

**ATTACHMENT A: FINDINGS AND CONCLUSIONS  
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF NORMANDY  
PARK SHORELINE MASTER PROGRAM**

SMP adopted November 25, 2014, Resolution #877. Submittal accepted May 18, 2015.  
Findings prepared by David Pater on July 6, 2016.

## **SECTION 1: INTRODUCTION**

### **USE OF THIS DOCUMENT**

Ecology's *Findings and Conclusions* (Attachment A), including reference to *Attachment B* (Required Changes) and *Attachment C* (Recommended Changes), provide the factual basis for Ecology's decision on the City of Normandy Park (City) updated Shoreline Master Program (SMP). The document is divided into four sections providing introductory information (Section 1), findings related to the City's submittal (Section 2), amendment history and review process (Section 3), and conclusions (Section 4).

### **DESCRIPTION OF PROPOSED AMENDMENT**

Normandy Park submitted to Ecology for review a comprehensive amendment to their SMP to comply with the Shoreline Management Act (SMA) at RCW 90.58 and the SMP Guidelines (Guidelines) at WAC 173-26 (Part Three). The updated master program provides locally tailored shoreline management policies, environment designations, regulations, and administrative provisions, as well as Normandy Park land use code chapter 18.36 (Critical Areas Regulations) incorporated as part of the SMP. Additional reports and supporting information and analyses noted throughout this document were considered by Ecology during review of the City's submittal.

### **NEED FOR THE AMENDMENT**

The proposed amendment is needed to comply with a statutory deadline requiring a comprehensive update to local Shoreline Master Programs pursuant to RCW 90.58.080, and for compliance with planning and procedural requirements of WAC 173-26 and 27.

This SMP update is also needed to address land use changes that have occurred along city's shorelines since the most recent City SMP update in December 1991. The proposed amendment also ensures the SMP is consistent with land use management policies and environmental protections provided by the City's Comprehensive Plan, the April 2009 Critical Areas Regulations (Ch. 18.36, Ordinance 825).

## **SECTION 2: FINDINGS OF FACT**

### **AMENDMENT HISTORY, LOCAL REVIEW PROCESS**

The City indicates the proposed SMP amendments originated from a local planning process that began in July 2009. The record shows that the Normandy Park Planning Commission held eleven meetings open to the public on November 18, 2010, September 19, October 17, November 21, 2013, January 16, February 20, March 20, April 17 & 30, May 15, and June 19, 2014. In addition the commission held seven public hearings at the 2014 meetings. The Normandy Park City Council held five public meetings on January 28, June 24, July 8, October 21, and November 28, 2014. Affidavits of publication provided

by the City indicates notice of the hearing was published in the Westside Weekly on January 10, 2014;; all public meetings and hearings were advertised on the City of Normandy Park web site and noticed at City Hall. After adoption of Resolution #877, on November 25, 2014, the Normandy Park City Council authorized staff to forward the proposed amendments to Ecology for approval. The proposed SMP amendments were received by Ecology for state review and verified as complete on May 18, 2015.

**Finding**

*Ecology finds that Normandy Park satisfied the SMP-Guideline standards related to the local public process, [WAC 173-26-090, -100, and -201(3) b)], and submittal of the SMP to the Department for review (WAC 173-26-110).*

**INVENTORY AND CHARACTERIZATION (WAC 173-26-201)**

Documentation of current shoreline conditions is a key part of the SMP development process and addressing the no net loss standard of the state SMP Guidelines (WAC 173-26-186). As the first step on addressing this requirement, Normandy Park developed a final Inventory and Characterization Report dated June 2011. This report documents existing shoreline conditions and inform development of the City's SMP (environment designations, policies and regulations) and restoration plan.

In addition to an inventory and characterization of environmental conditions, the City's Characterization report, together with the Cumulative Impact Analysis, address Ecology's other analytical requirements (WAC 173-26-201(3)(d)(iii) – (ix). For example, The Land Use Patterns and shoreline segment sections of the Characterization report provide a shoreline use analysis [WAC 173-26-201(3) (d) (ii)], as well as public access opportunities [WAC 173-26-201(3) (d) (v)].

The City's Inventory and Characterization Report and companion map portfolio provides an ecosystem-wide (watershed) and shoreline segment-level analysis, of existing shoreline environmental and land use conditions. Ecosystem-wide processes are presented in addition to near shore physical and biological characteristics. Six shoreline segments are further analyzed based in part on previous habitat assessments of biological, geomorphologic, hydrological and landscape characteristics. The map portfolio encompasses land use, biological and geologic elements of city's shoreline

Normandy Park has three and a half miles of Puget Sound shoreline with two significant coastal wetlands associated with Miller and Normandy Creeks. The City has no rivers or streams that meet minimum state shoreline jurisdiction.

**Finding**

*Ecology finds that the City's 2011 Inventory and Characterization report generally provides a sufficient assessment of existing shoreline environmental and land uses conditions consistent with State Guideline requirements of (WAC) 173-26-201 (3) (c) and (d). The analysis provides the SMP update process an adequate basis for developing shoreline environment designations, policies and regulations, and future protection and restoration opportunities in City shoreline jurisdiction.*

**SHORELINE ENVIRONMENT DESIGNATIONS (WAC 173-26-211)**

Ecology guidelines at WAC 173-26-211 require local governments to classify shoreline areas into environment designations based on the existing use pattern, biological and physical character of the shoreline, and the goals and aspirations of the community as expressed in the comprehensive plan. The Inventory and Characterization Report is used to determine the relative degree of impairment and biophysical capabilities and limitations for individual shoreline reaches.

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Based on this assessment, along with consideration of anticipated future development, zoning and other regulatory overlays, jurisdictions may apply the designation criteria provided in WAC 173-26-211 to determine which shoreline environment designation should be assigned, or develop their own tailored designation criteria.

Normandy Park’s current 1991 SMP has one designation, rural residential for their entire shoreline. The city’s updated SMP used Ecology’s recommended designations is as follows:

Proposed Designation	% of total <sup>1</sup>
Urban Conservancy	10%
Bluff Conservancy	3%
Rural Residential	80%
Beach Community	7%
Aquatic	n/a

<sup>1</sup> **Percentage estimate of total linear shore land area**

Consistent with Ecology’s guidelines, each designation includes a purpose statement, designation criteria, management policies and regulations.

Normandy Park did an excellent job incorporating shoreline inventory and characterization information for delineating shoreline environments. Single family residential uses makes up the bulk of the city’s shoreline. The City also recognizes Marine View Park and The Cove Community Park within the Urban Conservancy Environment. The Bluff Conservancy environment acknowledges sensitive bluff shorelines adjacent to Marine View Park. The unique residential community below a bluff at the southern extend of the City’s shoreline is also recognized via the Beach Community Environment.

Recognition of the unique shoreline characteristics and land uses is the biggest improvement to the shoreline environment designation over the city’s 1991 SMP.

As described in the SMP Shoreline Permit Matrix (16.20.015) permitted, conditional, and prohibited uses are established for each shoreline environment designation in a manner that limits impacts to ecological functions while allowing for appropriate development. Aquaculture is divided into commercial and subsistence. Several uses and modifications are prohibited in certain shoreline designations due to their potential to have substantial impacts to shoreline ecological functions or public health and safety. For example bulkheads are prohibited in the urban and bluff conservancy environments. Commercial and industrial uses are prohibited in all shoreline environments, given the residential nature of the City’s shoreline. Non-commercial boat launching facilities (ramps and rails) and residential floats are allowed as conditional uses within the residential and aquatic environments while piers and docks are prohibited throughout the City’s shoreline, due in part prevailing ocean conditions.

In comparison the current Normandy Park SMP does not contain a shoreline permit matrix. Instead it contains more general prohibited and conditional uses under each use and modification section. The new SMP update permit matrix outlines more distinct use and modification categories. For example, stabilization is separated into upland structures (retaining walls), bulkheads and other stabilization which would include nonstructural measures. The 1991 SMP only addresses bulkheads.

**Finding**

*Ecology finds the City conducted a comprehensive process for developing Shoreline Environment Designations, using relevant information from the Inventory and Characterization Report. Ecology finds that with the exception of required changes identified in Attachment B, the City's proposed designations and shoreline permit matrix (16.20.015) are consistent with WAC 173-26-211.*

**GENERAL MASTER PROGRAM PROVISIONS (WAC 173-26-221)**

The SMP Guidelines in WAC 173-26-221 list general use provisions that are intended to apply broadly to all of types of shoreline development regulated by master programs. The City's general provisions are located primarily under General Policies and Regulations (**Section 16.20.180**).

Critical area regulations are adopted by reference in Section 16.04.045. These include regulations for Wetlands, geologically hazardous areas, and fish and wildlife habitat conservation areas

The Shoreline Use and Development Regulations (**Section 16.20.185**) also address Ecology's general requirements for mitigation. Comprehensive vegetation conservation standards are outlined in section 16.20.195 with linkage to the integrated critical areas regulations (Section 18.36).

These provisions must be met by any use, development, or activity regardless if a shoreline permit is required or not. For example: If vegetation removal is necessary, the regulations require minimization and compensatory mitigation.

The City's *Cumulative Impact Analysis* analyzes the adequacy of SMP policies and regulations to address future development. It contains analysis of reasonably foreseeable future development and use. It also includes a table of current conditions of shoreline ecological functions, associated ecological impacts and outlines specific SMP policies and regulations that addresses impacts. SMP Sec. 16.20 .210. 16.20.280 & 16.20.270, addresses the more common city shoreline uses such as residential, transportation and utilities. Utilities are categorized by primary and accessory with more restrictions on primary.

Normandy Park shoreline is mainly characterized by built out low-density residential development with minimal existing vegetative buffers. The critical areas regulations [sec. 18.36.640 (4)] establish 115 foot marine buffers for City shorelines. Adding a bulk and dimensional standards table is one of the recommended SMP changes. These standards overlaid with the vegetation conservation regulations (16.20.195) are key measures to ensure no net loss of ecological functions on the city's shorelines.

**Finding**

*Ecology finds that with the exception of required changes identified in Attachment B, the general policies and regulations are consistent with WAC 173-26-221.*

**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 prioritization 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.

Normandy Park’s SMP update regulates shoreline uses under **Section 16.20**. Consistent with WAC 173-26-186(5), the City master program reflects the principle that the regulation of private property needs to be consistent with all relevant constitutional and other legal limitations. As described under “Environment Designations” above, the updated SMP includes varying degree of flexibility within each shoreline environment. The urban conservancy and bluff conservancy environments, though small in size, tend to have the most restrictions when it comes to allowed uses with many uses simply either not allowed or not applicable to these shoreline environments. The predominant rural residential shoreline environment allows uses that are most common to residential shorelines. Residential uses are restricted to single family houses consistent with city zoning and accessory utilities and transportation are permitted outright while commercial uses are prohibited. Aquaculture has more detailed policies and regulations and is divided into commercial and subsistence with more permitting flexibility for subsistence aquaculture especially with restoration and when no structures are proposed. The new SMP has more detailed boating facilities policies and regulations than the 1991 SMP. This includes restrictions to allow only noncommercial boat ramps, rails, and lift stations, allowing only one facility per development and requiring a conditional use permit for all facilities.

### **Finding**

*Ecology finds that with the exception of required changes identified in Attachment B, including modifications to aquaculture use provisions, the City has established a system of use regulations consistent with WAC 173-26-241 and 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.*

## **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...” WAC 173-26-231(2)(b) states (as 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).

Normandy Park’s SMP regulates shoreline modifications under SMP Section 16.20.200 and addresses shoreline stabilization, moorage facilities (docks, piers and floats); grading and filling, dredging, breakwaters, jetties and groins.

The primary changes from the existing SMP modification regulations are that all piers and docks are prohibited and shoreline stabilization regulations are more stringent. Stabilization includes regulations for both new and replacement structures and creates three categories: bulkheads, upland and all other stabilization (includes nonstructural). Demonstration of need is required for hard stabilization proposals.

The SMP update also incorporates the fundamental mitigation strategy required by Ecology guidelines by requiring applicants for stabilization proposals to demonstrate first that the project is needed to protect existing structures. The section also prioritizes soft shore stabilization over hard stabilization

options, and requires a site specific geotechnical report for new stabilization. Where stabilization is needed, the least impacting alternative type must be used. The SMP requires that construction will not substantially disrupt or near shore processes and ecological functions or adversely impact nearby properties. “Soft shore” approaches such as upland drainage control, vegetation protection, relocation of structures or improvements, or beach nourishment are a priority over hard stabilization options (bulkheads).

**Finding**

*Ecology finds that with the exception of required changes identified in Attachment B, the City’s Shoreline Modification standards are consistent with mitigation sequencing principles provided for in WAC 173-26-201(2)(e); requirements in WAC 173-26-231, relating to shoreline modifications; and the Boating Facilities requirements of WAC 173-26-241(c).*

**CUMULATIVE IMPACT ANALYSIS**

Addressing no net loss of ecological functions is a critical element in any SMP update. WAC 173-26-201(2)(c) (Protection of Shoreline Ecological Functions) requires that: “Master programs shall contain policies and regulations that assure at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.” A cumulative impacts analysis documents how an SMP update addresses no net loss of ecological functions.

Upon completion of the final draft SMP in 2015, Normandy Park also finalized its cumulative impact analysis (CIA) to assess potential impacts resulting from anticipated future development allowed by the updated SMP.

The City’s CIA outlines ecological functions at risks and connects them to shoreline alterations, new applicable SMP regulations and policies and future ecological function performance. Impaired ecological functions and reasonable foreseeable development is also discussed. Future shoreline restoration is also taken into consideration.

As described in the sections above, proposed general regulations and the integrated Critical Areas Ordinance (CAO) address most commonly expected future impacts to ensure regulations achieve no net loss of ecological functions. The CAO standards have been reviewed for compliance with SMA and SMP guidelines requirements. A shoreline use and modification matrix provides shoreline environment-specific classifications of permitted and prohibited activities.

More stringent stabilization and vegetation conservation standards are other key SMP elements. Normandy Park also relies on non-regulatory incentives, intergovernmental coordination, and enforcement in their multi-faceted approach to managing shorelines.

**Finding**

*Ecology finds that the City’s Cumulative Impact Analysis generally presents an adequate analysis of shoreline uses and modifications per WAC 173-201(3)(d)(iii).*

**RESTORATION PLAN**

Pursuant to WAC 173-26-201(2)(c) and (f), local governments are directed to identify restoration opportunities as a component of the SMP-update process, as well as establish implementation goals that coordinate and facilitate appropriate publicly and privately initiated restoration projects.

Normandy Park prepared an August 2015 shoreline restoration plan. The plan is a multifaceted approach towards restoring shoreline ecological functions. It includes policies which link the plan to the

shoreline master program. The plan outlines restoration programs at the regional and city level including on-going projects. A section on implementation strategies includes restoration potential for the City's six shoreline segments, providing linkage back to the inventory and characterization.

The plan also includes a comprehensive table of possible restoration opportunity areas. Potential project timelines and funding sources are also outlined. Given that the City's shoreline is mainly low density residential; projects focus on programs to assist homeowners with native re-vegetation, replacing hard stabilization with soft stabilization options and future purchasing of specific properties that have shoreline restoration especially bulkhead removal. Implementation strategies include project evaluation, monitoring and adaptive management.

### **Finding**

*Ecology finds that the Final Shoreline Restoration Plan is based on appropriate technical information available to the City during the SMP update. The plan fulfills the requirements of WAC 173-26-201(2) (c) and (f).*

## **OTHER STUDIES OR ANALYSES SUPPORTING THE SMP UPDATE**

Ecology reviewed a large number of reports, studies and information related to the City SMP update, all of which are included in the master file record, or are listed as "references" at the end of this document. Key supporting documents include the:

- *February 2010 public participation plan,*
- *June 2011 shoreline inventory and characterization,*
- *August 2015 cumulative impacts analysis,*
- *November 2007 shoreline use analysis, and*
- *August 2015 restoration plan.*

## **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 amendment has 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 City.

**Consistency with SEPA Requirements:** The City 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 amendments on May 23, 2014. Notice of the SEPA determination was published in the Westside Weekly on May 23, 2014. Ecology did not comment on the DNS.

## **SECTION 3: DEPARTMENT OF ECOLOGY REVIEW PROCESS**

The proposed SMP amendments were received by Ecology for state review and verified as complete on May 18, 2015. This action initiated formal state review of the proposed SMP. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on August 24, 2015 in compliance with the requirements of WAC 173-26-120. The state comment period began on August 31, 2015 and continued through September 30, 2015.

## **SUMMARY OF ISSUES RAISED DURING THE ECOLOGY PUBLIC REVIEW PROCESS**

Ecology received 3 comments from the Muckleshoot Indian Tribe. Consistent with SMP-Guideline review requirements in WAC 173-26-120, Ecology provided the City with a summary of comments. The *Responsiveness Summary* (Attachment D) includes responses by the City to SMP topics raised by the comments pursuant to [WAC 173-26-120\(6\)](#).

### **Summary of Comments:**

There is a conflict in the aquaculture regulations section 16.20.040.2(a) with the Shoreline Permit Matrix (16.20.015). The narrative regulation prohibits commercial aquaculture while the Shoreline Permit Matrix requires a conditional use permit.

Muckleshoot Tribe request Normandy Park to provide noticing for all shoreline permit applications.

### **Summary of City Response:**

The conflict cited has been resolved; the draft submitted to the Department of Ecology for its Public Comment Period consistently lists commercial aquaculture as a prohibited use. During the Ecology review of the draft SMP, the Normandy Park Planning Commission prepared an analysis of current shoreline environmental issues (Attachment D) that potentially impact future aquaculture. This analysis provides support for the proposed SMP aquaculture policies and regulations.

The City will also make every effort to forward all future shoreline permit applications to the Muckleshoot Indian Tribe Fisheries Division.

## **SUMMARY OF ISSUES IDENTIFIED BY ECOLOGY AS RELEVANT TO ITS DECISION**

Ecology has reviewed the locally adopted SMP for consistency with applicable SMP-Guideline requirements, and considered the city's response to issues raised during Ecology's public comment period (Attachment D).

The following topics are issues relevant to Ecology's final decision on updates to the City's SMP. Required or recommended changes to address each of the following topic areas are included in Required Changes (Attachment B) or Recommended Changes (Attachment C).

The number of changes is significant, but most are not controversial. Many focus on basic requirements for program administration and public access for example. The City simply didn't have enough time at the end of the local process to address the bulk of the required and recommend changes.

Changes fall into the following categories:

Definitions (16.08): Consistency with Shoreline Management Act (RCW 90.58), State Shoreline Master Program Guidelines (WAC 173-26) and Shoreline Permitting (WAC 173-27)

Public Access (16.20.240): Additional regulations focus on enhancing both visual and physical public access, safety for future public access and minimum requirements.

Shoreline Development Standards Table (16.20.215): Maximum height limits, structural setbacks (including landslide hazard areas) and applicable city zoning limits.

Administrative Section (16:24): Standards for conditional use and variance permits, shoreline exemptions, permit tracking and programmatic tracking of SMP effectiveness for no net loss of ecological functions.

Critical areas regulations integration, SMP CAO exceptions (16.04.045) and minor CAO revisions, including:

- Mitigation sequencing,
- Mitigation ratios,
- Shoreline variance permit for buffer reduction in excess of 25% of the standard buffer width and application of CAO residential exceptions.

## **SECTION 4: CONCLUSIONS OF LAW**

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's SMP 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 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). 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 that is anticipated to result from implementation of the new master program amendments [WAC 173-26-201(2)(c)].

Ecology also concludes the proposed SMP would be further improved through adoption of recommended changes listed in **Attachment C**.

Ecology concludes that the City has chosen *not* to exercise its option pursuant to RCW 90.58.030(2)(f)(ii) to increase shoreline jurisdiction to include land necessary for 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 SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers not extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

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 City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

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

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

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Ecology concludes that the City 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 WAC 173-26-120.

### **DECISION AND EFFECTIVE DATE**

Based on the preceding, Ecology has determined the proposed amendments are consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules, once required changes set forth in **Attachment B** are accepted by Normandy Park. The City may also choose to accept Recommended Changes in **Attachment C**.

As provided in RCW 90.58.090(2)(e)(ii) the City 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 on the amendment.

The master program will take effect fourteen days from the date of Ecology's written notice of final action to the City.