

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED LIMITED AMENDMENT TO THE PEND OREILLE COUNTY
SHORELINE MASTER PROGRAM**

SMP Submittal accepted May 18, 2015, Ordinance No.2015-3
Prepared by Jaime Short on July 30, 2015

Brief Description of Proposed Amendment:

Pend Oreille County has submitted to Ecology for approval, a limited amendment to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The limited amendment addresses the adaptive reuse of historic structures located within shoreline jurisdiction while still protecting the ecological functions of the shoreline.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to address the adaptive reuse of structures within shoreline jurisdiction that have been identified by the State of Washington as Historically Significant. The Pend Oreille County PUD No. 1 has applied to the County for this change in order to make use of their powerhouse building adjacent to Sullivan Creek near the Town of Metaline Falls. As noted in their application, the PUD has abandoned their hydropower license for Sullivan Creek, and without this change to the County’s SMP, their options to repurpose the structure would be severely limited.

SMP provisions to be changed by the amendment as proposed:

Note: Underline indicates new language. ~~Strikethrough~~ indicates deleted language.

- **Chapter 2: Goal and Policies**

- B. Pend Oreille County Shoreline Master Program Policies**

- 61. Buildings identified by the State of Washington as Historically Significant that are located within Shoreline Jurisdiction shall accommodate an adaptive use that does not provide for a net loss of ecological function.

- **Chapter xx.34.050 Table of Permitted Shoreline Uses and Activities**

B. Table of Permitted Uses and Footnotes

Activity/Use	Rural Residential	Urban Residential	Rural Conservancy	Urban Conservancy	Rural Higher Intensity	Urban Higher Intensity	Natural	Aquatic
<u>Historical Buildings Adaptive Use (32)</u>	<u>SCUP</u>	<u>SCUP</u>	<u>SCUP</u>	<u>SCUP</u>	<u>SCUP</u>	<u>SCUP</u>	<u>SCUP</u>	<u>SCUP</u>

Footnote (32) Buildings must be identified on the State Historic Registry.

- **Chapter xx.76 Non-Conforming Uses and Structures**

xx.76.010 Applicability. Uses, structures, or lots that were legally constructed or established in accordance with regulations and laws in effect at that time, but do not conform to the provisions of this Title, shall be considered legal non-conforming structures, uses, or lots. Uses or structures that were illegally constructed or established in accordance with regulations and laws in effect at that time, and that do not conform to the provisions of this Title, shall be considered illegal non-conforming structures. Structures identified on the State Historic Registry are legal non-conforming structures and can accommodate an adaptive use as appropriate.

Amendment History, Review Process: The County indicates the proposed SMP amendment originated from an application submitted by the Pend Oreille PUD No. 1 on August 1, 2014. The record shows a planning commission meeting open to the public was held on January 13, 2015, and a public hearing before the Board of County Commissioners was held on February 24, 2015. Affidavits of publication provided by the County indicate notice of the hearing was published on February 11, 2015 in *The Newport Miner*.

With passage of Ordinance No. 2015-3, on May 4, 2015, the County authorized staff to forward the proposed amendment to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on May 18, 2015. Notice of the state comment period was distributed to state task force members and interested parties identified by the County on June 18, 2015, in compliance with the requirements of WAC 173-26-120. The state comment period began on June 29 and continued through July 15, 2015. No comments were received.

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

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

Consistency with SEPA Requirements: The County submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on December 5, 2014. Notice of the SEPA determination was published in *The Newport Miner* on December 10, 2014. Ecology did not comment on the DNS.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the County’s proposed limited amendment is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that approval of the proposed amendment to the SMP 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 (WAC 173-26-201(2)(c)).

Ecology concludes that 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 has 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 and amendment process.

Ecology concludes that the County has complied with the purpose and intent of the local amendment 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 amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a 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.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendment to the SMP is consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules. Ecology approval of the proposed amendment is effective 14 days from Ecology's final action approving the amendment.