

AGENDA

Clallam County Planning Commission

Virtual/Audio PC Meeting of December 1, 2021

Clallam County Courthouse

223 East Fourth Street, Port Angeles

6:00 p.m.

The Clallam County Planning Commission will conduct a regularly scheduled meeting appearing via Zoom video conferencing on December 1, 2021 at 6pm. No in-person meeting will be held at this time due to the ongoing Covid-19 pandemic. To appear by Zoom please visit <https://zoom.us/join> or call (888) 475-4499 or (253) 215-8782, then enter Meeting ID: 886 7090 2067 and Passcode: 12345.

The information provided to the Commission in preparation for this meeting is available at:
<https://websrv7.clallam.net/forms/uploads/PlanningCommissionPacket.pdf>

- A. CALL TO ORDER**
- B. PLEDGE OF ALLEGIANCE**
- C. ROLL CALL**
- D. WELCOME**
- E. APPROVAL OF MINUTES:** November 17, 2021
- F. ANNOUNCEMENTS**
- G. PUBLIC COMMENT** – Please Limit Comments to Three Minutes
- H. UNFINISHED BUSINESS:** Shoreline Periodic Review recommendation
- I. PUBLIC HEARING:** Rezone Application REZ2021-00001
- J. WORK SESSION ITEMS:** Rezone REZ2021-00001 recommendation
- K. PUBLIC COMMENT** – Please Limit Comments to Three Minutes
- L. ADJOURNMENT**

Members:

Chair, Jane Hielman & Vice-Chair, Scott Clausen

Robert Miller; Steve Gale; Ron Long; N. Bonnie Booth; M. Ingrid Carmean; Philip Giuntoli; Jeff Carter

Department of Community Development Staff:

Mary Ellen Winborn, Director; Donella Clark, Principal Planner

MINUTES

Clallam County Planning Commission

Virtual Meeting of November 3, 2021

6:00 PM

- A. CALL TO ORDER: The meeting was called to order at 6:01 p.m.
- B. PLEDGE OF ALLEGIANCE.
- C. ROLL CALL: Members present were Vice-Chair Clausen, Robert Miller (arriving late because he had to contend with the flooding occurring out west), Steve Gale, Ron Long, N. Bonnie Booth, M. Ingrid Carmean, Philip Giuntoli, and Jeff Carter. Donella Clark, Principal Planner and Holden Fleming, Associate Planner; represented staff from the Department of Community Development.
- D. WELCOME: Vice-Chair Clausen welcomed all in attendance.
- E. APPROVAL OF MINUTES: November 3, 2021 passed
- F. ANNOUNCEMENTS: None.
- G. PUBLIC COMMENT PERIOD: Judy Larsen reiterated her concerns previously submitted. Appreciated staff's response to her concerns. Wondered why SB525 had been vetoed by the governor for ADU's only in UGA's.
- H. UNFINISHED BUSINESS: None.

I. PUBLIC HEARING ITEM: **Shoreline Periodic Review Workshop**

Sissi Bruch commented that WDFW has published a new way of identifying buffers and that even though the County has just passed the comprehensive update the review of this update began in 2011 and likely does not include this science. Riparian Management is a newer concept than the previous SMP being worked on.

Publication website was provided in the chat:

<https://wdfw.wa.gov/sites/default/files/publications/01988/wdfw01988.pdf>

Chris Waldbillig from WDFW explained that the functions of riparian corridor should be maximized. To give you the most function you take the height a tree can grow according to the soil classification.

Danielle Zitomer from WDFW provided comment that the difference with the current buffer designations is that they are predetermined versus ecological.

J. WORK SESSION ITEMS:

Shoreline Periodic Review recommendation- Staff recommends an eventual vote on either amending the SMP or determining a finding of adequacy.

Jeff Carter felt taking a vote is way too quick, and requested that the commission take more time to get additional information and review the materials submitted.

During discussion it was realized that WDFW had provided comment on the Site Tree Potential during the Comprehensive update. Planning Commission would like to see that original comment and would like to know Ecology's position on the WDFW tree height potential information.

ADU code change recommendation- Staff reviewed the changes made to the code following the previous discussion with the Planning Commission and provided rationale with a picture of the 300 foot radius for placement of an ADU for why the PC's suggestion to allow administrator to waiver was deemed unnecessary.

Motion was made to forward the ADU code changes onto to Board of County Commissioners. Planning Commission passed the motion with a 6 "for" and 2 "against" vote.

K. PUBLIC COMMENT PERIOD: Sissi Bruch thanked the Planning Commission members for their service. Asked that a deadline for written comment be put on the website.

Commissioner Carmean would like to provide information on homelessness, and will have staff distribute.

Commissioner Booth discussed having talked with someone who was homeless and learned about Bayside Housing, a 501c3 in Jefferson County. Also was wondering who is tracking the money from the Federal Infrastructure Bill. Staff commented that the Road Department is aware of the monies as well as the Commissioners who are working toward finding ways to use that money in the County.

Commissioners discussed how to put homelessness on the agenda, and it was suggested a subcommittee be formed with the following members to meet with the Director of Community Development. Members on the Homelessness Committee appointed were Ingrid Carmean, Bonnie Booth, and Jane Hielman.

L. ADJOURNMENT: The meeting adjourned at __7:00__ p.m.

Clark, Donella

From: Clark, Donella
Sent: Thursday, November 18, 2021 9:26 AM
To: Ingrid Carmean; Jane Hielman; Jeff Carter; Nikki Booth; Philip Giuntoli; Robert Miller; Ronald Long; Scott Clausen; Steve Gale
Cc: Winborn, Mary Ellen
Subject: information referenced in PC meeting

Here is the information mentioned during the Planning Commission meeting. I will include these in the minutes of the meeting.

This is the WDFW website regarding the **Site Potential Tree Height** that was brought up by Sissi Bruch who provided comment on the Shoreline Periodic

Review: <https://wdfw.wa.gov/sites/default/files/publications/01988/wdfw01988.pdf>

Information on Homelessness that was forwarded by Ingrid Carmean:

Thank you Bonnie for the link to Bay Housing. <https://www.baysidehousing.org> They were involved in the tiny houses at Peter's place (and now Pat's Place) which I had sent you information on previously. The Answer For Youth is starting on a similar small project with 3 tiny homes here in Clallam County without government funding. TAFY is looking at housing women with children in these small houses.

A) Information on the costs of housing people vs living on the streets:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3419187

In case this link doesn't work I also got to the article by googling the title:

Penny Wise but Pound Foolish: Permanent Supportive Housing Can Prevent a World of Hurt.

B) A phrase I recently heard keeps repeating in my head: "Shelter is not Housing." Serenity house is shelter.

C) HB1590 allows the commissioners of a Washington county to pass a 0.1% sales tax which can be used for low income housing and the various services needed around that. The voters of Port Angeles already passed this tax when it required citizen approval, now the commissioners could pass it without a vote of the citizens. It has been estimated that it would raise \$64,000 each month. Or approximately enough for 2 of Mary Ellen's homes every 3 months. The relevant parts of HB 1590 are below, but it might be more readable on line.

"Allowing the local sales and use tax for affordable housing to be imposed by a councilmanic authority."

(2)(a) Notwithstanding subsection (4) of this section, a minimum of sixty percent of the moneys collected under this section must be used for the following purposes:

(i) Constructing affordable housing, which may include new units of affordable housing within an existing structure, and facilities providing housing-related services; or

(ii) Constructing mental and behavioral health-related facilities; or

(iii) Funding the operations and maintenance costs of new units of affordable housing and facilities where housing-related programs are provided, or newly constructed evaluation and treatment centers.

(b) The affordable housing and facilities providing housing related programs in (a)(i) of this subsection may only be provided to persons within any of the following population groups whose income is at or below sixty percent of the median income of the county imposing the tax:

(i) Persons with ~~((mental illness))~~ behavioral health disabilities;

(ii) Veterans;

(iii) Senior citizens;

(iv) Homeless, or at-risk of being homeless, families with children;

(v) Unaccompanied homeless youth or young adults;

(vi) Persons with disabilities; or

(vii) Domestic violence survivors.

(c) The remainder of the moneys collected under this section must be used for the operation, delivery, or evaluation of mental and behavioral health treatment programs and services or housing-related services.

(3) A county that imposes the tax under this section must consult with a city before the county may construct any of the facilities authorized under subsection (2)(a) of this section within the city limits.

(4) A county that has not imposed the tax authorized under RCW 82.14.460 prior to October 9, 2015, but imposes the tax authorized under this section after a city in that county has imposed the tax authorized under RCW 82.14.460 prior to October 9, 2015, must enter into an interlocal agreement with that city to determine how the services and provisions described in subsection (2) of this section will be allocated and funded in the city.

(5) To carry out the purposes of subsection (2)(a) and (b) of this section, the legislative authority of the county or city imposing the tax has the authority to issue general obligation or revenue bonds within the limitations now or hereafter prescribed by the laws of this state, and may use, and is authorized to pledge, up to fifty percent of the moneys collected under this section for repayment of such bonds, in order to finance the provision or construction of affordable housing, facilities where housing-related programs are provided, or evaluation and treatment centers described in subsection (2)(a)(iii) of this section.

(6)(a) Moneys collected under this section may be used to offset reductions in state or federal funds for the purposes described in subsection (2) of this section.

(b) No more than ten percent of the moneys collected under this 20 section may be used to supplant existing local funds.



MEMORANDUM

Clallam County Department of Community Development

Date: November 24, 2021
To: Clallam County Planning Commission
From: Donella Clark, Principal Planner
Re: Shoreline Periodic Review

During the last Planning Commission meeting, a workshop was held regarding the Periodic Review of the County's Shoreline Master Program. A comment was provided by Sissi Bruch that the Washington Department of Fish and Wildlife (WDFW) published new science in December 2020 on utilizing the Site Potential Tree Height to determine buffers, and asked that the County consider amending the Shoreline Master Program to use this to determine buffers. Later in the meeting staff from WDFW commented that a letter was sent during the Comprehensive Update regarding use of the Site Potential Tree Height to establish the buffers rather than using a predetermined buffer. The Planning Commission directed staff to provide that comment and to find out Ecology's position on the Site Potential Tree Height.

Michelle McConnell from the Department of Ecology commented that the Site Potential Tree Height is not new science and was part of WDFW's previous publication that was considered during the County's early update process (i.e. Inventory and Characterization). Buffer widths, no net loss, and the WDFW science synthesis and management recommendations are discussed in Ecology's Conditional Approval. Ecology suggests that the Planning Commission review the information already issued to better understand these concerns and how they found the current SMP to be consistent with SMA and WAC requirements. The Planning Commission may also find SMP Handbook Chapter 11 on Vegetation Conservation, Buffers and Setbacks helpful:

<https://apps.ecology.wa.gov/publications/parts/1106010part11.pdf>

Documents related to the final approval of Clallam County's SMP update can be found at:
<https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/State-approved-Shoreline-Master-Programs/Clallam-County>

Provided to the Planning Commission is Attachment A of Ecology's Conditional Approval, excerpts with County response specific to WDFW, memo to the Planning Commission dated July 11, 2013 related to Shoreline Buffers and Vegetation Conservation, and ESA's report on explanation of proposed shoreline widths.

Prior to the adoption of the current SMP Clallam County was using the 100 year tree potential site index to determine if Habitat Management Plans were required during shoreline development. The comprehensive SMP update, effective September 1, 2021, has updated the County's requirements for riparian areas adjacent to shorelines and now includes critical area buffers associated with the critical area. Extensive testimony and science was considered when the buffers were established during the Comprehensive Update, including

comments from WDFW regarding the Potential Tree Height Index. The purpose of this Periodic Review is not to rewrite the work that was accomplished over the past decade on the Comprehensive Update, but to review the current regulation to determine if amendments are necessary to reflect local circumstances, new information, or improved data. The comment presented at the previous meeting appears to have been previously explored. In consideration of this and the Ecology Checklist it would appear no amendments are currently needed and a "Finding of Adequacy" would be appropriate for this Periodic Review.

Exhibits

Attachment A: Findings and Conclusions for Proposed Comprehensive Update
Excerpts from Public Comment Summary and County response to WDFW comments
July 11, 2013 Memo regarding Shoreline Buffers and Vegetation Conservation
County Consultant (ESA) report on explanation of proposed shoreline buffer widths

Relevant websites

SMP Handbook Chapter 11 on Vegetation Conservation, Buffers and Setbacks:
<https://apps.ecology.wa.gov/publications/parts/1106010part11.pdf>

Ecology Final Approval: <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/State-approved-Shoreline-Master-Programs/Clallam-County>

**ATTACHMENT A: FINDINGS AND CONCLUSIONS FOR PROPOSED
COMPREHENSIVE UPDATE OF CLALLAM COUNTY SHORELINE MASTER PROGRAM**

SMP Submittal accepted December 4, 2018, Resolution No. 91-2018
Prepared by Michelle McConnell, March 12, 2021

INTRODUCTION

Ecology's Findings and Conclusions (presented herein), including reference to **Attachment B** (Required Changes) and **Attachment C** (Recommended Changes), provide the factual basis for the Department of Ecology's (Ecology) decision on the Clallam County (County's) comprehensively updated Shoreline Master Program (SMP). This document is divided into three sections providing an Introduction; the Findings of Fact regarding amendment history, the submittal, and local and state review; and Conclusions.

Description of Proposed Amendment

Clallam County has submitted a comprehensive update to their Shoreline Master Program (SMP) for review and approval by Ecology. The updated master program will regulate some 620 miles of shorelines, including approximately 131 miles of marine shoreline, six (6) lakes totaling over 1,500 acres, and some 481 miles of streams and rivers located within Clallam County. The SMP applies to Lake Sutherland, Lake Pleasant, Dickey Lake, Wentworth Lake, Elk Lake, and Beaver Lake. The County has seven (7) waterbodies designated shorelines of statewide significance: the marine waters of the Strait of Juan de Fuca and Pacific Ocean, as well as the Bogachiel, Calawah, Elwha, Quillayute and Sol Duc Rivers. The updated shoreline program will replace the county's existing shoreline program first adopted in 1976, last amended in 1992. The updated program establishes new goals, policies, and regulations to encourage and manage appropriate shoreline uses, public access, and protection and restoration of natural shoreline resources.

The comprehensive amendment contains locally tailored shoreline management policies, environment designations, regulations, and administrative provisions. SMP Chapter 7 establishes shoreline specific critical areas provisions. Critical areas within the shoreline jurisdiction will be regulated solely by SMP Chapter 7, and the Critical Areas Code located in CCC Title 27.12 will not apply within shoreline jurisdiction. Additional reports, and supporting information and analyses as noted throughout this document, were considered by Ecology during its review.

Need for the Amendment

The County currently manages shorelines under an SMP originally adopted and approved in 1976, last amended in 1992. The proposed amendment is needed to comply with the statutory requirement (RCW 90.58.080) for a comprehensive update to the County's SMP, consistent with the SMP Guidelines in WAC 173-26. The update also ensures the SMP is consistent with land use management policies provided by the County's Comprehensive Plan.

This Shoreline Master Program (SMP) amendment is intended to satisfy the statutory requirements of RCW 90.58.080(2)(a)(iii) to comprehensively update the County's SMP.

The record submitted by the County to Ecology as part of the SMP update, including Resolution No. 91-2018, reports, analyses and local approval materials, provides additional details to describe the jurisdiction's specific need for the proposed amendment.

SMP provisions to be changed by the amendment as proposed

The SMP comprehensive update is intended to entirely replace the County's existing SMP, including policies, regulations, the shoreline environment designations & maps, and administrative provisions. The updated SMP establishes standard shoreline buffers based on type of development, size of the lot, and the upland shoreline designation (SMP 6.3 Table 6-1), and regulates critical areas within shoreline jurisdiction with provisions of the SMP, including critical area buffers (SMP 6.3 Table 6-2). The updated SMP regulates activities and development along the County's shorelines using six (6) new shoreline environment designations, each containing designation criteria, purpose statements, and management policies:

- Aquatic
- Natural
- Resource Conservancy
- Shoreline Residential - Conservancy
- Shoreline Residential - Intensive
- Marine Waterfront

The proposed SMP uses these designations to tailor use and development allowance, prohibition, and other provisions based on shoreline conditions, as indicated at SMP 2.9 in Table 2-1 Residential Use Table and Table 2-2 Non-Residential Use Table.

FINDINGS OF FACT

Amendment History, Local Review Process

The County initiated the local planning process in November 2009 by entering into a grant agreement with Ecology (#G1000062). The record shows that extensive public outreach and engagement began early and was continuous throughout the process. Overall, the County's efforts far exceed the minimum standard, holding some 110 open public meetings and events. The general timeline below with key highlights outlines the local process:

- **Public Participation Strategy** was adopted in 2010, revised in 2011;
- **Public Forums** – The County held six (6) multi-event series of public forums at various locations across the County (typically at Forks, Sekiu, Port Angeles, and Sequim) to inform the public, gather input, and for presentation of various draft documents, for a total of thirty-three (33) individual forum events held from 2010 – 2017;
- **Consistency Review** – The County compared the existing SMP with state requirements under the SMA (RCW 90.58) and SMP Guidelines (WAC 173-26). The *Draft Consistency Review Report* (March 2011) and a *Final Consistency Review Report* (July 2011) identified and provided recommendations to: address inconsistencies, gaps and omissions; improve clarity and administration; and achieve Ecology approval of the updated SMP.
- **Focus Groups & Visioning Reports** – Approximately 130 citizens attended a series of stakeholder focus group discussions in January 2011, held at locations across the County. Three events focused one each on east, central and west end property owners, and the other two focus group events were for water-related business owners and recreation shoreline users. A focus group summary report helped inform preparation of the SMP visioning documents. Two reports were produced, including *Clallam County Shorelines in Transition - A Vision Statement for Clallam County SMP Update* (August 2011) for WRIAs 17 - 19; and *WRIA 20 Visioning Forum and Interview Report* (June 2011) specific to the rivers and lakes that drain to the Pacific Ocean.

- **Advisory Committees** – The County convened agency and technical experts as the No Net Loss Work Group that met twice in 2010 – 2011; and convened a broad array of over thirty (30) citizens and stakeholders as the SMP Update Committee that met thirteen (13) times in 2012;
- **Public outreach** methods included direct mailings to shoreline property owners, frequent messages to email distribution list of 600+ recipients, frequent project status and materials on a multi-page website, display ads in three (3) local newspapers, press releases to local papers and radio, listening sessions and guest presentations with over a dozen local entities including salmon recovery, marine resource, watershed planning, land use, trade, and civic groups/organizations.
- **Affected tribes** were on distribution lists, and involved in the committees and outreach groups. Tribal representatives were part of the No Net Loss Work Group, and natural resources/fisheries staff from the Quileute, Lower Elwha Klallam, Jamestown S’Klallam and Makah Tribes participated as representatives on the SMP Update Committee.
- **Planning Commission** – The County Planning Commission was briefed on project status, committee work, reviewed public input, and various drafts of related background documents at thirteen (13) meetings from 2011 - 2013. The group held four (4) legally noticed public hearings in February 2015 at locations across the County. They reviewed a 2014 Draft SMP and comments received at nineteen (19) meetings from March 2015 – April 2016. The Planning Commission then reviewed a 2017 Revised Draft SMP at seven (7) meetings, and recommended approval of a draft comprehensive SMP update amendment to the Board of County Commissioners (Board) on September 20, 2017.
- **Board of County Commissioners** – The Board was briefed on project status along the way, including a June 2017 overview of the Revised Draft SMP under final review by the Planning Commission. The Board held three (3) study sessions to review the September 2017 Planning Commission Recommended Draft SMP prior to holding a public hearing in December 2017. The Board deliberated on the merits of the proposal and considered public comments received at sixteen (16) work sessions from January - October 2018. The Board reviewed a September 2018 Draft SMP at two (2) work sessions in September – October 2018 that contained revisions based on their discussions and corrections identified by staff.

On December 12, 2017, the Board held a public hearing on the proposed comprehensive SMP update. Notice of the hearing was published October 15, November 5 and 26, 2017 in the *Peninsula Daily News*. The Board considered the proposed SMP and comments received at thirteen (13) meetings in January to August 2018, and then reviewed a 2018 Revised Draft SMP at three (3) further meetings. On October 30, 2018, the Board adopted Resolution No. 91-2018, approving the County’s comprehensive SMP update for submittal to Ecology for final review and approval.

Below are some highlighted features of the submittal package:

Inventory and Characterization (WAC 173-26-201)

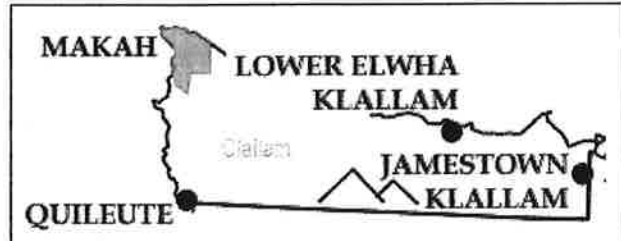
Documentation of current shoreline conditions is a key part of the SMP update process and meeting the requirement to address the no net loss standard of the SMP Guidelines (WAC 173-26-186). The County worked with two consulting groups, one focused on the shorelines of WRIAs 17 – 19 along the Strait of Juan de Fuca, and one focused on the shorelines of WRIA 20 that drain to the Pacific Ocean. Draft and final reports were prepared to document existing shoreline conditions and help inform

preparation of the County's SMP, including environment designations, policies and use regulations, thereby presenting the County's overall inventory and characterization (ICR) as a two volume set:

- *Draft Shoreline Inventory and Characterization Report for Portions of Clallam County Draining to the Strait of Juan de Fuca* (ESA; June 2011);
- *Final Shoreline Inventory and Characterization Report for Portions of Clallam County Draining to the Strait of Juan de Fuca* (ESA; March 2012);
- *Draft WRIA 20 Shoreline Inventory and Characterization Report* (UW-ONRC; June 2011)
- *Revised WRIA 20 Inventory and Characterization Report* (UW-ONRC; May 2012).

Federal Lands - Clallam County is unique in that it includes considerable areas of federal lands in the Olympic National Forest and Olympic National Park located in the interior and along the Pacific coast. Olympic National Park is an area of exclusive federal jurisdiction thereby removing Lake Crescent, Lake Ozette, and the marine areas from ordinary high water mark (OHWM) to extreme low tide from SMA and SMP jurisdiction; areas that would otherwise be considered shorelines of statewide significance. In addition, an abundance of other public and private commercial forest lands exist across the County, an especially predominate zoning designation in the West End with 66% along marine shores and 40% of the freshwater shorelines.

Tribal Lands - The County also shares geography with four (4) federally recognized Tribal nations including the Makah, Quileute, Lower Elwha S'Klallam, and Jamestown S'Klallam that have trust land reservations located at Neah Bay, La Push, mouth of the Elwha River, and the head of Sequim Bay, respectively.



Channel Migration Zones - The Strait ICR identifies twelve (12) rivers with mapped channel migration zones (CMZs) where the natural process of gradual or sudden shifts in channel location are likely to occur. The Pacific ICR notes channel migration along the Bogachiel, Calawah, and Sol Duc Rivers. The County considered the channel migration information from the most current and accurate sources, including a detailed Dungeness River CMZ delineation prepared by the Jamestown S'Klallam Tribe and the series of channel migration assessments & maps initially prepared by Ecology in 2011 – 2013, and finalized in 2018 (corrections/clarifying edits but no additional technical analysis). The Ecology CMZ reports do not provide detailed delineations or specific locations for CMZs at the parcel scale, but rather coarse scale assessments and approximate boundaries as planning-level channel migration zones (pCMZs). These pCMZs are based on professional geomorphic assessment prepared in accordance with standard practice. The boundaries should be refined for project level development activities to more accurately reflect the risk on a site scale. The Puget Sound pCMZs assess eleven (11) streams/rivers and the Pacific pCMZs address twenty-five (25) streams/rivers. The collection of reports includes:

- Delineation of the Dungeness River Channel Migration Zone - River Mouth to Canyon Creek; by Byron Rot and Pam Edens, Jamestown S' Klallam Tribe, October 1, 2008;
- Final Washington Department of Ecology Channel Migration Assessments for Clallam County: Puget Sound WRIAs 18-19 (April 2018);
- Final Washington State Department of Ecology Channel Migration Assessments for Clallam County: Pacific WRIA 20 (April 2018); and

- Washington State Department of Ecology Revised Channel Migration Assessment and Boundaries for Lower Morse Creek, Clallam County (January 2013).

Feeder Bluffs - The Straits ICR also identifies and discusses the variety of marine shoreforms present, including marine feeder bluffs as a distinct type of geomorphic feature. Chapter 3 provides reach scale assessment and differentiation for feeder bluffs, feeder bluff exceptional, feeder bluff talus, transport zones, accretion shoreforms,

Table 3-6. Strait of Juan de Fuca shoretype mapping and criteria for Clallam County (CGS 2011)

Marine Shoretype	Percent of Shoreline
Accretion Shoreform	30.5%
Transport Zone	19.2%
No Appreciable Drift	12.7%
Feeder Bluff - exceptional	10.3%
Feeder Bluff	9.2%
Feeder Bluff-talus	8.1%
Modified	10.0%

modified areas, and areas of no appreciable drift. The Appendix A Map Folio, especially Maps 1a – 1c Physical Characteristics for East, Central, and West Regions of the Strait of Juan de Fuca (respectively), depicts the location of feeder bluffs, drift cells, and shoreform type.

The County's two-volume ICR and companion map portfolios provide watershed and reach-level analyses of existing shoreline environmental and land use conditions for each water body organized by water resource inventory area (WRIA) and by marine or freshwater reach segments. Reaches are delineated based on significant changes in the physical and biological composition of the regulated waterbody's shoreline and their relative intensity of land use patterns, physical landscape, and various ecosystem processes.

Finding: Ecology finds that the two Inventory & Characterization Reports for WRIAs 17 – 19 and WRIA 20 adequately inventoried and analyzed the current conditions of the shorelines located in Clallam County. The reports synthesized existing information and were used to inform the master program update as well as provide a basis for future protection and restoration opportunities in County shoreline jurisdiction (WAC 173-26-201(3)(c) and (d)(1)).

Shoreline Jurisdiction and Shoreline Environment Designations (WAC 173-26-211)
The extent of shoreline jurisdiction is defined in RCW 90.58.030(2). Clallam County has opted to establish the maximum jurisdiction allowed by statute, including the optional full extent of the 100-year floodplain and land necessary for buffers for critical areas that occur within shorelines of the state. SMP 1.8 Jurisdictional Limits provides the detailed description.

Clallam County jurisdictional shorelines of the state need to be provided in a list of shoreline waterbodies; this required change is identified in **Attachment B** for consistency with WAC 173-18-044 and WAC 173-22-044, and is anticipated to be provided as an exhibit appended to the SMP.

Local governments are required to classify shoreline areas into shoreline environment designations (SEDs) based on the existing use pattern, biological and physical character of the shoreline, and the goals and aspirations of the community as expressed in their comprehensive plan. The Inventory and Characterization Reports are used to determine the relative degree of impairment and biophysical capabilities and limitations for individual shoreline reaches. Based on this assessment, along with consideration of anticipated future development, zoning and other regulatory overlays, local jurisdictions may apply the designation criteria provided in WAC 173-26-211 or develop their own tailored designation criteria.

The updated SMP proposes to establish six (6) SEDs: Aquatic; Natural; Resource Conservancy; both Shoreline Residential-Conservancy and Shoreline Residential-Intensive; and Marine Waterfront. The County mostly relies on the designation criteria established by WAC 173-26-211 with some local tailoring to the names and applicability as follows:

- Rural Conservancy is renamed as Resource Conservancy and primarily focused on forest lands;
- Shoreline Residential has two versions for differing density and intensity of residential uses;
- High Intensity is renamed as Marine Waterfront to better reflect local character and existing development patterns.

SMP 2 Shoreline Environment Designations describes the designation criteria, a purpose statement, and a set of management policies for each as follows: SMP 2.3 Aquatic; SMP 2.4 Natural; SMP 2.5 Resource Conservancy; SMP 2.6 Shoreline Residential-Conservancy; SMP 2.7 Shoreline Residential-Intensive; and SMP 2.8 Marine Waterfront.

Consistent with WAC 173-26-211(4)(iv)(A), the County's SMP 2.9 Allowed Use Table 2-1 Residential Development and Table 2-2 Non-Residential Uses identify the different types of shoreline activities that are permitted, conditionally permitted, and prohibited in each shoreline environment.

The mapped designations, illustrated in SMP Exhibit A Shoreline Environment Designations, are based upon and implement the designation criteria provided in SMP Chapter 2.

Finding: Ecology finds that the County SMP defines shoreline jurisdiction consistent with the Act and the record sufficiently documents the basis for assigning shoreline environment designations. The County's shorelines are adequately identified in SMP Section 1.8 Jurisdictional Limits, mapped in the Exhibit A Shoreline Environment Designations maps and, subject to a required change in **Attachment B**, a List of Shoreline Waterbodies will be appended to the SMP. Shoreline designations are adequately identified in SMP Chapter 2 and in the Exhibit A Shoreline Environment Designations maps. Ecology finds, subject to a required change in **Attachment B**, that for each environment designation the SMP includes a purpose statement, designation criteria, management policies, and regulations as required by WAC 173-26-211(4)(a).

General Master Program Provisions (WAC 173-26-221)

The SMP Guidelines in WAC 173-26-221 list general provisions that are intended to apply broadly to all of types of shoreline development regulated by master programs, including the following subsections: (1) Archaeological and Historic Resources; (2) Critical Areas; (3) Flood Hazard Reduction; (4) Public Access; (5) Shoreline Vegetation Conservation; and (6) Water Quality, Stormwater and Nonpoint Pollution.

In addition, WAC 173-26-191 requires SMP contents to address elements including, but not limited to, economic development, public access, conservation, historical, cultural, scientific and educational values, and flood damage. WAC 173-26-201 requires SMPs to ensure ‘at minimum, no net loss of shoreline ecological functions necessary to sustain shoreline natural resources’. The County’s SMP Chapters 5 through 8 include the following general provisions:

5.2 Clearing, Grading and Filling Policies at 5.2.1 and Regulations at 5.2.2 help conserve shoreline vegetation by setting standards that limit vegetation removal and minimize adverse impacts including stormwater pollution. A required change is included in **Attachment B** to ensure consistency with the WAC requirements for fill activities.

5.3 Public Access Policies at 5.3.1 and Regulations at 5.3.2 set standards to ensure the public’s ability to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Select provisions focus on balancing access with ecological protection and property rights, maintaining, improving and expanding existing views and facilities, and providing new access opportunities, as well as encouraging collaboration with State Parks and other public land owners, future preparation of an integrated shoreline access plan, and implementation of the County’s Park & Recreation Plan. A required change is included in **Attachment B** to ensure consistency with the WAC requirements for multifamily residential development activities.

5.4 Water Quality and Water Management Policies at 5.4.1 and Regulations at 5.4.2 set standards to address the physical, chemical, and biological condition of water resources for human use, drinking water and recreation, fish and shellfish. Provisions limit pollution from direct discharge, stormwater, chemical use, erosion, septic systems, industry, and building materials such as treated wood.

5.5 Archaeological, Historical, and Cultural Resources Policies at 5.5.1 and Regulations at 5.5.2 set minimum standards for site inspection at locations with known resources, and for stop work upon inadvertent discovery, and establish additional provisions to protect known sites/resources.

6 Shoreline Buffers and Vegetation Conservation Policies at 6.2 and Regulations at 6.3 General, 6.4 Shoreline Buffer Averaging, 6.5 Shoreline Buffer Clearing, 6.6 Development Allowed in the Buffer, and 6.7 View Protection Common Line Buffer set standards for vegetation conservation to protect people and property from natural hazards and to protect shoreline ecological resources from the impacts of human activities. When multiple shoreline and/or critical area buffers are contiguous or overlapping, the landward-most edge of all such buffers applies. A required change is included in **Attachment B** to ensure the Lake Sutherland reduced buffer allowance is consistent with WAC requirements for mitigation and no net loss of ecological functions.

7 Critical Areas within Shoreline Jurisdiction General Policies at 7.2 and General Regulations at 7.3 set standards for protection of shoreline critical areas, including critical freshwater and critical saltwater habitats; these provisions are separate from the County’s critical areas ordinance (CCC 27.12). Additional regulations for specific critical areas are included as follows:

7.4 – 7.6 Wetlands - Designation, Delineation, Mapping & Classification; Buffers; and Protection Standards. A required change is included in **Attachment B** to ensure

consistency with the most current technical guidance and the WAC requirements for wetland alteration activities.

7.7 – 7.9 Aquatic Habitat Conservation Areas - Designation & Mapping; Buffers; and Protection Standards

7.10 – 7.11 Class I & II Terrestrial Habitat Conservation Areas - Designation & Mapping; and Protection Standards. A required change is included in **Attachment B** to correct an internal reference error.

7.12 – 7.14 Geologically Hazardous Areas - Designation, Classification & Mapping; Buffers; and Protection Standards, for landslide, erosion, and seismic hazards, including feeder bluff, and channel migration areas;

7.15 – 7.16 Frequently Flooded Areas - Designation & Mapping; and Protection Standards

7.17 – 7.18 Critical Aquifer Recharge Areas - Designation, Mapping & Classification; and Protection Standards

These provisions ensure shoreline critical areas are protected to achieve no net loss of ecological functions. The regulations include allowances to adjust the standard buffer width through various mechanisms such as buffer averaging or buffer reduction without a shoreline variance, when site-specific conditions meet certain criteria.

8 Mitigation and No Net Loss Policies at 8.2, General Mitigation Requirement Regulations at 8.3, Compensatory Mitigation Plan Content Regulations at 8.4, and critical area-specific Mitigation Plan Regulations as follows: 8.5 Wetlands; 8.6 Aquatic and Wildlife Habitat Conservation Areas; 8.7 Frequently Flooded Areas; and 8.8 Critical Aquifer Recharge Areas. Collectively these provisions establish requirements for NNL of ecological function, mitigation sequencing, and evaluation of cumulative impacts.

***Finding:** Ecology finds that, subject to required changes in **Attachment B**, the general policies and regulations are consistent with WAC 173-26-221.*

Shoreline Modifications (WAC 173-26-231)

The SMP Guidelines in WAC 173-26-231 define “shoreline modifications” as: “...generally related to construction of physical elements such as a pier, floating structure, shoreline stabilization, dredged basin, or fill...” and WAC 173-26-231(2)(b) establishes a general principle that master programs should: “Reduce the adverse effects of shoreline modifications, and as much as possible, limit shoreline modifications in number and extent.” These shoreline modification principles and standards contained in WAC 173-26-231 are reinforced through associated requirements for mitigation sequencing (WAC 173-26-201(2)(e) and the no net loss of shoreline ecological function standard (WAC 173-26-186) noted above.

Clallam County’s SMP regulates shoreline modifications in SMP Chapter 4 including the policies and regulations of 4.1 Beach Access Structures; 4.2 Boating Facilities and Moorage; 4.3 Dredging and Dredge material Disposal; 4.4 Flood Hazard Management and Flood Control Structures; 4.5 In-stream and In-water Structures; and 4.6 Shoreline Stabilization. The County SMP addresses both boating facilities per WAC 173-26-241(3)(c) and piers and docks per WAC 173-26-231(3)(b) collectively as Chapter 4.2 Boating Facilities and Moorage, including non-residential and those accessory to residential development. A required change is included in **Attachment B** to ensure the non-residential docks/piers/floats standard is consistent with WAC requirements for public access.

Finding: Ecology finds that, subject to required changes in **Attachment B**, the shoreline modification policies and regulations are consistent with WAC 173-26-231.

Shoreline Use Provisions (WAC 173-26-241)

The SMP Guidelines in WAC 173-26-241 are intended to both recognize existing uses and ensure that future development will be appropriately managed consistent with the underlying policies of the SMA. Avoidance of use conflicts through coordinated planning and recognition of “preferred” shoreline uses is a primary tenant of the SMA (RCW 90.58.020). Updates to local SMPs are intended to support these goals through development of appropriate master program provisions, based on the type and scale of future shoreline development anticipated within a particular jurisdiction.

Consistent with WAC 173-26-186(5), the County SMP reflects the principle that the regulation of private property needs to be consistent with all relevant constitutional and other legal limitations. The updated SMP varies the allowed uses within each SED depending on the current level of impairment of shoreline functions. This is based on the inventory and characterization, existing land use patterns, and use preferences. No Net Loss and Mitigation Sequencing requirements are contained in SMP Chapter 8, described above.

Clallam County’s SMP provides context and regulates specific types of shoreline use with the Applicability, Policy, Regulation, and Application Requirement provisions of SMP Chapter 3, including:

- | | |
|---|---------------------|
| 3.1 Agriculture | 3.7 Recreation |
| 3.2 Aquaculture | 3.8 Residential |
| 3.3 Commercial and Industrial Development | 3.9 Restoration |
| 3.4 Forest Practices | 3.10 Signs |
| 3.5 Mining | 3.11 Transportation |
| 3.6 Parking | 3.12 Utilities |

A required change is included in **Attachment B** to ensure the allowance for accessory parking is consistent with WAC requirements for parking that supports shoreline public access.

Preferred uses, other priority uses, and property rights are explicitly addressed by these provisions:

- 3.2.1 Aquaculture Policy #1;
- 3.3.1 Commercial & Industrial Policy #2;
- 3.3.2 Commercial & Industrial Regulation #8;
- 3.7.1 Recreation Policies #1 and 2; and
- 3.7.2 Recreation Regulations #10 and 14

Finding: Ecology finds that, subject to required changes in **Attachment B**, the County has established a system of use regulations consistent with WAC 173-26-241 along with related environment designation provisions that accommodate preferred and priority uses, protect property rights while implementing the policies of the SMA, reduce use conflicts, and assure no net loss of shoreline ecological functions.

Shorelines of Statewide Significance (WAC 173-26-251)

RCW 90.58.020 specifically calls out Shorelines of Statewide Significance (SSWS) for special consideration, declaring that “the interest of all of the people shall be paramount in the management” of these shorelines. The seven (7) shorelines of statewide significance in the County include:

- Pacific Ocean;
- Strait of Juan de Fuca;
- Bogachiel River;
- Calawah River;
- Elwha River;
- Quillayute River; and
- Sol Duc River.

The Shoreline Guidelines in WAC 173-26-251 require that local master programs recognize the specific use preferences identified in the SMA and provide for “*optimum implementation*” of the statutory policy. This is done by providing SMP provisions that implement: (a) statewide interest, (b) preserve resources for future generations and (c) give preference to uses identified in RCW 90.58.020.

The SMP as a whole is consistent with the policies of RCW 90.58.020. Specifically, SMP 9 Shorelines of Statewide Significance including 9.1 Adoption of Policy and the order of preference, 9.2 Designation of SSWS for shorelines in Clallam County, and 9.3 Additional Policies for SSWS to ensure consistency with the Act and WAC 173-26-251, address these special considerations. Additionally, the provisions of SMP 3.2.5 Aquaculture Application Requirements for Cumulative Impact Analysis; 3.4.2 Forest Practices Regulation #2; 3.10.1 Signs Policy #1; and 4.5.1 In-stream & In-water Structures Policy #3 contribute to the optimum implementation of the SSWS statutory policy.

Finding: Ecology finds that the SMP has accurately identified SSWS within the County’s jurisdiction, is consistent with RCW 90.58.020 and WAC 173-26-251, and provides for optimum implementation of the statutory policy.

Cumulative Impact Analysis (WAC 173-26-201(3)(d)(iii))

Addressing no net loss of ecological functions is a critical element in any SMP update. Ecology rules require that “Master programs shall contain policies and regulations that assure at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.”¹ A cumulative impacts analysis (CIA) documents how an SMP update addresses no net loss of ecological functions. The *Final Cumulative Impacts Analysis and No Net Loss Report*, prepared by ESA June 2017, includes review and analysis of current circumstances and shoreline ecological functions, potential impacts, reasonably foreseeable future shoreline uses, effects on shoreline functions, applicable SMP provisions, and development tracking & response. The County created a *Shoreline Checklist & Statement of Exemption Form* as a permit application and review tool for demonstrating project consistency with the SMP policies and regulations (Appendix A to the CIA).

The CIA concludes that based on the current circumstances, reasonably foreseeable future development/use, and potential beneficial effects of established regulatory programs:

¹ WAC 173-26-201(2)(c)

- The regulatory provisions of the SMP will be effective in preventing cumulative impacts on habitat, hydrology and water quality functions, provided they are effectively implemented; and
- The County will achieve no net loss through the adoption and implementation of the SMP.

Finding: Ecology finds that the County's Cumulative Impact Analysis (CIA) provides an adequate examination of anticipated development and potential effects to shoreline ecological functions per WAC 173-26-201(3)(d)(iii).

Shoreline Use Analysis (WAC 173-26-201(3)(d)(ii))

The County analyzed current and future potential land uses and trends to address the SMP Guidelines requirement to project future shoreline development, identify potential use conflicts and ensure preference is given to water oriented uses, particularly preferred uses that are unique to or dependent upon a shoreline location.

WRIA 17 – 19

The Straits ICR and the CIA-NNL Report present related parts of the analysis for approximately 2,700 individual parcels of land that directly adjoin shorelines of the state, including the following findings:

Marine Shores

- Much of the land is vacant or “underdeveloped” and includes both sub-dividable and non-sub dividable parcels likely to be developed in the future.
- Pertinent issues include residential use (particularly in the East End) and shoreline vegetation management.
- Commercial forestry is the second most dominant land use (particularly in the West End) however, forest practices are generally not regulated by the Shoreline Management Act.
- Unincorporated portions of Clallam County marine shorelines have little commercial, industrial, or port use.
- Key management considerations include:
 - New residential development on/near feeder bluffs, landslide hazards, and erosion hazard areas.
 - New residential development on low bank accretion shores.
 - New in-water and overwater structures such as docks, piers, marinas.

Table 2-2. Potentially Developable Lands within SMP Jurisdiction along the Marine Shoreline (excluding WRIA 20)

Planning Region	Total Area Within SMP Jurisdiction (acres)	Potentially Developable Lands (acres)	Percent (%) Developable Lands
East	2,538	760	30%
Middle	866	146	17%
West	971	264	27%

Freshwater Shores

- Future use and development of freshwater shorelines, especially in the west, will put additional pressure on freshwater ecosystems.
- Key management considerations include:
 - Conversion of forest land and removal of existing forest cover along river corridors may degrade habitat, reduce water quality, alter flow patterns, and destabilize river banks.
 - Placement of structures in floodplains, channel migration zones, and landslide hazard areas increases the risk to human health and safety, adversely alters water quality and flows, degrades habitat, and increases the risk of downstream flooding and erosion.
 - There is significant restoration potential for reforestation, placement of large woody debris, barrier removal, and other restoration projects in many watersheds as outlined in detail in the NOPL strategy and individual watershed recovery plans.

Table 2-3. Potentially Developable Lands within SMP Jurisdiction along Freshwater Shorelines (excluding WRIA 20)

Planning Region	Total Area Within SMP Jurisdiction (acres)	Potentially Developable Lands (acres)	Percent (%) Developable Lands
East	3,601	434	12%
Middle	4,049	981	24%
West	6,814	3,073	45%

WRIA 20

For the 735,000 acre WRIA 20, the Pacific ICR and the CIA-NNL Report present related parts of the analysis. Overall, residential development is the dominant shoreline use although the pattern is light and scattered, mostly located along the side of the shoreline closest to major roads, with few bridges and very little bank armoring. The mill on Lake Pleasant is the only industrial facility in SMP jurisdiction. Agricultural use is very limited with just a few small-scale cattle operations located along the shoreline.

Countywide Analysis

The CIA-NNL Report identified twenty-four (24) Analysis Areas with the greatest potential for future development within a 20-year planning horizon: 15 in WRIs 17-19 and 9 in WRIA 20. This subset comprises approximately 37% of the County's total shoreline miles, and includes all areas where future development is anticipated to be most intense. Some key findings include:

Marine Analysis Areas

- Of nearly 1,200 residential parcels, about 74% are occupied, about 26% are vacant or undeveloped, and 88% of the occupied parcels are not sub-dividable.
- Approximately 136 new shoreline lots could be created through subdivision along the Strait of Juan de Fuca, for an 11% increase in the number of residential lots. About 60 new lots (44%) would be located in a 2-mile stretch between Morse Creek and Port Angeles.

Freshwater Analysis Areas – WRIs 17 - 19

- Of nearly 1,025 residential parcels, about 72% are occupied, about 28% are vacant/undeveloped, and 92% of the occupied parcels are not sub-dividable.
- All of the Analysis Areas have some potential for subdivision, for approximately 140 new lots, a 13% increase in residential lots. About 46 new lots (33%) would be located along Morse Creek, with another 22 new lots (16%) along Clallam River.

Freshwater Analysis Areas – WRIA 20

- 62% of the approximate 909 residential parcels are vacant and about 38% are developed.
- Nearly all of the Analysis Areas have potential for subdivision, although it is generally limited by the wide extent of mapped floodplains associated with WRIA 20 Rivers.

Table 5-1. Shoreline Analysis Areas and Proposed Shoreline Environment Designations (SEDs) with High Potential for New Development – WRIAs 17, 18, and 19	
Marine Analysis Areas (Proposed SED)	River and Lake Analysis Areas (Proposed SED)
Discovery Bay bluffs (SR-C) Diamond Point (SR-I) Travis Spit (SR-C) Sequim Bay (primarily SR-C) 3 Crabs (primarily SR-I) Dungeness Harbor (primarily SR-C) Dungeness Bluffs (primarily SR-C) Morse Creek to Port Angeles (SR-C) East Angeles Point (primarily SR-C; some Natural) Freshwater Bay (SR-C and SR-I) Whiskey Creek beach (SR-C; some Marine Waterfront) Lyre River vicinity (SR-C; some RC) Clallam Bay (Marine Waterfront, SR-I, SR-C, some Natural)	Clallam River (SR-C) Dungeness River (SR-C, some Natural) Elwha Tributaries (SR-C) Lake Sutherland (SR-I) Lyre River (SR-C, some SR-I) McDonald Creek (SR-C) Morse Creek (SR-I, SR-C, and Natural) Pysht River (SR-C) Salt Creek (SR-C)
Hoko River vicinity (SR-C, SR-I, some Natural) Bullman Beach (SR-I)	
N = Natural ; RC = Resource Conservancy; SR-C = Shoreline Residential - Conservancy; SR-I = Shoreline Residential- Intensive; MW = Marine Waterfront;	

The majority of shorelines outside of these Analysis Areas have relatively low potential for new residential, commercial and/or industrial development due to remote location, lack of public infrastructure, zoning for active timber management, or other limitations.

Finding: Ecology finds that the County has adequately considered current patterns, projected trends, SMA preferred uses and the potential for use conflicts consistent with WAC 173-26-201 (2)(d) and WAC 173-26-201 (3)(d)(ii).

Restoration Plan (WAC 173-26-201(c) and (f))

Local governments are directed to identify restoration opportunities as part of the SMP update process and to include policies that promote restoration of impaired shoreline ecological functions (WAC 173-26-201 (2)(c) and (f)). It is intended that local government, through the master program, along with other regulatory and non-regulatory programs, contribute to restoration by planning for and fostering such actions. These are anticipated to occur through a combination of public and private programs and actions.

The restoration planning component of the SMP is focused on voluntary mechanisms, not regulatory provisions. Clallam County prepared a *Countywide Shoreline Restoration Plan* (ESA, Draft August

2013; Final February 2016), based on information gathered in both Inventory & Characterization Reports which identified programmatic and site specific restoration opportunities organized by WRIA and river systems. The County's restoration planning is focused on restoration goals and objectives, existing plans, opportunities to improve impaired/degraded shoreline ecological functions, and implementation strategies such as funding, technical assistance, voluntary actions, environmental indicators/benchmarks, timelines, priorities, and potential partners.

The Plan addresses restoration in relation to protection, mitigation, and no net loss. Tables 3-1 through 3-7 identify specific actions by region, basin, river system, and reach based on the type of impairment/degradation, development potential, other restoration efforts completed, potential projects and opportunities for ecosystem/shoreline function improvement. Chapter 4 recognizes key challenges for implementation, identifies voluntary actions for private property owners, and sets targets for accomplishments at 2, 5, and 7 years after adoption.

The County's SMP 3.9 Restoration includes policies and regulations that establish the Restoration Plan goals and promote integrated and cooperative restoration efforts. The SMP 2.9 Allowed Uses in Each Shoreline Environment Designation Table 2-2 allows restoration and enhancement as a permitted use in all shoreline designations, and some specific types of projects are exempted from the permit process at SMP 10.2.5 Exemptions from Shoreline Substantial Development Permit.

Finding: Ecology finds that the Restoration Plan is based on appropriate technical information available during the SMP update and meets the requirements of WAC 173-26-201(2)(c) and (f).

Consistency Review

Consistency with the Shoreline Management Act (RCW 90.58): The proposed amendments have been reviewed for consistency with the policy and procedural requirements of RCW 90.58.020 and the approval criteria of RCW 90.58.090.

Consistency with applicable guidelines (WAC 173-26): The proposed amendments have been reviewed for compliance with the requirements of the applicable Shoreline Master Program guidelines (WAC 173-26-171 through 251 and -020 definitions). This included review of a SMP Submittal Checklist, which was completed by the County.

Consistency with SEPA Requirements: The County submitted evidence of compliance with RCW 43.21C, the State Environmental Policy Act (SEPA) in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendment on May 17, 2017. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update

Ecology reviewed the following documents prepared by the County in support of the SMP amendment:

- *March 2011 Public Participation Strategy,*
- *July 2011 Consistency Review,*
- *May 2012 WRIA 20 Inventory and Characterization Report*
- *March 2012 Final Shoreline Inventory and Characterization Report for Portions of Clallam County Draining to the Strait of Juan de Fuca,*
- *February 2016 Countywide Shoreline Restoration Plan,*

- *June 2017 Cumulative Impacts Analysis and No Net Loss Report.*
- *October 2018 SMP Submittal Checklist*
- *October 2020 Clallam County 2020 Shoreline Master Program Update – Review of Lake Sutherland Proposed Buffer Technical Memorandum*

Department of Ecology review process

The proposed SMP comprehensive update was received by Ecology for state review on November 8, 2018. Ecology is required to determine if SMP submittals are complete and in compliance with Washington Administrative Code (WAC) 173-26-100 and 110.

Pursuant to WAC 173-26-100 and -110, Clallam County has satisfied the submittal requirements for a comprehensive SMP update as indicated below:

- A signed Resolution was provided to Ecology that indicated the County's approval of the proposed SMP with the adoption of Resolution 91-2018 on October 30, 2018 (WAC 173-26-110(1) & WAC 173-26-100(7));
- This comprehensive SMP update is intended to entirely replace the County's existing SMP (WAC 173-26-110(2));
- Updated shoreline environment designation maps were submitted to Ecology (WAC 173-26-110(3));
- Materials summarizing the update process were provided to Ecology (WAC 173-26-110(4));
- Evidence of compliance with the State Environmental Policy Act (SEPA) was provided to Ecology including a Determination of Nonsignificance issued by the County on October 16, 2017, along with a completed Environmental Checklist (WAC 173-26-110(5) & WAC 173-26-100(6));
- Evidence of compliance with the public notice and consultation requirements of WAC 173-26-100 was provided to Ecology (WAC 173-26-110(6));
- The County provided numerous opportunities for public and Ecology review and comment throughout the SMP update effort between 2010 and 2018. Notice of public hearings before the Planning Commission and Board of County Commissioners were duly advertised in the *Peninsula Daily News* newspaper and the hearings held on February 4, 12 & 18, 2015, and December 12, 2017. (WAC 173-26-110(7) & WAC 173-26-100(1-3));
- The County provided evidence that the public notice clearly stated the Shoreline Master Program update was required in compliance with RCW 90.58 and WAC 173-26;
- The County solicited comments on the draft SMP from Ecology as part of the 2015-2017 local process (WAC 173-26-110(5));
- A copy of the completed SMP submittal checklist was provided to Ecology (WAC 173-26-110(8));
- Copies of the County's shoreline inventory and characterization report, shoreline restoration plan, and cumulative impacts analysis were submitted to Ecology (WAC 173-26-110(9)).

Ecology provided the County with a letter verifying the submittal was complete on December 4, 2018.

Ecology Public Comment Period

Ecology held a public comment period from January 14 to February 28, 2019, at 5 p.m. Interested parties were notified using mail and email. Notice of the state comment period was distributed to state

task force members and interested parties identified by the County on December 28, 2018 in compliance with the requirements of WAC 173-26-120. Four (4) tribal governments were individually and specifically notified and invited to comment: the Makah, Quileute, Lower Elwha Klallam, and Jamestown S’Klallam. This notice identified that the SMP amendment is intended to satisfy the state statutory requirements of RCW 90.58.080 to comprehensively update the County’s SMP. Notice of the comment period, including a description of the proposed SMP and the authority under which the action is proposed along with the manner in which interested persons may obtain copies and present their views, was also provided on Ecology’s website². All interested parties were invited to provide comment on the proposed update during this public comment period. No public hearing was held during the state comment period. Thirteen (13) comment letters were received from individuals, industry, tribal governments, state and federal agencies, and non-governmental organizations.

Consistent with WAC 173-26-120 Ecology provided a comment summary to the County on April 10, 2019. This comment summary matrix organizes the thirteen comment letters into 132 individual comments listed by topic based on the pertinent SMP chapter/section in numerical order. On June 4, 2019 the County submitted its responses to the issues raised during the state comment period.

Ecology review timeline

Comprehensively updated County SMPs are generally very complex and address multiple uses and activities. For a variety of reasons, Clallam County’s local SMP adoption was delayed past the original due date. The County’s final adoption coincided with the receipt of documents related to numerous efforts by other local governments operating under SMP periodic review grant deadlines. This left Ecology with limited staff capacity to complete the final steps in the approval process in a timely manner. Ecology’s decision was further delayed in order to explore options with the County in an effort to reach resolution on proposed changes. Ecology collaborated with the county to reach mutual understanding about legally defensible alternatives to locally adopted provisions that Ecology could incorporate into final required and recommended changes.

The timeline below outlines the progress and challenges during the state review process.

Between June and December 2019, Ecology completed initial review of the locally adopted SMP and drafted preliminary required and recommended changes. In January 2020 Ecology staff requested and attended a meeting with Washington Department of Fish and Wildlife (WDFW) to discuss issues around riparian buffers, specifically on Lake Sutherland. This meeting was intended to improve Ecology’s understanding and provide WDFW an opportunity to clarify the concerns outlined in their comment letter. This resulted in an additional comment letter submitted to Ecology on April 17, 2020.

Ecology believes in its partnership with local government and as part of this, is committed to avoiding surprises when proposing changes to locally adopted SMPs. In this spirit, initial changes were compiled into discussion drafts of required and recommended changes and sent to the County for their review on April 20, 2020. County and Ecology staff met to discuss these changes on June 18, 2020. Discussions identified specific issues that County and Ecology staff understood would take some time to resolve. These issues included the addition of Ocean Resources Management Act (ORMA) regulations and inclusion of companion state Marine Spatial Plan (MSP) provisions, addressing

² <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Status-of-local-Shoreline-Master-Programs-SMP/Clallam-County>

WDFW concerns with the shoreline buffers on Lake Sutherland, and the need for the County to compile a full updated list of shoreline waterbodies for inclusion in the SMP. Subsequent coordination meetings occurred with County staff July – October 2020.

These continued discussions resulted in agreed upon ORMA and MSP provisions as addressed in Attachment B items #2, 4, 17-20 and Attachment C item #4. The County also agreed to compile a list of shoreline waterbodies to be included as part of the SMP, see Attachment B item #27.

On October 26, 2020 Ecology received a technical memorandum³ from the County prepared by ESA intended to address and propose resolution to Lake Sutherland buffer standard issue identified by WDFW. Receipt of this memo was followed by further coordination with WDFW and the County through December 2020, which resulted in agreed upon required changes found in Attachment B Item #8.

One additional Ecology review consideration was related to the County's requirement to complete their SMP Periodic Review per RCW 90.58.080(4). Ecology was under the initial understanding that the County intended to combine this effort with the already locally adopted comprehensively updated SMP during the County's review and acceptance of this Conditional Approval action. However, the County decided they would prefer to complete the comprehensive update through this conditional approval process prior to embarking on the local public engagement and action process steps necessary to complete the SMP periodic review. Ecology completed our review and consistency determination based upon all current statutory and rule requirements, which includes all those listed on the periodic review checklist updated through June 2020. We anticipate that the County may finalize their SMP periodic review with a "finding of adequacy" determination later this year.

Summary of Issues Raised During the Ecology Public Comment Period

The Responsiveness Summary (**Attachment D**) includes a summary of the comments received and Clallam County's responses to SMP topics raised in the comments pursuant to WAC 173-26-120(6). Ecology considered these comments during the state review process. Additional Ecology review considerations are reflected in this section, the discussion and rationale of Attachments B and C and in the section below titled "Summary of Issues Relevant to Ecology's Decision."

Many of the commenters provided supportive statements and acknowledged that the proposed SMP represents a significant improvement over the existing SMP. A general list of topics and concerns raised during the state comment period includes: Aquaculture; Archaeological, Cultural, and Historic Resources; Clearing, Grading & Filling; Climate Change; Critical Areas (aquifers, fish & wildlife habitat, frequently flooded areas, geological hazards, and wetlands); Flood Hazard Management; Hydroelectric Dams; Mining; Mitigation; No Net Loss; Public Access; Shoreline Buffers & Vegetation Conservation; Shoreline Environment Designations & Mapping; Shoreline Stabilization; Tribal Treaty Rights; Water Quality; and the SMP Technical Supporting Documents: Inventory & Characterization Report; Restoration Plan; and Cumulative Impacts Analysis & NNL Report.

Additional discussion is provided below on a subset of topics raised during the state comment period:

³ *Clallam County 2020 Shoreline Master Program Update – Review of Lake Sutherland Proposed Buffer Technical Memorandum* dated October 23, 2021.

CRITICAL AREAS:

Commenters express concerns with the County's geologically hazardous area provisions asserting that the current provisions are not adequate for protecting people, property and ecological functions adjacent to steep slopes, landslide hazard areas, and channel migration zones (CMZ). Comments suggest the County's provisions on riparian buffers should be updated consistent with the recent information published by Washington Department of Fish and Wildlife (WDFW) on management recommendations for riparian ecosystems⁴. The comments recommend 137-foot riparian buffers based on the 200-year Site Potential Tree Height (SPTH), a minimum 200-foot buffer for all water bodies designated as critical habitat for ESA listed species, and a minimum 150-foot buffer for all other streams. Commenters further recommended that the buffer be measured from the edge of the channel, channel migration zone or active floodplain, whichever is wider.

No changes to the SMP are proposed by the County or Ecology. Ecology finds the County considered these comments and adequately responded with applicable SMP provisions. Ecology review shows the SMP 6.3 General Regulations for Shoreline Buffer and Vegetation, including Table 6-1 standard buffer widths and Table 6-2 critical area buffers, 6.4 buffer averaging, and 6.7 common line buffer, are largely consistent with the current science & technical information. Ecology has identified a required revision to Lake Sutherland Buffer to ensure adequate mitigation when locating closer than the standard buffer and to ensure NNL. See Attachment B Item #8. Consistent with the regulations noted above, Ecology finds that the County provides a 150-foot or greater buffer for the majority of the County's shorelines. A buffer of 100 to 125 feet is available for single-family residential and low intensity uses classified as minor new development within the Shoreline Residential-Conservancy SED. With the exception of approximately 4% of the County's shorelines that are designated Shoreline Residential-Intensive and Marine Waterfront, which allow for buffers between 50 and 100 feet. Ecology review shows the SMP 6.3 Table 6-1 shoreline buffers, Table 6-2 critical area buffers, and related buffer and vegetation conservation provisions reflect current science & technical information and local conditions providing appropriate, locally-tailored provisions to protect both people & property and shoreline ecological functions along freshwater shorelines.

Ecology also notes, the County opted to extend shoreline jurisdiction to the full extent of the 100-year floodplain, however, it's possible a CMZ could extend beyond that and the SMP cannot regulate outside of jurisdiction. Ecology finds the Clallam County SMP⁵ relies on the effective FEMA maps to identify the extent of the 100-year floodplain and the floodway. At such time as these maps change, there may be a need to revise the SMP mapping.

SMP 7.14 Regulations for Geological Hazard Protection Standards identify current mapping and establish a locally-tailored three-tiered approach to determining if a proposed use/development will be located in a CMZ, relying on site-specific assessment and delineation to determine any needed buffer rather than an overall prescriptive approach. Additionally, Ecology finds that the SMP established standard marine bluff buffer widths of 150-feet (exceptional feeder bluffs), 100-feet (other feeder bluffs), and 50-feet (non-feeder bluffs). Buffers may be required to be larger based on site specific conditions, findings and recommendations of a geotechnical report (see SMP Sections 7.13.7 and

⁴ These referenced documents include two volumes focused on riparian ecosystems science and management. Volume 1 synthesizes the science and management implications, and Volume 2 provides Management Recommendations.

⁵ The SMP utilizes the FEMA maps for determining floodplain and floodway areas and applicable protection standards under SMP Sections 7.15 and 7.16.

7.14.7). Ecology finds the County's geologically hazardous areas standards are consistent with WAC 173-26-231 (3)(c)).

CLIMATE CHANGE

A number of comments focus on the issue of climate change including related concerns around riparian buffers, geological hazards, and sea level rise and wildfire risks. Commenters express concern about existing environmental degradation and the potential for climate change to compound or amplify the impacts of shoreline uses and developments. Commenters request the County address the risks to the environment, property and human health and safety, by adding policy language, to provide more meaningful consideration of climate change. The comments suggest that this could include increased buffers and setbacks or through technical report requirements.

No additional changes were proposed by the County or Ecology. Ecology finds the County has considered the comments related to climate change, sea level rise and wildfire risk and has chosen not to include additional policies and regulations at this time. The County found that "considering standards to utilize sea level rise projections for regulating location and type of building location in addition to FEMA floodplain maps will require a comprehensive approach and public process that is beyond the scope of the current SMP update effort⁶." The County's further response indicates the County intends to continue its involvement in climate change discussions.

Ecology finds that the SMP does include the following direct and indirect policies and regulations related to climate change:

- SMP Goals 1.5 set forth goals to inform and increase public awareness of sea level rise projections.
- SMP Update Vision (Section 1.4);
- SED Policies [Sections 2.5.3(h), 2.6.3(h), 2.7.3(f), 2.8.3.(g)];
- Residential Regulation 3.8.2.7;
- Restoration Policy 3.9.1.6;
- Transportation Policy 3.11.1.8;
- Shoreline Stabilization Regulation 4.6.2.14 projects take into account sea level rise and storm surge;
- Shoreline Buffer Policies 6.2.1 & 6.2.4; and
- Critical Area Policy 7.2.2(f).

Ecology agrees climate change and related effects are important topics. The agency is actively engaged at the statewide level in work being done on climate change and sea level rise. The Shoreline Management Act (SMA) and the Shoreline Master Program (SMP) Guidelines contain no requirements for SMPs to address climate change or sea level rise. However, they require local jurisdictions to take into account scientific and technical information pertinent to shoreline management issues. The Guidelines require local governments use "the most current, accurate and complete scientific and technical information available" [WAC 173-26-201(2)(a)]. The Guidelines also encourage local governments to consult Ecology's guidance for applicable new information on emerging topics such as sea level rise [WAC 173-26-090(1)].⁷

Ecology finds addressing these topics within the community, and more specifically in a local SMP, is currently left to the discretion of each city and county. Nonetheless, Ecology is seeing increased

⁶ See Attachment D, item# 59 Clallam County Response and Rationale.

⁷ See SMP Handbook Appendix A <https://apps.ecology.wa.gov/publications/parts/1106010part19.pdf>

interest in discussing these issues. Some communities have chosen to address these issues through other regulatory mechanisms including their zoning code. In most cases, the addition of sea level rise policies and regulations to a master program are a result of a community-wide effort, considering the entire geography of the place, and not limited to the comparatively narrow shoreline jurisdictional area. This comprehensive approach has led to more fully integrated responses to these risks within and outside of shoreline jurisdiction in those communities. Ecology supports local communities' comprehensive planning for climate change adaptation recognizing that the SMP is not the only and may not be the best regulatory tool for such.

TRIBAL TREATY RIGHTS

Comments received from the Jamestown S'Klallam Tribe, Quileute Indian Tribe, and the Makah Tribal Council, express concerns related to the SMP impacting treaty-reserved resources and the habitats they depend on, with regard to buffers, no net loss, and mitigation. Other comments were focused on the potential for the SMP to impact Tribal culture, and treaty-reserved rights to fish, hunt, and gather in the County and adjacent waters for tribal economic, subsistence and cultural purposes.

The County proposed no changes at this time, but adds that a number of the Quileute Tribes recommendations were incorporated into the SMP during the local adoption process. In its response, the County expresses its appreciation for the Tribal interests and rights. Ecology review identified Policy 3.2.1(6) and Regulation 3.2.2 both considering treaty fisheries resources and requiring necessary mitigation for impacts to navigation, water quality, sediment quality, benthic & pelagic organisms, wild fish populations, critical saltwater & freshwater habitat, Treaty fisheries resources, water-dependent uses and normal public use of surface waters. Ecology also finds SMP Section 1.7 correctly identifies that this SMP does not apply to: lands held in trust by the U.S. for Indian Nations, Tribes, or individuals; and the exercise of treaty rights per RCW 90.58.350.

AQUACULTURE

Comments related to aquaculture were received from Friends of the Earth, Cooke Aquaculture, Taylor Shellfish, Futurewise et. al., the Quileute Tribe, the Makah Tribe, and one individual. The majority of comments were supportive of the prohibition of commercial net pen operations for non-native finfish. Some comments request retention of, or expansion of, the County's proposed prohibition on non-native finfish (including net pen) aquaculture. Cooke Aquaculture voiced opposition to this same prohibition. Taylor Shellfish requested text edits to two regulations found within Section 3.2.2.

The County response includes reference to the fact that the SMP supports and allows for marine aquaculture consistent with the policies, regulations, application, and permitting requirements applicable to the type and location of aquaculture use. In-water, marine aquaculture is supported as a permitted or conditional use in the Aquatic SED. Only in-water, non-native finfish (including net pens) is prohibited. (SMP Table 2-2 and Section 3.2). The County also acknowledges that if state laws change in regards to authorization of non-native marine finfish aquaculture in Washington State waters, the County would need to review its SMP, at that time.

Ecology review shows the aquaculture allowances are consistent with WAC 173-26-241(3)(b) and other state requirements to recognize this preferred, water-dependent use of statewide interest when appropriately sited, and with the WA Legislature's and Governor Inslee's HB2957 that phases out Atlantic salmon net pens by 2022 and prohibits new commercial aquaculture operations from raising non-native finfish in state waters.

The County supported the text edits proposed by Taylor Shellfish in its formal response to comments (Attachment D). Ecology consulted with the County and incorporated the County's proposed edits in response to the comments into Ecology's recommended changes (Attachment C Items #14&15).

NO NET LOSS:

In addition to the issues included in the above Critical Areas, Climate Change, and Aquaculture sections, commenters expressed the following concerns that buffer widths do not achieve site potential tree height (SPTH) and no net loss (NNL); all uses and developments inside and outside the established buffers shall require compensatory mitigation; and the NNL standard is not sufficient to protect species and improve degraded existing conditions. Additional comments raised questions about how voluntary restoration efforts may be used to offset unmitigated development impacts and about the effectiveness of the County's SMP implementation.

The County response correctly points to the SMP framework as its means to achieve planning level no net loss, stating in part:

The SMP in all its parts from SEDs, policies, and regulations (e.g., use regulations, buffers, etc...), mitigation and NNL requirements, and permitting provisions combined with supporting documents (e.g., shoreline inventory and characterization report, shoreline restoration plan) is designed to help achieve NNL of shoreline ecological functions over- time as new shoreline uses and development occur. (Attachment D Item #20).

The SMA requirement to use the most current, accurate science and technical info does not mean there is any single correct source. The range of information must be considered within the context of the local conditions. Ecology finds that the County considered the most current, accurate science and technical information. Our SMP Handbook Chapter 11 Vegetation Conservation, Buffers & Setbacks includes a Buffer Science Summary graphic at Figure 11-6 that shows scientific sources recommend a range of buffer distances from 15-feet to over 400-feet for specific parameters of shoreline functions and processes. This guidance also notes that "Scientific studies typically include observations of undisturbed areas" and discusses the importance of considering the range of buffer widths in the context of local shoreline conditions and the potential risk of anticipated future development and impacts. We agree that uniform buffer widths are not practical across the landscape, given the range of conditions and need to accommodate preferred uses. The SMP appears to effectively rely on the ICR to establish Shoreline Environment Designations (SEDs) that determine allowed uses (Tables 2-1 and 2-2) and establish shoreline buffer widths (Table 6-1).

These riparian buffer provisions were locally adopted after extensive public review and comment, supported by technical reviews and the Shoreline Inventory and Characterization Report. WDFW provides its recommendation through the lens of its agency mandate. For the purpose of utilizing published WDFW Riparian Management Recommendations within SMPs, local governments must weigh many considerations in balancing the policy of the SMA. To that end, the County's SMP includes appropriate use allowances and restrictions, stream buffers, vegetation management standards, and the requirement for projects to demonstrate mitigation sequencing. As a package, the SMP provides for ecological protection and requires appropriate mitigation to achieve no net loss of shoreline ecological functions, while prioritizing water-oriented uses and increasing public access in the public interest.

Ecology finds the SMP to be consistent with the requirements of the SMP Guidelines in ensuring protection of shoreline ecological resources and ensuring no net loss of ecological functions while also fostering appropriate water-oriented uses and protecting private property rights⁸. Ecology finds that the County's approach to protecting riparian buffers achieves no net loss of shoreline ecological function consistent with the SMA and Guidelines. Ecology review shows the SMP, including Chapter 6 shoreline buffers, Chapter 7 critical area buffers, and Chapter 8 Mitigation & NNL provisions, is consistent with state requirements, given the required changes to SMP 6.3 and 7.6 presented in Attachment B.

The County contends that the SMP requires mitigation sequencing be applied to new uses and development to ensure NNL and that the implementation of the Restoration Plan for voluntary restoration is a separate action that should result in ecological benefit or lift. Ecology finds that voluntary restoration efforts are not relied upon to mitigate for the impacts of new uses or development. Ecology review shows the CIA-NNL Report provides an adequate examination of anticipated development and potential effects to shoreline ecological functions consistent with WAC 173-26-201(3)(d)(iii).

Ecology finds additional regulatory language is unnecessary for ensuring avoidance and minimization. This is more properly addressed during County implementation of the SMP, ensuring applicants clearly document how impacts will be avoided and minimized, identifying appropriate permit conditions, and following through to ensure the proposed project is built consistent with the issued permits. State agencies, including Ecology and the Department of Commerce, are working with local governments to identify how to assess effectiveness in the project review and permitting process, as well as in the on-the-ground results, including mitigation monitoring. To that end, the County has a shoreline monitoring and adaptive management program that includes a mechanism for documenting all project actions necessary for a permit feedback loop and evaluation as part of a monitoring and adaptive management program⁹. Ecology finds that the County's effectiveness monitoring efforts are consistent with the requirements of WAC 173-26-191(2)(iii)(D).

CONCLUSION

Ecology appreciates the level of interest and effort put forth by all commenters in this SMP update. As noted in Attachment D and confirmed by the SMP record, the County considered comments throughout the local adoption process and in some cases made modifications to earlier drafts of the SMP to address issues identified.

Ecology has reviewed the comments received along with the County's responses. Ecology finds the County's responses are consistent with the statutory and rule obligations. Ecology finds the County considered whether to incorporate any amendments to address issues raised during the comment period. Issues raised during the state comment period resulted in one required change (Attachment B Item #8) and eight recommended changes (Attachment C Items #14, 15, 24, 26 & 35-38).

⁸ The SMP Guidelines require the SMP to address environmental protection, accommodate preferred shoreline uses, and "protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest" (RCW 90.59.020).

⁹ As explained within the CIA and noted elsewhere in this document, the County created a Shoreline Checklist & Statement of Exemption Form for use as a permit application and review tool for demonstrating project consistency with the SMP policies and regulations (Appendix A to the CIA).

The County determined, and Ecology concurs, that no additional amendments are warranted at this time based upon the significance of this information and the existing SMP provisions¹⁰.

Summary of Issues Identified by Ecology as Relevant to Its Decision

Ecology respects the County process and recognizes that development of an SMP, and implementation of the SMA is a cooperative program with our local government partners. During the course of the Clallam County effort, Ecology acted in a supportive and review capacity by providing grant funds, attending numerous meetings during development of technical documents and draft policies and regulations, and providing technical assistance throughout, including comments on numerous drafts of the SMP. The County locally adopted their comprehensively updated SMP by Resolution 91-2018 on October 30, 2018, Ecology's final review and approval process included consideration of recent statutory and rule changes (Periodic Review checklist items) as well as requirements for consistency with the state's Marine Spatial Plan (MSP), adopted in 2018.

Ecology is required to review all SMPs to ensure consistency with the SMA and implementing rules including WAC 173-26, State Master Program Approval/Amendment Procedures and Master Program Guidelines.¹¹ WAC 173-26-186(11) specifies that Ecology "shall insure that the state's interest in shorelines is protected, including compliance with the policy and provisions of RCW 90.58.020."

Based on review of the locally adopted SMP for consistency with applicable SMP Guidelines requirements and the SMA, and consideration of supporting materials in the record submitted by the County, the following topics remain relevant to Ecology's final decision on the comprehensive update to the Clallam County SMP:

- Administrative Interpretations – ensure local process includes required consultation with Ecology;
- Clearing, Grading & Filling – ensure regulations are consistent with requirements for the location, design & construction of fill activities;
- Critical Areas – ensure allowed wetland activities are appropriately limited and adequately mitigated to ensure 'no net loss'; ensure internal consistency for terrestrial habitat conservation area terms & provisions;
- Definitions – ensure consistency with terms established by statute & WAC, and internal consistency with terms as used in the SMP;
- List of Jurisdictional Waterbodies – ensure a list is included consistent with WAC requirements.
- Ocean Management – include provisions to adequately manage ocean uses as required by statute and adopted plans;
- Parking – clarify the distinction between parking as a primary use and parking accessory to public access;
- Permit Revisions – ensure limitations are consistent with WAC requirements;
- Preferred & Other Priority Uses – clarify the distinction between preferred water-oriented uses and other priority uses such as residential;

¹⁰ WAC 173-26-090(3)(b)(iii)

¹¹ RCW 90.58.050

- Public Access – ensure multi-family residential use and non-residential dock & pier standards are consistent with public access requirements;
- Shoreline Buffers – ensure buffer reduction allowances are appropriately limited and adequately mitigated to ensure ‘no net loss’;
- Shoreline Environment Designations – clarify the intersect between Aquatic SED and management of ocean uses;

The specific issues, proposed changes, and Ecology’s rationale are detailed with 27 items identified in **Attachment B** and some of the key issues are briefly described below:

CRITICAL AREA REGULATIONS

As required by the Growth Management Act (RCW 36.70A.480(3)(d)), upon Ecology approval of an updated shoreline master program, “critical areas within shorelines of the state are protected under chapter 90.58 RCW and are not subject to the procedural and substantive requirements of this chapter...”.¹² This requirement means critical area reviews for activities in shoreline jurisdiction occur within the context of the SMP permitting procedures. The SMP addresses critical areas in Chapter 7. Ecology has identified needed changes to the provisions for Wetlands and for Class I & II Terrestrial Habitat Conservation Areas to ensure the SMP and associated critical area provisions are implemented consistent with the requirements of the Act. These changes remove conflicting language and add clarifying provisions. (**Attachment B**, Items 9 & 10):

- 7.6 Wetland Protection Standards – For consistency with WAC 173-26-221(2)(c)(i)(A) and the most current scientific & technical information, provisions allowing impacts to wetlands based on category must be deleted. Replacement provisions are proposed to identify regulated activities, ensure all wetlands in shoreline jurisdiction are protected and mitigation sequencing requirements are met.
- 7.10 Class I & II Terrestrial Habitat Conservation Areas – For internal consistency with the construct and definitions of the SMP, the inclusion of critical saltwater habitat must be deleted as a type of terrestrial habitat.

OCEAN MANAGEMENT

As required by the SMP Guidelines at WAC 173-26-360, local SMPs for affected coastal communities must include ocean uses policies, regulations, and approval criteria consistent with the Ocean Resources Management Act (‘ORMA’; RCW 43.143). And as separate but related, the Marine Waters Planning & Management law (RCW 43.372) requires SMPs to be consistent with the state’s Marine Spatial Plan (MSP), adopted in 2018. While the County’s locally-adopted SMP included some placeholder provisions regarding ORMA and the MSP at 1.4 SMP Update Vision and 2.3 Aquatic SED Management Policy #3.i, the SMP needs a more robust and complete approach to meeting the ORMA and MSP requirements for consistency with statute and rule. Ecology has identified needed changes to the provisions at SMP 1.4 and 2.3, and provides recently prepared draft ORMA & MSP checklist and guidance materials intended to aid local governments, and extensive example language, including definitions. (**Attachment B**, Items 2, 4, 17-20 and Exhibit 1)

Because ORMA was enacted in 1989 the County must meet those requirements as part of the SMP comprehensive update, however the MSP was adopted almost concurrently with the

¹² See also RCW 90.58.610

County's SMP local approval so those requirements would need to be met, at minimum, as part of the required SMP periodic review. While the County is opting to first complete its comprehensive update prior to conducting a separate, subsequent periodic review, consultation with County staff guides our proposed approach to add both ORMA and MSP provisions now as part of the comprehensive update. The intent is that this approach should leave no further ORMA/MSP changes needed at the periodic review phase.

SHORELINE BUFFERS

The SMP Guidelines require local SMPs to protect and ensure no net loss of shoreline ecological functions (WAC 173-26-186(8)(b) and -201(2)(c)), to provide regulations that are of sufficient scope and detail to implement the SMA and SMP policies (WAC 173-26-191(2)(a)(ii)(A)), and establish a system of shoreline environment designations based on current conditions and other factors (WAC 173-26- 211).

SMP Chapter 6 establishes general shoreline buffer and vegetation conservation policies and regulations based on the type of development (minor or major), size of the lot, and the shoreline environment designation (SED), including minimum standards for retaining or enhancing buffer vegetation. The overall strategy reflects the findings of the Inventory & Characterization, meets the WAC requirements, and allows minor buffer reduction in limited situations based on site-specific criteria. Table 6-1 identifies standard shoreline buffers widths ranging from 50-feet to 175-feet, SMP 6.4 allows a reduced width by buffer averaging not to exceed 25% reduction, and SMP 6.7 allows a reduced width by the common line buffer approach for single family residential view protection.

SMP 6.3 Regulation #6 establishes a reduced 35-foot buffer for residential structures at Lake Sutherland and Table 6-1 notes a reduced 35-foot buffer width for all new use & development at Lake Sutherland regardless of lot size or SED; no additional mitigation requirements are described for this buffer width reduction to offset the impacts of locating development within the standard shoreline buffer. As proposed, these provisions are internally inconsistent as to which structures and locations are eligible, and the allowed buffer reduction without additional mitigation is inconsistent with the no net loss standard. Concerns expressed by WDFW noted the importance of ensuring adequate protection for in-water and riparian habitat that supports anadromous fish species, anticipated to soon have greater access to the lake upon the pending removal/replacement of a barrier culvert at the downstream outflow of the lake.

As part of our review & consideration of this issue, Ecology met with WDFW staff in January 2020 to better understand their concerns and to share information on SMA and WAC requirements. In April 2020 WDFW staff provided some follow-up clarifications & technical details to assist our review. In November 2020 Ecology shared a draft of the proposed revisions with WDFW and followed-up with email and virtual check-ins as we collaborated with the County to refine the draft language.

Ecology has identified needed changes to the provisions at SMP 6.3 and Table 6-1 to ensure consistency with WAC 173-26, to clarify the limitations and criteria for a reduced buffer width at Lake Sutherland, and for internal consistency. (**Attachment B, Item #8**)

ADDITIONAL RECOMMENDED CHANGES

In addition to the required changes noted above, we have also identified a number of recommended changes intended to improve document clarity and aid implementation. A general list of the variety of minor issues addressed includes: minimize duplicative text; correction of typos/clerical errors; clarifications for accuracy & internal consistency; accurate phrasing to reflect the final status of an adopted SMP; use of the SMA phrase for current science and technical information rather than the GMA term for best available science; clarification of language regarding ORMA and the MSP; accurate use of the separate terms for various water-oriented use and development; clarification of activities not required for local review & permits or excepted from SMA authority; accurate description of the three periodic review categories; clarification of SED criteria for improved WAC consistency; added language to provide better context for allowing experimental aquaculture; correction/clarification for the definitions and use of separate but related terms 'appurtenant' and 'accessory'; clarification of permit tracking and compliance monitoring; added language that recognizes/defers to definitions established by statute and rule.

These recommended changes were prepared in collaboration with County staff, and are further described as 39 items identified within **Attachment C**.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the County's comprehensive SMP update proposal, subject to and including Ecology's required changes (itemized in **Attachment B**), is consistent with the policy and standards of RCW 90.58.020, RCW 90.58.090, RCW 36.70A.480 and the applicable SMP guidelines (WAC 173-26-171 through 251) as well as the definitions in WAC 173-26-020 and WAC 173-27. This includes a conclusion that the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program, per the standards of WAC 173-26-201(2)(c).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in **Attachment C**) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required but can, if accepted by the County, be included in Ecology's approved SMP amendment.

As stipulated in RCW 90.58.610, RCW 36.70A.480 governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under chapter 36.70A RCW. Consistent with RCW 36.70A.480(4), Ecology concludes that, subject to and including Ecology's required changes, the SMP provides a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

Ecology concludes that the County has chosen to exercise its option pursuant to RCW 90.58.030(2)(d)(i) or (ii) to increase shoreline jurisdiction to include both i) the full extent of the 100-year floodplain; and ii) buffers for critical areas located within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond minimum SMA jurisdiction the buffer shall be regulated by the SMP.

Ecology concludes those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy - RCW 90.58.090(5).

Ecology concludes that the County complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the County has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update process.

Ecology concludes that the County has complied with the purpose and intent of the local update process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the County has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the County's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring an SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes the County's final legislative action will serve to complete the comprehensive SMP update required by RCW 90.58.080(2).

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP are consistent with the policy of the Shoreline Management Act, the applicable Guidelines and implementing rules, once the required changes set forth in **Attachment B** are accepted by the County. The County may choose to adopt the recommended changes in **Attachment C**. Pursuant to RCW 90.58.090(2)(e), the County must notify Ecology of the approval or denial of the recommended changes. Ecology approval of the proposed amendment with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the County may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action.

Public Comment Summary: Clallam County Locally Approved SMP

Ecology Public Comment Period, January 14 - February 28, 2019

Prepared by Michelle McConnell, WA Dept. of Ecology, April 10, 2019

Clallam County Response (see last column), prepared June 4, 2019

During the Ecology Public Comment Period, thirteen (13) comment submittals were received. The issues raised in those comments are summarized below, organized by topic based on the pertinent SMP chapter/section, in numerical order.

COMMENT #	SMP SECTION/ COMMENT TOPIC	COMMENTER	COMMENT SUMMARY*	CLALLAM COUNTY RESPONSE & RATIONALE
1.	General	<i>Futurewise, Washington Environmental Council, Olympic Environmental Coalition, Protect Peninsula's Future, and North Olympic Group of Sierra Club</i> – Tim Trohimovich, Rein Attemann, Darlene Schanfeld, Steve Koehler, Bill Volmut (Futurewise et. al.)	The SMP update is important because of past significant damage to shoreline habitat and resources in WRAs 17, 18, 19, and 20, including alteration/degradation to: • Nearshore marine & estuarine environments; • Water quality; • Currents and sediment processes; • Riparian vegetation, forest cover and large woody debris recruitment; • In-/vertebrate food sources for salmon; • Sedimentation, and mass wasting; • Floodplain encroachment, channelization, scour, and seasonal flow regimes; and • Southern resident orcas and Chinook salmon. Strongly supports SMP update as opportunity to significantly improve protections for the Strait, lakes, rivers and larger streams. The SMP update has many excellent provisions, including the inclusion of useful photographs and illustrations.	Clallam County concurs with the importance of the SMP update. Thank you for the supporting comment.
2.	General	Futurewise et. al.	To allow wildlife access corridors between water bodies and upland areas, the SMP should establish minimum lot widths. Two alternative methods would achieve this: • A simple lot ratio of 3:1; or	The SMP contains standards and provisions that together will benefit retention of wildlife access corridors between water bodies and upland areas. Examples of these provisions include, but are not limited to: • Approximately 96% of the County's shoreline jurisdiction is within

*See original comment submittal for complete verbiage.

Abbreviations: BoCC = Board of County Commissioners; ESA = Endangered Species Act; NNL = no net loss; OHWM = ordinary high water mark; PHS = Priority Habitats & Species; SED = shoreline environment designation; SPTH = site potential tree height;

Clallam SMP – Public Comment Summary

COMMENT #	SMP SECTION/ COMMENT TOPIC	COMMENTER	COMMENT SUMMARY*	CLALLAM COUNTY RESPONSE & RATIONALE
13.	General	Makah Tribe	Makah Tribal Council recommends Ecology incorporate the Tribe's recommendations in the final Clallam County SMP.	See County response to other Makah Tribe comments in this table.
14.	General	Washington Department of Fish & Wildlife, Region 6 Habitat Program – Chris Waldbillig (WDFW)	WDFW acknowledges and appreciates the many years of work by Ecology, the County and stakeholders that went into the significant changes to the existing SMP. Supports the overall update, which will result in better protection of fish and wildlife resources throughout the County. Comments and recommendations are provided in a spirit of collaboration & in keeping with legislative mandate to “perpetuate fish and wildlife”. WDFW can only accomplish this mission in partnership with Ecology and local governments who have joint responsibility to conduct SMP comprehensive updates. WDFW staff was not as consistency engaged as they wished but look forward to being a helpful partner to Ecology and the County as SMP moves into implementation phase.	Thank you for the supporting comments for the County's SMP update. See also County response to other WDFW comments in this table.

*See original comment submittal for complete verbiage.

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Abbreviations: BoCC = Board of County Commissioners; ESA = Endangered Species Act; NNL = no net loss; OHWM = ordinary high water mark; PHS = Priority Habitats & Species; SED = shoreline environment designation; SPTH = site potential tree height;

Clallam SMP – Public Comment Summary

COMMENT #	SMP SECTION/ COMMENT TOPIC	COMMENTER	COMMENT SUMMARY*	CLALLAM COUNTY RESPONSE & RATIONALE
15.	General	WDFW	WDFW appreciates many aspects of the proposed SMP comprehensive update, and: • Commends the commitment to restoration efforts; • Appreciates the priority for protection of existing resources over remedying impacts after they occur; • Fully supports a preventative approach; • Supports the restrictions on new development and removal/relocation of at-risk structures within floodplains and bluffs ensure future shoreline ecology functions & values while ensuring public safety. WDFW remains a willing partner, happy to provide assistance, and has more detailed ideas and notes on ways to continue improving this SMP. WDFW has questions/concerns about the role of restoration in achieving no net loss and about protection of riparian areas.	Thank you for the supporting comments for the County's SMP update. See also County response to other WDFW comments in this table.

*See original comment submittal for complete verbiage.

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19.	General – Climate Change	Makah Tribe	Climate change will affect Clallam County with changes in precipitation and less snowpack, which will affect streamflows, flooding, and stream temperatures, and sea level rise. The SMP at Chapters 3 (Specific Uses), 4 (Modifications), and 5 (General) should: - include climate change in decisions about new use & development and restoration; - consider how climate change will affect water availability for habitat and municipal needs and how water resources and associated habitats will be protected; - consider climate change impacts for each use & development to ensure long-term resilience and ensure that NNL is achieved; - require that geotechnical report address climate change impacts for geological hazards, CMZs, bluff or stream bank erosion and armoring.	See response to Comments #16, 18 and 59 in this table.
20.	General - NNL	Quileute Tribe	The proposed SMP represents significant improvement over the existing SMP but still fails to meet NNL.	The SMP in all its parts from SEDs, policies, and regulations (e.g., use regulations, buffers, etc...), mitigation and NNL requirements, and permitting provisions combined with supporting documents (e.g., shoreline inventory and characterization report, shoreline restoration plan) is designed to help achieve NNL of shoreline ecological functions over-time as new shoreline uses and development occur. NNL over-time will need to be achieved through a combination of regulatory and non-regulatory (e.g., restoration) means.
21.	General - NNL	Quileute Tribe	The SMP should require compensatory mitigation or programmatic restoration to address impacts of all use & development, not just a subset, in order to achieve NNL.	The recognition that some future development will occur within the shoreline jurisdiction is basic to the NNL standard. The challenge is maintaining shoreline ecological functions while planning for appropriate areas of shoreline preferred uses (e.g., single-family

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Clallam SMP – Public Comment Summary

COMMENT #	SMP SECTION/ COMMENT TOPIC	COMMENTER	COMMENT SUMMARY*	CLALLAM COUNTY RESPONSE & RATIONALE
				residential), water dependent/related uses, and public access as required under the state Shoreline Management Act (SMA) and state SMP Guidelines (WAC 173-26) . The SMP as a whole is designed to help achieve NNL through appropriate SMP shoreline environmental designations (SED) and related use limitations, use specific regulations, policies and regulations (e.g., buffers) to protect shoreline functions, and regulating individual shoreline development proposals to ensure they mitigate adverse impacts. Together these SMP provisions are intended to first avoid and minimize impacts from new shoreline development and uses so that compensatory mitigation is not needed to replace, enhance or provide substitute resources. This is consistent with accepted mitigation sequencing actions and priorities. Not every use and development in the shoreline jurisdiction will result in adverse impacts or cause a net loss of shoreline ecological functions. Where unavoidable adverse impacts occur, the SMP requires compensatory mitigation—e.g., see SMP Chapter 8 and SMP General Principle 1.13.7.
22.	General - NNL	Quileute Tribe	The required buffer widths are inadequate to achieve SPTH and NNL.	• See response to the comments related to shoreline buffers (SMP Chapter 6) and NNL topics in this table.
23.	General - NNL	Makah Tribe	Opposes the NNL standard as effective to protect species & habitats and improve degradation, because the standard is based on an assumption that existing conditions are adequate, thereby only maintaining the status quo and allowing restoration that is intended to improve degraded conditions to stand-in as mitigation for new impacts. The standard allows a shifting baseline for counties to measure NNL, when the aim should be to restore conditions above the baseline at the time of	The Shoreline Management Act (SMA) provides a broad policy framework for protecting the natural resources and ecology of the shoreline environment. The state SMP Guidelines establishes the standard of “no net loss (NNL) of shoreline ecological functions” as the means of implementing that framework through local SMPs. WAC 173-26-186(8) directs that SMPs include policies and regulations designed to achieve NNL of those ecological functions. The NNL requirement is intended to ensure that over time the existing condition of shoreline ecological functions should remain the same as

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Clallam SMP – Public Comment Summary

COMMENT #	SMP SECTION/ COMMENT TOPIC	COMMENTS	COMMENT SUMMARY*	CLALLAM COUNTY RESPONSE & RATIONALE
		development, to achieve net gain of shoreline functions for salmon recovery. Ecology should perform an independent analysis of the proposed buffers widths, exemptions to determine if NNL is achieved. The Governor's Southern Resident Killer Whale (SRKW) Task Force noted NNL as a key limiting factor for habitat restoration and ESA-listed chinook salmon and SRKW recovery. Ecology should shift the state policy to require net ecological benefit for land-use management regulations.		the SMP is implemented. The existing condition or baseline of shoreline ecological functions is documented in the County's shoreline inventory and characterization reports. The SMP only regulates new development within the narrow extent of the shoreline jurisdiction. Achieving NNL includes the SMPs shoreline environmental designations (SED) to guide and ensure appropriate uses along County shorelines, policies and regulations (e.g., buffers) to protect shoreline functions, and regulating individual shoreline development proposals to ensure they mitigate adverse impacts. There are impacts to shoreline ecological functions that cannot be fully mitigated either because they happened prior to adoption of the updated SMP, are associated with established/grandfathered lots, structures, and uses; and/or will come from impacts outside of the SMP jurisdiction or from factors outside of the County's control (e.g., climate change). Restoring sections of degraded shorelines can help achieve overall NNL of ecological functions at the shoreline reach scale with the objective of some shoreline reaches experiencing a net improvement in ecological functions. SMP Section 3.9, Restoration, includes restoration policies and regulations, to support shoreline restoration. The County prepared a Countywide Shoreline Restoration Plan (Feb. 2016) to identify potential, restoration opportunities, establish goals and priorities of restoration actions, and develop a strategy for implementation in accordance with WAC 173-26-201(2)(f). Implementing restoration actions by the County, its partners and others will help improve shoreline ecological functions in previously degraded shoreline areas and help achieve overall NNL and along some reaches a net improvement. See also related response on the SMP Restoration Plan under Comment #130 in this table.

*See original comment submittal for complete verbiage.

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Callam SMP – Public Comment Summary

COMMENT #	SMP SECTION/ COMMENT TOPIC	COMMENTS	COMMENT SUMMARY*	CALLAM COUNTY RESPONSE & RATIONALE
24.	General - NNL	Makah Tribe	The SMP should require compensatory mitigation or programmatic restoration to address impacts of all use & development, not just a subset, in order to achieve NNL.	See response to Comments #20-23 and 25 in this table.
25.	General - NNL	WDFW	WDFW is not clear whether the SMP intends to use restoration efforts designed to provide net increase in ecological function as compensatory mitigation offsets for unavoidable harm associated with implementing the SMP.	- Consistent with WAC 173-26-201(2)(f) the County has prepared a Countywide Shoreline Restoration Plan to establish goals, policies and actions for restoration of impaired shoreline ecological functions. SMP Section 3.9 also contains policies to support implementing the restoration plan and to guide restoration efforts within the shoreline jurisdiction. It is anticipated that shoreline restoration projects by the County, its partners and others will contribute to achieving NNL of shoreline ecological functions over-time and in some shoreline reaches result in net functional gains. - The SMP requires that adverse impacts of new shoreline use and/or development be identified and mitigated on a project-by-project basis. Where unavoidable adverse impacts occur, the project proponent is responsible for compensatory mitigation (e.g., see SMP Chapter 8 and SMP General Principle 1.13.7). - See also response to Comments #20-23 and #130 in this table.
26.	General - Restoration	Makah Tribe	Supports the clarification that new development should avoid conflicts with any restoration projects, not just restoration projects in the vicinity of, and to establish provisions for developers and County staff to identify potential conflicts is an improvement from the existing SMP.	Thank you for the supporting comment.
27.	1.3 How to Use This Document	Futurewise et. al.	Supports this section as useful for SMP implementation.	Thank you for the supporting comment.

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Clallam SMP – Public Comment Summary

COMMENT #	SMP SECTION/ COMMENT TOPIC	COMMENTER	COMMENT SUMMARY*	CLALLAM COUNTY RESPONSE & RATIONALE
80.	6.3 Regulations – General Shoreline Buffer and Vegetation Requirements	Makah Tribe	Opposes the proposed buffer widths as inadequate, and 20% of required buffer area will be lost to the Chapter 6.3 allowance. The SMP should establish: - River/stream buffers of 137-feet based on the 200-year SPTH (WDFW-PHS), and measured from the channel, CMZ or floodplain, whichever is greater – not OHWM. 200-foot minimum buffer width for ESA critical habitat streams. 150-foot minimum buffer width for non-ESA critical habitat streams.	See response to Comments #68-74, 77 and 81 in this table.
81.	6.3 Regulations – General Shoreline Buffer and Vegetation Requirements	WDFW	Riparian area protections should include the CMZ and be based on WDFW's 2018 science synthesis. Strict avoidance of harm within the 200-year SPTH area is not practical across the entire landscape, and should be informed by Best Available Science. The SMP should outline ways which achieve NNL of shoreline and riparian functions within this area while being flexible about how to achieve that.	SMP Section 7.14.10 contains specific CMZ protection standards for channel migration zones (CMZ). The SMP requires that land divisions creating lots for development must demonstrate adequate building envelope (including access and utilities) that is suitable for development outside of landslide hazard areas (includes CMZs). See also response to Comments #2, 68, 70-73, 77, 81, 94 and 97 in this table.
82.	6.3 Regulations – General Shoreline Buffer and Vegetation Requirements	WDFW	#6. Lake Sutherland Standard Buffer – The 35-foot buffer width may not achieve NNL, based on several factors: - Documented presence of federally-listed bull trout, and other species such as kokanee; - Anticipated Lake access for anadromous fish after a pending barrier culvert replacement; - Portions of the shoreline remain well vegetated with intact native buffer, providing valuable fish habitat; The standard shoreline buffer for Lake Sutherland, and other County shorelines, should be consistent with Best Available Science to ensure the SMP meets GMA goals of	The main shoreline use along Lake Sutherland shoreline is single-family residential and associated uses (e.g., docks). The proposed 35 foot shoreline buffer width for Lake Sutherland is the same as the current SMP setback for such uses that has been in place since the mid-1970s. The lake shoreline is relatively densely developed with residences. There is very minimum potential for creation of new waterfront lots along the lake shore under County zoning. The proposed retention of the 35-foot buffer width standard is somewhat wider than the existing setbacks on many of the developed waterfront lots. Based on the County's shoreline inventory and characterization, most existing home setbacks are narrow (ranging from

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COMMENT #	SMP SECTION/ COMMENT TOPIC	COMMENTER	COMMENT SUMMARY*	CALLAM COUNTY RESPONSE & RATIONALE
130.	Restoration Plan	JST	Ecology should require both a realistic funding plan and a meaningful incentive be included to ensure implementation without significant delays.	The Clallam County Countywide Shoreline Restoration Plan (February 2016) identifies restoration potential, restoration opportunities, establish goals and priorities of restoration actions, and develop a strategy for implementation consistent with WAC 173-26-201 (2) (f). The purpose of the Plan is to identify where and how shoreline ecological functions need to and can be restored in the future. Implementation of the restoration plan will help address past degradation and support the County in achieving no net loss of shoreline ecological functions. The Plan incorporates and builds upon existing efforts by the County, Tribes, state and federal agencies, and other organizations (e.g., salmon recovery groups) engaged in restoration planning and projects. The Restoration Plan is non-binding. The county does not have the authority or ability to bind others to these actions. For example, many of the restoration opportunities described in the Plan could affect private property. Restoration depends on funding, access, permits, etc. According to state guidelines, SMPs should, along with other regulatory and non-regulatory programs, foster restoration through a combination of public and private programs and actions. Prospective funding sources are noted in the Restoration Plan consistent with state SMP Guidelines. These sources currently help fund active restoration projects and would be pursued to address other restoration opportunities. The County is committed to restoration of shoreline areas through participation and support of the Clallam County Marine Resources Committee (MRC), North Olympic Peninsula Lead Entity, North Pacific Coast Lead Entity, Dungeness River Management Team, Lake Ozette Steering Committee and other efforts. The County has successfully led and partnered to implement various shoreline restoration projects in the past, and is currently active in new shoreline restoration projects. For example, the County has secured millions of dollar of funding and

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STAFF REPORT
Clallam County Department
of Community Development

Date: July 11, 2018
To: Board of Clallam County Commissioners
From: Steve Gray, Planning Manager
Re: Public Comments on Draft SMP Chapter 6--Shoreline Buffers and Vegetation Conservation

The County Planning Commission (PC) recommended a Shoreline Master Program (SMP) to the Board of County Commissioners (BOCC) to update and replace: (1) the existing 1976 SMP (last amended 1992) and (2) the SMP administrative procedures in Chapter 35.01, Shoreline Management, Clallam County Code (CCC) under Title 35 CCC, Shorelines. The PC's recommendation is represented by the *Draft SMP (September 2017)*.

The BOCC held a public hearing on the PC's recommended Draft SMP on December 12, 2017. Since the December 12 public hearing, the Board has held seven work sessions in 2018 on the Draft SMP (Sept. 2017) and public comments received.

This staff report summarizes and addresses public comments received on the Draft SMP (Sept. 2017) between September 20 thru December 12, 2017 (close of the public hearing on Draft SMP) that are specific to Draft SMP Chapter 6, Shoreline Buffers and Vegetation.

Chapter 6 of the Draft SMP is intended to address and comply with the State SMP Guidelines for shoreline vegetation conservation under WAC 173-26-221(5)—see attached Exhibit A.

Prior Board Work Sessions on Shoreline Buffers

The Board has held three previous work sessions with a focus on the requirements, background and rationale of the proposed shoreline buffers in the Draft SMP:

November 13, 2017: Prior to the Board's December 12, 2017 public hearing on the Draft SMP (Sept. 2017), staff held a work session with the Board on shoreline and critical area buffers as well as other provisions. The November 13, 2017 consultant and staff presentation for this work session is available can be viewed from the SMP Update Web Page under "SMP Presentations".

March 5, 2017: The Board's March 5 work session focused on provisions related to shoreline and critical area buffers in terms of: (a) relationship of proposed Shoreline Environmental Designations (SED) and shoreline buffers; (b) science and other information that form basis of proposed buffers; (c) comparison of current versus proposed shoreline and critical area buffers; and (d) summary of range of public comments received on shoreline buffer widths. Included in the meeting packet and discussed at the work session was the *December 11, 2012 Memorandum: Explanation of Proposed Shoreline Buffer Widths* prepared by the County consultants that also included a review of the scientific literature. The March 5, 2017 staff presentation and the 2012 shoreline buffer memorandum are available under the "SMP Presentations" and "SMP Supporting Documents" links, respectively, on the SMP Update Web Page.

April 2, 2017: The Board's April 2 work session focused on continued discussion of proposed shoreline and critical area buffer requirements from the March 5 work session. The March 5, 2017

staff presentation, *December 2012 Memorandum: Explanation of Proposed Shoreline Buffer Widths*, and excerpts *2017 Final Cumulative Impacts Analysis and No Net Loss Report (CIA/NNL)* for the *Clallam County SMP* related to buffers included in the meeting packet and are also available under the "SMP Presentations" and "SMP Supporting Documents" links, respectively, on the SMP Update Web Page.

Overview of Draft SMP Chapter 6, Shoreline Buffers and Vegetation

Draft SMP Chapter 6, Shoreline Buffers and Vegetation, contain the following seven sections:

Section 6.1	Applicability
Section 6.2	General Shoreline Buffer and Vegetation Policies
Section 6.3	Regulations—General Shoreline Buffer and Vegetation Requirements
Section 6.4	Regulations—Shoreline Buffer Averaging
Section 6.5	Regulations—Shoreline Buffer Clearing
Section 6.6	Regulations—Developments Allowed in the Buffer
Section 6.7	Regulations—View Protection Common Line Buffer

A summary of the above Chapter 6 sections and the related public comments received by the Board follows.

Draft SMP Section 6.1, (Applicability)—Background and Public Comment Summary

Section 6.1, Applicability, of the Draft SMP summarizes the purpose of shoreline buffer and vegetative conservation and the applicability of the shoreline buffer and vegetative provisions of SMP Chapter 6. Other provisions of the Draft SMP also address vegetation conservation within the shoreline jurisdiction such as the clearing and grading policies and standards of Section 5.2 of the Draft SMP. New uses and development may also be subject to additional buffer and vegetation conservation standards prescribed in Chapter 7 of the Draft SMP due to presence of critical areas such as wetlands, landslide hazard areas, floodplains and other critical areas located within or overlapping with the shoreline jurisdiction.

The following comment was received related to Section 6.1, Applicability:

Commenter	Summary of Comment/Requested Revision	Staff Response
Noxious Weed Board (B-1)	Request amend first paragraph of Section 6.1, Applicability, as either: <i>"....In addition, this chapter and other provisions of this Program also promote vegetation conservation <u>and control of invasive weeds and non-native species</u> within buffers and the shoreline jurisdiction including restrictions on clearing and grading, <u>and</u> vegetation restoration and enhancement-~~and control of invasive weeds and non-native species.~~"</i> OR <i>"....In addition, this chapter and other provisions of this Program also promote vegetation conservation within buffers and the shoreline jurisdiction including restrictions on clearing and grading, <u>while providing for</u> vegetation restoration and enhancement, and control of invasive weeds and non-native species."</i>	Recommend the requested second revision option.

Draft SMP Section 6.2 (General Shoreline Buffer and Vegetation Policies)—Background and Public Comment Summary

Section 6.2, General Shoreline Buffer and Vegetation Policies, of the Draft SMP contains eight guiding shoreline buffer and vegetation policies. The following comment was received related to Policy 4:

Section	Commenter	Summary of Comment/Requested Revision	Staff Response
6.2.(4) Pg. 6-2	Noxious Weed Board (B-1)	Request insert "managed" in below policy and also add language that allows for short term alteration that achieves the goals of this policy: 4. <i>Buffers composed of predominantly native vegetation should be established, <u>managed</u> and/or preserved along all shorelines to:</i> <i>Protect the health and sustainability of the many fish and wildlife species that depend on the County's lakes, rivers, and marine waters for food, cover, breeding, resting, rearing, and other essential life functions.</i> <i>Provide clean water for recreation, fishing, shellfish production, and other beneficial uses.</i> <i>Protect people and property from hazards associated with floods, storm surges, landslides, erosion, migrating river channels, tsunamis, and other natural processes or events.</i> <i>Minimize the costs that the public would have to bear to protect properties in hazardous areas or to repair damages associated with floods and other hazards.</i> <i>Maintain the aesthetic values that natural and scenic shorelines provide.</i> <i>Ensure no net loss of shoreline ecological functions.</i>	Recommend: - Support requested revision to insert the term "managed". - Recommend add a new policy to Section 6.2 to read as follows: <u>Allow for the short-term alteration of buffers to restore and enhance buffer ecological functions, including the control of invasive and non-native species.</u>

Draft SMP Section 6.3 (Regulations: General Shoreline Buffer and Vegetation Requirements)—Background and Public Comment Summary

Section 6.3, General Shoreline Buffer and Vegetation Regulations, of the Draft SMP contains regulations for shoreline buffer and vegetation requirements covering the following eight general regulation sub-sections:

- 6.3.(1) Shoreline Buffer Width
- 6.3.(2) Minor and Major Shoreline Buffer Width
- 6.3.(3) Critical Area Buffers
- 6.3.(4) Shoreline Buffer Condition
- 6.3.(5) Tree and Shrub Retention
- 6.3.(6) Lake Sutherland Standard Buffer
- 6.3.(7) Interrupted Buffer
- 6.3.(8) Multiple Buffers

Further background and summary of public comments received related to the above eight sub-sections of Section 6.3 follows.

Regulation 6.3.(1), Shoreline Buffer Widths

Draft SMP Regulation 6.3.(1) and related Table 6-1 establishes the proposed standard shoreline buffer width (in feet) measured from the ordinary high water mark (OHWM) by shoreline environmental designation (SED). Refer to Chapter 2 of the Draft SMP for criteria and information on the six proposed SEDs. Exhibit A of the Draft SMP (Sept. 2017) contains the County's shoreline map and associated proposed SEDs for the marine, river, and lake shorelines and associated nearshore areas subject to the Draft SMP. Similar to the County's current critical area regulations, the proposed standard shoreline buffer widths are further based on whether the activity is minor or major new

development based on the criteria in Section 6.3.(2) of the Draft SMP. For minor new development, the depth of the lot is also a factor for establishing standard shoreline buffer widths in certain SEDs.

New uses and development may also be subject to additional buffers prescribed in Chapter 7 of the Draft SMP due to presence of critical areas (e.g., wetlands, landslide hazard areas) within or overlapping the shoreline jurisdiction. These critical area buffers are summarized in sub-section 6.3.(3) and Table 6-2, with the full related standards in Chapter 7 as noted in Table 6-2.

Approach to Developing Shoreline Buffer Recommendations

With so many factors to consider when identifying appropriate buffer standards, one option may be to consider a parcel-by-parcel buffer strategy versus a single width or set of widths. However, such approaches are typically unworkable in a regulatory context because they provide no predictability for property owners and are costly and time consuming to administer. As a result, most jurisdictions have opted for fixed-width strategies that allow for some variability based on the existing shoreline conditions and intensity of the adjacent land use. This is the County's approach under the current SMP and critical area regulations and is the approach recommended in the Draft SMP, where the proposed buffer widths vary by SED, development type (major versus minor new development), and lot depth.

To account for various lot configurations and existing development patterns, the proposed SMP also provides for shoreline buffer averaging and common line buffer requirements—see SMP Sections 6.4 and 6.7, respectively. Legal existing uses and development in shoreline buffers and existing vegetation/views within shoreline buffers may continue consistent with the requirements of Section 5.1, Existing (Grandfathered) Uses and Developments, of the Draft SMP.

General Principles and Basis of Proposed Shoreline Buffer Widths

The State's SMP Guidelines require SMPs to include policies and regulations that will achieve "no net loss" of ecological functions. Maintaining a well-vegetated buffers zone adjacent to shoreline is considered a key element of a successful no net loss strategy. Vegetation conservation is also important to protect human safety and property, to increase the stability of river banks and coastal bluffs, to reduce the need for structural shoreline stabilization measures, to improve the visual and aesthetic qualities of the shoreline, to protect plant and animal species and their habitats, and to enhance shoreline uses. WAC 173-26-221(5).

As stated in the Guidelines:

"...Current scientific evidence indicates that the length, width, and species composition of a shoreline vegetation community contribute substantively to the aquatic ecological functions. Likewise, the biota within the aquatic environment is essential to ecological functions of the adjacent upland vegetation. The ability of vegetated areas to provide critical ecological functions diminishes as the length and width of the vegetated area along shorelines is reduced. When shoreline vegetation is removed, the narrower the area of remaining vegetation, the greater the risk that the functions will not be performed..." (WAC 173-26-221 (5b)).

"...Local governments should identify which ecological processes and functions are important to the local aquatic and terrestrial ecology and conserve sufficient vegetation to maintain them. Such vegetation conservation areas are not necessarily intended to be closed to use and development but should provide for management of vegetation in a manner adequate to assure no net loss of shoreline ecological functions." WAC 173-26-221 (5b).

"...Master programs shall....Establish vegetation conservation standards that implement the principles in WAC 173-26-221 (5)(b). Methods to do this may include setback or buffer requirements (emphasis added), clearing and grading standards, regulatory incentives, environment designation standards, or other master program provisions. Selective pruning of trees

for safety and view protection may be allowed and the removal of noxious weeds should be authorized." WAC 173-26-221 (5c).

The SMP Guidelines require local jurisdictions to identify and use scientific and technical information available that is applicable to the issue of concern (WAC 173.26.201(2)(a)). The proposed marine and freshwater shoreline buffer widths in Table 6-1 of the Draft SMP considered the scientific literature and the County's shoreline inventory and characterization report as summarized in the County's consultant *December 11, 2012 Memorandum: Explanation of Proposed Shoreline Buffer Widths*. The scientific literature review showed that different buffer widths are needed to achieve different levels of effectiveness and that effectiveness varies depending on site conditions such as soil, slope, vegetation composition and other factors.

The County followed the shoreline vegetation guidance under WAC 173-26-221 (5) (see attached Exhibit A) and the following other Ecology guidance which says "The buffers and setbacks for marine and freshwater shorelines should be tailored to local conditions including existing shoreline functions and existing and planned land use and public access. Buffers and setbacks will vary within a local government's boundaries to reflect different shoreline conditions and functions (Source: SMP Handbook, Chapter 11, Vegetation Conservation, Buffers and Setbacks; Dept. of Ecology Publication # 11-06-010; Revised June 2017).

The County considered what functions needed protection (based on existing and anticipated threats), what level of protection was appropriate for those functions, how the protective goals of the buffers would be achieved on the land given existing and planned development, and what functions will not be protected by choosing particular buffer widths. The County tailored the buffer widths to each shoreline designation and developed protective vegetation management and other development standards to ensure that no net loss would be met. The designation of SED's is specific to County shorelines based on the County's Shoreline Inventory and Characterization Reports (ICR) and consideration of numerous factors including, but not limited to, existing land use, vegetation and habitat, shoreline modifications, hazards, planned land uses (e.g., comprehensive plan), lot sizes, etc.

Current SMP Setbacks and Buffers

New development and uses, including land divisions, along the marine, river, and lake shorelines within the shoreline jurisdiction are subject to current shoreline setbacks and buffers of both the existing 1976 Shoreline Master Program (last amended 1992) and the Clallam County Critical Areas Code (CAC), Chapter 27.12 CCC, whichever is more protective.

The current 1976 SMP (last amended 1992) does not establish specific standards for vegetative buffers. As noted above, State SMP Guidelines require vegetated buffer standards to protect shoreline ecological functions. For residential development, the existing SMP establishes minimum setbacks measured from the ordinary high water mark (OHWM) for residential dwellings and associated accessory buildings, parking areas and any substantial alteration of natural topography or vegetation as follows:

Current SMP Shore Setbacks for Residential Development

Type	Natural	Conservancy	Rural	Suburban	Urban
Single-Family	150 feet	75 feet	50 feet	35 feet	35 feet
Multi-family (duplex, triplex, etc...)	200 feet	200 feet	100 feet	75 feet	50 feet

Source: Section 5.09, Residential Development; 1976 Clallam County SMP (last amended 1992)

Under the current SMP new subdivisions that “create new lots for residential development” within the shoreline jurisdiction areas designated Natural and Conservancy are prohibited. This has been administered to require all new lots for development to be a minimum of 200-feet from the ordinary high water mark (OHWM). In such cases, the effective building setback for new lots is at least 200 feet from the OHWM.

The existing SMP also contains some standards for setbacks for non-residential uses where such uses are otherwise allowed or conditionally-allowed under the applicable SEDs. For example, for recreational development accessory facilities which are not shore dependent, such as parking lots, access roads, restrooms, and service buildings, are to be located outside of the shoreline jurisdiction (i.e., typically 200-feet from OHWM); provided that recreational vehicle sites in approved recreational vehicle parks may be located no closer than 100-feet.

Current Critical Area Code, Chapter 27.12 CCC, Standard Shoreline Buffer Widths

The Clallam County Critical Area Code, Chapter 27.12 CCC, currently also applies to development within the shoreline jurisdiction. Pursuant to CCC 27.12.315 (1), the existing critical areas code requires standard shoreline buffer widths (measured from the OHWM) for Major New Development (including New Land Divisions) and Minor New Development. Minor new development would include most typical single-family residential development on existing lots not subject to larger buffers at time of subdivision. Major new development includes single-family residential that does not meet the criteria for minor new development, most non-residential development, and new land divisions creating lots for development. For minor new development, the “shoreline buffer” is equivalent to the setback set forth in the current SMP for single-family residential in the above table with a minimum buffer along the Dungeness River of 75-feet. The existing standard shoreline buffer width for major new development (includes new land divisions) is 150-feet. CCC 27.12.315 (1).

Proposed Draft SMP (Sept. 2017) Standard Shoreline Buffer Widths

The proposed shoreline buffer widths in the Draft SMP (Sept. 2017) in Table 6-1 of the Draft SMP are as follows:

Proposed Shoreline Buffer Widths (in feet) by Environmental Designation^{1,2}
Taken from Table 6-1 of the Draft SMP (Sept. 2017)

Shoreline Environment Designation	Standard Shoreline Buffer Width (feet) based Upon Type of Development and Lot Dimension (Measured from the ordinary high water mark--OHWM)		
	Minor New Development on existing lots with < 200 ft. of depth from OHWM to rear lot line	Minor New Development on existing lots with ≥ 200 ft. of depth from OHWM to rear lot line	Major New Development, including all Land Divisions
Marine Waterfront	50 feet	75 feet	100 feet
Shoreline Residential – Intensive	50 feet	75 feet	100 feet
Shoreline Residential - Conservancy	100 feet	125 feet	150 feet
Resource Conservancy	150 feet	150 feet	150 feet
Natural	175 feet	175 feet	175 feet

¹ In the event that buffers for any shorelines and/or critical areas area contiguous or overlapping, the landward-most landward-most edge of all such buffers shall apply.

² Lake Sutherland—New developments and uses shall be at least 35 feet landward of the OHWM regardless of lot size or Shoreline Designation.

Similar to current SMP and Critical Area setback and buffer requirements, they are based on the proposed shoreline environmental designation (SED) and whether minor or major (includes land divisions) new development. Where shoreline and critical area buffers (e.g., wetlands, landslide hazard areas) are contiguous or overlapping, the landward-most edge of all such buffers applies.

Comparison of Existing and Proposed Standard Shoreline Buffer Widths

Under the current Critical Areas Code, the standard shoreline buffer for major new development and land divisions is 150-feet, and the existing SMP prohibits subdivision (i.e., creating new lots) within current Conservancy and Natural SEDs. In comparison, under the proposed SMP major new development and land divisions is reduced to 100 feet (50-foot reduction) within the proposed Marine Waterfront and Shoreline Residential-Intensive SED's; remains 150-feet in the proposed Shoreline Residential-Conservancy and Resource Conservancy SED's; and increased to 175-feet (25-foot increase) for the proposed Natural SEDs. The Draft SMP does not prohibit land divisions within proposed conservancy and natural SEDs.

For minor new development (most single-family development would qualify), the proposed shoreline buffers have generally increased as summarized below:

- The proposed Shoreline Residential-Intensive and Marine Waterfront SED's minor new development buffers is 50 or 75 feet (based on lot depth), with the exception of Lake Sutherland proposed to remain at 35-feet. In comparison, standard buffer widths for current Urban and Suburban SED's are 35 feet for single-family development.
- The proposed Shoreline Residential-Conservancy SED minor new development buffer is 100 or 125 feet (based on lot depth). In comparison, current Rural and Conservancy SED's are 50 and 75-feet, respectively, for single-family development.
- The proposed Resource Conservancy SED minor new development buffer is 150 feet. In comparison, the current Conservancy SED is 75-feet for single-family development.
- The proposed Natural SED minor new development buffer is 175-feet in comparison to the current buffer of 150 feet for single-family development.

To account for various lot configurations and existing development patterns, similar to existing critical area regulations the Draft SMP also provides for shoreline buffer averaging and common line buffer requirements—see SMP Sections 6.4 and 6.7, respectively. Legal existing uses and development in shoreline buffers and existing vegetation/views within shoreline buffers may continue consistent with the requirements of Section 5.1, Existing (Grandfathered) Uses and Developments, of the Draft SMP. For new development and uses that cannot meet the buffer standards, the Draft SMP provides for due process through ability to apply for and seek a variance based on site specific circumstances.

Public Comments on Proposed Shoreline Buffer Widths

The width of proposed shoreline buffers and the uses allowed within it can have wide ranging implications for people and the environment and are subject of frequent debate and comment. The Board received a wide range of comment on the Draft SMP (Sept. 2017) regarding shoreline buffer widths required under Draft SMP Regulation 6.3.(1) and related Table 6-1 ranging from requests both supporting increasing or reducing proposed standard shoreline buffer widths to keeping current critical area/SMP buffer widths unchanged. Similar comments on shoreline buffer widths were received on earlier drafts of the SMP.

A summary of the comments received related to the proposed standard shoreline buffer widths and staff response follows:

Comments Supporting Larger Standard Shoreline Buffer Widths Regarding Shoreline Buffers in Section 6.3.(1) and Table 6-1 of the Draft SMP (Sept. 2017)

Commenter	Summary of Comment/Requested Revision	Staff Response
Quileute Tribe (A-1) Futurewise, SCNOG, & WEC (C-2) Various Individuals (D-1 thru D-9)	Request shoreline buffers in Table 6-1 of the Draft SMP be consistent with the recommended Riparian Habitat Area (RHA) width of 250 feet (both sides of stream) in the 1997 WDFW report: <i>"Management Recommendations for Washington's Priority Habitats, Riparian, including the WDFW recommendation that RHA's be measured from the edge of the channel migration zone.</i> Quileute Tribe supporting comments included, but not limited to: • Proposed shoreline buffers are inadequate and will allow a continued loss of shoreline ecological functions. • State SMP guidelines require local jurisdictions to identify, assemble, and use "the most current, accurate, and complete scientific and technical information available that is applicable to the issue of concern" WAC 173.26.201(2)(a)." The WDFW Report as published in 1997 and periodically updated gathers and synthesizes the best available science concerning riparian buffers." Futurewise et. al. comments also provided supporting reasons and literature references to support their recommendation of wider shoreline buffer widths based on the WDFW recommended RHA's.	The Staff does not recommend a standard 250-foot wide buffer along County marine and freshwater shorelines, as requested. In support of this recommendation, refer to: • The above background on shoreline buffers for Draft SMP sub-section 6.3.(1) found above in this staff report (starts on page 3). • The additional staff analysis related to requests to increase shoreline buffer widths below this Table (on Pages 9 – 10 of this staff report).
Jamestown S'Klallam Tribe (A-2a)	For freshwater streams, support the below buffer provisions with the goal to conserve the ecological functions and values of freshwater streams, primarily by retaining mature native vegetation along shorelines; ensuring that human development is kept out of harm's way; and avoiding the need for constructing shoreline bulkheads to protect buildings and infrastructure. • Minimum habitat buffer width of 200-feet on those streams designated as "critical habitat" under the Endangered Species Act (ESA). The distance of 200 feet is selected as a general average of site potential tree height (SPTH-GA) for lower elevation (less than 2,000 feet) areas in Clallam County. • Minimum habitat buffer width of 150-feet (75% of SPTH-GA) on streams not designated as "critical habitat" under the ESA. • Measure buffers from the edge of the ordinary high water mark or the edge of the channel migration zone, whichever is further landward.	No change recommended. See also above response. In addition, new development and uses within critical habitat of endangered species are subject to submittal, approval, and implementation of a habitat management plan (HMP)—see Draft SMP Sections 7.10, 7.11 and 8.6.
Jamestown S'Klallam Tribe (A-2a)	For non-feeder bluff marine shorelines, support the below buffer provisions with the goal to conserve the ecological functions and values of marine shorelines, primarily by retaining mature native vegetation along shorelines, ensuring that human development is kept out of harm's way, and avoiding the need for constructing shoreline bulkheads to protect buildings and infrastructure. • Measure the habitat buffers from the ordinary high water mark (OHWM) or the edge of the channel migration zone (CMZ), whichever is farther landward. • Require a 100-foot minimum habitat buffer width for minor new development. • Require a 150-foot minimum habitat buffer width for major new development.	No change recommended. See also above responses.
Coastal Watershed Institute(C-1)	Protect county critical shorelines and ecosystems by requiring a minimum 200-foot setback for all activity along all marine and freshwater shorelines in Clallam County. Riparian buffers must be preserved intact.	No change recommended. See also above responses.

Additional Staff Response to Above Request to Increase Shoreline Buffer Widths

The 1997 WDFW Report: "*Management Recommendations for Washington's Priority Habitats, Riparian*" recommends a Riparian Habitat Area (RHA) along both sides of SMP streams of at least 250-feet in width or the outer edge of the 100-year floodplain, whichever is greater. In addition, for rivers in channel migration zones (CMZ), the WDFW recommends that RHA width measurements should be from the edge of the CMZ instead of the OHWM.

RHAs differ somewhat from the concept of "buffers" noted in state SMP Guidelines (WAC 173-26-221 (5) or as currently required in the County's Critical Areas Code, Chapter 27.12 CCC, and proposed in the Draft SMP in Table 6-1. Shoreline buffers typically are naturally vegetated areas adjacent to water bodies that help protect the ecological functions of the shoreline and help reduce the impacts of adjacent, upland activities (e.g., commercial or residential development, timber harvest). Shoreline buffers can also help to mitigate impacts or reduce risks to people and property (e.g., structures) from hazards such as erosion, landslides, floods, and storm damage associated with a water body.

The WDFW Report notes that RHAs includes the concept of buffering streams from upland development, but are also intended to encompass the functional aspects of riparian areas relative to uplands in order to retain areas that exhibit a full range of habitat functions necessary to support riparian-associated fish and wildlife. Examples of riparian functions that may not be addressed through the traditional notion of a "buffer" include sufficient space within riparian areas for feeding, breeding, and resting for riparian and upland wildlife species; sufficient travel corridors for the movement of animals; microclimate effects, including temperature moderation during periods of heat or cold; and sufficient cover and refuge from disturbance.

The state Shoreline Management Act (SMA), RCW 90.58, and SMP Guidelines (WAC 173-26) do not set forth specific minimum or standard shoreline buffer or setback width requirements nor preclude development within the shoreline jurisdiction. In fact, the SMA directs local governments in development and updating SMPs to plan for and accommodate shoreline uses and development such as preferred water-dependent and related uses and single-family residential development. Given that the minimum SMP jurisdiction extends 200-feet landward of the OHWM. Requiring the requested standard RHA of 250-feet apply along all shoreline water bodies subject to the SMP would effectively preclude or significantly limit new development and use throughout the shoreline jurisdiction.

The state SMP Guidelines do direct local governments to identify and use current available scientific and technical that is applicable to the issues of concern in preparing the SMP (WAC 173-26-201(2)(a)). For shoreline vegetation regulations, this includes consideration of WDFW management recommendations for priority habitats (WAC 173-26-221(5)). The 1997 WDFW Report and other scientific studies examining shoreline buffers (many also noted in the WDFW Report) were considered by the County in development of the proposed shoreline buffer widths in Table 6-1 as explained in the County's consultant 2012 Memorandum: *Explanation of Proposed Shoreline Buffer Widths*.

The WDFW standard recommended RHAs are generalized for use across the landscape, and WDFW notes ideally planning for riparian areas should be done from the perspective of an entire watershed. In addition, as stated in the 1997 WDFW Report:

"Management recommendations from WDFW are not intended to address the wide diversity of habitats, existing land uses, and landowner/manager objectives. They have been written to meet the general needs of fish and wildlife. These management objectives are provided to guide rather than dictate site-specific activities.....Specific recommendations are provided, not necessarily as site prescriptions, but to offer clear, implementable guidelines that would result in the protection of fish and wildlife in most cases."

That said, the proposed SMP as a whole and in combination with the County comprehensive plan and development regulations (zoning, critical areas) support retaining large, contiguous undeveloped

corridors of riparian vegetation throughout the vast majority of the shoreline jurisdiction consistent with WDFW recommended RHA's based on the following:

- Approximately 65% of the County shorelines and adjacent upland shoreland areas subject to the SMP are within the proposed Resource Conservancy SEDs, with most reaches (~99%) located within the over 630,000 acres of designated commercial forest lands of long-term significance under the County's comprehensive plan and zoning. These marine, lake and river shoreline reaches are predominantly characterized by large, contiguous tracts of federal, state and private forest lands that exhibit undeveloped riparian habitat areas and corridors exceeding 250 feet in width along most reaches. There were only 105 residentially developed lots scattered throughout the over 630,000 acres of commercial forest lands (Clallam County Assessor Data, 2016), and many of those home sites are not located within the shoreline jurisdiction.
- Approximately 8% of the County's shoreline and associated upland areas subject to the SMP are within the proposed Resource Conservancy (SED). Most of these areas are located within County/State Parks and the Dungeness Wildlife Areas and managed as conservation areas.
- Approximately 23% of the County's shoreline and associated upland areas subject to the SMP are within the proposed Shoreline Residential-Conservancy (SED). Many of these shorelines are also characterized by the presence of landslide hazard areas (e.g., marine bluffs, steep-sided river ravines), wetlands, other stream tributaries, and channel migration zones where critical area regulations limit development and may result in larger buffer areas on properties where such critical areas exist.
- Where critical areas are present, the combined shoreline and critical area buffer in many cases may exceed the standard shoreline buffer width. For example, for marine feeder bluff-exception there is a standard buffer of 150 feet from the top of bluff.
- Only approximately 4% of the County's shoreline areas subject to the SMP allow for new intensive shoreline residential and mixed use development and infill associated with the proposed Shoreline Residential-Intensive and Marine Waterfront SED's. These shoreline areas are already substantially developed with homes, businesses, roads and other uses at or in close proximity to the shoreline.
- County marine and freshwater shorelines subject to the SMP continue into and are connected to Olympic National Park (ONP) mountain and coastal areas, with much of this transition adjacent to proposed Resource Conservancy SEDs and the County's over 600,000 acres of designated commercial forest lands noted above. As such, the over 1 million acres of ONP provide for both hydrologic and fish and wildlife corridor connections that do not stop at the park boundary or County shoreline jurisdiction.



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memorandum

date December 11, 2012
to Clallam County SMP Advisory Committee
from Adam Merrill and Margaret Clancy, ESA
subject Explanation of proposed shoreline buffer widths

The November 2012 Clallam County Draft Shoreline Master Program (SMP) contains consultant recommendations for marine and freshwater shoreline buffers. Shoreline buffers are generally recognized as “separation zones” between a water body and the adjacent land uses. Buffers serve two primary purposes: (1) protect shoreline ecological functions and processes; and (2) protect people and property from hazards such as landslides, flooding, and channel migration.

The width of the buffer and the uses that are allowed within it can have wide ranging implications for people and the environment and are subjects of frequent debate. The consultant-recommended buffer standards in the November 2012 Draft SMP, including proposed widths, vegetation requirements, and allowed uses and modifications, were developed in consideration of the pertinent scientific literature regarding nearshore, lake, and riparian processes and functions as well as the specific conditions along Clallam County shorelines. The purpose of this memorandum is to explain the reasoning behind the shoreline buffer recommendations.

Background

The Shoreline Management Act (SMA, RCW 90.58) establishes a broad policy framework for protecting the natural resources and ecology of the shoreline environment. The State’s Shoreline Guidelines (Washington Administrative Code [WAC] 173-26) require SMPs to include policies and regulations that will achieve “no net loss” of shoreline ecological functions. Maintaining well-vegetated buffer zones adjacent to shoreline waters is considered a key element of a successful no net loss strategy (WAC 173-26-201(2)(a)).

Many scientific studies have examined marine, stream, and lake buffers and affirmed their importance in performing ecological functions and processes such as nutrient removal, slope stabilization, temperature control, and wildlife migration/movement (NRC, 2002; Naiman and Bilby, 1998; Bolton and Shellberg, 2001; Johnson and Ryba, 1992; Klapproth and Johnson, 2000; Castelle et al., 1994; Wenger, 1999). Most studies acknowledge that buffer effectiveness depends on multiple factors including but not limited to slope, soil type, and vegetative condition. For example, for a buffer to effectively remove nitrogen, the soils in the buffer must have adequate saturation and an abundant supply of carbon, nitrogen, and microbial organisms. The buffer must also have vegetation that can slow runoff so that the water has time to infiltrate into the soil where the nitrogen can be broken down or absorbed by plant roots (Straughan Environmental Services, Inc., 2003).

In part because of the complexities in the relationships between slope, soils, vegetation, and other factors, buffer recommendations in the scientific literature are often stated as a range of widths required to achieve a certain level of effectiveness for a given buffer function. For a function such as nitrogen removal, for example, the Washington

Department of Fish and Wildlife (2009) reports recommended widths in terms of what is needed to achieve different percentages of removal: 11 feet for 50% nitrogen removal and up to 2,297 feet for 99% nitrogen removal¹. Depending on the function, the range of recommended widths in the literature can be fairly narrow or quite large—on the order of tens or even hundreds of feet (Figure 1). That said, there are a multitude of studies which suggest that a minimum buffer width of 100 to 150 feet is adequate for most ecological functions (Tables 1 and 2).

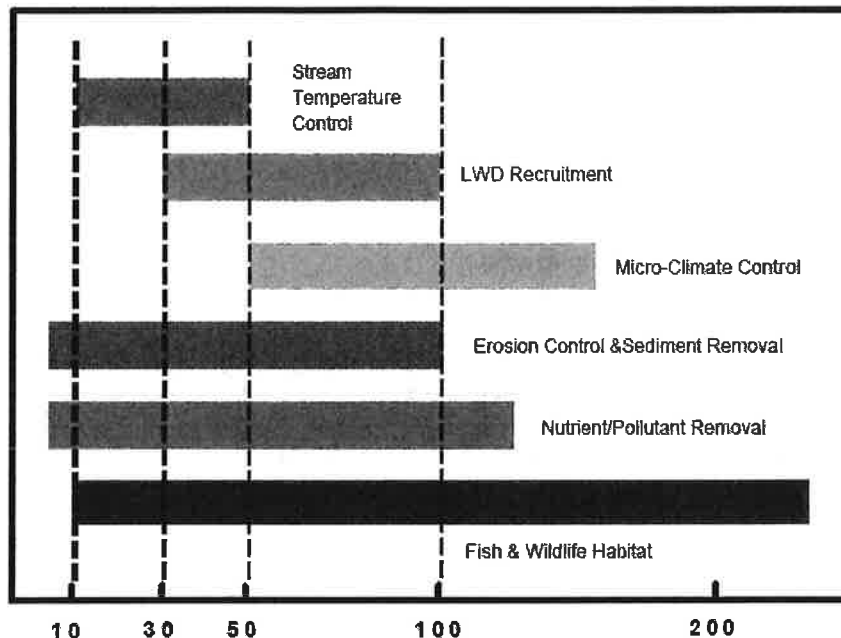


Figure 1. Summary of riparian buffer width ranges (in meters) from current scientific research (May, 2003)².

¹ *Protecting Nearshore Habitat and Functions in Puget Sound* (2009) (<http://wdfw.wa.gov/publications/00693/wdfw00693.pdf>)

² *Stream-Riparian Ecosystems in Puget Sound Lowland Eco-Region: A Review of Best Available Science*. Watershed Ecology LLC.

Table 1. Stream and lake buffer width recommendations, by ecological function

Function	Effective Buffer Range – feet (from Reviewed Literature)	Minimum Buffer Recommendations and Sources
Fine Sediment Removal	49 to 213	Broadmeadow and Nisbet (2004) [49 to 213 ft] Davies and Nelson (2004) [98 ft] May (2003) [98 ft] Pentec (2001) [70% effectiveness @ 98 ft]
Erosion Control/ Bank Stabilization ¹	98 to 125	Cederholm (1994) [125 ft] Christensen (2000) [100 ft] FEMAT (1993) [98 ft – may be larger in braided channels] Knutson and Naef (1997) [100 to 125 ft]
Nitrogen and Phosphorus Removal	49 to 167	Christensen (2000) [100 ft] Kuusemets et al. (2001) [85% nitrogen removal & 84% phosphorus removal @ 167 ft] Wenger (1999) [49 to 98 ft]
Large Woody Debris Recruitment	100 to 164	Christensen (2000) [150 ft] FEMAT (1993) [70% effectiveness @ 100 ft] Knutson and Naef (1997) [147 ft] May (2003) [164 ft]
Organic Matter Input	10 to 200	FEMAT (1993) [70% effectiveness @ 66 ft] Hawes and Smith (2005) [10 to 33 ft] Knutson and Naef (1995) [100 to 200 ft] Wenger (1999) [98 ft]
Shade (Water Temperature)	30 to 230	FEMAT (1993) [70% effectiveness @ 100 ft] Hawes and Smith (2005) [30 to 230 ft] May (2003) [164 ft] Wenger (1999) [33 ft]
General Wildlife Habitat	33 to 328	Goates (2006) [240 ft required to protect 90% of hibernation and nesting and 148 ft required to maintain bird communities] Hawes and Smith (2005) [33 to 164 ft] May (2003) [98 to 230 ft for small mammals] Wenger (1999) [49 to 328 feet, depending upon wildlife type]

Table 2. Marine buffer width recommendations, by ecological function

Function	Effective Buffer Range –feet (from Reviewed Literature)	Minimum Buffer Recommendations and Sources
Fine Sediment Removal	23 to 213	Broadmeadow and Nisbet (2004) [49 to 213 ft] Desbonnet et al. (1995) [80% effectiveness @ 23 ft] May (2003) [98 ft] Pentec (2001) [70% effectiveness @ 98 ft]
Nitrogen Removal	75 to 167	Christensen (2000) [100 ft] Desbonnet et al. (1995) [70% effectiveness @ 75 feet] Kuusemets et al. (2001) [85% removal @ 167 ft]
Phosphorus Removal	100 to 167	Christensen (2000) [100 ft] Desbonnet et al. (1995) [70% effectiveness @ 115 ft] Kuusemets et al. (2001) [84% removal @ 167 ft]
Large Woody Debris Recruitment	100 to 164	Christensen (2000) [150 ft] FEMAT (1993) [70% effectiveness @ 100 ft] Knutson and Naef (1997) [147 ft] May (2003) [164 ft]
Shade (Water Temperature)	30 to 100	FEMAT (1993) [70% effectiveness @ 100 ft] Hawes and Smith (2005) [30 ft] Wenger (1999) [33 ft]
General Wildlife Habitat	33 to 328	Goates (2006) [240 ft required to protect 90% of hibernation and nesting and 148 ft required to maintain bird communities] Hawes and Smith (2005) [33 to 164 ft] May (2003) [98 to 230 ft for small mammals] Wenger (1999) [49 to 328 feet, depending upon wildlife type]

Approach for Developing Buffer Recommendations

With so many factors to consider when identifying appropriate buffer standards, it can be tempting to opt for a parcel-by-parcel buffer strategy since a single width or set of widths seems unjustified. However, such approaches are typically unworkable in a regulatory context because they provide no predictability for property owners and are costly and time consuming to administer. As a result, most jurisdictions have opted for fixed-width strategies that allow for some variability based on the existing shoreline conditions and the intensity of the adjacent land use. This is the approach recommended in the November 2012 draft SMP, where the proposed buffer widths vary by shoreline environment designation, lot depth, and development type (major versus minor new development) (Table 3).

Table 3. Recommended shoreline buffers in the November 2012 Clallam County Draft SMP
(section references refer to the draft SMP document)

	Marine Waterfront	Shoreline Residential - Intensive	Shoreline Residential - Conservancy	Resource Conservancy	Natural
Shoreline Habitat Buffer ^{1,4} (for both Marine and Freshwater Shorelines)					
Minor New Development, Existing lots ≤ 200 ft depth from OHWM to rear lot line	50	50	100	150	175
Minor New Development, Existing lots > 200 ft depth from OHWM to rear lot line	75	75	125	150	175
Major New Development	100	100	150	150	175
Land Divisions	100	100	150	150	175
Shoreline Safety Buffer ^{2,3,4}					
Freshwater Shorelines			150		150 (Outside of the channel migration zone if buildable area exists – see Section 3.8.3)
Marine Shorelines			100 (150 for exceptional feeder bluff)		
Shoreline-specific Buffers ⁴					
Dungeness River – New development shall be located landward of the mapped channel migration zone or at least 150 feet from Ordinary High Water Mark (OHWM), whichever is greater, regardless of the Shoreline Designation or lot size.					
Lake Sutherland – New development shall be at least 35 feet landward of the OHWM regardless of lot size or Shoreline Designation					
¹ Habitat buffers shall be measured from the OHWM and shall apply to all new uses and developments in shoreline jurisdiction.					
² Safety buffer on marine shorelines shall be measured from the top of the bluff and shall apply only to uses and developments on parcels located in areas mapped in the March 2012 Shoreline Inventory and Characterization Report or more recent information as landslide hazard area, feeder bluff or exceptional feeder bluff.					
³ Safety buffer on river shorelines shall apply only to uses / developments on parcels located in areas mapped in the March 2012 Shoreline Inventory and Characterization Report or more recent information as channel migration zones. This includes but is not limited to portions of Morse Creek, Elwha River, Indian Creek, Salt Creek, Pysht River, Lyre River, East Twin River, West Twin River, Deep Creek, Clallam River, Hoko River, Little Hoko River, Herman Creek, Sekiu River, North Fork Sekiu River. The safety buffer shall be measured from the OHWM.					
⁴ Additional buffers: Uses/ development may also be subject to additional buffers due to presence of wetlands, Type F, Np and Ns streams, habitats for federally listed threatened or endangered species, or landslide hazard areas as prescribed in Section 4.2.3 and 4.3. Refer to Table 2-1 and 2-2 for which shoreline uses/development/modifications are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses/development/modifications.					

The SMP requires the buffers to be kept in a predominantly well vegetated and undisturbed condition, defined as an average density of at least 150 woody stems per acre or fifty five percent (55%) areal cover of vegetation. The vegetated areas must comprise at least eighty percent (80%) of the buffer area. The remaining twenty percent (20%), or at least fifteen (15) linear feet of the water frontage, whichever is greater, may be retained as lawn for active use.

In developing these buffer recommendations, we relied heavily on the information in the March 2012 Shoreline Inventory and Characterization Report (ICR) (ESA, 2012). The following is a brief recap of findings from the ICR that influenced the buffer recommendations:

- Clallam County streams, lakes, and associated riparian habitats provide critical habitat for many fish and wildlife species, including several Endangered Species Act-listed salmonids and many State-identified “priority species.”
- The upper stream reaches in the County flow through a densely forested landscape, through Olympic National Park, National Forest, State Forest, and private commercial timber lands. Along the downstream segments, land use and ecological conditions are more variable, but forest and shrub cover along these streams plays an essential role in stabilizing banks, moderating flows, and slowing runoff, as well as shading water (to keep water temperature low), providing large woody structure and nutrients, and adding habitat structure to the aquatic environment. In the eastern portion of the County, agriculture and residential development (including pockets of high-density residential development) are common in the river valleys, such as along the Dungeness River and Morse Creek. In the western half of the County, the lower stream reaches generally flow through managed commercial timber lands, such as along the Pysht and Sol Duc Rivers.
- Most of the streams within the County drop from high-elevation snowfields to sea level in 30 miles or less, which creates dynamic rivers that can flood within hours of a heavy rain event, scouring the banks and sometimes even carving new river channels as they move through narrow valleys. Areas of potential channel migration have been identified for many but not all of Clallam County streams. The Jamestown S’Klallam Tribe (2008) conducted an in-depth study of the Dungeness River, which mapped the outer extent of known historic channels, plus potential future migration over the next 100 years. Ecology et al. (2011) mapped several other County rivers in a separate study. These studies identify river reaches where new development should be avoided or located sufficiently distant from the stream channel to prevent interference with natural stream processes.
- The County’s SMP-regulated lakes (Lake Sutherland and Lake Pleasant) are in relatively good ecological condition. Lake Sutherland, located in the eastern portion of the County, is bordered by dense residential development. Lake Pleasant, located to the west, is primarily surrounded by commercial timberlands with residential development and an industrial site located along the south shore.
- Clallam County’s marine shorelines provide habitat for numerous economically and culturally important wildlife species including many species of shellfish, sand lance, surf smelt, Pacific herring, coho salmon, chum salmon (fall and summer), pink salmon sockeye salmon, Chinook salmon (fall and spring), steelhead (summer and winter), cutthroat trout, rainbow trout, Dolly Varden/bull trout, harbor seal, and gray whale. The abundant kelp and eelgrass beds in the intertidal zone are productive foraging grounds for these and other species.
- Geologic hazards are prevalent along the Strait of Juan de Fuca. Coastal Geologic Services (2011) characterized the condition of the bluffs in terms of erosion potential. Although they did not analyze erosion rates, because actual bluff retreat rates at different locations can vary widely depending upon shore orientation, stratigraphy, exposure, and land use, they identified areas of rapidly receding bluffs based on historical analysis and physical evidence. Subsequent analyses provided by the Jamestown

S'Klallam Tribe shows that marine bluff recession rates of over 2 feet per year occur in some locations (e.g., between Green Point and MacDonald Creek).

- Approximately 27 percent of the marine shore is considered to be “feeder bluff.” Feeder bluffs are recognized as a critically important resource in Puget Sound. The Puget Sound Partnership has targeted protection of feeder bluffs as a key component of the Puget Sound Action Agenda. Other shore types along the Strait of Juan de Fuca include barrier beaches, spits, rocky platforms, stream deltas, inlets, and embayments. These features, which are formed as a result of the County’s unique geographic and oceanographic setting, are continually evolving and changing in response to dynamic physical processes such as sediment erosion and deposition, landslides, and bluff retreat. While these are natural processes that maintain beaches and spits, these changing shorelines and in particular landslides and bluff retreat can be hazardous to structures (and their occupants) that are built too close to the bluff edge.

To supplement the ICR reach-scale analysis, we also conducted a detailed analysis of shoreline vegetation using current aerial photographs to assess the implications of different buffer widths on marine, lake, and river properties (to be documented in the Cumulative Impact Assessment and No Net Loss Summary Report, in process). This analysis suggested that to maintain existing functions and achieve no net loss, buffers in some areas of the County would need to increase beyond what is currently required in Clallam County (typically 50 feet for Rural shorelines, 75 feet for Conservancy shorelines, and 150 feet for Natural shorelines, notwithstanding presence of other critical areas). We believe there are additional reasons to increase buffer widths in some cases. These reasons include the following:

- Effects of climate change, including increased flooding, storm surges, and sea level rise, will pose greater threats to Clallam County shorelines in the foreseeable future compared to today. Wider buffers will help to mitigate climate impacts on people and property.
- Recent federal court rulings on the National Flood Insurance Program have indicated that floodplain development is jeopardizing federally listed salmon species. Local governments are required to increase the level of floodplain protection (impose greater restrictions on floodplain development) or risk losing NFIP eligibility.
- According to the Puget Sound Nearshore Ecosystem Restoration Project’s comprehensive assessment of Puget Sound shorelines, the Juan de Fuca subbasin has the highest proportion of sites recommended for protection in all of the Puget Sound basin (Cereghino et al., 2012). The County’s ability to prevent degradation and maintain the quality and health of the nearshore environment is central to the region’s overall Puget Sound recovery efforts.
- Recent studies of bluff conditions (by Coastal Geologic Services and Randy Johnson, Jamestown S’Klallam Tribe) have refined our understanding of the existing bluff conditions and of the dynamic and changing nature of the County’s marine shorelines. Bluff retreat rates in some areas of the County have been shown to be 2 feet per year or more. Focusing future development further away from rapidly eroding and inherently unstable shorelines allows more space for natural processes to occur and reduces that chances that people or property will be threatened when changes happen. There is wide consensus in the scientific literature that well-vegetated buffer zones help maintain slope stability (and in turn structures and human safety). Most researchers suggest that steeper slopes and/or faster eroding shorelines require wider buffers than stable shorelines (Washington Sea Grant, 2009). In addition to requiring shoreline buffers of 75 to 150 feet (from ordinary high water) on most of the marine shoreline, the County building code requires a maximum setback of 100 feet from the top of the bluff in unstable areas. The maximum buffer may not be adequate in the highly erosive areas (e.g., exceptional feeder bluffs) or in areas with known landslide hazards. The proposed strategy opts for a minimum buffer based on the latest bluff mapping and provides allowances for buffer reduction when wider buffers are demonstrated to be unnecessary based on site-specific investigation.

- Ecology identified and mapped channel migration zones on many Clallam County rivers using the latest techniques and data. The results indicate that the areas subject to potential migration are in most cases much wider than previously thought. Focusing future development further away from the existing channel margins is one way to keep people and property out of harm's way and ensure that new development does not interfere with natural processes. This means increasing buffer widths for several major river systems in the County.
- A recent assessment of the effectiveness of regional salmon recovery efforts suggests that the region is falling well short of its commitments to restore salmon populations to healthy levels. The study calls for greater effort across the Puget Sound region in preventing further habitat decline because our current approaches are not achieving the desired outcomes (Judge, 2011).

The shoreline buffer widths recommended in the November 2012 SMP are consistent with Ecology guidance³, which states as follows:

- Undeveloped shorelines with largely intact ecological functions should be protected with buffers of 150 feet to 200 feet. Shorelines with extensive critical areas, or within channel migration zones or floodplains, also will need buffers to protect life and property during flooding.
- Rural residential development, where houses and appurtenances such as garages and sheds cover 25 to 35 percent of the ground, some area is landscaped, and the rest is in native vegetation, would likely need buffers of 150 feet to protect existing functions.
- Small-lot residential development in highly developed areas provides some ecological functions. Buffers or setbacks with vegetation conservation requirements of roughly 30 to 60 feet may be appropriate. If these areas include critical areas, larger buffers likely will be needed.
- Heavily developed waterfront areas with port facilities, water-dependent industry, overwater structures such as docks for containerized shipping, or other intensely developed areas may have limited ecological functions. In these areas, buffers or setbacks may not be appropriate. Regulations should address retention of any existing vegetation and encourage restoration where it is appropriate.

The buffer widths (50 to 175 feet for habitat buffers and 150 for safety buffers) are also within the range recommended by the scientific literature for most functions. In fact, the vast majority of the shorelines in Clallam County would have a minimum buffer width of at least 150 feet (measured from ordinary high water) because most (73 percent) of the shoreline area is designated Resource Conservancy or Natural (Table 4). Approximately 23 percent of the shoreline would have a minimum buffer of 100 feet under the Shoreline Residential - Conservancy designation. Approximately 2.6 percent of the shoreline area would have a minimum 50-foot buffer (Table 4). Minimum buffers will be wider for developments on lots more than 200 feet deep and when the proposed development is considered major new development (e.g., commercial development, subdivisions, and large scale single-family developments). The minimum buffer widths for minor new developments (reported in Table 4) would only apply to single-family residential developments on small lots that meet the following criteria intended to reduce adverse impacts:

- Total clearing/land disturbance within shoreline jurisdiction cannot exceed fifteen percent (15%) of parcel area or twenty thousand (20,000) square feet, provided that a minimum of two thousand five hundred (2,500) square feet is allowed; and

³ Washington Department of Ecology's Shoreline Handbook,
(<http://www.ecy.wa.gov/programs/sea/shorelines/smp/handbook/Chapter11.pdf>)

- Impervious area (including structures) within shoreline jurisdiction can be up to the lesser of five percent (5%) of the total parcel area or six thousand five hundred (6,500) square feet, provided that a minimum of two thousand (2,000) square feet is allowed; and
- Cumulative footprint (area) of all structures on the parcel must be less than four thousand (<4,000) square feet.

Table 4. Percent of Clallam County shoreline area protected by various minimum buffer widths

Shoreline Environment Designation	Minimum buffer (feet) for residential development (see Table 1)	Percent of total shoreline area (acres) with this designation (excludes aquatic areas)
Marine Waterfront	50	0.2%
Shoreline Residential – Intensive	50	2.4%
Shoreline Residential - Conservancy	100	22.8%
Resource Conservancy	150	66.1%
Natural	175	6.8%
Other (Federal, Tribal)	NA	1.6%

The practice of differentiating buffer widths depending on the type of development (major versus minor) has been used in Clallam County's critical area regulations for several years. This practice was challenged before the Growth Management Hearings Board in 2003, but the County prevailed in Superior Court (Clallam County vs. Western Washington Growth Management Hearings Board, et al., 2003). In their opinion memorandum, the Court stated that "local circumstances" should be a consideration when applying best available science and that it is unreasonable to require larger buffers when a smaller buffer would result in no measurable impact on the environment.

Rationale for Specific Buffers

In part to inform the establishment of appropriate buffer widths, ESA examined existing shoreline setbacks and riparian vegetation conditions focusing on both developed areas and areas that had high potential for future development. We decided on a two-pronged approach that defines minimum widths needed to protect habitat functions and applies a separate "additive" buffer when safety concerns related to marine feeder bluffs and channel migration are present. We used our best professional judgment to recommend habitat and safety buffer widths for each shoreline environment designation that take into account all of the following:

- The ecological, cultural, and economic value of the resource being protected (presence of salmonids, shellfish, priority wildlife species, etc.);
- The level of degradation or shoreline modification as indicated by water quality listings, the presence of structures such as armoring, levees, dikes, roads, etc.;
- The vegetative characteristics (vegetation type, diversity, and maturity) of the uplands along lakes, rivers, and marine waters;

- The presence of potential hazards (such as eroding bluffs, landslides, and channel migration zones) to people and property;
- The existing lot pattern, including lot size and configuration;
- The type and intensity of the existing land use; and
- The planned land use and the risks that the development might pose to shoreline functions.

Habitat Buffers

Habitat buffers are somewhat misnamed because they are designed to ensure that buffers perform a full suite of hydrologic, water quality, and habitat-related functions including but not limited to the following:

- Providing shade necessary to maintain the cool temperatures required by salmonids, spawning forage fish, and other aquatic biota;
- Providing organic inputs critical for aquatic life;
- Providing food in the form of various insects and other benthic macroinvertebrates;
- Stabilizing banks, minimizing erosion, and reducing the occurrence of landslides. The roots of trees and other riparian vegetation provide the bulk of this function;
- Reducing fine sediment input into the aquatic environment through stormwater retention and vegetative filtering;
- Filtering and vegetative uptake of nutrients and pollutants from groundwater and surface runoff;
- Providing a source of large woody debris into the aquatic system. Large woody debris is the primary structure that functions as a hydraulic roughness element to moderate flows. Large woody debris also serves a pool-forming function, providing critical salmonid rearing and refuge habitat. Abundant large woody debris increases aquatic diversity and stabilization;
- Regulating microclimate in the stream-riparian and intertidal corridors; and
- Providing critical wildlife habitat, including migration corridors and feeding, watering, rearing, and refuge areas.

These buffers are measured from the ordinary high water mark and apply to all shorelines. A summary of how the habitat buffers relate to each shoreline designation is provided below.

Marine Waterfront Shorelines

Certain areas of the marine waterfront are relatively intensively developed for a mixture of commercial, residential, and recreational uses. This occurs in the western half of Clallam Bay and at several private recreational shoreline areas, including Snow Creek, Silver King, and Whiskey Creek resorts. These areas generally have hardened shorelines, multiple overwater structures, boat ramps, water-oriented development and use immediately adjacent to shorelines, high levels of impervious surface, and sparse or patchy riparian vegetation.

For any minor new development including single-family residential development occurring in these areas, a relatively narrow buffer of 50 to 75 feet is generally adequate to maintain the existing riparian vegetation functions (shade, organic inputs). For larger scale or more intensive developments (e.g., commercial development, major recreational development) a minimum 100-foot buffer is required. These higher intensity developments

generally result in more ground disturbance and impervious surface, generate more runoff, and cause greater noise and light impacts compared to less intensive development such as an average-sized residence on an existing lot. In addition, lots in these densely developed areas tend to be relatively small and shallow (for example, the average lot depth along Diamond Point is approximately 100 feet), so it is not possible to accommodate a wide buffer and still retain some development potential.

The rationale for the recommended buffers is as follows:

- Existing vegetated buffers within these shorelines are generally narrow and patchy, so a wider habitat buffer would not necessarily result in better ecological functioning.
- While all major new development will require a 100-foot-wide habitat buffer, components and uses that are water-dependent and water-related will be allowed within the shoreline buffer when compensatory mitigation is provided. This will allow for future development consistent with existing (and desired) patterns, while requiring improvement of existing degraded conditions as mitigation for new uses with higher potential for riparian impact.
- While the minimum recommended 50-foot habitat buffer (only for minor new development on shallow lots) is below several of the buffer ranges in the scientific literature (Tables 1 and 2), these studies were based upon unaltered riparian areas. The proposed buffers will adequately protect the remaining vegetated buffer areas.

Shoreline Residential - Intensive Shorelines

On the more densely developed shorelines of the County (such as Diamond Point, lower Morse Creek, and other areas designated Shoreline Residential - Intensive), structural shoreline armoring is ubiquitous. Natural riparian vegetation in these areas is highly fragmented and/or consists of a relatively narrow strip of forest or shrub habitat along the shoreline (providing shade and organic inputs). Where present, vegetated buffers on small lots are relatively narrow (25 to 50 feet in width), but many of these areas have lawn or landscaping with sparse natural buffer vegetation. This pattern was observed on both developed and undeveloped lots.

A relatively narrow buffer of 50 to 75 feet is generally adequate to maintain the existing riparian vegetation functions (shade, organic inputs) in these areas when the proposed development is single-family residential. For larger scale or more intensive developments (e.g., commercial development, subdivisions) a minimum 100-foot buffer is required. These higher intensity developments generally result in more ground disturbance and impervious surface, generate more runoff, and cause greater noise and light impacts compared to less intensive development such as an average-sized residence on an existing lot. In addition, lots in these densely developed areas tend to be relatively small and shallow (for example, the average lot depth along Diamond Point is approximately 100 feet), so it is not possible to accommodate a wide buffer and still retain some development potential.

The rationale for the recommended buffers is as follows:

- Existing vegetated buffers are generally narrow or non-existent, so a wider buffer would not necessarily result in better ecological functioning.
- While a 50-foot buffer is below the minimum recommended buffer width for some functions in the scientific literature (Tables 1 and 2), many of these studies were based upon unaltered riparian areas. The proposed buffers will adequately protect the remaining vegetated areas.

Shoreline Residential - Conservancy Shorelines

In areas of the County with larger parcels and more rural zoning densities (areas designated Shoreline Residential - Conservancy), riparian vegetation generally consists of a relatively wide, mostly contiguous band of mature forest, often extending 200 feet or more landward of the shoreline (Miller Peninsula, Freshwater Bay, McDonald Creek shorelines, for example). In areas of this designation that are more developed, the existing contiguous band of mature forest is still generally at least 100 feet wide (Sequim Bay, Dungeness Bay and Harbor, Green Point vicinity shorelines, for example). These shorelines are generally unarmored without overwater or in-water structures.

These shorelines support some of the highest quality habitat for salmon, shorebirds, shellfish, and other species and perform critical roles in terms of providing recruitment areas for large woody debris and protecting water quality. These areas also tend to be ecologically sensitive and in some cases are unsuitable for intensive development because they contain critical saltwater or freshwater habitats such as wetlands, feeder bluffs, floodplains, etc. For example, Sequim Bay, which is an important forage fish and juvenile salmonid rearing habitat, is very sensitive to nutrient and contaminant inputs compared to the Strait of Juan de Fuca. Other examples include the large and mostly undeveloped, yet subdividable, parcels along Freshwater Bay and the northwest portion of Miller Peninsula, and the unique shoreline spits and river mouths (e.g., Gibson Spit and the Salt Creek estuary), where ecologic functions are generally intact, and the shoreline and associated uplands provide important habitat for a variety of wildlife species.

In order to protect these high-quality habitats and intact riparian functions, wider riparian buffers are necessary for all types of development within these shorelines, including minor new development. By far, the most common type of development will be single-family residential, which will require a minimum buffer of 100 to 125 feet. This width will provide adequate protection of existing mature riparian forest, while allowing for development consistent with existing patterns.

The rationale for the recommended buffers is as follows:

- These areas are among the most ecologically productive marine and freshwater shorelines in the County.
- Shoreline development in these areas potentially poses a greater risk to ecological functions. Therefore, a wider buffer of 100 to 150 feet is needed to protect the full range of functions and achieve no net loss. As with the Shoreline Residential – Intensive buffers, the specific width of the buffer is scaled to the parcel depth since our analysis shows that areas with larger parcel sizes generally have more intact and high-functioning buffers to begin with.
- While commonly occurring primary development (including single-family residential structures) would have to occur landward of the habitat buffer, the Final Draft SMP provides reasonable allowances for private use of habitat buffer areas. Allowances without compensatory mitigation requirements include view corridors, hazard tree removal, pathways and pedestrian beach access structures, and boating facilities (where otherwise allowed). Additional allowances are provided for buffer averaging and, in certain instances, common line buffers.
- Habitat buffers of 100 to 125 feet required for single-family residential development will not constrain existing, undeveloped lots. We reviewed existing lot patterns in areas where this designation is proposed, and virtually all existing lots have adequate depth to allow for development outside of the habitat buffer. (See discussion of hazard buffers, below, for implications of proposed habitat buffers.)

Resource Conservancy Shorelines

Resource Conservancy-designated shorelines are the most common type of shorelines in the County, encompassing significant reaches of marine shoreline to the west of Freshwater Bay, the large majority of Morse Creek, the East and West Twin Rivers, Deep Creek, the Pysht, Clallam, Hoko, and Sekiu Rivers, as well as significant upstream reaches McDonald and Morse Creeks, and the Elwha River. Resource Conservancy-designated shorelines are generally unaltered and bordered by dense riparian tree cover, which provides high-quality habitat for a variety of fish and wildlife species. These shorelines are located on lands zoned for commercial forestry, although some are specifically designated as “no-cut” zones and managed for conservation purposes instead of timber production. The purpose of this designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, wilderness and/or outdoor recreational use, and to ensure that where scattered and/or relatively isolated residential or recreational developments do occur, such use is located well away (150 feet or more) from adjacent shorelines in order to maintain intact riparian conditions and ensure no net loss.

The rationale for the recommended 150-foot habitat buffer is as follows:

- Resource Conservancy shorelines are mostly unaltered and dominated by dense, forested riparian vegetation, but some cleared or otherwise altered areas are present in limited and distinct locations.
- The recommended 150-foot buffer widths are within the range of appropriate buffer widths for functions in the reviewed scientific literature (Tables 1 and 2).
- Existing lots and parcels within Resource Conservancy-designated shorelines are generally of sufficient size (5 acres or greater) to accommodate a 150-foot buffer for all new development.
- Small and/or shallow lots are extremely rare in this designation, with a minimal number of lots rendered as non-conforming under the updated SMP even with application of the ample protective buffer. The habitat buffer averaging provisions of the updated SMP provide additional flexibility.

Natural Shorelines

The marine and stream shores designated as Natural are among the least altered and most ecologically intact shorelines in the County, providing important habitat for a variety of fish and wildlife species. These lands are generally undevelopable because of their ecological characteristics and/or their hazardous conditions, and include densely forested (closed-canopy) riparian habitat extending throughout the shoreline environment. Alterations requiring shoreline modification generally do not occur within Natural-designated shorelines, outside of crossings required for existing public transportation or utility uses.

For Natural-designated shorelines (e.g., state park owned marine shorelines along the Miller Peninsula, numerous estuarine shorelines, unaltered spits, the marine shoreline west of Clallam Bay, the lower Dungeness and Elwha Rivers, and middle reaches of Morse and Indian Creeks), we recommend a habitat buffer width of 175 feet for all new development.

The rationale for the recommended buffer is as follows:

- Natural shorelines are generally unaltered and dominated by dense, forested riparian vegetation extending throughout shoreline jurisdiction.
- The recommended 175-foot buffer width is within the upper range of appropriate buffer widths for functions in the reviewed scientific literature (Tables 1 and 2). Wider buffers along Natural shorelines are needed to protect these high-functioning and unaltered riparian areas.

- Existing lots within Natural-designated shorelines are generally of sufficient size (5 acres or greater) to accommodate a 175-foot or wider buffer.

Safety Buffers

Given the well-documented erosion and landslide hazards that are present along most of the County's marine shorelines, we recommended that an additional buffer should be established from the top of the bluff to ensure that those lands can be safely developed without the need for future structural shoreline armoring/stabilization. The safety buffer only applies in areas that, according to Washington Coastal Atlas and/or the WDNR, are designated as a landslide hazard area, unstable slope, unstable slope–recent slide, or unstable slope–old slide. The safety buffer is also applied to areas mapped in the March 2012 Inventory and Characterization report as feeder bluff or exceptional feeder bluff since the underlying geology and physical characteristics of these areas indicate they are highly erosive relative to other areas of the marine shoreline⁴.

On the marine shoreline the minimum safety buffer is 100 feet, unless the area is designated as an exceptional feeder bluff, in which case the minimum safety buffer is 150 feet since these areas are documented to be “the most rapidly receding bluff areas with the highest volumes of sediment input to the marine system per lineal foot” of shoreline (ESA, 2012). Bluff retreat rates at different sites can vary significantly, depending upon shore orientation, stratigraphy, exposure, and land use.

Given that significant landslide and bluff rates have been observed along some shoreline areas (such as a retreat rate of 2 feet per year at some sites), having a minimum buffer standard instead of the current maximum 100-foot setback is prudent. At a site with an average retreat rate of 2 feet per year, a 150-foot buffer would protect a new structure for 75 years. The requirement to maintain the buffer in a well-vegetated condition (as opposed to simply imposing a building setback) is needed because tree and shrub roots are much more effective at stabilizing slopes as compared to lawn, pasture, or otherwise unvegetated areas.

We reviewed implications of the safety buffer requirements of the updated SMP on existing marine residential lots (primarily designated Shoreline Residential – Conservancy). Existing undeveloped lots generally have adequate depth to allow for development and still meet required buffers of 100 feet for landslide hazard areas and 150 feet for exceptional feeder bluffs. We identified 11 existing lots or less (less than 2 percent of total lots with marine hazard buffer requirements) that would not have adequate room to build outside of the safety buffer; some of these lots would not be so constrained if the allowances for buffer averaging are considered.

On river shorelines that have mapped channel migration zones (portions of Morse Creek, Elwha River, Indian Creek, Salt Creek, Pysht River, Lyre River, East Twin River, West Twin River, Deep Creek, Clallam River, Hoko River, Little Hoko River, Herman Creek, Sekiu River, and the North Fork Sekiu River), a safety buffer of 150 feet (measured from the ordinary high water mark) is intended to direct development away from the active channel corridor where there is a proximate risk of erosion and deposition associated with lateral channel migration. The Ecology-delineated channel migration zones include the active channel corridor (essentially the stream meander belt) plus an additional erosion hazard zone typically equal to 50 to 100 percent of the active channel width, as well as avulsion hazard zones that may extend outside the erosion hazard zone. We used professional judgment to determine that a buffer of 150 feet on either side of the existing channel would be a reasonably conservative approximation of the active channel width in most cases.

We designated this zone as the riverine safety buffer so that if these areas develop, they do so in a way that minimizes interference with normal river processes and minimizes risk to people and properties. Keeping

⁴ The safety buffer does not apply to areas mapped as talus feeder bluff unless these areas are also mapped as landslide hazards, which is often the case in Clallam County.

developments well landward of the channel reduces, but does not eliminate, the likelihood that these properties will require structural shoreline stabilization in the future. The safety buffer does not totally neutralize risks associated with channel erosion or avulsion though, which is why the SMP recommends that development be located landward of the migration zone if there is sufficient area to do so.

Other Buffer Recommendations

The November 2012 draft SMP contains separate recommendations for buffers on the Dungeness River and Lake Sutherland. For Lake Sutherland, we recommended maintaining the existing shoreline buffer of 35 feet since the lake is relatively densely developed with residences and based upon current County zoning regulations, the lake shore is almost entirely built out. Existing home setbacks are narrow (ranging from approximately 0 to 40 feet), and most of the lots lack natural riparian buffer vegetation. We recommend a **35-foot** buffer for all development types for the following reasons:

- Existing vegetated buffers are generally highly-altered and narrow or non-existent, so a wider buffer would not necessarily result in better ecological functioning.
- A 35-foot buffer is somewhat wider than the existing setbacks on many of the developed lots, especially along the eastern shores of the lake.
- The lakeshore is almost entirely built out; a 35-foot buffer for new development and redevelopment will not result in a significant decrease in the shoreline vegetation.

On the Dungeness River, we based the buffer recommendations on the information provided in the Dungeness River Comprehensive Flood Management Plan, which recommends locating new developments outside of the mapped channel migration zone (Clallam County, 2009). The channel migration zone conditions along the Dungeness River have been extensively studied and the migration zone has been carefully delineated and vetted. As such the recommendations in the Plan constitute the best available information upon which to base buffer requirements.

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SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the SMA at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2019 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

At the beginning of the periodic review, use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

Ecology recommends reviewing all items on the checklist. Some items on the checklist prior to the local SMP adoption may be relevant.

At the end of your review process, use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.

Prepared By		Jurisdiction	Date
ESA and County Staff		Clallam County	September 13, 2021
Row	Summary of change	Review	Action
2021			
a.	The Legislature amended floating on-water residences provisions	SMP 3.8.2(6) prohibits overwater or floating residences.	No action needed.
b.	The Legislature clarified the permit exemption for fish passage projects	SMP 3.11.2(5c) specifies fish passage identified in Fish Passage designs.	No action needed.
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	SMP 4.2.5 addresses docks accessory to residential development but does not specify the cost threshold; SMP 10.2.5 (1 & 2) cite directly to the exemptions of RCW 90.58.030(3.e) and WAC 173-27-040 where the freshwater dock threshold is established	<u>No action needed.</u>
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (applies to 9 jurisdictions)	<u>SMP 4.3.3 (2) requires dredge disposal activities to comply with the DMMP;</u>	<u>No action needed.</u>
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.	<u>SMP 10.2.5 (1 & 2) cite directly to the exemptions of RCW 90.58.030(3.e) and WAC 173-27-040 where fish habitat enhancement projects cite to RCW 77.55.181 that lists kelp, eelgrass & native oyster restoration.</u>	<u>No action needed.</u>
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	<u>SMP 10.2.5 (1 & 2) cite directly to the exemptions of RCW 90.58.030(3.e) and WAC 173-27-040 where the total cost/fair market value dollar threshold is established;</u> <u>SMP 11.S.327 definition for 'substantial development'</u>	<u>No action needed.</u>

		<u>cites to the "inflation-adjusted value threshold set by the Washington State Office of Financial Management" and RCW 90.58.030(3)(e) where the cost threshold is established.</u>	
b.	Ecology permit rules clarified the definition of "development" does not include dismantling or removing structures.	<u>SMP 11.D.89 definition for 'development' includes the clarification;</u>	<u>No action needed.</u>
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	<u>SMP 1.7(2) Exceptions to Applicability address these exceptions per WAC 173-27-044 and -045</u>	<u>No action needed.</u>
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	<u>SMP 10.3.5 (1) requires permit filing per direct citation to WAC 173-27-130.</u>	<u>No action needed</u>
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.	<u>SMP 3.4.2(3) specifies that other timber harvest activities that qualify as 'development' require an SDP or CUP as indicated by Use Table 2-2; SMP 11.F.135 definition for 'forest practice' does not include the clarification.</u>	<u>No action needed</u>
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	<u>SMP 1.8(1.b) excludes the in-water and upland areas of Olympic National Park from SMP jurisdiction; 2.3(3.b) Aquatic SED and 2.4(5) Natural SED management policies repeat that such areas are not subject to the SMP with citation to RCW 37.08.210 that establishes exclusive federal jurisdiction for the Park.</u>	<u>No action needed.</u>
g.	Ecology clarified "default" provisions for nonconforming uses and development.	<u>SMP 5.1 establishes provisions for existing uses and developments, structures and vegetation.</u>	<u>No action needed.</u>
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews.	<u>SMP 1.10(3) specifies the periodic review requirement with citation to RCW 90.59.080, WAC 173-26 and -27.</u>	<u>No action needed.</u>

i. Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	<u>SMP 10.6 addresses SMP amendments but does not specify the optional joint review process.</u>	<u>No action needed;</u> <u>The optional joint review process of WAC 173-26-104 may be utilized even if not included in the SMP.</u>
j. Submittal to Ecology of proposed SMP amendments.	<u>SMP 10.6 addresses SMP amendments but does not specify Ecology submittal details.</u>	<u>No action needed;</u> <u>The submittal requirements of WAC 173-26-110 apply regardless of SMP inclusion.</u>
2016		
a. The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the Americans with Disabilities Act .	<u>SMP 10.2.5 (1 & 2) cite directly to the exemptions of RCW 90.58.030(3.e) and WAC 173-27-040 where the ADA retrofitting item is established.</u>	<u>No action needed.;</u>
b. Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	<u>SMP 7.4(4) requires use of the 2014 Wetland Rating System;</u> <u>SMP 7.5(2) allows reduction of Table 7-4 wetland buffers with use of Table 7-5 minimization methods and a wildlife corridor;</u> <u>SMP 7.5(7) requires mitigation for buffer averaging;</u> <u>SMP 8.3 establishes general mitigation requirements; and</u> <u>SMP 8.5 specifies wetland mitigation requirements.</u>	<u>No action needed.;</u>
2015		
a. The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	<u>SMP 3.11 addresses Transportation use & development; and</u> <u>SMP 10.2 establishes permit review provisions;</u> <u>Neither section specifies the 90-day review target for WSDOT projects.</u>	<u>No action needed;</u> <u>The special permit review procedures of WAC 173-27-125 (per RCW 47.01.485) still apply regardless of SMP inclusion.</u>
2014		
a. The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	<u>SMP 3.8.2(6) prohibits in-water, overwater or floating residences & ADUs;</u> <u>Residential Use Table 2-1 prohibits 'floating homes' in all SEDs; and</u> <u>SMP 11.F.127 definition of</u>	<u>No action needed.;</u>

'floating house/home'
includes citation to RCW
90.58.270 where floating on-
water residences and floating
homes are defined by statute.

2012

- a. The Legislature amended the SMA to clarify **SMP appeal procedures**.

SMP 10.6 addresses SMP amendments with mention of appeals to the WWGMHB and citation to RCW 90.58.190 where SMP appeal procedures are established.

No action needed.

2011

- a. Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**.

SMP 7.4(3) requires delineations per citation to WAC 173-22-035 where the use of the 'approved federal wetland delineation manual and applicable regional supplements' is established.

No action needed.

- b. Ecology adopted rules for new commercial **geoduck aquaculture**.

SMP 3.2.3 establishes regulations specific to commercial geoduck aquaculture.

No action needed.

- c. The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011.

SMP 3.8.2(6) prohibits in-water, overwater or floating residences & ADUs; **Residential Use Table 2-1** prohibits 'floating homes' in all SEDs; and **SMP 11.F.127** definition of 'floating house/home' includes citation to RCW 90.58.270 where floating on-water residences and floating homes are defined by statute.

No action needed.

- d. The Legislature authorizing a new **option to classify existing structures as conforming**.

SMP 5.1.0(2) establishes that single-family residences and appurtenant structures are considered conforming; **SMP 11.C.70** definition for 'conforming' also includes citation to RCW 90.58.620 where this allowance is established.

No action needed.

2010

a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.	<u>SMP 7 Note to Users specifies the ‘no net loss’ standard for shoreline critical areas; SMP 7.1 establishes that critical areas located in shoreline jurisdiction are regulated by the SMP not by CCC27.12 (CAO); SMP 10.6 addresses SMP amendments but does not specify the 14-day effective date per WAC 173-26-120(3.d.i).</u>	<u>No action needed; SMP amendments become effective 14-days after the date of Ecology’s written notice of final action regardless of SMP inclusion.</u>
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2009

a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	<u>SMP does not include the optional process of RCW 90.58.580.</u>	<u>No action needed; The OHWM relief allowance for restoration in UGAs can still be implemented per statute regardless of SMP inclusion.</u>
b.	Ecology adopted a rule for certifying wetland mitigation banks.	<u>SMP 8.3(4) allows for use of approved mitigation banks.</u>	<u>No action needed;.</u>
c.	The Legislature added moratoria authority and procedures to the SMA.	<u>SMP does not include moratoria authority per RCW 90.58.590.</u>	<u>No action needed; The County may rely on the authority established by statute to adopt moratoria regardless of SMP inclusion.</u>

2007

a.	The Legislature clarified options for defining “floodway” as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	<u>SMP 11.F.132 definition for ‘floodway’ relies on effective FEMA FIRMs.</u>	<u>No action needed;.</u>
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	<u>SMP includes Exhibit A Shoreline Environment Designation Maps and Exhibit B List of SMP Waterbodies.</u>	<u>No action needed;.</u>
c.	Ecology’s rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of	<u>SMP 10.2.5 (1 & 2) cite directly to the exemptions of RCW 90.58.030(3.e) and WAC 173-27-040 where fish habitat enhancement projects cite to RCW 77.55.181 that lists kelp,</u>	<u>No action needed.</u>

RCW 77.55.181.

eelgrass & native oyster
restoration.

Additional corrections

The following changes are necessary to correct scrivener errors and items that were adopted by the County Commissioner, but that did not get changed in the text of the final Shoreline Master Program Ordinance 972 adopted July 20, 2021.

SMP Section	Summary of change	Discussion
SMP 2.5 Resource Conservancy - 2. Purpose	2. Purpose: The purpose of the Resource Conservancy designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, and/or <u>low-intensity outdoor recreational use, while protecting existing ecological functions and processes.</u>	During Comprehensive Update the Commissioners accepted this change required by Ecology, but it was not updated in the text of the ordinance.
SMP 8.2 Mitigation & NNL - Policy 3	j. Area of undeveloped floodplains/channel migration zone.	During Comprehensive Update the Commissioners accepted this change required by Ecology, but it was not updated in the text of the ordinance.
SMP 11 Definitions - A	25. Aquatic Habitat Conservation Areas means the subset of fish and wildlife habitat conservation areas listed in WAC ~~395~~ <u>365</u> -190-130(21) that occur in the water.	Scrivner error
SMP 8 Mitigation & NNL; and SMP 10 Administrative Procedures	8.2 Policies: 4. The County should use <u>a the checklist application form in Exhibit B</u> to track new development proposals against the list of indicators in Section 8.2.3. Changes in indicators should be tracked and monitored at the shoreline reach and watershed scales. 10.2.5 Exemptions from SSDP: 9. All statements of exemption shall be in writing ~~on forms attached to this Program (Exhibit B).~~ As appropriate...	Checklist was removed during the Comprehensive Update, but language was not removed. Department of Ecology had recommended we fix during the Comprehensive Update, but it was overlooked.
Table of Contents	Add ORMA chapters	Section was added during Comprehensive Update review regarding the Ocean Resources Management Act, but was not added to the Table of Contents. Needs to be

SMP Section	Summary of change	Discussion
3.13.2 General Ocean Management Policies	Item 's' formatted to next row	added for reference. Scrivner error
6.3.6 Lake Sutherland Buffer	Duplicative numbering a.ii and aiii	Scrivner error
6.3.6 Lake Sutherland Buffer	Typo at item b. should read maximize, not maximum	Scrivner error
11.N	Typo at New Ocean uses, should read See	Scrivner error
11.S	Typo at Single-family, should read including	Scrivner error

LETTER OF TRANSMITTAL

To: Clallam County Board of Commissioners
From: Clallam County Planning Commission
Subject: Transmittal to BOCC: Findings and Conclusions regarding Periodic Review of Shoreline Master Program

Dear Commissioners:

The Clallam County Planning Commission conducted a Public Workshop and has completed its review regarding the Periodic Review of the Shoreline Master Program. The Planning Commission approved its final recommendation to forward to the BOCC at its meeting on December 1, 2021. As Vice-Chairman of the Clallam County Planning Commission, having first received the authorization of the Commission, I am transmitting herewith the findings and recommendations of the Commission on this proposed Ordinance:

FINDINGS OF FACT:

1. Clallam County is tasked with reviewing their Shoreline Master Program (SMP) every eight years, which was due in June 2020.
2. Clallam County recently adopted an updated SMP that became effective on September 1, 2021.
3. DCD staff provided the Planning Commission with Ecology's Periodic Review Checklist indicating no action is needed to update the SMP. Several corrections and scrivener errors are noted to be corrected through the process.
4. The Planning Commission held a Workshop on November 17, 2021 to discuss changes proposed by the Public on any necessary changes to the SMP.
5. During the Workshop the only comment discussed was that the Planning Commission should propose an amendment utilizing WDFW's Potential Tree Height Index to determine Shoreline Buffers. WDFW staff provided comment that this index provides better ecological function to the riparian areas than the predetermined shoreline buffers adopted in the current SMP and that WDFW had provided comment before based on this science.
6. At the December 1, 2021 DCD staff provided the WDFW comment submitted to Ecology during the Comprehensive Update along with the response from the County. Also included were documents providing explanation of the buffer widths provided during the Comprehensive Update showing that the

information presented was considered in the update, and would not require an amendment to be proposed during the Periodic Review.

7. DCD staff recommended the Planning Commission consider a Finding of Adequacy for the Periodic Review.
8. The Planning Commission held a vote on December 1, 2021 to recommend a Finding of Adequacy for the newly adopted Shoreline Master Program; _____ in favor, _____ opposed, _____ absent

Based on the above facts and findings, along with the attached Ecology checklist, the Planning Commission adopts and transmits the following conclusion to the Clallam County Board of Commissioners.

CONCLUSION: The Clallam County Planning Commission concludes that a Finding of Adequacy is appropriate for the Periodic Review of the Clallam County Shoreline Master Program.

The Planning Commission recommends approval for the Finding of Adequacy by the BOCC and as Chair of the Commission, has directed me as its duly authorized agent to transmit this recommendation to the BOCC.

Scott Clausen, Vice-Chairman

Date



STAFF REPORT
Clallam County Department of
Community Development

Date: November 24, 2021
To: Clallam County Planning Commission
From: DCD, Planning Division
Re: Rezone and Comprehensive Plan and Zoning Map Amendment
Application REZ2021-00001 – Sara Lee Blake

REQUEST

Sara Lee Blake informed the Department of Community Development her residential property was zoned Public, which appeared to be an error of the Zoning Map, and is requesting a Comprehensive Plan Land Use and Zoning Map amendment for the property 660 N Blake Ave, parcel number 033020-110200 (map 1) from Public (P) to Rural Neighborhood Conservation (NC).

The property is an approximate 5 acres developed with a single-family residence. The property is located north of Carrie Blake Park, and is adjacent to lands owned by the State Department of Fish and Wildlife to the north, east and south, and the City of Sequim city limits to the west.

APPLICATION SUMMARY

A. BACKGROUND

A.1 Ownership and History

The approximate 5 acre parcel is developed with a single-family residence that was constructed in the 1950's. This property and the surrounding lands were owned by the Blake Family. A large portion of the Blake Family land was transferred to the City of Sequim which is now known as Carrie Blake Park; in the year 2000, twenty-one acres were transferred by Elizabeth Blake to the Department of Fish and Wildlife (AFN2000-1055863) in order to preserve and enhance habitat and a wetland associated with Bell Creek. The five acre parcel that contains the single-family residence was maintained by Elizabeth and Sara Blake.

The WDFW property and Blake residence were previously zoned Rural Moderate (R2). The R2 zone was invalidated by the State in 2008 and a sweeping rezone of the R2 lands throughout the County was completed July 21, 2009 (Ordinance 852), at which time the two properties were rezoned Public. Because the invalidated zones affected many parcels within the County, individual notice was not sent to land owners whose properties were rezoned. The land owner of the residential property was unaware of the change to their zoning to the Public zone until several years after Ordinance 852 went into effect.

A.2 Existing Land Use/Land Cover

The property is a residential parcel which contains a single-family residence and outbuilding nestled against a hill. The parcel is partly treed and also contains an open field connected to the surrounding WDFW property.

A.3 Surrounding Land Use/Land Cover

The properties to the north and directly east and south are owned by WDFW, being preserved for habitat of both forest and field. To the east and west of these parcels, properties are located within the City of Sequim and are residentially developed. South of the WDFW property is also the city limits of Sequim and the location of the Carrie Blake Park.

A.4 Access

The subject property is accessed from Blake Avenue, a Sequim City road.

A.5 Utilities

Electricity and water are provided to the residence by the Clallam County PUD.

A.6 Critical Areas

The County Critical Areas Map indicates that the property contains landslide and erosion hazard associated with the hill on the property (CCC 27.12.410). The property is already developed with a single-family residence and the rezone will not affect the existing development.

A.7 SEPA

Clallam County Department of Community Development issued a Determination of Non-Significance on October 13, 2021 under SEPA rules (WAC 197-11-355) and the Clallam County Environmental Policy Ordinance (Chapter 27.01) for the proposed non-project proposal (attached).

B. MAP AMENDMENT CRITERIA OF APPROVAL

When considering an application for rezone, the Planning Commission and Board of County Commissioners are required to evaluate the amendment with regard to six criteria contained at CCC 33.35.090 in the Zoning Code, and at CCC 31.08.370 in the Comprehensive Plan. These six criteria, or "Required Showing for an Amendment," provide the scope of consideration that the Planning Commission and Board must respond to in order to determine if a rezone should be approved.

Criterion 1. The proposed amendment is consistent with the spirit and intent of the Clallam County Comprehensive Plan.

The goals and policies adopted by the Board of County Commissioners in the Clallam County Comprehensive Plan, the various Regional Plans, and the Clallam County Zoning Code provide the framework for land use decisions in Clallam County. Particularly relevant to this request are the goals and policies associated with Public Facilities and Rural Lands within the Sequim-Dungeness Regional Planning Area. Relevant provisions include 31.03.110 Public Facilities and Service-Inventory and Analysis, 31.03.120 Public Facilities-Policies, 31.03.260 Rural Land-Inventory and Analysis, and 31.03.270 Rural Land-Policies.

The proposed rezone is to change the residential parcel from a Public (P) zone to the Rural Neighborhood Conservation (NC) zone. The property, along with the adjacent property owned by WDFW, were zoned R2, which was invalidated during a lawsuit. It appears that this property was then incorrectly rezoned based on its location to lands owned by a public agency.

Development of the property contains a single-family home and does not meet the criteria of any of the categories for public facilities incorporated in the Comprehensive Plan. Rural lands are identified within the Comprehensive Plan by what they are not. This property is not designated for urban growth, it has not been designated by its resources, and would result in a five acre residential parcel following a rezone to the NC zone.

Conclusions

Based on the obvious error of zoning residential property as Public, correcting this error would align the existing development of the parcel to a better characterization established by the Comprehensive Plan in the Sequim-Dungeness Region.

Criterion 2. The proposed amendment is consistent with the spirit and intent of the Clallam County Zoning Code and with interlocal agreements, transportation, parks and recreation, capital facility, utility, watershed, and other applicable land use and environmental plans and policies adopted by the County.

The spirit and intent of the Clallam County Zoning Code is defined under the purpose statement of CCC 33.01.020. This section identifies a clear link between the Zoning Code and the Comprehensive Plan in that the Zoning Code is to “*direct the future growth and development of the County consistent with the Comprehensive Plan*”; and “*implement the goals and policies of the Comprehensive Plan in a manner which protects private property rights and in the least intrusive manner possible.*”

The stated purpose of the Public (P) zoning district is “to identify properties used for public purposes such as public buildings, schools, cemeteries, parks, playgrounds and recreational areas,” CCC 33.07.050. The stated purpose of the Rural Neighborhood Conservation (NC) zone related to this proposal is “to maintain low density rural residential areas and associated uses consistent with the local character of the distinctive regions and neighborhoods found within the Rural Neighborhood Conservation (NC) zoning district. Lands within the NC zone, or vicinity of such areas, are generally characterized by an existing wide range and variety of rural residential lot sizes and densities and rural uses,” CCC 33.10.015.

It is clear the designation of the private residential land does not meet the purpose of the Public zone; though surrounded by public lands owned by the City and WDFW, the parcel is not intended to be open to the public. The parcel also does not lie within the Urban Growth Area of Sequim, and therefore should be designated with a rural zone. Designation into a rural zone requires consideration of the zone being selected. The property was previously zoned Rural Moderate (R2), a zone that was invalidated in 2008 and required rezoning thousands of parcels across the entire County. Many of the properties were rezoned from R2 to Rural Low (R5) or Rural Neighborhood Conservation (NC). Both R5 and NC zones are located near the subject property, but the nearest rural zone to the subject property is the NC zone.

Under the proposed designation of NC, single-family residences are allowed outright, whereas the Public zone lists all uses as conditional. Base density of the NC zone is one dwelling per five acres, with a minimum lot size of one acre. The proposed rezone would not result in a non-conforming parcel, since the subject property is five acres in size.

Criterion 3. The proposed amendment will not be detrimental to the public health, safety and welfare.

If the proposed amendment were granted, any further division and development of the property under the resulting designation would be conditioned on the proposed projects meeting all

application regulations, including the County's Critical Areas code, Subdivisions Code, and Environmental Health Regulations, which should adequately protect most aspects of the public health, safety and welfare.

Criterion 4. The proposed amendment is necessary due to changed conditions or circumstances from the time the property was given its present designation which warrants consideration of a different land use [and zoning] designation.

The property was rezoned to the current Public zone following a large rezone of lands throughout the County following the invalidation of the R2 zone. It appears that the residential property was incorrectly rezoned as Public, merely because the property is surrounded by lands owned by a public agency. The use of the property has been a residential development since the 1950's. The land owner was unaware of the rezone to the Public zone until several years after the Ordinance 852 that changed the zone in 2009.

Criterion 5. The proposed amendment will not result in probable significant adverse impacts to the adequacy of public facilities and services including, but not limited to transportation, sewer, water, storm water, utilities, and parks required to meet urban or rural needs, and will not place uncompensated burdens upon existing and planned services.

The property is currently developed with a single-family residence, with access to utilities. Approval of the rezone will better align with the residential use of the property. Under the NC zone, the property would not qualify for further division, but even if it did would not create a significant burden to the public facilities in the area. The property is located near the City of Sequim, where residential densities occur at urban densities and are provided utilities.

Criterion 6. The cumulative effects of all proposed amendments have been assessed and determined to be consistent with the spirit and intent of the Clallam County Comprehensive Plan.

In taking action on an application for rezone and Comprehensive Plan amendment, the Board of County Commissioners makes policy decisions that not only directly impact the subject property owners, but directly and indirectly impact other property owners, both in the immediate area and throughout the County. Zoning designations control what uses are allowed or prohibited on a particular piece of property. While an applicant may have a specific use in mind that he or she is able to achieve through a change in zoning, the applicant is nevertheless under no obligation to limit land use activities to that original plan. The applicant would in fact be eligible for any of the land uses listed as Allowed in the underlying zoning district. For this reason, the applicant's stated intent on their application must not be the sole or primary criteria for a zoning change, and an evaluation of a rezone application must consider all possible uses allowed under the proposed zoning district.

Additionally, a decision on a rezone must be evaluated with respect to its application to other similarly situated properties. The subject property is not located within the Urban Growth Area like other residentially developed parcels in the area, therefore an urban zoning designation would not be appropriate. Other rural residential parcels are designated R5 and NC, with the NC zone being closest to the subject parcel. Rezoning the subject parcel from the Public (P) zone to a rural residential designation would appear to correct an error that was made in 2009 when the property was rezoned from the invalidated R2 zone to its current designation, and would be consistent with the spirit and intent of the Comprehensive Plan.

Summary

The Planning Commission must evaluate the amendment with regard to six criteria contained at CCC 33.35.090 in the Zoning Code, and at CCC 31.08.370 in the Comprehensive Plan. The property is a privately owned parcel that contains an existing single-family residence. The property is surrounded by a parcel owned by the Washington State Fish and Wildlife. Both of these properties were historically zoned Rural Moderate (R2), which was invalidated. The properties were rezoned Public (P) through Ordinance 852 in 2009.

Rezoning the property that is privately owned and contains an existing single-family residence from a public designation to a rural zoning designation would be better aligned with the current use of the property, and reflect that the property is not publically owned.

Staff Recommendation:

Based on the above analysis, staff finds that Rezone and Comprehensive Plan Map Amendment Application REZ2021-00001 is supported by existing policies and recommends approval of the request.

Maps

- Map 1 – Vicinity Map
- Map 2 - Aerial and Critical Area Map
- Map 3 – Ordinance 852 Sequim-Dungeness Planning Region Map
- Map 4 – Surrounding zoning designations

Relevant code citations, found at: <https://clallam.county.codes/>

Text of Zoning Code

- [CCC 33.07.050, Public \(P\)](#)
- [CCC 33.10.015, Rural Neighborhood Conservation \(NC\)](#)

Text of Comprehensive Plan

- [CCC 31.02.260, Rural Growth](#)
- [CCC 31.02.285, Public Utilities, Facilities, and Services](#)

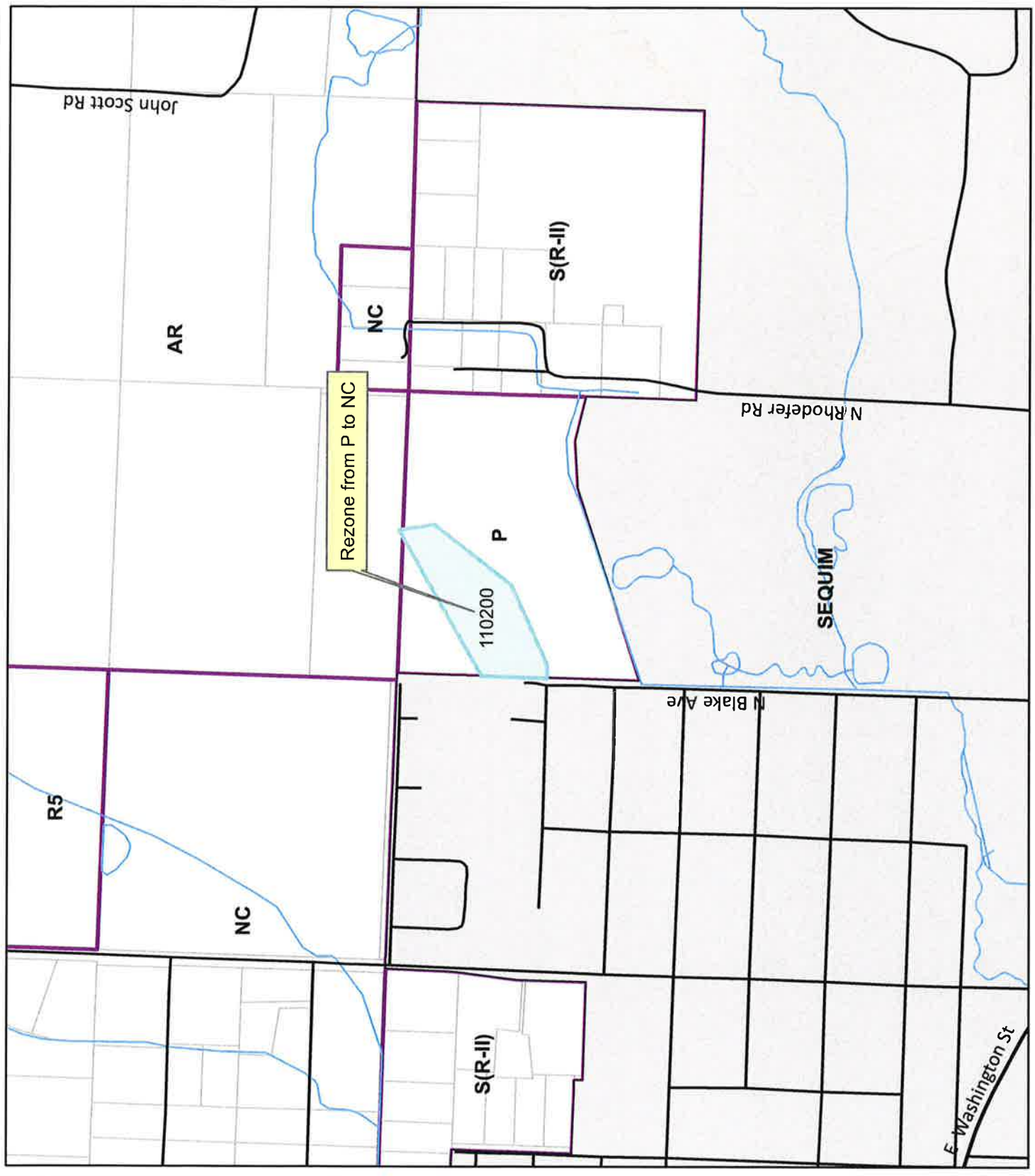
Text of Sequim-Dungeness Regional Plan

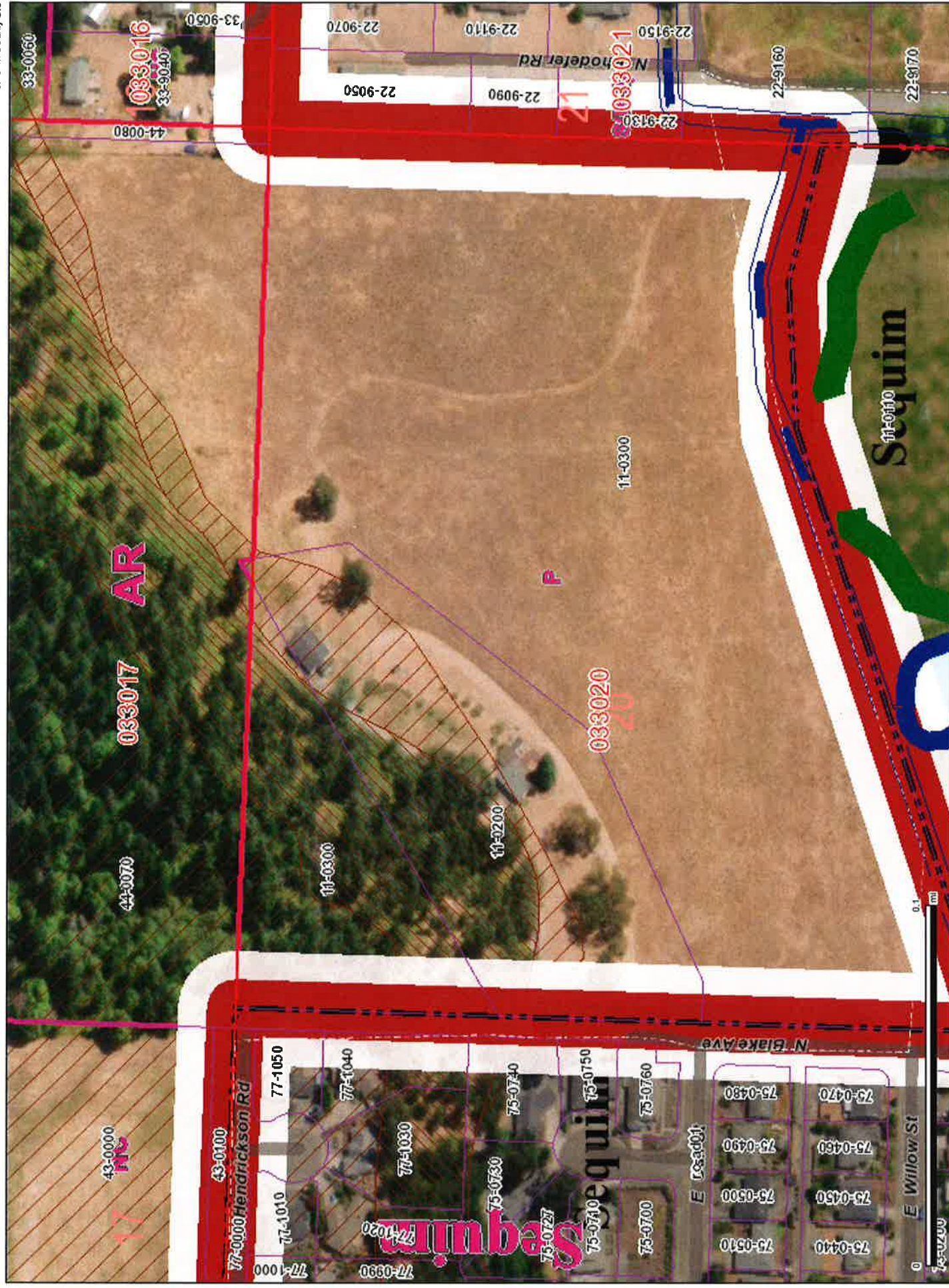
- [CCC 31.03.110, Public Facilities and Services – Inventory and Analysis](#)
- [CCC 31.03.120, Public Facilities and Services - Policies](#)
- [CCC 31.03.260, Rural land – Inventory and Analysis](#)
- [CCC 31.03.270, Rural land – Policies](#)



Legend

- 033020-110200
- City of Sequim
- Zoning





Strait of Juan de Fuca



SEQUIM-DUNGENESS PLANNING REGION

COMPLIANCE STRATEGIES FOR
INVALIDATED R2/RW2 ZONES

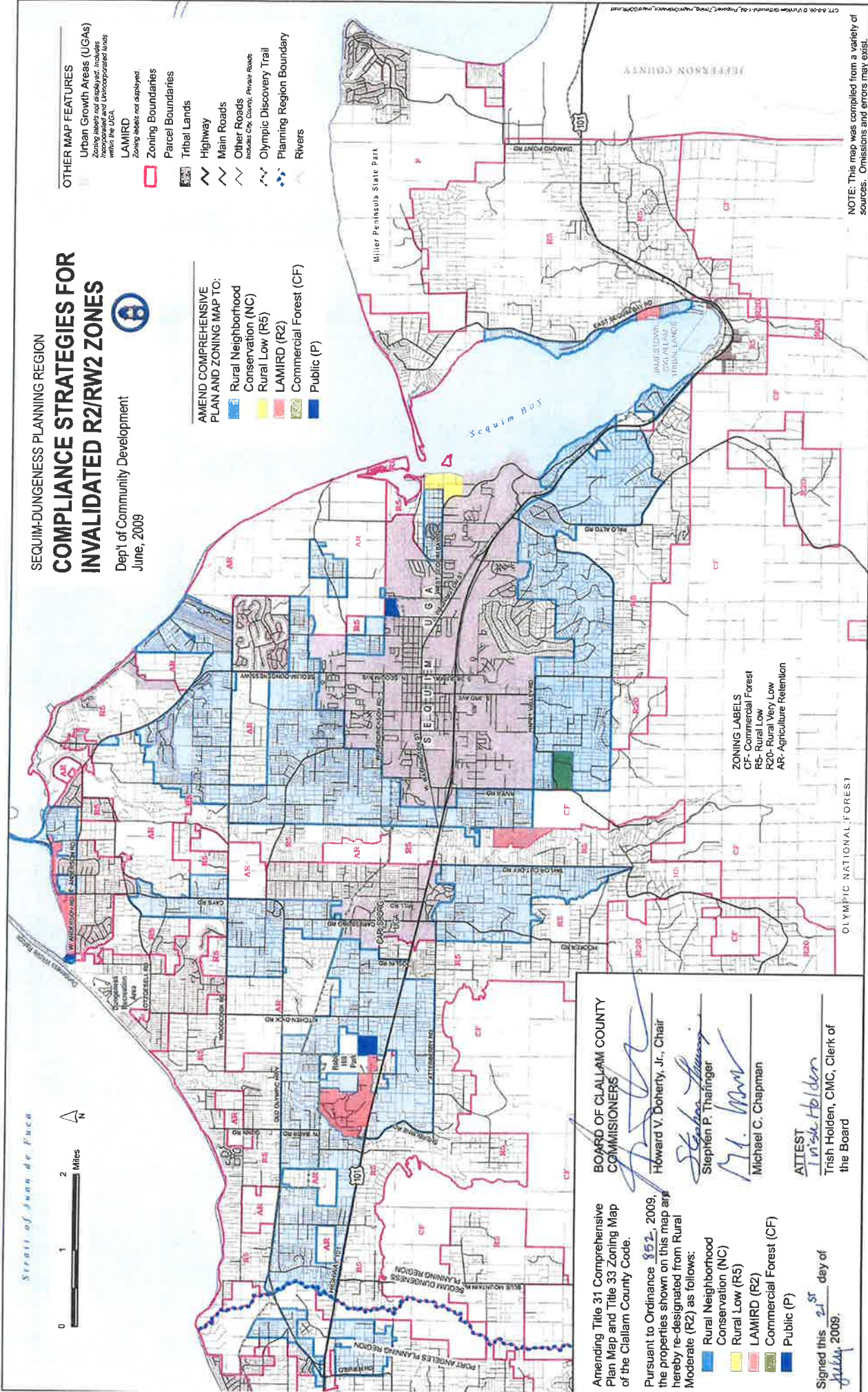
Dep't of Community Development
June, 2009



- OTHER MAP FEATURES**
- Urban Growth Areas (UGAs)
Zoning labels not displayed: includes incorporated and unincorporated lands within the UGA.
 - LAMIRD
Zoning labels not displayed
 - Zoning Boundaries
 - Parcel Boundaries
 - Tribal Lands
 - Highway
 - Main Roads
 - Other Roads
Includes City, County, Private Roads
 - Olympic Discovery Trail
 - Planning Region Boundary
 - Rivers

- AMEND COMPREHENSIVE
PLAN AND ZONING MAP TO:**
- Rural Neighborhood Conservation (NC)
 - Rural Low (R5)
 - LAMIRD (R2)
 - Commercial Forest (CF)
 - Public (P)

- ZONING LABELS**
- CF- Commercial Forest
 - R5- Rural Low
 - R20- Rural Very Low
 - AR- Agriculture Retention



BOARD OF CLALLAM COUNTY
COMMISSIONERS

Howard V. Doherty, Jr., Chair

Stephen P. Tharinger

Michael C. Chapman

ATTEST
Trish Holden, CMC, Clerk of the Board

Amending Title 31 Comprehensive
Plan Map and Title 33 Zoning Map
of the Clallam County Code.

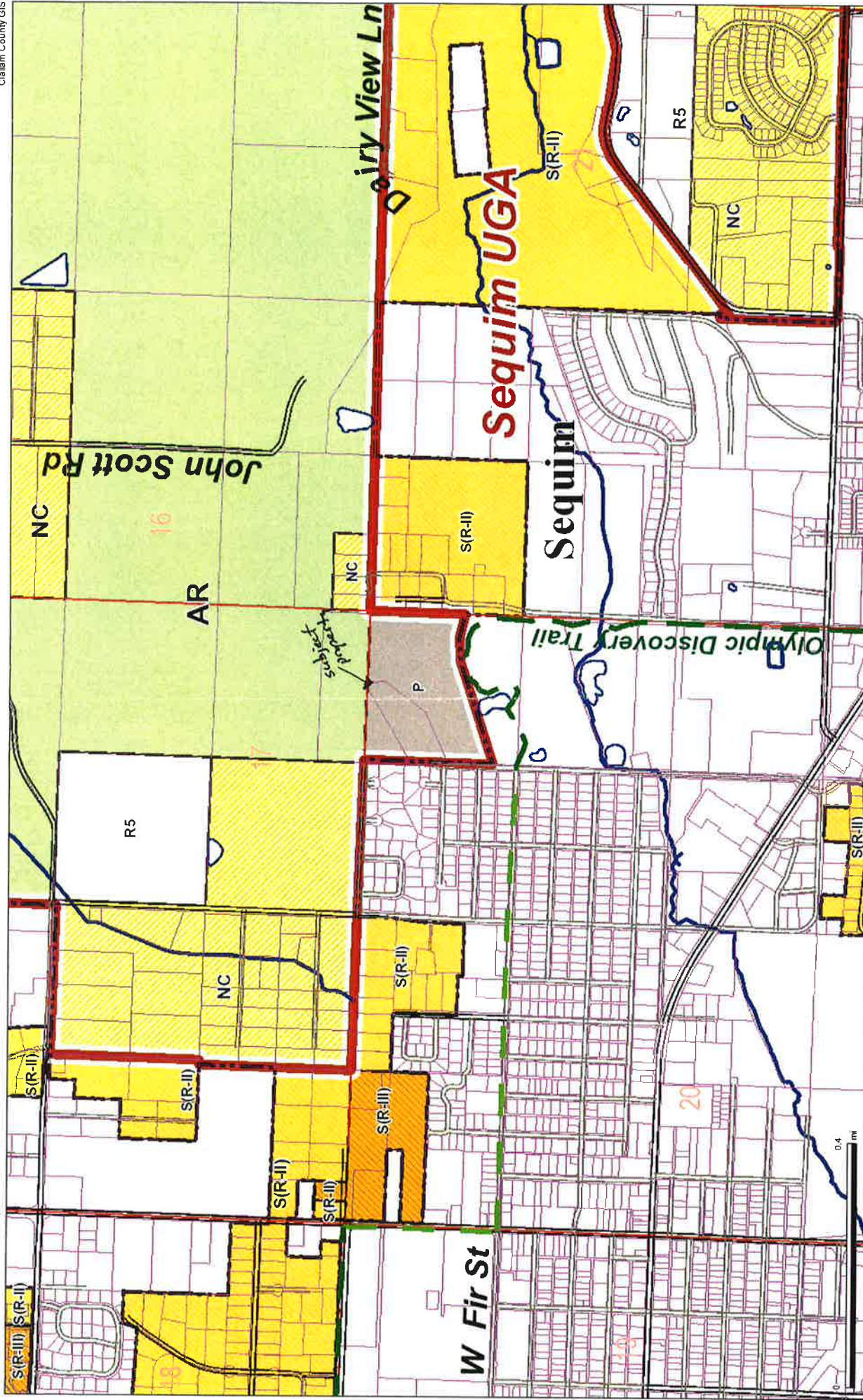
Pursuant to Ordinance 552, 2009,
the properties shown on this map are
hereby re-designated from Rural
Moderate (R2) as follows:

- Rural Neighborhood Conservation (NC)
- Rural Low (R5)
- LAMIRD (R2)
- Commercial Forest (CF)
- Public (P)

Signed this 21st day of
July, 2009.

OLYMPIC NATIONAL FOREST

NOTE: This map was compiled from a variety of sources. Omissions and errors may exist.





**STATE ENVIRONMENTAL POLICY ACT (SEPA), CHAPTER 43.21C RCW
DETERMINATION OF NON-SIGNIFICANCE (DNS)**

Applicant: Sara Lee Blake

SEPA Project #: ECL2021-00015

Land Use Permit Case #: REZ2021-00001

Lead Agency: Clallam County Department of Community Development (DCD)

Description of Proposal: The proposed action is a Rezone to amend the Clallam County Comprehensive Plan Land Use Designation Map and Zoning Map for the property identified as parcel 033020-110200. Approval of the request would change the zoning and Comprehensive Plan designation for approximately 5 acres of Public (P) zoned property to Rural Neighborhood Conservation (NC) zoning.

Location of Proposal: The subject property is located just north of the City Limits of Sequim, being within Section 20, Township 30 N, Range 3 W, W.M., Clallam County, Washington. Assessor's parcel number 033020-110200.

Required Permits/Approvals: Rezone application

SEPA Threshold Determination: The lead agency has determined that this proposal will not result in probable significant adverse impacts to the environment and has issued a Determination of Non-Significance (DNS) under WAC 197-11-340(2). An environmental impact statement is not required under RCW 43.21.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency and existing regulations applicable to the proposal. This information is available to the public upon request during normal business hours and can be found on the Clallam County Online Permit website at www.clallam.net/Permits.

Comment Period: Comments on this DNS must be submitted by close of business on **October 29, 2021**. Unless the Responsible Official withdraws the threshold determination pursuant to WAC 197-11-340(3)(a), the threshold determination shall be final at the end of the comment period. Agencies and interested parties will be notified if the threshold determination is withdrawn.

Staff Contact: For additional information, contact Donella Clark at the address below or 360-417-2594, dclark@co.clallam.wa.us.

Responsible Official: Mary Ellen Winborn, Director DCD

Address: Clallam County Department of Community Development
RE: SEPA COMMENTS
223 E. 4th Street, Suite 5
Port Angeles, WA 98362

Issuance Date: 10/13/2021

Signature: 
Mary Ellen Winborn, Director DCD

M E M O R A N D U M

Clallam County Department of Community Development

DATE: October 13, 2021

PROPOSAL: The proposed action is a Rezone to amend the Clallam County Comprehensive Plan Land Use Designation Map and Zoning Map for the property identified as parcel 033020-110200. Approval of the request would change the zoning and Comprehensive Plan designation for approximately 5 acres of Public (P) zoned property to Rural Neighborhood Conservation (NC) zoning.

CASE NUMBER: REZ2021-00001

TO: Mary Ellen Winborn, DCD Director
Clallam County Department of Community Development

FROM: Donella K Clark, Principal Planner (360) 417-2594

RE: Environmental Review and Staff Recommendation for
SEPA Determination for rezone of property

APPLICANT: Clallam County Department of Community Development
223 E 4th St, Suite 5
Port Angeles, WA 98362

LOCATION: The subject property is located just north of the City Limits of Sequim, being within Section 20, Township 30 N, Range 3 W, W.M., Clallam County, Washington. Assessor's parcel number 033020-110200.

A. ENVIRONMENTAL RECORD and EXHIBITS

The environmental review consisted of analysis based on the following documents included in the environmental record.

- Clallam County Comprehensive Plan - Title 31 CCC
- Clallam County Zoning Ordinance - Title 33 CCC
- Clallam County Critical Areas Ordinance, Chapter 27.12, CCC
- Critical Area and Zoning Map

Unless otherwise noted, the above information is available for review between the hours of 8:00 AM and 4:30 PM Monday through Friday at the Clallam County Department of Community Development, Clallam County Courthouse, 223 E. Fourth Street, Port Angeles, Washington 98362.

B. STAFF REVIEW OF ENVIRONMENTAL CHECKLIST

The following sections correspond with related categories of the environmental checklist.

CHECKLIST ITEMS

1. EARTH

The proposed action is a Rezone to amend the Clallam County Comprehensive Plan Land Use Designation Map and Zoning Map for the property identified as parcel 033020-110200. Approval of the request would change the zoning and Comprehensive Plan designation for approximately 5 acres of Public (P) zoned property to Rural Neighborhood Conservation (NC) zoning.

The property is developed with a single-family residence, an allowed use in the NC zone and not a use generally associated with Public zoned lands. The purpose of the Public land is "to identify properties used for public purposes such as public buildings, schools, cemeteries, parks, playgrounds and recreational areas," but the property is owned by an individual who lives on the property and no land disturbing activities are proposed by the rezone process.

2. AIR

There are no concerns.

3. WATER

Surface Water: There is no surface water depicted on the property per the Critical Areas Map.

Ground Water: The property is designated within a Critical Aquifer Recharge Area, but is already developed. Nothing is proposed to change from the rezone application.

Water Runoff: No land disturbing activities are proposed and the home has been on the property since the 1950's.

4. PLANTS

The property is partly treed and open field, and sits next to a WDFW project site. The SEPA process requires notice to interested agencies including the Department of Ecology, DNR and WDFW, which will provide comments if there are concerns.

4. ANIMALS

The SEPA process requires notice to interested agencies including the Department of Ecology, DNR and WDFW, which will provide comments if there are concerns.

6. ENERGY AND NATURAL RESOURCES

Electrical service is provided by the PUD#1. No change is proposed by the rezone.

7. ENVIRONMENTAL HEALTH

Should the proposed rezone be approved, future SEPA review for non-exempt actions and the Clallam County Environmental Health regulations should ensure the prevention of adverse environmental health impacts from future development of the subject parcels.

8. LAND AND SHORELINE USE

The property is not within the jurisdiction of the Shoreline Master Program and is designated within a Critical Aquifer Recharge Area which will not be affected by the proposed rezone of the property.

9. HOUSING

The purpose of the rezone is to correct the erroneous zoning designation of an individual's single-family residential property that was zoned Public during a land exchange with the Department of Fish and Wildlife. That property, along with the subject property, were designated Public due to the agency's ownership, but should not have included the property owned by the individual.

10. AESTHETICS

This issue is not relevant for the rezone.

11. LIGHT AND GLARE

This issue is not relevant for the rezone.

12. RECREATION

Current recreational opportunities would not appear to be significantly affected or prevented as a result of this non-project action and will clarify that the subject property is in fact not publically owned property.

13. HISTORICAL AND CULTURAL PRESERVATION

The checklist description is adequate.

14. TRANSPORTATION

The property is access off Blake Avenue from within the City limits of Sequim.

15. PUBLIC SERVICES

The checklist adequately addresses the issues of this section. Fire flow and other fire protection measures will need to be provided and will be reviewed through the building permit process.

16. UTILITIES

The checklist description is adequate. Electricity and water will be provided by the Clallam County PUD#1.

Supplemental sheet for nonproject actions

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise? Proposed measures to avoid or reduce such increases are:

Clallam County current codes and policies address these issues and will adequately mitigate the potential for adverse impacts that might otherwise result from future projects that may occur on the subject property, but are not a direct result of the rezone.

2. How would the proposal be likely to affect plants, animals, fish, or marine life? Proposed measures to protect or conserve plants, animals, fish, or marine life are:

The SEPA process requires notice to interested agencies including DOE and WDFW, which will provide comments if there are concerns.

3. How would the proposal be likely to deplete energy or natural resources? Proposed measures to protect or conserve energy and natural resources are:

This is not an issue applicable to the proposed rezone and Comprehensive Plan and Zoning Map Amendment.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmland? Proposed measures to protect such resources or to avoid or reduce impacts are:

The Clallam County Critical Areas Ordinance (CAO) requires protection standards for any development or land disturbing within the Critical Aquifer Recharge Area CCC 27.12.615.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans? Proposed measures to avoid or reduce shorelines and land use impacts are:

This proposal would rezone the subject property to a residential zone and is already developed with a single-family residence. The applicant will be required to demonstrate consistency with the criteria of approval of a Comprehensive Plan and Zoning amendment as set forth under CCC 31.08.370 and CCC 33.35.090, which will ensure that the proposal will not result in significant adverse land use impacts.

6. How would the proposal be likely to increase demands on transportation or public service and utilities? Proposed measures to reduce or respond to such demand(s) are:

The proposed rezone will not increase demands. Clallam County codes and policies address these issues and will adequately mitigate the potential for adverse impacts that might otherwise result.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

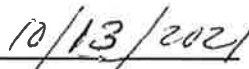
The proposed rezone will have to demonstrate consistency with Clallam County Zoning and Comprehensive Plan Map Amendment criteria for a change in land use. Future development will have to comply with all local, state, and federal regulations.

CONCLUSIONS AND RECOMMENDATIONS

The environmental review indicates that there will be no significant environmental impacts as a result of this proposal that will not be evaluated and addressed under the Rezone and Comprehensive Plan Amendment process enumerated under Title 31 and Title 33, CCC (Comprehensive Plan and Zoning Codes, respectively) and the Clallam County Land Division Ordinance (Title 29, CCC). Therefore, a mitigated determination of non-significance is unnecessary and an environmental impact statement is not warranted for this non-project action.

I have reviewed and considered the referenced proposal, the environmental checklist, agency comments, and other available material. I hereby recommend a **Determination of Non-Significance (DNS)**.


Donella K Clark, Principal Planner


Date