

Draft Environmental Impact Statement

Thorndyke Resource | June 25, 2014

Jefferson County Department of Community Development

Appendix B

Official Letters and Applicable Regulations

T-ROC Substantially Complete Letter	B-1
T-ROC 408 Scoping Letter	B-2
Jefferson County Ordinance 08-0706-04	B-3
Jefferson County 1989 Shoreline Master Program	B-4
Jefferson County Comprehensive Plan and Unified Development Code Explanations	B-5



T-ROC Substantially
Complete Letter



**JEFFERSON COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT**

621 Sheridan Street
Port Townsend, WA 98368

Al Scalf, Director

April 23, 2003

HOOD CANAL SAND & GRAVEL LLC
PO BOX 6
POULSBO WA 98370-0006

RE: SITE ADDRESS:
MLA #: MLA03-00155

Dear HOOD CANAL SAND & GRAVEL LLC:

Jefferson County Department of Community Development staff have reviewed the application materials for the above project proposal and have determined that the application is substantially complete.

Additional information needed for project review may be requested in writing by the Director or Project Planner. Please call the Department of Community Development if you have any questions.

Sincerely,

Department of Community Development Staff

c: File
FRED HILL MATERIALS INC P O BOX 6 POULSBO WA 98370

LOG ITEM

47

Page 1 of 1

Building Permits/ Inspections

Development Review Division

Long Range Planning

(360) 379-4450

FAX: (360) 379-4451

T-ROC 408 Scoping Letter



JEFFERSON COUNTY

DEPARTMENT OF COMMUNITY DEVELOPMENT

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Tel: 360.379.4450 | Fax: 360.379.4451 | Email: dcd@co.jefferson.wa.us

Building Permits & Inspections | Development Consistency Review | Long Range Planning | Watershed Stewardship Resource Center

December 16, 2013

James C. Tracy
21106 President Point Road NE
Kingston, WA 98346

Subject: Final SEPA Scoping Letter
Thorndyke Resource Application MLA03-00155

Dear Jim,

Pursuant to WAC 197-11-408, the Jefferson County Department of Community Development (DCD), as lead Agency, is providing you and GeoEngineers, our independent Peer Review consultant, a preliminary assessment of scoped issues to be analyzed in the Draft EIS for the Thorndyke Resource application MLA03-00155. This letter is intended to allow you to proceed with preparation of the Key Issues section of the Draft EIS.

As you know, a Notice of Determination of Significance and Scoping was issued on August 22, 2007. Through the expanded scoping process, a large number of comments were received from other regulatory agencies, tribal governments, and the public concerning both the scope of the EIS and the merits of the application itself. Regarding the scope of the EIS and the potential environmental elements, the comments varied greatly in terms of the level of detail and the breadth of concern. Taken together, the comments expressed concern for almost all elements of the environment listed in the SEPA regulations (WAC CH. 197-11). Within each of these elements, specific issues of concern were identified. Broader issues, such as the health of Hood Canal and Puget Sound, potential impacts to ground and surface water, impacts to travel on the Hood Canal Bridge, and impacts to the existing rural shoreline were also identified.

Since the conclusion of the scoping process, Thorndyke Resource has reviewed the scoping comments, submitted further environmental information and studies, and conducted additional field research. The list of project-related studies reviewed to date is attached. We also understand that since review of this project began, part of the original business has been sold. As a result, the proposal is now to initiate the surface mining operations in the Meridian Extraction

Area (vs. Wahl), and to move all material to market via marine transport – no truck delivery is proposed. The analysis should proceed on that basis.

Together with GeoEngineers, Jefferson County has analyzed the scoping comments, conducted thorough reviews and analyses of materials submitted by Thorndyke Resources, performed gap analyses, reviewed current regulations applicable to the project, considered other relevant projects, and has identified environmental elements to be further analyzed in Chapter 3 – Affected Environment, Environmental Impacts, and Mitigating Measures, as listed below:

- 3.1 Air Quality
- 3.2 Earth/Geology and Soils
- 3.3 Surface Water and Groundwater
- 3.4 Terrestrial Plants and Animals
- 3.5 Marine Physical Environment
- 3.6 Marine Habitat and Animals
- 3.7 Marine Vegetation
- 3.8 Threatened and Endangered Species
- 3.9 Land and Shoreline Use, Recreation, Consistency with Plans and Policies
- 3.10 Noise and Vibration
- 3.11 Aesthetics, Light, and Glare
- 3.12 Transportation
- 3.13 Public Services and Utilities
- 3.14 Archaeological, Cultural Resources

We recognize that further consultation with State agencies (including the Department of Ecology, Department of Natural Resources, Department of Fish and Wildlife, Department of Transportation) and the USACE will occur and that each of these agencies will have the opportunity to comment on the draft EIS. We also recognize that some of the environment impacts may be addressed during the NEPA process in coordination with State and local permitting.

Under WAC 197-11-060(4)(e), the impacts to be analyzed in an EIS (direct, indirect, and cumulative impacts – WAC [197-11-792](#)) may be wider than the impacts for which mitigation measures are required of applicants (WAC [197-11-660](#)). This will depend upon the specific impacts, the extent to which the adverse impacts are attributable to the applicant's proposal, and

the ability of applicants or agencies to control the impacts in each situation. These issues will be considered during the EIS development process and when a decision on the merits of the application is made.

Through the analyses cited and elements identified above, you have suggested that the Draft EIS include a Chapter 4 - Key Issues, to provide a comprehensive analysis, spanning multiple elements of the environment, for the following key issues.

- Impacts of construction and operation of the proposed Pier on Hood Canal, associated shorelands, and neighboring rural residential areas, including:
 - Light, Glare and Aesthetics
 - Ambient and underwater noise levels, related to both humans and wildlife and habitat
 - Nearshore habitat, marine mammals and endangered/threatened species
 - Existing and future shoreline land use
- Impacts of Marine Transportation on Hood Canal, including:
 - Air quality and related emissions from navigation, berthing and loading activities
 - Adverse impacts from fuel leaks, oil spills or invasive species
 - Noise relating to pier operations and loading activities
- Impacts of Marine Transportation on Hood Canal Bridge traffic, including:
 - Traffic back-ups resulting from Bridge openings (assuming up to 12 project-related openings per month)
 - Potential barge or ship allisions with the bridge
- Impacts of upland mining on geohydrology, including:
 - Impacts of increased mining within the Meridian MRLO
 - Impacts (quantity and quality) to surface and groundwater, including wetlands and streams

We agree this is a useful way to present the information, and that the above issues should be addressed. Some impacts, in isolation, may not be significant, but become significant when combined with other impacts. Whether or not additional issues or more detailed analysis in the Draft SEPA EIS may be required is unknown at this time.

We also believe the issue of potential interference with navigation, exercises and underwater acoustic testing and other Navy operations at Naval Base Kitsap at Bangor and public safety with respect to marine transportation requires further analysis, but we do not presently have access to information about the expected Navy operations and assume this analysis will occur as part of the upcoming NEPA review to be conducted by the U.S. Army Corps of Engineers (USACE).

December 16, 2013

Page 4

As noted above, impacts of project vessel traffic on SR 104 and the Hood Canal Bridge should be addressed in the SEPA Draft EIS.

As a result of the scoping process and communications with you, it is our understanding that the Alternatives to be analyzed in the Draft EIS include only the Proposed Project and No Action. No location, operational, or design alternatives have been identified which reasonably attain the project objectives (WAC 197-11-440(5)).

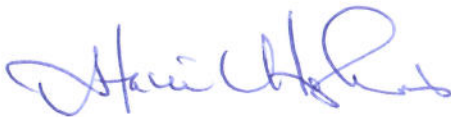
As lead agency, DCD recognizes its responsibility to consider draft EIS comments, and assess new information and/or changes to the project proposal that may require re-evaluation of the decision presented here. Depending on the timing of changes, new information, or comments, an EIS Addendum or Supplemental EIS may be required (WAC 197-11-408(5), 405).

WAC 197-11 also provides additional guidance on what information the EIS can contain and how it should be presented. DCD's intent is to produce a document that is readable and concise, analyzing only relevant information unless warranted for clarity or context. The EIS should be thorough, informative, and useful to the SEPA Responsible Official, other Decision Makers, and the public.

We trust that you will continue to consult with us and GeoEngineers, as has been the custom to date under our collaborative process, when questions arise or decisions need to be made regarding content and format.

As always, let us know if you have any questions, concerns, or require further clarification on any issue related to this project.

Sincerely,



Stacie Hoskins, SEPA Responsible Official

CC: Lisa Berntsen, GeoEngineers
Dan Baskins
Alex Hill

Attachment: Central Conveyor and Pier Studies Submitted by FHM, December 16, 2013

**Central Conveyor and Pier
Studies Submitted by FHM
December 16, 2013**

AIR

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Jefferson County Ordinance
08-0706-04

STATE OF WASHINGTON
County of Jefferson

**AN ORDINANCE AMENDING
THE COUNTY'S COMPREHENSIVE
PLAN TO ACHIEVE COMPLIANCE
WITH THE FINAL DECISION AND
ORDER OF THE WESTERN
WASHINGTON GROWTH
MANAGEMENT HEARINGS BOARD
REGARDING MLA #02-235, THE FHM
APPLICATION FOR A MINERAL
RESOURCES LAND OVERLAY**

Ordinance # 08-0706-04

WHEREAS, the Board of Jefferson County Commissioners ("the Board") has, as required by the Growth Management Act, as codified at RCW 36.70A.010 et seq., annually creates and implements a process by which citizens and entities can propose amendments to the County's Comprehensive Plan (or "CP"), the CP having been originally adopted via Resolution No. 72-98 on August 28, 1998 and as subsequently amended and;

WHEREAS, a modified version of the proposed amendment known as MLA #02-235 [Fred Hill Materials-Mineral Resource Overlay Designation or "MRLO"] was approved to the extent of 690 acres (the "Approved Alternative") by the Board during December 2002; and

WHEREAS, the Board's approval of the CP amendment known as MLA #02-235 through Ordinance #14-1213-02 (also known as "Ordinance 14") was timely appealed to the Western Washington Growth Management Hearings Board (or "WWGMHB"), said WWGMHB remanding the MLA back to the County for further environmental review.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that it makes the following Findings of Fact and Conclusions with respect to MLA #02-235:

1. The County adopted its CP in August 1998 and its development regulations (formally known as the Unified Development Code or "UDC") in December 2000.
2. The Growth Management Act, which mandates that Jefferson County generate and adopt a CP, also requires that there be in place a process to amend the County's CP. The UDC contains precisely such a process in Section 9.
3. The amendment process for the CP must be available to the citizens of this County [including corporations and other business entities] on a regular basis, generally no more than once per year.
4. This particular amendment "cycle" began on or before May 1, 2002, the deadline for submission of a proposed CP amendment.
5. The UDC, specifically UDC §3.6.3, contains a process that allows applicants to obtain an MRLO if certain criteria are satisfied and if the County legislators make the legislative (policy) decision to grant the MRLO designation.
6. MLA #02-235 was timely submitted by Fred Hill Materials, Inc. ("FHM") and it sought to have the zoning designation known as a Mineral Resource Land Overlay or "MRLO" placed on 6, 240 acres of land located in the Thorndyke section of the unincorporated County that now holds the underlying designation of Commercial Forest Land-80 ("CF-80"), Rural Forest-40 ("RF-40") and Rural Residential 1:20 or "RR 1:20."
7. The FHM application for a CP amendment was and is solely an application for an MRLO designation, a non-project action.
8. The FHM application is not an application for permission to build the "pit to pier" project, which FHM always had the ability to immediately apply for pursuant to existing regulations in the UDC once the UDC was adopted regardless of the outcome of this request for an MRLO designation.

9. Designation of the MRLO requested by FHM is not dependent on the marine transport system, the so-called "pit to pier," and application for and approval of the marine transport system is not dependent on designation of this MRLO.
10. If the marine transport system is approved, then the rate of extraction will increase whether or not the extraction is occurring within an MRLO or not.
11. The application from FHM stated that, assuming it obtained the MRLO designation for the 6, 240 acres, some 1,270 acres within that 6, 240 would never be the site of mineral extraction because they constituted environmentally sensitive areas, known as "critical areas" in the GMA lexicon, and the buffers of those environmentally sensitive areas as established in the UDC. Ground verification at the time of a specific project application could serve to further eliminate more acreage from consideration as sites for mineral extraction.
12. Section 3.6.3 of the UDC, which became effective in January 2001 immediately after adoption of the UDC in December 2000, was never the subject of a Petition For Review before the Western Washington Growth Management Hearings Board or "WWGMHB" and thus is valid and remains lawful.
13. FHM, through its legal counsel, wrote a letter to the County's planning staff on October 23, 2002 stating that FHM would modify their application to seek an MRLO of 765 acres [a reduction of 87.7% in the size of the proposed MRLO] and would provide other "carrots" [quarterly inspections to be paid for by FHM] to the County, subject to acceptance of the complete offer package by the County planning department in its staff recommendation to the Board.
14. MLA #02-235 went through the complete public participation process required by the Growth Management Act.
15. By way of example only, the Washington Department of Fish & Wildlife (or "WDFW") commented on this CP amendment in a letter dated October 1, 2002. WDFW understood that the GMA does permit the County to provide suitable lands with an MRLO designation, but urged the County to designate a smaller area

- as opposed to the proposed 6, 240 acres. WDFW was concerned that as few acres as possible be removed from Commercial Forest designation for the sake of habitat preservation, but added that it understood the protective provisions of the UDC would apply when a project-specific permit or permits was applied for by FHM. However, the Board notes that designation of an MRLO at a particular parcel or parcels does NOT change the underlying zoning designation of that land.
16. Specifically, this amendment was discussed in some detail in a combined County staff report/Draft Supplemental EIS dated August 21, 2002, a staff memorandum to the Planning Commission dated October 25, 2002 [in response to the FHM letter of October 23rd--see FOF #12 above--and to information requests made to staff by the Planning Commission], and a Final SEIS dated November 25, 2002, portions of which are described in more detail below.
 17. The Draft SEIS and the Final SEIS were undertaken and generated pursuant to the State Environmental Protection Act (or "SEPA") and a determination by the County planning staff that the 19 proposed CP amendments warranted a threshold "Determination of Significance" and thus environmental review for any potential significant adverse environmental impacts, although they were all non-project actions as that term of art is defined in SEPA. The FEIS was prepared in conformance with SEPA requirements and the amendments in this Ordinance are within the range of alternatives and scope of analysis contained in the FEIS and associated documents.
 18. The FSEIS dated November 25, 2002 included staff responses to 71 different categories of questions, comments and concerns expressed orally and in writing by the public regarding the FHM application during the public comment period. It represents a detailed response to the concerns of the citizens, precisely what is intended by SEPA.
 19. The EIS prepared with respect to the 1998 adoption of the CP also provided partial environmental review for this non-project action, because the SEPA review for the

- CP understood that 1) the CP included a process for MRLO designation, 2) would place such a process in its UDC, 3) would then use that process, in the years following the adoption of the CP and the UDC, to provide MRLO designation for certain suitable parcels and 4) mining was a permitted use in forest lands.
20. However, currently and at all times since adoption of the UDC in 2000, the County has failed to meet the GMA mandate laid out in RCW 36.70A.060(1), which mandates specific language for the notice provisions that must be placed upon, among other documents, plats, building permits and development permits granted to persons or entities undertaking development within 500 feet of a parcel or parcel designated as mineral, forest or agricultural resource lands.
 21. Specifically, the disclosure language found in the UDC at Section 3.6.3.3(b)(2) does not match up with the mandatory language found at RCW 36.70A.060(1) because the disclosure language a) is not required to be part of development activities occurring in close proximity to agricultural or forest resource lands (and mining is a foreseeable use in forest resource lands) and b) does not specifically inform the reader that they are undertaking development (for example, residing) at a location close to a place where an application for mining may some day be made, said mining being a “yes” use within an MRLO according to the UDC.
 22. Similarly, the notice that is provided to those persons or entities developing in close proximity to agricultural or forest lands does not mention that mining is a “yes” use, meaning that it ‘permitted outright’ to use planner’s parlance. The notice language for agricultural and forest lands is found at UDC §3.3.2(d)(2).
 23. In that regard, the County is not fulfilling its mandate under GMA to protect natural resource lands (be they mineral, forest and agricultural lands) from incompatible uses, e.g., residences.
 24. Such a statement is true regardless of the decision reflected in the 1998 CP to allow mining as a permitted use in all commercial forest lands because that 1998

decision does not change the fact that the notice language of the UDC is deficient in both its text and its applicability.

25. Thus the Board finds that it cannot fulfill its GMA obligations under the “No Action Alternative” because only by designating lands with the MRL Overlay does that land receive the nuisance and notice protections that the GMA requires counties to provide to lands rich in natural resources pursuant to RCW 36.70A.060.
26. In light of the evidence presented above, the Board respectfully requests that the WWGMHB reconsider its conclusions in the August 2003 Final Decision and Order (“the FDO”) that the County had sufficiently protected and designated mineral resources prior to the submission of MLA #02-235 and would be fully protective of mineral resource lands if it adopted the “No Action” alternative.
27. Thus, MLA #02-235, from the perspective of the County, arose, in part, in the context of the County’s continuing state law mandate to provide the nuisance and notice provisions to lands found to be rich in natural resources, in this specific case, sand and gravel.
28. There was before the County a proposal for a MRLO of 765 acres with certain conditions attached according to the FHM letter dated October 23, 2002.
29. The planning department concluded that the acreage to be granted the MRLO designation should be reduced to 690 acres because 75 acres on the western edge of the 765 MRLO were potentially environmentally sensitive because they were within 500 feet of Thorndyke Creek and should be avoided at the non-project action stage of planning, effectively providing a greater buffer for Thorndyke Creek than that prescribed by the Unified Development Code.
30. The planning department, as part of the FSEIS, expressly recommended rejection of the proposal to provide 6,240 acres with the MRLO designation.
31. The State Department of Ecology (or “DOE”), in a letter to the County dated November 20, 2002, argued for rejecting the 6,240 acre MRLO, primarily because

there was not in place sufficient information to determine if a MRLO designation of some 6, 240 acres would cause significant adverse environmental impacts, such as possible negative impacts on aquifer recharge.

32. The DOE letter of November 20, 2002 concluded that any mineral resource extraction occurring within the 690 acres that now have obtained an MRLO designation would neither puncture an aquifer nor decrease recharge to the aquifers that provide water to wells in the neighboring communities of Shine and Bridgehaven.
33. While County planning staff recommended MRLO designation for only 690 acres, they also placed 15 conditions on the approval, which are listed in the FSEIS, and are made a condition of this approval. The conditions serve to, in part,
 - limit mining to a depth that is not less than ten (10) feet above seasonal high water table in order to protect the aquifers of the Thorndyke region, particularly those that refresh domestic wells in the Shine and Bridgehaven communities (condition #11),
 - prohibit processing of raw materials in the land that has now obtained the MRLO designation (condition #10),
 - reflect a County staff decision that the FHM application for a conveyor and pier facility would receive an automatic Determination of Significance ("DS") under SEPA, requiring a full-blown environmental impact statement, said application having been made in March 2003 and the DS threshold determination subsequently issued by staff (condition #14),
 - require that if FHM makes any application for mineral extraction on the lands that are now being designated as an MRLO, then the environmental review of that application would include a study of all transportation alternatives, be they marine or overland (condition #14),

- require FHM to finance a quarterly inspection report (condition #9), whether submitted by the company with third-party peer review contracted by the County or prepared by a third-party contracted by the County, and
 - immediately subject the 144-acre Shine Pit hub, consisting of 121 acres of an existing MRLO plus 23 acres added to an existing DNR Surface Mining Permit and which was part of the 6,240 acre proposal submitted, to operational standards and minimums pursuant to condition #2.
34. DOE made the representations of its November 20, 2002 letter based, in part, on condition #11 found in the FSEIS, i.e., that mining would never reach a point that was less than 10 feet above the seasonal high water mark.
 35. This condition imposed by this Board on the Approved Alternative, that mining will not come any closer than 10 feet to the seasonal high water mark, is one of the two key distinctions that make the Approved Alternative more meritorious, the other one being the 40-acre cap on disturbed areas, there being no cap on the size of disturbed areas should the Proposed Alternative (6,240-1,270 acres) be adopted.
 36. The Board notes that the UDC does not include a maximum size for disturbed areas within an MRLO.
 37. MLA #02-235 went through review by the County's Planning Commission or "PC"; specifically there was a public hearing with respect to this amendment before the PC on August 21, 2002 and informational discussion on November 6, 2002.
 38. On November 13, 2002 the PC recommended approval of an MRLO for 690 acres, as suggested by the County's planning department. The PC also recommended to the elected County legislators that they include mitigation measures and fund an enforcement officer or procedure.

39. The 690 acres that obtain an MRLO designation via the approval of this proposed CP amendment are located in a valley between two ridges and are not visible from the Hood Canal Bridge or the residences located about one mile south and east of the current FHM operations site of 144 acres, colloquially known as the "Shine Pit."
40. MLA #02-235 was the subject of public hearings before the Board of County Commissioners on December 5, 2002.
41. The County Commissioners and the planning staff received e-mails and signed petitions urging the County Commissioners to reject this amendment.
42. Opposition to this amendment was expressed at the August 21st hearing before the PC and the December 5th hearing before the Board.
43. Other citizens of this County expressed their support for this FHM MRLO amendment. Signed petitions were submitted to this effect.
44. The Board also notes that the CP, as a legislative policy decision, reflects and memorializes the overall opinions and intent of the entire citizenry of this county and that the CP includes numerous provisions that support this MRLO designation and the maintenance and enhancement of mineral resource extraction activities in general. They are listed at Finding of Fact #52 below.
45. The Board also notes that the development regulations known as the UDC, as a legislative decision, reflect and memorialize the opinions and intent of the entire citizenry of this county and that the UDC includes a specific provision that creates a process whereby parcels, if criteria are satisfied, can be and should be designated as another MRLO.
46. The presence of such a section in the UDC supports the Board's 2002 decision to approve this request of FHM for an MRLO designation. Why? Because adoption of this CP amendment is in furtherance of the GMA mandate to maintain and enhance mineral resource extraction activities in general.

47. Decisions made pursuant to GMA should never be subject to what amounts to a plebiscite.
48. For example, as distasteful as the decision to provide more lands with a MRLO designation might be to some persons in this county, equally distasteful to others residing in this County is the GMA mandate that rural commercial lands be strictly limited in size and intensity of uses. Yet both are mandated by the GMA, although they are requirements of that state law that are not universally loved.
49. Furthermore, the Board concludes that when drafting the GMA the State Legislature fully understood that resource extraction industries, particularly mining or excavating, would never be a popular “neighbor” and thus the Legislature made it clear that the resource industries are to be protected from incompatible development such as homes and not vice-versa.
50. The Western Washington Growth Management Hearings Board reaffirmed that language in 1995 in such cases as Aachen v. Clark County (Cause No. 95-2-0067, FDO dated September 20, 1995).
51. This amendment was the subject of a vote to approve, modify, or reject by the Board of County Commissioners.
52. That vote to approve was made only after the three elected County Commissioners recognized, heard and seriously weighed the strong opinions held by various members of the Jefferson County community both for and against this proposal. Ultimately, however, the decision rested with the sole legislative discretion of the elected County Commissioners.
53. This amendment was approved by the Board of County Commissioners because, in part, it is in conformance with the requirements of GMA that counties such as this one that are planning pursuant to GMA designate mineral resource lands [RCW 36.70A.170] and assure the conservation of mineral resource lands by, in part, not permitting the siting of incompatible uses adjacent to such lands [RCW 36.70A.060].

54. Approval of MLA #02-235 was also in conformance with the County's CP.
55. Numerous goals and policies described in the County's CP are supported and furthered by adoption of MLA #02-235. They are designated as a Goal each of which has related Policies listed under it. In order the CP goals and policies most prominently furthered by this CP amendment are:

- Economic Development Policy (or "EDP") 6.2 [encourage the establishment of new sustainable resource-based activities],
- EDP 6.2.1 [natural resource industries shall be located near the forest resource upon which they are dependent],
- Land Use Goal ("LNG") 12.0 [locate new resource industries in rural areas near the resources to be extracted],
- LNG 13.0 [conserve and manage mineral resource lands for sustainable natural-resource based economic activities that are compatible with surrounding land uses],
- LNG 24.0 [foster sustainable resource-based industry in rural areas of the County],
- Natural Resource Goal ("NRG") 1.0 [encourage the conservation of resource lands and the long-term sustainable use of natural resource-based economic activities],
- NRG 2.0 [encourage resource-based economic activities which are environmentally compatible],
- Natural Resource Policies 2.1 through 2.4, [which discuss generally regulating resource-based economic activities to protect the environment from cumulative adverse impacts by, for example, encouraging the extracting firms to comply with best management practices],

- NRG 6.0 [conserve and protect mineral resource lands for long-term economic use] and the related Natural Resource Policies NRP 6.1 through NRP 6.4, and
- NRG 7.0 [provide for mitigation of potential adverse impacts associated with mining extraction and processing] and NRP 7.2 and NRP 7.3; and
- NRG 9.0 [preserve water resource quality and quantity] and Natural Resource Policy 9.1.

56. Regarding the FHM proposal, staff determined that the “Designation Critical” column (as found in Table 4-3 of the CP) was appropriate with respect to both Quality of Deposit and Size of Deposit based, in part, on an August 15, 2002 letter from DNR stating that “[t]he contention (by the applicant) that there are abundant gravel resources in the area is well founded.” DNR further stated that the applicable maps “portray abundant Quaternary advanced and recessional Vashon outwash deposited by glaciers over the area.” A firm known as GeoResources, LLC wrote a report dated April 27, 2002 that came to the same conclusion.
57. Various unincorporated associations of citizens, led by the Hood Canal Coalition, timely appealed this GMA-based decision to the WWGMHB.
58. After voluminous briefing, oral argument and questions from the members of the WWGMHB, the WWGMHB issued its FDO in August 2003.
59. The WWGMHB determined in its FDO that the Approved Action, specifically designation of a MRLO, with 15 attached conditions, of 690 acres in the Thorndyke Tree Farm, fully complied with the
 - Growth Management Act or “GMA” (FDO, p. 31 & 33)
 - County’s CP (FDO, p. 37) and
 - County’s UDC (FDO, p. 37)

60. Thus, the GMA, the CP and the UDC need not be discussed in much detail in the remainder of these Findings of Fact, except to state that all Findings of Fact listed in Ordinance 14 (see FOF #53 to and including FOF #67 in that earlier Ordinance) relating to Section 9 of the UDC and the “growth management indicators” listed there are incorporated herein as if listed in full.
61. The WWGMHB did find at FDO page 29 that the environmental analysis of MLA #02-235 was deficient and required the County to do further environmental review of this non-project action pursuant to the SEPA.
62. The WWGMHB at FDO page 29 found that the County’s environmental review had not analyzed enough alternatives sufficiently , finding that only one alternative, the Approved Alternative, had been sufficiently studied.
63. But the WWGMHB also stated that it saw three reasonable alternatives that required closer and more detailed study pursuant to the applicable state regulation, as described at pages 23 through 27 of the FDO.
64. Specifically, those three alternatives, as described the WWGMHB, are the Proposed Alternative (6,240 acres minus 1,270 acres of critical areas), the Approved Alternative (690 acres with 15 conditions imposed) or the No-Action Alternative (extraction of natural resources occurs county-wide in a manner consistent with the UDC).
65. The WWGMHB was also clear in its FDO that the “pit-to-pier” was NOT an alternative to the Approved Alternative. In fact, the WWGMHB stated in its FDO at page 9 that it “[did] not agree [with the Petitioner] that the project [“pit to pier”] itself could or should be analyzed at this stage.”
66. Of course, the marine transport system (pit to pier) will be the subject of a full-blown SEPA-driven environmental analysis because the County staff issued a threshold “Determination of Significance” shortly after the application for the marine transport system came to the County in March 2003. As the time this

Ordinance was adopted, discussions about the scope of that EIS were about to begin.

67. Clearly recognizing the marine transport system to be a “project” action in SEPA jargon (as opposed to the “non-project” action of providing land with an MRLO designation), the WWGMHB instead used the FDO to inform the County of the following deficiencies in the environmental analysis that had accompanied the adoption of Ordinance 14 in December 2002:

- Other alternatives, specifically No Action and the Proposed Action were either insufficiently studied or not studied at all, Finding “N;”
- Alternate forms of transport for FHM’s product were not adequately studied, Finding “O;”
- Probable significant adverse environmental impacts on wildlife were not sufficiently studied, Finding “P;” (these three findings are located at pages 40 and 41 of the FDO) and
- What the WWGMHB called “intensity of mining use,” which the County understands to mean the study of the differing probable significant adverse environmental impacts, if any, that arise if mining occurs in 40-acre segments rather than in either unlimited or 10-acre segments, FDO p. 9, 23 and 27.

68. Because of these four deficiencies the WWGMHB concluded that the decision-makers for Jefferson County, i.e., this Board acting in its legislative capacity, had not been provided with a reasonably thorough discussion of the significant aspects of the probable environmental consequences of the Approved Alternative, and thus the SEPA analysis done before the 2002 legislative decision to adopt Ordinance 14 had been and was inadequate.

69. County staff has taken steps in order to cure and remedy its non-compliant actions relating to the MLA 02-235;

70. A Draft Supplemental Environmental Impact Statement (DSEIS) to the 2002 Comprehensive Plan Amendments SEIS that included MLA #02-235 (Mineral Resource Lands Overlay District proposed by Fred Hill Materials) has been issued in accordance with SEPA (Chapter 43.21 RCW and Chapter 197-11 WAC). The DSEIS addressed issues raised in the FDO.
71. The Notice of Availability of the DSEIS was published in *The Leader* on March 3, 2004. In addition, the DSEIS was sent to agencies (see distribution list in DSEIS) on March 3, 2004. Individuals expressing interest in FHM proposals were also e-mailed the Notice of Availability. The Notice of Availability indicated that the entire DSEIS was available on the Jefferson County website site. Paper copies were available for inspection and purchase at the County's planning department. The comment period ended on April 2, 2004.
72. Only six (6) comments were received on the DSEIS.
73. A Final Supplemental Environmental Impact Statement (FSEIS) to the 2002 Comprehensive Plan Amendments SEIS that included MLA #02-235 has been issued in accordance with SEPA (Chapter 43.21 RCW and Chapter 197-11 WAC).
74. The FSEIS addressed comments received on the DSEIS and also included additions, corrections and clarifications to the DSEIS. The FSEIS was issued on May 12, 2004. This DSEIS and FSEIS are for a non-project action.
75. Any FHM proposals for future mineral extraction and the previously-submitted application for marine transport would and will require project specific environmental review and full compliance with the UDC.
76. This DSEIS and FSEIS address the issues raised by the FDO.
77. The DSEIS and FSEIS provide additional information on the three alternatives.
78. The Proposed Action Alternative analyzed in the FSEIS is the 6,240 acres MRL (excluding critical areas) applied for by the applicant.
79. As a result of excluding critical areas, the Proposed Action Alternative is, in reality, some 4,970 acres, and no mining would occur within those acres until such time as

there was 'ground truthing' of a specific site proposed for mining, i.e., 'in the field' examination of a site proposed for mining for possible critical areas.

80. The Approved Action Alternative analyzed in the FSEIS is the modified 690 acre MRL approved by the Board, including the 15 conditions of approval from Ordinance 14-1213-02.
81. The No Action Alternative analyzed in the FSEIS examines not designating a MRL and relying on the current UDC requirements for extraction and processing outside of a MRL.
82. The No Action Alternative, this Board finds, leaves the County with a mining district that equates with all of the land zoned Commercial Forest in this County, in other words with a mining district of some 330,000 acres, where mining (extraction) is an automatic "yes" or permitted use with a 10-acre limit on "disturbed area," a term of art under this State's Surface Mining Act.
83. In response to Finding "N" of the FDO, the conclusion by the WWGMHB that other reasonable alternatives were not sufficiently studied, the Board refers the reader, by way of example only, to the table found at pages 1-9 through 1-12 of the FSEIS.
84. The titles given to the columns and rows listed at Pages 1-9 through 1-12 of the FSEIS are closely related to the 13 factors utilized for assessing lands for MRL designation in Table 4-3 of the County's CP. These 13 factors were analyzed in the DSEIS and FSEIS for the three alternatives, although the 13 factors were re-categorized in the FSEIS according to WAC 197-11-444.
85. Regarding a full analysis of the three reasonable alternatives, the reader is also referred to Section 2.5.5 and Section 3 of the DSEIS, Section 3 consuming 45 pages in total of the DSEIS.
86. By way of example only, Section 3.1.4 of the DSEIS addresses potential impacts associated with the three alternatives to wildlife habitat disruption including mitigation measures.

87. With respect to that same deficiency found by the WWGMHB, the reader is also referred to Section 2-4 of the FSEIS, found at pages 2-10 and 2-11.
88. Section 2.4 of the FSEIS provides additional clarification of the No Action Alternative including the cost and effect of this alternative on public services.
89. The greatest uncertainty about the likelihood that probable significant adverse environmental impacts will arise is NOT a function of how many acres (if any) are granted MRLO designation.
90. Instead the uncertainty arises because the rate of extraction of the mineral resources found underground at the Thorndyke Tree Farm will be completely a function of how much 'product' FHM is able to sell, this uncertainty made prominent in the FSEIS at page 1-5, Section 1.5.2.
91. Regarding Finding "O" promulgated by the WWGMHB, the conclusion that alternate forms of transport were not sufficiently studied, both the DSEIS and the FSEIS tackle this issue in some detail, but before those details are discussed here certain misunderstandings must be explained and properly put before the reader of this Ordinance.
92. Those confusions arise concerning the transportation (after extraction) of mineral resources from underneath the Thorndyke Tree Farm.
93. Probably the most significant confusion or misunderstanding is that many persons do not know FHM has in place a mobile conveyor system that currently conveys raw product from the 'mine face' to be processed at the Shine Hub.
94. This conveyor system replaces truck traffic that would otherwise presumably have negative environmental impacts.
95. This internal conveyor system (internal in the sense that it precedes rather than follows processing) should not be confused with the marine transport system that will, if approved, move product (some of which requires processing) to the pier for FHM to sell to distant customers.

96. The distinction between internal and post-processing conveyors leads naturally to the second major confusion that has been present since before adoption of Ordinance 14, specifically the misperception that increased mining activity will somehow cause the marine transport system to be necessary.
97. Instead, it is the approval and installation of the marine transport system that will cause an increased rate of mineral extraction and not vice-versa.
98. With the approval of the marine transport system, FHM will be able to sell its 'product' competitively to more distant markets in, for example, the Puget Sound, Oregon and California. Without the marine transport system, FHM can never compete on price in those more distant for markets because conveying the product by truck would make it too costly to the end user. The reader is referred to the last bullet in Section 1.5.1 of the FSEIS, located at page 1-4 of that document.
99. Truck transport and possible future marine transport are independent of one another because they would serve different markets.
100. If marine transport is approved and if the more distant customers are available, then the rate of extraction from the Thorndyke region will increase regardless of whether the MRLO designation is approved or not.
101. A third confusion held by many people is the mistaken belief held by some that the marine transport system will entirely replace truck traffic as a means of getting FHM's 'product' to market.
102. The applicant has never made such an assertion and the FSEIS discusses FHM's projection that the quantity of its 'product' moved by truck will increase by 50% over the next decades whether or not the marine transport system is approved.
103. While a 50% increase may appear, at first glance to be a significant increase that might, in theory, have probable significant adverse environmental impacts the opposite is, in fact, true because it is only an addition of some 90 to 98 daily trips among a flow of 13,000 already occurring on a daily basis on eastbound SR 104.

104. Additional trips originating from FHM's Shine Hub will amount to an increase of .7% over existing traffic conditions according to the FSEIS.
105. Thus, the effect of that additional traffic coming from FHM's Shine Hub is to add a mere seven (7) vehicles for every thousand (1,000) vehicles that are already traveling eastbound on SR 104 towards the Hood Canal Bridge according to a Washington State DOT study completed in 2001. That same study indicates that background growth in the traffic on SR 104, i.e., traffic growth that FHM does not control and did not create, will independently worsen the level of service on SR 104 over the next decades.
106. The FSEIS concludes that these negligible impacts on the levels of service that are or will be present on SR 104 occur regardless of which of the three reasonable alternatives studied in the DSEIS and FSEIS is adopted by this Board.
107. The FDO stated that the post-FDO "EIS should include the transportation impacts of the various alternatives."
108. The DSEIS and FSEIS contain many details about the probable transportation impacts of the three reasonable alternatives and the reader is referred to pages 3-40 to 3-45 of the DSEIS (Section 3.2.3) and pages 2-2 to 2-6 of the FSEIS (Section 2.2).
109. Regarding probable significant adverse environmental impacts on wildlife, which the WWGMHB concluded in its Finding "P" had been insufficiently studied by the County, the DSEIS analyzes this issue in some detail at Section 3.1.4.2, found at pages 3-23 through 3-27 of that document and summarized at p. 1-11 of the FSEIS.
110. Among the most important conclusions included in the DSEIS is found at p. 3-25 where the author concludes that "[t]he Approved Action MRL is located outside of known territories of priority species as listed in the WDFW PHS database."
111. The statement found in the prior Finding of Fact immediately makes the Approved Alternative more meritorious than the other Alternatives in the collective 'mind' of this Board.

112. A second important conclusion reached on that same page is that the UDC regulations that require identification of species habitat and buffering of "all shoreline, wetland and habitat areas prior to MRL designation" and, in fact, prior to any development that will occur within the unincorporated County.
113. With respect to what the WWGMHB called the "intensity of mining use," i.e., the different impacts that occur if the maximum permissible mining segment is either no limit (Proposed Alternative), 40 acres (Approved Alternative) or 10 acres (UDC and No Action Alternative), the different impacts are discussed in some detail in the DSEIS at pages 2-18 to 2-20 and within the FSEIS at pages 2-6 through 2-10 (FSEIS Section 2.3).
114. An important conclusion drawn in the DSEIS at p. 2-19 is that a limit of 10-acre disturbed areas might lead to the extracting firm being unable to recover mineral resources buried deep in the ground because set backs and safety requirements (the slope running from the ground to the extraction point can only be so steep before a too-steep slope invites life-threatening slides and erosion) imposed on such a small mining segment would not allow recovery of that deeply-buried resource.
115. Unable to recover the deeply-buried resource, the extracting firm might be required to extract from a larger geographical area in order to recover the same volume of 'product.'
116. Put another way, the extracting firm would be required to clear vegetation from more acres to obtain the same amount of resource.
117. In sum, the DSEIS and FSEIS indicate that larger "disturbed area" sizes are more efficient based on the nature of the resource found in the Thorndyke area.
118. The size of any particular "disturbed area" will always depend on the site-specific circumstances and application of the 'best management practices' promulgated by DNR.
119. The various impacts that occur with 10-acres as compared to the impacts that occur with 40-acre limits are analyzed in terms of seven categories (corresponding closely

to the 13 categories found in CP Table 4-3) at pages 2-8 through 2-10 of the FSEIS. Although the FSEIS uses the phrase “40-acre segments,” it would be equally accurate to use there the term “40-acre disturbed areas.”

120. The FSEIS also concludes, at Section 1.5.5.2 at page 1-8, that no “unavoidable adverse impacts” arise if either the Proposed Alternative or the Approved Alternative are ultimately adopted by this Board.
121. The absence of any “unavoidable adverse impacts” arising if either the Proposed Alternative or the Approved Alternative is adopted strongly suggests that the 15 conditions to mitigate made part of this Ordinance are adequate mitigations.
122. The conditions serve the public purpose of, by way of example only, protecting underground aquifers from penetration by mining (condition #11) and informing the reading public as to which sections of the UDC will apply to future mining extraction as it occurs within the MRLO.
123. This Board is fully aware of these conclusions from the SEPA Responsible Official and used them as part of its decision-making process.
124. The Board finds that designation of an MRLO of 690 acres meets and satisfies the designation criteria listed at UDC §3.6.3.1.
125. Specifically, with respect to UDC §3.6.3.1(a), the Board relies upon the conclusions stated within the April 27, 2002 report of GeoResources, LLC (a report FHM submitted as part of its application for MLA #02-235) to find that the land provided with the MRLO designation is rich in natural resources, i.e., sand and gravel.
126. Specifically, with respect to UDC §3.6.3.1(b), the Board concludes that the area designated is larger than 10 acres and that most, if not all, of the parcels inside the newly-designated MRLO are larger than 10 acres in size.
127. Specifically, with respect to UDC §3.6.3.1(c), the Board concludes that the land within the newly-designated MRLO is surrounded by land zoned “Commercial Forest,” the UDC term for forest-lands of long-term commercial significance.

128. Specifically, with respect to UDC §3.6.3.1(d), the Board concludes that the land within the newly-designated MRLO does NOT have a residential density of one dwelling per five acres or less, instead the greatest density provided any of the newly-designated MRLO is one dwelling unit per 40 acres.
129. The Board makes its conclusions regarding (b),(c) and (d) above based upon the map made part of the Draft SEIS as Figure 3-5 found at page 3-34 of the DSEIS.
130. Specifically, with respect to UDC §3.6.3.1(e), the Board concludes, after examination of the Land Use Map that is part of the County's CP, that the land within the newly-designated MRLO is not within any Shoreline designation or any "Rural Village Center" and is NOT within one-half mile (2,640 feet) of any established or potential "Urban Growth Area" or "Rural Village Center" boundary. Figure 3-5 at p. 3-34 of the Draft SEIS also supports this conclusion.
131. Specifically, with respect to UDC §3.6.3.1(f), the Board concludes, after examination of the EIS documents prepared after the August 2003 FDO, that there are no regulated wetlands or fish or wildlife habitat within the newly-designated MRLO. By way of example only, the Board makes this conclusion after its review of certain pages of the Final SEIS, specifically pages 1-10 and 1-11.
132. A public hearing before this Board occurred on June 9, 2004 as part of the process by which this Board, acting in its legislative capacity, re-examines and reconsiders (based on new environmental information) their earlier decision to adopt Ordinance 14, which served to establish (with 15 conditions) an MRLO designation upon 690 acres in the Thorndyke Tree Farm.
133. This Board finds that, upon review of the DSEIS and the FSEIS, those documents provide a reasonably thorough discussion of the significant aspects of the probable environmental consequences of the three reasonable alternatives studied therein.
134. The Board finds itself to be sufficiently informed to weigh the probable environmental consequences of the three alternatives and to adopt this Ordinance,

which serves to adopt the Approved or 690-acre Alternative, as that term is defined in the 2004 DSEIS and FSEIS.

135. The Board further relies upon the Findings of Fact adopted and made part of Ordinance #14-1213-02, approving Comprehensive Plan Amendment.
136. The Board discussed and deliberated on the legislative decision regarding a possible MRLO designation at a public meeting on June 30, 2004. At that time the Board (by a unanimous 3-0 vote) voted to approve the "Approved Alternative," i.e., an MRLO of 690 acres.
137. The Board imposes certain conditions, including expressly listing certain portions of the UDC that will apply to mining activities undertaken within the MRLO as conditions, pursuant to the Washington Administrative Code.
138. The Board bases its findings and conclusions upon A) the entire record of testimony and exhibits, including all written and oral testimony provided to it and B) the DCD staff reports to it dated May 25, 2004 and June 9, 2004.
139. When a project specific action (like construction of a conveyor and pier facility is proposed, the new project specific action EIS, which has not been started, will focus on the impacts and alternatives including mitigation measures specific to the project action proposal. These impacts will be analyzed to a degree not possible through the non-project EIS for designation of an MRLO. Because this non-project action is focusing primarily on development regulations that would apply to mining in an inland forested area, the DSEIS and FSEIS for MLA 02-235 will not have any relevance to a marine transport proposal. This means that when a project specific EIS process is started for a marine transport proposal we will be starting the SEPA process from the very beginning. This will include ensuring that the EIS prepared for the marine transport proposal is the County's document by ensuring that the consultant reports directly to the County, the process that occurred during the preparation of the DSEIS and FSEIS for MLA 02-235. The project specific EIS will

then follow the EIS process which will include scoping the issues, issuing a DEIS for comment, and addressing the comments in the FSEIS.

140. After the SEPA process is completed, the Shoreline Conditional Use Permit and Zoning Conditional Use Permit for a conveyor and pier facility would be reviewed at a public hearing before the hearing examiner.
141. The conveyor and pier within the shoreline jurisdiction would be reviewed through a Shoreline Conditional Use Permit before the Hearing Examiner. The criteria for a shoreline review are found in the Jefferson County Shoreline Management Master Program and the Shoreline Management Act (Section 5 of the UDC, RCW 90.58 Shoreline Management Act; WAC 173-27 Shoreline Management Permit and Enforcement Provisions). For actions on Shoreline of Statewide Significance (i.e. Hood Canal), there are additional local and state protections. If the proposal does not meet all of the criteria, the proposal will be denied. The WA State DOE makes the final decision on all Shoreline Conditional Use Permits. Numerous other State and Federal approvals would also be required.
142. The Zoning Conditional Use Permit will be reviewed at the same public hearing as the Shoreline Conditional Use Permit before the Hearing Examiner. The 12 approval criteria for a Zoning Conditional Use Permit are found in the Section 8.8.5 of the UDC. If the proposal does not meet all 12 criteria the proposal will be denied.
143. The BOCC has the initial impression that a pier facility (Pit-to-Pier) proposal contemplated by the applicant may not meet all of the twelve (12) approval criteria, including the following: 8.8.5(1) whether a pier facility in Hood Canal is harmonious in design, character and appearance with the development in the vicinity; 8.8.5(3) that a pier facility in Hood Canal is detrimental to uses or property in the vicinity; 8.8.5(4) whether a pier facility will introduce noise, dust, vibrations, and other conditions (like light & visual impacts) to uses or property in the vicinity; 8.8.5(5) whether a pier facility approximately 90 feet above the Mean Lower Low Water Mark (MLLM) will unreasonably interfere with allowable development or

uses of neighboring properties; 8.8.5(6) whether ship openings to the Hood Canal Bridge associated with a pier facility would impact traffic in the vicinity of the proposal; 8.8.5(7) whether a pier facility would comply with all State and Federal requirements, including potential impacts to threatened and endangered species; 8.8.5(9) whether a pier facility would cause significant adverse impacts to the human and natural environment that cannot be mitigated through conditions of approval; 8.8.5(10) whether a pier facility with the limited job creation, limited revenue benefit to the County, potential impacts Hood Canal and to the Hood Canal Bridge (i.e. ship/barge collision with bridge) has merit and value for the community as a whole; 8.8.5(11) whether a pier facility is consistent with the Jefferson County Comprehensive Plan; 8.8.5(12) whether the public interest suffers no significant detrimental effect from a pier facility.

NOW, THEREFORE, BE IT ORDAINED, as follows:

Section One: With respect to MLA #02-0235 (Fred Hill Materials) the following real property within Jefferson County is provided with a Mineral Resource Overlay Designation, specifically the land described below:

SEE "EXHIBIT A"

Section Two: The MRLO designation granted to Fred Hill Materials, Inc. shall be and is subject to the following fifteen (15) conditions:

1. Prior to approval and operation of a surface mine in the Wahl Lake or Meridian area of the Thorndyke Tree Farm, the proponent shall submit and satisfy all requirements of the Unified Development Code (UDC) including, but not limited to:
 - a. Protection of environmentally sensitive areas per Section 3:
 - Mining is prohibited in Fish and Wildlife Habitat areas or their buffers.
 - Mining is prohibited in Wetlands or their associated buffers.
 - Submission of an Aquifer Recharge Area Report, Drainage and Erosion Control Plan, and Grading Plan, the combination of which shall demonstrate that the proposed activities will not cause degradation of groundwater or surface waters.
 - Submission of a Habitat Management Plan.

- b. Performance standards of Section 4:
 - Full compliance with the Washington State Surface Mining Act (RCW 78.44) shall be required prior to any mining activity that exceeds 3 acres of disturbed area.
 - Extraction report prepared by a professional geologist with elements required pursuant to UDC 4.24.2.a-f.
 - All extraction and reclamation activities that create a noise disturbance must take place between 7:00 a.m. and 7:00 p.m.
 - c. Development standards of section 6:
 - Stormwater management standards and practices.
 - Best Management Practices for drainage and erosion control and sedimentation control.
 - Mineral extraction Best Management Practices in Aquifer Recharge Areas.
 - d. Jefferson County procedures and policies at UDC Section 8 for implementation of the State Environmental Policy Act (SEPA).
 - e. Any failure to abide by Jefferson County regulations shall be investigated and enforced as provided by the requirements and procedures of Section 10.
2. As a matter of policy, the legal, nonconforming use (i.e., established prior to adoption of the UDC) at the Shine Pit hub of 144 acres (including an existing MRL overlay of 121 acres) shall be subject to operational standards a. and b. upon adoption of a Wahl Lake/Meridian MRL overlay and operational standards c. and d. when (and if) approval is granted through a permit review process for mineral extraction activities in the Wahl Lake/Meridian MRL overlay:
- a. The maximum permissible sound level at any and all receiving properties outside of the Thorndyke Tree Farm shall be 57 dB(A) between 7:00 a.m. and 7:00 p.m. on weekdays and 47 dB(A) on weekends, holidays, and between 7:00 p.m. and 7:00 a.m. on weekdays. Compliance protocol shall be established during review of future mineral extraction permit application. Any planned, temporary exceeding of these standards must be authorized beforehand by the Administrator and documented in the compliance case file.
 - b. Outdoor lighting shall meet the specifications of the US National Park Service Interim Design Guidelines for Outdoor Lighting. Building lighting shall be located high on the structures and include forward throw optics to direct lighting away from the sides of the buildings and onto the ground. Lighting required for mineral extraction, processing, and transportation activities shall be independently mounted (not directly attached to equipment) to allow for a more downward throw of light to further limit the potential for direct light to reach offsite areas.
 - c. Transportation options shall be fully studied in project action environmental review, including optimum hours for truck access to SR 104.
 - d. A visual impact mitigation plan shall be a mandatory element of project action environmental review, including but not limited to the establishment of berms, vegetative plantings, and other measures to mitigate offsite visual impacts.

3. Gravel mining operations shall, prior to approval and operation, obtain from the Washington Department of Ecology Water Quality Program a national Pollutant Discharge Elimination System and State Waste Discharge General Permit (NPDES) for process water, stormwater and mine dewatering water discharges. All activities within the MRL overlays shall be subject to the standards of the latest edition of the Department of Ecology Stormwater Management Manual for Western Washington.
4. Mining operations located within a designated Aquifer Recharge Area shall demonstrate that the proposed activities will not cause degradation of the groundwater quality below the standards described in Chapter 173-200 WAC (Water Quality Standards for Ground Waters of the State of Washington):
 - a. The proponent shall prepare a Best Management Practices Report pursuant to the criteria explained below, describing how the operators will integrate other necessary and appropriate mitigating measures in the design, installation, and management of the proposed facility or use.
 - b. The report shall be prepared by, or done under the direction of or designed by, a qualified person with demonstrated expertise in the industry or field as demonstrated by a statement of qualifications and at least three references from parties familiar with common business practices in the subject field or known expertise in the field.
 - c. The report will identify appropriate BMPs and how they will be employed to prevent degradation of groundwater. Examples of BMPs are available at the DCD Permit Center. All necessary technical data, drawings, calculations, and other information to describe application of the BMPs must be supplied.
 - d. The report shall identify how the applicant will satisfy the requirements of the Dangerous Waste Regulations, Chapter 173-303 WAC, in the event that hazardous material is released into the ground or groundwater.
 - e. The Department of Community Development and/or a qualified consultant contracted by the County at the applicant's expense shall review the report. The County may consult with the Jefferson County Department of Health and Human Services, State of Washington Departments of Health or Ecology, independent reviewer, or any other parties, as determined at the County's discretion.
5. Establish a written agreement with the County providing that all employees at the mining site will be notified that the operation lies above an Aquifer Recharge Area and all employees shall receive documented annual training concerning all measures set forth by the BMPs established in the reports required above.
6. Mining operations located within a designated Aquifer Recharge Area shall at all times comply with Olympic Air Pollution Control Authority/Olympic Region Clean Air Agency permit requirements. Prior to operation, the proponent shall submit documentation from Olympic Air Pollution Control/Olympic Region Clean Air Agency to the Community Development Department verifying that the

operation is in compliance with Olympic Air Pollution Control permit requirements.

7. Mining operations located within a designated Aquifer Recharge Area shall engage a third-party, selection of which is approved in advance by the County, to monitor compliance with regulations and conditions pertaining to their NPDES/State Waste Discharge Permit. Reports shall be prepared and distributed as required in the NPDES/State permit, with copies to the County each month unless the permit requires quarterly reporting in which case copies will be provided to the County quarterly.
8. Mining operations located within a designated Aquifer Recharge Area shall submit an annual report to the County evaluating implementation of the Department of Natural Resources-approved Surface Mine Reclamation Plan. A qualified, independent consultant approved by the County shall prepare the report. The report shall identify how restoration of the site compares to the approved Reclamation Plan and whether any corrective action is contemplated by the applicant or required by the Department of Natural Resources.
9. The proponent shall submit quarterly inspections prepared by a third party selected by Jefferson County which examines the activities within the MRL overlay to assure compliance with the conditions of approval and mitigation measures of applicable codes, statutes and ordinances. FHM, Pope Resources, and any future permit holders and/or landowners shall allow unlimited access to Jefferson County or other governmental agencies for the purpose of inspection and determination of compliance with applicable conditions of approval and applicable statutes, codes, and ordinances.
10. Uses within the Wahl Lake area and Meridian area MRL overlay will be limited to extraction and transportation via a conveyor system to the Shine Pit hub. No heavy equipment maintenance or crushing operations shall be allowed in this MRL overlay.
11. Mining will be limited to a maximum depth of ten (10) feet above the seasonal high water table, which shall be established and monitored pursuant to standard techniques and verified through independent review as arranged by the County at the applicant's expense.
12. Maximum "disturbed area" [as that term is defined at RCW 78.44.031(5)] size shall be determined in consultation with Department of Natural Resources, but shall not exceed the lesser of 40 acres or the appropriate size for a specific proposed site according to consideration and implementation of the 'best management practices' promulgated by DNR. Reclamation shall be conducted on an on-going basis, pursuant to progressive segmental reclamation standards and according to the specific mining segment sizes and timelines established in DNR-approved Reclamation Plans.
13. During mining operations, dust shall be controlled by the proponent, through means of watering or other methods that are acceptable to the SEPA Responsible Official.

14. The application for a conveyor and pier facility for barge loading in the Hood Canal has previously received a threshold Determination of Significance (DS) from Jefferson County, requiring the preparation of a project-action Environmental Impact Statement (EIS). Transportation of extracted materials to anticipated markets shall be a component of the environmental review of any extraction permit applications. Any permit issued shall be based on the transportation methods and anticipated rate of transport stated in the project application. Subsequent to extraction project approval, any substantial change in the rate of extraction associated with that extraction proposal shall require either a new or amended permit, and potentially a new threshold determination issued by Jefferson County as is allowed by WAC 197-11-600(3)(b)(i).
15. A periodic review process shall be established in conjunction with any future mineral extraction or related permits granted for activities in or associated with the current and newly adopted MRL overlays in the Thorndyke Tree Farm. At five (5) year intervals from permit issuance, DCD will conduct a periodic review process, equivalent to a Type II permit process under Section 8 of the UDC, including applicable public notice provisions and appeal rights, to determine whether the site is operating consistent the most current standards and to establish other conditions as necessary to mitigate identifiable environmental impacts. Written notice that periodic review is commencing shall be provided to the public and to agencies with jurisdiction. The notice shall explain the purpose and intent of the periodic review process and other relevant details.

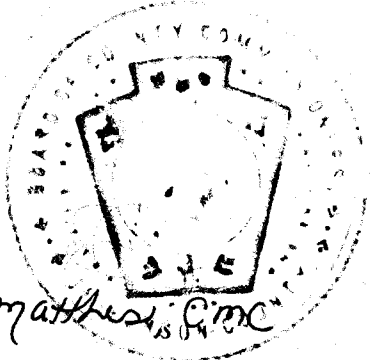
Section Three: The Comprehensive Plan Land Use Map is hereby amended to reflect the addition of these two newly-adopted Mineral Resource Overlay districts.

Section Four: Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

APPROVED AND ADOPTED this 6th day of July, 2004.

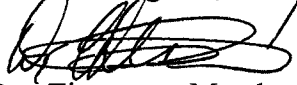
SEAL:

ATTEST:


Julie Matthes, CMC
Deputy Clerk of the Board

JEFFERSON COUNTY
BOARD OF COMMISSIONERS


Glen Huntingford, Chairman


Dan Titterness, Member



Patrick Rodgers, Member

EXHIBIT A

REVISED MRLO LEGAL

525 Acres – More or Less
Meridian Extraction Area

The southerly 1,125 feet (plus or minus) of the SE $\frac{1}{4}$,
EXCEPT west 500 feet of said southerly 1125 feet,
Section 1, Township 27 N, Range 1 W, W.M.,
The east $\frac{1}{2}$ of Section 12, Township 27 N, Range 1 W, W.M.
EXCEPT the west 500 feet of the east $\frac{1}{2}$ of said Section 12,
The North 150 feet (plus or minus) of the NE $\frac{1}{4}$,
Section 13, Township 27 N, Range 1 W, W.M.
The North 150 feet (plus or minus) of the NW $\frac{1}{4}$,
Section 18, Township 27 N, Range 1 E, W.M.,
The SW $\frac{1}{4}$ of Section 7, Township 27 N, Range 1 E, W.M.,
The SW $\frac{1}{4}$ NW Section 7 Township 27N, Range 1 E W.M.

156 Acres – More or Less
Wahl Lake Extraction Area

LEGAL DESCRIPTION

THAT PORTION OF SECTION 1, TOWNSHIP 27 NORTH, RANGE 1 WEST, W.M., IN JEFFERSON COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
COMMENCING AT A 3" DIAMETER ALUMINUM MONUMENT MARKING THE NORTHEAST CORNER OF SAID SECTION 1; THENCE SOUTH 1 36'37" WEST ALONG THE EAST LINE OF SAID SECTION 1 A DISTANCE OF 906.69 FEET; THENCE NORTH 88 04'20" WEST 1533.75 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 1 55'40" WEST 3279.46 FEET; THENCE NORTH 88 04'20" WEST 363.79 FEET; THENCE NORTH 37 39'30" WEST 1305.08 FEET; THENCE NORTH 79 39'32" WEST 1535.88 FEET; THENCE NORTH 1 55'40" EAST 2048.97 FEET; THENCE SOUTH 88 04'20" EAST 2714.79 FEET TO THE POINT OF BEGINNING.

9 Acres – More or Less
Conveyor and Maintenance Road Easement

A 60 FOOT WIDE STRIP LOCATED WITHIN THE NORTH HALF OF SECTION 6, TOWNSHIP 27 NORTH, RANGE 1 EAST, W.M. AND WITHIN THE EAST HALF OF SECTION 1 TOWNSHIP 27 NORTH, RANGE 1 WEST, W.M., IN JEFFERSON COUNTY, WASHINGTON, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 6; THENCE NORTH 87 46'49" WEST ALONG THE NORTH LINE THEREOF 1219.72 FEET TO THE POINT OF BEGINNING OF THIS CENTERLINE; THENCE SOUTH 2 14'31" WEST 157.83 FEET; THENCE SOUTH 69 02'13" WEST 1498.40 FEET; THENCE SOUTH 64 05'45" WEST 2966.83 FEET TO THE COMMON LINE BETWEEN SAID SECTIONS 1 AND 6; THENCE CONTINUING SOUTH 64 05'45" WEST 1742.15 FEET TO THE EAST LINE OF A LEASE AREA AS DESCRIBED AND DEPICTED ON A RECORD-OF-SURVEY RECORDED IN VOLUME 23 OF SURVEYS, PAGE 29, AUDITOR'S FILE NO. 443672, AND THE POINT OF TERMINATION OF THIS CENTERLINE.
THE SIDELINES OF THIS EASEMENT SHALL BE LENGTHENED OR SHORTENED, AS THE CASE MAY REQUIRE, SO THAT THEY TERMINATE AT THE NORTH LINE OF SAID SECTION 6 AND THAT THEY TERMINATE AT THE EAST LINE AND ABOVE SAID LEASE AREA.

Jefferson County 1989
Shoreline Master Program

SHORELINE MANAGEMENT MASTER PROGRAM

**FOR JEFFERSON COUNTY AND
PORT TOWNSEND,* WASHINGTON**

**ADOPTED MARCH 7, 1989
WITH REVISIONS
AUGUST 16, 1993
AUGUST 26, 1996
FEBRUARY 6, 1998**

*** References to the City of Port Townsend no longer apply to the Jefferson County Shoreline
Management Master Program**

PREFACE

In November 1972, the people of the State of Washington enacted the Shoreline Management Act (RCW 90.58). The primary purpose of the act is to provide for the management and protection of the state's shoreline resources by planning for reasonable and appropriate uses. The law provides a two-tier planning effort by the state and local government. By law, the city and county are each responsible for the following:

1. Development of an inventory of the natural characteristics and land use patterns along shorelines covered by the act.
2. Preparation of a "Master Program" to determine the future of the shorelines.
3. Development of a permit system to further the goals and policies of both the act and the local Master Program.

HOW THE PLAN WORKS

The Jefferson-Port Townsend Shoreline Management Master Program is a planning document that outlines goals and policies for the shorelines of the county and city. It is also a regulatory ordinance with performance standards for development intended to implement the goals and policies.

When planning a project near the shoreline, consult with the Jefferson County Planning and Building Department or the City of Port Townsend. The county or city shoreline administrator will determine whether a shoreline permit is required and provide assistance in the permit application process.

All shorelines subject to the Shoreline Management Act are given a shoreline environmental designation. This designation system is designed to encourage uses most appropriate for particular areas and to enhance the character of that shoreline environment. The shoreline designations are found on the map supplied with this program and defined in Appendix "A".

Shoreline uses are classified as "primary", "secondary", or "conditional", in order of preference or appropriateness on a particular shoreline. Secondary and conditional uses, as well as variances, require review by the Jefferson-Port Townsend Shoreline Management Advisory Commission prior to action by the Jefferson County Board of Commissioners or the Port Townsend City Council. In addition, permits issued by local governments for conditional uses and variances require final approval from the State of Washington.

TABLE OF CONTENTS

SECTION 1	RECITALS.....	1
1.10	FINDINGS.....	1
1.20	PURPOSES.....	1

1.30	TITLE.....	4
SECTION 2	DEFINITIONS	5
SECTION 3	SCOPE.....	20
3.10	GEOGRAPHICAL JURISDICTION	20
3.20	LIBERAL CONSTRUCTION.....	21
3.30	APPLICABILITY	22
3.40	EXEMPTIONS.....	23
	3.401 Administration	23
	3.402 Permit Exemptions.....	23
SECTION 4	SHORELINE DESIGNATIONS AND PROJECTS	28
	CLASSIFICATIONS	
4.10	SHORELINE ENVIRONMENTAL DESIGNATIONS.....	28
	4.101 Aquatic	28
	4.102 Natural.....	30
	4.103 Conservancy	30
	4.104 Suburban.....	31
	4.105 Urban.....	31
	4.106 Port Townsend Urban Waterfront Special District.....	33
4.20	PROJECT CLASSIFICATIONS	35
	4.201 Primary	36
	4.202 Secondary.....	36
	4.203 Conditional	37
	4.204 Prohibited	37
	4.205 Unclassified.....	38
4.30	SHORELINES OF STATE-WIDE SIGNIFICANCE.....	38
4.40	CLASSIFICATION TABLE	39
SECTION 5	POLICIES AND PERFORMANCE STANDARDS	41
5.10	ADVERTISING.....	42
5.20	AGRICULTURE.....	43
5.30	AQUACULTURE	44
5.40	BOAT LAUNCHES	50
5.50	COMMERCIAL DEVELOPMENT	51
5.60	DOCKS, PIERS AND FLOATS.....	53
5.70	DREDGING.....	56
5.80	FOREST MANAGEMENT.....	58
5.90	INDUSTRIAL AND PORT FACILITIES.....	61
5.100	LANDFILLS.....	63
5.110	MARINAS.....	65
5.120	MINING	67
5.130	MOORING BUOYS.....	68
5.140	PARKING FACILITIES	69

5.150	RECREATIONAL FACILITIES.....	70
5.160	RESIDENTIAL DEVELOPMENT.....	71
5.170	SCIENTIFIC AND EDUCATIONAL FACILITIES.....	74
5.180	SHORE DEFENSE WORKS.....	75
5.190	TRANSPORTATION FACILITIES.....	77
5.200	UTILITIES	79
SECTION 6	ADMINISTRATION	81
6.10	PROGRAM ADMINISTRATION	81
6.20	PUBLIC HEARINGS.....	82
6.30	COUNTY COMMISSIONERS AND CITY COUNCIL.....	83
6.40	APPLICATION	83
6.401	Procedure	84
6.402	Public Notice.....	85
6.403	Bonds.....	85
6.404	Revisions	85
6.405	Expiration	87
SECTION 7	VARIANCES	88
7.10	GENERAL VARIANCES.....	88
7.101	Application	88
7.102	Public Hearing.....	88
7.103	Review	88
7.104	Criteria.....	89
7.105	Approval	90
7.20	ADMINISTRATIVE VARIANCES.....	90
SECTION 8	PROGRAM REVISIONS.....	91

SECTION 9	LEGAL PROVISIONS	92
9.10	VIOLETIONS AND PENALTIES.....	92
	9.101 Court Action.....	92
	9.102 General Penalty.....	92
	9.103 Violator's Liability.....	93
	9.104 Permit Condition Violations	93
9.20	APPEALS.....	93
	9.201 Administrative Appeals.....	93
	9.202 Permit Appeals.....	93
9.30	SEVERABILITY	94
9.40	EFFECTIVE DATE.....	94
9.50	ADOPTION.....	95

APPENDIX "A"	Common Description of Environment Designations	96
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APPENDIX "B"	Environment Designations (attached map).....	103
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ADMINISTRATIVE INTERPRETATIONS

Section		
5.160	Residential Setbacks	105
2.12	Definition – Average Grade Level.....	107
2.92	Definition – Shorelands.....	107
3.402(11)	Exemption.....	107
9.202	Permit Appeals.....	107

SECTION 1

RECITALS

SUBSECTIONS

- 1.10 Findings
- 1.20 Purposes
- 1.30 Title

1.10 FINDINGS

The Jefferson County Board of Commissioners and the Port Townsend City Council find that:

1. The Washington State Shoreline Management Act of 1971 as a law of the State of Washington requires that counties and cities incur certain duties, obligations, and responsibilities with regard to implementation of the act.
2. Jefferson County and the City of Port Townsend, through a jointly created and maintained shoreline management advisory commission, have performed the necessary prerequisites for the establishment of a master program such as preparing a shoreline inventory, delineating goals and policies, conducting extensive citizen informational and educational measures, and holding numerous public meetings and hearings.
3. The establishment of this Master Program will promote the public health, safety, and general welfare by serving as both a guide and regulation for the future development of the valuable shoreline resources of Jefferson County and the City of Port Townsend.

1.20 PURPOSES

The purposes of this Master Program are:

1. To carry out the responsibilities imposed on Jefferson County and the City of Port Townsend by the Washington State Shoreline Management Act (RCW 90.58).
2. To promote the public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of Jefferson County and the City of Port Townsend,
3. To further, by adoption, the policies of RCW 90.58, and the goals of this Master Program, both which hereafter follow.

Shoreline Management Policies

The Washington State Legislature finds the shorelines of the state are among the most valuable and fragile of its natural resources and there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition, it finds that over increasing pressures of additional uses are being placed on the shorelines, necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership and that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state which, at the same time, shall be consistent with public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to ensure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while generally protecting public rights of navigation and corollary rights incidental-thereto.

The legislature declares the interest of all people shall be paramount in the management of shorelines of state-wide significance. The Washington State Department of Ecology, in adopting guidelines for shorelines of statewide significance, and local government, in developing Master Programs for shorelines of state-wide significance, shall give preferences to uses in the following descending order of priority:

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

In the implementation of this policy, 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 that are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent on use of the state's shorelines. Alteration 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, parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments that are particularly dependent on their location or use of the shorelines of the state, and other developments that will provide an opportunity for substantial numbers of the people to enjoy the shoreline 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 interference with the public's use of the water. Shorelines of state-wide significance are listed in Section 4.30.

Goals

1. Economic Development: To encourage utilization of economic resources to improve the standard of living for residents of Jefferson County and the City of Port Townsend, at the same time assuring that such resource utilization is compatible with the conservation element.
2. Public Access: To provide and maintain a safe, convenient, and balanced system of public access. A system that increases the amount and diversity of opportunity for the public to enjoy the shorelines of the state while respecting the rights of private ownership. A system that is respectful of fragile natural features of the shorelines and strives to maintain the quality of life enjoyed by the shoreside community.
3. Circulation: To recognize the importance of all types of circulatory systems to our region and to create and maintain a circulatory network capable of delivering people, goods, and services at the highest level of convenience, safety, reliability, and economy. Yet we do not want unpleasant side effects, so we wish to see the secondary effects of circulatory system developments are accounted for in the planning of such systems. Circulation planning must be compatible with land use planning.
4. Recreational: To seek and provide proper recreational opportunities for local people. To encourage the proper development of recreational sites for visitors and to assure the management of present sites in a manner that will maintain and preserve the very resources that have created the demand for their use.
5. Shoreline Use: To promote the best possible pattern of land and water uses, to assure a minimum of conflict between uses, to assure that individual uses are placed on sites appropriate to such uses, to assure that lands and waters of specific natures are available to uses that need such special types of lands and waters, to see that all the uses needed by the region have a place, and to generally devise a pattern beneficial to the natural and human environments.
6. Conservation: To conserve and enhance the natural resources including scenic vistas, estuaries, beaches, shorelines, fragile ecological areas, fish, wildlife, timber, and land, water, and air.
7. Historical and Cultural: To protect and restore areas and sites having historical, cultural, educational, or scientific value.
8. Restoration: To encourage development in areas that have been previously blighted or degraded so such areas may be renewed or restored to a natural or useful condition.
9. Water quality: Development should be located, designed, constructed, and operated so as not to degrade water quality as measured by State water quality standards.

1.30 TITLE

This document shall be known and may be cited as the Jefferson-Port Townsend Shoreline Management Master Program. This document may refer to itself as "this Master Program".

SECTION 2

DEFINITIONS

Definitions given for the terms in this Master Program apply only to their use under the jurisdiction of this Master Program as defined in Chapter 90.58 RCW. Some terms may have different definitions and applications under other regulations and ordinances.

When not consistent with the context, words used in the present tense shall include the future, the singular shall include the plural, and the plural shall include the singular.

The word "shall" means mandatory, the word "should" means recommend by but not required, and the word "may" means permissive.

For the purpose of this Master Program, certain words and terms shall be interpreted or defined as follows:

1. **Accessory use:** A use that is demonstrably subordinate and incidental to the principle use and which functionally supports its activity.
2. **Accretion:** Slow addition of land by depositing of water-borne sediment through the net effect of wave action and longshore drift.

3. **Act:** The Washington State Shoreline Management Act (RCW 90.58), as amended.
4. **Advertising:** Publicly displayed messages or signs, billboards, placards, or buildings that direct attention to promotion of a business, service, or product. On-premise advertising is that which is actually located on the site of the business or service advertised.
5. **Agriculture:** The cultivation of soil, production of crops, or the raising of livestock.
6. **Applicable Master Program:** The Master Program approved or adopted by the Washington State Department of Ecology pursuant to RCW 90.58.090 or RCW 90.58.190.
7. **Aquaculture:** The culture or farming of food fish, shellfish, or other aquatic plants or animals.

8. **Aquatic:** All water bodies, including marine waters, lakes, rivers, and streams and their respective water columns and underlying lands, which are defined as shorelines of the state.
9. **Archaeology:** The systematic recovery by scientific methods of material evidence remaining from man's life and culture in past ages, and the detailed study of this evidence.
10. **Associated wet lands:** Those marshes, bogs, swamps and similar water retention areas that are in proximity to and influence or are influenced by streams, rivers, lakes, or tidal waters [reference WAC 173-22-030(5)as amended].
11. **Backshore:** The area wetted by storm tides but normally dry between the coastline and the high tide line. It may be a narrow gravel berm below a sea bluff or a broader complex of berms, marshes, meadows, or dunes landward of the high tide line.
12. **Average grade level:** The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property that will be directly under the proposed building or structure. In the case of structures to be built over the water, the average grade level shall be the elevation of the ordinary high water. The calculation of the average grade level shall be made by averaging the elevations at the midpoint of the proposed building or structure.*
[*See *Administrative Interpretation, Page 107*]
13. **Barrier beach:** An accretion shore form of sand and gravel that has been deposited by longshore drift, like storm barriers, in front of bluffs, bays, marshes, and estuaries.

14. **Bar:** Similar to spits and hooks, though generally not attached to the mainland during periods of high water.
15. **Beach:** A relatively level land area contiguous with the sea and generally composed of sand, rock or mud.
16. **Beach feeding:** A process by which beach material is deposited at one or several locations in the updrift portion of a driftway. The material is then naturally transported by a wave's down drift to stabilize or restore eroding beaches or berms.
17. **Berms:** A linear mound of sand or gravel that is placed parallel to the shore at or above the ordinary high water mark.
18. **Boat Launch:** A slab, pad, plank, rail, or graded slope used for launching boats by means of a trailer, hand, or mechanical device.
19. **Bog:** A shallow water area that may be filled by sedimentation and the decaying of vegetation [reference WAC 173-22-030(5)].
20. **Breakwater:** An offshore structure generally built parallel to the shore that may or may not be connected to land. Its primary purpose is to protect a harbor, moorage, or navigational activity from wave and wind action by creating a still water area along the shore. A secondary purpose is to protect the shoreline from wave-caused erosion. Most breakwaters in the Pacific Coast area are rip-rapped, mound construction. Several include ancillary sand by-passing operations.
21. **Bulkheads:** A wall-like structure generally placed parallel to shore to retain an upland and fill prone to sliding or sheet erosion, and to protect an upland from erosion by wave action. Bulkheads are normally lighter than seawalls and similar to structures termed "revetments".
22. **Campground:** An outdoor area established for overnight accommodation of recreational user.
23. **City:** The incorporated City of Port Townsend, Washington.
24. **Coastline:** The highest landward line of long term marine water effect upon the land.
25. **Commercial:** Uses and facilities that are involved in wholesale or retail trade or business activities.
26. **Conditional use:** . A use, development, or substantial development which is classified as a conditional use or is not classified within the Master Program. A use which varies from the designated uses is considered a conditional use.
27. **Conservancy:** An area with valuable natural, cultural, or historical resources (reference Section 4.20).
28. **County:** Jefferson County, Washington.
29. **Creek:** A small stream; often a shallow or intermittent tributary to a river. Surface water run-off flowing in a natural or modified channel that is drawn by gravity to progressively lower levels and eventually to the sea.
30. **Department:** The Department of Ecology.
31. **Development:** A use consisting of the construction or exterior alteration of structures; dredging, drilling, dumping, filling, and removal of any sand, gravel, or minerals; constructing bulkheads, driving piles, or placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the surface of

- the waters overlying lands subject to the Shoreline Management Act and this Master Program at any state of water level.
32. **Dike:** An artificial dirt or rock rip-rap bank that parallels a stream to retard erosion or prevent flooding.
33. **Dock:** A fixed structure floating upon a water body.
34. **Dredging:** The removal of earth, sand, gravel, silt, or debris from the bottom of a stream, river, lake, bay, or other water body and associated wetlands.
35. **Driftway:** The foreshore area that connects a feeder bluff and its accretion shore from where sand or gravel is deposited by net effect of wave action and longshore drifts.
36. **Ecological:** Pertaining to the interrelationship of living things to one another and to their environment.
37. **Erosion:** The group of natural processes including weathering, dissolution, abrasion, corrosion, and transporting by which earthy or rocky material is removed from any part of the earth's surface.
38. **Estuary:** That portion of a coastal stream influenced by the tide of marine waters into where it flows and where the seawater is diluted with fresh water derived from land drainage.
39. **Exempt developments:** Those developments which are not required to obtain a substantial development permit under RCW 90.58.030(3)(e), but which must otherwise comply with applicable provisions of the Shoreline Management Act and the Master Program.
40. **Exemption:** Authorization from Jefferson County which establishes that an activity is exempt from substantial development permit requirements under WAC 173-27-040, but subject to regulations of the Shoreline Management Act and this Master Program.
41. **Extreme low tide:** The lowest line of the land reached by a receding tide.
42. **Fair market value:** For a development, it is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment or materials.
43. **Feeder bluff:** A shore or sea bluff whose eroding material transported by longshore drift and provides the building blocks and nourishment for spits, bars, hooks, and other accretion shore forms.

- 44. **First class tidelands:** The beds and shores of navigable tidal waters lying within or in front of the corporate limits of any city, or within one mile thereof, upon either side and between the line of ordinary high tide and the inner harbor line, and within two miles of the corporate limits on either side and between the line of ordinary high tide and the line of extreme low tide.
- 45. **Float:** A floating structure that is moored, anchored, or otherwise secured in the water that is not connected to the shore line.
- 46. **Flood Plain:** That area adjoining rivers, streams, lakes, or coastal water subject to flooding.

- 47. **Floodway:** Those portions of the area of a river valley lying streamward from the outer limits of a water course upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually; the floodway being identified under normal conditions by changes in surface soil conditions or changes in types

or quality of vegetative ground cover conditions. The floodway shall not include those lands that can reasonably be expected to be protected from waters by flood control devices contained by or maintained under license from the federal government, the state, or a political subdivision of the state.

48. **Forestry:** Methods used for the protection, production, harvesting, and transporting of timber resources.
49. **Gabion:** A mass of rock, rubble, or masonry tightly enclosed in wire mesh, forming massive blocks that are used to form walls on beaches to prevent wave erosion or as foundations for breakwaters or jetties.
50. **Groin:** A wall-like structure extending seaward from and usually perpendicular to the shore into the intertidal zone. Its purpose is to build or preserve an accretion beach on its updrift by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length. A groin is sometimes built in a series as a system and may be permeable or impermeable, high or low, and fixed or adjustable.
51. **Guidelines:** Those standards adopted to implement the policy of the Shoreline Management Act for regulation of use of the shorelines of the state prior to adoption of the master programs and which serve as criteria in the development of the Jefferson County Shoreline Management Master Program.
52. **Harbor area:** The area of navigable tidal waters as determined in Section 1 of Article 15 of the Washington State constitution, which shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.
53. **Height:** A measurement from average grade level to the highest point of a structure. Television antennas, chimneys, and similar appurtenances are not used in calculating height, except where they obstruct the view of a substantial number of residences, or where this Master Program provides otherwise. Temporary construction equipment is not used in calculating height.
54. **Historic:** Having considerable importance or influence in history; historical.
55. **Industry:** The production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of materials or production is considered part of the industrial process.
56. **Inner harbor line:** A line located and established in navigable tidal waters between the line of ordinary high tide and the outer harbor line and constituting the inner boundary of the harbor area.
57. **Island:** A land mass completely surrounded by water.
58. **Jetty:** A structure generally perpendicular to the shore, extending through or past the intertidal zone. Jetties are built singly or in pairs at a harbor entrance or river mouth mainly to prevent accretion from littoral drift in an entrance channel, which may or may not be dredged. Jetties also serve to protect channels from storm waves or cross currents and to stabilize inlets through barrier beaches. On the Pacific Coast, most jetties are of rip-rapped, mound construction.
59. **Lake:** A body of standing water located inland, generally distinguished from marshes, bogs, and swamps by its greater depth.
60. **Landfill:** The creation of or addition to a dry upland area by depositing material into waters or onto shorelines or wet land areas.
61. **Marina:** A facility that provides launching, storage, supplies, moorage, and other accessory services for six or more pleasure and/or commercial water craft.
62. **Marsh:** An area of low-lying wet land; a fen, swamp, or bog. [reference WAC 173-22].

63. **Master Program:** The comprehensive management plan for a described shoreline and water surface area and the use regulation 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 173-16 and 173-27.
64. **Mining:** The removal of naturally occurring rock, sand, gravel, and minerals from the earth.
65. **Natural:** A shoreline possessing unique or fragile features, whether natural or cultural, that are totally or essentially unaltered from their natural state or are relatively intolerant of human use other than for passive historical, cultural, scientific, archaeological, or educational activity.
66. **Natural or existing topography:** The topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.
67. **Non-conforming use or development:** A shoreline use or development which was lawfully constructed or established prior to the effective date of the act or the applicable master program, or amendments thereto, but which does not conform to present regulations or standards of the program.
68. **Offshore:** The sloping subtidal area seaward from the low tideland.
69. **Offshore moorage device:** An offshore device anchored or otherwise attached to the sea bottom used to moor water craft (reference Subsection 5.130).
70. **Ordinary high water (mark):** That mark on all lakes, streams, and tidal waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971 or as it may naturally change thereafter; or as it may change thereafter in accordance with permits issued by the local government or the Washington State Department of Ecology; provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide, and the ordinary high water mark adjoining fresh water shall be the line of mean high water.
71. **Outer harbor line:** A line located and established in navigable waters as provided in Section 1 of Article 15 of the Washington State Constitution, beyond which the state shall never sell or lease any rights whatsoever.
72. **Parking facilities:** Areas providing for the storage of motor vehicles, including vista parking facilities.
73. **Party of record:** All persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.
74. **Performance standard:** Regulations, which include bulk and dimensional standards, that are applied to the design and function of a development or use.
75. **Permit:** Any substantial development, variance, conditional use permit, or revision authorized under Chapter 90.58 RCW, the Shorelines Management Act.
76. **Person:** An individual, firm, partnership, corporation, association, organization, agency, or any non-federal entity however designated.
77. **Pier:** A fixed, pile-supported structure.
78. **Point:** A low profile beach promontory, generally of triangular shape whose apex extends seaward.

- 79. **Ports:** Centers for waterborne commerce and traffic.
- 80. **Primary use:** A use that is deemed preferable with the definition and policy of a particular shoreline designation.
- 81. **Public Interest:** The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.
- 82. **Recreational facilities:** Facilities such as parks, trails and pathways, campgrounds, and swim rafts that provide a means for relaxation, play, or amusement.
- 83. **Residence:** A dwelling and those structures and developments within a continuous ownership that are normal appurtenances. An appurtenance is necessarily connected to the use and enjoyment of a residence and is located landward of the perimeter of a marsh, bog, or swamp and landward of the ordinary high water mark. A normal appurtenance includes a garage, deck, driveway, utilities, fences, and grading that does not exceed 250 cubic yards (except to construct a conventional drain field).
- 84. **Residential development:** The development of land and/or construction or erection of dwelling units for the purpose of residential occupancy.
- 85. **River:** A large natural stream of water emptying into any ocean, lake, or other body of water, and usually fed along its course by converging tributaries.
- 86. **Scientific and educational facilities:** Those sites, structures, or facilities that provide unique insight into our natural and cultural heritage.
- 87. **Sea wall:** A bulkhead, except its primary purpose is to artificially armor the shore from erosion by water waves and it may incidentally retain uplands or fills. Sea walls are usually more massive than bulkheads or revetments because they are designed to resist the full force of waves.
- 88. **Second class shoreland:** Land bordering on the shore of a navigable lake or river not subject to tidal flow, between the line of ordinary high water and the line of navigability and within or in front of the corporate limits of any city or within two miles thereof upon either side.
- 89. **Second class tideland:** Land over which the tide ebbs and flows outside and more than two miles from the corporate limits of any city from the line of ordinary high tide to the line of extreme low tide.
- 90. **Secondary use:** A use that is not automatically deemed preferable within the definition and policy of a particular shoreline designation (reference Section 4.20).
- 91. **Shore defense work:** Structures or modifications for the purpose of retarding shore erosion from waves or current action, protecting channels and harbors from wave action, encouraging deposition of beach materials, preventing stream bank overflow, and retaining uplands. They may consist of bulkheads, seawalls, dikes, revetments, breakwaters, jetties, groins, or gabions. Defense works are commonly constructed from quarry rock (rip-rap), treated wood, concrete, steel, and sand and gravel.
- 92. **Shorelands or shoreland areas:** Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark, floodways and contiguous floodplain areas landward two hundred feet from such floodways, and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology. Shorelands are distinguished from shorelines in that shorelines extend waterward from the ordinary high water mark to the County line, while shorelands

extend landward from the ordinary high water mark for 200 feet.* [*See *Administrative Interpretation, Page 107*]

- 93. **Shoreline Management Act:** A law passed by the Washington State Legislature in 1971 and ratified by the voters in 1972 (reference RCW 90.58).
- 94. **Shoreline permit:** A permit to conduct a development or use as defined by RCW 90.58 and this Master Program. A shoreline permit means any form of permission required under RCW 90.58 prior to undertaking activity on Shorelines of the state, including substantial development, conditional use or variance permits.
- 95. **Shorelines:** All the water area of Jefferson County, including reservoirs and their associated shorelands, together with lands underlying them, except:
 - a. Shorelines of state-wide significance.
 - b. Shorelines or segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the shorelands associated with such upstream segments.
 - c. Shorelines on lakes less than twenty acres in size and shorelands associated with such small lakes.
- 96. **Shorelines of State-wide Significance:** A shoreline of the state with respect to Jefferson County and the City of Port Townsend as identified as follows:
 - a. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark, including associated wetlands.
 - b. Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high watermark and the line of extreme low tide, which are Hood Canal from Tala Point to Foulweather Bluff, south to the Mason-Jefferson County line, including associated wetlands.
 - c. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide.
 - d. Those natural rivers or segments thereof downstream from a point where the mean annual flow is measured at one thousand cubic feet per second or more. In Jefferson County these rivers are the Clearwater River, Hoh River, and Quinault River.
 - e. Those shorelands associated with a,b, and d of this definition.
- 97. **Shorelines of the State:** The total of all shorelines and shorelines of statewide significance.
- 98. **Spit:** A narrow point of land extending into a body of water.

99. **State Master Program:** The cumulative total of all master programs approved or adopted by the Department of Ecology.
100. **Stream:** A body of running water; especially such a body moving over the earth's surface in a channel or bed, as a brook, rivulet, or river.
101. **Structure:** A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner on, above, or below the surface of the ground or water, except for vessels.
102. **Substantial Development:** Any development that:
- a. The total cost or fair market value exceeds \$2,500; or
 - b. Materially interferes with the normal public use of the water or shorelines of the state [except as provided for in Chapter 3.40].
103. **Suburban:** Areas where residential activity may approach urban density, but usually where densities permit space for small numbers of livestock, gardens, or wood lots. These areas are served by individual or community water supplies, but generally are not linked with utilities from an urban center. Commercial activities to serve the needs of the immediate area are considered an integral part of this description.
104. **Swamp:** A lowland region saturated with water [ref. WAC 173-22].
105. **Tombolo:** A causeway-like accretion spit connecting an offshore rock or island with the main shore.

106. **Transmit:** To send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination.
107. **Transportation facilities:** Passageways for motorized vehicles or trains, including but not limited to such devices as bridges, trestles, ramps, or culverts.
108. **Upland:** The higher parts of a region or tract of land which are landward of the OHWM.
109. **Urban:** An area of high intensity land use, including residential, commercial, and industrial development. This does not necessarily include all shorelines within an incorporated city, but is particularly suited to those areas planned to accommodate urban expansion.
110. **Utility:** A service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like.
111. **Variance:** A means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.
112. **Vegetative stabilization:** Planting of water-loving land vegetation upon shoreline banks, slopes, or berms to retain soil and retard erosion from surface run-off; planting of aquatic vegetation offshore to reduce wave action and retain bottom materials; and utilizing temporary structures or netting to enable plants to establish in unstable areas.
113. **Vessel:** Ship, boat, barge, or any other floating craft that is designed and used for navigation and does not interfere with the normal public use of the water.
114. **Waste disposal:** Refuse composed of garbage, rubbish, ashes, dead animals, demolition wastes, automobile parts, and similar material.
115. **Water-dependent:** A use or a portion of a use that cannot exist in any other location and requires a location on the shoreline and is dependent on the water by reason of the intrinsic nature of its operation.
116. **Water enjoyment use:** A recreational use such as a park, pier, or other use facilitating public access as a primary character of the use; or, a use that provides for passive and active interaction of a large number of people with the shoreline for leisure and enjoyment as a general character of the use and which, through location, design and operation assure the public's ability to interact with the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and most if not all of the shoreline oriented space in the facility must be devoted to the specific aspects of the use that foster shoreline interaction. Water-enjoyment uses may include, but are not limited to, restaurants, museums, aquariums, scientific/ecological reserves, resorts, and mixed use commercial enterprises provided such use conforms to the above requirements and the provisions of the Master Program.

117. **Water-oriented use:** A use or a portion of a use which is either a water-dependent, water-related, or water-enjoyment use, or any combination thereof.
Non-water-oriented use: Upland uses which have little or no relationship to the shoreline. All uses which do not meet the definition of water-dependent, water-related, or water-enjoyment are classified as non-water-oriented uses.
118. **Water-related use:** A use or portion of a use which is not intrinsically dependent on a waterfront location, but whose operation cannot occur economically without a shoreline location. These activities demonstrate a logical, functional connection to a waterfront location. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, and log storage.
119. **Waterway:** A river, channel, canal, or other navigable body of water used for travel or transport.
120. **Wet land:** Those areas within the shoreline jurisdictional boundaries that are not continuously dry and are defined as marshes, bogs, or swamps in WAC 173-22.
121. **Wetland:** Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated conditions. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. Identification of wetlands and delineation of their boundaries under the Master Program shall be performed in accordance with the criteria and indicators listed in WAC 173-22-080. These criteria and indicators along with recommended methods and additional background information can be found in the Washington State Wetland Identification and Delineation Manual, Ecology Publication #96-94.

Figure 1

Figure 2

SECTION 3

SCOPE

SUBSECTIONS

- 3.10 Geographical Jurisdiction
- 3.20 Liberal Construction
- 3.30 Applicability
- 3.40 Exemptions

3.10 GEOGRAPHICAL JURISDICTION

This Master Program shall apply to all the lands and waters in Jefferson County and the City of Port Townsend that are under the jurisdiction of the Shoreline Management Act.

There is hereby made a part of this Master Program a map that will be officially known as the "shoreline designation map," but which for the purpose of brevity shall be referred to as "the map." The official shoreline designation map shall be on file with the Jefferson County Planning and Building Department, Washington State Department of Ecology, and Washington State Code Revisor. There may be unofficial copies of the map prepared for administrative purposes (see Appendix "B"). It shall be the responsibility of the Jefferson County Planning and Building Department to keep the map current and in a readable condition.

Inasmuch as the map is an inseparable part of this Master Program, no part of the map may be altered or revised except on approval of the Washington State Department of Ecology as provided under RCW 90.58.190.

The map will show the areas of Jefferson County and the City of Port Townsend that are under the jurisdiction of this Master Program. Further, the map will show the shoreline designations as they affect the various lands and waters of Jefferson County and the City of Port Townsend.

Where uncertainty or conflict may occur in the exact location of a jurisdictional boundary line, the official designations of the Washington State Department of Ecology shall be used. Where uncertainty or conflict may occur in the exact location of a shoreline designation boundary line, the written description of the boundaries shall be used (see Appendix "A"). Additionally, should there arise a conflict between the jurisdictional map and boundary description and the criteria that establishes the shoreline jurisdiction, the criteria shall take precedence.

NOTE: See Appendix "A" for a list of marine shorelines, rivers and creeks, and lakes within the shoreline management jurisdiction.

3.20 LIBERAL CONSTRUCTION

As provided under RCW 90.58.900, the Shoreline Management Act is exempted from the rule of strict construction; the act and this Master Program shall, therefore, be liberally construed to give full effect to the purposes, goals, policies, and standards for which the act and this Master Program were enacted. On the other hand, exemptions from the act or Master Program are to be narrowly construed.

3.30 APPLICABILITY

1. This Master Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other nonfederal entity that develops, owns, leases, or administers lands, wetlands, or waters subject to this Master Program.
2. The applicability of this Master Program to federal agencies is as follows:

- a. Federal agencies shall not be required to obtain permits for developments undertaken by the federal government on lands owned in fee by the federal government unless the federal government grants or reserves to the state or local government substantial jurisdiction over activities on those lands.
 - b. The substantial development permit system shall apply to nonfederal activities constituting developments undertaken on lands subject to nonfederal ownership, lease, or easement, even though such lands may fall within the external boundaries of federal ownership.
 - c. The substantial development permit system shall apply to developments undertaken on lands not federally owned but under lease, easement, license, or other similar federal property rights short of fee ownership to the federal government.
 - d. Federal agency actions shall be consistent with the approved Washington State Coastal Zone Management Program subject to certain limitations set forth in the Federal Coastal Zone Management Act (16 U.S.C. 1451 et. seq.) and regulations adopted pursuant thereto.
3. This Master Program, including its definition, purposes, goals, policies, and performance standards, shall apply to all development that is within in whole or in part wetlands and shorelines as defined under subsection 2.121 of this Master Program. Further, all substantial development within the scope of this Master Program shall obtain a shoreline substantial development permit from Jefferson County or the City of Port Townsend in full compliance with the requirements of the Shoreline Management Act, appropriate provisions of WAC 173-27, and this Master Program, with the exception of those developments consistent with Subsection 3.40 of this Master Program.

3.40 EXEMPTIONS

3.401 ADMINISTRATION

Whenever a development is eligible for exemption under Subsection 3.402 of this Master Program, the proponent shall secure an exemption from the Planning and Building Department prior to the commencement of the development. All applications for exemptions shall be made on forms supplied by the Planning and Building Department. The application shall be accompanied by a drawing of the proposed project. Projects receiving exemptions shall be bound to the plan upon which the exemption is granted, an exemption shall expire one year after the date of issuance.

Exemptions from the substantial development permit requirements do not exempt a proposed development from compliance with the applicable policies and standards of this Master Program or other applicable federal, state, or local permit or license requirements. A conditional use or variance permit may also be required. Exemptions shall be construed narrowly.

3.402 PERMIT EXEMPTIONS

Those developments that do not require issuance of a shoreline substantial development permit are as follows. These developments require formal exemption approval by the Planning and Building Department.

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed \$2,500, if such development does not materially interfere with the normal public use of the water or shorelines of the state.
2. Those developments lawfully established prior to the effective date of the Shoreline Management Act (RCW 90.58), which was June 1, 1971. Substantial development started but not completed prior to the effective date of the act shall not continue without a permit.
3. Those ongoing developments established after the effective date of the Shoreline Management Act that have already obtained permits in full compliance with the act and related rules adopted thereafter, pursuant to WAC 173-27.
4. Developments undertaken by the federal government on lands owned in fee by the federal government, unless the federal government grants or reserves to the state or local government substantial jurisdiction over activities on those lands.
5. Construction by an owner, lessee, or contract purchaser of a single family residence for the owner's or owner's family's use; provided the residence:
 - a. Does not exceed a height of thirty-five (35) feet above average grade level.
 - b. Does not involve over-water construction and is located landward of the Ordinary High Water Mark (OHWM).
 - c. Meets all other state and local requirements of this Master Program including residential setback requirements set forth in Section 5.160 of this Master Program.

Single family residence means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership that are a normal appurtenance. An appurtenance is necessarily connected to the use and enjoyment of a single family residence and is located landward of the perimeter of a wetland. Normal

appurtenances include a garage, deck, driveway, utilities, fences, and grading that 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.

6. Normal maintenance or repair of existing lawful structures or developments, including damage by accident, fire, or elements. Non-conforming uses and developments are regulated according to WAC 173-27-080. 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 within a reasonable period after decay or partial destruction, except where repair involves total replacement that is not common practice or causes substantial adverse effects to the shoreline resource or environment.

Common replacement of existing development that has been damaged by accident, fire, or the elements means:

- a. The new development is essentially the same as the original in location, size, configuration, and external appearance .
 - b. The development was in existence and use at the time of adoption of the Washington State Shoreline Management Act (June 1971).
 - c. The replacement is completed within two (2) years after damage.
7. Construction of the normal protective bulkhead common to a single family residence, provided the bulkhead is constructed at or near, and parallel to, the ordinary high water mark. A normal protective bulkhead is constructed to protect land from erosion, not for the purpose of creating land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. Where an existing bulkhead is being replaced, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead, then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington Department of Fish and Wildlife.
 8. Emergency construction necessary to protect property from damage by the elements. An emergency is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this Master Program. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit obtained which would have been required, absent an emergency, under RCW 90.58 and this Master Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

9. Construction of a barn or similar agricultural structure on shorelands. Construction and practices normal or necessary for farming, irrigation, and ranching activities including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures, including but not limited to head gates, pumping facilities, and irrigation channels. However, a feedlot of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation shall not be considered normal for necessary farming or ranching activities. 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.
10. Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys. This exemption does not pertain to rafts, floats, or docks.
11. Construction of a new dock or placement of a single mooring buoy designed only for pleasure craft and the private non-commercial use of the owner, lessee, or contract purchaser of an adjoining single family residence; provided said development does not exceed \$2,500 in cost or fair market value and provided the mooring buoys do not extend waterward more than the minus six foot or one fathom tidal elevation as measured from the mean lower low water.* [*See Administrative Interpretation, Page 107*]
12. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands.
13. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
14. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975 (the effective date of an amendment to RCW 90.58), which were created, developed, or utilized primarily as a part of an agricultural drainage or dike system.
15. Any project with a certification from the governor pursuant to RCW 80.50.
16. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this Master Program, if:
 - a. The activity does not interfere with the normal public use of the surface waters;
 - b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
 - e. The activity is not subject to the permit requirements of RCW 90.58.550 for oil or natural gas exploration in marine waters.
17. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed

control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter 43.21C RCW.

18. Watershed restoration projects as defined herein. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

a. “Watershed restoration project” means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

- (1) A project that involves less than ten miles of streamreach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
- (2) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
- (3) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

b. “Watershed restoration plan” means a plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, a port, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21 RCW, the State Environmental Policy Act.

19. A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:

- a. The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose.
- b. The project has received hydraulic project approval by the Department of Fish and Wildlife under RCW 75.20.
- c. The local government has determined that the project is consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

20. Hazardous substance remedial actions: The procedural requirements of RCW 90.58 shall not apply to a project for which a consent decree, order or agreed order has been issued under RCW 70.105D RCW or to the Department of Ecology when it conducts a remedial action under RCW 70.105D RCW. The department shall, in consultation with the appropriate local government, assure that such projects comply with the substantive requirements of RCW 90.58, WAC 173-26 and this Master Program.

SECTION 4

SHORELINE DESIGNATIONS AND PROJECT CLASSIFICATIONS

SUBSECTIONS

- 4.10 Shoreline Environmental Designations
- 4.20 Project Classifications
- 4.30 Shorelines of State-wide Significance
- 4.40 Existing Uses and Structures
- 4.50 Classification Table

4.10 SHORELINE ENVIRONMENTAL DESIGNATIONS

The shorelines of Jefferson County, including the City of Port Townsend's shorelines, are intrinsically different. They have been designated into five categories to provide a uniform and equitable basis to guide and evaluate development proposals that take place among the different shoreline areas.

These five shoreline designations are explained below and are graphically portrayed on the shoreline designation map (see Appendix "B"). The upland shoreline designations (urban, suburban, conservancy, and natural) include wetlands as defined in this Master Program, extending to the extreme low tide level. In some instances, the upland may contain dual environmental designations. These limited instances occur where the area normally considered upland may accommodate more intense activity than the shoreline proper. The designation for all water bodies (aquatic) includes all shorelines of the state as defined in this Master Program. There is an intentional overlapping of the upland and aquatic designation in the intertidal zone. Projects encompassing the intertidal area will be reviewed for consistency with both designations.

4.101 AQUATIC

Definition

The Aquatic designation refers to all water bodies, including marine waters, lakes, rivers, and streams, and their respective water columns and underlying lands that are defined as shorelines of the state.

Policies

1. The aquatic environment should be managed for appropriate use activities, allowing either multiple use or single dominant use in areas of unique conditions, while recognizing and ensuring compatibility with adjacent upland shoreline designations.
2. Abandoned structures within the Aquatic designation should be removed when they no longer serve their permitted use unless retaining such structures will provide a net environmental benefit, for example, artificial reef effect of concrete anchors.
3. All structures placed on the water's surface should have as low a profile as possible to minimize visual intrusion.
4. Potential conflicts with adjacent uses such as commercial fishing, recreation, and navigation should be considered in the review of proposed aquatic developments. Developments should not be permitted where they would materially interfere with existing uses.
5. Aquatic developments should not locate in areas where the ecological quality of the shoreline environment would be significantly degraded.
6. Aquatic developments should be designed and located to ensure that they do not have a significant adverse impact on natural dynamic processes of shoreline formation or change.
7. Aquatic developments should make minimal and appropriate use of approved pesticides, herbicides, antibiotics, vaccines, growth stimulants, or other chemicals. Operators shall receive prior review and approval for their use from the appropriate federal and state agencies.
8. Only Federal and State approved anti-fouling agents should be used in aquatic developments.

Performance Standards

1. Structures, equipment, and materials shall be removed as soon as practicable upon the cessation of a project's operation or a structure's useful life. Any structure that is damaged or breaks away in the water shall be repaired or removed by the permittee as soon as practicable. Permittees who anticipate a temporary interruption of the use of a facility or structure may be allowed to keep it in its permitted location provided they notify and receive written concurrence from the Jefferson County Planning and Building Department. Any structure not utilized for over one (1) year shall be removed regardless of future anticipated use unless prior permission has been granted by the Jefferson County Planning and Building Department upon showing of good cause.
2. Permittees for developments in the Aquatic designation shall be required to post a performance bond or other suitable guarantee to ensure removal of all structures, equipment, and materials, should the project cease operation. The County may require security beyond that required by the state if it is determined that state requirements are not adequate to secure removal of structures.
3. Permittees shall be liable for all damages to public and private property should their structures fail. The County may require liability insurance beyond that required by the State if it is determined that state requirements are not adequate to cover damages.
4. Aquatic developments shall not be approved in narrow channels, shipping lanes, or in other areas where they are a significant hazard to navigation.
5. All structures that could interfere with navigation shall be marked in accordance with the U.S. Coast Guard Private Aids to Navigation.
6. The maximum level for noise generated in the Aquatic designation shall be 50 dBA at a distance of 100 feet. This standard shall not apply to vessels that are underway. All feasible methods shall be employed to minimize over-water noise generation.

7. Structures placed in the Aquatic designation shall blend into the surroundings to the greatest extent feasible utilizing appropriate color(s), texture, non-reflective materials, and other design characteristics.

4.102 NATURAL

Definition

A shoreline possessing unique or fragile features either natural or cultural, that are essentially unaltered from their natural state or relatively intolerant of human use other than that for passive activities. Included are those areas containing hazardous or unique environmental conditions, such as highly erosive bluffs, tidal marshes, estuaries, and active landslides.

Policy

Aquaculture developments and mechanized harvest practices involving substantial substrate modification through dredging, trenching, digging, or adverse sedimentation should be prohibited in wet lands and estuaries which are Natural environmental designations in this Master Program.

4.103 CONSERVANCY

Definition

An area with valuable natural, cultural, or historical resources or environmental conditions that should be protected, conserved, and managed to the extent that a continual supply of those resources such as soil, water, timber, fish, shellfish, or wildlife are not degraded or depleted but are maintained. Also included are areas containing sensitive environmental conditions that may limit the potential for development or use, including but not limited to steep slopes, flood prone areas, eroding bluffs, marshes, bogs, swamps, and accretion shore forms. Low density residential and recreational uses are permitted provided these activities do not significantly degrade or deplete resources and respect limiting environmental condition.

Policy

To protect, conserve, and manage existing resources and valuable historical and cultural areas in order to ensure sustained resource stabilization and that sensitive natural conditions are not subject to inappropriate uses.

4.104 SUBURBAN

Definition

Areas where residential activity may approach urban density, but usually where densities permit space for small numbers of livestock, gardens, or wood lots. These areas are served by individual or community water supplies, but generally are not linked with utilities from an urban center. Commercial activities to serve the needs of the immediate area are considered an integral part of this designation.

Policy

To provide permanent residential and recreational areas outside of urban areas, so long as development of these areas provides adequate facilities for sewage disposal, water supply, open space, and the like without severe degradation to the lifestyle that was sought initially.

4.105 URBAN

Definition

The urban environment is an area of high intensity land use, including residential, commercial, and industrial development. Urban shorelines should be designated for high intensity use or multifamily residential development. The urban designation may also be applied to areas of lower intensity use where the surrounding land use is urban and urban services are available.

Policies

1. Development in urban areas should be managed so it enhances and maintains the shoreline for a variety of urban uses, with preference given to water dependent and water related uses. Water-enjoyment uses that provide access to and enhance enjoyment of the shoreline for a substantial number of persons should also be given priority in urban areas.
2. Efficient utilization of existing urban areas in a manner consistent with this program is encouraged before further expansion into non-urban areas occurs.
3. Pedestrian and visual access should be provided to and along the urban waterfront area. Public access to and along the water's edge should be coordinated in a walkway system and linked to adjacent existing or future walkways.
4. Urban development should provide for public views to the water. Wherever possible, the waterside of shoreline buildings should include windows, doors, and public areas that enhance enjoyment of the shoreline and present an interesting, attractive view of the development from the water.
5. Development in urban areas should preserve and enhance significant architecture and historic buildings.

6. Unique natural features of the urban shoreline, such as bluffs, dunes, and wet land areas, should be preserved and protected.
7. Parking facilities should be located on the upland side of buildings away from the shoreline.
8. Internal and perimeter landscaping should be incorporated and maintained to screen parking facilities from the shoreline and adjacent properties.
9. Development within the shoreline urban area should be consistent with other adopted plans, programs, or policies.

Performance Standards

1. Development shall be limited to those uses which can be classified as a water-dependent, water-related or water-enjoyment use. Non-water-oriented development, while not preferred, may also be authorized as a conditional use provided said development recognizes the public access directive of the Shoreline Management Act and makes provisions for the public's continued and enhanced enjoyment of the shoreline. Such provisions could be the preservation of shoreline views, the establishment of a public access easement 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.
2. Provisions to enhance the public's use and enjoyment of the shorelines and waters of the state shall be included with new substantial developments or any change in principle property use to a new conditional use occurring along the shoreline.
3. Public access provisions shall:
 - a. Be of a permanent nature and shall be dedicated or otherwise protected, including recorded with the Jefferson County Auditor.
 - b. Consider, in design and availability, measures to protect private property from trespass, vandalism, littering, and the like.
 - c. Be suitably marked to as to inform the public as to the extent, location, and availability of the access.
 - d. Be completed and available for public use at the time of occupancy of the development.
4. All development shall be setback at least fifteen (15) feet from the ordinary high water mark except those portions of water-dependent uses which require water access or a shoreline location, or as provided in Section 4.106(3).
5. Unique natural features in the urban shoreline area, such as bluffs, dunes, and wet land areas, shall be preserved and protected.
6. Motor vehicle parking between a new structure and the water is prohibited. Parking shall be located no closer than fifteen (15) feet from the ordinary high water mark or unique natural areas such as bluffs, dunes, or wet land areas.
7. All new or redeveloped parking areas shall provide landscaping. Landscaping shall be provided between streets and the project site and between public access areas and parking areas, except at exits or when a building does not set back from a street.
8. No fence, wall, hedge, or barrier greater than forty-two inches in height shall be placed or enlarged nearer to the water than the building setback line. No fence, wall, or similar structure shall be placed waterward of the ordinary high water mark.

9. No development shall be approved for any new or expanded building or structure of more than thirty-five feet above average grade level that will obstruct the view of a substantial number of residences adjoining the shoreline area.
10. Run-off created by new impervious surfaces shall not increase the rate of flow or decrease the quality of storm water from pre-project conditions.
11. Urban development should provide for public views to the water. Wherever possible, the waterside of shoreline buildings should include windows, doors, and public areas that enhance enjoyment of the shoreline and present an interesting, attractive view of the development from the water.
12. Developments shall be designed so as not to block, adversely interfere with, or reduce the public's visual and physical access to the water and shorelines of the state.

4.106 PORT TOWNSEND URBAN WATERFRONT SPECIAL DISTRICT

Definition

Within the urban shoreline environment is the Special District designation of the Port Townsend Urban Waterfront. This district encompasses and includes the commercial boat basin on Thayer Street on the southwest to the Point Hudson Resort area on the northeast, including that portion fronting Admiralty Inlet. In addition to the policies and standards that follow, the Special District is subject to the policies and standards contained in the urban shoreline environment (Subsection 4.105). The district is the most intensely developed waterfront area in the city and includes two major marinas, water dependent and related commercial and industrial uses, as well as the Water Street National Historic District.

The Water Street National Historic District extends from Polk to Jackson Streets. This area is the urban commercial core of the community and is dominated by activities and businesses that are not dependent on a waterfront location. However, water-related and water enjoyment activities do exist in the form of parks, restaurants, street-end beaches, and piers that afford the public an opportunity to enjoy the town's shoreline amenity.

Policies

1. A mixture and variety of uses and activities in the Port Townsend Urban Waterfront District is encouraged, particularly those that:
 - a. Provide an opportunity for the public to actively or passively enjoy the community's waterfront amenity.
 - b. Are accessory to or support water dependent and/or water related uses.
 - c. Blend with or enhance the character and flavor of the Port Townsend Urban Waterfront.
 - d. Provide a physical link or connection open to the public between the upland and the shoreline.
 - e. Are supportive and reinforcing of the design and architectural qualities of the Water Street National Historic District when located within or adjacent to its boundaries.
2. A public pedestrian walkway system should be established along the Special District's waterfront utilizing a combination of natural beaches, boardwalks, piers, wharves, street-

ends, sidewalks, stairways, or other improvements. Although it may not be feasible for the walkway system to be continuous throughout the entire area, it should promote quality pedestrian access to and along major portions of the waterfront. The street-ends of Thayer, Decatur, Kearney, Gaines, Scott, Walker, Calhoun, Tyler, Adams, Quincy, and Monroe Streets should, at a minimum, become developed access points to the shoreline. Linkage between these street-ends should be determined by the physical characteristics of the shorelines, existing development patterns, potential for structural improvements, and other factors relevant to developing a continuous pedestrian system.

3. Existing piers and wharves along the Port Townsend Special District's waterfront should be refurbished or rebuilt in order to maintain a modern-day link with the community's maritime history. The refurbishment or redevelopment of existing structures may include a planned mixture of commercial development consistent with community and shoreline goals; however, new over-water structures shall only be developed to serve water dependent uses.

Performance Standards

1. New structures or exterior alterations of existing structures located within or immediately adjacent to the Water Street National Historic District shall not detract from the design and architectural integrity of the district. To this end, plans for development shall include exterior elevations with enough design details to be evaluated by appropriate historic preservation agencies.
2. Public access provisions shall include consideration for both physical and visual access to the shoreline. Said provisions shall be coordinated with the Port Townsend Parks Department and planned in conjunction with an approved comprehensive public access plan, when adopted, and shall provide a link between the shoreline and upland and/or connect with adjacent access provisions as exists or are planned.
3. The setback for non-water dependent elements of developments within the Port Townsend Urban Waterfront Special District shall be a minimum of fifteen (15) feet from the ordinary high water mark, except for those structures within the Water Street National Historic District where there is no standard minimum setback from the ordinary high water mark.
4. New or expanded structures within the Water Street National Historic District may extend up to fifty (50) feet in height above the average grade level of abutting improved public streets, except for structures located waterward of the ordinary high water mark, in which case the height shall not exceed thirty-five (35) feet as measured from mean higher high water (MHHW).
5. The redevelopment and revision of existing wharves and piers may be permitted to serve water dependent or water related uses. Water enjoyment and non-water oriented uses may be authorized as conditional uses on these structures, provided such uses are integrated elements to an overall redevelopment plan meeting all of the following conditions:
 - a. The redevelopment is to an existing, contributing structure within the Water Street National Historic District as recognized by the National Trust for Historic Preservation.
 - b. The structure is recognized by appropriate historic preservation agencies as having local and state-wide historic significance.
 - c. The structure has an established history of mixed uses, both water oriented and non-water oriented uses.
 - d. The redevelopment does not exceed the structure's historic, over-water footprint.

- e. Buildings and other structures located on the wharf or pier are approved by appropriate historic preservation agencies as being compatible and reinforcing of the architectural integrity of the historic district.
- f. A significant element or component of the developed area is dedicated to water dependent and water-related uses.
- g- At least one-third of the pile supported structure including a perimeter walkway is dedicated for public access and enjoyment of the shoreline. All public access provisions shall be completed and available for public use upon completion of the first component of the development.
- h. The redevelopment will not result in a reduction in the amount of physical public access to and over the water as currently exists.
- i. The City of Port Townsend shall be a party to a binding agreement to guarantee that public access and enjoyment provisions are continuously maintained.

4.20 PROJECT CLASSIFICATIONS

Development proposals are categorized within each shoreline designation as primary, secondary, conditional, or prohibited uses. This priority system determines the proposals administrative requirements and encourages activities that are compatible with each shoreline designation. In all cases, the applicant shall have the burden of proof to show consistency with the provisions of the Act and this Master Program.

During application review, the basic element or intent of a proposed development will guide in the determination of the proposal's particular use activity. When a proposal contains two or more use activities within a shoreline designation, each activity may be reviewed independently and the total project considered on the whole.

In the review of a shoreline permit, consideration will be given to the cumulative impact the project may have with similar use activities. This review is to ensure that the resulting total effect will not thwart the intent and policies of the particular shoreline environmental designation, nor result in substantial degradation of the shoreline itself.

4.201 PRIMARY

Definition

In general, those categories of uses that are deemed as being preferable with the definition and policy of a particular shoreline designation.

Criteria

Primary uses are presumed to be generally consistent with the policies and definition of the shoreline designation where it is located. Projects will be reviewed for consistency with specific goals and policies and must comply with the performance standards specified for the particular type of development being reviewed.

4.202 SECONDARY

Definition

Those uses that are not automatically deemed as being preferable within the scope of the definition or policy of a particular shoreline environmental designation.

Criteria

Applicants for shoreline substantial development permits for secondary uses will have the burden of proof to demonstrate that:

1. The proposal will not be contrary to the general intent of the Shore-line Management Act, nor shall it be contrary to the goals, policies, and performance standards of this Master Program.
2. The proposed project will not materially interfere with the public use of public lands and waters or the private use of adjacent private lands.
3. The proposed project will not cause unnecessary adverse effects on the environment or other properties and will be compatible with other permitted uses in the area.

4.203 CONDITIONAL

Definition

Those uses that are deemed least preferable within the scope of the definition and policies of a particular shoreline environmental designation. While not prohibited outright, these uses are an exception to the general rule. A conditional use permit is intended to allow for flexibility and the exercise of judgment in the application of regulations in a manner consistent with the policies of the act and this Master Program. Requests for a variance from the uses allowed within a shoreline designation shall be evaluated as a conditional use subject to the criteria of this subsection, provided uses which are prohibited shall not be authorized. A change of use from a permitted use to a conditional use requires a conditional use permit.

Criteria

Applicants for shoreline conditional use permits shall have the burden of proof to demonstrate that they are in conformance with WAC 173--27-160, as amended, and all of the following:

1. That the proposed use is consistent with the policies of RCW 90.58.020 and the policies of the Master Program.
2. That the proposed use will not interfere with the normal public use of public shorelines.
3. That the proposed use of the site and design of the project is compatible with other permitted uses within the area.
4. That the proposed use will cause no unreasonable adverse effects to the shoreline environment in which it is to be located; and
5. That the public interest suffers no substantial detrimental effect. In those limited instances where a conditional use is proposed, consideration shall be given to the cumulative impact of additional requests for similar actions in the area.

Furthermore, the Shoreline Management Act requires that permits for variances and conditional uses must be submitted to the Washington State Department of Ecology for final approval.

In authorizing a conditional use permit, special conditions may be required by Jefferson County, the City of Port Townsend, or the Washington State Department of Ecology to control or prevent adverse effects of a project or to further the policies of the Shoreline Management Act and this Master Program.

4.204 PROHIBITED

Some developments and uses by their nature are not consistent with the definition, policies, or intent of certain shoreline environmental designations. For the purpose of this program, these uses are not considered appropriate or applicable, therefore, they are not allowed. Uses that are prohibited within a shoreline environment may not otherwise be permitted without first amending the Master Program to allow said use.

4.205 UNCLASSIFIED

Unclassified uses are those uses which are not classified in the foregoing definitions or in the uses listed in Section 5. Such uses shall be reviewed as a conditional use including the applicant's additional burden to demonstrate that extraordinary circumstances preclude reasonable use of the property consistent with the provisions of the Master Program. Appeals from the administrator's decision may be made under the provisions set forth in Section 9 of this Master Program.

4.30 SHORELINES OF STATE-WIDE SIGNIFICANCE

Definition

Shorelines of state-wide significance, with respect to Jefferson County and the City of Port Townsend, are identified as:

1. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark, including their associated wetlands.
2. Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide, which are Hood Canal from Tala Point to Foulweather Bluff, south to the Mason-Jefferson County line, including their associated wetlands.
3. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters, north to the Canadian line and lying seaward from the line of extreme low tide.
4. Those natural rivers or segments thereof downstream from a point where the mean annual flow is measured at one thousand cubic feet per second or more. In Jefferson County these rivers, including their associated wetlands, are:
 - a. The Clearwater River from the confluence of Miller Creek within Section 27, Township 25 North, Range 12 West, WM, downstream, excluding federal lands, to the Quinault Indian Reservation within Section 29, Township 24 North, Range 10 West, WM.

- b. The Hoh River from the Olympic National Park boundary within Section 29, Township 27 North, Range 10 West, WM, downstream to the Hoh Indian Reservation within Section 20, Township 26 North, Range 13 West, WM.
- c. The Quinault River from the east section line of Section 33, Township 24 North, Range 8 West, WM, downstream to the Hoh Indian Reservation within Section 20, Township 27 North, Range 13 West, WM.

All development within shorelines of state-wide interest shall meet the following policies listed in descending order of preference:

Policies

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

Performance Standards

- 1. All proposed developments within shorelines of state-wide significance shall comply with the appropriate provisions of this Master Program.
- 2. Forest management development and activities situated within two hundred feet abutting landward of the ordinary high water mark within shorelines of state-wide significance shall only employ selective timber cutting so no more than thirty percent of the merchantable trees may be harvested in any ten year period of time; provided other timber harvesting may be permitted in those limited instances where the topography, soil conditions, or silvicultural practices necessary for regeneration render selective timber cutting ecologically detrimental; provided further that clear cutting of timber that is solely incidental to the preparation of land for other uses authorized by the Shoreline Management Act and this Master Program may be permitted.

4.40 CLASSIFICATION TABLE

The environmental designation and developments and uses matrix on the following page provides a graphic representation of the policies and performance standards contained in this Master Program by indicating project classifications.

The matrix lists various uses that can occur within the shoreline environment on the left column. Environmental designations (obtained from Appendix "A" and "B" for any specific location in the county or city) are listed across the top. The classification is determined by following a use line and a designation line to their mutual intersection.

The classification of a project determines the level of review that it will receive. The matrix provides a guide for the classification of project proposals.

ENVIRONMENTAL DESIGNATIONS	URBAN	SUBUR-BAN	CONSER-VANCY	NATURAL	AQUATIC*
ADVERTISING					
On-premise	S	S	S	X	C
Off-premise	C	C	C	X	X
AGRICULTURE	S	S	P	C	N/A
AQUACULTURE					
Passive Enhancement	P	P	P	C	P
Extensive Upland	P	S	S	X	N/A
Extensive Intertidal	P	S	P	S**	←
Extensive Subtidal	S	S	S	S**	←
Intensive Upland	P	S	S	X	N/A
Intensive Subtidal	S	S	S	S**	←
BOAT LAUNCHES	P	P	S	C	←
COMMERCIAL					
Water-related	P	S	S	X	←
and/or dependent					
and/or enjoyment					
Non-water dependent	C	C	C	X	X***
DOCKS, PIERS, AND FLOATS	S	S	S	C	←
DREDGING	S	S	C	X	←
FOREST MANAGEMENT	S	P	P	C	N/A
INDUSTRIAL AND PORT FACILITIES					
Water related	P	S	C	X	←
and/or dependent					
Non-water dependent	S	C	C	X	X
LANDFILLS					
Upland	P	P	S	X	N/A
Aquatic	S	C	C	X	←
MARINAS	P	S	C	X	←
MINING	C	C	C	X	←
MOORING BUOYS	S	P	P	C	←
PARKING FACILITIES					
Vistas	S	P	P	C	C
Non-vistas	S	S	C	C	C
RECREATIONAL FACILITIES					
Over-night	P	S	S	X	X
Day use	P	P	S	C	←
RESIDENTIAL DEVELOPMENT	P	P	S	X	X
SCIENTIFIC AND EDUCATIONAL FACILITIES	P	P	P	S	←
SHORE DEFENSE WORKS	S	S	S	C	C
TRANSPORTATION FACILITIES	P	S	C	C	←
UTILITIES	P	S	C	C	C

P - Primary

S - Secondary

C - Conditional

X - Prohibited

N/A - Not Applicable

← - Same as upland

* Projects in the aquatic designation that originate waterward of the extreme low tide (see Figure 3), but have been classified with an arrow ← shall be considered the same as the adjoining upland.

** See Section 5.30, Aquaculture, Policy #11

*** See Subsection 4.106, "Port Townsend Urban Waterfront Special District" for exception.

SECTION 5

POLICIES AND PERFORMANCE STANDARDS

SUBSECTIONS

- 5.10 Advertising
- 5.20 Agriculture
- 5.30 Aquaculture
- 5.40 Boat Launches
- 5.50 Commercial Development
- 5.60 Docks, Piers, and Floats
- 5.70 Dredging
- 5.80 Forest Management
- 5.90 Industrial and Port Facilities
- 5.100 Landfills
- 5.110 Marinas
- 5.120 Mining
- 5.130 Mooring Buoys
- 5.140 Parking Facilities
- 5.150 Recreational Facilities
- 5.160 Residential Development
- 5.170 Scientific and Education Facilities
- 5.180 Shore Defense Works
- 5.190 Transportation Facilities
- 5.200 Utilities

The final guidelines of the Shoreline Management Act (WAC 173-16) established a format, including topics and broad definitions, for a number of potential developments and uses that could take place in the shoreline environment. The function of this section is to establish policies and performance standard for those activities. All shoreline developments and uses are required to comply with these policies and standards when conducted within the geographical jurisdiction of this Master Program whether or not a shoreline substantial development permit is required. This section, through the administration of shoreline permit applications, implements the goals and policies of the Shoreline Management Act and this Master Program as well as the definition and policies of each shoreline environmental designation.

Although a proposed development appears to comply with the provisions of this Master Program, specific conditions that ensure such compliance may be attached as a condition of permit approval. A shoreline variance permit is required to deviate from the minimum performance standards set forth herein unless specifically stated otherwise.

The performance standards contained herein are intended to augment standards established through other land development regulations or stipulations. Where conflict arises between these and other applicable controls, the more stringent standard shall apply.

5.10 ADVERTISING

Definition

Publicly displayed messages on signs, billboards, placards, or buildings that directs attention to promotion of a business, service, or product. On-premise advertising is that which is actually located on the site of the business of service advertised.

Prohibited Uses and Activities

1. Off-premise advertising signs and billboards.
2. Flashing and blinking signs.

Policies

1. Off-premise outdoor advertising signs should be limited to areas of high intensity land use such as commercial and industrial areas outside the shoreline jurisdiction.
2. Outdoor advertising, signs and billboards should be in conformance with the standards of Jefferson County and the City of Port Townsend.
3. Vistas and viewpoints should not be degraded and visual access to the water from such vistas should not be impaired by the placement of signs.
4. Outdoor advertising signs should be located on the upland side of public transportation routes that parallel and are adjacent to rivers and water bodies, unless it can be demonstrated that views will not be substantially obstructed.
5. Artificial lighting for signs or security shall be directed or beamed away from the water, public streets, or adjacent properties so as to not cause glare or reflection that may constitute a hazard or nuisance.

Performance Standards

1. Recognized or officially delineated vistas or viewpoints shall be kept free of unnecessary signs.
2. Off-premise outdoor advertising signs and billboards are not permitted in the two hundred foot shoreline jurisdictional area.
3. On-premise advertising signs shall be constructed against or painted on buildings to minimize visual or access obstruction of the shoreline.
4. On-premise signs shall not extend in height beyond the highest exterior wall of the building to which the sign relates. Signs shall not be erected upon the roofs of structures.
5. Artificial lighting for signs shall be directed or beamed away from the water, public streets, or adjacent premises so as to not cause glare reflection that may constitute a traffic or boating hazard or nuisance.
6. Flashing and blinking signs are not permitted on the shoreline area. No sign or part thereof shall consist of banners, posters, streamers, spinners, or other similar moving devices.

7. No signs shall be constructed or operated in a manner that obscures or detracts from the effectiveness of navigational aids.

5.20 AGRICULTURE

Definition

The cultivation of soil, production of crops, or the raising of livestock.

Policies

1. Soils that are well-suited for agriculture, resources production, and open space should be protected.
2. Erosion control measures should conform to guidelines and standards established by the U.S. Soil Conservation Service and U.S. Department of Agriculture.
3. Buffer zones on permanent vegetation should be encouraged between tilled areas and associated water bodies in order to retard surface runoff, reduce siltation, and promote valuable shade for fish habitats.
4. Vegetative cover in areas subject to frequent flooding should be encouraged.
5. Pesticides should be used, handled, and disposed in accordance with provisions of the Washington State Pesticide Application Act (RCW 17.21) and the Washington State Pesticide Act (RCW 15.57) to prevent contamination and sanitation problems.
6. Livestock waste should be disposed in a manner that will prevent surface or ground water pollution.
7. Commercial feedlots should be restricted from locating on shorelines unless they can satisfactorily demonstrate no adverse environmental effects.

Performance Standards

1. Erosion control measures shall conform to guidelines and standards established by the U.S. Soil Conservation Service and the U.S. Department of Agriculture.
2. Pesticides shall be used, handled, and disposed in accordance with provisions of the Washington State Pesticide Application Act (RCW 17.21) and the Washington State Pesticide Act (RCW 15.57) to prevent contamination and sanitation problems.
3. Livestock waste shall be disposed in a manner that will prevent surface or ground water contamination.
4. Feedlots, corrals, stockyards, or facilities for the retention or storage of wastes from these areas are prohibited unless it can satisfactorily be demonstrated that no adverse environmental effects will result from such uses.
5. Watering for livestock along creeks, streams, rivers, and lakes shall demonstrate that:
 - a. No other feasible watering method is available;
 - b. Adequate provision are made to ensure existing water quality; and
 - c. Adequate provisions are made to prevent erosion of soils and destruction of vegetation.

6. Buffer zones or permanent vegetation shall be established and/or maintained between tilled or grazed areas and associated water bodies to retard surface runoff, reduce siltation, and promote valuable shade and habitat for fish or other wildlife.

SECTION 5.30 AQUACULTURE

Definition

Aquaculture is the farming or culturing of aquatic organisms.

Aquaculture encompasses a wide variety of activities including hatching, seeding, planting, cultivating, feeding, raising, and harvesting of plants and animals. These activities may have widely differing impacts on the aquatic and shoreline environment. Those activities which do not meet the definition of development in this Master Program, such as beach culturing and hand harvesting, are not subject to the shoreline permit requirements of the Shoreline Management Act and this Master Program.

Intensive aquaculture development is the rearing within structures of aquatic organisms that are fed by the operator. Intensive aquaculture developments produce wastes in the form of feces, urine, and unconsumed feed that may affect the bottom environment and water quality.

Extensive aquaculture development is the rearing within structures of aquatic organisms that feed on a naturally-occurring food supply.

Passive aquaculture is the non-structural cultivation and/or harvest of naturally occurring or artificially seeded aquatic organisms that feed on a naturally occurring food supply.

Passive aquaculture may include the cultivation and/or harvest of clams, oysters, geoducks, ghost shrimp and other organisms in intertidal or subtidal areas.

Passive aquaculture may also include measures to maintain or enhance the natural habitat characteristics necessary for successful propagation and growth of cultivated or wild aquatic organisms. On marine shorelines these measures could include adding gravel to shellfish beds in order to improve shellfish habitat or creating artificial reefs. In streams or rivers these measures could include excavating pools, placing stream bed control structures, or adding spawning gravel in order to improve fish spawning or rearing habitat. These enhancement measures would be reviewed as passive aquaculture and in addition be subject to the other applicable policies and performance standards of this Master Program.

Aquaculture can be carried out in subtidal, intertidal, upland, and fresh water areas. The subtidal area is seaward of the line of extreme low tide. The intertidal area is seaward of the ordinary high water mark and landward of the line of extreme low tide. The upland area is landward of the ordinary high water mark.

Aquaculture is further divided into **floating aquaculture**, where organisms are suspended in water by pens, nets, or lines; **seabed aquaculture** where organisms are cultivated and harvested along the bed of a body of water; and **upland aquaculture** where organisms are grown landward of the ordinary high water mark.

For the purposes of these regulations, related development such as offices, wholesale and retail sales, processing, packaging, and product storage facilities are not considered aquaculture practices and shall be reviewed as commercial development when conducted within the shoreline jurisdiction.

Bleeding of fish shall not be considered as processing if blood is collected on-site and then disposed of upland consistent with applicable regulations.

Policies

1. Jefferson County encourages aquaculture that is consistent with the County's goals of maintaining water quality and minimizing incompatible uses.
2. Potential locations for aquaculture developments are limited due to factors such as water quality, water temperature and depth, substrate, dissolved oxygen, wave action, and in marine water, salinity. Priority should be given to aquaculture development in areas suitable for it, so long as those operations do not materially interfere with existing activities or degrade natural resources.
3. Aquaculture developments should locate in areas where biophysical conditions, such as tidal currents and water temperature and depth will minimize environmental impacts.
4. Potential conflicts with adjacent uses such as commercial fishing, recreation, and navigation should be considered in the review of proposed aquaculture developments. Developments should not be permitted where they would materially interfere with existing uses.
5. Consideration should be given to the positive or negative effects that aquaculture developments may have on the aesthetic quality of the shoreline.
6. Aquaculture developments should be separated by a sufficient distance to ensure that significant adverse cumulative effects do not occur.
7. Aquaculture developments should not locate in areas where the ecological quality of the shoreline environment would be significantly degraded.
8. Aquaculture developments should be designed and located to ensure that they do not have a significant adverse impact on natural dynamic processes of shoreline formation or change.
9. Aquaculture developments should not degrade critical habitat areas. Aquaculture developments should not interfere with the migration of aquatic organisms except where specifically intended by the design or operation of the facility.
10. Preference should be given to technologies that minimize adverse impacts to navigation and to the ecological and aesthetic quality of the state's shorelines.
11. Aquaculture developments which require structures should be prohibited in wet lands and estuaries that are natural environmental designations in this Master Program.
12. Aquaculture activities should make minimal and appropriate use of approved pesticides, herbicides, antibiotics, vaccines, growth stimulants, or other chemicals.
13. Only Federal and State approved anti-fouling agents should be used in aquaculture developments.
14. Established aquaculture operations should be protected from incompatible uses which may seek to locate nearby. Demonstration of a probability that such an adjacent use would result in damage to, or destruction of such an aquaculture operation should be grounds for the denial of that use.

Performance Standards

1. Applications for shoreline permits for aquaculture developments shall provide relevant information as follows:

- a. ALL AQUACULTURE DEVELOPMENTS

Applications for shoreline permits for all aquaculture developments shall include a management plan which shall contain a description of:

- (1) Existing shoreline and bathymetric features;
- (2) Schedule of development;
- (3) Species to be cultured and their sources;
- (4) Culture methods;
- (5) Types and dimensions of structures;
- (6) Estimated pounds, numbers, or volume to be harvested per year and maximum pounds, numbers, or volume to be cultured at any time.
- (7) Feed type and amount and feeding method, if applicable.
- (8) Types, quantities and treatment schedules for proposed use of pesticides, herbicides, hormones antibiotics, vaccines, or other chemicals.
- (9) Predator control methods.
- (10) Anticipated levels of noise, light, and odor and plans for minimizing their impacts.
- (11) Waste disposal plan listing the types and quantities of anticipated waste materials and proposed disposal methods. This plan shall include mortalities, human wastes, aquaculture by-products, toxic materials, and operational solid wastes such as feed bags and garbage.
- (12) Jefferson County shall reserve the right to require additional information as deemed appropriate.

- b. EXTENSIVE INTERTIDAL AND SUBTIDAL AQUACULTURE DEVELOPMENTS

- (1) Population densities and location of geoducks, hardshell clams, Dungeness crabs, fish, sea urchins, sea cucumbers, scallops, abalone, and shrimp and attached marine vegetation including eel grass, kelp beds, and macro algae.
- (2) Description of tidal current velocities and directions and the magnitude and direction of prevailing storm winds and waves.

- c. INTENSIVE SUBTIDAL AQUACULTURE DEVELOPMENTS

Applications for shoreline permits for intensive subtidal aquaculture developments shall include a site characterization and baseline survey if required by the Recommended Interim Guidelines for the Management of Salmon Net Pen Culture in Puget Sound, the Preferred Alternative of the Final Programmatic EIS for Fish Culture in Floating Net-Pens, or subsequently State approved documents.

- d. INTENSIVE AND EXTENSIVE UPLAND AQUACULTURE DEVELOPMENTS

Applications for shoreline permits for intensive and extensive upland aquaculture developments shall provide a detailed analysis of potential impacts to animals, plants, and water quality due to the discharge of waste water from the development in conformance with the applicable Washington State Department of Ecology waste water discharge permit.

- e. Applications for shoreline permits for floating aquaculture development shall include a visual assessment conforming to the Washington State Department of Ecology's Aquaculture Siting Study and a photo or computer simulation demonstrating the

development's appearance from the nearest shore, from atop the nearest shore bank, and from typical shore and bank-top view points, if any, within 1,500 feet. Delayed release enhancement facilities which are sited in existing marinas shall not be required to provide this information.

- f. Applications for shoreline permits for subtidal aquaculture developments shall provide proof of application for an aquatic lands lease from the Washington State Department of Natural Resources.
- g. Applications for the mechanical or hydraulic harvesting of subtidal and intertidal benthic infauna such as hardshell clams or geoducks shall provide a written assessment for each tract area containing the following information:
 - (1) Tract size and location;
 - (2) Harvesting techniques;
 - (3) Resource and resource abundance (amount, distribution, and diversity);
 - (4) Associated flora and fauna (amount, distribution, and diversity);
 - (5) Substrate composition;
 - (6) Relationship to an approved state-wide management plan;
 - (7) Relationship to other permits, rules, and regulations;
 - (8) Assessment of tidal current direction and velocity;
 - (9) Proposed method for marking tract boundary.

2. Operators of aquaculture developments shall provide relevant reports as follows:

a. EXTENSIVE INTERTIDAL AND SUBTIDAL AQUACULTURE DEVELOPMENTS

Operators of extensive intertidal and subtidal aquaculture developments shall submit to the Jefferson County Planning and Building Department:

- (1) Copies of any regular reports required by the Washington State Department of Fisheries regarding environmental assessment;
- (2) Timely notification of mortalities above the predicted rate and the likely cause.

b. INTENSIVE SUBTIDAL AQUACULTURE DEVELOPMENTS

Operators of intensive subtidal aquaculture developments shall submit the following to the Jefferson County Planning and Building Department:

- (1) Copies of reports detailing the findings of regular monitoring as required by the Recommended Interim Guidelines for the Management of Salmon net Pen Culture in Puget Sound, the Preferred Alternative of the Final Programmatic (EIS) for Fish Culture in Floating Net-Pens, National Pollutant Discharge Elimination System permits (NPDES) or subsequently adopted documents;
- (2) Timely notification of mortalities above the expected rate and the likely cause.
- (3) Application records of any chemicals used in conjunction with the operation including feed hormones or additives for disease control, tank cleaning chemicals, oil or other hazardous material.

3. Aquaculture developments shall not be approved in narrow channels, shipping lanes, or in other areas where they are a significant hazard to navigation.

4. Applicants for floating aquaculture developments shall demonstrate through a visual assessment that the development would have no significant adverse impact on the aesthetic quality of the shoreline.
5. Floating aquaculture developments shall be sited and oriented in a manner that most effectively disperses their waste products and minimizes water quality degradation.
6. Aquaculture developments should be separated by a sufficient distance to ensure that significant adverse cumulative effects do not occur.
7. Intensive aquaculture developments shall be sited no closer than two (2) nautical miles from the mouths of Type 1 rivers and streams and one nautical mile from Type II streams provided that a lesser standard may prevail based on a finding by the Washington Department of Fisheries that no adverse impact would result. Delayed release finfish developments, hatcheries, and upland tank farms shall be exempt from this regulation.
8. Applicants for aquaculture development shall demonstrate that the proposal will not result in adverse effects to estuaries that are designated Natural in this Master Program or to the Protection Island National Wildlife Refuge.
9. Intensive subtidal aquaculture developments shall not be located within 300 feet of habitats of special significance as defined in the Recommended Interim Guidelines for the Management of Salmon Net Pen Culture in Puget Sound if those habitats are located in depths less than 75 feet at mean lower low water. Habitats of special significance include eel grass and kelp beds, rocky reefs, geoduck, and hardshell clam beds, and significant populations of Dungeness crabs, herring, and finfish such as ling cod, true cod, sole and flounder, rock fish, cabezone, and sea perch.
10. Intensive subtidal aquaculture developments shall not be located within 1,500 feet of bird and mammalian habitats of special significance including seal and sea lion haulout areas, seabird nesting sites or colonies, and areas is specifically identified as critical for feeding or migration of birds and mammals.
11. Aquaculture developments shall be located so as not to materially interfere with navigational access to waterfront property and public recreation areas.
12. Aquaculture developments shall obtain all required state and federal waste discharge permits prior to commencing operation. Copies of all waste discharge permits shall be provided to the Jefferson County Planning and Building Department.
13. Aquaculture developments shall be designed and constructed to harmonize insofar as possible with the local shoreline environment. Aquacultural structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner.
14. Maximum surface area encompassed by intensive subtidal aquaculture developments shall not exceed two (2) acres.
15. Reflected glare or direct light generated by aquaculture developments other than that produced by navigational aids shall be minimized to the greatest extent possible. Lighting fixtures shall be designed and hooded to prevent the light source from being directly visible from outside the boundaries of the property. The intensity or brightness of all security lighting shall not adversely affect water areas and vessel traffic or the use of surrounding properties or adjacent rights-of-ways.
16. The operators of aquaculture developments shall control odor through the proper storage and disposal of feed and other organic materials and by maintaining a clean operation. A specific plan for identifying and controlling odors shall be developed and approved as part of the permit approval process.

17. Overwater structures appurtenant to floating aquaculture developments such as work shelters, sleeping quarters, and storage sheds shall be prohibited. An attendant workboat which is used for regular navigation and also provides the above functions and sanitary facilities may be approved and conditioned.
18. Total height of floating structures and associated equipment shall not exceed six (6) feet in height above the water's surface.
19. Only non-lethal predator control measures shall be used against birds and mammals. Predator control methods shall comply with appropriate federal and state rules.
20. Aquaculture activities shall make minimal and appropriate use of approved pesticides, herbicides, antibiotics, vaccines, growth stimulants, or other chemicals. Operators shall receive prior review and approval from the appropriate federal and state agencies.
21. Only state and federal approved anti-foulants shall be used in aquaculture developments.
22. Waste materials or aquaculture by-products except shellfish shells shall not be disposed of in the aquatic zone. Wastes disposed of upland shall meet all applicable state and county waste disposal standards.
23. Processing of aquaculture products shall not occur in or over the water except for sorting or culling of cultured organisms and washing or removal of surface materials or organisms. All other processing and processing facilities shall be located onland and shall be governed by the applicable policies and performance standards of this Master Program when located within the shoreline jurisdiction.
24. Proposals for the mechanical harvesting of subtidal and intertidal benthic infauna such as hardshell clams that involve substantial substrate modification shall be processed under the policies and performance standards of Section 5.70 Dredging in addition to the provisions of this section.
25. Aquaculture developments that require structures shall be prohibited in wet lands and estuaries which are Natural environmental designations in this Master Program.
26. Aquaculture developments that culture fin fish shall only use offspring of brood stock that has been approved by appropriate state and federal agencies. Records of the source of brood stock and the genetic background of smolts shall be maintained and made available to the County upon request.
27. Upland aquaculture developments in Suburban and Conservancy designations shall be screened from view from adjacent residential or recreational areas by fences, berms, and/or vegetative buffers.
28. Floating aquaculture developments shall not be located within 1,500 feet of public parks and designated Historic Districts unless a visual assessment demonstrates that no significant impact on the character of those areas would result.

5.40 BOAT LAUNCHES

Definition

Slabs, pads, planks, rails, or graded slopes used for launching boats by means of a trailer, hand, or mechanical device.

Policies

1. Boat launches should be installed in such a manner as to minimize adverse effects on natural and physical shoreline resources.

2. Boat launches should be installed as to not unnecessarily interfere with the rights of adjacent property owners, nor with adjacent water uses.
3. Public boat launches should be located with regard to anticipated future needs of the region.

Performance Standards

1. Boat launches shall be located with regard to favorable conditions related to wind, current, and bathymetrics.
2. Boat launches and ancillary facilities shall be located, designed, constructed, and operated as to minimize adverse effects of fish, shellfish, wildlife, water quality, and existing geohydraulic shoreline and stream processes.
3. Adequate off-road parking and loading areas shall be provided.
4. Parking and loading areas shall be located away from the immediate water's edge and beaches.
5. Design of parking and loading areas shall assure that surface runoff does not pollute adjacent waters or cause soil or beach erosion.
6. Ample room for the handling and maneuvering of boat trailers shall be made available at the launch site.
7. Provisions shall be made as to facilitate orderly launching and retrieval of boats, as well as the movement of vehicles and trailers in the launching area.
8. Boat launches shall be located, designed, constructed, and operated to not necessarily interfere with the rights of adjacent property owners, nor interfere with adjacent water uses.
9. Boat launches shall provide adequate on-shore sewage and waste disposal facilities and a means for effective operation.
10. Boat launches shall be clearly separated from nearby swimming areas.
11. Docks and floats associated with boat launches shall conform with the applicable policies and performance standards of this Master Program.

5.50 COMMERCIAL DEVELOPMENT

Definition

Uses and facilities that are involved in wholesale or retail trade or business activities. Water dependent commercial uses are those commercial activities that require location on the shoreline by reason of the intrinsic nature of their business.

Prohibited Uses and Activities

1. Non-water dependent commercial developments, activities and uses and portions of water-dependent developments which do not require water access or a shoreline location are prohibited over water except as provided for in this section and Section 4.106.

Policies

1. Priority should be given to those commercial developments that are particularly dependent on shoreline locations or that provide a substantial number of people to actively or passively enjoy the shoreline.
2. Commercial developments not requiring shoreline locations should be located inland.

3. An assessment should be made of the effect a commercial structure will have on a scenic view significant to a given area or enjoyed by a significant number of people.
4. Parking facilities should be placed inland of the proposed use and away from the immediate water's edge and recreational beaches.
5. Location of commercial activities should be consistent with local plans, codes, and ordinances.
6. Adequate parking facilities should be designed commensurate with the level of the commercial activity.
7. Water oriented commercial is preferable to non-water oriented commercial in the shoreline area.
8. Commercial developments that are not water dependent or water-related and portions of water-dependent or water-related developments which do not require water access or a shoreline location should not locate or be constructed over the water except as provided in Section 4.106, unless said use or activity is clearly accessory to a water dependent or water related development and no upland or structural alternative is feasible.

Performance Standards

1. New commercial developments shall be located adjacent to existing or planned commercial developments which are consistent with the provisions of this Master Program, whenever practicable. Development shall be limited to those uses which can be classified as a water-dependent, water-related or water-enjoyment use. Non-water-oriented development, while not preferred, may also be authorized as a conditional use. Commercial development shall recognize the public access directive of the Shoreline Management Act and make provisions for the public's continued and enhanced enjoyment of the shoreline. Such provisions could be the preservation of shoreline views, the establishment of a public access easement 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.
2. Provisions to enhance the public's use and enjoyment of the shorelines and waters of the state shall be included for water-enjoyment and non-water-oriented uses involving new substantial developments or any change in principle property use to a new conditional use occurring along the shoreline.
3. Public access provisions shall:
 - a. Be of a permanent nature and shall be dedicated or otherwise protected, including recording with the Jefferson County Auditor.
 - b. Consider in design and availability measures to protect private property from trespass, vandalism, littering, and the like.
 - c. Be suitably marked to as to inform the public as to the extent, location, and availability of the access.
 - d. Be completed and available for public use at the time of occupancy of the development.
4. Commercial developments shall be located away from the immediate water's edge (OHWM) a minimum of fifteen (15) feet except water-dependent uses and as provided for in Section 4.106. Where feasible, parking and loading areas shall be located away from the immediate water's edge.

5. Design of parking and loading areas shall assure that surface runoff does not pollute adjacent water or cause soil or beach erosion.
6. Advertising and signs shall comply with applicable policies and performance standards of this Master Program.
7. Water supply and waste disposal facilities shall comply with established guidelines, standards, and regulations.
8. New or expanded structures shall not extend more than thirty-five feet in height above average grade level except as provided for in Section 4.106 when such development will obstruct the view of a substantial number of adjacent residences or properties.
9. Parking facilities shall be designed to accommodate the level of the anticipated commercial activity.
10. Commercial developments that are not water dependent or water-related and portions of water-dependent or water-related developments which do not require water access or a shoreline location shall not locate or be constructed over the water except as provided in Section 4.106 unless said use or activity is clearly accessory to a water dependent or water-related development and no upland or structural alternative is feasible.
11. Upland commercial or industrial structures in Suburban or Conservancy designations shall be screened from view from adjacent residential or recreational areas by fences, berms, and/or vegetative buffers.

5.60 DOCKS, PIERS AND FLOATS

Definitions

Docks are fixed structures floating upon water bodies, secured to piers or to the shoreline. Piers are fixed, pile-supported structures secured to the shoreline. Floats are floating structures that are moored, anchored, or otherwise secured in the water but are not connected to the shoreline. Boat houses are covered structures used for the storage or moorage of watercraft. Fetch is defined as the distance of open water over which the wind blows, especially in the predominant direction of storms. Marinas are regulated under Subsection 5.110 Marinas. Mooring buoys are regulated under Subsection 5.130, Mooring Buoys. Floating structures associated with aquaculture projects are evaluated under Subsection 5.30 Aquaculture.

Prohibited Uses and Activities

1. Docks, piers, floats, and boat houses to be used for residential purposes.
2. Docks, piers, and floats on streams and rivers, except for water-dependent uses.
3. Covered moorage or boat houses over water except within marinas.
4. Fill waterward of the ordinary high water mark or within a marsh, bog or swamp to accommodate a dock, pier, or float except as provided for in Section 5.100 Landfills.
5. Docks, piers, and floats in the Natural designation, except to serve public access, interpretative, or observation areas.
6. Private, noncommercial docks and piers which extend waterward more than 15% of the water body width where boat navigation would be restricted, measured at high water to the closest opposite shore.

Policies

1. The type, design, and location of docks, piers, floats and boat houses should be compatible with the shoreline area where they are located. Consideration should be given to shoreline characteristics, shoreline resources and processes, wind and wave action, tidal action, aesthetics, and adjacent land and water uses.
2. In order to reduce the proliferation of structures on the shoreline, mooring buoys are preferred over docks, piers, and floats. Joint-use docks, piers, and floats, whether new construction or expansion of existing facilities, are encouraged over private, single-user docks, piers, and floats.
3. The siting of docks, piers, and floats should be discouraged at locations where critical physical limitations exist, such as: gently-sloping bottoms; high wind, with fetch over one mile; wave or current exposure; high littoral drift; unstable and/or feeder bluffs; or very narrow bays. Examples of favorable locations include, but are not limited to Mystery Bay, Mats Mats, Port Ludlow, and Pleasant Harbor.
4. Docks, piers, floats, and boat houses should be designed and maintained to avoid adverse impacts to the environment and to shoreline aesthetics, and to minimize interference with the public use of the water and private use of private property.
5. Docks, piers, boat houses, and floats should be maintained to provide a reasonable level of safety to users.

Performance Standards

1. Boats that are occupied shall not be permitted to moor at private docks, piers, and floats longer than three (3) days unless pump-out facilities are available in the immediate vicinity.
2. The design, location, and construction of docks, piers, and floats, as well as their subsequent use, shall avoid adverse effects on fish, shellfish, wildlife, marine vegetation, water quality, and geohydraulic processes. Construction methods shall minimize the use of materials hazardous to the environment.
3. All lumber and other materials treated with preservative shall be sufficiently cured to minimize leaching into the water or shore bed, in accordance with the Best Management Practices approved by the Washington Department of Fish and Wildlife.
4. Docks, piers, floats, and boat houses shall be designed and constructed to minimize hazards to users and to be capable of withstanding the historic extremes of wind, wave, and tides at their location.
5. Docks, piers, and floats shall be located, designed, and operated to minimize interference with the public use of the water and private use of private property. Floats and docks on lakes shall be preferred over piers.
6. Railings, if provided, shall be of clear or open framework design and conform to the Uniform Building Code where required.
7. Utility service on docks and piers shall be placed on or under the deck. Overhead utility service is prohibited. Lighting shall be shielded to prevent unnecessary glare off-site and to minimize hazards to navigation. Overhead lighting for recreational structures shall be prohibited.
8. New waterfront subdivisions shall make provisions for the establishment of one or more joint use facilities.
9. An applicant for a new or expanded private recreational dock and/or pier shall provide for joint use with the owners of immediately adjacent shoreline properties, unless the applicant establishes that joint use is not feasible. Such joint use shall be defined by a mutually

accepted and legally enforceable joint use agreement that shall address, at minimum the following:

- a. Apportionment of construction and maintenance expenses,
- b. Easements and liability agreements, and
- c. Use restrictions.

Prior to construction, the applicant shall provide documentation to Jefferson County demonstrating that the owners of the adjoining shoreline properties have been notified of this requirement.

10. Docks, piers, and floats shall be prohibited on streams and rivers, except for water-dependent uses. Such a facility shall be the minimum necessary for the purpose and shall be removed at the termination of the use.
11. Setbacks for accessory developments shall be as specified under Section 4.105 Urban, Section 5.50 Commercial Development, and Section 5.160 Residential Development.
12. Docks, piers, and floats shall be marked as necessary to avoid hazardous conditions for water surface users as specified by the U.S. Coast Guard.
- 13A. Private, non-commercial piers and docks shall extend from shore no farther than necessary for the intended use. The allowed length of a structure offshore from the ordinary high water mark shall be no farther than the distance necessary to reach 8.5 feet of water depth at mean low water tidal elevation (about 5 feet water depth at extreme low tide) or 125 feet perpendicular to the shoreline, whichever distance is less. For joint use facilities, the maximum length from shore shall be increased 35 feet for one or two additional moorages provided, and an additional 35 feet for three or four additional moorages, for a maximum permitted length of 195 feet.
- 13B. "T", "L" or finger docks shall be used when it is possible to provide the required moorage depth and spaces with less total dock length from the shoreline.
- 13C. Where there are existing docks and piers which exceed these length requirements within 300 feet of both sides of the proposed site, the length of the proposed structure may be as long as the average length of those docks and piers. In those instances where an existing dock or pier which exceeds these length requirements is within 300 feet of one side of the proposed site, the length may be the average between the allowed length specified in 13A above, and that of the adjacent structure.
14. Participation in joint use docks and piers shall be limited to lot owners in a subdivision with water frontage (Performance Standard Number 8) or owners of waterfront property in close proximity to one another (Performance Standard Number 13).
15. Docks and floats shall not extend more than three feet in height above the water nor exceed eight feet in width. Piers shall be constructed to the minimum height necessary above historic extreme high tide and shall not exceed eight feet in width.
16. Total individual float area shall not exceed 160 square feet in size.

17. In areas of seasonal exposure to high wind and waves, docks and moored vessels shall be moved to a protected location during that time of year when high wind and waves are anticipated.
18. Docks and piers shall be setback a minimum of 10 feet from property lines except for joint use docks and piers, which may be located adjacent to or upon a property line when mutually agreed to by contract or covenant with the owners of the adjoining property, a copy of which shall be filed with the County Auditor and submitted with the shoreline permit application.

5.70 DREDGING

Definition

The removal of earth, sand, gravel, silt, or debris from the bottom of a stream, river, lake, bay, or other water bodies and associated wetlands. Maintenance dredging is the periodic or infrequent removal of material from existing dredged areas.

Policies

1. Dredging should be controlled so as to minimize damage to existing ecological values and natural resources of both the area to be dredged and the area for deposit of dredged materials.
2. Long range plans should be developed for the deposit and use of dredge materials on land. Dredge material disposal sites in water areas should also be identified by local government in cooperation with the Washington State Departments of Natural Resources, Game, and Fisheries.
3. Depositing of dredge material in water areas should be allowed only for habitat improvement to correct problems of material distribution adversely affecting fish and shellfish resources, or where the alternatives of depositing material on land is more detrimental to shoreline resources than depositing it in water areas.
4. Dredging of bottom materials for the single purpose of obtaining fill material should be discouraged.

Performance Standards

1. Dredging shall cause no more than minimal damage to water quality, fish, shellfish, essential marine biological elements, and other natural resources.
2. Dredging shall cause no more than minimal disruption of natural geohydraulic processes along shores and streams.
3. Dredging operations shall be scheduled so as to not materially interfere with the migratory movements of anadromous fish.
4. Dredging shall not cause unnecessary interference with navigation or unnecessary infringement upon adjacent shoreline uses, properties, or values.
5. Dredged material shall be deposited on upland sites whenever possible and only on those sites authorized by the shoreline substantial development permit.

6. Dredge materials deposited on upland sites shall constitute landfill and when deposited within the geographical jurisdiction of this Master Program shall comply with the applicable performance standards.
7. Depositing of dredge materials in water areas shall be allowed only:
 - a. For wildlife habitat improvement; or
 - b. To correct problems of material distribution adversely affecting fish and shellfish resources; or
 - c. When the alternatives of depositing material on land is more detrimental to shoreline resources than depositing it in water areas; or
 - d. In dredge material disposal areas authorized and delineated by the state and county; or
 - e. For the enhancement of geohydraulic shore processes by beach feeding.
8. Depositing of dredge materials in water areas shall be done in a manner that does not unnecessarily disrupt natural geohydraulic processes or interfere with the use or value of adjacent properties.
9. Maintenance dredging shall only be conducted upon the completion of a dredge materials management plan for the site based on compliance with the policies and performance standards of this subsection.
10. Proposals for the mechanical harvesting of subtidal and intertidal benthic infauna such as hardshell clams, excluding geoduck harvesting using handheld equipment, shall be processed as conditional uses under the policies and performance standards of this section if they involve substantial substrate modification through dredging, trenching, digging, or adverse sedimentation.
11. Proposals for the mechanical harvesting of subtidal and intertidal benthic infauna such as hardshell clams that involve substantial substrate modification shall not be permitted in kelp beds or in eel grass beds unless approved by the Washington State Department of Fisheries.

5.80 FOREST MANAGEMENT

Definition

Those methods used for the protection, production, harvesting, and transporting of timber resources. Processing of timber by industrial or manufactured means is to be considered under the industrial subsection of this Master Program.

Policies

1. Seeding, mulching, matting, and replanting with mixed species native to the site should be accomplished where necessary to provide stability on areas of steep slope that have been logged.
2. Special attention should be directed in logging and thinning operations to prevent the accumulation of slash and other debris in contiguous waterways.
3. Proper road and bridge design, location, and construction and maintenance practices should be used to prevent development of roads and structures that would adversely affect shoreline resources.

4. Timber harvesting practices in shorelines of the state should be conducted to maintain the state board of health standards for public water supplies.
5. Logging should be avoided on shorelines with slopes of such grade that large sediment runoff will be precipitated, unless adequate restoration and erosion control can be expeditiously accomplished.
6. Assurance should be given that timber harvesting on shorelines of state-wide significance does not exceed the limitations established in RCW 90.59.150, except as provided in cases where selective logging is rendered ecologically detrimental or is adequate for preparation of land for other uses.
7. Logging within shoreline areas should be conducted to ensure the maintenance of buffer strips of ground vegetation, brush, alder, and conifers to prevent temperature increases adverse to fish populations and erosion of stream banks.
8. Known big game grazing areas should be preserved or maintained free of barriers and debris.
9. Roads, bridges, culverts, and similar devices should afford maximum protection for fisheries resources.

Performance Standards

Roads and Related Structures

1. Roads and related structures shall be located as follows:
 - a. Whenever possible, roads shall be located on natural benches, ridge tops, or other areas where minimum alterations of natural features such as soils will occur.
 - b. Roads shall be located to avoid steep narrow canyons, slide areas, slumps, swamps, marshes, wet meadows, and the like.
 - c. Roads shall be located to provide buffer areas along streams and other shorelines.
 - d. The number of waterway crossings shall be minimized. Unnecessary duplication of roads shall be avoided by making use of existing roads where practicable.
2. Roads and related structures shall be designed as follows:
 - a. Road drainage shall be designed to control the dispersal of surface runoff from roads and exposed soils in order to minimize turbid water from drainage into waterways.
 - b. Earthwork shall be designed to provide waste and borrow areas that will produce a minimum of erosion, water turbidity, and aesthetic damage.
 - c. Cut and fill slopes shall be designed at the normal angle of repose or less.
 - d. Cut and fill areas shall be protected from erosion by mulching, seeding, use of headwalls, or other suitable means.
 - e. Road and waterway crossings shall not be wider than to accommodate the anticipated means.
 - f. Waterway crossings shall be designed so the integrity of the naturally occurring geohydraulic process is maintained.
 - g. Waterway crossing shall be designed to provide minimal disturbance to banks.
 - h. Culverts and similar devices shall be designed with regard to fifty year storm frequencies.

- i. Bridges and similar devices shall be designed with regard to one hundred year flood frequencies.
 - j. Roads, bridges, culverts, and similar devices shall afford maximum protection for fisheries resources.
3. Roads and related structures shall be constructed as follows:
- a. Excess material shall be deposited in stable locations and not into stream corridors where such materials degrade water quality, impede flood waters, or alter naturally occurring geohydraulic processes.
 - b. No machinery shall operate within a stream bed except in compliance with a hydraulics permit issued by the Washington State Department of Fisheries and Washington State Department of Game.
 - c. All material associated with road construction that is potentially unstable or erodible shall be stabilized by compacting, seeding, mulching, or other suitable means.
 - d. All roads and drainage systems shall be maintained to prevent erosion and/or water quality degradation.
 - e. Excess material accumulated during maintenance of roads and drainage systems shall be deposited in stable locations and not into stream corridors where such materials would degrade water quality, impede flood water, or alter naturally occurring geohydraulic process.
 - f. Mechanical apparatus, rather than chemicals, shall be used for brush clearing maintenance wherever practicable.
 - g. Herbicides used for maintenance along roads and drainage systems shall follow the applicable performance standards of this Master Program.

Forest Products Harvesting

- 4. Areas unsuited for timber production such as lakes, bogs, swamps, springs, or wet meadows shall be avoided and protected during the harvesting operation.
- 5. Sufficient buffer strips shall be provided along all streams to prevent soil erosion and water quality degradation, and to protect the habitat for fish and wildlife.
- 6. Methods of falling, bucking, and yarding logs shall make all practicable precautions to prevent soil erosion and/or water quality degradation. Logs shall not be yarded through streambeds. Skid trails shall be built and maintained away from streambeds and in such a manner as to prevent soil erosion into waterways.
- 7. Landings shall be located away from the stream corridor whenever possible. When a landing is located within the stream corridor, it shall be located on stable ground and in a position within the stream corridor so as to not degrade water quality, impede possible flood waters, or interrupt naturally occurring geohydraulic processes.
- 8. If debris should accidentally enter the waterway as a result of harvesting, the debris shall be removed as soon as practicable and in a manner that does not degrade the natural conditions of the stream.
- 9. Harvesting shall not take place in areas of archaeological significance until a reasonable opportunity has been afforded for exploration of the site.
- 10. Where major scenic attractions, historical sites, scenic highways, or recreational sites are impacted by timber harvesting operations, special consideration shall be given to these values by prompt cleanup and reforestation.

11. Waste resulting from logging operations such as machinery, machinery parts, filters, grease, oil containers, wire, and rope shall be disposed immediately. At no time shall such materials be disposed in stream corridors.
12. Timber situated within two hundred feet abutting landward of the ordinary high water mark within shorelines of state-wide significance shall only be harvested by selective commercial timber cutting so that no more than thirty percent of the merchantable trees may be harvested in any ten year period of time provided other timber harvesting methods may be permitted in those limited instances where topography, soil conditions, or silvicultural practices necessary for regeneration render selective logging ecologically detrimental; provided further that clear-cutting of timber that is solely incidental to the preparation of land for other uses authorized by the Shoreline Management Act and this Master Program may be permitted.

Reforestation

13. Reforestation shall be accomplished in compliance with the Washington State Forest Practices Act (RCW 76.09) and as soon after the termination of harvesting as is feasible.
14. Reforestation activities shall adhere to all applicable portions of this Master Program in regard to soil, fisheries, and water quality management.

Chemical Application

15. Equipment used for transportation, storage, or application of chemicals shall be maintained in leak-proof condition. If there is evidence of chemical leakage, the further use of such equipment must be suspended until the deficiency has been satisfactorily corrected.
16. Whenever water is taken from any waterway or water impoundment for use in the mixing of chemicals, precautions shall be taken to prevent contamination of the water source. A portable pump shall be used with the necessary suction hose and check valves to supply water from streams; such a pump is to be used only for water.
17. Waterways and areas of open water such as streams, swamps, or impoundments shall be protected from contamination when spraying by aircraft by leaving a buffer strip of a least swath-width untreated on each side of every waterway.
18. A buffer strip of at least ten feet on each side of every waterway or area of open water shall be left when applying spray from the ground. Spray application immediately adjacent to buffer strips shall be made parallel to waterways and must be applied prior to application of the remainder of the area to be treated.
19. Application of fertilizers shall assure that no fertilizer is deposited into waterways.
20. Pesticides shall be used, handled, and disposed in accordance with provisions of the Washington State Pesticide Act (RCW 15.57) and the Washington State Pesticide Application Act (RCW 17.21) unless the provision of this Master Program are stringent, in which case the higher standard will apply.

5.90 INDUSTRIAL AND PORT FACILITIES

Definition

Industry applies to those businesses or uses involved in the production, processing, manufacturing, or fabrication of goods. Warehousing and storage of materials or products is considered part of the industrial process. Water dependent industries are those that require location on the shoreline by reason of the nature of their business.

Port facilities are centers of water-borne traffic and commerce.

Prohibited Uses and Activities

1. Over-water, non-water oriented industry or port facilities.

Policies

1. Water dependent industries should be given priority over other industrial uses.

2. Port facilities should be designed to permit viewing of harbor areas from viewpoints and public facilities that would not interfere with port operations or endanger public health and safety.
3. Sewage treatment, water reclamation, desalinization, and power plants should be located where they do not interfere and area compatible with recreational, residential, or other public uses of the water and shorelands. Waste treatment ponds for water related industries should occupy as little shoreline as possible.
4. The cooperative use of docking, parking, cargo handling, and storage facilities should be strongly encouraged in waterfront industrial areas.
5. Land transportation and utility corridors serving ports and water-related industry should follow the guidelines provided under the sections dealing with utilities and road and railroad design and construction. Where feasible, transportation and utility corridors should be located upland to reduce pressures for the use of waterfront signs.
6. Since industrial docks and piers are often longer and greater in bulk than recreational and residential piers, careful planning must be undertaken to reduce the adverse impact of such facilities on other water dependent uses and shoreline resources.
7. Because heavy industrial activities are associated with industrial piers and docks, the location of these facilities must be considered a major factor in determining the environmental compatibility of such facilities.

Performance Standards

1. Only shoreline dependent industry shall be permitted on shoreline locations. The only exception to this rule shall be when other shoreline oriented industry can clearly demonstrate that no other site location is feasible.
2. Industrial development shall be located, designed, constructed, and operated in such a manner that it would minimize adverse effects on aquatic life.
3. Industrial developments shall comply with all federal, state, regional, and local requirements regarding air and water quality. No pollution of air by fly-ash, dust, vapors, odors, smoke, or other substances shall be permitted that are harmful to health, animals, vegetation, or other property, or that can cause excessive soiling.
4. Industrial and port facilities shall be located, designed, constructed, and operated to minimize unnecessary interference with the right of adjacent property owners, as well as adjacent shoreline or water uses.
5. Industrial and port facilities shall not duplicate but share over-water structures such as docks and piers whenever practicable. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire prevention equipment and by such safety devices that are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.
6. Industrial and port facilities shall make adequate provisions to minimize the probability of spills of fuel or other toxic substances. Provisions shall be made to handle accidental spills that occur.
7. No activity shall omit dangerous radioactivity at any point, or electrical disturbances adversely affecting the operation of any equipment at any point other than that of the creation of such disturbance.

8. Objectionable noise that is due to volume, frequency, or beat shall be muffled or otherwise controlled. Air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.
9. No vibration shall be permitted that is discernible without instruments on any adjoining lot or property.
10. Industrial facilities shall assure that no direct or reflected glare is visible from adjacent properties, streets, or water areas.
11. Industrial facilities shall be so located, designed, and operated to eliminate all unnecessary noxious odors.
12. Port and industrial facilities shall provide public access to shoreline areas when feasible, taking into consideration public safety, health, and security.
13. Waste treatment ponds shall be located as far inland as practicable.
14. Port and industrial facilities shall be located, designed, and constructed to permit viewing of harbor areas or other recognized or officially delineated vistas.
15. Upland commercial or industrial structures in Suburban or Conservancy designations shall be screened from view from adjacent residential or recreational areas by fences, berms, and/or vegetative buffers.

5.100 LANDFILLS

Definition

Landfill is the creation of or addition to the surface of the land, land covered by water, or marsh, bog, swamp, or similar water detention area by the placement of materials. (Backfill of bulkheads less than one cubic yard per lineal foot is regulated under Section 5.180, "Shore Defense Works." Backfill of bulkheads over one cubic yard per lineal foot shall be evaluated under both this section and Section 5.180. Dredging spoil disposal is regulated under Section 5.70, "Dredging").

Prohibited Uses and Activities

1. Landfills in estuaries, marshes, bogs, ponds, swamps, similar water retention areas, or other ecologically sensitive areas, except as provided in this Master Program.

Policies

1. Landfills should not be permitted on marshes, bogs, swamps, or other ecologically sensitive areas, except as provided for in this Master Program.
2. Landfills below the ordinary high water mark, unless otherwise prohibited, should be allowed only when necessary to facilitate water-dependent uses that are consistent with this program and the City of Port Townsend or Jefferson County comprehensive plans. Landfills on submerged lands should enhance public access to the shoreline and the water.
3. Landfills should not significantly create a hazard to adjacent life or properties, nor damage natural resources (including water surface reduction, navigation, flow, current and circulation impediments, recreation, ecological values, and habitat impacts).
4. Fill materials should be of such quality that water quality problems do not occur from the placement of fill. Shoreline areas should not be considered for sanitary landfills or the disposal of solid waste.
5. The perimeter of landfills should be protected from erosion.

6. Present and future uses of a site should be considered when evaluating a proposed landfill.

Performance Standards

General

1. The following information shall be submitted by the applicant for landfill projects:
 - a. Proposed use of the landfill area.
 - b. Physical, chemical, and biological characteristics of the fill material.
 - c. Source of the landfill material.
 - d. Method of placement and compaction.
 - e. Location of the landfill relating to natural or existing drainage patterns.
 - f. Location of the perimeter of the landfill relating to the ordinary high water mark, or any marsh, bog, or swamp.
 - g. Perimeter erosion control or stabilization means, and schedule for implementation.
 - h. Type of surfacing and run-off control and treatment devices.
2. Landfills shall be permitted only where it is demonstrated they will not result in the following:
 - a. Significant damage to water quality, fish, shellfish, and/or wildlife habitats.
 - b. Adverse alteration to natural drainage and circulation patterns, currents, rivers, and tidal flows, or significant reduction of flood water capacities.
 - c. Adverse alteration of geological processes along the shoreline.
3. The fill shall be the minimum necessary to accomplish the proposed use.
4. Where existing public access is reduced, equivalent public access shall be provided as part of the project.
5. Fill material shall be of a quality and so placed and contained that it does not cause water quality degradation. Junk, garbage, contaminated soil, and other potentially hazardous sewage and rubbish is not permitted to be used as fill material. Fill material shall be restricted to soil, sand, rock, or gravel.
6. The placement of landfills shall be timed to minimize damage to water quality and aquatic life.

Aquatic and Wet Land Areas (Marshes, Bogs, Swamps or Similar Water Retention Areas)

7. Landfills shall not disrupt stream flow that may lead to the damage of adjacent properties.
8. Landfills in aquatic and wet land areas shall be permitted only in the following instances:
 - a. In conjunction with water-dependent uses.
 - b. In conjunction with bridge or navigational structures for which there is a public need and where no feasible upland sites or routes exist.
 - c. As part of approved beach restoration projects.
 - d. To provide for public access.
 - e. Other uses deemed to be in the public interest.

9. Where marshes, bogs, swamps, and other ecologically sensitive areas exist within proposed subdivisions, they shall be retained as open space.
10. Pile or pier supports shall be utilized whenever feasible in preference to landfills. Landfills for approved road development in floodways or wetlands shall be permitted only when all other structural or upland alternatives prove infeasible.

Non-Aquatic and Non-Wet Land Areas

11. Landfills are not permitted in 100 year flood plains unless it can clearly be demonstrated by the applicant and certified by a qualified professional engineer that the hydraulics and flood plain storage capacity will not be altered to increase flood hazard and that the project will meet the criteria of the Jefferson County and City of Port Townsend ordinances on the national flood insurance programs.
12. Landfills shall be designed, constructed, and maintained to prevent, minimize, and control material movement, erosion, and sedimentation from affected area.
13. Landfills shall not be created that interfere with the normal recharge of ground water supplies or that degrade the quality of ground water.
14. Landfills shall not adversely affect normal surface water drainage between adjacent properties.

5.110 MARINAS

Definition

Facilities that provide launching, storage, supplies, moorage, and other services for six or more pleasure and commercial water craft. Certain docks, piers, and floats are also regulated under this section (see Subsection 5.60, "Docks, Piers, and Floats"). Commercial development not necessary or accessory to the operation of a marina shall comply with Section 5.50, "Commercial."

Policies

1. In locating marinas, special plans should be made to protect the fish and shellfish resources that may be harmed by construction and operation of the facility.
2. Marinas should be designed in a manner that will reduce damage to fish and shellfish resources and be aesthetically compatible with adjacent areas.
3. Marinas should be located at or near high use or potentially high use areas. Local as well as regional need data should be considered as input in location selection.
4. Special attention should be given to the design and development of operational procedures for fuel handling and storage in order to minimize accidental spillage and provide satisfactory means for handling those spills that do occur.
5. Shallow water embayments with poor flushing action should not be considered for overnight and long term moorage facilities.
6. The Washington State Department of fisheries' guidelines should be consulted in planning for marinas.
7. State and local health agencies have standards and guidelines for the development of marinas that should be consulted.
8. Floating breakwaters should receive valid considerations as an alternative to conventional breakwaters.

Performance Standards

1. Marinas shall be located with regard to favorable conditions related to wind, current, and bathymetrics.
2. Marinas that provide overnight or long-term moorage facilities shall not be located in areas with poor flushing action.
3. Marinas shall be compatible with the general aesthetic quality of the shoreline area where they are located.
4. Marinas and ancillary facilities shall be located, designed, constructed, and operated to minimize adverse effects on fish, shellfish, wildlife, water quality, and existing geohydraulic shoreline processes.
5. Marinas shall be located, designed, constructed, and operated so as to not unnecessarily interfere with the rights of adjacent property owners, nor interfere with adjacent water uses.
6. Parking and loading areas shall be located well away from the immediate water's edge and beaches.
7. Design of parking and loading areas shall assure that surface runoff does not pollute adjacent waters or cause soil or beach erosion.
8. Provisions shall be made to facilitate orderly launching, retrieval, and storage of boats.
9. Provisions shall be made to facilitate the orderly circulation of vehicles and pedestrians in the vicinity of the marina.
10. Marinas shall make adequate provisions to minimize the probability of fuel spills during handling or storage. Provisions shall be made to handle accidental spills that do occur.
11. Marinas shall be equipped with vessel pump-out and on-shore sewage and waste disposal facilities. Pump-out facilities shall be available at no direct charge to the user.
12. No more than fifteen (15) percent of the wet slips within a marina shall be covered.

5.120 MINING

Definition

The removal of naturally occurring rock, sand, gravel, and minerals from the earth.

Policies

1. When rock, sand, gravel, and minerals are removed from shoreline areas, adequate protection against sediment and silt production should be provided.
2. Excavations for the production of sand, gravel, and minerals should be done in conformance with the Washington State Surface Mining Act (RCW 78.44) and hydraulic regulations of the Washington State Department of Fisheries and Department of Game.
3. Jefferson County and the City of Port Townsend should strictly control the removal of sand and gravel from marine beaches.
4. When removal of sand and gravel from marine beaches is permitted, it should be taken from the least sensitive biophysical areas of the beach.

Performance Standards

1. Mining along all shorelines shall assure that geohydraulic processes and marine life are basically maintained in their natural condition, both during and after excavation.
2. Surface mining for gravel along streams shall make provisions that assure that:
 - a. All equipment, works, and structures are able to withstand flooding without becoming a hazard in themselves or causing adverse effects on shore features or adjacent property, all without the necessity for massive structural defense works.
 - b. All stockpiles and other structures or equipment that are not flood proofed are located above the one hundred year flood plain during flood season except during daily operations.
3. Overburden shall be disposed in a manner that provides short and long term protection to affected natural features, adjacent properties, and aesthetic values. Overburden deposited within the geographical jurisdiction of this Master Program shall constitute landfill and shall, therefore, comply with applicable performance standards of this Master Program.
4. Mining shall provide measures to prevent deleterious effects upon water quality and fish life.
5. Mining operations shall obtain necessary hydraulic permits from the Washington State Department of Fisheries and Department of Game.
6. Mining operations shall not cause any unnecessary noise, odor, vibration, or other nuisances that adversely affect nearby properties.
7. Equipment or apparatus associated with mining operations such as machinery, machinery parts, filters, grease and oil containers, and wire and rope shall be disposed immediately to an appropriate upland location.
8. Mining projects shall provide thorough and precise site reclamation plans as part of the permit application. The plans shall be considered in the approval or disapproval of a substantial development permit.

5.130 MOORING BUOYS

Definition

Mooring buoys are anchored devices in water bodies used for the mooring of water craft. (Buoys used in conjunction with aquaculture projects shall be evaluated under Section 5.30, "Aquaculture").

Policies

1. Mooring buoys should not be authorized where such installations will significantly interfere with navigation.
2. Where dock facilities are inadequate, mooring buoys are preferred over the construction of individual docks.
3. Where sufficient dock facilities exist, the placement of mooring buoys will be discouraged.
4. The installation of mooring buoys by public agencies for public use is encouraged.
5. Mooring buoys and the swing path of attached vessels should not encroach on privately owned tidelands or the swing path of a legally established or grandfathered moored boat and buoy.
6. Mooring buoys should not be located where their use will cause the degradation of sensitive ecological areas such as estuaries, wetlands, or aquaculture resources or facilities.

7. Mooring buoys for the use of in-shore adjacent property owners should be considered a positive alternative to the construction of private docks.
8. Preference for the placement of near shore mooring buoys should be given to the adjacent shoreline property owner.

Performance Standards

1. Land based retrieval lines from mooring buoys shall be designed and operated to present no hazard to navigation or public use of the water and shall extend no more than thirty (30) feet off-shore.
2. Mooring buoys shall not be authorized where such installations will significantly interfere with navigation.
3. Mooring buoys shall be located as close to the shore as feasible. They shall not be located farther waterward than adjacent mooring buoys unless the draft and/or swing path of the boat dictates it.
4. Buoys shall be discernible under normal daylight conditions at a minimum of 100 yards.
5. Mooring buoys shall be located no closer than 100 feet from another mooring buoy, dock, pier, float, or other fixed navigational obstruction, unless there is a written agreement with the parties affected, including the subtidal property owner, that will allow for said encroachment.
6. Buoys shall be marked with the owner's name, address, and telephone number.
7. The applicant for a buoy shall demonstrate that the buoy system proposed is adequate to withstand the maximum expected physical stress that the environment and moored craft will place on the buoy.
8. The inshore adjacent property owner shall be given preference for mooring buoys located shoreward of the minus six foot or one fathom tidal elevation unless otherwise authorized. If the shoreline property owner does not own the tidelands, access across the tidelands shall be secured in writing prior to buoy placement.
9. No more than two (2) boats shall be secured by a mooring buoy.
10. Mooring buoys that are placed by exemption shall not be rented or leased.

5.140 PARKING FACILITIES

Definition

Areas providing for the storage of motor vehicles, including vista parking facilities.

Prohibited Uses and Activities

1. Over-water parking facilities, and paid parking lots not accessory to an authorized use.

Policies

1. Parking facilities should be designed and placed as far as practicable away from the water's edge.
2. Parking facilities should make provisions for pollution abatement and the control of storm water runoff.
3. Parking facilities should be adequate to serve the level of demand anticipated by the associated use.
4. Parking facilities should not interfere with the use and enjoyment of adjacent properties.

Performance Standards

1. Parking facilities shall not be located over the water or adjacent to the immediate water's edge if practical alternative upland locations exist.
2. Vista parking facilities shall include a significant public view and provide recreational opportunities such as a picnic table or viewing benches.
3. The design and construction of parking facilities shall assure that surface water runoff will not pollute adjacent waters or cause soil or beach erosion. Oil separators and retention ponds are considered positive measures towards compliance with this standard.
4. Security lighting associated with parking facilities shall be beamed, hooded, or directed so as to not cause glare on adjacent properties or water bodies.

5.150 RECREATIONAL FACILITIES

Definition

Facilities such as parks, trails and pathways, campgrounds, and resorts that provide a means for relaxation, play, and amusement.

Prohibited Uses and Activities

1. Overnight recreational spaces or sites located on beaches, dunes, or intertidal areas.

Policies

1. The concept of upland camping should be encouraged to prevent the concentration of clutter and leave the beaches, tidelands, streams, and their associated shorelines in basically their natural state.
2. Park design and operation should deal with the impact such activities have not only within park boundaries, but on adjacent properties and communities as well.
3. Recreational facilities should make adequate provisions for:
 - a. Traffic, both inside and outside the facility.
 - b. Proper water and sewage disposal methods.
 - c. Security and fire protection.
 - d. The prevention of overflow and trespass onto adjacent properties.
4. Public access to public shorelines and surface waters should be encouraged.
5. Offshore recreational devices should not interfere with navigation of waterways.
6. Trails and pathways on steep shoreline bluffs should be designed to not adversely affect bank stability.
7. Public recreational developments should be consistent with adopted park, recreational, and open space plans of the City and County, when appropriate.
8. Swim rafts used for moorage purposes should comply with the policies and performance standards for offshore moorage devices.
9. Stairways, landings, and boat houses should not be located waterward of existing bulkheads, banks, or the ordinary high water mark.

Performance Standards

1. Recreational facilities shall make adequate provisions for water supply, sewage disposal, and garbage collection.
2. Recreational facilities shall make adequate provisions for vehicular parking.
3. Recreational facilities shall make adequate provisions for enforcement of laws and regulations associated with use of the facilities being proposed.
4. Recreational facilities shall make adequate provisions such as screening, buffer strips, fences, and signs to prevent park overflow and to protect the value and enjoyment of adjacent or nearby private or public properties.
5. Recreational facilities shall establish and enforce regulations that prohibit tree cutting and limit the taking of marine life, driftwood, and the like.
6. Signs associated with recreational facilities shall be kept to a minimum in number and size and shall be erected as informational or directional aids only.
7. Adequate provisions shall be made for the control of fires both within recreational facilities and between recreational facilities and adjacent private or public lands.
8. Unless specifically designed for that purpose, park and recreational facilities shall prohibit the off-road use of all terrain vehicles in order to protect natural features as well as the enjoyment and value of adjacent private and public properties.
9. Applicants for substantial development permits for recreational facilities may be required to provide adequate information to demonstrate the safety of proposed equipment and facilities.
10. Overnight recreational facilities shall comply with all applicable regulations and guidelines, including Section 5.50 "Commercial."

5.160 RESIDENTIAL DEVELOPMENT

Definition

The development of land and/or the construction or erection of a dwelling or dwelling units for the purpose of residential occupancy.

Prohibited Uses and Activities

1. Residential structures located on or over marshes, bogs, swamps, lagoons, tidelands, ecologically sensitive areas or water areas subject to this Master Program.
2. Residential structures located upon geologically hazardous areas or in floodways.

Policies

1. Residential development should be designed at a level of density of site coverage and occupancy compatible with the physical capabilities of the shoreline area, and consistent with the density provisions of local plans, codes, and ordinances.
2. Residential development should be designed to adequately protect the water and shoreline aesthetic characteristics.
3. Residential developments should be encouraged to provide pedestrian access to public shorelines abutting the development.
4. Over-water residential development, including floating home, should not be permitted.

5. Residential developers and individual builders should be required to indicate how they plan to preserve shore vegetation and control erosion during construction.
6. Sewage disposal facilities, as well as water supply facilities, should be provided in accordance with appropriate state and local health regulations. Storm drainage facilities should be separate, not combined with sewage disposal systems.
7. Adequate water supplies should be available so the ground water quantity and quality will not be endangered by over-pumping.
8. Residential development in geologically hazardous areas or in areas subject to flooding should be discouraged.
9. Residential development in shoreline areas should be designed to preserve natural drainage courses, aquifer recharge areas, and similar ecologically sensitive areas.
10. Subdivisions should maintain usable waterfront areas for the common use of all property owners within the development.
11. Residential structures should be designed and located to not significantly block the views of adjacent residences or properties.
12. Sewage disposal drain fields should not be located where subject to flooding.

Performance Standards

1. Subdivisions of land shall comply with local plans, codes, and ordinances and be designed to exemplify the definition and policy of the applicable shoreline designation as well as the environmental and physical capabilities of the subject site.
2. Appurtenant structures such as decks, sheds, and stairways shall be located behind the ordinary high water mark as far as practical and shall meet applicable setbacks.
3. Public access to publicly owned shorelines shall be maintained.
4. Development shall assure that surface water runoff does not pollute adjacent waters or cause soil or beach erosion, either during or after the construction phase.
5. Developments containing marshes, swamps, lagoons, portions of a flood plain, or similar wetlands shall use those areas only for the purpose of parks, open space, or recreational facilities.
6. Developments shall be designed to include measures to prevent overflow usage of common areas upon adjacent privately owned shorelands and uplands.
7. Amenities provided by development shall not be detrimental to the geohydraulic processes occurring within the shoreline corridor.
8. Roads, utilities, and other improvements shall comply with the applicable policies and performance standards of this Master Program.
9. Residential structures shall not be located in areas subject to flooding or tidal inundation unless complete flood proofing measures have been provided, and then only when the location of such structures will not aggravate flooding possibilities of nearby properties.
9. The standard setback for residential structures, including common appurtenant structures such as garages and workshops, shall be thirty (30) feet or one (1) foot for each foot of bank height, whichever is greater. This setback shall be measured from the bank's edge when the bank's height exceeds 10 feet. When the bank's height is less than 10 feet, the setback shall be measured from the ordinary high water mark. The setback shall not exceed 100 feet.*

*[*See Administrative Interpretation, Pages 105-106]*

Exceptions from this standard include the following:

- a. Where there are existing dwellings within 300 feet on either side of the proposed building site, the setback shall be the average setback of those dwellings or as prescribed above, whichever is less (see Figure 4). In those instances where a single dwelling unit is within 300 feet of one (1) side of the proposed building site, the setback shall be the difference (average) between the required setback and that of the existing structure (see Figure 5). In both cases, the existing dwellings are construed to be those that are currently occupied. The mere presence of shacks, sheds or dilapidated buildings does not constitute the existence of a dwelling unit.

- b. Where a residential setback was established as part of the approval of a residential subdivision, the established subdivision setback shall take precedence.

All setbacks shall be measured from the waterward most edge of the structure, excluding decks, eaves, etcetera. Deviations from this standard shall be reviewed on an individual basis. A request for a deviation shall be considered an administrative variance following the procedures established under Subsection 7.20 and will be subject to the variance review criteria established under Subsection 7.103 of this Master Program. Unless appealed, a setback deviation rendered by the County or City shall be considered final.

11. Alteration of topography for building sites, access roads, and utilities shall be conducted in compliance with the applicable policies and performance standards of this Master Program.
12. Sewage disposal systems shall not be located within the flood plain of marine and fresh water bodies unless in compliance with the Jefferson County Flood Plain Management Ordinance.
13. Residential structures shall not exceed thirty-five feet in height.

5.170 SCIENTIFIC AND EDUCATIONAL FACILITIES

Definition

Those sites, structures, or facilities that provide unique insight into our natural or cultural heritage.

Policies

1. Jefferson County and the City of Port Townsend should consult with the Washington State Office of Archaeology and Historic Preservation and professional consultants to review proposed project areas for potential valuable data and to establish procedures for salvaging that data.
2. Where possible, sites should be permanently preserved for scientific study and public observation. In areas known to contain archaeological data, special conditions should be attached to substantial development permits to provide for site inspections and an evaluation of an archaeologist to ensure that archaeological data is properly salvaged.
3. Developers should notify Jefferson County or the City of Port Townsend, as the case may be, if any possible archaeological data is uncovered during excavations in the shoreline area.
4. Jefferson County and the City of Port Townsend should work toward lending integrity to the Natural Historic Preservation Act of 1966 and the Washington State Parks and Recreation Commission Act (RCW 43.51) and provide wherever possible for the protection, rehabilitation, restoration, and reconstruction of districts, sites, buildings, structures, and objects significant in American, Washington State, or local history, architecture, archaeology, or culture.
5. Excavation of Indian artifacts shall be conducted in compliance with the Washington State Archaeological Sites and Resources Act (RCW 27.53),
6. Excavation activities shall be conducted in compliance with the applicable policies and standards of this Master Program.

Performance Standards

1. No development or substantial development shall be undertaken with regard to a site or structure that has probable historical, scientific, or archaeological significance until an evaluation of the site or structure has been made by an authority judged competent in such matters by Jefferson County or the City of Port Townsend.
2. All feasible means shall be employed to ensure that data, structures, and sites having historical, scientific, educational, or archaeological significance are extracted, preserved, or used in a manner commensurate with their importance.
3. The establishment, restoration, or revitalization of historical, archaeological, scientific, or educational facilities shall be done in such a manner that would cause minimal disturbance to adjacent properties as well as natural features of the shoreline.

5.180 SHORE DEFENSE WORKS

Definition

Structures or modifications for the purpose of retarding shore erosion from wave or current action, protecting channels and harbors from wave action, encouraging deposition of beach materials, preventing stream bank overflow and retaining uplands. They may consist of bulkheads, seawalls, dikes, revetments, breakwaters, jetties, or gabions. Defense works are commonly constructed from quarry rock (rip-rap), treated wood., concrete, steel, and sand and gravel.

Prohibited Uses and Activities

1. Shore defense works on spits, hooks, bars, barrier beaches, or similar accretion terminals or accretion shore forms.

Policies

1. Bulkheads and seawalls should be located and constructed in such a manner that will not result in adverse effects on nearby beaches and will minimize alterations of the natural shoreline.
2. Shore defense works should be constructed in such a way that would minimize damage to fish and shellfish habitats. Open poling construction is preferable in lieu of the solid type.
3. The effect of a proposed bulkhead on public access to publicly owned shorelines should be considered.
4. Shore defense works should be designed to blend with the surroundings and not to distract from the aesthetic qualities of the shorelines.
5. The construction of bulkheads should be permitted only where they provide protection to upland areas or facilities, not for the indirect purpose of creating land by filling behind the bulkhead. Landfill operations should satisfy related performance standards.
6. Floating breakwaters are preferred to solid landfill types in order to maintain sand movement and fish habitats.
7. Solid breakwaters should be constructed only where design modifications can eliminate potentially detrimental effects on the movement of sand and circulation of water.
8. The restriction of the public use of the water surface as a result of breakwater construction must be recognized and must be considered in granting shoreline permits for their construction.
9. The effect proposed jetties or groins have on sand movement must be considered. Provisions should be made to compensate for the adverse effects of the structures either by artificially transporting sand to the downdrift side on an inlet with jetties, or by artificially feeding the beaches in the case of groins.
10. Special attention should be given to the effect these structures will have on wildlife propagation and movement, and to the effects these structures will have on the aesthetic quality of the shoreline.
11. Rip-rapping and other bank stabilization measures should be located, designed, and constructed to avoid the need for channelization and to protect the natural character of the stream.
12. Where flood protection measures such as dikes are planned, they should be placed landward of the stream, including associated swamps and marshes and other wetlands directly interrelated and interdependent with the stream proper.
13. Flood protection measures that result in channelization should be avoided.

Performance Standards

1. Shore defense works shall be designed and constructed in a manner that causes an absolute minimum of interruption to naturally occurring shoreline processes.
2. Shore defense works shall be designed and constructed to minimize interruption of fish movements as well as marine and wildlife habitats.

3. Shore defense works shall not be used for the indirect purpose of creating landfills, unless such landfill is specifically permitted in compliance with landfill performance standards of this Master Program.
4. Shore defense works shall be designed and constructed to harmonize insofar as practicable with the aesthetic characteristics of the area where they are located.
5. Shore defense works such as dikes shall be located landward of the stream and associated swamps, backwaters, marshes, floodway and other wetlands directly interrelated and interdependent with the stream proper.
6. Substantial development permit applications shall provide competent technical evidence that the proposed shore defense structure will perform as designed.
7. Shore defense works along rivers and streams shall not include groins or jetties or otherwise divert the direction of stream flow, unless said works have been professionally engineered and analyzed to ensure the diversion will not cause cross-stream or down-stream impacts nor adversely alter the characteristic of the river or stream.

5.190 TRANSPORTATION FACILITIES

Definition

Passageways for motorized vehicles or trains, including but not limited to such devices as bridges, trestles, ramps, or culverts.

Policies

1. Whenever feasible, major highways, freeways, and railroads should be located away from shore lands, except in port and heavy industrial areas, so shore roads may be reserved for slow moving recreational or residential traffic.
2. Roads located in wet land areas should be designed and maintained to prevent erosion and to permit a natural movement of ground water.
3. All debris, overburden, and other waste materials from construction should be disposed in such a way to prevent their entry by erosion from drainage, high water, or other means into any water body.
4. Road locations should be planned to fit the topography so alterations of natural conditions will be minimized.
5. Scenic corridors with public roadways should have provisions for safe pedestrian and other non-motorized travel. Also, provisions should be made for sufficient view points, rest areas, and picnic areas in public shorelines.
6. Extensive loops or spurs of old highways with high aesthetic quality should be kept in service as pleasure by-pass routes, especially where main highways paralleling the old highway must carry large traffic volumes of high speed.
7. Since land use and transportation facilities are so highly interrelated, the plans for each should be coordinated.
8. Waterway crossings should be designed and constructed to maintain normal geohydraulic processes, as well as to minimize interruption of flood water flow.
9. Transportation facilities should assure the continued and unobstructed movement of sediments.
10. The number of waterway crossings should be minimized.

Performance Standards

1. When feasible, major highways and railroads shall be located away from the shoreline.
2. Whenever possible, roads shall be located on natural benches, ridge tops, or other areas where alteration of natural features such as soils will be minimal.
3. Roads and railroads shall be located to provide buffer areas along streams and other shorelines.
4. Roads shall be located to avoid steep, narrow canyons, slide areas, slumps, swamps, marshes, wet meadows, and the like and shall meet the provisions of Section 5.100, "Landfills."
5. Unnecessary duplication of roads shall be avoided by making use of existing roads where practicable.
6. Road drainage shall be designed to control the dispersal of surface runoff from roads and exposed soils in order to minimize turbid water from draining into waterways.
7. Earthworks shall be designed to provide waste and borrow areas that will produce a minimum of erosion, water turbidity, and aesthetic damage.
8. Cut and fill slopes shall be designed at the normal angle of repose or less.
9. Cut and fill slopes shall be protected from erosion by mulching, seeding, use of headwalls, or other suitable means.
10. Roads and waterway crossings shall not be wider than to accommodate the anticipated use.
11. Waterway crossings shall be designed so the integrity of the naturally occurring geohydraulic process is maintained.
12. Waterway crossings shall be designed to provide minimal disturbance to banks.
13. Culverts and similar devices shall be designed with regard to 100 year flood storm frequencies.
14. Bridges and similar devices shall be designed with regard to 100 year flood frequencies.
15. Roads, bridges, culverts, and similar devices shall afford maximum protection for fisheries resources.
16. Excess material shall be deposited in stable locations and not into stream corridors where such materials degrade water quality, impede flood waters, or alter naturally occurring geohydraulic processes.
17. No machinery shall operate within a stream bed except in compliance with a hydraulics permit issued by the Washington State Department of Fisheries and Department of Game.
18. All material associated with road construction that is potentially unstable or erodible shall be stabilized by compacting, seeding, mulching, or other suitable means.
19. All roads and drainage systems shall be maintained to prevent erosion and/or water quality degradation.
20. Mechanical apparatus, rather than chemicals, shall be used for brush clearing maintenance wherever practicable.
21. Herbicides used for maintenance along roads and drainage systems shall follow the performance standard outlined under "Chemical Application" of the "Forest Management" subsection.
22. Road routes shall make provisions for pedestrian, equestrian, bicycle, and other modes of travel whenever feasible.
23. In compliance with RCW 36.87.130 and RCW 35.79.030, neither Jefferson County or the City of Port Townsend shall vacate a road or part thereof that abuts on a body of salt or fresh water, 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, view point, recreational, educational, or other public purposes, or unless the property is zoned for

industrial purposes. Further, such vacation shall not be accomplished for any purpose that is not consistent with this Master Program, and then only when all appropriate federal, state, and local permits have been issued for the intended use.

24. Transportation facilities in floodways shall be designed to minimize flood water diversion or obstruction to flood water flow.

5.200 UTILITIES

Definition

Services or facilities that produce, transmit, carry, store, process, or dispose of electric power, gas, water, sewage, communications, oil, and the like.

Policies

1. Whenever utilities must be placed in a shoreline area, the location should be chosen to not obstruct or destroy scenic views. Wherever feasible, these facilities should be placed underground or designed to do minimal damage to the aesthetic qualities of the shoreline area.
2. To an extent feasible, Jefferson County and the City of Port Townsend should incorporate major utility corridors on shorelines into their programs and plans for public access to and along water bodies.
3. Utilities should be located to meet the needs of future populations in areas planned to accommodate this growth.
4. Upon completion of installation and maintenance projects of shorelines, banks should be restored to preproject configuration, replanted with native species, and be provided with maintenance care until the newly planted vegetation is established.

Performance Standards

1. Utilities shall be installed adjacent to or within existing utility or circulation easements or rights-of-way whenever feasible.
2. Utilities shall be installed underground whenever feasible.
3. Utilities shall be designed and installed to meet future needs when possible.
4. When feasible, utility corridors shall serve multiple uses such as shoreline access or recreational trails or pathways.
5. Utilities installed in the water, beach, or upon tidal areas shall assure that water quality and marine life will not suffer degradation.
6. Installation of utilities shall assure the prevention of siltation or beach erosion.
7. Upon completion of installation or maintenance projects, banks shall be restored to a suitable configuration and stability, replanted with native species, and provided with maintenance care until the newly planted vegetation is established.
8. Utility discharges and outfalls shall be located, designed, constructed, and operated so degradation to water quality, marine life, and general shoreline ecosystems is kept to an absolute minimum.
9. Both during and after installation, utilities shall assure that geohydraulic shore processes and marine life are basically maintained in their natural condition.

10. Utilities located in flood prone areas shall be provided with adequate flood protection and shall not be installed to increase flood hazard or other damage to life or property.
11. Flammable or toxic materials shall not be stored in areas subject to flooding.
12. Utilities shall not be installed in areas subject to geological hazards, unless it can clearly be demonstrated that such hazards can be overcome.

SECTION 6

ADMINISTRATION

SUBSECTIONS

- 6.10 Program Administration
- 6.20 Public Hearings
- 6.30 County Commissioners and City Council
- 6.40 Application

There is hereby established by this Master Program an administrative system designed to assign responsibilities for review of substantial development permits, to prescribe an orderly process by which to review all permit applications, and generally to ensure that all persons coming within the jurisdiction of this Master Program are treated in a fair and equitable manner.

6.10 PROGRAM ADMINISTRATION

The Jefferson County Planning and Building Department is hereby vested with general overall administration of the Shoreline Management Act and this Master Program with respect to Jefferson County and the City of Port Townsend. For projects originating within the City of Port Townsend, the planning department shall perform its duties in conjunction with the Port Townsend Public Works Department and Mayor's Office. The responsibilities and duties of the Planning and Building Department include the following:

1. Prepare and use such forms it deems essential for administrative purposes. Such forms shall be consistent with WAC 173-27-110.
2. Advise and assist applicants for shoreline permits of administrative requirements and review criteria of the Shoreline Management Act and this Master Program.
3. Insofar as possible, ensure that all shoreline permit applications are proper and complete prior to review.
4. Ensure that all administrative requirements designed by the Shoreline Management Act and this Master Program are accomplished in processing shoreline permit applications.
5. Insofar as possible, ensure that all foreseeable and pertinent data, correspondence, and testimony regarding permit applications has been considered and are in order prior to review.
6. Present permit applications for substantial development, secondary and conditional uses and variance requests together with any findings, evaluations, and recommendations to the Hearing Examiner.
7. Present permit applications together with findings, evaluations, and recommendations to the Board of County Commissioners or City Council.
8. Review all proper and complete shoreline permit applications for primary uses.
9. Review any and all information, testimony, or correspondence from interested persons, groups, or agencies with respect to shoreline permit applications for primary uses.

10. Make findings and evaluations and thereafter formulate and transmit recommendations to the Hearing Examiner or City Council that permits be granted or denied for primary uses with respect to compliance with the Shoreline Management Act and this Master Program.
11. Condition any permit recommended for approval associated with Item 10 above in order to prevent undesirable effects of the proposed use, as well as bringing about conformance with the goals, policies, and or standards of this Master Program.
12. Provide technical and administrative assistance to the Hearing Examiner, Board of County Commissioners and City Council relative to the Shoreline Management Act and this Master Program.
13. Act as the primary liaison between local and state agencies in the administration of the Shoreline Management Act and this Master Program.
14. Make administrative decisions and interpretations regarding the Shoreline Management Act and this Master Program.
15. Seek remedies for either violations of the Shoreline Management Act and this Master Program, or for noncompliance with conditions of any approved shoreline permit issued by Jefferson County or the City of Port Townsend.
16. Assist in the development and processing of any proposed adjustments of this Master Program.
17. Insofar as possible, ensure that all foreseeable pertinent data, correspondence, testimony, and recommendations on proposed adjustments to this Master Program are considered and are in order prior to review.
18. Present proposed adjustments to this Master Program, together with findings and recommendations, to the Jefferson County Planning Commission, the Board of County Commissioners, or City Council.
19. Undertake measures to inform the citizens of Jefferson County and the City of Port Townsend of the philosophy, purposes, goals, requirements, implications, and technical considerations associated with the Shoreline Management Act and this Master Program.

6.20 PUBLIC HEARINGS

The Jefferson County Hearing Examiner shall have the responsibilities and duties identified below:

1. Consider through an open record public hearing or other means all pertinent data, testimony, correspondence, findings, evaluations, recommendations, and conditions related to any application for a shoreline permit within the scope of this Master Program.
2. Accept or reject any recommendation and/or conditions(s), and thereupon take action to grant or deny applications for permits with respect to compliance with the Shoreline Management Act and this Master Program.
3. Condition any permit recommended for approval associated with Item 2 above in order to prevent undesirable effects of the proposed project, as well as bringing about conformance with the goals, policies, and standards of this Master Program.
4. Seek remedies for either violations of the Shoreline Management Act and this Master Program, or for noncompliance with conditions for any approved permit issued by Jefferson County.
5. Seek remedies for either violations of the Shoreline Management Act and this Master Program, or for noncompliance with conditions for any approved permit issued by Jefferson County or the City of Port Townsend.

6. Act as an appeals body to adjudicate grievances brought forth by a person regarding administrative decisions or interpretations associated with the Shoreline Management Act and this Master Program.

6.30 COUNTY COMMISSIONERS AND CITY COUNCIL

The responsibilities and duties of the Board of County Commissioners and City Council with respect to this Master Program include the following:

1. Consider through closed record public hearings all pertinent data testimony, correspondence, findings, evaluations, recommendations, and conditions related to any appeal of a decision by the Hearing Examiner regarding any application for a shoreline permit.
2. Act as an appeals board through closed record public hearings with respect to decisions of the Hearing Examiner issued within the scope of this Master Program.
3. Consider through public hearings or meetings all pertinent data, testimony, correspondence, findings, and recommendations related to any proposed adjustments to this Master Program.
4. Accept or reject any recommendation or portion thereof and thereupon take action to adopt or not adopt any proposed adjustments to this Master Program.

6.40 APPLICATION

Any person(s) who wishes to conduct substantial development within the geographical jurisdiction of this Master Program shall supply to Jefferson County or the City of Port Townsend through the Jefferson County Planning and Building Department for a shoreline permit. A shoreline permit is considered the last governmental approval prior to construction or issuance of a building permit. If a proposal involves other governmental approvals, as in a rezone or subdivision approval, these other issues shall be resolved prior to final action on a shoreline permit application.

6.401 PROCEDURE

The following procedure shall be applied to the processing of shoreline permit applications in order to assure that review of an application is expedient and equitable:

1. An applicant must submit a proper and complete application in accordance with WAC 173-27-110 to the Planning and Building Department on forms so designated.
2. An applicant may need to submit a proper and complete environmental assessment or, if appropriate, environmental impact statement to the Planning and Building Department or Jefferson County Permit Center on forms or in a format so designated.
3. Application fees must be paid in accordance with those established by the Jefferson County Board of Commissioners.
4. Notice of application shall be provided within fourteen days after the complete information has been received. Any local, state, or federal agency that may have interest in the proposed project shall be notified by the Jefferson County Permit Center or Planning and Building Department for any comments that agency or department may have. Notice

- shall include a statement of the public comment period, which shall be not less than thirty days following the date of notice of application.
5. After all pertinent data and input has been accumulated, a public hearing before the Jefferson County Hearing Examiner for any substantial development, secondary or conditional use applications or variance requests shall be scheduled, or, in the case of primary use applications, a public hearing may be scheduled. Public notice of a public hearing shall be made in accordance with Subsection 6.402 of this Master Program.
 6. The Hearing Examiner and City Council with respect to their separate jurisdictions, shall act on applications as outlined under Subsection 6.30 of this Master Program. The Hearing Examiner or City Council may refer the application back to the Jefferson County Permit Center, Planning and Building Department, or City Administrator for further review.
 7. The Jefferson County Permit Center or Planning and Building Department shall transmit within eight days final action taken on an application to the applicant, Washington State Department of Ecology, Washington State Attorney Generals Office, and any person who has requested notice. The Department of Ecology shall render its final decision approving, approving with conditions, or disapproving the permit within thirty (30) days of the date of submittal by local government.
 8. A person who is aggrieved by action taken on an application may appeal the decision in compliance with Section 9 of this Master Program.
 9. A recipient of a shoreline permit from the county or city shall not commence development or construction until thirty (30) days from the date of filing with the Washington State Department of Ecology or until all appeal proceedings have terminated. Due to the Department of Ecology's review of conditional uses and variances, the date of filing may be up to thirty (30) days from the date of receipt of the permit by the Department of Ecology.
 10. Any development, construction, or activity conducted pursuant to a shoreline permit issued by Jefferson County or the City of Port Townsend shall be completed within any time limits for completion that are imposed as a condition of permit approval, or outline under Subsection 6.405 of this Master Program.

6.402 PUBLIC NOTICE

Notice of an application and its public hearing, if any, shall be made as follows:

1. The Jefferson County Permit Center or Planning and Building Department shall publish legal notices at least once a week, on the same day of the week, for two consecutive weeks, in a newspaper of general circulation within the county or city in accordance with the format prescribed by WAC 173-27-110.

In addition, the Jefferson County Permit Center or Planning and Building Department shall ensure that additional notice of the application be made in a manner they deem appropriate to accomplish the objectives of reasonable notice to adjacent property owners and the public. This may be accomplished by notifying by mail property owners identified by the county records that are adjacent to the property upon which the development is proposed, and/or requiring the applicant to conspicuously post with notices the property of the development and/or other locations as directed by the Jefferson County Permit Center or Planning and Building Department.

2. The Jefferson County Permit Center or Planning and Building Department shall publish at least one legal notice of a scheduled public hearing of an application in a newspaper of general circulation within the county or city. The notice shall be made after the last publication date of the notice of application and at least ten (10) days prior to the public hearing.

6.403 BONDS

To guarantee that conditions imposed in conjunction with permit approval are completed, the Board of County Commissioners or City Council with respect to their separate jurisdictions may require the applicant to post a performance bond in an amount satisfactory to the board or council. Any such bond shall be from a reputable bonding company in a form acceptable to the Jefferson County Prosecuting Attorney or the City of Port Townsend Attorney.

6.404 REVISIONS

When Jefferson County or the City of Port Townsend receives application to revise a shoreline permit previously granted, they shall, with respect to their separate jurisdictions, determine if the desired modifications are "major and significant." If the modifications are determined as major and significant, a new and complete application shall be processed in compliance with this section. If the proposed modifications are determined as not being major and significant, the Board or City Council shall review and thereafter approve or deny the request for permit revision. When a permittee seeks to revise a permit, the Jefferson County Planning and Building Department shall request from the permittee detailed plans and text describing the proposed changes in the permit.

If Jefferson County or the City of Port Townsend determines that the proposed changes are within the scope and intent of the original permit, they may approve a revision. "Within the scope and intent of the original permit" means all of the following:

1. No additional over-water construction is involved, except that pier, dock, or float construction may be increased by 500 square feet or 10 percent from the provisions of the original permit, whichever is less.
2. Ground area coverage and height of each structure may be increased a maximum of ten percent from the provisions of the original permit.
3. Additional separate structures may not exceed a total of 250 square feet.
4. The revised permit does not exceed height, lot coverage, setback, or any of the requirements of this Master Program except as authorized under the original permit.
5. Additional landscaping is consistent with conditions (if any) attached to the original permit and with this Master Program.
6. The use authorized pursuant to the original permit is not changed.
7. No substantial adverse environmental impact will be caused by the proposed revision. If the sum of the revision and any previously approved revisions violate the provisions above, the county or city shall require that the permittee apply for a new permit in the manner provided in this Master Program. Within eight days of the date of final action by the city or county, the revision, including the revised site plan, text, and the final ruling on consistency with this section, shall be filed with the Washington State Department of Ecology and Washington State Attorney General. In addition, the Planning and Building Department shall notify parties of record of their action. If the revision to the original

permit involves a conditional use or variance that was conditioned by the Department of Ecology, the Planning and Building Department shall submit the revision to the Department of Ecology for their approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the requirement of WAC 173-27-100(5). The Department of Ecology shall render and transmit to the Planning and Building Department and the permittee their final decision within fifteen (15) days of the date of their receipt of the submittal from the county or city. The Planning and Building Department shall notify parties of record of the Department of Ecology's final decision. The revised permit is effective immediately upon final action by the county or city or, in the case of a conditional use or variance, by the Department of Ecology, in accordance with WAC 173-27-100.

8. Appeals shall be filed within twenty-one (21) days from the date of receipt of the local government's action by the department, or the date the department's final decision is transmitted to local government and the applicant.

6.405 EXPIRATION

Criteria for determining when a shoreline permit expires are as follows:

1. Construction or substantial progress toward construction of a project for which a shoreline permit has been granted pursuant to this section shall be undertaken within two (2) years after permit approval or the permit shall expire. If such progress has not been made, a new shoreline permit application will be required. Jefferson County or the City of Port Townsend may, at its discretion, grant one extension of the two year time period prior to its expiration for up to one (1) year with prior notice to parties of record and the department based on factors such as project-related litigation or the inability to expeditiously obtain other governmental permits.
2. If a project for which a shoreline permit has been granted has not been completed within five (5) years after permit approval, Jefferson County or the City of Port Townsend shall at the expiration of the five year period, review the permit and, upon a showing of good cause, may extend the permit for one (1) year or terminate the permit; provided no shoreline permit shall be extended unless the applicant has requested such review and extension prior to the expiration date.
3. Jefferson County or the City of Port Townsend may issue permits with a fixed termination date of less than five (5) years, and construction implementation date of less than two (2) years.

SECTION 7

VARIANCES

SECTIONS

7.10 General Variances

7.20 Administrative Variances

7.10 GENERAL VARIANCES

Deviation from the design standards contained in this Master Program may be permitted by variance. Uses which are prohibited within a shoreline environment may not otherwise be permitted without an amendment to this Master Program. Unclassified uses may be considered as a conditional use provided prohibited uses shall not be authorized.

Variances from standards contained herein may be permitted where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the purpose and goals set forth in Section 1 of this Master Program.

7.101 APPLICATION

A variance request shall be submitted in writing to the Jefferson County Planning and Building Department and shall be considered an integral part of the permit application. The request shall include the variance requested and shall contain a statement of the applicant's justification based on the applicable review criteria and or findings under Subsection 7.103 below.

7.102 PUBLIC HEARING

The Jefferson- County Hearing Examiner shall conduct a public hearing on general variance requests of which notice shall be made in accordance with requirements set forth in this Master Program.

7.103 REVIEW

1. Variance applications for developments that will be located landward of the ordinary high water mark and not within areas defined herein as marshes, bogs, or swamps may be authorized provided the applicant can demonstrate Items 1 through 6 of Subsection 7.104.

In addition, the applicant must demonstrate that the strict application of the standards set forth in this Master Program precludes or significantly interferes with a reasonable permitted use of the property.

2. Variance applications for developments that will be located either waterward of the ordinary high water mark or within marshes, bogs, or swamps, as defined in this Master Program, may be authorized provided the applicant can demonstrate Items 1 through 6 of Subsection 7.104. In addition, the applicant must demonstrate that:
 - a. The strict application of the standards set forth in this Master Program precludes a reasonable permitted use of the property; and
 - b. The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.

7.104 CRITERIA

In reviewing a variance application, the Jefferson County Board of Commissioners or Port Townsend City Council shall make the following findings:

1. The hardship, as described in either Item 1 or 2 above, is specifically related to the property and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this Master Program and not, for example, from deed restrictions or the applicant's own actions.
2. The design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment.
3. The variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief.
4. The public interest will suffer no substantial detrimental effect.
5. The variance will be in harmony with the general purpose and intent of this Master Program.
6. In the granting of all variance applications, consideration shall be given to the cumulative impact of additional requests for similar actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the purpose, goals, and policies of this Master Program and should not produce substantial adverse effects to the shoreline environment.

In addition to the above criteria, applicants for variances from the public access requirements of this Master Program shall demonstrate that one or more of the following conditions exist which cannot otherwise be mitigated:

- a. The provision will result in an unacceptable hazard to the public.
- b. The inherent security requirements of the development preclude access consideration.
- c. The cost of the access amenity is unreasonably disproportionate to the total cost of the development.
- d. The provision of access will result in unacceptable environmental harm.
- e. A significant and unavoidable conflict with adjacent uses will occur.

7.105 APPROVAL

In order to comply with the Shoreline Management Act, any requests for general variances will be submitted to the Washington State Department of Ecology for approval, approval with conditions, or disapproval. The department shall render and transmit its decision to the applicant and Jefferson

County or the City of Port Townsend within thirty (30) days of receipt of the final action. Construction may not begin until thirty (30) days has elapsed from the date the department has transmitted its approval to the applicant and Jefferson County or the City of Port Townsend.

7.20 ADMINISTRATIVE VARIANCES

Variances from the administrative procedures portion of this Master Program (Section 6) or residential setbacks (Subsection 5.160) may be granted by the Jefferson County Hearing Examiner or Port Townsend City Council upon recommendation of the Jefferson County Planning and Building Department or Port Townsend Shoreline Administrator when the board or council is assured the variance is in keeping with the general intent of this Master Program and the Shoreline Management Act. In doing so, either body may require special conditions, which in their judgment will substantially secure the administrative procedures or requirements so varied.

SECTION 8

PROGRAM REVISIONS

In order to comply with RCW 90.58.190, Jefferson County and the City of Port Townsend shall periodically review this Master Program and make such adjustments that are desirable or necessary.

The Jefferson County Planning Commission shall develop and/or review any proposed amendments and adjustments to this Master Program and make recommendations relative thereto to the Board of County Commissioners.

Any such revisions or adjustments shall be submitted to the Washington State Department of Ecology only after completion of at least one public hearing in accordance with the requirements set forth under WAC 173-19, and upon favorable recommendation by the Jefferson County Board of Commissioners and Port Townsend City Council. No such revision or adjustment shall become effective until it has been approved by the Washington State Department of Ecology.

SECTION 9

LEGAL PROVISIONS

SUBSECTIONS

- 9.10** Violations and Penalties
- 9.20** Appeals
- 9.30** Severability
- 9.40** Effective Date
- 9.50** Adoption

9.10 VIOLATIONS AND PENALTIES

9.101 COURT ACTION

The Washington State Attorney General, or the attorney for Jefferson County or the City of Port Townsend, shall bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the shorelines of the state in conflict with the provisions of the Shoreline Management Act and this Master Program, and to otherwise advance the provisions of each.

9.102 GENERAL PENALTY

In addition to incurring civil liability under RCW 90.58.210 and Subsection 9.101 above, any person found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of this section or any of the Master Program's rules or regulations adopted pursuant thereto shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment; provided the fine for this and all subsequent violations in any five (5) year period shall not be less than five hundred dollars (\$500) nor more than ten thousand dollars (\$10,000).

In order to abate or correct violations of the Shoreline Management Act or this Master Program, Jefferson County or the City of Port Townsend and/or the Washington State Department of Ecology may issue a regulatory order in accordance with WAC 173-27.

9.103 VIOLATOR'S LIABILITY

Any person subject to the Shoreline Management Act and this Master Program who violates any provision of the act, Master Program, or permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected

area to its condition prior to violation. The attorney general or local government attorney shall bring suit for damages under this section on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provisions to ensure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money for damages, the court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

9.104 PERMIT CONDITION VIOLATIONS

Any Shoreline permit may, after a hearing with notice to the permittee and the public, be rescinded by Jefferson County or the City of Port Townsend upon the findings that a permittee has not complied with the conditions imposed with the permit. A public hearing may be held after ten (10) days notice to the permittee, interested parties, and the public.

In the event the Washington State Department of Ecology is of the opinion that such non-compliance continues to exist, the department shall provide written notice to Jefferson County or the City of Port Townsend and the permittee. If the county or city takes no action to conduct a hearing within thirty (30) days of the written notice, the department may then petition the Washington State Shorelines Hearings Board for a rescission of such permit within fifteen (15) days of the termination of the thirty day notice to the county or city. Notice of such a petition shall be made to the county, city, and permittee.

9.20 APPEALS

9.201 ADMINISTRATIVE APPEALS

Any person who considers their self aggrieved by an administrative decision or interpretation associated with the Shoreline Management Act and this Master Program shall within ten (10) days of the date of final action, appeal in person or in writing to the Jefferson County Hearing Examiner or Port Townsend Council with respect to their separate jurisdictions for adjudication of the grievance.

9.202 PERMIT APPEALS

Any person aggrieved by the granting or denying of a permit on shorelines of the state, or rescinding a permit pursuant to the Shoreline Management Act as not or hereafter amended, may seek review from the Washington State Shorelines Hearings Board by filing a request for the same within thirty (30) days of receipt of the final order. Concurrently, with the filing of any request for review with the Washington State Shorelines Hearings Board, as provided in this section pertaining to a final order of a local government, the requester shall file a copy of this request with the Washington State Department of Ecology and Washington State Attorney General. If it appears to the department or attorney general that the requester has valid reason(s) to seek review, either the Department or the Attorney General may certify the request within thirty (30) days after its receipt to the Shorelines Hearings Board following which the Board shall then, but not otherwise, review the matter covered by the requester; provided the failure to obtain such certification shall not preclude the requester from obtaining a review in the Washington State Superior Court in any right or review otherwise available to the requester. The Department and the Attorney General may intervene to protect the public interest and ensure that the provisions of the Shoreline Management Act are complied with at any time within thirty (30) days from the date of the filing of the copies of the requester.

The Department or Attorney General may obtain review of any final order granting a permit, or granting or denying an application for a permit, issued by Jefferson County or the City of Port Townsend by filing a written request with the Washington State Shoreline Appeals Board and the appropriate local government within thirty (30) days from the date of the final order was filed, as provided under RCW 90.59.140(5).* [**See Administrative Interpretation, Page 107.*]

9.30 SEVERABILITY

If any section, subsection, or other portion of this Master Program is held invalid by any court of competent jurisdiction or any review authority provided by the Shoreline Management Act, such holding shall not affect the validity of the remaining portions of this Master Program unless to specified.

9.40 EFFECTIVE DATE

This Master Program, as amended, is effective March 7, 1989 upon adoption by the Washington State Department of Ecology as provided under RCW 90.58.090.

APPENDIX “A”

MARINE SHORELINES

CONSERVANCY begins at the Clallam-Jefferson County line and continues along the shoreline, (except for the Gardiner Marsh which is NATURAL), ending at a point on the South section line of Section 13, Township 29 North, Range 2 West, WM, where suburban begins.

SUBURBAN follows the shoreline, (except for those lands waterward of the railroad tracks between Salmon and Snow Creeks which are classified NATURAL), ending 100 feet West of the West bank of Snow Creek where conservancy begins.

CONSERVANCY follows the shoreline to a point 100 feet East of the East bank of Snow Creek where suburban begins.

SUBURBAN includes all that along the shoreline, (except those lands lying waterward of the railroad tracks which are designated CONSERVANCY), to a point 1,000 feet North of the intersection of the Fairmount Road and State Route 20 where conservancy begins.

CONSERVANCY continues along the shoreline, ending at the North section line of Section 5, Township 29 North, Range 1 West, WM, where suburban begins.

SUBURBAN follows the shoreline to a point 3,100 feet North of the South section line of Section 32, Township 30 North, Range 1 West, WM, where conservancy begins.

CONSERVANCY follows the shoreline, (except for the Chevy Chase Marshes which are designated NATURAL), ending 800 feet East of the Southwest corner of Section 24, Township 30 North, Range 2 West, WM, where suburban begins.

SUBURBAN continues along the shoreline, ending on the east section line of Section 23, Township 30 North, Range 2 West, WM, where conservancy begins.

CONSERVANCY follows the shoreline to a point 1,000 feet North of the South section line of Section 12, Township 30 North, Range 2 West, WM, where natural and suburban begins.

NATURAL and SUBURBAN is a dual classification with natural comprising that area between the line of ordinary high water to the top of the bluff and suburban comprising the remainder of the 200 foot jurisdictional area. This dual designation follows the shoreline to a point at the Westerly boundary of Fort Worden State Park where natural and conservancy begins.

NATURAL and CONSERVANCY is a dual classification with natural being that area between the ordinary high water line to the top of the bluffs West of Point Wilson and conservancy being the remainder of the 200 foot jurisdictional area. This dual classification follows the shoreline to a point 3,500 feet East of the West section line of Section 35, Township 31 North, Range 1 West, WM, where conservancy begins.

CONSERVANCY includes all that along the shoreline to the Point Wilson lighthouse where natural and conservancy begins.

NATURAL and CONSERVANCY is a dual classification with natural comprising that area from the ordinary high water line to the Fort Worden State Park access road and conservancy comprising that remaining area of the 200 foot jurisdiction. This dual classification goes along the shoreline to a point 2,100 feet South from the North section line of Section 35, Township 31 North, Range 1 West, WM, where conservancy begins.

CONSERVANCY continues along the shoreline where it ends at the Southern boundary of Fort Worden State Park where natural and suburban begins.

NATURAL and SUBURBAN is a dual classification with natural being that area between the line of ordinary high water to the top of the bluffs and suburban being the balance of the 200 foot jurisdictional area. This dual classification follows the shoreline to the Southern boundary of Chetzemoka Park where urban begins.

URBAN follows the shoreline ending 4,700 feet South of the North section line of Section 16, Township 30 North, Range 1 West, WM, where conservancy begins.

CONSERVANCY follows the shoreline to the Southern boundary of Old Fort Townsend State Park where conservancy and suburban begins.

CONSERVANCY and SUBURBAN is a dual classification with conservancy being that area between the ordinary high water line to a point 50 feet landward from the edge of the bluffs and suburban being the remaining 150 feet of the 200 foot jurisdictional area. This dual designated area follows the shoreline, (except for that area from a point 2,000 feet Northwest of Kala Point to a point 900 feet South of the South section line of Section 26, Township 30 North, Range 1 West, WM, which is classified NATURAL), to the South section line of Section 26, Township 30 North, Range 1 West, WM, where conservancy begins.

CONSERVANCY follows the shoreline including the mouth and both banks of the Chimacum Creek, (except the estuarine waters of the creek which are designated NATURAL), ending at the South bank of the mouth of the creek where urban begins.

URBAN follows the shoreline to a point 300 feet South of the North section line of Section 2, Township 29 North, Range 1 West, WM, where conservancy begins.

CONSERVANCY goes along the shoreline ending at the East section line of Section 2. Township 29 North, Range 1 West, WM, where urban belongs.

URBAN goes along the shoreline to the North side of the Lower Hadlock Road where suburban begins.

SUBURBAN follows the shoreline (except for the Lower Hadlock Spit and Lagoon which are designated CONSERVANCY), ending at the point 2,200 feet East of the East section line of Section 2, Township 29 North, Range 1 West, WM, where urban begins.

URBAN follows the shoreline to a point 4,100 feet East of the East section line of Section 21, Township 29 North, Range 1 West, WM, where suburban begins.

SUBURBAN goes along the shoreline ending on the North side of the Indian Island Bridge where conservancy begins.

CONSERVANCY includes that area along the shoreline (except the Oak Bay Park Marsh and Lagoon which are designated NATURAL), to a point where Portage Way Road extends into Oak Bay within Section 7, Township 29 North, Range 1 East, WM, where suburban begins.

SUBURBAN goes along the shoreline to a point due East of the Southern intersection of the Oak Bay Road and Sentinel Firs Road where conservancy begins.

CONSERVANCY follows the shoreline to a point 700 feet West of the East section line of Section 29, Township 29, North, Range 1 East, WM, where suburban begins.

SUBURBAN follows the shoreline to a point of the North side of Mats Mats Bay, 3,000 feet East of the West section line of Section 33, Township 29 North, Range 1 East, WM, where conservancy begins.

CONSERVANCY goes along the shoreline, ending at Basalt Point where suburban begins.

SUBURBAN goes along the shoreline to the South section line of Section 9, Township 28 North, Range 1 East, WM, where urban begins.

URBAN includes that area of the shoreline to a point where Ludlow Creek intersects with the Paradise Bay Road on the North side of the creek where suburban begins.

SUBURBAN follows the shoreline, (except for the Ludlow Creek estuary which is designated NATURAL), ending 500 feet East of the West section line of Section 15, Township 28 North, Range 1 East, WM, where conservancy begins.

CONSERVANCY follows the shoreline to a point 2,200 feet South of the North section line of Section 15, Township 28 North, Range 1 East, WM, where suburban begins.

SUBURBAN goes along the shoreline ending at the sand spit connecting Hood Head with the mainland where natural and conservancy begins.

NATURAL and CONSERVANCY is a dual classification with natural being all the nonconiferous area (the mud flats and spits) and conservancy being that area lying landward of the natural area following the shoreline to the South section line of Section 26, Township 28 North, Range 1 East, WM, where conservancy begins.

CONSERVANCY follows the shoreline to a point 700 feet West of the West section line of Section 2, Township 27 North, Range 1 East, WM, where suburban begins.

SUBURBAN continues along the shoreline ending 4,800 feet West of the East section line of Section 33, Township 28 North, Range 1 East, WM, where natural begins.

NATURAL goes along the shoreline to a point 4,600 feet South of the North section line of Section 32, Township 28 North, Range 1 East, WM, where suburban begins.

SUBURBAN follows the shoreline ending 1,000 feet South of the South section line of Section 4, Township 27 North, Range 1 East, WM, where conservancy begins.

CONSERVANCY follows the shoreline ending 4,400 feet North of the North section line of Section 9, Township 27 North, Range 1 East, WM, where suburban begins.

SUBURBAN follows the shoreline, (except for the salt marsh lying South of the Bridgehaven Road which is designated NATURAL), to a point immediately South of South Point where conservancy begins.

CONSERVANCY follows the shoreline along the Toandos and Bolton Peninsulas, (except for the Thorndyke Marsh and Fisherman's Point Marsh which are designated NATURAL), ending on the West side of the Bolton Peninsula at the North section line of Section 30, Township 27 North, Range 1 West, WM, where suburban begins.

SUBURBAN continues along the shoreline to a point 1,200 feet North of the South section line of Section 19, Township 27 North, Range 1 West, WM, where urban begins.

URBAN follows the shoreline ending 2,600 feet North of the South section line of Section 19, Township 27 North, Range 1 West, WM, where suburban begins.

SUBURBAN follows the shoreline to a point 1,500 feet East of the West section line of Section 18, Township 27 North, Range 1 West, WM, where conservancy begins.

CONSERVANCY follows the shoreline to a point 500 feet South of the North section line of Section 25, Township 27 North, Range 2 West, WM, where suburban begins.

SUBURBAN continues along the shoreline, ending 2,800 feet South of the North section line of Section 25, Township 27 North, Range 2 West, WM, where urban begins.

URBAN goes along the shoreline to a point 3,400 feet South of the North section line of Section 25, Township 27 North, Range 2 West, WM, where conservancy begins.

CONSERVANCY continues along the shoreline, ending at the North section line of Section 7, Township 26 North, Range 1 West, WM, where suburban begins.

SUBURBAN goes along the shoreline to a point 2,300 feet East of the West section line of Section 7, Township 26 North, Range 1 West, WM, where conservancy begins.

CONSERVANCY follows the shoreline to the East side of Spencer Creek where suburban begins.

SUBURBAN follows the shoreline, (except for the Right Smart Cove Tidal Marsh which is classified NATURAL), ending at the West section line of Section 24, Township 26 North, Range 2 West, WM, where conservancy begins.

CONSERVANCY follows the shoreline to a point 2,600 feet South of the North section line of Section 26, Township 26 North, Range 2 West, WM, where suburban begins.

SUBURBAN continues along the shoreline ending 4,000 feet South of the North section line of Section 26, Township 26 North, Range 2 West, WM, where conservancy begins.

CONSERVANCY follows the shoreline, (except the Dosewallips River estuary which is designated NATURAL), ending 3,500 feet South of the North section line of Section 2, Township 25 North, Range 2 West, WM, where suburban begins.

SUBURBAN goes along the shoreline to a point 1,000 feet South of the North section line of Section 23, Township 25 North, Range 2 West, WM, where conservancy begins.

CONSERVANCY follows the shoreline, (except the Duckabush River estuary which is designated NATURAL), to a point 1,500 feet South of the North section line of Section 21, Township 25 North, Range 2 West, WM, where suburban begins.

SUBURBAN follows the shoreline to the South section line of Section 21, Township 25 North, Range 2 West, WM, where conservancy begins.

CONSERVANCY goes along the shoreline to the South side of McDonald Creek where suburban begins.

SUBURBAN continues along the shoreline to a point 3,400 feet South of the North section line of Section 29, Township 25 North, Range 2 West, WM, where conservancy begins.

CONSERVANCY goes along the shoreline ending 4,000 feet South of the North section line of Section 31, Township 25 North, Range 2 West, WM, where suburban begins.

SUBURBAN follows the shoreline to the Jefferson-Mason County line at the South section line of Section 31, Township 25 North, Range 2 West, WM.

ISLANDS

Protection Island--NATURAL begins at the East section line of Section 4, Township 30 North, Range 2 West, WM, and extends West around Kanem Point, then North and East to Violet Point, then West to the Eastern jetty of the marina entrance where conservancy begins.

CONSERVANCY extends to the West section line of Section 3, Township 30 North, Range 1 West, WM.

Skunk Island--NATURAL.

Indian Island--CONSERVANCY begins at the Indian Island Bridge and extends 3,500 feet East of the West section line of Section 7, Township 29 North, Range 1 East, WM, where natural begins. NATURAL, which encompasses the mud flats and spit, extends 100 feet East of the West section line of Section 8, Township 29 North, Range 1 East, WM, where conservancy begins. CONSERVANCY extends to Marrowstone Island.

Marrowstone Island--CONSERVANCY, (except for Buggie Spit which is designated NATURAL).

The Twins--NATURAL.

Klas Rocks--NATURAL,

Colvos Rocks--NATURAL.

Hood Head--CONSERVANCY.

Bridgehaven Bar--NATURAL.

LAKES

The following lakes are all designated CONSERVANCY:

Anderson Lake	Leland Lake	Unnamed Lake
Chinese Gardens	Lords Lake	Wahl Lake
Crocker Lake	Peterson Lake	
Gibbs Lake	Sandy Shore Lake	
Kah Tai Lagoon	Tarboo Lake	

RIVERS AND CREEKS

The following river and creeks are all designated CONSERVANCY:

Big Quilcene River	Matheny Creek
Bogachiel River	Miller Creek
Cedar Creek	Miller Creek (East Fork)
Chimacum Creek	Minter Creek
Christmas Creek	Mosquito Creek
Clearwater River	Nolan Creek
Dosewallips River	Owl Creek
Duckabush River	Quinault River
Fulton Creek	Rocky Brook
Goodman Creek	Salmon River
Hoh River	Shale Creek
Hurst Creek	Snahapish River
Kalaloch Creek	Snow Creek
Little Quilcene River	Sollecks River
Maple Creek	Stequaleho Creek
	Winfield Creek

All wetlands associated with the 100 year floodplain of streams within the jurisdiction of this Master Program and all shorelines of the state located within the boundaries of federal lands, and not otherwise classified, shall be designated Conservancy.

Shoreline Jurisdiction Map

Memo

SHORELINE MASTER PROGRAM ADMINISTRATIVE VARIANCES PROCEDURES

Variances from the administrative procedures portion of this Master Program (Section 6) or residential setbacks (Subsection 5.160) may be granted by the Jefferson County Board of Commissioners or Port Townsend City Council upon recommendation of the Jefferson County Planning Department or Port Townsend Shoreline Administrator when the Board or Council is assured the variance is in keeping with the general intent of this Master Program and the Shoreline Management Act. In doing so, either body may require special conditions, which in their judgement will substantially secure the administrative procedures or requirements so varied.

REVIEW

Variance applications for developments that will be located landward of the ordinary high water mark and not within areas defined herein as marshes, bogs, or swamps may be authorized provided the applicant can demonstrate Items 1 through 6 of the criteria below. In addition, the applicant must demonstrate that the strict application of the policies, procedures, or performance standards set forth in this master program precludes or significantly interferes with a reasonable permitted use of the property.

CRITERIA

In reviewing a variance application, the Jefferson County Board of Commissioners or Port Townsend Council shall make the following findings:

1. The hardship, as described above, is specifically related to the property and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this Master Program and not, for example, from deed restrictions or the applicant's own actions.
2. The design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environmental designation.
3. The variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief.
4. The public interest will suffer no substantial detrimental effect.
5. The variance will be in harmony with the general purpose and intent of this Master Program.
6. In the granting of all variance applications, consideration shall be given to the cumulative impact of additional requests for similar actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the purpose, goals, and policies of this Master Program and should not produce substantial adverse effects to the shoreline environment.

Jefferson County
Comprehensive Plan
Explanation

Jefferson County Comprehensive Plan

First adopted in 1998, the Jefferson County Comprehensive Plan ("Comp Plan") is a decision-making tool for officials and citizens in guiding future growth and development in Jefferson County on a 20-year planning horizon. It provides the community vision, goals and policy basis for the regulatory requirements of the Jefferson County Code, including Title 18 the Unified Development Code, as well as capital facilities, improvements, and other County endeavors. As required by the state Growth Management Act (RCW 36.70A), the County periodically updates the Comp Plan and its implementing regulations.

The Proposed Action, was submitted on March 27, 2003 and deemed substantially complete April 23, 2003. Therefore under state law, the application is vested under the 1998 Comp Plan as amended through 2002. Access to the 1998 Comp Plan, and subsequent amendments through 2002, are available on Jefferson County Department of Community Development webpage:

<http://www.co.jefferson.wa.us/commdevelopment/CompPlanGeneral.htm>

Jefferson County Unified Development Code

The Board of Jefferson County Commissioners, in furtherance of the Comp Plan adopted its Growth Management Act derived development regulations, commonly referred to as the Unified Development Code (UDC); effective January 16, 2001 and subsequently amended. Jefferson County deemed the Proposed Action substantially complete April 23, 2003. UDC regulations in effect at that time govern. Access to the UDC, and subsequent amendments through 2003, are available on Jefferson County Department of Community Development webpage:

<http://www.co.jefferson.wa.us/commdevelopment/udc/default.htm>

The office of the Jefferson County Board of Commissioners is the official archive of the various versions of the Comp Plan and UDC.