ATTACHMENT B: REQUIRED CHANGES

PROPOSED AMENDMENTS TO THE CITY OF ANACORTES’ SHORELINE
MASTER PROGRAM - COMPREHENSIVE REWRITE
Resolution No. 1796

Prepared by Robert J. Fritzen on August 23, 2010

Added text is underlined, removed text is struck. Ecology’s explanatory statements are in italics. All changes are required. As provided in RCW 90.58.090(2)(e)(ii) the city may choose to submit an alternative to all or part of the changes required by Ecology.

2.4 E. 7. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for their own use or for the use of their family,…
Language is required per RCW 90.58.030(3.e.vi.)

2.4 E.16.c. v. No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of (16)(c)(Aii) of…..
Reference correction needed.

2.4  F. …Application information shall include those items listed in WAC 173-
27-180 and AMC 18.16 as contained within the Anacortes Municipal Code for Substantial Development Permits unless otherwise waived.
The WAC citation gives the specific requirements. The City also plans to reformat the AMC and the reference will no longer be accurate.

3.6.5 … the City may require compliance with RCW 58.17 and Title 18 AMC for Land Divisions…
Title 18 does not deal with the subdivision of land. The reference should be Title 16, however the City plans to reformat the AMC and the Title numbers will no longer be applicable. The change was requested by the City.

5.7 Natural
F. Legal Description
WASHINGTON PARK: Beginning at the intersection of Parcel #32465 or 5919 Cabana Lane and Parcel #32464, thence West and North along the shoreline 6,760 feet to the intersection of Parcel #32393 and Parcel #31552. This area is all within 200 feet of the OHWM.
WASHINGTON PARK – North Side:
Beginning at a point West of the intersection of Parcel #31552 and Parcel #31551, 919 feet, thence East along the shoreline 1,883 feet to a point 829 feet East of the intersection of Parcel #31552 and Parcel #31551. This area is all within 200 feet of the OHWM.
SHANNON POINT – West side:
Beginning at the intersection of Parcel #331554 and Parcel #31556, thence North along the shoreline 2,317 feet to the intersection of Parcel #31555 and Parcel #31547. This area is all within 200 feet of the OHWM.

**Shannon Point – Lake Shannon:**
Beginning at the intersection of Parcel #31547 and Parcel #31548, thence South and East along the shoreline 1,077 feet to a point 748 feet West of in the intersection of Parcel #31577 and Parcel #31576. Jurisdiction is 200-feet landward of the OHWM and included the associated wetland (Lake Shannon wetland).

**Ship Harbor Wetland:**
Beginning at a point 636 West along the shoreline of the intersection of Parcel #31668 and Parcel #31667, thence East along the shoreline 1,442 feet to the intersection of Parcel #31667 and Parcel #31666. Jurisdiction is 200-feet landward of the OHWM and included the associated wetland (Ship Harbor wetland).

**Cap Sante - SE:**
Beginning at the intersection of Parcel #56851 the South line of 6th Street Right of Way, thence South and West along the shoreline 2,534 feet to the intersection of Parcel #56906 and Parcel #56905. This area is all within 200 feet of the OHWM.

**Little Cranberry Lake:**
The Western, Southern and Eastern shoreline of Little Cranberry Lake and entire shoreline of Big Beaver Pond a distance of 12,210 feet. Jurisdiction is 200-feet landward of the OHWM and included the associated wetland.

**Heart Lake:**
The Western half of the Heart Lake shoreline a distance of 5,056 feet. This area is all within 200 feet of the OHWM.

**Whistle Lake:**
The Western, Southern and Eastern shoreline of Whistle Lake a distance of 7,634 feet. This area is all within 200 feet of the OHWM.

**Lake Erie:**
Beginning at the intersection of Parcel #19038 and Parcel #19044 and traveling Southeast along the shoreline of Lake Erie 1,335 feet to the intersection of Parcel #19044 and Parcel #19152. This area is all within 200 feet of the OHWM.

*Required per WAC 173-26-211(2)(b).*

### 5.8 Conservancy

**F. Legal Description**

**Washington Park:**
Beginning at the intersection of Parcel #32393 and Parcel #31552, thence North and East along the shoreline 383 feet to a point West of the intersection of Parcel #31552 and Parcel #31551, 919 feet. This area is all within 200 feet of the OHWM.

**Washington Park – Boat Launch:**
Beginning at a point 829 feet East of the intersection of Parcel #31552 and P#31551, thence North along the shoreline 1,692 feet to the intersection of Parcel #31554 and Parcel #31556. This area is all within 200 feet of the OHWM mark except for the north 315 feet which is only the area within 100 of the OHWM.
Shannon Point:
Beginning at the intersection of the Southwest corner of Parcel #31555 and Parcel #31547, thence East along the shoreline 650 feet to a point 730 feet Northwest of the intersection of Parcel #31547 and Parcel #31548 at Lake Shannon. This area is all within 200 feet of the OHWM.

Guemes Channel – West of Lovrics:
Beginning at a point 803 feet West of the intersection of Parcel #31666 and Parcel #31669, thence North and East along the shoreline 6,175 feet to a point at the intersection of Parcel #31732 and Parcel #31739. This area is all within 100 feet of the OHWM.

Guemes Channel – East of Lovrics:
Beginning at the intersection of Parcel #31705 and Parcel #31703, thence North and East along the shoreline 1,878 feet to the intersection of Parcel #31538 and Parcel #31532. The West 1,403 feet are within 150 feet of the OHWM. The East 475 feet are within 25 feet of the OHWM.

Guemes Channel – Guemes Ferry:
Beginning at the intersection Parcel #31530 and Parcel #56024, thence North and East along the shoreline 703 feet to a point 114 feet West of the intersection of Parcel #31523 and Parcel #31540. This area is all within 200 feet of the OHWM.

Cap Sante - SW:
Beginning at the intersection of Parcel #56906 and Parcel #56905, thence West and North along the shoreline 2,280 feet to a point at the intersection of Parcel #56900 and Parcel #56897. This area is all within 200 feet of the OHWM.

Fidalgo Bay – North of Weaverling Spit:
Beginning at the intersection of Parcel #33198 and Parcel #33210, thence South and East along the shoreline 2,880 feet to the intersection of Parcel #33202 and Parcel #33203. This area is all within 200 feet of the OHWM.

Fidalgo Bay:
Beginning at the intersection of Parcel #33440 and Parcel #33439, thence Southeast and Northwest along the shoreline 2,878 feet to a point at the intersection of Parcel #33445 and Parcel #112900. This area is all within 200 feet of the OHWM except for the West 462 feet that are within 150 of the OHWM.

Fidalgo Bay:
Beginning at the intersection of Parcel #33271 and Parcel #33268 thence South, East and North to the City limits line on March Point along the shoreline 15,800 feet. This area is all within 200 feet of the OHWM.

Padilla Bay:
Beginning at a point 454 feet West of the intersection of Parcel #19709 and Parcel #19707, thence Southeast along the shoreline 2,000 feet to a point at the intersection of Parcel #19707 and the Anacortes City Limits. Jurisdiction is 200-feet landward of the OHWM and included the associated wetlands in Parcel #19676.

Little Cranberry Lake:
The Northern shoreline of Little Cranberry Lake a distance of 1,548 feet. This area is all within 200 feet of the OHWM.

Heart Lake:
The Eastern half of the Heart Lake shoreline a distance of 4,295 feet. This area is all within 200 feet of the OHWM.

**Whistle Lake:**
The Northern shoreline of Whistle Lake a shoreline distance of 782 feet. This area is all within 200 feet of the OHWM.

*Required per WAC 173-26-211(2)(b).*

### 5.9 Shoreline Residential

#### F. Legal Description

**Skyline Area:**
Beginning at the city limits line along Burrows Bay, and inside Flounder Bay a length of 9,860 feet along the shoreline to a point at the intersection of Parcel #60074 or 5801 Kingsway and Parcel #60075 or 1901 Skyline Way. This area is all within 200 feet of the OHWM.

**Washington Court:**
Beginning at the intersection of Parcel #31554 and Parcel #31557, thence North 315 feet to the intersection of Parcel #31554 and Parcel #31556. This area is 100 feet inland of the OHWM and 100 feet deep.

**Guemes Channel – West of Lovrics:**
Beginning at a point 803 feet West of the intersection of Parcel #31666 and Parcel #31669, thence North and East 6,685 feet to a point 510 feet East of the intersection of Parcel #31732 and Parcel #31739. This area is 100 feet inland of the OHWM and 100 feet deep.

**Guemes Channel – East of Lovrics:**
Beginning at the intersection of Parcel #31705 and Parcel #31703, thence North and East 4,602 feet to the intersection of Parcel #31523 and Parcel #31540. The West 1,413 feet are 150 feet off the OHWM and 50 feet deep. The East 3,189 feet are 50 feet off the OHWM and 150 feet deep.

**Cap Sante - NE:**
Beginning at the intersection of Parcel #32871 and the East line of the “U” Avenue Right of Way, thence East and South along the shoreline 3,100 feet to the intersection of Parcel #56851 and the South line of the 6th Street Right of Way. This area is all within 200 feet of the OHWM.

*Required per WAC 173-26-211(2)(b).*

### 5.10 Urban

#### F. Legal Description

**Skyline Area:**
Beginning at the intersection of Parcel #60074 or 5801 Kingsway and Parcel #60075 or 1901 Skyline Way, thence following the shoreline around Flounder Bay and Burrows Strait a length of 6,462 feet to the intersection of Parcel #32465 or 5919 Cabana Lane and Parcel #32464. This area is all within 200 feet of the OHWM.
Ferry Terminal:
Beginning at a point West of the intersection of Parcel #31577 and Parcel #31576 thence South and East along the shoreline 1,077 feet to a point 636 feet West of the intersection of Parcel #31668 and Parcel #31667. This area is all within 200 feet of the OHHM.

Ship Harbor:
Beginning at the intersection of Parcel #31667 and Parcel #31666, thence East along the shoreline of Guemes Channel 554 feet to a point 803 feet West of the intersection of Parcel #31666 and Parcel #31669. This area is all within 200 feet of the OHWM.

Guemes Channel - Lovric:
Beginning at the intersection of Parcel #31732 and Parcel #31739, thence East along the shoreline of Guemes Channel to the intersection of Parcel #31705 and Parcel #31703. This area is all within 200 feet of the OHHM except for the West 500 feet which is only 100 feet off the OHWM.

Guemes Channel – B-H Ave.:
Beginning at the intersection of Parcel #31538 and Parcel #31532, thence East along the shoreline of Guemes Channel 2,644 feet to the intersection of Parcel #31537 and Parcel #31534. All within 50 feet of the OHWM.

Cap Sante Basin – Fidalgo Bay - South to 34th St.:
Beginning at the intersection of Parcel #56900 and Parcel #56897, thence North, West and South along the shoreline 11,733 feet to a point at the intersection of Parcel #119601 and Parcel #33196. This area is all within 200 feet of the OHWM.

Fidalgo Bay - Weaverling Spit – North side:
Beginning at the intersection of Parcel #33202 and Parcel #33203, thence South and East along the shoreline 1,770 feet to a point at the intersection of Parcel #33440 and Parcel #33439. This area is all within 200 feet of the OHWM.

Fidalgo Bay - Weaverling Spit – South side:
Beginning at the intersection of Parcel #33445 and Parcel #112900, thence West and South along the shoreline 670 feet to a point at the intersection of Parcel #33271 and Parcel #33268. This area is all within 200 feet of the OHWM except for the East 462 feet that are off the OHWM 150 feet and 50 feet deep.

Required per WAC 173-26-211(2)(b).

5.11 Urban Maritime
E. Legal Description

Guemes Channel – Guemes Ferry East to “U” Ave.
Beginning at a point 114 feet West of the intersection of Parcel #31523 and Parcel #31540, thence East along the shoreline of Guemes Channel 6,493 feet to the intersection of Parcel #32871 and the East line of the “U” Avenue Right of Way. This area is all within 200 feet of the OHWM.

Fidalgo Bay – 34th to Fidalgo Bay Rd.:
Beginning at the intersection of Parcel#119601 and Parcel #33196, thence South along the shoreline 1,097 feet to a point at the intersection of Parcel #33198 and Parcel #33210. This area is all within 200 feet of the OHWM.

Required per WAC 173-26-211(2)(b)
6.1 Introduction
(second paragraph)…. restoration of impaired shoreline ecological functions to achieve overall improvements in shoreline ecological functions over time (WAC 173-26-201(2)(f).  
Change required to correct citation.

(third paragraph)… General environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA) (WAC 197-11-444600 and WAC 197-11-666).
Section 600 deals with environmental documents and section 666 does not exist. Section 444 is entitled “Elements of the environment”.

Policy 6.3.1 …(Avoid, Minimize, Rectify, Reduce, Compensate, Monitor)(WAC 173-26-201(2)(e)(i).  
Change required to correct citation.

DR-6.3.7 … state certified mitigation bank in accordance with Chapter 90.864 RCW 84 (Wetlands Mitigation …  
Change required to correct citation.

6.4 Environmental Elements
… This section provides policies and regulations to address environmental impacts to the elements of the environment listed in the State Environmental Policy Act (SEPA) (WAC 197-11-444600 and WAC 197-11-666).
Section 600 deals with environmental documents and section 666 does not exist. Section 444 is entitled “Elements of the environment”.

DR-6.4.11 … and the Washington State Pesticide Control Act (RCW 15.528) to ….  
Change required to correct citation.

DR-6.5.8 As part of meeting project site area landscaping requirements, and in coordination with any buffer requirements, the applicant for a proposed new development, expansion, or redevelopment project of a non-water-dependent use other than public shoreline access trails that will abut the City's marine shorelines must submit a landscaping plan for approval specifying protection of existing native riparian vegetation within fifteen feet of the OHWM. If native vegetation within fifteen of the OHWM has been destroyed or significantly degraded, the landscaping plan shall specify replacement by installation of dense native riparian vegetation consisting of trees, shrubs, and groundcovers within and along portions of the fifteen-foot wide strip of land lying immediately landward of the line of ordinary high water (OHW) for currently unarmored shorelines, or the landward edge of existing shoreline armoring for currently armored shorelines. Water-dependent uses and public access trails that will abut the City’s marine shorelines are exempt from the locational requirements of planted areas but must provide an
landscaping/mitigation plan that provides equal to or greater environment function than already exists equivalent area using alternative configurations. Riparian vegetation should be encouraged, but not required, elsewhere on the site for aesthetic continuity with the riparian vegetation required along the shoreline. DR-5.9.11 also requires additional enhancement in the Residential environment. Any restrictions or conditions which are tied to the parcel through the development of a landscape plan shall be recorded on a revised Notice on Title. The landscaping plan must also meet the following requirements:

The changes are required in order to meet no net loss standards – see WAC 173-26-186(8.b.), or are consistent with language elsewhere in the SMP

6.7 Fish and Wildlife Habitat Conservation Areas (third paragraph) ... areas with which endangered, threatened, and sensitive species have a “primary association” (see WAC 365-1930-080(3)(a)(i). ... Change required to correct citation.

DR-6.7.6 In addition to requiring compliance with DR-6.5.98 for certain types of developments and uses (e.g., minimum ten-foot wide planting bed(s) of riparian vegetation along marine shorelines), the City shall require the establishment of buffer areas for activities adjacent to fish and wildlife habitat conservation areas on a case by case basis through a critical area report when needed to protect such habitat conservation areas, pursuant to Section A-5.3(G)(1) of the Critical Areas Regulations contained in Appendix A. In order to determine the need or extent of a buffer, a critical area reports shall be required for all development in or adjacent to a habitat conservation area (See also DR-5.6.15).

The referenced section needs to be corrected. The SMP does not appear to include language that establishes when a buffer analysis is needed. The changes are required in order to meet no net loss standards – see WAC 173-26-186(8.b.).

DR-6.6.7 Until an inventory of critical saltwater habitat is done, prior to construction all over water and near-shore developments shall conduct an inventory of site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of inventory shall be consistent with accepted research methodology. New studies shall be developed only where existing information is inadequate or does not exist.

See WAC 173-26-221(2.c.iii.C.)

DR-8.4.3 Any unavoidable impacts remaining after application of mitigation sequencing must be mitigated. Mitigation sequencing shall be followed.

As written the regulation is redundant since mitigation sequencing requires compensatory mitigation.
DR-8.5.3 All commercial development/redevelopment requiring a Substantial Development or Conditional Use Permit within shoreline jurisdiction shall provide for public visual and physical access to the shoreline in accordance with Chapter 7, Public Access, taking into consideration constitutional and statutory limitations. Such provisions could be the preservation of shoreline views, the establishment of public access easements across and to the shoreline, enhancement of an adjacent street-end or park or other consideration commensurate with the degree of impact caused by the development. Ecological restoration shall also be considered as potential mitigation of impacts to shoreline resources and values for all non-water-dependent commercial development unless demonstrated to be infeasible or inappropriate.

See WAC 173-26-241(3.d.)

DR-8.5.7 Priority shall first be given to water-dependent commercial uses over non-water-dependent commercial uses; second, preference to water-related and water-enjoyment commercial uses over non-water-oriented commercial uses.

See WAC 173-26-241(3.d.)

DR-8.5.8 Non-water-oriented commercial uses in shoreline jurisdiction shall be prohibited unless they meet the following criteria:

(i) The use is part of a mixed-use project that includes 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; or

(ii) 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.

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.

See WAC 173-26-241(3.d.)

DR-8.6.1 Preference shall be given to water-dependent industrial uses over non-water-dependent industrial uses; and second, give preference to water-related industrial uses over non-water-oriented industrial uses.

See WAC 173-26-241(3.f.)

DR-8.6.2 Non-water-oriented industrial uses in shoreline jurisdiction shall be prohibited unless they meet the following criteria:

(i) The use is part of a mixed-use project that includes 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; or

(ii) 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.

In areas designated for industrial use, non-water-oriented industrial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.

See WAC 173-26-241(3.f). DR-8.6.1 through DR-8.6.7 must be changed to DR-8.6.3 through DR-8.6.9.

DR-8.7.17 Viewpoints and public access to new and expanded marina areas shall be included in marina plan and design, particularly where water-enjoyment uses are associated.

See WAC 173-26-241(3.c.iv.)

DR-8.12.11 All permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian Tribes.

See WAC 173-26-221(1.c.ii)

DR-8.13.3 … and must comply with the provisions of Section9.67, Fill. Change required to correct citation.

DR-9.4.5 Breakwaters shall be allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

See WAC 173-26-231(3.d.)

DR-9.4.6 The design and construction of breakwaters shall address impacts to, and protect, ecological functions and critical areas. Mitigation sequencing and appropriate mitigation shall be required.

See WAC 173-26-231(3.d.)

DR-9.6.4 New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

See WAC 173-26-231(3.f.)

DR-9.7.9 Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes.

See WAC 173-26-231(3.c.)
DR-9.9.5 Extended moorage (longer than 5 days), regardless of method, on waters of the state except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public are mitigated is prohibited. See WAC 173-26-241(3.c.viii.). The number of days was provided by the City.

DR-9.11.1 New development, including the subdivision of land, shall not create lots which require future shoreline stabilization to the extent feasible. If necessary, a geotechnical report shall be required. See WAC 173-26-231(3.a.iii.A.)

DR-9.11.2 New development near steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure as demonstrated by a geotechnical analysis. See WAC 173-26-231(3.a.iii.A.)

DR-9.11.3 New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed. See WAC 173-26-231(3.a.iii.A.) DR-9.11.4 through DR-9.11.17 must be replaced with DR-9.11.4 through DR-9.11.20 respectively to allow for new regulations.

DR-9.11.6 New development, including creation of new parcels, that would require future shoreline stabilization during the life of the structure is prohibited except where no alternative locations are available and no net loss of ecological functions will result as demonstrated through a geotechnical analysis. See WAC 173-26-231(3.a.iii.A.) DR-9.11.6 through DR-9.11.21 must be replaced with DR-9.11.6 through DR-9.11.22 respectively.

Chapter 12 Definitions

Bogs A shallow water area that may be filled by sedimentation and the decaying of vegetation. [reference WAC 173-22-030(5)] Citation does not exist.

Ecological Functions … the shoreline’s natural ecosystem. See WAC 173-26-2001(2)(c). Citation must be corrected.

Height 5.d. The variance criteria in Section 15 Chapter 15 of this SMP. Citation must be corrected.

HPA – Hydraulic Project Approval The permit issued by the Washington State Department of Fish and Wildlife pursuant to the State Hydraulic Code Chapter 75.20.100–77.55 RCW.
Citation must be corrected.

**Hydrophytes** Plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

*See also Marshes, Bogs, and Swamps*
The phrase “marshes, bogs, and swamps” has been replaced by “wetlands” in WAC 173-22.

**Lake** … elevation of the lake’s ordinary high water mark within the stream (RCW 90.58.030(1d); WAC 173-22-030(9)).
“Lake” is no longer defined in the RCW. The definition is based on its use in WAC 173-22.

**Marshes, Bogs, and Swamps** As defined in WAC 17-22-030(5), “marshes, bogs, and swamps” are lands transitional between terrestrial and aquatic systems where saturation with water is the dominant factor determining plant and animal communities and soil development. For the purposes of this definition, these areas must have one or more of the following attributes:

a) At least periodically, the land supports predominantly hydrophytes; and/or

b) The substrate is predominantly undrained hydric soils.

Hydrophytes include those plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. Hydric soils include those soils that are wet enough to periodically produce anaerobic conditions, thereby influencing the growth of plants.

*Marshes, Bogs, and Swamps are no longer defined in the WAC and have been replaced with the term “wetland”.*

**Master Program** The comprehensive management plan for a described shoreline and water surface area and the use regulations together with maps, diagrams, charts, or other descriptive material and text; a statement of desired goals and standards developed in accordance with the policies enunciated in RCW 90.58.020 and its guidelines under WAC 173-14 and 173-16, as amended.

*Changes are required to meet the current definition in RCW 90.58.030(3.b.)*

**Mitigation or Mitigation Sequencing** The process necessary to avoid, minimize or reduce, or compensate for the environmental impact(s) of a proposal (see WAC 197-11-768 and WAC 173-26-020201 (302 e.)).
*Citation must be corrected.*

**Swamp** A lowland region saturated with water [*ref. WAC 173-22*].
*The definition no longer exists in WAC 173-22.***

**Wetlands or Wetland Areas** … areas to mitigate the conversion of wetlands if permitted by the City (RCW 36.70A.030(201)).
Citation must be corrected.

Appendix A - Shoreline Critical Areas Regulations

A-5.1 Designation of fish and wildlife habitat conservation areas.
A. Fish and wildlife conservation areas include:
   12. Critical Fresh and Saltwater Habitat as described in Section 6.7
   The language is consistent with Section 6.7 and is necessary to meet no net loss standards – see WAC 173-26-186(8.b.)

A-5.3 D. Approvals of Activities. Unless outright prohibited, development within habitat conservation areas or their buffer areas not otherwise exempted permitted in these regulations shall be by Shoreline Conditional Use Permit. Conditions may be established based on professional scientific analysis and may include, but are not limited to, the following:
   In discussion with the City it was agreed that the language as submitted was unintentional. The wording comes directly from the City’s Critical Area Ordinance and “Shoreline” was simply added to “Conditional Use Permit”. The word “exempted” refers to the Land Use Section of the City’s Zoning Code and is not part of the shoreline master program. As submitted, the language would require a shoreline conditional use permit for most if not all over-water and nearshore development which is overly onerous. The City has also stated that the conditional use requirement is to be removed from the Critical Area Ordinance in the next update this fall.

A-5.3 G.1. Establishment of Buffers. The city shall require the establishment of buffer areas for activities adjacent to habitat conservation areas on a case by case basis based on a critical area report when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the nature of the existing vegetation, sensitivity of the habitat, and the type and intensity of human activity proposed to be conducted nearby. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of native growth protection easements and critical area tracts. In order to determine the need or extent of a buffer, critical area reports shall be required for all development in or adjacent to a habitat conservation area (See also DR-5.6.15).
   The SMP does not appear to include language that establishes when a buffer analysis is needed. The changes are required in order to meet no net loss standards – see WAC 173-26-186(8.b.).