

The City of Bainbridge Island (City) adopted Ordinance #2016-06 on October 11, 2016, authorizing submittal of the Shoreline Master Program (SMP) limited amendment to the Department of Ecology (Ecology) for review. The City formally submitted the amended SMP to Ecology on February 21, 2017. Upon review of the submittal, Ecology notified the City of a complete submittal in a letter dated April 13, 2017, initiating state review of the SMP amendment. Ecology accepted public comments on the proposed SMP amendments between May 8th and June 9th, 2017. Notice of the comment period was provided to individuals listed as state, regional, or local interested parties. Ecology received written comments from sixty (60) individuals or organizations as summarized in Table 1.

**Table 1** (below) lists all the individuals or organizations that provided comment and reference to each particular topic/issue as summarized in Table 2 beginning on page 4.

<b>TABLE 1: LIST OF COMMENTERS AND WHERE THEIR COMMENTS MAY BE FOUND IN THE COMMENT SUMMARY TABLE</b>		
<b>COMMENT NO.</b>	<b>ORGANIZATION - COMMENTER NAME (DATE RECEIVED)</b>	<b>SUMMARY/RESPONSE (TABLE 2 – BELOW)</b>
1.	<b>John and Ellen Hough 5/4/2017</b>	C9, C10, D1
2.	<b>Greg Stevenson, President- Steelhead Partners 5/5/2017</b>	C9, C10, D1
3.	<b>Megan and Frances Ross 5/8/2017</b>	A1
4.	<b>Jack Sutherland 5/12/2017</b>	C8, C9, C10, F2, X12
5.	<b>Deborah Schenk 5/15/2017</b>	C6, C7, C8, C9, C11, D1, X11, X12
6.	<b>Alan Holmes 5/16/2017 (A &amp; B)</b>	C6, C7, C8, C9, C10, C11, D1, D3, X11, X12
7.	<b>Tim Flynn 5/16/2017</b>	C6, C7, C9, C10, C11, D1, D3, X12
8.	<b>Dona Holmes 5/17/2017</b>	C6, D1, X11, X12
9.	<b>Timothy J. Strevell 5/18/2017</b>	D1, X12
10.	<b>Eric Strickler 5/18/2017</b>	C7, C8, C10
11.	<b>Alice Levisay 5/19/2017</b>	C10, C11, E1, X11, X12
12.	<b>Dan Huxley 5/21/2017</b>	C3, C7, D1, X11, X12
13.	<b>Anthony Oddo 5/22/2017</b>	C6, C7, C8, C9, C10, D1, X12
14.	<b>Edmund Kiley 5/22/2017</b>	C7, C9, C10, D1, F1, X11, X12
15.	<b>Janet and Bill Pauli 5/22/2017</b>	C7, C8, C9, C10, D1, D3, X12
16.	<b>Gerald Elfendahl 5/23/2017</b>	C5, C7, D1, X12
17.	<b>Gary Ames 5/23/2017</b>	C7, C10, D1, X11, X12
18.	<b>Vince Larson 5/23/2017</b>	C7, C8, C10, D1, X12

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19.	<b>Jon A. Quitslund, Ph. D. 5/26/2017</b>	C2, C4, C12, D10
20.	<b>Frank Childers and Mary Terry 5/29/2017</b>	C10, D1, X11, X12
21.	<b>Laurie Leak 5/30/2017</b>	C7, C10, D1
22.	<b>Paul Zitarelli 5/31/2017</b>	C7, C8, C9, C10, D1, D3, X12
23.	<b>John M. Minola 6/1/2017</b>	C7, C8, C10, D1, X12
24.	<b>Cyndy Holtz 6/2/2017</b>	C5, C7, C9, D1, X12
25.	<b>Ami Aldrich 6/4/2017</b>	D4
26.	<b>Deborah Rudnick, Ph.D. 6/4/2017</b>	C4, C13, D2, E2, X11, X13, X16, X17, X19
27.	<b>Russ Berg 6/5/2017</b>	C5, C14, D4, E3, X11, X12
28.	<b>Clayton I. Eaton 6/5/2017</b>	G1
29.	<b>Don Lundman 6/5/2017</b>	C2
30.	<b>Ellen Lockert 6/5/2017</b>	C2
31.	<b>John Wiens 6/5/2017</b>	G3
32.	<b>Brenna Sowder 6/5/2017</b>	C5, C7, C9, C10, X11, X12
33.	<b><i>Puget Sound Restoration Fund</i> – Betsy Peabody 6/5/2017</b>	C7, C8, C10, D3, X12
34.	<b>Betsy Peabody 6/5/2017</b>	B2, C5, C6, C7, C8, C11, D5, D6, D11, F3, X12, X15, X16
35.	<b>Denise Brown 6/5/2017</b>	D1
36.	<b>Charles E. Schmid, PhD 6/6/2017<sup>1</sup></b>	C2, D7, D12
37.	<b>Jonathan (Joth) P. Davis, Ph.D. 6/6/2017</b>	C6, C10, C11, D5, D6, F1, F2, F4, X12
38.	<b>Paul Nishman 6/6/2017</b>	C3, C11, D1, X11, X12
39.	<b>James M. Everts 6/6/2017</b>	C5, C8, C10, D1, X11, X12
40.	<b>Judi Leader 6/7/2017</b>	C2, G2
41.	<b><i>Suquamish Tribe</i> – Alison O’Sullivan 6/7/2017</b>	A2, D13, D14, X12, X22, X28, X32

<sup>1</sup> Receipt dates of hard copies which duplicate emailed submittals are not listed.

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COMMENT NO.	ORGANIZATION - COMMENTER NAME (DATE RECEIVED)	SUMMARY/RESPONSE (TABLE 2 – BELOW)
42.	<b>Marcia Lagerloef 6/8/2017</b>	A3, C1, C2, C4, D2
43.	<b><i>Pacific Coast Shellfish Growers Association – Margaret Pilaro Barrette 6/8/2017</i></b>	B1, C6, C9, C16, C17, C19, D15, D18, X11, X12, X14, X22
44.	<b><i>Rick Passage Estates HOA – Kathy Hansen 6/8/2017</i></b>	C2, C4, D8, D9, G1, G2, G4
45.	<b>David Tsujimoto 6/8/2017</b>	C7, C8, C10
46.	<b>Ted and Jayni Detrick 6/8/2017</b>	G1, G2, G3, G5
47.	<b>Elizabeth Davidson 6/8/2017</b>	C2, C4, D8, D9, G1, G2, G4
48.	<b>Ivan and Michele Lesnik 6/8/2017</b>	C7, C8, C9, C10, C11, X12
49.	<b>Katrina Godshalk 6/9/2017</b>	C2, C4, D2, D7
50.	<b>Garth Jacobson 6/9/2017</b>	B1, C9, C11, C15, D16, D17, E4, X11, X16
51.	<b><i>Plauche’ &amp; Carr on behalf of Taylor Shellfish - Jesse DeNike 6/9/2017</i></b>	B1, C6, C16, C17, C18, C19, C20, C21, C22, D18, D19, D20, D21, D22, E5, E6, E7, E8, E9, F1, F2, X1, X2, X3, X4, X5, X6, X7, X8, X9, X10, X12, X13, X14, X15, X17, X18, X19, X20, X21, X22, X23, X24, X25, X26, X27, X28, X29, X30, X31, X32
52.	<b><i>Rockaway Beach Farms – David Clemson 6/9/2017</i></b>	C7, C8, C10, D4, D23
53.	<b>Caleb Davis 6/9/2017</b>	C5, C6, C7, C8, C9, C11, D1, X12
54.	<b><i>Miller Nash Graham &amp; Dunn LLP on behalf of Cooke Aquaculture Pacific – Douglas Steding, Ph.D. 6/9/2017</i></b>	B3, C23, E10, E11, F2, F5, G6, G7, G8, X12
55.	<b>Dylan Gangnes 6/9/2017</b>	C7, D1, X12
56.	<b>Maradel Krummel Gale 6/9/2017</b>	C1, C2, C4, C24, D2, D24, D25, D26, D27, D28
57.	<b>Patrick and Kathryn Townsend 6/9/2017</b>	C1, C2, C25, D2, D29, D30
58.	<b>Pam Baum 6/9/2017</b>	C7, C10, X12
59.	<b>Sylvia Carlton 6/9/2017</b>	C2, D2, D31
60.	<b><i>Ryan, Montgomery &amp; Armstrong, Inc. P.S. – Gordon L. Walgren 6/9/2017</i></b>	D1, X12

The Department of Ecology (Ecology) has attempted to summarize the intent of the comments received during the official comment period in the matrix. When responding to the comments, Ecology encouraged the City to read the entire email or letter in order to better understand the question or comment and take into account any additional rationale that might have been offered. These comments have been read by Ecology and will be taken into account when the state makes its final decision.

**Please note, the statements below are not the opinions or comments of Ecology, but rather a summary of comments received during the state public comment period. Some comments have been paraphrased and grouped by topic.**

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
A	General comments		GENERAL COMMENTS	
A1	General comment Shoreline Master Program	3	Commenter expressed concerns with septic system requirements and “non-compliance” status of existing single family homes. Commenter requested Ecology ensure Puget Sound is kept clean and safe, while also ensuring existing residences feel safe and secure in the knowledge that their homes are not in jeopardy.	
A2	General comment State Approval Process – Tribal Treaty Rights	41	The Tribe had the following general comments:  <i>The Suquamish Tribe is a federally recognized Indian Tribe and pursuant to the 1855 Treaty of Point Elliott the Tribe reserved the right to fish and gather shellfish at its “usual and accustomed” (U&amp;A) fishing grounds and stations in Puget Sound, which includes all of the marine shorelines of Bainbridge Island.</i>  The Tribe reviewed the aquaculture policies and regulations and provided the following suggestion:  <i>The [Suquamish] Tribe appreciates the opportunity to work with the City of Bainbridge Island. The easiest way to address the Tribe’s concerns without having to revise the entire document would be to exempt Tribal activities (currently the Tribe only owns the one parcel so this would affect very little). However, we are willing to work with the City to develop a plan regarding aquaculture that satisfies the goals of the City, requirements of the SMA, and protects Tribal Treaty resources and activities.</i>	
A3	General comment The purpose and	43	Commenter is adamantly opposed to this limited amendment and expresses that Ordinance 2016-06 contains misleading statements regarding the relationship between the Limited Amendment and the pending GMHB appeal concerning the current SMP. The commenter includes some of the WHEREAS statements from the above	

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	intent of the limited amendment		<p>referenced ordinance and provides the following clarifications:</p> <ul style="list-style-type: none"> <li>• This proposed SMP limited amendment does not reflect an agreement of the parties in that appeal.</li> <li>• The parties in the appeal did not meet to further the City Council’s direction, as implied by Ordinance 2016-06. The parties met to attempt to resolve the issues presented in the appeal.</li> <li>• The limited amendment imposes far more extensive restrictions and prohibitions than are at issue in the pending appeal.</li> <li>• The limited amendment does not settle the dispute among the parties in the pending appeal.</li> </ul>	
<b>B</b>	<b>General comments</b>		<b>LOCAL ADOPTION PROCESS</b>	
<b>B1</b>	<b>General comment</b> Local Adoption Process	43, 50, 51	<p>The commenters expressed the following concerns with the local adoption process:</p> <ul style="list-style-type: none"> <li>• The City spent over two years developing, and attempting to find support for, the Limited Amendment. During development of the Limited Amendment, the City repeatedly acknowledged it did not have scientific or technical justification for the Limited Amendment.</li> <li>• From the onset of the hearings on the ordinance the purpose of the ordinance was to reduce or eliminate shellfish gardens. In testimony by the staff, Christy Carr, it was conceded it was her understanding that the purpose of the amendment was to make it “tougher” to conduct shellfish gardening. (See the comments made in the introduction of the ordinance at the July 26, 2016.) (Parenthetically as a result of “toughening” it should be noted the regulations appear to be more complex and convoluted than the IRS tax code.) This toughening of the treatment of shellfish aquaculture appears to be based on something other than ecological factors but merely a hostile attitude towards shellfish gardening.</li> <li>• The SMA and SMP Guidelines envision a process wherein the local government collects information and actively consults with interested parties before developing revised policies and regulations, but that did not occur here. The record contains no evidence the City satisfied its obligations to consult with and obtain, let alone objectively consider, comments from various governmental bodies responsible for regulating commercial shellfish aquaculture.</li> <li>• The City failed to meaningfully consider and respond to comments provided by shellfish growers during the development of this amendment, including extensive detailed comments submitted by Taylor Shellfish and the Pacific Coast Shellfish Growers Association which were either quickly dismissed or ignored. The City’s submittal package includes no discussion or analysis of these detailed comments or of the scientific and</li> </ul>	

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			<p>technical information provided.</p> <ul style="list-style-type: none"> <li>The City claims on page 13 of the City’s February 17, 2017, submittal package that a review of certain literature “revealed an unacceptable level of adverse impacts resulting from commercial aquaculture and prompted the City to propose changes to make the City’s regulations more consistent with the fundamental goals of the SMA.” This is patently false. The City was not “prompted” to enact the Limited Amendment based on a literature review that revealed the current SMP is inadequate. The City Council directed City staff to develop the Limited Amendment in December 2014.</li> <li>The City Council did not direct City staff to develop the Limited Amendment based on the literature referenced in the City’s submittal package. The City Council directed City staff to develop the Limited Amendment in an attempt to take a “second bite” at aquaculture provisions previously deemed unsupported and/or in inconsistent with state law.</li> <li>The City even took several months after adopting Ordinance 2016-06 to send a complete submittal package to Ecology, indicating the City continued its efforts to find justification for the Limited Amendment after its adoption.</li> </ul>	
B2	<p><b>General comment</b></p> <p>Local Adoption Process</p>	34	<p>The commenter expressed the following concerns about the local adoption process:</p> <ul style="list-style-type: none"> <li>The portrait of shellfish aquaculture presented to the Bainbridge Island City Council was of an extreme, industrial-scale operation blanketing the shore with all manner of plastic debris. Shellfish aquaculture was deliberately characterized on an industrial scale in order to incite fear and alarm that Bainbridge shores would be lost to aquaculture if the City Council didn’t act decisively to severely restrict the conditions under which aquaculture would be allowed.</li> <li>The term “shellfish aquaculture” in fact encompasses a wide variety of methods and materials that can be applied in different areas, at different scales, and for different purposes. For example, aquaculture materials and techniques can be used to             <ol style="list-style-type: none"> <li>Restore native species, marine habitat, and water quality.</li> <li>Cultivate oyster gardens for personal consumption.</li> <li>Provide locally-grown oysters to Island residents and community organizations through small-scale operations.</li> <li>Supply restaurants and markets with shellfish products grown at commercial scales.</li> </ol> <p>All of these activities provide local incentives for reducing pollution sources and maintaining a healthy ecosystem. And the materials used for these various purposes are common throughout the industry,</p> </li> </ul>	

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			because they’ve proven to be both effective and durable.	
B3	General comment Local Adoption Process	54	<p>Cook Aquaculture expressed the following concerns related to the local adoption process,</p> <ul style="list-style-type: none"> <li>• <i>Early cooperation with the Planning Commission resulted in an initial draft of the limited amendment that was informed by science and acceptable to Cooke Aquaculture as one of the primary regulated parties that would be impacted by the limited amendment. The Bainbridge Island City Council effectively undid all of this collaborative work with the Planning Commission, taking what was a thoughtful and well-reasoned amendment and re-writing it based on arbitrary notions of speculative, unsubstantiated ideas about science. Thus, it is necessary to accentuate for the record that Cooke Aquaculture’s earlier statements of support for the SMP limited amendment related to an entirely different document and not the version that is currently before the Washington State Department of Ecology.</i></li> <li>• <i>[T]he ‘Response to Comments Matrix by Issue’ document submitted by the City, dated September 27, 2016, is at best, misleading, and compounds the procedural deficiencies in the submittal to Ecology. The commenter argues the comment matrix (comments and responses) are based on a prior version of the limited amendment and does not reflect responses to comments on the final version submitted to Ecology. The commenter provides the example of comment/issue number 2 where Cooke Aquaculture objected to an outright ban on net pen aquaculture and the City responds by stating that the current draft allows for up to nine (9) new acres of commercial net pens. Pursuant to WAC 173-26-186(8)(d) the City worked with Cooke Aquaculture to reach this 9 acre allotment. However, this was completely ignored by the City Council. The current amendment bans all new net pen aquaculture. The commenter asserts that the Comment Matrix by Issue referenced above is not relevant to the amendment being considered by Ecology now and is not evidence of public participation in the development of that submittal, because there was no public comment process or opportunity to be heard for the final version of the limited amendment.</i></li> </ul>	
C	General comments		<b>STATE APPROVAL PROCESS</b>	
C1	General comment State Approval Process	42, 56, 57	<p>Commenters supporting the limited amendment requested Ecology review the SMP with the following in mind:</p> <ul style="list-style-type: none"> <li>• The central requirement of the SMA is to protect our shorelines</li> <li>• Washington’s SMA of 1971 was adopted as a result of public pressure to protect these limited and fragile resources, and the overriding standard is for environmental protection and public access.</li> <li>• A primary mandate of the SMA is to “preserve the natural character of the shoreline,” and this is accomplished by ensuring no net loss of the ecological functions of the shoreline. (<i>SMP Handbook,</i></li> </ul>	

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			<i>6/22/2010, Chapter 4 No Net Loss of Shoreline Ecological Functions).</i>	
C2	General comment State Approval Process	19, 29, 30, 36, 40, 42, 44, 47, 49, 56, 57, 59	<p>Comments request <b>approval</b> of the SMP Amendment as submitted; some commenters supported this request based upon the following:</p> <ul style="list-style-type: none"> <li>• We have to recognize losses in our environmental resources and stop losses where we can.</li> <li>• No new or expanded net pens.</li> <li>• Aquaculture should not expand given the threats to local species and degradation of the environment.</li> <li>• Establishing any additional aquaculture is neither healthy nor appropriate.</li> <li>• Respect our territorial integrity.</li> <li>• This amendment was unanimously adopted by the Bainbridge Island City Council.</li> <li>• The City used scientific data and input from its citizens, as required by the SMA.</li> <li>• The City Council has decided local ecological conditions are not compatible with any additional aquaculture.</li> <li>• Industrial aquaculture is turning Puget Sound and Bainbridge Island’s tidelands into a non-sustainable commercial factory.</li> <li>• These amendments are intended to address the lawsuit that contended the changes Ecology required when it first approved this plan did not meet the SMA requirements to protect our shoreline and marine ecosystems and cause no net loss.</li> <li>• This amendment adequately balances the concerns and needs of commercial aquaculture, non-commercial aquaculture, its citizens, navigational and recreational interests, and the requirements of the SMA.</li> <li>• This amendment is intended to limit the use of our shorelines by industrial aquaculture.</li> </ul>	
C3	General comment State Approval Process	12, 38	<p>Commenter states this is what the Shoreline Management Act and Ecology rules were designed to accomplish: a preference for water-dependent uses of the shoreline, with “aquaculture being a desired and preferred water-dependent use.” <i>The City now seems poised to create a de facto ban of this use ... for reasons that don’t appear clear or rational. Ecology says the regulations can’t be different just for private aquaculture. And yet this is exactly what the City’s proposed ordinance does.</i></p>	
C4	General comment State Approval Process	19, 26,42, 44, 47, 49, 56	<p>Commenters asserted the Bainbridge Island SMP places stringent and elaborate constraints on shoreline property owners, and on further development and expansion of current uses.</p> <p>The commenters support the idea that the same basic principles applied to the regulation of residential property owners must be applied to commercial aquaculture. One commenter puts it this way, <i>Just as we did for private property owners on our shorelines, my city has developed a strong set of regulations</i></p>	



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			<p><i>for the use of our shorelines by the aquaculture industry. These regulations will allow a modest level of aquaculture, but will protect our shorelines for the greater good. When commercial aquaculture is insufficiently regulated and monitored, it presents a far greater risk of lasting damage to the ecology of Puget Sound than any residential development.</i></p> <p>Commenters expressed concerns about impacts from aquaculture operations, stating that many aquaculture operations, particularly large-scale projects, do one or more of these things:</p> <ul style="list-style-type: none"> <li>• Create a permanent loss of tideland habitat.</li> <li>• Alterations to water quality.</li> <li>• Directly impact the nearshore food webs.</li> <li>• Alter the surface and/or subsurface morphology.</li> </ul>	
C5	General comment State Approval Process	16, 24, 27, 32, 34, 39, 53	<p>Commenters request Ecology <b>deny</b> the SMP amendment or revise to ensure consistency with the SMA and SMP Guidelines based on the following:</p> <ul style="list-style-type: none"> <li>• The City of Bainbridge Island should not be overly restricting current recreational and commercial aquaculture practices or outright prohibiting aquaculture without regard for the scale, purpose, or benefits.</li> <li>• Banning the use of [plastics necessary for shellfish mesh] bags punishes Bainbridge Island citizens who want to participate in a positive, productive, healthy activity on their shorelines, and for no verifiable or logical reason.</li> <li>• This amendment will negatively impact residents and business owners.</li> <li>• Why would we as an island want to limit the production of local food sources?</li> <li>• Do we limit all possibility of aquaculture on our island in the name of preserving a pristine shoreline for the purposes of real estate value, a value [not] cited in the SMA? Or do we try to bring ALL our citizens back to the shoreline for the sake of curiosity and investment in our natural world?</li> <li>• Maintaining a healthy marine ecosystem that supports and feeds us – not just abstractly, but actually. To that end, we should correctly target the sources of plastic pollution and continue to monitor the health of local waters in order to meet human health and environmental standards. One clear measure of clean water is whether or not we can eat from it. The act of eating from local marine waters ensures we pay close attention to water quality, which in turn helps sustain our ability to produce food locally and preserve an important part of life in the Northwest. This is perhaps why shellfish cultivation is recognized</li> </ul>	

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			<p>as a preferred, water-dependent use in Washington’s Shoreline Management Act.</p> <ul style="list-style-type: none"> <li>• Please don’t let misguided individuals use false evidence to support a policy not founded in facts or logic. The potential consequences of this should not be taken lightly.</li> </ul>	
C6	<p><b>General comment</b> State Approval Process</p>	<p>5, 6A, 6B, 7, 8, 13, 34, 37, 43, 51, 53</p>	<p>Commenters request Ecology <b>deny</b> this SMP limited amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>• The existing SMP recognizes the benefits of local shellfish operations and gardens and seems to take a more balanced approach to preserving multiple shoreline uses and providing incentives.</li> <li>• The City failed to demonstrate the current SMP is inadequate.</li> <li>• Not necessary or approvable per WAC 173-26-201(1).</li> <li>• The amendment will severely restrict people’s ability to cultivate shellfish for personal use or future commercial aquaculture.</li> <li>• Individual gardeners and community shellfish gardens that help to restore a healthy ecosystem that supports diverse species is a major contribution to our community and to the life of Puget Sound. To turn these individuals into lawbreakers is short-sighted.</li> <li>• This amendment strips away incentives and replaces them with a highly restrictive set of regulations designed to prevent commercial shellfish aquaculture.</li> <li>• By restricting people’s ability to grow shellfish, we discourage a deep connection to the marine environment around us.</li> <li>• Commenters expressed gratitude for the City’s efforts to lessen environmental impacts; however, many believe the proposed amendment is misdirected toward Bainbridge Island citizens, addressing a miniscule issue compared to other environmental problems facing the island, and will actually hinder local attempts to control pollution.</li> </ul>	
C7	<p><b>General comment</b> State Approval Process</p>	<p>5, 6A, 6B, 7, 10, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 32, 33, 34, 45, 48, 52, 53, 55, 58</p>	<p>Commenters expressed concerns with how the City’s proposed amendment will adversely impact Puget Sound Restoration Fund engagement programs and other personal consumption shellfish growing operations on Bainbridge Island. Commenters emphasized the importance of growing and gathering marine food because it strengthens people’s connection to the marine shoreline and increase people’s commitment to clean water and healthy shorelines.</p>	

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C8	General comment State Approval Process	4, 5, 6A, 6B, 10, 13, 15, 18, 22, 23, 33, 34, 39, 45, 48, 52, 53	<p>Commenter asserted locally grown shellfish provide multiple benefits, including:</p> <ul style="list-style-type: none"> <li>• Providing a local marine food source.</li> <li>• Giving people a stake in water quality.</li> <li>• Increasing natural filtration along the shore.</li> <li>• Mitigating the effect of nutrient loading.</li> <li>• Helping drive pollution control efforts.</li> <li>• Connecting people to the marine shoreline.</li> <li>• Enjoyment of water dependent property use.</li> </ul>	
C9	General comment State Approval Process	1, 2, 4, 5, 6A, 6B, 7, 13, 14, 15, 22, 24, 32, 33, 43, 48, 50, 53	<p>Many commenters disagreed with the City’s proposed amendment prohibiting plastics in shellfish aquaculture because they felt it unfairly targets beneficial shellfish actions that would otherwise invest people in the health of local waters. They go on to say:</p> <ul style="list-style-type: none"> <li>• The purpose of Local Shoreline Master Programs is to balance uses and protections, and, where possible, to encourage activities that offset potential impacts with benefits.</li> <li>• Singling out shellfish aquaculture for special restrictions while allowing plastics in other shoreline activities seems counter to the goals of the Shoreline Management Act. It’s like saying its okay to play along the shore with plastic gear and materials, but it’s not okay to grow shellfish using appropriate gear, even though shellfish cultivation provides water quality benefits.</li> </ul>	
C10	General comment State Approval Process	1, 2, 4, 6B, 7, 10, 11, 13, 14, 15, 17, 18, 20, 21, 22, 23, 32, 33, 37, 39, 45, 48, 52, 58	<p>These commenters do <u>not</u> support the City’s proposed limited amendment because they believe these amendments could severely restrict shellfish aquaculture on the island, and they believe that will have a negative impact. Here are some of the comments:</p> <ul style="list-style-type: none"> <li>• Shellfish can be an effective tool for engaging people positively in pollution control efforts. Similar strategies have helped drive successful pollution control efforts elsewhere in Puget Sound, restoring 810 acres in Drayton Harbor and 340 acres in Henderson Inlet. Puget Sound Restoration Fund has been directly involved in these and other efforts that have resulted in measurable water quality and ecosystem improvements.</li> <li>• One commenter provided a personal experience about replacing his aging septic system at considerable expense after learning about the consequences of leaky septic systems on the waters of Puget Sound generally and oyster farming in particular.</li> <li>• Shellfish can help make water quality relevant to people. Hundreds of Island residents are reducing pollution sources on their properties because they are growing shellfish on their beach or are engaged in community harvests. This helps the City meet the desired outcomes of the Shoreline Master Program; it</li> </ul>	

TABLE 2: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
			<p>also supports the local food movement.</p> <ul style="list-style-type: none"> <li>Connecting people to marine waters that still feed us provides a strong, personal incentive for maintaining clean water.</li> <li>Commenters expressed an understanding for the concerns about plastics (and mirco-plastics), but believe that when properly used and maintained any potential risk is far outweighed by the significant environmental and social benefits of shellfish.</li> </ul>	
C11	<p><b>General comment</b> State Approval Process</p>	<p>5, 6A, 6B, 7, 11, 34, 37, 38, 48, 50, 53</p>	<p>Commenters <u>not</u> supporting the limited amendment requested Ecology review the SMP with the following in mind:</p> <ul style="list-style-type: none"> <li>Because other local governments are watching carefully what the DOE is doing, I urge you to create good public policies based on science and otherwise credible information.</li> <li>Though shellfish aquaculture has been portrayed as a particular threat, the City has not established that current shellfish practices on Bainbridge are harmful.</li> <li>The purpose of Local Shoreline Master Programs is to balance uses and protections, and, where possible, to encourage activities that offset potential impacts with benefits. The ban on plastic grow bags unnecessarily restricts waterfront activity while concurrently reducing opportunity for benefit through enhanced environmental stewardship of engaged shoreline gardeners.</li> <li>Shoreline and ecology rules were designed to accommodate and promote water dependent use of the shoreline with “<i>aquaculture being a desired and preferred water-dependent use</i>”.</li> <li>Selective enforcement of a ban on plastic oyster bags not based upon the specific environmental conditions of a select area, but merely based upon the belief that the entire ocean will suffer because of the use of the bags, is patently arbitrary and as such should not be permitted. While variances can occur due to the specific conditions of an area, the SMA did not contemplate an unequal treatment of an activity based upon the whims of a jurisdiction and their displeasure of the materials used in the activity.</li> <li>Take the time to review the proposal in-depth and to review the community feedback that is received. Noting that it is in everyone’s interest to protect Puget Sound, but we need to do that based on scientific evidence and facts, not other interests.</li> </ul>	
C12	<p><b>General comment</b> State Approval Process</p>	<p>19</p>	<p>Commenter requests approval of the SMP Amendment, but acknowledges some changes may be recommended. However, the commenter warns if they cut too deep and go too far in the direction of favoritism toward commercial interest, it is likely this struggle will continue.</p>	

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
C13	General comment State Approval Process	26	Commenter mentioned Ecology’s role to ensure this SMP amendment is scientifically sound and protective, emphasizing the importance of balancing the needs of shoreline enjoyment and aquaculture with the protection of our nearshore ecosystems.	
C14	General comment State Approval Process	27	Commenter requests this amendment be stopped to send a clear message any future changes should be focused on reducing limitations to encourage both residents to plant shellfish and for small commercial producers. There isn’t much land available for commercial [aquaculture] endeavors, so adding more laws is a moot point.	
C15	General comment State Approval Process	50	<p>Commenter requests Ecology <b>reject</b> Ordinance 2016-06 and find it null and void for the following reasons:</p> <ol style="list-style-type: none"> <li>1. The City of Bainbridge lacks the authority to outright ban oyster growing through the backdoor approach of prohibiting the materials necessary to conduct noncommercial aquaculture. Specifically administrative law prohibits agencies from creating rules not authorized by the legislation. This action is contrary to the purpose of the Shoreline Protection Act and therefore is void.</li> <li>2. The City of Bainbridge acted arbitrary and capriciously in prohibiting the means for noncommercial shellfish garden growers to operate while permitting aquaculture fish farms to continue to use plastic products. The City specifically banned plastic for shellfish growers while ignoring the many other sources of plastic found contributing to plastic pollution in the oceans. More generically the city is acting arbitrary in banning plastic products associated with shellfish aquaculture but not any other activity or structure using plastic.</li> <li>3. The City of Bainbridge Island exceeded its authority in Ordinance 16-06 to the extent it fails to justify the significant reduction in the amount to surface area permitted for non-commercial shellfish aquaculture from 500 square feet to 200 square feet.</li> </ol> <p>The commenter respectfully requests a reasonable compromise be reached that would result in the continued noncommercial aquaculture activities on Bainbridge Island.</p>	
C16	General comment State Approval Process	43, 51	<p>The commenters requested Ecology <b>deny</b> the proposed SMP limited amendment because it goes far beyond its stated intent. They stated the following specific justifications:</p> <ul style="list-style-type: none"> <li>• The stated purpose of the Limited Amendment was to align the aquaculture provisions with the June 7, 2013, version of the SMP update, the version prior to Ecology’s required changes. In other words, the City was trying to take a second bite at the apple—attempting to provide back-end justification for provisions that were either not adequately supported or were deemed inconsistent with state law and policy. This is</li> </ul>	

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			<p>not a proper basis for enacting a limited SMP amendment.</p> <ul style="list-style-type: none"> <li>The Limited Amendment not only contains similarly unacceptable aquaculture provisions as the earlier 2013 draft, but it imposes far more, and far more extreme, restrictions on aquaculture, including a prohibition on commercial aquaculture throughout the entire City (except for five acres) and an infeasible and unjustifiable prohibition on non-biodegradable plastics.</li> <li>The limited amendment is even more inconsistent with the SMA and implementing guidelines than the June 7, 2013, version Ecology modified as part of the SMP Comprehensive Update process.</li> </ul>	
C17	<p><b>General comment</b> State Approval Process</p>	43, 51	<p>Commenters stated this Limited Amendment should be <b>denied</b> because it does not meet the applicable criteria for approving limited SMP amendments per WAC 173-26-201(1)(c). They listed the following justifications:</p> <ul style="list-style-type: none"> <li>Given the Bainbridge Island SMP was recently comprehensively updated, the next statutory update is several years away, and the City failed to demonstrate the current SMP amendment is necessary pursuant to WAC 173-26-201(1)(c), Ecology should deny the unlawful and improper Limited Amendment.</li> <li>Local Governments, the Department of Ecology, and interested citizens spend extensive time and resources developing comprehensive SMP updates, and SMPs must be reviewed according to a statutory schedule to account for new laws and information. Allowing unnecessary SMP amendments outside of these statutory time periods purely in response to local political directives would undermine the hard work and resources devoted to developing the comprehensive updates.</li> <li>This limited amendment was not developed to respond to new information or because the City determined it was necessary to meet the objectives specified in WAC 173-26-201(1)(c). The City openly acknowledged throughout the local adoption process that it did not have scientific and technical information to support the proposed revisions and that it was trying to cobble that information together prior to submitting to Ecology.</li> <li>The City failed to actively solicit comments from and consult with agencies, tribes, individuals, and other stakeholders regarding this Limited Amendment. Numerous governmental bodies are responsible for regulating aquaculture, and they have developed expertise and policy guidance for appropriate management of this use. The record contains no evidence that the City satisfied its obligations to consult with and obtain, let alone objectively consider, comments from these bodies.</li> <li>The City failed to meaningfully consider and respond to comments provided. Detailed comments were either ignored or quickly dismissed.</li> <li>The City lacked supporting information when it passed ordinance 2016-06 and required several months to develop post-hoc justification. The eventual post-hoc scientific, technical, and other information the City offered as justification for this amendment does not support the proposed revisions.</li> <li>Given the amendment is the product of a political directive, and the City attempted to find justification for</li> </ul>	

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
			the amendment only after it decided to move forward with it, the putative justification in the submittal package is necessarily post-hoc, disingenuous, and inadequate.	
C18	General comment State Approval Process	51	<p>While this commenter is generally opposed to this limited amendment, they provided the following statements to clarify sections or changes they can support:</p> <ul style="list-style-type: none"> <li>• Taylor Shellfish supports a revision to the text of the SMP confirming aquaculture is a conditionally-allowed use in the Shoreline Residential Conservancy SED – this would make the text consistent with Table 16.12.030-1.</li> <li>• If there is determined to be an inconsistency between the Use Table 16.12.030-1 and the text regarding aquaculture in the Island Conservancy SED, Taylor supports updating the use table to reflect that aquaculture is allowed as a conditional use in the Island Conservancy SED.</li> <li>• Taylor Shellfish has no objections to proposed revisions intended to address and fully recognize tribal treaty rights.</li> </ul>	
C19	General comment State Approval Process	43, 51	<p>The commenters say SMPs constitute state action, and Ecology is <u>not</u> required to give deference to the City.</p> <ul style="list-style-type: none"> <li>• The commenter refers to a recent Supreme Court case determining that SMPs constitute state, as opposed to local, action. Additional previous court cases are also cited as confirming the state bears responsibility for an SMP and that the SMP itself is a state action.</li> <li>• The commenter highlighted the following text from the court’s decision, “The SMA provides Ecology with stringent oversight authority and command over the final contents of any jurisdiction’s SMP. The involvement of local jurisdictions in the SMP process is a benevolent gesture by the state.”</li> <li>• Because SMPs constitute state action, it is imperative that Ecology exercise its oversight authority to deny SMP amendments, such as the Limited Amendment, that are unsupported and conflict with the SMA and its implementing regulations.</li> <li>• This locally-adopted SMP is inconsistent with state law and unsupported by scientific and technical information; Ecology must intervene to preserve the integrity and defensibility of this state action.</li> </ul>	
C20	General comment State Approval Process	51	<p>Commenter suggests the City’s SMP must do two things with respect to aquaculture:</p> <ol style="list-style-type: none"> <li>1. Contain policies and regulations to promote and manage this preferred, water-dependent, and ecologically beneficial use.</li> <li>2. It must protect commercial shellfish beds as critical saltwater habitat.</li> </ol> <p>Commenter believes this limited amendment fails to meet either of these requirements because it contains extensive prohibitions and unreasonable regulations. The commenter also expressed concerns with the City’s intentions, stating:</p>	

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			<p><i>The City has made it clear that its intent is to restrict aquaculture to the greatest extent possible. Some Council members even stated they would prefer an outright ban. The very purpose of this amendment conflicts with the recognition of aquaculture in the SMA and SMP Guidelines as a preferred, water-dependent use that should be fostered and encouraged.</i></p>	
C21	<p><b>General comment</b> State Approval Process</p>	51	<p>Commenter says the City argues this amendment is necessary to comply with state and federal laws and implementing rules, but the City’s argument that the SMP comprehensive update Cumulative Impact Analysis (CIA) did not adequately analyze and consider future commercial shellfish and that the overall analysis assumed commercial aquaculture would not be allowed in the Shoreline Residential SED is flawed and without merit. The City further states that the amendment is necessary to adequately evaluate and consider cumulative impacts of reasonably foreseeable future aquaculture activity.</p> <ul style="list-style-type: none"> <li>• The CIA is <u>not</u> a state or federal law or implementing rule.</li> <li>• This argument misrepresents the content of the CIA, which includes a Use and Activity Matrix showing aquaculture as a CUP in both the Shoreline Residential and Shoreline Residential Conservancy SED.</li> <li>• While the CIA does not include a specific projection of the number of new shellfish farms, it is not required to do so. The CIA did not assume that there would be no additional commercial aquaculture, rather, it suggests requiring a conditional use permit for future aquaculture projects to “ensure that all impacts are addressed and that there is no net loss of ecological function...”</li> <li>• The CIA lists potential direct and indirect impacts from aquaculture and identifies numerous regulations that provide protection.</li> <li>• The current SMP strictly regulates aquaculture and requires consideration of cumulative impacts for every such proposal as part of the required Conditional Use Permit process.</li> </ul>	
C22	<p><b>General comment</b> State Approval Process</p>	51	<p>Commenter argues that the limited amendment should <u>not</u> be approved because it fails to plan for, foster, and give preference to commercial shellfish aquaculture and it is inconsistent with the SMA and SMP Guidelines. The commenter claims <i>the City’s analysis is limited to the five-acre cap, and its primary contention is that this cap is acceptable because it allows for commercial shellfish aquaculture to be “reasonably provided for in the jurisdiction.”</i> The commenter provides the following justification for the above statement:</p> <ul style="list-style-type: none"> <li>• The City’s argument is legally misguided because aquaculture is both a reasonable and preferred, water-dependent use. As a reasonable use, local governments must plan for and foster it. The commenter provides this Webster’s dictionary definition of “Foster” – “to promote the growth or development of.” Rather than foster commercial aquaculture this limited amendment is specifically designed to restrict and prohibit it and the City argues that it should not have to foster commercial aquaculture because “aquaculture” includes recreational aquaculture which is fostered.</li> <li>• The comment believes that the City’s reliance on WAC 173-26-201 to justify the need to “reasonably</li> </ul>	



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			<p>provide” for aquaculture uses in the City is wrong because the comment claims that <i>provision is intended to ensure preferred uses are appropriately prioritized, not limited. The issue of whether a particular water-dependent use is “reasonably provided for in the jurisdiction” only arises when a SMP must limit that use in order to accommodate other uses.</i> The commenter contends, <i>this is not the situation that the City faces.</i></p> <ul style="list-style-type: none"> <li>• The commenter argues that City has completely ignored the mandate of WAC 173-26-251(3)(c) to “[p]reserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish beds. Commenter provides that Taylor Shellfish and PCSGA both commented previously to the City that a five-acre cap is inadequate to accommodate commercial shellfish aquaculture in the City. The commenter further asserts that the City <i>completely disregards the input of PCSGA, simply because they allegedly did not provide a quantitative analysis of future demand, and it completely ignores Taylor Shellfish’s comments.</i> The commenter goes onto contend that the SMA and SMP Guidelines do not quantitative information from stakeholders, however, Taylor Shellfish <i>performed an evaluation of Bainbridge Island’s shorelines and determined that at least 40 percent of the shorelines contain conditions suitable for commercial shellfish farming with exiting technology.</i> The commenter concludes that <i>there is strong potential for new commercial shellfish aquaculture projects in the City, demand for new areas to cultivate shellfish is high, and five acres is inadequate to accommodate this demand.</i></li> <li>• The commenter also argues that the City has ignored information in the October 2015 Programmatic Biological Assessment for Shellfish Activities in Washington State Inland Marine Waters, which <i>estimated demand for 426 acres of new ground-based commercial shellfish aquaculture in South Puget Sound, and 448 acres of total new commercial shellfish aquaculture in South Puget Sound.</i> According to the commenter the South Puget Sound region identified includes Bainbridge Island.</li> <li>• The commenter insists that commercial aquaculture and recreational shellfish beds are not the same “use”: stating that while commercial and recreational aquaculture may provide many of the same ecological benefits, commercial aquaculture also provides unique and critical economic benefits. <i>Moreover, the City is clearly treating recreational and commercial aquaculture as distinct uses, with extensive regulatory requirements and prohibitions applicable only to commercial shellfish operations.</i></li> <li>• The commenter asserts that as a water-dependent use, the SMP must not simply plan for and foster aquaculture it must also give preference to it, per RCW 90.58.020, WAC 173-26-181, WAC 173-26-201(2)(d) and WAC 173-26-241(2)(a).</li> <li>• The commenter insists that <i>the City’s claim in the Submittal Package that the five-acre cap would allow for over 100 new commercial shellfish operations is inaccurate and not credible. If a five acre cap were imposed, the average commercial shellfish aquaculture farm would have to be .05 acres to allow for 100</i></li> </ul>	

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			<p><i>operations. Given the extensive permitting costs with establishing a new shellfish farm on Bainbridge Island, it would be financially infeasible to permit and operate a .05-acre farm. It can cost hundreds of thousands to millions of dollars to obtain permits for new shellfish farms, not to mention the costs associated with defending against appeals. The commenter concludes that it would likely be infeasible to establish a commercial shellfish farm smaller than one acre on Bainbridge Island under the Limited Amendment.</i></p> <ul style="list-style-type: none"> <li><i>The commenter also expresses concerns with how the five-acre cap will eliminate clarity and predictability by raising numerous unanswered questions and facilitating abuse. The commenter claims the SMP contains no explanation or procedures for how the cap will be administered, such as will the applications be processed (and acres counted toward the cap) in the order submitted or as approved or would the acre be calculated as it was actually put into production.</i></li> <li><i>The commenter argues that while the Submittal Package summarily states the five-acre cap is necessary to avoid use conflicts among water-dependent uses and achieve a balance between utilization and protection of the shoreline, it has failed to identify information or analysis supporting this statement. The City cannot credibly claim that residential (or any other type of development, for that matter) is somehow limited and that it must impose a five-acre cap on commercial shellfish aquaculture in order to allow for residential and other development.</i></li> <li><i>Finally, while the City notes SMP Guidelines that discuss preventing damage to the environment and reserving appropriate areas for protecting ecological function, this provides no bases for the five-acre cap. Shellfish aquaculture activities are not mutually exclusive with protecting ecological functions. In fact, SMP Guidelines recognize aquaculture ‘can result in long-term over short-term benefits and can protect the resources and ecology of the shoreline’ and classify commercial shellfish beds as critical saltwater habitat – a recognition that no other type of commercial activity receives.</i></li> </ul>	
C23	<p><b>General comment</b> State Approval Process</p>	54	<p>Commenter believes that the City’s submittal to Ecology fails to comply with the requirements of WAC 173-26-110, because Ecology’s website does not include staff reports, hearings records, evidence of SEPA compliance, evidence of public notice, copies of comments received, or a copy of the SMP checklist. The commenter requests that <i>if Ecology confirms these deficiencies in its review of this submittal, Ecology would then disapprove the submittal and return it to Bainbridge Island.</i></p>	
C24	<p><b>General comment</b> State Approval Process</p>	56	<p>Commenter states that during the City’s Comprehensive SMP update Ecology required the weakening of the City’s SMP to benefit aquaculture, and DOE representatives could give no comprehensible response other than that aquaculture is a preferred use of shorelines. The commenter goes on to say that perhaps it is understandable that DOE cannot really justify their support of this industry because of the acres of plastic tubes and nets, the scraping of the beach to removal all other marine life, the destructive harvest practices, the</p>	

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			absence of other life (including birds) where the industry has taken over in south Puget Sound.	
C25	<p><b>General comment</b></p> <p>State Approval Process</p>	57	<p>Commenter requests <b>approval</b> of the SMP as submitted for the following reasons:</p> <ul style="list-style-type: none"> <li>• The Bainbridge Island City Council was correct to limit such industrialization of the tidelands for both private and public because regulations limiting industrial shellfish aquaculture on the tidelands of Bainbridge Island are supported by the mandates of the SMA (RCW 90.58) and its implementing regulations, WAC 173-27. Industrial shellfish aquaculture, especially aquaculture that utilizes thousands of PVC tubes (7 miles per acres weighing approximately 10 tons) or hundreds of oyster bags, along with plastic canopy netting on the tidelands, will not preserve the natural character of the shoreline and will result in a net loss of ecological functions of the shoreline without adequate mitigation for that loss.</li> <li>• Increasing and piecemeal industrialization of the tidelands of Bainbridge Island will decrease recreational opportunities and subvert the public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state. The SMA provides that the physical and aesthetic qualities of the natural shorelines should be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally.</li> <li>• How does aquaculture benefit Bainbridge Island? The community is against it. Thousands of taxpayer dollars are being spent to protect and restore Puget Sound. It thus makes no sense to tax payers when authorities encourage the conversion of natural shoreline environments to commercial use.</li> <li>• The fundamental preferences of the SMA (RCW 90.58.020) are often ignored by the Department of Ecology. There is no statewide interest in authorizing the construction of commercial geoduck operations on the tidelands of Bainbridge Island. There is no evidence regarding long-term economic benefits of permitting industrial shellfish aquaculture operations. The industry employs few people with minimal wages and pays few taxes (no sales tax on exports, and tidelands are not appraised at their true value for property taxes).</li> </ul>	
D	<b>General comment</b>		<b>GENERAL AQUACULTURE</b>	
D1	<p><b>General comment</b></p> <p>Aquaculture</p>	1, 2, 5, 6A, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 35, 38, 39, 53, 55, 60	<p>Many local residents commented on their positive experience with raising, harvesting, and eating shellfish. They expressed concern and bewilderment about why the City would want to limit or eliminate this activity on the island. Commenters believe the benefits of shellfish aquaculture far outweigh any potential negatives from an ecological standpoint.</p>	

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D2	<b>General comment</b> Aquaculture	26, 42, 49, 56, 57, 59	The commenters support provisions which require protection for forage fish spawning and eelgrass beds, including documenting, monitoring, and protecting these critical natural resources. One commenter references a Northwest Fisheries Science Center comment from August 27, 2015, paraphrasing that they found inadequate studies of the impacts of commercial shellfish operations on the environment and recommended deleting any claims that shellfish culture enhanced forage base and cover or otherwise provided similar habitat to that of eelgrass. Spawning habitat and refugia for nearshore aquatic life, including juvenile salmonids, are absolutely critical components of salmon recovery and the health of Puget Sound. Current eelgrass restoration efforts are costing our natural resource agencies and our taxpayers millions of dollars and are critically important to the recovery of the health of our Puget Sound marine ecosystems. Eelgrass needs propagation and protection to sustain the life that feeds the larger fish and mammals. To undermine these efforts by allowing aquaculture to encroach on such important areas is self-defeating and contrary to the priorities of the Department of Ecology and other natural resource agencies.	
D3	<b>General comment</b> Aquaculture	6B, 7, 15, 22, 33	Commenters state the City of Bainbridge Island has argued that aquaculture can only be considered a preferred water-dependent use when it is consistent with control of pollution. <i>Applying this same litmus test to all water-dependent uses would soon reveal very few of our shoreline uses or activities are perfectly consistent with control of pollution.</i>	
D4	<b>General comment</b> Aquaculture	25, 27, 52	Commenters allege this amendment restricts what shoreline property owners can do with their property with no science, facts, or evidence to validate their concerns. They are trying to ban shellfish gardens. One commenter expresses that this amendment may have begun as an effort to hamstring the existing fish farm and the residential impact are merely collateral damage, but goes onto insist that regardless of the intent, this amendment is an assault on private property use that cannot be allowed. Another commenter supports a total denial of this amendment because it attempts to control what shoreline homeowners can do with their property based on a justification lacking science. No one loves and cares more for the waterfront than those who live on it.	
D5	<b>General comment</b> Aquaculture	34, 37	Commenters say a working waterfront help characterize the Puget Sound. Maintaining our ability to grow and gather food from the sea remains critically important and essential to our quality of life. If we cease to regard Puget Sound as a place that has the capacity to help feed us, we lose something important, and will no longer stand up for and protect this special place. We need to re-connect people to our marine resources in order to protect it.	
D6	<b>General comment</b> Aquaculture	34, 37	Commenters emphasize mitigating nutrient pollution is an important benefit of shellfish cultivation because suspension feeding shellfish assist in removing nutrients that continue to over enrich our waters. Research in many parts of the world have demonstrated the capacity for filter feeders such as mussels, oysters and clams to help cleanse local waters by filtering algae blooms that result from excess nutrients and thereby increase water	

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			clarity enabling submerged aquatic vegetation to better thrive. Cultivating shellfish locally, including supporting local, small-scale locally operated shellfish farming is an important strategy for engaging people as allies in pollution control efforts, enhancing natural filtration, providing incentives for maintaining healthy marine waters and producing healthful protein at a fraction of the environmental cost of terrestrial agriculture.	
D7	General comment Aquaculture	36, 49	Commenters argue the importance of economic profits are being placed over the protection and preservation of natural habitat for shellfish and finfish. The economic impact of losing our natural habitat and ecosystem is immense.	
D8	General comment Aquaculture	44, 47	Commenter suggest that while residential zoning does not preclude aquaculture, there is a reasonable expectation that shoreline and water-view properties will not be subjected to the nuisances of lights, noise, and odor.	
D9	General comment Aquaculture	44, 47	Commenters say this active waterway supports many water-dependent uses (30+ ferries a day, aircraft carriers, submarines, naval vessels, over-flow anchorage of container ships, pleasure boats, and barges) which conflict with the net pen operations’ use of this waterway.	
D10	General comment Aquaculture	19	“Enough is enough.” Commenter expressed concern regarding commercial interests accustomed to a certain way of doing business with desires to expand aquaculture operations in Puget Sound. The Bainbridge Island SMP Amendment is the result of a diligent effort by the City to define best practices and craft effective regulations. Commenter believes the Department of Ecology’s integrity is on the line in this decision and that if commercial interests continue to get their way in spite of citizen protests the widespread cynicism toward government will intensify.	
D11	General comment Aquaculture	34	Commenter states on the subject of gear in general, shoreline conditions on Bainbridge Island often necessitate the use of different cultivation materials and methods. <i>For instance, a number of Bainbridge shorelines that used to support natural little neck clam populations have lost fine-grained sediments over the years, perhaps due to bulkheads and other shoreline structures. In these instances, it is unproductive to simply sprinkle clam seed (without gear) on a beach in the absence of appropriate substrate conditions. A standard [plastic] grow bag allows a grower to cultivate shellfish regardless of substrate.</i>	
D12	General comment Aquaculture	36	Commenter suggests current regulations have for too long allowed the degradation of tidelands. This limited amendment will better regulate commercial aquaculture which is among the causes contributing to the loss of salmon runs and eatable oysters within Eagle Harbor.	
D13	General comment Aquaculture	41	The Tribe alleges the SMP lacks specific language addressing Tribal Treaty rights (i.e. preservation of cultural activities). They suggest language as per previous comment letters (including but not limited to comments dated May 14, 2013) as follows:	

TABLE 2: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
			<ul style="list-style-type: none"> <li>• Support and protect the rights of treaty tribes having usual and accustomed fishing, shellfish harvesting, and gathering areas within any shoreline under the City's jurisdiction. Activities which would meet these objectives include:                             <ul style="list-style-type: none"> <li>○ Protecting and enhancing aquatic resources and their habitat.</li> <li>○ Protecting and enhancing the water and sediment quality of shoreline areas to levels that provide for aquatic resources which are safe for human consumption.</li> <li>○ Protecting tribal access to aquatic resources'.</li> </ul> </li> <li>• Language needs to be added that states: <i>Nothing in the City of Bainbridge Island Shoreline Master Program or action taken there under shall affect Suquamish Tribal Treaty rights to which the United States is a party.</i></li> </ul>	
D14	General comment Aquaculture	41	Commenter says there are various monitoring, adaptive management, analysis and assessment requirements mentioned but there is no information that adequately describes what criteria should be included or is required. The comment believes more information is needed for both staff and applicants to adequately interpret the code.	
D15	General comment Aquaculture	43	The commenter alleges the existing SMP grants the City and Ecology full authority to ensure that aquaculture proposals comply with the SMA and to address every concern identified by the City during development of the Limited Amendment. The commenter goes on to say: the City provides zero discussion or analysis contending that the SMP is inadequate in this respect. To the contrary, the City recently required one of PCSGA’s members on Bainbridge Island to apply for a CUP to continue operating a commercial shellfish farm. In doing so, the City advised the farmer that it would cost up to \$30,000 to simply apply for a CUP, and it indicated that the CUP review process would require a rigorous review of the potential impacts of the farm. This confirms both that there is demand for and interest in commercial shellfish operations on Bainbridge Island, and that the current SMP is adequate to ensure aquaculture proposals are carefully reviewed and properly designed and operated.	
D16	General comment Aquaculture	50	The commenter states local governments are permitted to administer the SMA based upon the established policy as it applies to the local conditions. This commenter argues that the City is not authorized to create a new policy inconsistent with established policy of the department of Ecology. The commenter goes onto explain that, <i>[t]he department of Ecology has not created a rule that bans all plastic materials that come into contact with water. Likewise in fact the research found in the “Shellfish Aquaculture in Washington, final report to the Washington Legislation” December 2015 identified the beneficial attributes of shellfish aquaculture. Nowhere did the report indicate there was any problem with the materials used for shellfish aquaculture.</i>	
D17	General comment Aquaculture	50	Commenter alleges Ordinance 16-06 claims the basis of it authority lies in the selective reading of WAC Sections 90-58-020 and 173-26-241 and that analysis fails to recognize the spirit of compromise of interests outlined in Section 90-58-020. Likewise the ordinance happens to omit the language of the overarching policy of aqua-	

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			culture, “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.” WAC 173-26-241(3)(b)(i)(A).	
D18	General comment Aquaculture	43, 51	<p>Commenters believe this SMP limited amendment is unnecessary for the following reasons:</p> <ul style="list-style-type: none"> <li>• The City failed to ask, let alone answer, the critical question of whether the limited amendment is necessary. To do this, the City must analyze the provisions regarding aquaculture in the current SMP, demonstrate they are inadequate with respect to the objectives specified in WAC 173-26-201(1)(c), and discuss how each revision proposed is necessary to remedy such inadequacies.</li> <li>• The City has cherry-picked information it contends demonstrates aquaculture can have adverse environmental impacts, and it concludes that the Limited Amendment is therefore justified. Every human use, activity, or development can have adverse impacts. The question is not whether aquaculture can have adverse impacts, but whether the current SMP is adequate to account for those impacts to achieve no net loss.</li> <li>• The current SMP contains extensive permitting requirements and substantive approval criteria to ensure that shellfish aquaculture operations comply with the goals and policies of the SMA and implementing regulations.</li> <li>• The Submittal Package contends the Limited Amendment addresses concerns regarding non-biodegradable plastics, disturbances to substrate, forage fish spawning habitat, and cumulative impacts. The current SMP for the City is adequate to address these concerns, however, and the City makes no argument to the contrary.</li> <li>• The City’s SMP prohibits commercial aquaculture in the Natural, Island Conservancy, and Priority Aquatic Shoreline Environment Designations (“SEDs”).</li> <li>• In those SEDs where aquaculture is allowed, it requires conditional use permit (“CUP”) approval. Table 16.12.030-1, BIMC.1 Applicants seeking to obtain a CUP must demonstrate the proposal meets several approval criteria, including consistency with the policies of the SMA and the SMP, compatibility with other authorized and planned uses, consistency with the zoning ordinance, and lack of unreasonably adverse effects to the shoreline environment or substantial detrimental impact to the public interest. BIMC 2.16.165.H.4. The SMP also requires consideration of cumulative impacts in the granting of CUPs.</li> <li>• The aquaculture section of the SMP further states aquaculture proposals will be reviewed under numerous additional sections of the SMP, including the no-net loss provisions of BIMC 16.12.030.B.2, island-wide regulations of 16.12.030, water quality and stormwater management regulations at 16.12.B.5, and critical areas regulations at 16.12.060, where applicable. (BICC 16.12.040.B)</li> </ul> <p>The above listed use restrictions, permitting requirements, policies, and regulations already require the City to</p>	

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
			review each farm on a case-by-case basis to ensure it will not have individual or cumulative impacts that would result in a violation of the SMA. The City does not address, let alone dispute, this point in this amendment submittal package.	
D19	General comment Aquaculture	51	<p>The commenter emphasizes aquaculture is a preferred, water-dependent use that must be fostered. While all reasonable and appropriate uses are to be fostered, the SMA identifies a particular subset of uses that are preferred – those that “are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state’s shoreline.” (RCW 90.58.020)</p> <p>The commenter also refers to the following WACs:</p> <ul style="list-style-type: none"> <li>• WAC 173-26-241(3)(b)(i)(A), which defines aquaculture and identifies aquaculture as a water-dependent activity of statewide interest.</li> <li>• WAC 173-26-176(3), which expresses a preference for water-dependent uses, such as commercial shellfish aquaculture, that are economically productive.</li> <li>• WAC 173-26-251(3)(c), which identifies commercial shellfish beds as a priority use for which SMPs must preserve sufficient shorelands and submerged lands to accommodate current and projected demand.</li> <li>• WAC 173-26-261(3)(b)(i)(D), which requires local governments to “ensure proper management of upland uses to avoid degradation of water quality of existing shellfish areas.</li> <li>• WAC 173-26-221(2)(c)(iii), which identifies commercial shellfish beds as a critical saltwater habitat. Because commercial shellfish beds are themselves critical saltwater habitat, it necessarily follows that SMPs must include policies, programs, and regulations to protect and restore commercial shellfish beds. *The commenter acknowledges this WAC does not limit the local jurisdiction’s ability to regulate this use, but emphasizes the requirement to protect and restore commercial shellfish beds in recognition of the important ecological functions they provide.</li> </ul>	
D20	General comment Aquaculture	51	<p>Commenter suggests the SMA’s classification of aquaculture as a preferred, water-dependent use aligns with numerous additional state and federal laws and policies that promote the preservation and expansion of shellfish aquaculture, including:</p> <ul style="list-style-type: none"> <li>• The National Aquaculture Act of 1980.</li> <li>• The Marine Aquaculture Policy (2011).</li> <li>• The National Shellfish Initiative (2011).</li> <li>• The National Ocean Policy Implementation Plan (2013).</li> <li>• NOAA’s FY 2016-2020 Marine Aquaculture Strategic Plan.</li> <li>• The state Bush and Callow Acts (1895, re-codified in 2002 as RCW 79.135.010).</li> <li>• The state Aquaculture Marketing Act (RCW 85.85.010).</li> <li>• The Washington Shellfish Initiative (2011) and Phase II (2016).</li> </ul>	



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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
			<ul style="list-style-type: none"> <li>The Puget Sound Partnership’s Action Agenda target of adding 10,800 harvestable shellfish acres in the state by 2020.</li> </ul> <p>Commenter goes on to say this limited amendment, in contrast, would impose numerous restrictions and prohibitions on shellfish aquaculture, with the likely ultimate result of precluding new shellfish farms on the island.</p>	
D21	General comment Aquaculture	51	<p>Commenter 51 argues that the five-acre cap proposed as part of this SMP amendment must be denied because:</p> <ul style="list-style-type: none"> <li>It is not necessary to ensure compliance with state or federal laws;</li> <li>It conflicts with the SMA and SMP Guidelines, and numerous other state and federal laws/policies;</li> <li>It is not supported, and in fact is undermined, by scientific, technical, and other credible information;</li> <li>It relies on erroneous legal positions and incorrect factual assertions;</li> <li>It facilitates abuse of the SMP’s regulatory structure;</li> <li>It violates state law and constitutional rights;</li> <li>It may have the practical effect of preventing any new commercial shellfish farm from being established on Bainbridge Island.</li> <li>It is inadequate to accommodate commercial shellfish, <i>a reasonable and preferred water-dependent use</i>, in the City.</li> </ul>	
D22	General comment Aquaculture	51	<p>Commenter expresses concern with how the five-acre cap on new commercial shellfish farms will directly conflict with the Bush Act and constitutional property rights. The commenter states that, <i>there are 166 acres of tidelands within Bainbridge Island that were deeded under the Bush Act for the express purpose of commercial shellfish cultivation</i>. The commenter then concludes that,</p> <p><i>The five-acre cap, if imposed, would directly conflict with the Bush Act and constitutional property rights by prohibiting commercial shellfish aquaculture on at least 161 acres of these tidelands.</i></p>	
D23	General comment Aquaculture	52	<p>One commenter described his small commercial farm (approximately 4,000 sq. ft.) and the efforts he has taken to reduce any aesthetic or ecological impacts, including harvesting and sorting all by hand. The commenter also explains this operation was supplying shellfish to two local restaurants until the City issued a stop-work order and required a \$10,000 CUP for an operation that makes \$1,000 per month. They have decided to revert to a personal consumption operation as a result of the stop-work order. The commenter states that, <i>“Bainbridge Island could never sustain a commercial/industrial farm. There is no money in it. All the shoreline is privately owned and too expensive for anyone to try.”</i></p>	
D24	General comment	56	<p>Commenter states there is no enforced mitigation for destruction of the ecosystem for aquaculture uses – other uses must follow the requirement of no net loss of ecosystem function.</p>	

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	Aquaculture			
D25	<b>General comment</b> Aquaculture	56	Commenter alleges the aquaculture industry in no way meets the standards of protection demanded of any other use of our shorelines. The commenter also expressed concern with the aquaculture industries business practices related to “pest” control, stating moon snails and sea stars should not be removed from their habitats, but the industry kills them and many other fauna, such as Dungeness crabs (which have their own economic value).	
D26	<b>General comment</b> Aquaculture	56	Commenter alleges the aquaculture industry disrupts the ability of the public to access our beaches. One cannot walk among the bags and tubes that cover acres of shoreline. Recreational boating is threatened by the equipment hidden just under the water on industrial aquaculture sites. This occurs in public trust waters- these are not waters that are owned by the industry.	
D27	<b>General comment</b> Aquaculture	56	Commenter states many listed endangered species (and many of those being added) depend on clean, undeveloped marine shorelines and waters.	
D28	<b>General comment</b> Aquaculture	56	Commenter alleges the aquaculture industry is targeting eelgrass for destruction (even as we spend money to restore it elsewhere in the Sound). There is no functional difference between native and Japanese eelgrass from the viewpoint of a forage fish or salmon smolts using it for critical habitat.	
D29	<b>General comment</b> Aquaculture	57	Commenter says any contention that commercial geoduck operations and/or other industrial shellfish operation should be “protected” as critical saltwater habitat is a misapplication of WAC 173-26-221(2)(iii)(A) and it overlooks the fact that these operations destroy habitat. The commenter points to the following: <ul style="list-style-type: none"> <li>• This WAC was written before the introduction of geoduck aquaculture and refers to an older style of clam and oyster bed cultivation that did not use thousands of PVC pipes, plastic bags, and plastic canopy nets covering large swaths of tideland.</li> <li>• They do not provide organic matter and detritus (the basis of the food chain).</li> <li>• They provide no carbon-fixing / sequestration.</li> <li>• They are not a key species in the marine food web.</li> <li>• According to the NOAA’s Northwest Fisheries Science Center official comments regarding the programmatic Biological Opinion for Shellfish Aquaculture, “it seems unlikely ...that shellfish improves water quality noticeably within the structure of Puget Sound.”</li> </ul>	
D30	<b>General comment</b> Aquaculture	57	Commenter states shellfish aquaculture is <u>not</u> a preferred use of the shoreline. The RCW and WAC cite a wide variety of water-dependent uses with the emphasis on the “opportunity of substantial numbers of people to enjoy the shorelines of the state,” NOT merely economically productive activities. The commenter references RCW 90.58.020, 90.58140(2)(b), WAC 173-26-176(3) and <i>de Tienne v. Shorelines Hearing Board, _Wa. App._ (Div.</i>	

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			1) November 14, 2016; 2016 WL 6683618.	
D31	General comment Aquaculture	59	<p>The commenter argues that, the “Puget Sound is a delicate balance of natural native species” and that “[a]ll large scale and even small scale aquaculture, whether managed well or not, will put our own valuable Puget Sound ecology in jeopardy”. The commenter asserts that, <i>any introduced non-native species will assure a net loss of ecological functions</i> for the following reasons:</p> <ul style="list-style-type: none"> <li>• Take valuable resources from our native species,</li> <li>• Introduced species are often aggressive, out compete, and carry diseases,</li> <li>• Can multiply and travel to unintended areas becoming a pest or an uncontrolled epidemic,</li> <li>• Farmed seafood are fed (which pollutes waters), given antibiotics, and the local environment is modified to provide them with ideal living conditions.</li> <li>• Farmed products on tidelands or in pens undermine our natural sea creatures who will suffer, decline, die, or be intentionally killed.</li> </ul> <p>Commenter urges, “Please do not allow aquaculture, foreign or domestic, into Puget Sound or around Bainbridge Island.”</p>	
E	General comment		<b>SCIENCE</b>	
E1	General comment Science	11	Commenter identifies as a strong proponent of Puget Sound, but does <i>NOT support decision making and policies that are NOT evidence based, or amendments that will NOT address the primary, known causes of pollution.</i>	
E2	General comment Science	26	The commenter is concerned this process is occurring in a vacuum of scientific evidence and says not enough is known about the food web and water quality effects of large-scale aquaculture. The commenter makes a comparison to agriculture and emphasizes the need for independent research on the ecological impacts of large-scale aquaculture. Commenter concludes the precautionary principle of regulatory oversight may be necessary in the meantime.	
E3	General comment Science	27	Commenter states his amendment is based on “pseudo-science” and “conjecture.”	
E4	General comment Science	50	<p>Commenter expressed concern about the City’s consideration of science and technical information in its drafting of this amendment. The following is a sample of specific comments:</p> <ul style="list-style-type: none"> <li>• A respectable nonprofit organization, “Puget Sound Restoration Fund” that promotes the improvement of</li> </ul>	

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			<p>water quality through bi-value shellfish (oysters, clams, mussels, etc.) submitted substantive evidence of the positive effects of aquaculture. It also provided evidence of minimally harmful effects of the specific types of plastic “oyster bags” that mitigate or eliminate the harmful effects of plastics in the water. The BI City Council totally disregarded that evidence. Reasonableness and compromise should be the spirit of the SMA not an absolute ban to the use of plastic materials in aquaculture in two years. That is especially true in light of the testimony, submitted letters and overwhelming scientific evidence that demonstrates the benefits of bivalve (oysters, clams, mussels etc.) on the ocean environment and reliable information that indicates the type of plastic used for oyster bags causes limited or perhaps no harm to the environment when properly managed.</p> <ul style="list-style-type: none"> <li>• Ordinance 16-06 improperly assumes that any use of plastic in aquaculture is bad for the environment and thereby prohibited. If that were the case then the department of ecology should stop all aquaculture and prohibit the cultivation of oysters because they use plastic in the operation. That is tantamount to saying we should cease using all vehicles that combust hydrocarbons because they contribute to greenhouse gasses that cause global warming. (That fails to recognize the necessary uses of vehicles for transportation.)</li> <li>• In balancing the positive and negative aspects of aquaculture, the Bainbridge City Council placed its thumb on the scale against substantive evidence supporting reasonable aquaculture activities. Likewise it placed a thumb in the eye of the Department of Ecology’s SMA’s policy when it failed to consider a reasonable, balanced outcome for regulating shoreline management. That strident position through a strict prohibition of non-commercial aquaculture on Bainbridge Island is contrary to purpose and intent of the SMA and as such should be rejected as being outside the scope of their rule making authority.</li> </ul>	
E5	<p><b>General comment</b> Science</p>	51	<p>Taylor Shellfish asserts that they <i>provided the City with extensive scientific and technical information during the local review stage addressing the major revisions in the Limited Amendment to ensure the City had full and accurate information.</i> The commenter believes that <i>it is clear the City failed or refused to seriously consider or respond to the information Taylor Shellfish provided,</i> because the commenter found <i>no consideration, let alone analysis, of the extensive information provided within the City Submittal Package.</i> See Comment 51 Appendix B and C for copies of previously submitted documents. The commenter asserts that the City instead relied heavily on the following information:</p> <ul style="list-style-type: none"> <li>• The PBA, which the City misinterpreted and misapplied. <i>For example, the City states the information and analysis in the PBA shows shellfish aquaculture has impacts the “directly conflict with the Endangered Species Act,” when in fact the PBA and associated consultation provided programmatic ESA and EFH coverage for shellfish aquaculture.</i> The commenter asserts that the PBA determined that the <i>impacts associated with shellfish aquaculture are relatively minor and can be effectively addressed</i></li> </ul>	

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
			<p><i>through reasonable conditions, as opposed to unnecessary “caps” and bans on the use of non-biodegradable plastics. The PBA also did not determine, contrary to the suggestion in the Submittal Package, that shellfish aquaculture fails to protect ecological resources.</i></p> <ul style="list-style-type: none"> <li>• <i>The 2007 WDFW report, which is not new information because it was available at the time of the City’s comprehensive SMP update and was not specifically designed to address shellfish aquaculture.</i></li> <li>• <i>An internet blog, is the single specific reference provided by the City as justification for the ban on non-biodegradable plastics. The commenter asserts that this blog does not recommend banning non-biodegradable plastics, but rather using best management practices to prevent the loss of gear.</i></li> <li>• <i>The [City’s] Submittal Package includes two attachments, and the City summarily states that it relied on these attachments in developing the Limited Amendment.</i> <ul style="list-style-type: none"> <li>○ <i>Attachment A contains a list of over 100 documents. The vast majority of these documents are not scientific and technical in nature; are not new; do not directly discuss shellfish; and have no discernible relationship to the Limited Amendment. The limited references that do discuss shellfish or have some connection to concerns at issue in the Limited Amendment fail to demonstrate that the revisions are necessary or otherwise justified. The current SMP contains permitting requirements and numerous regulations and restrictions that adequately address the substantive issues identify by the City.</i></li> <li>○ <i>Attachment B is a “white paper” submitted by a group – the Coalition to Protect Puget Sound Habitat – that opposes commercial shellfish farms and frequently appeals permits for new farms. The City states it relied on this “white paper” to develop the Limited Amendment, without explaining how the paper supports the specific proposed revisions in the amendment. Taylor Shellfish is very familiar with the contentions in this “white paper,” as most have been repeatedly asserted in the context of permit applications or permit appears, and determined to be inaccurate or unsupported by regulatory agencies and appellate bodies. It is highly concerning that the City has relied on the inaccurate information in this “white paper” while simultaneously disregarding and ignoring information provided by other individuals and entities with expertise on the relevant issues of concern, including Taylor Shellfish. Most of the documents referenced in the “white paper” are not new, do not apply to shellfish aquaculture in Puget Sound, or are not directly relevant to the concerns at issue in the Limited Amendment. The relatively few references that are relevant fail to demonstrate that the Limited Amendment is necessary or appropriate considering the strict permitting requirements and regulations in the current SMP.</i></li> </ul> </li> </ul>	

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
			The commenter asserts that this Limited Amendment must be denied because it fails to satisfy requirements form considering scientific and technical information.	
E6	<p><b>General comment</b> Science</p>	51	<p>Commenter alleges this amendment is inconsistent with scientific and technical information demonstrating aquaculture can have not only minimally-adverse, but beneficial environmental impacts. The commenter goes on to say that the City disregarded this information because it did not support its pre-determined decision to impose prohibitions and restrictions on aquaculture. The Washington Shorelines Hearings Board (SHB) has issued numerous recent decisions confirming shellfish aquaculture is a preferred use that has insignificant environmental impacts. The SHB has consistently held that impacts from geoduck farms would be insignificant and minimized through reasonable permit conditions. The SHB already reviewed and rejected arguments pertaining to concerns with forage fish spawning areas; consumption of forage fish larvae; juvenile salmon; waves, currents, and sediment transport; micro plastics; marine debris; impacts to the benthic community; cumulative impacts; recreation and navigation; marine mammals; birds; farm preparation; predator protection netting; harvest activities; density, genetics, diseases, parasites; and property values.</p> <p>The SHB finding and conclusions regarding the environmental impacts of geoduck aquaculture in these cases are based largely on research conducted by Washington Sea Grant. Highlights from its 2013 final report include:</p> <ul style="list-style-type: none"> <li>• Geoduck harvest practices have minimal impacts on benthic communities of infaunal invertebrates, with no observed “spillover effect” in habitats adjacent to cultured plots, suggesting that disturbance is within the range of natural variation experienced by benthic communities in Puget Sound.</li> <li>• Differences in the structure of mobile macrofauna communities between planted areas with nets and tubes and nearby reference beaches do not persist once nets and tubes are removed during grow-out culture phase.</li> <li>• Nutrient released from a typical commercial geoduck operation are low and localized effects are likely to be negligible.</li> <li>• Geoduck aquaculture practices do not make culture sites unsuitable for later colonization by eelgrass.</li> </ul> <p>Because geoduck aquaculture has beneficial impacts and only limited disruptions with the range of natural disturbances, encouraging this use is consistent with both the SMA and current, accurate, and complete scientific and technical information.</p>	
E7	<p><b>General comment</b> Science</p>	51	This commenter asserts this Limited Amendment should not be adopted because it does not meet the applicable regulatory criteria for approving a limited SMP amendment; it is inconsistent with state law and policy regarding shellfish aquaculture; and it is contrary to current scientific and technical information. the findings reached by the Washington Sea Grant geoduck research program have been published in peer-	

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			<p>reviewed journals, including the following articles (which can be found along with the WA Sea Grant Final Report within comment # 51 as Appendix B (2016 Confluence Report):</p> <ul style="list-style-type: none"> <li>• Glenn R. VanBlaricom et. Al, <i>Ecological effects of the harvest phase of geoduck (Panopea generosa Gould, 1850) aquaculture on infaunal communities in southern Puget Sound</i>, Washington, Journal of Shellfish Research Vol. 34, No. 1, pp. 171-87 (2015);</li> <li>• P. Sean McDonald et. Al, <i>Effects of geoduck (Panopea generosa Gould, 1850) aquaculture gear on resident and transient macrofauna communities in Puget Sound</i>, Washington, Journal of Shellfish Research Vol. 34. No. 1, pp. 189-202 (2015)</li> <li>• McPeek et. Al, <i>Aquaculture Disturbance Impacts the Diet but not Ecological Linkages of a Iniquitous Predatory Fish</i>, Estuaries and Coasts (Nov. 8, 2014)</li> </ul> <p>The commenter references Shorelines Hearings Board case no. 14-024 (FF 17) when pointing out that the Shorelines Hearings Board has recognized Washington Sea Grant as the authority on the environmental impacts of geoduck farms, specifically acknowledging “it is the most specific and relevant scientific information currently available on this subject.”</p>	
E8	<p><b>General comment</b>  Science</p>	51	<p>Commenter suggests the City’s contention that any aquaculture that uses non-biodegradable plastic materials, disturbs existing substrate, or is located in mapped or known forage fish spawning habitat is not consistent with control of pollution and prevention of damage to the environment, is unsupported and false. The commenter emphasizes the following topics:</p> <ul style="list-style-type: none"> <li>• <u>Non-biodegradable plastics</u>: Taylor Shellfish previously commented on this issue, but the City failed to consider or respond to these comments. An updated technical memorandum was submitted as part of the Ecology public comment period to address the information and analysis contained within the City’s submittal package. See Comment #51 Appendix E (Ramboll Enviro Report).</li> <li>• <u>Substrate disturbance</u>: The City has not provided any clear or concrete information demonstrating that substrate disturbances associated with shellfish aquaculture operations are inconsistent with the control of pollution and prevention of damage to the environment. While Taylor has provided technical information demonstrating sediment disturbances associated with shellfish aquaculture practices in Washington State are limited in frequency and minor in intensity, falling within the baseline measurements or the natural variability of the marine ecosystem. See Comment #51 Appendix B and D (2016 and 2017 Confluence Reports).</li> <li>• <u>Forage fish habitat</u>: Potential impacts to forage fish habitat are adequately addressed through the existing federal, state, and local permit processes, and standard conditions developed to address these concerns. The City also has the authority under the current SMP to impose conditions on an individual permit basis. There is no need for an outright prohibition, and, in the case of herring specifically, such a prohibition is</li> </ul>	

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			overly broad and will unjustifiably remove areas from shellfish cultivation (See comment #51 Appendix D, at 13-15).	
E9	General comment Aquaculture	51	<p>Commenter asserts that the proposed <i>limited amendment will foster uncoordinated development</i>, because it has been developed without coordinating with other agencies and will directly conflict with regulatory and permitting decisions by other agencies, such as the following:</p> <ul style="list-style-type: none"> <li>• The Corps has issued NWP 48 to provide streamlined permitting for commercial shellfish aquaculture.</li> <li>• Ecology issued Clean Water Act Section 401 certification for NWP48 in Washington State.</li> <li>• The Corps in conjunction with the National Marine Fisheries and the US Fish and Wildlife Services, recently completed a programmatic ESA and EFH consultation for shellfish in Washington State.</li> </ul> <p>The commenter argues that these <i>permits, approvals, and consultations recognize that commercial shellfish aquaculture has minimally adverse to beneficial impacts, identify targeted and reasonable measures to address potential negative impacts, and provide avenues for efficient permitting. The Limited Amendment, in contrast, seeks to impose numerous unjustifiable and unreasonable restrictions that may have the practical effect of precluding the possibility for siting or operating new commercial shellfish farms on Bainbridge Island.</i></p>	
E10	General comment Science	54	<p>Commenter asserts <i>the City failed to comply with the process mandated by the SMA regarding consideration of the most accurate and complete scientific information when crafting amendments to SMPs.</i> The commenter provides the following specific allegations:</p> <ul style="list-style-type: none"> <li>• <i>The submittal package contains no documentation of the City’s compliance with WAC 173-26-201, particularly compliance with the ‘basic concepts’ regarding the use of scientific information and technical information as mandated by WAC 173-26-201(2)(a).</i></li> <li>• <i>No effort was made to assemble the ‘most current, accurate, and complete scientific and technical information’ regarding net pen aquaculture.</i></li> <li>• <i>The City failed to consult with agencies with expertise such as NOAA and WDFW as required by RCW 90.58.100(1)(b).</i></li> <li>• <i>The City relied on media reports or websites produced by advocacy organizations, while ignoring multiple peer-reviewed scientific papers and technical compendiums provided to it by Cooke Aquaculture.</i></li> </ul> <p>The commenter concludes that <i>due to the lack of consideration of current scientific information mandated by the procedural requirements set forth in RCW 90.58.100(1) and WAC 173-26-201(2), Bainbridge Island’s proposed ban on new finfish aquaculture is arbitrary and capricious and inconsistent with the SMA.</i></p>	
E11	General comment Net Pens	54	<p>Commenter argues that <i>the single guidance document that the City does appear to have reviewed is Ecology’s SMP guidelines regarding aquaculture. However, the City ignored the following requirements of the guidelines (Ecology’s SMP Handbook, Chapter 16, Aquaculture, 12/2015, page 36):</i></p> <ul style="list-style-type: none"> <li>• <i>SMPs should be “relevant to today’s net pens and grounded in documented rationale”;</i></li> </ul>	



TABLE 2: COMMENT SUMMARY/RESPONSE TABLE				
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			<ul style="list-style-type: none"> <li>SMP “net pen provisions should reflect current science, practices, and environmental conditions, as well as the existing regulatory framework”;</li> <li>Relying on “comprehensive reviews,” that draw conclusions based on a set of published work, rather than individual articles that may summarize only one study or perspective.”</li> </ul> <p>The commenter contends that the SMP Handbook emphasizes that the permitting process of net pen facilities is one where potential impacts of operations can be evaluated on a site-specific basis, rather than at the SMP amendment level where broad, false, generalizations result in an outright ban like the one the City has proposed here.</p>	
F	General comment		<b>PLASTICS IN AQUACULTURE</b>	
F1	General comment Plastics in Aquaculture	14, 37, 51	Commenters state these amendments are arguably designed to prevent micro-plastics pollution, but a simple read suggests the City’s broader purpose is to prevent commercial aquaculture by focusing on a ban on plastics associated with shellfish aquaculture gear.	
F2	General comment Plastics in Aquaculture	4, 37, 51, 54	Commenters assert the information that swayed the City Council to add the most recent amendments about plastics used in marine aquaculture is fundamentally inaccurate. They go on to say that, first and foremost, the shellfish gear manufactured for the aquaculture industry is made with flexible plastics that contains carbon black as an additive to eliminate most if not all damage due to UV radiation that degrades many plastics, including HDPE that are not manufactured with added UV inhibitors. As a result, the vast majority of shellfish gear does not degrade via UV damage and, because it is chemically inert in seawater, does not contribute in any meaningful way to plastics degradation and subsequent micro-plastic based pollution of the seas. One commenter also referenced that there are similar industry standards for net pen facilities and that the proposed use of only bio-degradable plastics would not meet the industry standard or <i>BIMC 16.12.040.B.5.a which requires that structures and equipment, “be of sound construction.”</i>	
F3	General comment Plastics in Aquaculture	34	<p>Commenter suggests the proposed plastic ban would unnecessarily restrict efforts to restore native oyster populations on the Island by prohibiting the following type of restoration activity:</p> <ul style="list-style-type: none"> <li>Rebuilding a breeding population in bays along the west side of the Island, which are among the State’s 19 priority areas, would require producing and moving seed from the hatchery to the beach. Seed is typically contained and stored on the beach in plastic mesh bags with sharp oyster shell substrate to increase survival and “harden” the seed prior to spreading. The bags are then removed from the beach when the seed-on-shell is ready to be spread.</li> </ul>	
F4	General comment	37	Commenter says that if the BI City Council truly wishes to pursue controls over plastics and micro-plastics entering our waters, it would be better served to encourage the island public to reduce the waste stream of	

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	Plastics in Aquaculture		materials that actually do enter the marine system in unregulated ways and therefore create a threat. Placing filters over the discharge of washing machines to prevent microfibers from entering the water, encouraging more recycling and reuse of plastic containers, reducing the use of cosmetics containing plastic microspheres and encouraging the public to purchase products in recyclable glass containers when given the choice will certainly help reduce our collective waste stream.	
F5	<b>General comment</b> Plastics in Aquaculture	54	<p>According to the commenter, <i>the City argues, based on its review of the Army Corps of Engineers’ Programmatic Biological Assessment for Shellfish Activities in Washington State Inland Marine Waters (October 2015), that the use of plastic is not consistent with control of pollution or prevention of damage to the environment, one of the goals of the SMA.</i> The commenter points out that this PBA is related to shellfish aquaculture and therefore silent with respect to net pen operations. The commenter also states that <i>although the use of plastics in shellfish is discussed in the document, that document concludes that such use does not pose a risk to the environment as long as the plastics do not lack structural integrity in the marine environment, such as the use of Styrofoam or children’s wading pools.</i> The commenter further asserts that <i>besides being unsupported by the materials relied upon by the City, this proposed ban of plastics in all aquaculture constitutes a de-facto ban on net pen aquaculture facilities.</i> The commenter argues that commercial net pen facilities cannot be constructed without the use of non-biodegradable plastics so this ban would prohibit new facilities and make the existing operations non-conforming.</p> <p>The commenter concludes that <i>the information relied upon for the non-biodegradable plastics ban in the proposed limited amendment does not support a ban on the use of plastics in net pen aquaculture at all.</i></p>	
G	<b>General comment</b>		<b>NET PENS</b>	
G1	<b>General comment</b> Net Pens	28, 44, 46, 47	These commenters are <u>not</u> in favor of new net pens in or around Bainbridge and especially <u>not</u> in Rich Passage.	
G2	<b>General comment</b> Net Pens	40, 44, 46, 47	Supports the limited amendment. The existing net pens have a history of non-compliance with Federal, State, and local statutes. One commenter describes witnessed and reported oil spills, illegal placement of net pens, over height structures, release of non-native fish, pressure washing of nets, killing of sea lions, loud and continuous noise at all hours, horrific odors, and pollution resulting in shellfish harvest closures. One commenter notes the current fish farm operates outside its agreed hours, often using noisy equipment before 7am. The commenter also expresses concern with the danger of Atlantic salmon escaping from the pens and mating with our wild Pacific salmon. Another commenter referred to a 2012 IHNV outbreak that resulted in a fish kill where the more than one million pounds of fish were transported over Bainbridge roads. They say local	

TABLE 2: COMMENT SUMMARY/RESPONSE TABLE

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			and state authorities are apparently powerless to control this behavior. Based on past and current experiences with the existing net pens, another commenter doubts the industry’s ability to operate in a responsible manner. Expanding their pens would increase the noise and risk factors.	
G3	General comment Net Pens	31, 46	Commenters urge Ecology <u>not</u> to consider allowing the existing fish farm to expand because it will make a bad situation worse. This subject truly affects the citizen who live on Fort Ward Hill Road. The current situation in this neighborhood is described as an unacceptable planning arrangement with semi-trucks traversing residential streets that are used by bikers, walkers, kids, and mothers pushing strollers. The fish farms are inappropriately placed in a growing residential community and a fragile ecosystem.	
G4	General comment Net Pens	44, 47	Commenter said that based on information in the PARIS web database, it is difficult to conclude that the existing net pens are resulting in no net loss. The 2012 IHNV outbreak is not found within this dataset. The recent unpermitted power washing of nets over Puget Sound resulted in a “warning letter”. Public records indicated that no follow-up studies have occurred at the Rich Passage pens with the last photographic, underwater study documented in 2003. The last 2 NPDES permits were granted administratively with preannounced inspections and no sampling.	
G5	General comment Net Pens	46	Commenter recommends aquaculture of raising non-native fish should only be allowed in contained tanks on shore where the effluent can be properly treated and the unwanted release of fish can be controlled. Get them out of the fragile waters of the Puget Sound. It is time to start the clean-up of the mess left by one of the largest polluters in our Sound. Not only should we restrict further net pen expansion, but we should have the existing pens removed for good.	
G6	General comment Net Pens	54	Commenter asserts that net pen aquaculture is compatible with resource protection. The commenter references many Shoreline and Pollution Control Hearings Board cases involving net pen facilities. The commenter summarizes that <i>the facilities that were the subject of the appeals were found to be consistent with the goals of the SMA, and, as governed by the extensive regulatory framework applicable to finfish farms, to have no significant adverse impact to the environment or the resources protected by the SMA.</i>	
G7	General comment Net Pens	54	The commenter argues <i>the City’s submittal to Ecology lacks any support for a complete ban of net pen aquaculture, providing the following additional justification:</i> <ul style="list-style-type: none"> <li>• The commenter finds that the City uses WAC 173-26-201(1)(c)(i)(A) to justify the need for this Limited Amendment because the City concluded the current SMP did not evaluate the cumulative impacts as required by WAC 173-26-186(8)(d). However the commenter argues that the City’s submittal is completely silent regarding the cumulative impacts of net pen aquaculture and refers only specifically to the impacts of shellfish aquaculture. The commenter asserts that <i>the City has provided no rationale to support reliance on WAC 173-26-201(c)(i)(A) for banning net pen aquaculture through the proposed limited amendment.</i></li> <li>• The commenter asserts <i>the City allots less than two pages of its twenty-two page submittal memorandum</i></li> </ul>	

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			<p><i>attempting to rationalize the prohibition against new commercial net pen aquaculture, and those two pages identify only two bases for the net pen ban. First, the City claims that there is ‘strong evidence of adverse environmental impacts,’ and second, the City claims that there is a ‘poor record of permit compliance,’ particularly with respect to the net pen NPDES permits that govern the facilities off of the south end of Bainbridge Island. Both of these assertions are false and based on faulty science, wild speculation, and misunderstanding of the law. The commenter claims that modern net pen operations do not cause adverse environmental impacts.</i></p> <ul style="list-style-type: none"> <li>• According to the commenter, the City is using a 2012 virus outbreak as the basis for its ban of net pens. The commenter provides <i>the following facts to correct the City’s conclusions on this subject:</i> <ul style="list-style-type: none"> <li>○ Cooke Aquaculture cannot and would not refuse access to its facilities during any outbreak.</li> <li>○ <i>IHN is a naturally occurring, endemic virus in wild fish, and had been detected by WDFW in returning adult wild stocks of salmon in various watersheds leading up to the outbreak at the Rich Passage facilities. This was the first time there was an occurrence of IHN in the Washington net pen industry in well over 30 years of growing salmon in Puget Sound. Since the 2012 outbreak, Cooke Aquaculture Pacific vaccinates 100% of its smolts before they are transferred to the net pens facilities.</i></li> <li>○ The commenter asserts that while the City makes <i>reference to a ‘wide range’ of scientific evidence in its discussion of the IHN outbreak</i>, no actual evidence meeting the mandates of WAC 173-26-201(2)(a) or RCW 90.58.100(1) are provided.</li> </ul> </li> <li>• The commenter asserts <i>the City wrongly characterizes the environmental compliance record of the net pen operations. The commenter contends that a comprehensive review of the information in Ecology’s PARIS database shore the opposite of the City’s conclusions is in fact the truth. The net pens have been operated in exemplary compliance with NPDES permits and water quality requirements, and the City’s cobbled-together assertions to the contrary are arbitrary and capricious and form no basis for banning net pens in its waters.</i> <ul style="list-style-type: none"> <li>○ <i>First, Cooke strongly disagrees with the City’s conclusion that it has a poor record of compliance with its NPDES permits. The City relies on the PARIS website identifying some missing monthly discharge monitoring reports, which reflects a mistake in Ecology’s database management system and an apparent clerical error with regard to the entry of the date of submittal of the monthly reports, not the failure of the permittee to submit those reports.</i></li> <li>○ <i>Second, and more significantly, the last enforcement action at any of the three net pen facilities located in Rick Passage was brought by Ecology in 1999, almost two decades ago. In the interim, multiple inspections by Ecology have noted that the facilities are in compliance with their respective NPDES permits, including being in compliance with “all NPDES permit required submittals,” and</i></li> </ul> </li> </ul>	

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			<i>that the operator of the site was in the process of a third-party certification of its facilities to verify it is using “environmentally and socially responsible processes” in its production of fish at these facilities.</i>	
G8	<b>General comment</b> Net Pens	54	<p>Cooke Aquaculture provided the following facts with respect to disease control at [net pen] facilities:</p> <ul style="list-style-type: none"> <li>• Cooke Aquaculture is subject to a comprehensive regulatory framework, including NPDES permits issued by Ecology, and WDFW requirements regarding the transport of eggs, smolt, and the monitoring and reporting of diseases at its facilities.</li> <li>• Consultation between EPA and NMFS under the Endangered Species Act have, correctly, concluded that the operation of net pens in Washington do not cause adverse impacts to ESA-protected species.</li> <li>• IHN had never been detected at net pens prior to 2012 and has not been detected since. IHN infection of the farmed fish in 2012 was the result of a natural upswing in the occurrence of IHN in wild fish stocks starting in 2010 as documented by WDFW’ IHN reporting database. Since that time, all of the smolts produced by Cooke Aquaculture have been vaccinated for IHN and IHN has not been detected at any of the net pen facilities in Washington.</li> </ul> <p>The commenter asserts that if the City had appropriately consulted with agencies with expertise, such as NOAA, NMFS, and WDFW, the City would have received these facts and <i>could not have concluded that the 2012 IHN outbreak was evidence of significant adverse environmental impacts caused by net pen operations.</i></p>	
	<b>Specific comments</b>		<b>BAINBRIDGE ISLAND SHORELINE MASTER PROGRAM – Section 5.2 Aquaculture</b>	
X1	<b>Aquaculture</b> <b>5.2.1</b> <b>Applicability</b>	51	<p>Commenter requests this revision be denied and the language in this subsection remain unchanged for the following reasons:</p> <ul style="list-style-type: none"> <li>• These proposed revisions fail to satisfy the criteria for approving a limited SMP amendment.</li> <li>• Deleting these statements would bring the City’s SMP out of compliance with the SMA and the SMA rules, rather than improve consistency with the SMA: “When properly managed, aquaculture can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline.”</li> <li>• This language was previously adopted by the City as part of its comprehensive SMP update, is taken directly from the SMP Guidelines, and is a well-accepted premise among state and federal regulatory agencies and the scientific community. The mere fact that the City believes this statement to be untrue, without evidence to support its belief, is insufficient justification to remove this statement through a limited amendment.</li> </ul>	
X2	<b>Aquaculture</b>	51	<p>Commenter requests this revision be denied and the language in this subsection remain unchanged for the following reasons:</p>	

TABLE 2: COMMENT SUMMARY/RESPONSE TABLE

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	<p><b>5.2.2 Policies</b> Proposed Subsections 1, 2, 3, 5, &amp; 6</p>		<ul style="list-style-type: none"> <li>• Changing these policy statements from broad goals to regulatory mandates is not only unnecessary, but it is inconstant with state law and the current SMP.</li> <li>• The City’s contention that these revisions help ensure that the SMP’s “regulations” are sufficient in scope and detail is misguided and meritless. The subject provisions are policies, not regulations.</li> <li>• The current language employs appropriate words such as may and should.</li> <li>• Per BIMC 16.12.030.A.5, and consistent with state law (WAC 173-26-191-(1), “[t]he policies listed in the master program shall provide broad guidance and direction and shall be used by the director in interpreting the regulations.”</li> <li>• Revising these policies to include specific, mandatory language is inappropriate and creates confusion as to whether they constitute additional regulations.</li> </ul>	
X3	<p><b>Aquaculture</b> <b>5.2.2 Policies</b> Proposed subsection 4 (new)</p>	51	<p>Commenter requests this revision be denied and the language added in this subsection be deleted for the following reasons:</p> <ul style="list-style-type: none"> <li>• This revision fails to satisfy the criteria for a limited SMP amendment.</li> <li>• The City’s justification for this new policy—that the City wants to prohibit aquaculture in the Island Conservancy shoreline designation and on City-owned tidelands, and there has to be a policy supporting regulation—misses the point. Policies, like regulations, must have scientific, technical, or policy support. The City cannot bootstrap a regulation that is otherwise unsupported by creating an identical policy statement that is similarly unsupported.</li> <li>• The City further explains that <u>some</u> aquaculture operations may affect public use of the water fails to support this policy, however, this policy assumes <u>all</u> operations will create an unacceptable adverse impact and the City already has the authority to address these issues under the current SMP.</li> <li>• The City’s final justification - that they must first reserve areas for protecting and restoring ecological functions, inappropriately assumes that aquaculture is mutually exclusive with these goals and objectives.</li> </ul> <p>Prohibiting aquaculture in these areas is inconsistent with the science, law, and policy pertaining to aquaculture. Current science and technical information does not support this policy.</p>	
X4	<p><b>Aquaculture</b> <b>5.2.2 Policies</b> Proposed</p>	51	<p>Commenter requests this revision be denied and the language added in this subsection be deleted for the following reasons:</p> <ul style="list-style-type: none"> <li>• This revision does not satisfy the amendment criteria and inappropriately assumes that aquaculture beds cannot help protect and restore ecological functions.</li> <li>• This assumption conflicts with WAC 173-26-241(3)(b)(i)(A), which explicitly recognizes aquaculture “can</li> </ul>	

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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
	subsection 9 (new)		<p>result in long-term over short-term benefit and can protect the resources and ecology of the shoreline” and WAC 173-26-221(2)(iii)(a), which recognizes shellfish beds as critical saltwater habitat because they provide “important ecological functions.”</p> <ul style="list-style-type: none"> <li>• This policy is inconsistent with current scientific and technical information. See Commenters Appendix B for 2016 Confluence Report.</li> <li>• This policy and associated regulations (including the 5 acre cap on new commercial aquaculture) conflict with the SMA, SMP Guidelines, numerous state and federal laws and policies, and the constitutional rights of private property owners.</li> </ul>	
X5	<p><b>Aquaculture</b> <b>5.2.2</b> <b>Policies</b> Proposed subsection 10 (new)</p>	51	<p>Commenter requests this revision be denied and the language added in this subsection be deleted for the following reasons:</p> <ul style="list-style-type: none"> <li>• This revision does not satisfy the amendment criteria</li> <li>• While this language is taken from the SMP Guidelines, the City is simultaneously attempting to selectively remove other Guideline language that recognizes aquaculture is in the statewide interest, can have long term benefits, and can protect resources and ecology of the shoreline.</li> <li>• The City cannot have it both ways, cherry-picking language to include and delete based on its preconceived bias against this preferred water-dependent use.</li> </ul>	
X6	<p><b>Aquaculture</b> <b>5.2.2</b> <b>Policies</b> Proposed subsection 11 (new)</p>	51	<p>Commenter requests this revision be denied and the language added in this subsection be deleted for the following reasons:</p> <ul style="list-style-type: none"> <li>• This revision does not satisfy the amendment criteria.</li> <li>• This policy is inconsistent with and unsupported by the current scientific and technical information. See Commenters Appendix B for 2016 Confluence Report.</li> <li>• This policy and associated regulations (including the 5 acre cap on new commercial aquaculture) conflict with the SMA, SMP Guidelines, numerous state and federal laws and policies.</li> </ul>	
X7	<p><b>Aquaculture</b> <b>5.2.3</b> <b>Regulations - Prohibited</b> Subsection 1</p>	51	<p>Commenter requests this revision be denied and the language in this subsection remain unchanged because these prohibitions are contrary to state and federal law and policy, unsupported by the best scientific and technical information regarding shellfish aquaculture, and would severely restrict the ability to site new shellfish aquaculture activities in the City. The commenter provides the following additional justification for the denial of these revisions:</p> <ul style="list-style-type: none"> <li>• If there is any inconsistency between the current text and use table the City should revise the use table to state that aquaculture is allowed in the Island Conservancy SED. If Ecology is revisiting the use table, the SMP should be revised to remove prohibitions in the Natural and Priority Aquatic SEDs as those are also inconsistent with current science.</li> <li>• There is no scientific or technical information in the record that demonstrates commercial aquaculture is</li> </ul>	

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			<p>inconsistent with protecting the environment and restoring ecological functions, and the SMP Guidelines explicitly state aquaculture can result in ecological benefits.</p> <ul style="list-style-type: none"> <li>• The SMP already has extensive permitting requirements to address any environmental or use impacts on a project scale.</li> <li>• The City has provided no justification for distinguishing between cultivation of geoduck and other species of shellfish, or for restricting use allowances to only non-reproducing or native species in the Natural, Island Conservancy, and adjacent Aquatic SEDs.</li> <li>• Complete prohibitions throughout these SEDs contravene the goals and requirements of the SMA and SMP Guidelines because aquaculture is a preferred water-dependent use that is of statewide interest.</li> <li>• It is critical that aquaculture not be automatically prohibited throughout large area of the City because, as recognized in state law, “[p]otential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, commercial navigation, and, in marine waters, salinity.”(WAC 173-26-241(3)(b)(i)(B)). Therefore, it cannot be assumed that there will be adequate opportunities for aquaculture if these prohibitions are adopted.</li> </ul>	
X8	<p><b>Aquaculture</b> <b>5.2.3</b> <b>Regulations - Prohibited</b> Subsection 2 (new)</p>	51	<p>Commenter requests this revision be denied and the language added in this subsection be deleted for the following reasons:</p> <ul style="list-style-type: none"> <li>• This revision does not satisfy the amendment criteria.</li> <li>• The City provided no scientific or technical justification for this regulation.</li> <li>• This regulation is arbitrary.</li> </ul>	
X9	<p><b>Aquaculture</b> <b>5.2.3</b> <b>Regulations - Prohibited</b> Proposed Subsection 4</p>	51	<p>Commenter requests this revision be denied and the language added in this subsection be deleted because this revision is unnecessary and will cause confusion, as the current SMP already requires compliance with applicable water quality and storm water standards. BIMC 16.12.040.B.1.</p>	
X10	<p><b>Aquaculture</b></p>	51	<p>Commenter requests this revision be denied and the language in this subsection remain unchanged for the following reasons:</p>	



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	<p><b>5.2.3</b> <b>Regulations - Prohibited</b> Proposed Subsection 5</p>		<ul style="list-style-type: none"> <li>This revision does not satisfy the amendment criteria.</li> <li>This revision is not consistent with the SMP Handbook which provides that impacts to <i>Z. marina</i> (native eelgrass) should be avoided and mitigated without constraining control of <i>Z. japonica</i>.</li> <li>This provision is confusing and could result the protection of a Class C noxious weed (<i>Z. japonica</i>), inconsistent with WAC 16-750-015 and RCW 17.10.007.</li> </ul>	
X11	<p><b>Aquaculture</b> <b>5.2.3</b> <b>Regulations - Prohibited</b> Proposed Subsection 6 (new)</p>	5, 6A, 8, 11, 12, 14, 17, 20, 26, 27, 32, 38, 39, 43, 50	<p>Commenters suggest it is not fair or realistic to implement a ban on the primary materials that are currently necessary for aquaculture operations with an arbitrary 2-year timeline. There is no independently tested, verified non-plastic alternatives for non-commercial or commercial growers. This prohibition would completely eliminate shellfish gardening by individuals and families growing and harvesting in small non-commercial gardens as well as commercial shellfish aquaculture operations.</p> <p>One commenter provided the following statement: The City has tried to deflect comments about their proposed de facto ban on HDPE grow bags by now offering a “two-year phase-in period on the prohibition of non-biodegradable plastics”. They claim that this time would allow “home shellfish gardeners time to research, develop and source non-plastic environmentally sustainable materials”. So, with minimal resources or financial support, I would have two years to invent a new product that does what HDPE already does very well. And presumably I would then have to convince the City that the product is acceptable. And if I don’t make the deadline I have to clear out my oyster garden! Make no mistake, <b>this is an outright ban on non-commercial shellfish gardening, with a two-year fuse.</b></p>	
X12	<p><b>Aquaculture</b> <b>5.2.3</b> <b>Regulations - Prohibited</b> Proposed Subsection 6 (new)</p>	4, 5, 6A, 6B, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 20, 22, 23, 24, 27, 32, 33, 34, 37, 38, 39, 41, 43, 48, 51, 53, 54, 55, 58, 60	<p>Commenter requests this provision be denied because it is unsupported by, and inconsistent with current science and technical information. Here are some examples of specific comments:</p> <ul style="list-style-type: none"> <li>The use of non-degradable plastics allows shellfish growers to reuse the same gear for years and years, and is therefore ultimately both sustainable and cost effective. The use of biodegradable biopolymers suggested by the city is not a feasible nor an environmentally sound alternative to the lay-flat mesh bags used on Bainbridge for small-scale oyster culture that are made of durable, marine-grade HDPE. One commenter explains and provides photos of plastic aquaculture gear that have been in continuous use for 26 years with no noticeable deterioration.</li> <li>Although plastic pollution is a big problem in the ocean and in Puget Sound, there is no scientific evidence that the mesh bags used for local oyster culture contribute to micro-plastic pollution. The vast majority of plastic gear made for the aquaculture industry is specifically and purposefully manufacture with UV inhibitors to not break down into micro-plastics. To take aim at shellfish aquaculture as a leading culprit and focus of the problem is too badly misfire.</li> </ul>	

TABLE 2: COMMENT SUMMARY/RESPONSE TABLE

LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
			<ul style="list-style-type: none"> <li>• The website content provided by the city to support the ban on plastic growbags (<a href="http://www.algalita.org">http://www.algalita.org</a>) lacks scientific evidence to support the idea that even large commercial aquaculture operations are significant contributors of marine plastic debris. Furthermore, there is no scientific nor anecdotal evidence to suggest that non-commercial home shellfish gardens contribute to marine plastic debris inputs.</li> <li>• The City is trying to solve a problem that does not exist.</li> <li>• Please consider exempting non-commercial or aquaculture shellfish gardens from the regulation 5.2.3.6.</li> <li>• One commenter suggests this needs to be re-worded to state that the City prioritizes non-biodegradable materials when available and feasible.</li> <li>• Prohibiting the use of non-biodegradable plastics in aquaculture on Bainbridge Island will not contribute to a solution for the larger problem of plastic pollution, which stems from a myriad of sources, including wastewater treatment plants, storm water, fleece fibers from clothing, Kayaks, boating, crabbing, littering, fish farm pens, and shoreline recreation. The waters of Bainbridge are filled with plastic buoys, plastic ropes, pontoons and even plastic docks. The City has focused its attention on non-commercial HDPE grow bags, but there doesn’t appear to be any in-depth analysis that supports this concern. They certainly have not demonstrated that private shellfish grow bags are a “unique and significant environmental problem” relative to other HDPE plastic products.</li> <li>• Biodegradable material is not appropriate for use in shellfish cultivation or aquaculture in general because it rots quickly in the saltwater (3-6 months), would create anoxic conditions, and requires frequent replacement. Biodegradable materials, such as coir, degrade into its constituent materials (mostly carbon and nitrogen) and directly contribute to nutrient loading. This further stresses our marine environment relative to impacts from eutrophication generated ocean acidification.</li> <li>• Even if commercially available, biodegradable biopolymers deteriorate quickly in saltwater (rotting in 3-6 months, while it takes 12-18 months or longer for oyster seeds to mature) whereas HDPE is resistant to UV radiation and abrasion and can be used indefinitely.</li> <li>• One commenter added that, the use of biopolymers may sound like an environmentally friendly approach, however, farming practices used to grow biopolymer feedstocks and high energy costs of their production result in increased eutrophication and global warming potential versus conventional plastics (<i>Weiss et al. 2012; Yates and Barlow 2013</i>). The inability to reuse biodegradable biopolymers means even greater land-use change, manufacturing, and shipping emissions compared to continuing to reuse current HDPE bags.</li> <li>• The information the City has offered in support of the prohibition on non-biodegradable plastics fails to support the ban.</li> </ul>	



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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
	<p><b>Prohibited</b> Proposed Subsection 8 (new)</p>		<ul style="list-style-type: none"> <li>The prohibition on new commercial aquaculture in or on known forage fish spawning sites and/or essential fish habitat in subsection 5.2.3.8 is unsupported and constitutes a complete prohibition on intertidal aquaculture. The entirety of South Puget Sound, including Bainbridge Island, falls within essential fish habitat.</li> <li>There is no basis for prohibiting aquaculture in essential fish habitat. In fact, the Corps recently completed a programmatic consultation on essential fish habitat, which concluded that impacts to habitat and fish can be adequately minimized by complying with reasonable permit conditions. See Programmatic Biological Assessment, Shellfish Activities in Washington State Inland Marine Waters, U.S. Army Corps of Engineers Regulatory Program, October 2015, at § 9. Farms can avoid and minimize impacts through reasonable conditions of approval.</li> </ul>	
X15	<p><b>Aquaculture</b> <b>5.2.4</b> <b>Regulations – General</b> Proposed Subsection 1</p>	<p>51  34</p>	<p>Taylor Shellfish supports the revision to 5.2.4.1.a to clarify that aquaculture is allowed in the Shoreline Residential Conservancy SED and requests that if these provisions are revisited aquaculture should be allowed in the Island Conservancy, Natural and Priority Aquatic SEDs as well.</p> <p>Taylor Shellfish requests that the revisions to 5.2.4.1 b-d be removed because they fail to satisfy the amendment criteria.</p> <p>Commenter No. 34 supports the proposed language of 5.2.4.1.d as a means for managing cultivation activities without a permit.</p>	
X16	<p><b>Aquaculture</b> <b>5.2.4</b> <b>Regulations – General</b> Proposed Subsection 2</p>	<p>26  50</p>	<p>Commenter suggests this amendment needs a clearer articulation of where community shellfish gardens fall in this dichotomy of commercial/non-commercial categorization. These are larger than the scale of someone’s individual oyster bags, and they could potentially have a marketable component, while still occurring at a scale that is not nearly as impactful as full-scale commercial aquaculture. By ignoring the presence of these farms in regulatory language I think we are doing a disservice to them and our community- please see further comments related to this issue below. The 200 square foot limitation on cultivation area seems too small to accommodate something like a community shellfish farm (see SMP 5.2.4.2(d)).</p> <p>This commenter expresses concern with the 200 square foot noncommercial aquaculture limitation arguing that this provision is arbitrary and should be rejected for a lack of justification. Citing the following reasons:</p> <ul style="list-style-type: none"> <li>There was little no discussion of what a reasonable amount of area to conduct aquaculture and what if any impact 500 square feet would have as compared to 200 square feet.</li> <li>While it is hard to say what an appropriate about of space should be permitted, the reduction by almost</li> </ul>	



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LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF BAINBRIDGE ISLAND RESPONSE
X19	<b>Aquaculture</b> <b>5.2.4</b> <b>Regulations – General</b> Proposed Subsection 6	26  51	Commenter 26 Supports stewardship measures outlined in this subsection.  Commenter 51 does not support inclusion of this new subsection for the following reasons: <ul style="list-style-type: none"> <li>• These revisions fail to satisfy the criteria for a limited SMP amendment.</li> <li>• This new section is not necessary to achieve any of the objectives identified in WAC 173-26-201(1)(c).</li> <li>• The City has not provided information or analysis justifying these new provisions.</li> </ul>	
X20	<b>Aquaculture</b> <b>5.2.4</b> <b>Regulations – General</b> Proposed Subsection 7	51	This commenter does not support this proposed regulation for the following reasons: <ul style="list-style-type: none"> <li>• This revisions fail to satisfy the criteria for a limited SMP amendment.</li> <li>• The current SMP already contains extensive application submittal requirements and provides authorization to the City to request additional necessary information. BIMC 2.16.165</li> <li>• Requiring additional unnecessary information will only serve to discourage this preferred, water-dependent use in conflict with numerous state and federal laws and policies.</li> </ul>	
X21	<b>Aquaculture</b> <b>5.2.4</b> <b>Regulations – General</b> Proposed Subsection 8	51	Taylor Shellfish agrees that addressing the rights of treaty tribes to aquatic resources is important and has no objections to this revision or the new provision added to BIMC 1.3.4.7 on the same topic.	
X22	<b>Aquaculture</b> <b>5.2.5</b> <b>Regulations – Location and Design Standards</b> Proposed	41  43	Commenter 41 notes that this regulations could be problematic for future [Suquamish] Tribal activities on an existing 4 acre parcel* at Point Monroe.  *For clarification, the Suquamish Tribe aquaculture operation noted above is located on DNR lease lands outside Tribal Trust boundaries.  Commenter 43 requests that Section 5.2.5 Regulations subsection 1.a. be struck because it is unsupported by science or technical information, inadequate to accommodate interest and demand for new commercial	

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	Subsection 1.a.	51	<p>shellfish projects, and inconsistent with the SMA.</p> <p>5.2.5 Regulations –Location and Design Standards 1. Location standards for commercial aquaculture operations include: a. <del>The total area of all newly permitted commercial aquaculture operations on Bainbridge Island shall not exceed 5 acres. Acreage shall include the area of cultivation and harvest on the tidelands.</del></p> <p>Commenter 51 argues that the five-acre cap proposed in this subsection must be denied because:</p> <ul style="list-style-type: none"> <li>• It is not necessary to ensure compliance with state or federal laws;</li> <li>• It conflicts with the SMA and SMP Guidelines, and numerous other state and federal laws/policies;</li> <li>• It is not supported, and in fact is undermined, by scientific, technical, and other credible information;</li> <li>• It relies on erroneous legal positions and incorrect factual assertions;</li> <li>• It facilitates abuse of the SMP’s regulatory structure;</li> <li>• It violates state law and constitutional rights;</li> <li>• It may have the practical effect of preventing any new commercial shellfish farm from being established on Bainbridge Island.</li> </ul>	
X23	<p><b>Aquaculture</b> <b>5.2.5</b> <b>Regulations –</b> <b>Location and Design</b> <b>Standards</b>  Proposed Subsection 1.b.</p>	51	<p>This commenter does not support this proposed regulation because:</p> <ul style="list-style-type: none"> <li>• It does not accurately restate relevant law regarding potential use conflicts (WAC 173-26-241(3)(b)(i)(C).</li> <li>• The City needs to recognize that aquaculture projects typically occur on privately owned or leased tidelands so the City must give adequate consideration to private property rights when considering such regulations.</li> </ul>	
X24	<p><b>Aquaculture</b> <b>5.2.5</b> <b>Regulations –</b> <b>Location and Design</b> <b>Standards</b></p>	51	<p>This commenter does <u>not</u> support this proposed new regulation because it is unnecessary and confusing.</p> <ul style="list-style-type: none"> <li>• The SMP already has standards that address potential use and navigation conflicts.</li> <li>• The reference to ‘access to adjacent waterfront properties’ is confusing and, depending on how it is interpreted, inappropriate.</li> <li>• The City has provided no explanation as to how shellfish farming could interfere with access to adjacent waterfront properties.</li> <li>• This new regulation is apparently designed to grant property owners a vague veto power over operations</li> </ul>	

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	Proposed Subsection 1.c.		that they do not water located nearby.	
X25	<b>Aquaculture</b> <b>5.2.5</b> <b>Regulations – Location and Design Standards</b> Proposed Subsection 1.d. & f.	51	This commenter does <u>not</u> support these proposed new regulations because they find it to be unnecessary and inconsistent with current science: <ul style="list-style-type: none"> <li>• Shellfish farmers have a motivation to locate their farms in suitable areas</li> <li>• The requirement that individual aquaculture uses be separated by certain distances inappropriately assumes that any separation is required. This assumption is inconsistent with current scientific and technical information, see Comment 51 Appendix B (2016 Confluence Report).</li> <li>• Given the many narrow tideland parcels on Bainbridge Island, imposing a 10-foot buffer on either side of a farm may make an operation infeasible, thus constituting a practical prohibition on these parcels.</li> </ul>	
X26	<b>Aquaculture</b> <b>5.2.5</b> <b>Regulations – Location and Design Standards</b> Proposed Subsection 1.g. & h.	51	This commenter does <u>not</u> support these proposed new regulations because they find it to be unnecessary and inconsistent with current science: <ul style="list-style-type: none"> <li>• The current SMP already contains provisions addressing impacts to eelgrass and other forms of critical saltwater habitat.</li> <li>• The proposed 25-foot buffer is unnecessary to achieve no net loss of ecological functions because shellfish farming and eelgrass can coexist. Even when there are impacts they typically do not extend beyond the farm footprint.</li> <li>• The maximum buffer that is justified according to current scientific and technical information is 5 meters or approximately 16 feet, see Comment 51 Appendix B (2016 Confluence Report).</li> <li>• Regardless of the distance of the standard buffer, it is only appropriate to allow the buffer to be either increased or decreased on an individual project basis, consistent with consultation with other agencies with jurisdiction and expertise and in light of the most current and applicable scientific and site-specific information.</li> </ul>	
X27	<b>Aquaculture</b> <b>5.2.5</b> <b>Regulations – Location and Design Standards</b> Proposed	51	This commenter does <u>not</u> support this proposed new regulation because they find it to be unnecessary and inconsistent with state law: <ul style="list-style-type: none"> <li>• Native eelgrass protection is addressed in the City’s current existing SMP;</li> <li>• This proposed revision appears to designate <i>Zostera japonica</i> as critical saltwater habitat (when it is present in mixed beds) in violation of state noxious weed control law which provides for the removal of this weed, not it’s protection. WAC 16-750-015.</li> </ul>	



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	Subsection 1.i.			
X28	<b>Aquaculture</b> <b>5.2.5</b> <b>Regulations – Location and Design Standards</b> Proposed Subsection 3	41  51	This commenter is concerned about how this provision will impact small or temporary activities. There is a very wide range of floating/hanging aquaculture facilities. Using such a broad brush could be problematic and does not prioritize smaller scale, temporary activities vs. larger, permanent facilities.  Commenter 51 does <u>not</u> support this proposed regulations because it is unnecessary: <ul style="list-style-type: none"> <li>• These revisions do not simply consolidate existing language as the City explains; they include new standards which are not necessary.</li> <li>• The City’s current SMP has permitting requirements and standards to address navigation and use conflicts concerns, see BIMC 16.12.040.B.4.a.</li> </ul>	
X29	<b>Aquaculture</b> <b>5.2.6</b> <b>Regulations – Operational Standards</b> Proposed Subsection 1 & 3	51	The commenter does not support the revisions to 5.2.6.1 or the new subsection 5.2.6.3 because they do not believe they are <i>necessary to ensure compliance with state or federal laws, or to improve consistency with the SMA and SMP Guidelines</i> : <ul style="list-style-type: none"> <li>• These changes do not meet the criteria for approving a limited SMP amendment</li> <li>• The five-year non-conforming provision currently stated in the SMP is consistent with Ecology’s SMP Handbook, Ch. 16, at 13 <i>which ‘recommends local governments address dormancy in order to avoid abandonment provisions from unintentionally applying to ongoing aquaculture operations.’</i></li> <li>• The current SMP provides justifiable flexibility for aquaculture operations, the proposed changes in the Limited Amendment do not.</li> </ul>	
X30	<b>Aquaculture</b> <b>5.2.6</b> <b>Regulations – Operational Standards</b> Proposed Subsection 10	51	The commenter does <u>not</u> support this proposed revision. The commenter provided the following rationale: <ul style="list-style-type: none"> <li>• The revision does not satisfy the approval criteria for a limited SMP amendment</li> <li>• Corner markers are not required for any other activities</li> <li>• Installing corner markers for shellfish beds may encourage poaching</li> </ul>	
X31	<b>Aquaculture</b>	51	The commenter does <u>not</u> support this proposed revision because they believe: <ul style="list-style-type: none"> <li>• These revisions fail to satisfy the criteria for approving a limited SMP amendment</li> <li>• The current SMP already contains provisions that grant the City authority to minimize noise and lighting</li> </ul>	

