

Planning Commission Workshop

Nonconformities & Substitute

Senate Bill 5451



1. What we do now
2. What we are required to do
3. How utilizing SSB 5451 might impact Bremerton

General Info

- Shoreline code's only impact new development or home additions
- Repair and maintenance are exempt
- No Net Loss is measured from the date of code adoption



Background Information

- Existing SMP references the Zoning Code
 - Shoreline development is treated the same as upland development.
- SMP is a State Code
 - references to local codes get complicated
- Goal has been to match SMP and Zoning as much as possible.
 - Tonight's meeting is to discuss other options.
 - 1) **Should we create a new name?**
 - 2) **Should we allow 100% rebuild?**



Nonconforming Building Blocks

What is a Legal Nonconformity?

- Something that was built in compliance, but does not comply anymore.
 - Use
 - Structure
 - Lot
- Code protects property owners from Compliance to new rules.



Nonconforming Building Blocks

- Example of a Legal Nonconforming Use:

Discontinuation:
Use can continue
until building has
been vacant for
1 year or more.



Nonconforming Building Blocks

- Example of an Illegal Nonconformity:

This is not
Grandfathered

It was never
permitted in
The first place



Nonconforming Building Blocks

Eventual Compliance – At some point in the future regulations should become applicable

Current Code:

Structures: When 75% of the structures value is replaced

Uses: When the building has been vacant for 1 year



Nonconforming Building Blocks

- Non-intentional destruction:
 - You can rebuild 100%
 - New codes do not apply (1 year grace period)
 - Building can be in the same location as Original was.
 - Every jurisdiction is different.



Substitute Senate Bill 5451

Why was it created?

- To clarify Ecology's role & respond to public concerns

What does it say?

Ecology will let local jurisdictions be creative so long as No Net Loss is achieved.

- 1) Ecology can approve SMP's that calls legal nonconforming residences "conforming"
- 2) Ecology can approve SMP's that allow for full replacement of these structures.



Name Change

Many people are concerned about the term nonconforming:

- Will it affect resale?
- Will it impact loans?
- Will it restrict maintenance?

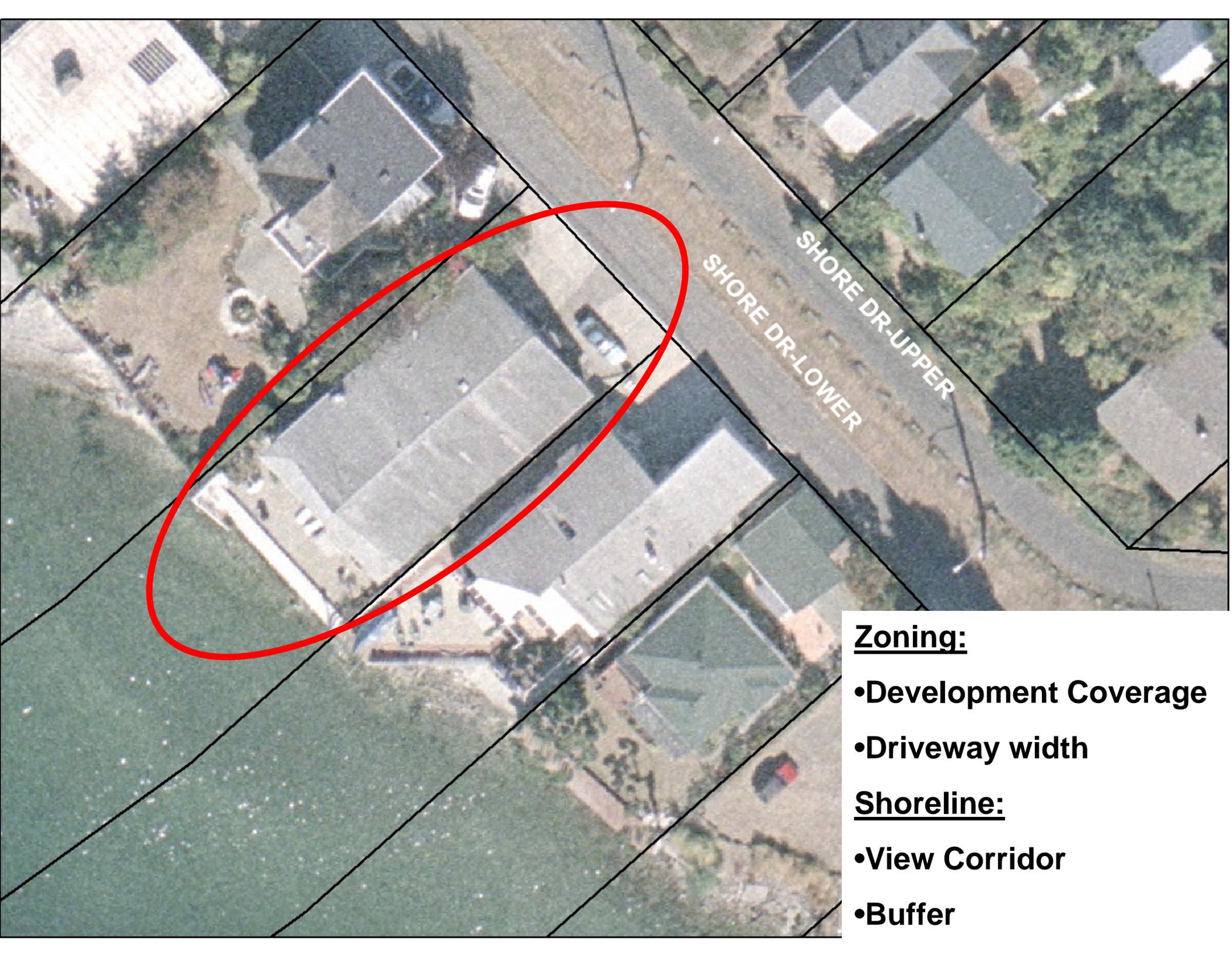
Why not just change the name?

Applicability is limited

- Only for existing shoreline residences
- Not Commercial, apartments, bulkheads, boathouses, docks etc

Added complexities

- Inconsistencies with Zoning Code
- The word conforming misleadingly implies conformance



Zoning:

- Development Coverage
- Driveway width

Shoreline:

- View Corridor
- Buffer

Nonconformities and Home Loans

- Does the term nonconforming currently impact home loans?
 - Staff has searched to find support for this claim, and cannot find any.
- Bainbridge Island Study (July 2010 to 2011):

	Avg. Sale Price	Avg. Assessed value
Conforming (17)	\$1,597,519	\$964,265
Nonconforming (16)	\$1,723,273	\$854,389



Lending Guidelines

- Freddie Mac:

“Freddie Mac may purchase a mortgage secured by a property that does not conform to applicable zoning and use restrictions if the property is a legal nonconforming use (commonly referred to as grandfathered use).”
- Fannie Mae:

Allows lending on illegal nonconformities if they can be rebuilt.



Appraisers

- Follow Fannie Mae & Freddie Mac guides
 - Loans can be denied if the nonconformity cannot be rebuilt after unintentional destruction (fire).

Dimensions	Area	Shape	View
Specific Zoning Classification	Zoning Description		
Zoning Compliance	<input type="checkbox"/> Legal <input type="checkbox"/> Legal Nonconforming (Grandfathered Use) <input type="checkbox"/> No Zoning <input type="checkbox"/> Illegal (describe)		
Is the highest and best use of the subject property as improved (or as proposed per plans and specifications) the present use? <input type="checkbox"/> Yes <input type="checkbox"/> No			

Nonconforming requires a letter or code citation attached to the appraisal form.



Lenders

- Lenders use the term nonconforming to discuss people.
 - People who have bad credit, or
 - People who have gone through foreclosure, or
 - People who apply for more money than is allowed by Fannie or Freddie.
 - Lenders wont lend to a nonconforming person and require additional paperwork for a nonconforming property.



Ecology will allow 100% Rebuild?

– Yes, so long as we achieve No Net Loss:

NNL is
measured
from today

But...what
about
continuing
impacts?



Current Provisions for Nonconformities and No Net Loss

Minor Expansion (<500sf)

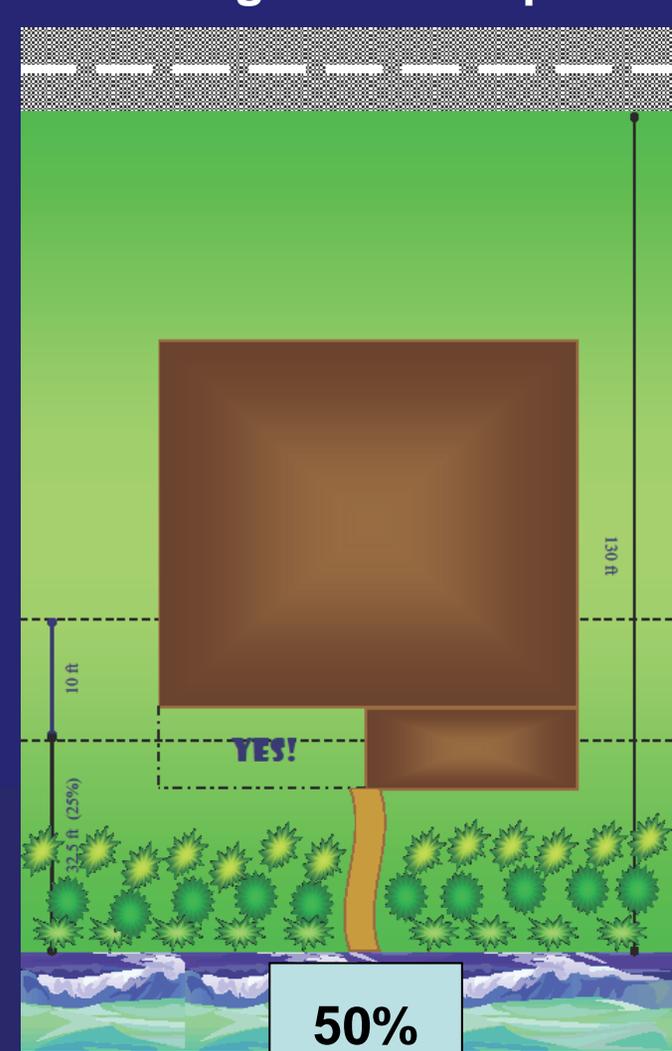
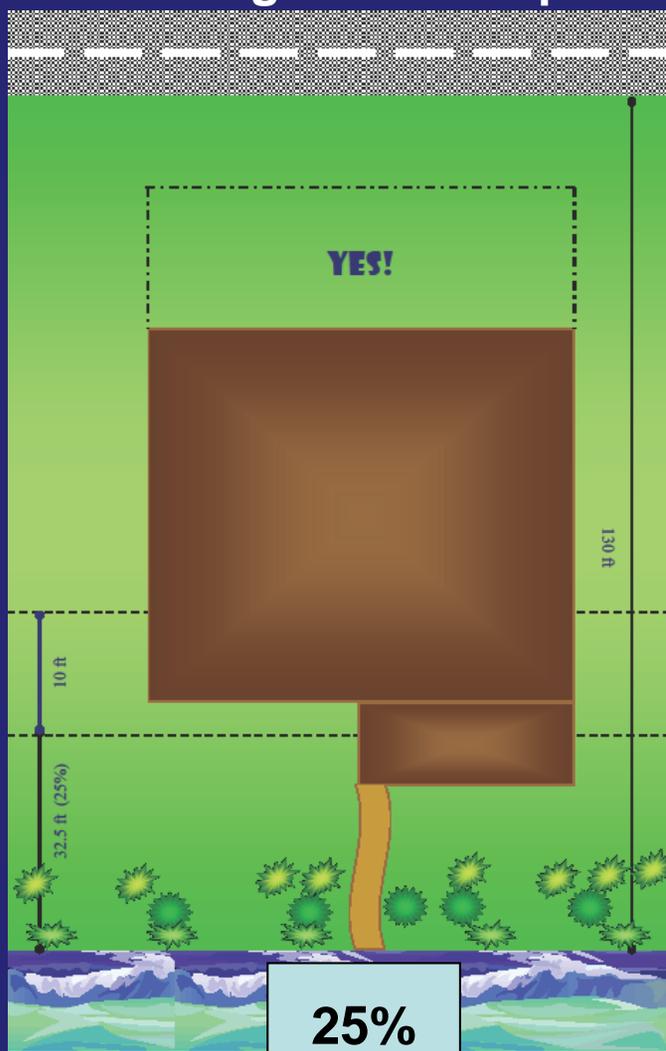
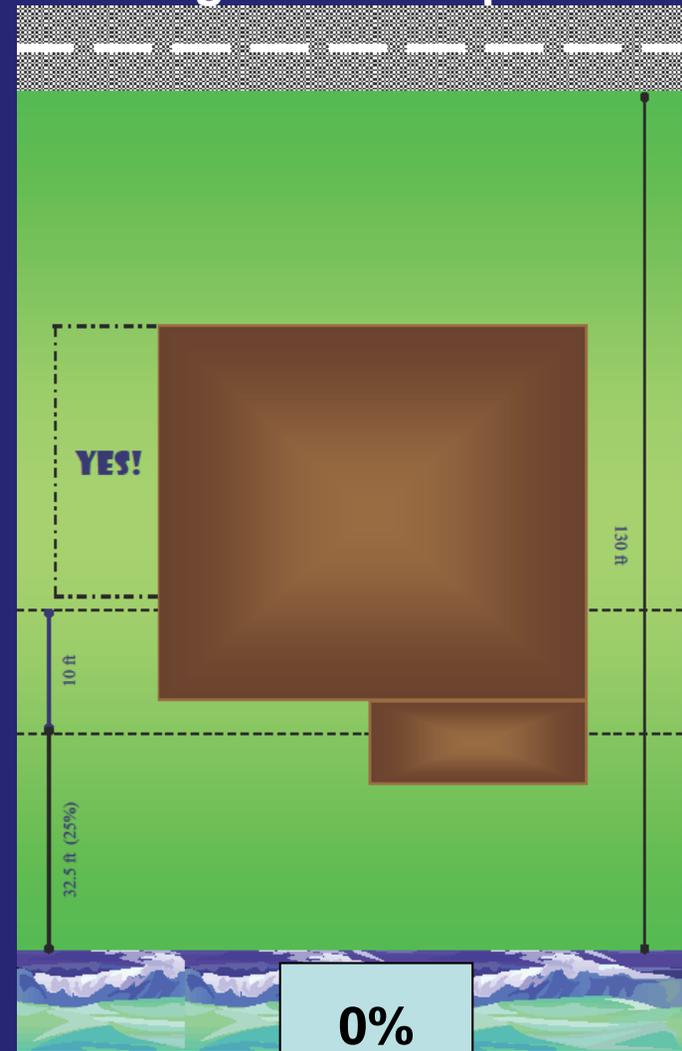
No Vegetation Required

Large Expansion (>500sf)

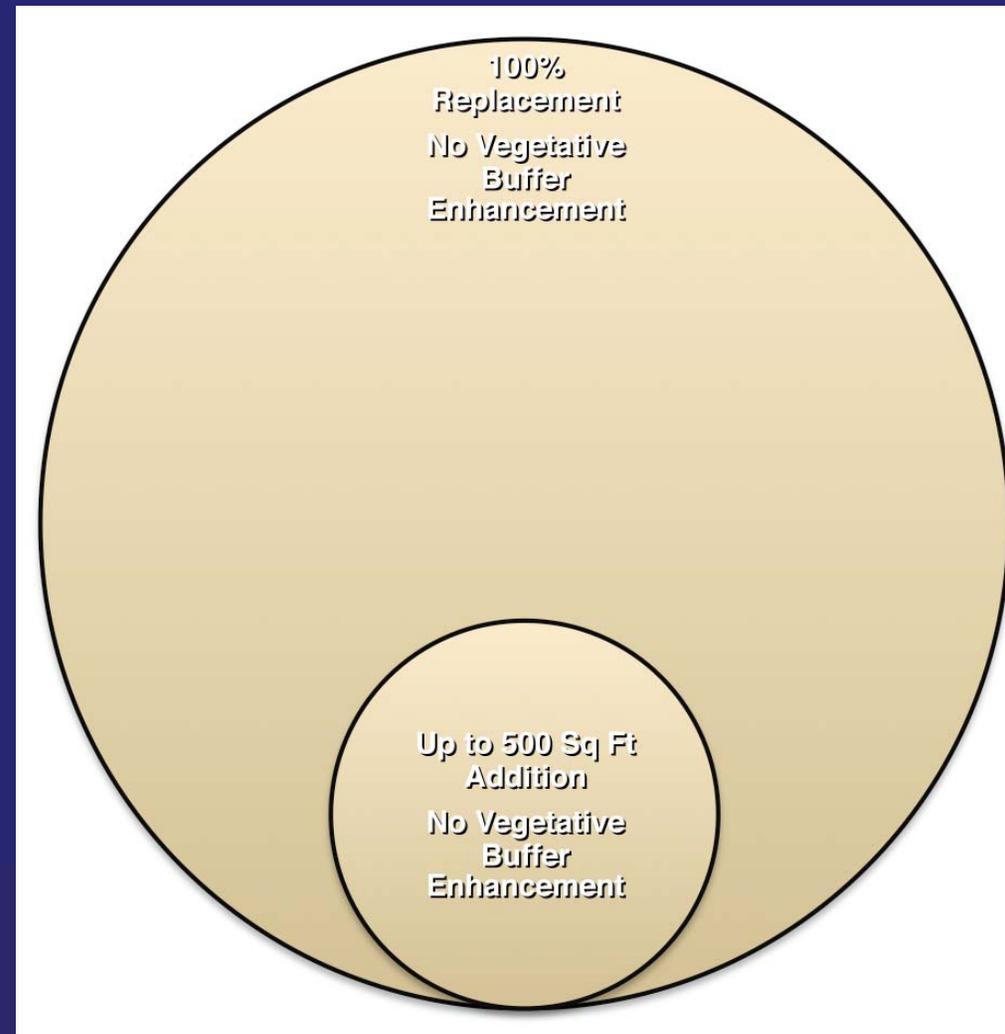
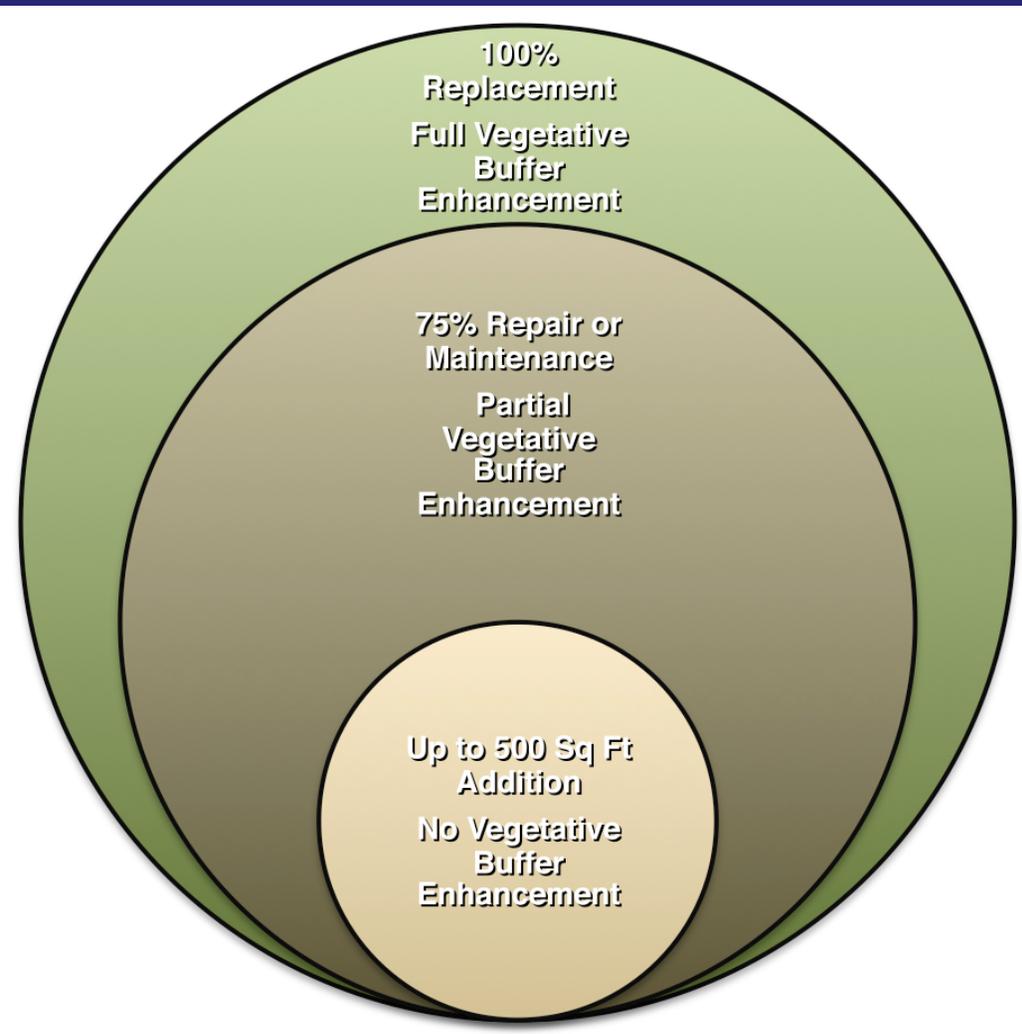
Partial Vegetation Required

Expansion in Buffer

Partial Vegetation Required



100% Rebuild and No Net Loss



Implications of 100% Rebuild



- **Eliminates eventual compliance for shoreline regulations.**
- **Adds complexity for Zoning and Shoreline compliance.**
- **Sets different rules for neighbors.**
- **Will require increased regulations to achieve NNL**

75% Rule in Action

- Existing remodel project on Shore Dr
- 75% of \$266k = remodel up to \$199k
- This remodel represents 45% or \$120k



Neighboring Jurisdictions

Port Orchard:

- Allows residences to be called “conforming”
- Allows 100% replacement (no expansions)

• Kitsap County:

- Allows existing residences to be called “conforming”
- Allows 100% replacement (expansion require mitigation)

• Poulsbo:

- Keeps name of nonconforming
- Allows residences to be called “conforming” (permit required)
- Voluntary rebuild is only allowed through a variance (vegetation required)

• Bainbridge Island:

- Keeps the name nonconforming (no new section for residences)
- Allows 100% replacement, with vegetation requirements

Planning Commission Deliberation

Please provide Staff direction by answering these questions:

1. Should the City create an alternate name for nonconforming residences?
2. Should voluntary replacement of 100% of residential structures be allowed?



Tonight's Agenda

- Planning Commission questions about presentation
- Open public comment/testimony
- Close public comment/testimony
- Planning Commission deliberation and direction to staff

