreline jurisdiction! Is this even possible? 2) Do not make the SMP jurisdiction any wider than law requires. Do not include non- connected wetlands or other sensitive areas.	

	3) Make sure that planning staff has o clear and consistent definition of SMP Jurisdiction. The administration of the new SMP will be most difficult and the SMP will not be popular with the tax payers.	
	J. Richert and M. Young: With respect to Ecology's rule that requires "Managing shorelines for protection of their natural resources depends on sustaining the functions provided by… Ecosystem-wide processes… and Individual components and localized processes such as those associated with shorelines vegetation, soils, water movement through the soil and across the land surface and the composition and configuration of the bed and banks of waster bodies." I interpret the 'individual components' as each flora and each fauna being a component.	Staff is not sure what the commenter's question or point is here.
	J. Reece: Mason County upgraded the Mason Lake boat ramp without any noxious weed control provisions. John Keats and Tim Sheldon promised the Mason Lake owners that noxious weed control would be included. All property owners are taxed through a "Lake Management District" to aid in controlling noxious weeds. It bothers me as to why the property owners must pay for damage caused by the county. This is analogous to the State spending millions of dollars upstream to aid salmon flow when seine nets completely block the mouth of the river. I was present when a seine net was placed across the fish ladder at the Hiram M. Chittenden Locks which stopped all fish from getting to the fish ladder. Jim Reece: Mason County replaced the 3 culverts with 5 culverts and raised the road bed about 3 feet at the over flow of Mason Lake into Sherwood Creek so that cars would not need to drive through water flowing over the Mason Lake Road. Now, during heavy rains and run off, the 5 culverts fill up and the excess water is unable to flow over the road so it backs up into homes, etc, causing damage to pre-existing structures. This seems like an unfair burden on private property owners.	Comments are not directly related to proposed SMP language. Forwarded to the county Public Works department.

RESTORATION PLAN *(APRIL 2013)*

General/Overall	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: Technical staff from the Squaxin Island Tribes Natural Resources Department has reviewed the draft restoration plan for the Mason County shoreline master program update. We have the following comments below. The Tribe appreciates having the opportunity to add to and strengthen this draft restoration plan. The document is generally well laid in an easy to understand and logical manner. However, we do not entirely concur with the premise of what is proposed for restoration and where that restoration would occur. The County has set out to produce a document that will lead to "real and meaningful" restoration where functions are impaired. The document then goes on to state that only publically owned land was considered during this exercise. These are incompatible goals and statements. If the County insists on excluding almost 90% of the shoreline from the assessment then no real and meaningful restoration can be accomplished. The vast majority of ecological degradation will occur on privately owned lands and to expect that restoration on publically owned lands to make up for this makes no sense. If the County is going to go the route of voluntary restoration for their plan there are several	The Restoration Plan originally did contain private sites, but after receiving concerns posed by County Staff and the Conservation District and after several JTAC discussions, all private restoration sites were omitted. However, the information is still available to be utilized by the County.

	examples of local groups (Mason County CD, Capitol Land Trust etc) creating databases for voluntary restoration that are sensitive to private property rights. In addition, the document is only looking at publically owned land but it has excluded private docks that are located on public tidelands. Private structures that are on public land should be included for in the assessment for removal or retrofit where appropriate.	
General/Overall	S. Steltzner (Squaxin Tribe) in 4/11/13 email: The document goes into great detail about improving processes, functions and habitats at an ecological scale. It also specifically calls out numerous species including salmon, shellfish, forage fish, and birds that should be helped by this program. However, **the document pulls from lists of already ongoing, proposed and conceptual projects**[1] generated by other entities, specifically only the WRIA 14 3-year list and the Puget Sound Nearshore Ecosystem Restoration Program (PSNERP) restoration database. T**his leads to a situation where almost all of the proposals are exclusively salmon focused projects or focused on sediment input and transport. No projects for other species are identified and there is no mention of water quality upgrades that would be beneficial for multiple species**[2]. There appears to be little linkage between Table 2-1 the Goals, Objectives, Actions, and Success Measures and Table 5-3 the restoration opportunities identified.	[1] Per WAC 173-26-201(2)(f)below, Restoration Plans are to identify ongoing projects and identify any additional projects needed to achieve restoration goals. Master program restoration plans shall consider and address the following subjects: (i) Identify degraded areas, impaired ecological functions, and sites with potential for ecological restoration; (ii) Establish overall goals and priorities for restoration of degraded areas and impaired ecological functions; (iii) Identify existing and ongoing projects and programs that are currently being implemented, or are reasonably assured of being implemented (based on an evaluation of funding likely in the foreseeable future), which are designed to contribute to local restoration goals; (iv) Identify additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources for those projects and programs; (v) Identify timelines and benchmarks for implementing restoration projects and programs and achieving local restoration goals; (vi) Provide for mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals." [2] This is true, however salmon are an 'indicator species', and some species of salmon are on the endangered species list, which is why the projects are salmon focused.
General/Overall	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: The document states throughout that **no single comprehensive restoration assessment has been conducted for South Sound.** This is technically true but also not surprising considering that a comprehensive database would have to include multiple species and all possible habitat types. The document appropriately uses the PSNERP tool that maps and prioritizes shoreline for sediment input and transport. What is missing is that the WRIA 14 technical team produced the Nearshore Project Selection Tool (NPST) which spatially mapped the entire South Sound shorelines and prioritized High Priority shorezone units for restoration and preservation for juvenile salmonis. This GIS tool was given to the County and its consultants for use in the dual designations exercise. We recommend using the NPST in those areas were no other restoration assessment exists that serves the same purpose. and 1.3.1- The statement that "no single comprehensive restoration assessment has been	In part 5.3.2, it is stated that there is no comprehensive assessment tool for South Puget Sound, which is in error and should be corrected. However, where it is stated that there is no comprehensive assessment tool for the entire county is correct. The NPST tool was not used for the South Puget Sound because it would be difficult to compare it with information obtained from another restoration assessment tool. The NPST data was utilized in the Reach Sheets and the Cumulative Impacts Analysis, as well as in this restoration plan.

	conducted….” is incorrect. The NPST is available and should be used for this exercise.	
Page 1-2	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: In the last paragraph of page 1-2 continuing onto page 1-3 the document explicitly encourages private land owners to implement the actions outlined to satisfy their mitigation requirements for constructing a project. This is completely counter to the express intent of the document which is to “improve the quality and sustainability of Mason Counties shorelines ….” Following the proposed strategy would never lead to meaningful improvement in habitat conditions as proposed restoration would be used to meet mandatory mitigation requirements	*Repeated from above*. The Restoration Plan originally did contain private sites, but after receiving concerns posed by County Staff and the Conservation District and after several JTAC discussions, all private restoration sites were omitted. However, the information is still available to be utilized by the County.
Figure 1-1	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: In Figure 1-1 the County implies that the proposed SMP Restoration Plan (voluntary) will move us toward a less degraded environment. In realty most of the actions proposed in the plan are taken from ongoing or planned restoration projects that would fit under the restoration part of the figure needed to keep us at the current baseline. These projects are already included in the existing restoration component. The County is not proposing anything new to move meaningfully move us past the current baseline.	Per WAC 173-26-201(2)(f), Restoration Plans are to identify ongoing projects and identify any additional projects needed to achieve restoration goals.
Page 1-6	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: P 1-6 States that restoration is necessary to maintain no net loss and acknowledges that future development will lead to further degradation but states that parties may choose to implement these restoration actions. Numerous studies have shown that onsite mitigation programs have a less than stellar track record. In order to meaningfully move toward improving habitat, proponents should be required to implement new restoration as part of proposed development to help ensure we meet the existing no net loss standards.	Mitigation is required for development that cannot meet the minimum buffers/setbacks from shorelines. The draft SMP with associated revisions to the Resource Ordinance should greatly improve the mitigation implemented for residential development that uses the ‘common line’ setback reduction. Stricter requirements for bulkheading such as the geotechnical report to show it is needed and that alternatives are not feasible is intended to prevent hard armoring where it is not necessary.
4-2	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: Section 4-2- The document states that site specific opportunities were confined to private and tribal lands. This is inconsistent with chapter 3.0 which excludes tribal lands because the County has no jurisdiction. We recommend removing Tribal lands.	The sentence states that “site specific restoration opportunities were restricted to *publicly* owned shorelines and tribal lands.” Thank you for noting the error. We appreciate the updated information and will provide it within an addendum/errata sheet to the plan with all errors and updates noted.
5.3.2	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: 5.3.2- The document states that projects were, in part, pulled from the Lead Entities 3-year work plan. By definition project on the 3-year work list are projects that are already underway and slated to begin construction within the next 3 years. Using projects that have already been identified and are underway makes no sense for a restoration plan that in part is trying to mitigate for future impacts.	*Repeated from above.* Per WAC 173-26-201(2)(f), Restoration Plans are to identify ongoing projects and identify any additional projects needed to achieve restoration goals.
5.3.2	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: 5.3.2- The WRIA 14 Nearshore Project Selection Tool (NPST) provides a comprehensive prioritized assessment for South Puget Sound marine shorelines.	Please see the 9/15/2015 Errata, which contains the following revision: Many restoration opportunities in South Puget Sound were identified in the Lead Entity (Mason County Conservation District) three-year plan and the Habitat Work Schedule. Also, the WRIA 14 technical team produced the Nearshore Project Selection Tool (NPST) which spatially mapped the entire South Sound shorelines and prioritized High Priority shorezone units for restoration and preservation for juvenile salmonids. ~~The nearshore areas of South Puget Sound are the subject of~~

		~~considerable restoration focus; however, no single comprehensive restoration assessment has been conducted.~~ Restoration actions are commonly led by the Mason County Conservation District, South Puget Sound Salmon Enhancement Group, and the Squaxin Island Tribe.
Table 5-3	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: Table 5-3- Under MR-32 this boat ramp has already been removed.	Thank you for the update. Because the SMP update process takes years, some restoration actions like this one will be completed before local adoption of the plan. We appreciate the information and will provide it within an addendum/errata sheet with all errors and updates to the Restoration Plan noted.
6.1, 5.1, and 7.1	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: 6.1, 5.1 and 7.1- Under programmatic actions "encouraging" and "educating" are not restoration actions. They are useful tools for slowing degradation but do not lead to meaningful restoration.	
Table 8.1	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: Table 8.1- Missing Alliance for a Healthy South Sound (AHSS) the South Sound LIO http://www.healthysouthsound.com/	Thank you. Please see the 9/15/2015 Errata where the Alliance has been added.
Table 8.1	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: Table 8.1- People for Puget Sound is no longer an organization.	Thank you, we have updated the information within the 9/15/2015 errata.
Table 8.1	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: Table 8.1- Recommend adding Northwest Indian Fisheries Commission. They essentially provide the same services as the Point No Point Treaty Council except for South Sound waters http://nwifc.org/	Thank you. Please see the 9/15/2015 Errata where the NWIFC has been added.
Table 8.1	S. Steltzner (Squaxin Tribe) in 7/11/13 Email: Table 8.1- Squaxin Island Tribe under Examples of Past and Ongoing Projects, much of this is wrong. The S.I.T. performs no work in Hood Canal drainages including the Skokomish River. The SIT has partnered on TMDL's for Oakland Bay and its tributaries.	Thank you. Please see the 9/15/2015 Errata where the correction was made.

INVENTORY AND CHARACTERIZATION 2012

Executive Summary	April 26, 2013 letter from Port of Shelton Although the Shoreline Management Act lists Ports as water-dependent uses, in the Executive Summary of the Mason County SMP update Ports are not listed as water-dependent uses. Ports are water-dependent uses in Mason County just as well as they are anywhere else in the state.	? Ports are listed in the executive summary as a water-dependent use.
Chapter 2.2	RH: Why does the inventory and characterization state that the County does not have jurisdiction within tribal reservations? We have jurisdiction on fee simple lands not owned by tribal members? I recommend we create an errata sheet for this or add a footnote to the document that states that "although the county does have jurisdiction on fee simple	

	lands not owned by tribal members, the entire reservation was omitted for simplicity." Except as it pertains to characterizing ecosystem-wide processes, this inventory and characterization does not directly address waterbodies outside the County jurisdiction. Waterbodies within Olympic National Park, Mount Skokomish Wilderness, Wonder Mountain Wilderness, the Skokomish Indian Reservation, the Squaxin Island Indian Reservation and Shelton city limits are not included in this report.	