Overview

Minimum Requirements

Issues and Concerns

Opinions and Appeals
"Aquaculture" means 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.
Structures and No Structures

American Gold Seafoods’ Fort Ward net pen, Bainbridge Island.

Seeding private tidelands.
Water-Dependent Use

Cannot exist in location not adjacent to the water.

Dependent on the water due to intrinsic nature of operations.
General Provisions

Consider local ecological conditions.
Provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions to assure no net loss of ecological functions.

Locations are limited due to specific growing conditions.

The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental.

Recognize the necessity for some latitude in the development of this use as well as its potential impact on existing uses and natural systems.
General Provisions Continued

Only allowed where:

Meet no net loss of ecological functions,
No impacts to eelgrass and macroalgae,
No significantly conflict with navigation or water-dependent uses.
...not to spread disease to native aquatic life, establish new nonnative species ...or significantly impact the aesthetic qualities of the shoreline.
Impacts to ecological functions shall be mitigated.

Manage upland uses to protect water quality of existing shellfish areas.
Application Requirements

A narrative description and timeline for all anticipated geoduck planting and harvesting activities

A baseline ecological survey of the proposed site to allow consideration of the ecological

Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.

Measures to achieve no net loss of ecological functions
## Proposed Permit Requirements

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Review Criteria of a Substantial Development Permit

Consistent with:

The policies and procedures of the SMA; and,

The policies and regulations of the SMP
Review Criteria of a Conditional Use Permit

Consistent with the policies of RCW 90.58.020 and the SMP;
Will not interfere with the normal public use of public shorelines;
Compatible with other authorized existing and planned uses within the area.
Will cause no significant adverse effects to the shoreline;
and
Public interest suffers no substantial detrimental effect.
Demonstration of the cumulative impacts.
Shellfish Permits & Regulatory Agencies

Shoreline Permit & SEPA (County & Ecology)

Health Growing Area Classification (DOH)

Shellfish Operators License (WDFW)

Aquatic Farm Registration (WDFW)

Shellfish Transfer Permit (WDFW)

Nationwide 48 Permit – Consultation (Corps, NMFS, USFWS)

401 CZM Review (Ecology)
Issues Raised (geoduck)

Derelict Gear

Microplastics

Aesthetic Impacts

Environmental Impacts
Common Permit Conditions

Monitoring for forage fish spawn & avoidance of spawning areas

Eelgrass buffers

Regular debris monitoring & clean up, typically ¼-½ mile

Marking and ID of gear/Bond requirement

Aesthetics - neutral colors

Lighting & noise requirements

Neighbor complaint & notification requirements
Opinions and Appeals

1. Coalition to Protect Puget Sound Habitat v. Pierce County, SHB No. 14-024 (May 15, 2015)
2. Coalition to Protect Puget Sound Habitat v. Garrison, SHB No. 13-016c (Jan. 22, 2014)
3. Coalition to Protect Puget Sound Habitat v. Thurston County, SHB No. 13-006c (Oct. 22, 2013)
4. Taylor v. Thurston County, SHB No. 12-012 (June 17, 2013/Feb. 4, 2015)
5. Coalition to Protect Puget Sound Habitat v. Pierce County, SHB No. 11-019 (July 13, 2012)
6. Mamin v. Pacific Coast Shellfish Growers Ass’n, SHB No. 07-021 (Feb. 6, 2008)
7. Taylor v. Pierce County, SHB Nos. 06-039, 07-003, 07-005 (Consolidated) (Jan. 23, 2009)
8. Taylor v. Pierce County, SHB Nos. 08-010, 08-017 (Nov. 7, 2008)
Unsuccessful Challenges

- Sedimentation & siltation
- Predator net & gear entanglement
- Microplastics & debris
- Impacts to public access, navigation & recreation
- Aesthetics & property values
- Food competition, genetics, & disease
- Impacts of harvest on benthos
Outcomes of all Appeals

- 7 permits issued (87.5%)
- 1 permit denied (on appeal) (12.5%)
Attorney General’s Opinion 2007 No. 1- Geoduck Aquaculture does not constitute development.

Thurston County Superior Court Decision- October 21, 2011- the placement of tubes and netting in shoreline jurisdiction constitutes development.

Also identifies that the Rule/Guidelines do not apply to SMPs that are effective.

Pierce County SMP Appeal – Ongoing.
Variance Permit Review Criteria
Shoreline Variance Review Criteria

Should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

Consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
Shoreline Variance Review Criteria

For proposals located landward of the OHWM and/or landward of any wetland, if:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

(b) Hardship 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 the master program, and not from deed restrictions or the applicant's own actions;

(c) Project design is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

(d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

(e) That the variance requested is the minimum necessary to afford relief; and

(f) That the public interest will suffer no substantial detrimental effect.
Shoreline Variance Review Criteria

For proposals located waterward of the OHWM or within any wetland, if:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

(b) That the proposal is consistent with the criteria established under subsection (2)(b) through (f) above; and

(c) That the public rights of navigation and use of the shorelines will not be adversely affected.