

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners (BoCC)
Mark McCauley, County Administrator

FROM: Josh D. Peters, AICP, Community Development Director

DATE: February 5, 2024

RE: Shoreline Master Program (SMP) deliberations (continued)

STATEMENT OF ISSUE:

The Board's schedule this year concerning Periodic Review of the Shoreline Master Program (SMP) has to date included a public hearing on January 8, a workshop on January 16, and the initiation of deliberations on January 22. This agenda item is for continued deliberations in consideration of proposed amendments to the SMP as part of Periodic Review required by the Washington State Shoreline Management Act (SMA).

Next steps in the process are these deliberations, supported by staff and consultants, followed by consideration of an ordinance to locally adopt SMP amendments. The ordinance had been tentatively scheduled for February 12; however, additional time may be needed (in consultation with legal counsel). Meanwhile, the January 8 public hearing remains open.

ANALYSIS:

This process has been underway since 2020. The Board has policy choices to consider with respect to the Planning Commission recommendation and public input. See attached:

- 1) staff report in question-answer format with information and policy choices
- 2) comparative analysis between SMP and Unified Development Code (UDC) definitions

Direction from the Board will assist staff in drafting an ordinance for amending the SMP. Staff will arrange for appropriate notification in order to solicit public comment prior to Board action.

FISCAL IMPACT:

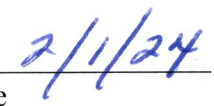
There are budgeted funds for staff time and limited consultant services on this project.

RECOMMENDATION:

Deliberate. Provide direction to staff to draft an adopting ordinance that reflects Board choices.

REVIEWED BY:


Mark McCauley, County Administrator


Date



Jefferson County Shoreline Master Program (SMP) Periodic Review

Staff Report | February 1, 2024 for February 5, 2024 Meeting

By: BERK Consulting, Inc., Shannon & Wilson, and Jefferson County Department of Community Development

Questions, Answers and Options

This document summarizes questions—principally about geoduck aquaculture operations, policy, and regulation—that were discussed at the January 16 and January 22, 2024 Board of County Commissioners (BoCC or Board) meetings. Responses and options are provided.

1. What are the required findings for a Discretionary Conditional Use Permit (C(d) in the use table) to become a Standard Conditional Use (C) before the Hearing Examiner.

See: [JeffersonCounty18/JeffersonCounty1840.html#18.40.520](https://jeffersoncounty18/jeffersoncounty1840.html#18.40.520)

(a) *Required Findings.* Prior to referring an application for a use listed as “C(d)” in Table 3-1 in JCC [18.15.040](#) to the hearing examiner, the administrator shall make one or both of the following findings:

(i) *In the exclusive, discretionary judgment of the administrator, the application involves potentially significant issues relating to location, design, configuration, and potential impacts to surrounding properties and the community that can be more appropriately considered and addressed through an open public record pre-decision hearing before the Jefferson County hearing examiner; or*

(ii) *In the exclusive, discretionary judgment of the administrator, the application seeks approval of a use involving complex legal issues necessitating special expertise in the decision-maker.*

Additional: [Memo to Planning Commission on Aquaculture and Conditional Use Permits](#) (10/30/23):

[Note: Use “public” and “public” to access documents in Laserfiche.]

2. Do State Shoreline Rules reference the no-net-loss of shoreline ecological function for aquaculture?

Yes, see [WAC 173-26-241](#)(3)(b):

(b) *Aquaculture.*

(i) *General provisions.*

(A) *Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.*

This activity is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of

pollution and prevention of damage to the environment, is a preferred use of the water area. Local government should consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions. (emphasis added)

3. If state and federal agencies address geoduck aquaculture, does the County need to regulate geoduck aquaculture?

Yes, the Shoreline Management Act (SMA) and implementing rules have different purposes that are broader than geoduck aquaculture. Also, the State passed geoduck aquaculture rules that Shoreline Master Programs must adhere to in 2011.

However, the County does recognize the benefits of streamlining requirements across different agencies (e.g., Joint Aquatic Resources Permit Application, JARPA). Similarly, above the submittal matrix for aquaculture (Table 18.25.440) the draft code would indicate:

To minimize redundancy, the county shall accept supporting permit applications and studies required by state and federal agencies that fulfill one or more of the requirements in subsections (a) through (e).

4. Does the Priority Aquatic Shoreline Environment Designation (SED) refer to commercial shellfish or to habitat for shellfish?

State rules address Aquatic designations and several jurisdictions have more than one type of Aquatic designation like Aquatic and Priority Aquatic to differentiate shoreline conditions.

The designation descriptions in Jefferson County's SMP are:

- Priority Aquatic: The priority aquatic designation protects to the highest degree possible and, where feasible, restores waters and their underlying bedlands deemed vital for salmon and shellfish.These shorelines have one or more of the following qualities:
 - (A) Documented Endangered Species Act-listed salmonid streams and marine habitats (summer chum, chinook, and steelhead);
 - (B) Estuaries that support Endangered Species Act-listed salmonid rearing;
 - (C) Other freshwater shorelines that provide habitat for salmonid species (coho, fall chum, pink, and cutthroat) and are relatively undeveloped;
 - (D) Intact drift cell processes (i.e., sediment source, transport, and deposition);
 - (E) Documented forage fish spawning habitats (herring, surf smelt, sandlance); and/or
 - (F) Important intertidal and subtidal shellfish areas (clam, oyster, crab, shrimp, and geoduck).
- Aquatic: The aquatic designation protects, manages, and, where feasible, restores lake, stream, and marine waters and their underlying bedlands that are not designated as priority aquatic.

Regardless of aquatic type, the State rules consider the following management principles ([WAC 173-26-211](#) (5)(c)) for the Aquatic designation reflecting both protection of habitats and addressing shoreline preferred uses:

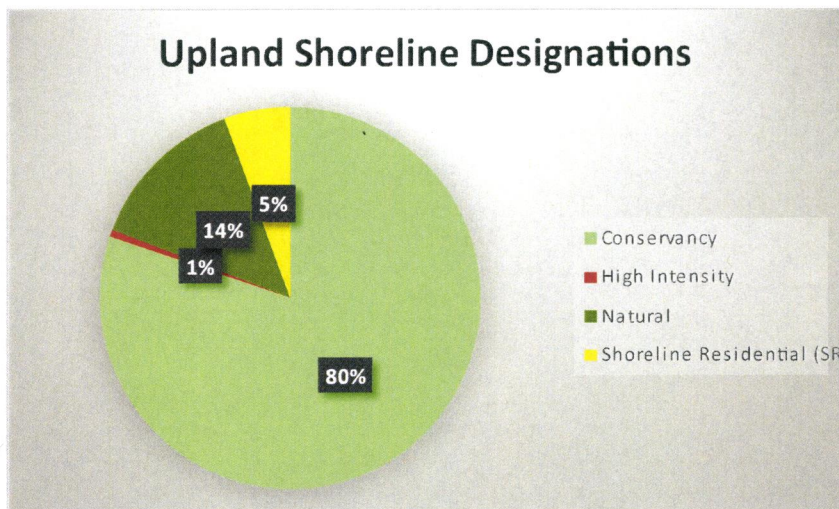
- (E) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW [90.58.020](#), and

then only when their impacts are mitigated according to the sequence described in WAC [173-26-201](#) (2)(e) as necessary to assure no net loss of ecological functions.

- (F) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- (G) Local governments should reserve shoreline space for shoreline preferred uses. Such planning should consider upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing shellfish protection districts and critical habitats, aesthetics, public access and views.

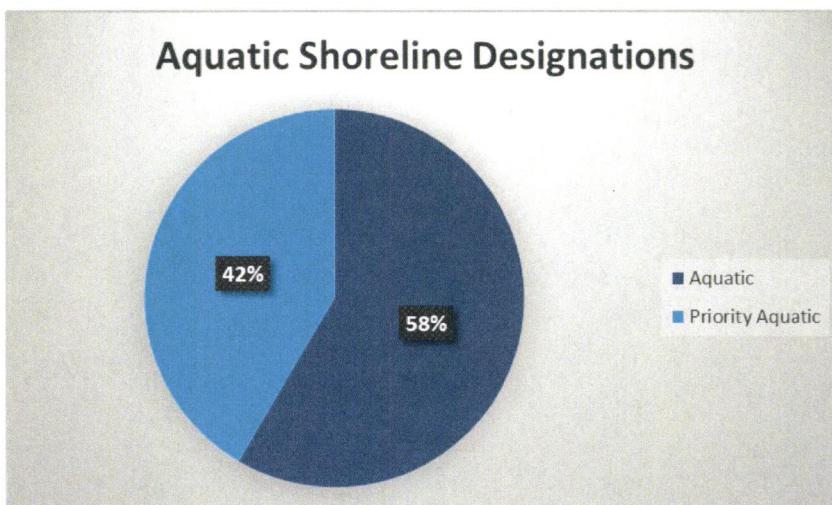
5. What is the share of shoreline environments by designation?

The graph below shares the extent of Shoreline Environment Designations upland of the ordinary high water mark (OHWM). The most extensive upland Shoreline Designation is Conservancy followed by Natural. Shoreline Residential and High Intensity are applied to fewer acres in the shoreline jurisdiction.



Source: Jefferson County GIS, BERK 2023

The graph below shows the extent of Shoreline Environment Designations waterward of the ordinary high water mark. The Aquatic designation is more prevalent than the Priority Aquatic designation.



6. Could the County set criteria for Discretionary versus Standard Conditional Use Permits tailored to geoduck aquaculture?

Yes, see Exhibit 1 below. Attachment A provides an alternative approach to Conditional Use Permit (CUP) types for geoduck aquaculture for each option below. Attachment B compares permit types, aesthetic standards, and approach to plastics and debris in adjacent County SMPs.

Exhibit 1. Geoduck Aquaculture Conditional Use Permit Approach Options

Options for Geoduck Aquaculture	BoCC Direction
1. Planning Commission Recommendation: Standard CUP for Priority Aquatic or Aquatic (New) or Natural designations and otherwise Discretionary CUP. This is a mix of standard and discretionary CUPs for new, conversion, or expansions depending on shoreline environment designation.	
2. Same as #1 EXCEPT treat expansions like new geoduck operations. <i>(This was a Planning Commission considered option.)</i>	
3. Modify #1 to change Standard and Discretionary CUP in use matrix. A. Modify CUP on use table/text to make a Standard CUP where Aquatic or Priority Aquatic designations abut Shoreline Residential, Conservancy, or Natural Shoreline Designations. That would only leave shoreline reaches with Aquatic or Priority Aquatic abutting High Intensity as having a Discretionary CUP. B. Modify CUP on use table/text to make a Standard CUP where Aquatic or Priority Aquatic designations abut Shoreline Residential or Natural Shoreline Environment Designations.	
4. Set Standard Conditional Use Permit process threshold criteria for geoduck aquaculture: - Any new geoduck operation in any Shoreline Environment Designation. - Any conversion or expansion in Priority Aquatic and Natural, and any conversion or expansion abutting Natural or Shoreline Residential Shoreline Environment Designations. - In the Aquatic Shoreline Environment Designation, when the expansion or conversion would exceed 25% (current aquaculture threshold) or X acres in any 10-year period.	
5. Treat all geoduck aquaculture with standard CUP. <i>(This was a Planning Commission considered option.)</i>	

7. Does the SMP require compliance with other permits?

JCC 18.25.070 (Relationship to other plans and regulations) includes the following provisions that require compliance with other local, state and federal laws. Compliance with laws and regulations encompasses compliance with any permits or approvals that are required by those laws and regulations.

(1) Uses and developments regulated by this program may also be subject to other provisions of the JCC, the Jefferson County Comprehensive Plan, the Washington State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC), and other local, state and federal laws.

(2) Project proponents are responsible for complying with all applicable laws prior to commencing any use, development or activity.

8. Do no net loss requirements apply to aquaculture in Jefferson County's SMP, and how is that implemented?

It is clearly established in the SMP that "no net loss of ecological functions" requirements apply to all uses and developments in shoreline jurisdiction. For example, JCC 18.25.270(2)(a) states that:

"All shoreline use and development, including preferred uses and uses that are exempt from permit requirements, shall be located, designed, constructed, conducted, and maintained in a manner that maintains shoreline ecological processes and functions."

Within the aquaculture regulations, there is a specific reference to "no net loss" in two places: 1) in a provision stating that geoduck CUPs need to be conditioned to "achieve no net loss of ecological functions," and 2) in the general application requirements list stating that all aquaculture submittals need to include "Measures to address impacts to achieve no net loss of ecological functions." There are also a number of provisions that require that adverse effects to ecological functions be avoided. For example:

(i) Subtidal, intertidal, floating, and upland structures and apparatus associated with aquaculture use shall be located, designed and maintained to avoid adverse effects on ecological functions and processes.

(ii) The county shall consider the location of proposed aquaculture facilities/farms to prevent adverse cumulative effects on ecological functions and processes and adjoining land uses. The county shall determine what constitutes acceptable placement and concentration of commercial aquaculture in consultation with state and federal agencies and tribes based on the specific characteristics of the waterbody, reach, drift cell, and uplands in the vicinity of the farm/facility.

Geoduck CUPs are also required to include "monitoring and reporting requirements necessary to verify that geoduck aquaculture operations are in compliance with conditions set forth in the CUP." If required monitoring and reporting is not conducted, or if the monitoring indicates that certain performance standards or conditions are not being met (such as a requirement for achievement of no net loss of ecological functions, for example), that could be cause for a potential rescission or modification of the permit by a hearing examiner under JCC 18.25.780.

9. Potential Adjustments to the Expansion Timeframe Language

In communications on January 23 and 24, 2024, Ms. Marilyn Showalter alerted County staff and the Board of County Commissioners to an inadvertent omission of the original text underlined below during regulation amendments that occurred during Planning Commission review in summer 2021, preceding the delivery of the revised SMP to Ecology in October:

JCC 18.25.440(4)(b)(i) The physical extent of the facility or farm is expanded by more than 25 percent or more than 25 percent of the facility/farm changes operational/cultivation methods compared to the conditions that existed as of the effective date of this program or any amendment thereto. If the amount of expansion or change in cultivation method exceeds 25 percent in any 10-year period, the entire operation shall be considered new aquaculture and shall be subject to applicable permit requirements of this section; or

The initial step that ultimately resulted in the loss of the underlined text was provided in potential amendments presented to the Planning Commission at its July 7, 2021, meeting (presentation slide image shown below). The slide shows that the operation/cultivation method change element was split from the expansion element so there were two discrete paragraphs, and then additional clarification of the

expansion parameters was added in response to staff interpretations. The “compared to the conditions that existed as of the effective date of this program or any amendment thereto” was carried into that second operation/cultivation methods paragraph, but was unfortunately not also kept with the expansion text. Later, the cultivation/methods language was struck altogether as a reason for triggering a new permit since JCC 18.25.440(4)(c) addresses circumstances when changes to uses/activities would trigger a new permit.

Aquaculture – Options 1 and 2 Text

(4) Regulations – General.

(b) Ongoing maintenance, harvest, replanting, restocking of or changing the species cultivated in any existing or permitted aquaculture operation is not considered new use/development, and shall not require a new permit, unless or until:

(i) For non-geoduck aquaculture, if the physical extent of the facility or farm is expanded by more than 25 percent. If the amount of expansion exceeds 25 percent in any 10-year period, the entire operation shall be considered new aquaculture and shall be subject to applicable permit requirements of this section. This calculation of 25% expansion applies to both in-water and above OHWM development. Any expansions of existing geoduck aquaculture operations require a permit for the expanded area if the existing operation is already permitted or for the entire operation if not already permitted; or

~~(ii) or more than 25 percent of the facility/farm changes operational/cultivation methods compared to the conditions that existed as of the effective date of this program or any amendment thereto. If the amount of expansion or change in cultivation method exceeds 25 percent in any 10-year period, the entire operation shall be considered new aquaculture and shall be subject to applicable permit requirements of this section. This calculation of 25% expansion applies to both in-water and above OHWM development; or~~

7/7/2021

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Two options are presented below for Board consideration.

Exhibit 2. Options for Non-Geoduck Aquaculture Expansion Time Reference

Options	BoCC Direction
1. Restore the omitted language.	
(i) For non-geoduck aquaculture, the physical extent of the facility or farm is expanded by more than 25 percent <u>compared to the conditions that existed as of the effective date of this program or any amendment thereto</u> . If the amount of expansion exceeds 25 percent in any 10-year period, the entire operation shall be considered new aquaculture and shall be subject to applicable permit requirements of this section.	

Options	BoCC Direction
This change would effectively re-start the timeline for comparison of original and expanded acres to the date of this amendment. Any expansions that happened since 2014 would be part of the existing condition against which the expansion would be measured.	

2. Fix the time of comparison to the 2014 update during which this language was originally added, or to date of County permit issuance if the operation did not exist in 2014.

- (i) For non-geoduck aquaculture, the physical extent of the facility or farm is expanded by more than 25 percent compared to the conditions that existed as of February 21, 2014, or the date of County permit approval if the operation did not exist as of February 21, 2014. If the amount of expansion exceeds 25 percent in any 10-year period, the entire operation shall be considered new aquaculture and shall be subject to applicable permit requirements of this section.

This change would effectively fix the timeline for comparison of original and expanded acres to the date of the last major update of the aquaculture regulations which first introduced this language. Any expansions that happened since 2014 (or the date of the County's first approval) would be considered part of the calculated 25% limit against which any additional expansion would be measured.

10. Best Management Practices

While the term “best management practices” (BMPs) is not currently found in the Aquaculture regulations, many of the regulations that apply to one or more types of aquaculture effectively require the use of BMPs to implement the activity in a manner that avoids and minimizes adverse effects on a number of factors, such as water quality, aesthetics, and aquatic vegetation, or by a number of factors, such as equipment, waste, and lights. See JCC 18.25.440(4)(e) and (5) for examples.

For geoduck aquaculture, the County is also required to further condition the project as needed to address potential operations impacts – any conditions would essentially be adding specific BMPs to the permit.

JCC 18.25.440(6)(v) The county shall review the considerations listed in WAC 173-26-241 (3)(b)(iv)(L)(I)-(XII) during development of permit conditions necessary to avoid or limit impacts from geoduck aquaculture siting and operations and to achieve no net loss of ecological functions. The listed considerations are regarding impervious materials, motorized vehicles, time periods for limited activities, site alterations, property corner markers, mitigation measures, predator exclusion devices, turbidity minimization, use of barges/vessels, navigation rights, housekeeping practices, and public access.

Finally, in the application requirements section, all aquaculture submittals must include “Anticipated levels of management practices to minimize the impacts from mooring, parking, noise, light, littler and odor.”

Exhibit 3. Options for BMPs

Options	BoCC Direction
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1. Rely on provisions in the existing draft SMP.

2. Add a specific regulation that requires all aquaculture operations to comply with their industry's and regulating agencies' most current BMPs to the extent relevant and practicable. The Pacific Coast Shellfish Growers Association (PCSGA), for example, has an Environmental Code of Practices that is available to members. The Washington Department of Natural Resources (DNR) also has a list of BMPs for geoduck aquaculture that is conducted on state-owned aquatic lands.

11. Derelict Gear Management

There are several regulations in the existing draft SMP that directly or indirectly address management of derelict gear and other aquaculture-related equipment and debris. Two of the key regulations are in JCC 18.25.440(4)(e):

(xvi) Equipment, structures and materials shall not be discarded in the water and shall not be abandoned in the upland. Aquaculture structures and equipment used on tidelands below ordinary high water shall be of sound construction, with the owners' identifying marks where feasible, and shall be so maintained. Abandoned or unsafe structures and/or equipment shall be promptly removed or repaired by the owner.

(xvii) No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation, except for in proper receptacles.

There are also several provisions under (4)(e)(xii) that specifically target management of predator control/exclusion devices, requiring they be firmly attached or secured so they do not become dislodged, that any dislodged devices be promptly recovered, and that devices be permanently removed when no longer needed.

Exhibit 4. Options for Derelict Gear/Debris

Options	BoCC Direction
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1. Rely on provisions in the existing draft SMP.

2. Add a specific regulation to the application requirements that is similar to the following provision included in Clallam County's SMP:

"How prevention of marine debris accumulation will be addressed and what site operational management practices will be implemented including worker training and regular removal of equipment, tools, extra materials, and all wastes;"

12. What definitions in the SMP (JCC 18.25) may need adjustment to reconcile with definitions in the Uniform Development Code (JCC 18.10)?

See matrix under separate cover. Only changes to JCC 18.25 are under consideration at this time. The disposition of other potential changes under JCC 18.10 could occur in a future docket.

Attachment A: Geoduck Aquaculture – Criteria for Standard CUP

1. Planning Commission Recommendation: Standard CUP for Priority Aquatic or Aquatic (New) or Natural designations and otherwise Discretionary CUP. This is a mix of standard and discretionary CUPs for new, conversion, or expansions depending on shoreline environment designation.

Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Aquaculture:						
Aquaculture activities other than geoduck, in-water finfish, and upland finfish.	P	P	P	P	P	P
Geoduck -new	C*	C*	C*	C(d)*	C(d)*	C(d)*
Geoduck - expansion or conversion from non-geoduck to geoduck	C*	C(d)*	C*	C(d)*	C(d)*	C(d)*

* = Exceptions and limitations may apply as noted in this program. See specific section for details.

2. Same as #1 EXCEPT treat expansions like new geoduck operations. (was a Planning Commission considered option)

Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Aquaculture:						
Aquaculture activities other than geoduck, in-water finfish, and upland finfish.	P	P	P	P	P	P
Geoduck -new <u>or expansion</u>	C*	C*	C*	C(d)*	C(d)*	C(d)*
Geoduck - expansion or conversion from non-geoduck to geoduck	C*	C(d)*	C*	C(d)*	C(d)*	C(d)*

* = Exceptions and limitations may apply as noted in this program. See specific section for details.

3. Modify #1 to change Standard and Discretionary CUP in use matrix.

A. Modify CUP on use table/text to make a Standard CUP where Aquatic or Priority Aquatic designations about Shoreline Residential, Conservancy, or Natural Shoreline Designations. That would only leave shoreline reaches with Aquatic or Priority Aquatic abutting High Intensity as having a Discretionary CUP.

Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Aquaculture:						
Aquaculture activities other than geoduck, in-water finfish, and upland finfish.	P	P	P	P	P	P
Geoduck -new	C*	C*	C*	C(d)*	C(d)*	C(d)*
Geoduck - expansion or conversion from non-geoduck to geoduck	C*	C(d)*	C*	C(d)*	C(d)*	C(d)*

* = Exceptions and limitations may apply as noted in this program. See specific section for details.

Table3A looks like Option 1 but text edits in JCC 18.25.440 Aquaculture would indicate that where Aquatic or Priority Aquatic designations about Shoreline Residential, Conservancy, or Natural Shoreline Designations a standard CUP applies.

B. Modify CUP on use table/text to make a Standard CUP where Aquatic or Priority Aquatic designations about Shoreline Residential or Natural Shoreline Environment Designations.

Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Aquaculture:						
Aquaculture activities other than geoduck, in-water finfish, and upland finfish.	P	P	P	P	P	P
Geoduck -new	C*	C*	C*	C(d)*	C(d)*	C(d)*
Geoduck - expansion or conversion from non-geoduck to geoduck	C*	C(d)*	C*	C(d)*	C(d)*	C(d)*

* = Exceptions and limitations may apply as noted in this program. See specific section for details.

Table 3B looks like Option 1, but text edits in JCC 18.25.440 Aquaculture would indicate that where Aquatic or Priority Aquatic designations abut Shoreline Residential or Natural Shoreline Environment Designations a standard CUP applies.

4. Set Standard Conditional Use Permit process threshold criteria for geoduck aquaculture:

Any new geoduck operation in any Shoreline Environment Designation.

Any conversion or expansion in Priority Aquatic and Natural, and any conversion or expansion abutting Natural or Shoreline Residential Shoreline Environment Designations.

In the Aquatic Shoreline Environment Designation, when the expansion or conversion would exceed 25% (current aquaculture threshold) or X acres in any 10-year period.

Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Aquaculture:						
Aquaculture activities other than geoduck, in-water finfish, and upland finfish.	P	P	P	P	P	P
Geoduck -new	C*	C*	C*	C(d)*	C(d)*	C(d)*
Geoduck - expansion or conversion from non-geoduck to geoduck	C*	C(d)*	C*	C(d)*	C(d)*	C(d)*

* = Exceptions and limitations may apply as noted in this program. See specific section for details.

Table 4 looks like Option 1, but text edits in JCC 18.25.440 Aquaculture would indicate that where Aquatic or Priority Aquatic designations abut Shoreline Residential or Natural Shoreline Environment Designations a standard CUP applies. Also, in the Aquatic Shoreline Environment Designation, when the expansion or conversion would exceed 25% (current aquaculture threshold) or X acres in any 10-year period.

5. Treat all geoduck aquaculture with standard CUP. (was a Planning Commission considered option)

Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Aquaculture:						
Aquaculture activities other than geoduck, in-water finfish, and upland finfish.	P	P	P	P	P	P
Geoduck -new	C	C	C	C	C	C
Geoduck - expansion or conversion from non-geoduck to geoduck	C	C	C	C	C	C

* = Exceptions and limitations may apply as noted in this program. See specific section for details.

Attachment B: Example Shoreline Regulations for Geoduck Aquaculture

Kitsap County SMP

- All geoduck (new and conversion) is Conditional Use Permit. No discussion of expansion. CUP requires a hearing. County also has an administrative CUP, but it is only applied to shoreline stabilization.

- Regarding aesthetics:

KCC 22.600.115.B.2.k: Application requirements include “Visual assessment, including photo analysis/simulation of the proposed activity demonstrating visual impacts within one thousand five hundred feet of the proposed project site. Where predator exclusion devices are proposed, the assessment shall include an analysis of visual impacts of proposed predator exclusion devices at mean high and mean low tides.”

- Regarding NNL:

KCC 22.600.115.B.3.l: Application requirements include operational plan that contains “Other measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in WAC 173-26-201(2)(e).”

- Regarding plastics/debris:

KCC 22.600.115.C.n: For all aquaculture, a number of provisions intended to avoid/limit ecological and aesthetic impacts of predator exclusion devices

Clallam County SMP

- All geoduck (new and conversion) is Conditional Use Permit. No discussion of expansion. CUP requires a hearing. There are no CUP sub-types.
- Regarding NNL:

CCC 35.15.080(7): The County shall require the applicant to provide baseline and periodic surveys, assessments, and operational monitoring by a qualified professional to determine the magnitude of any adverse impacts. Conditional use permits shall include specific performance measures and provisions for adjustment or termination of the project if monitoring indicates adverse environmental impacts that cannot be adequately mitigated. The County may rely on documentation submitted by an aquaculture operator to federal or State agencies to satisfy any monitoring or reporting requirements.

CCC 35.15.100(5)(o): geoduck application to include “Proposed mitigation measures to achieve no net loss of ecological functions consistent with Chapter 35.40 CCC, Mitigation and No Net Loss.”

CCC 35.15.100(6) is a list of expanded application requirements for any aquaculture to support cumulative impacts analysis if project is complex (multispecies, on shorelines of statewide significance, have potential to harm habitat/recreation/views/aesthetics, located in low-energy shorelines, adjacent to existing aquaculture, etc.)

- Regarding aesthetics:

CCC 35.15.100(2): Prior to approving a permit for a new aquaculture use or development, the Administrator shall require a visual analysis prepared by the applicant/proponent describing

effects on nearby uses and aesthetic qualities and visual aesthetics of the shoreline. The analysis shall include any proposed mitigation related to visual and character of area effects.

- Regarding plastics/debris:

CCC 35.15.100(5)(m): geoduck application to include "How prevention of marine debris accumulation will be addressed and what site operational management practices will be implemented including worker training and regular removal of equipment, tools, extra materials, and all wastes;"

Mason County SMP

- New geoduck requires CUP. Conversions do not require CUP. No discussion of expansion. CUP requires a hearing. There are no CUP sub-types.
- Regarding aesthetics:

MCC SMP contains stand-alone policy section (MCC 17.50.145) for Views and Aesthetics, including this WAC language: "Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary."

- Regarding NNL:

MCC 17.50.210.B.3.g.iii: Application requirements include "Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in 17.50.110."

MCC 17.50.210.B.3.j: "Conditional Use Permits shall include monitoring and reporting requirements necessary to verify that geoduck aquaculture operations are in compliance with permit limits and conditions set forth in Conditional Use Permits and to support cumulative impacts analysis. The County shall consider the reporting and monitoring conditions of other permitting agencies, if available, before adding additional conditions to a permit."

MCC 17.50.210.B.3.m: For geoduck, a number of provisions intended to be considered during permit condition development related to avoid/limit ecological impacts and achieve NNL

- Regarding plastics/debris:

Nothing unique – standard language about removing predator exclusion devices as soon as they are not needed, good housekeeping.

SMP and UDC: Comparison of Definitions

Jefferson County Shoreline Master Program (SMP) & Unified Development Code (UDC) | February 1, 2024

- Certain definitions are expected to be different in the SMP, such as Conditional Use Permit (CUP) vs Shoreline Conditional Use Permit (SCUP) due to shorelines specific requirements.
- Overall, Chapter 18.10 JCC includes references to WAC or RCW instead of direct wordings, whereas SMP 18.25 has the direct wordings with minor variations. Suggest using direct wording from WAC or RCW in both chapters.
- Recommend that Jefferson County review definitions that are similar in both places and adopt one definition for both chapters.

Exhibit 1. Comparison of Definitions

SMP 18.25.100	Code 18.10.010	Recommendations/ comments
Abandon Same except for last sentence, "from the date of cessation/termination or vacation."		▪ Similar, add wording from the SMP definition and amend 18.10.0 to match
Accessory use Same with 18.10 except for last sentence, "Private moorage and other recreational uses are examples of uses that are accessory to residential development."		▪ Keep SMP specific example in 18.25. Keep as is in both.
"Adverse impact or effect" means the result of a condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or	"Adverse impacts" means a condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions on a site proposed for	▪ Amend both codes to read: "Adverse impact or effect" means the result of a condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions on

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Archaeological resource/site		More comprehensive definition in the SMP and in line with DAHP. Suggest using 18.25 definition in both codes.
Base flood		Consistent definition. More clarity in SMP.
“Buffer” or “buffer zone, strip, or area” means the area adjacent to a shoreline or critical area that separates and protects the area from adverse impacts associated with adjacent land uses. A buffer is measured horizontally and perpendicularly from the ordinary high water mark, and includes the three-dimensional airspace above.	“Buffer” means an area that is intended to protect the functions and values of critical areas. Protecting these functions and values includes the preservation of existing native and nonnative vegetation where it exists, unless otherwise required to be replaced with native vegetation through mitigation or voluntarily enhanced or restored.	- Can be separate since shoreline buffers can be different, but add the reference to critical area in the measurement, i.e. buffer is not always measured from OHWM in shoreline, but can also consider wetlands and riparian habitats. - If wishing to combine, suggested definition: “Buffer” or “buffer zone, strip, or area” means the area adjacent to a shoreline or critical area that separates and protects the area and its functions and values from adverse impacts associated with adjacent land uses. A buffer is measured horizontally and perpendicularly from the ordinary high water mark, and/or as identified in the critical areas regulations and includes the three-dimensional airspace above.
	“Buffer zone, strip, or area” means an area designed to separate incompatible uses or activities.	Amend 18.10 to combine with buffer definition.
Campground and camping facilities	“Campground and camping facilities” means a facility in which sites are offered for persons using tents or other personal, portable overnight shelters.	Very similar definition. Insert the last sentence from 18.25 in 18.10 to match: Campgrounds are for short-term stays and do not include trailer parks.
Channel migration zone (CMZ)		- Very similar definition. SMP is better structured. Suggest using this in 18.10. Suggest adding a sentence from 18.10 in the SMP. - Check the accuracy of the statement before inserting in SMP: Rivers that have not been evaluated or mapped for CMZs include: Thorndyke Creek, Shine Creek, Chimaqu Creek, Snow Creek, Salmon Creek, Upper

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		Hoh River, Bogachiel River, Clearwater River, and Quinault River.
Comprehensive Plan		▪ Used 18.10 definition in the SMP
Conditional use permit (CUP)		▪ Different definitions in each code. Shoreline CUPs have separate criteria.
Critical areas		▪ Suggest keeping as is in both codes. SMP refers to incorporating 18.22.
Critical habitat		▪ UDC refers to WAC without wordings. Suggest using SMP definition in 18.10, as they are the same.
Degrade		▪ Very similar. Updated SMP to match.
Development		▪ Separate definitions in each code.
Dredging		▪ Very similar. Suggest using SMP definition in 18.10 to include: This does not include de minimis removal of sediment during harvest of geoduck clams or other shellfish.
Dwelling unit		▪ Updated SMP to match.
Endangered species		▪ Similar. Delete WAC 232-12-014 reference from 18.10.
Erosion hazard areas		▪ Suggest amending 18.10 to match with the SMP definition. SMP definition edited to add: "Erosion hazard areas also include coastal erosion-prone areas and channel migration zones"
Excavation		▪ Suggest amending 18.10 to match with the SMP definition.
Existing use		▪ Suggest keeping separate definitions in each code as each refers to enactment of the code.

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Fill		▪ Suggest amending 18.10 to match with the SMP definition.
Forest land		▪ Recommend matching both definitions with WAC 365-190-030(7).
Frequently flooded areas		▪ Recommend matching both definitions with WAC 365-190-030(8).
Geologically hazardous areas		▪ Suggest amending 18.10 to match with the SMP definition. CAO review part of 2025 Periodic Update.
Ground water	"Water, ground"	▪ Slightly different, both refer to 90.44 RCW.
Hazardous materials		▪ Suggest amending 18.10 to match with the SMP.
Historic site, structure or landmark		▪ SMP edited to match with 18.10.
Hotel		▪ Minor difference, match either one.
Impervious surface		▪ 18.10 refers to a condition prior to development. But impervious surface can refer to post-development as well. ▪ Suggest using SMP definition in both.
Land disturbing activity		▪ Edited SMP to match with 18.10.
Landslide hazard		▪ 18.10 uses WAC reference without wording. Suggest matching 18.10 with SMP. 2025 Periodic Update.
Long-term commercial significance		▪ Match 18.10 with SMP as edited to refer to WAC 365-190-030(11).
Lot		▪ Keep separate definitions.
Lot of record		▪ Use either one to match.

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Mineral		Use SMP definition. 18.10 refers to WAC which has a brief definition.
Mitigation		SMP mitigation sequencing is explicit and similar to WAC 197-11-768. Suggest referencing in 18.10.
Nonconforming		Very similar, match with SMP.
Nonconforming lot		Keep separate definitions; SMP nonconformity is specific to certain SMP standards for modest homes.
Nonconforming structure		Keep separate definitions. SMP edited.
Parking lot		SMP definition is comprehensive. Suggest using SMP definition in 18.10.
Parties of record		County to decide which one to use from legal perspective.
Priority species		Suggest using SMP definition in 18.10 as it also refers to WDFW.
Prohibited use		Suggest matching 18.10 with SMP, but instead of program, refer to the code.
Public facilities (and services)		18.10 uses WAC definition which is close to the definition used in the SMP. Suggest using SMP's definition in 18.10.
Residential development		Similar in both with some exceptions. Suggest adding SMP's edits in 18.10.
Restoration		Keep separate definitions.
"Saltwater intrusion" or "seawater intrusion"		Add "seawater intrusion" in 18.10.
Setback		Can stay separate, or use SMP definition.
Sign, commercial or industrial		Similar, add "industrial" in 18.10.

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Structure		▪ Similar, additional SMP specific clarification in the SMP is fine. Keep as is.
Threatened species		▪ Similar, suggest using SMP definition in 18.10.
"Uplands" means dry lands landward of OHWM	"Uplands" means lands outside of the jurisdiction of the Shoreline Master Program.	▪ "landward of OHWM" and "outside of the SMP jurisdiction" are not the same. Should use SMP definition in 18.10.
Utilities		▪ Suggest using SMP definition in 18.10
Variance (or shoreline variance) permit	Variance	▪ Keep separate definitions in both.
Water system	Water system, alternative Water system, approved Water system, individual (residential) Water system, public	▪ Keep as is.
Wetlands		▪ Instead of WAC reference, use SMP definition in 18.10.