ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF MOUNTLAKE TERRACE SHORELINE MASTER PROGRAM

SMP Submittal accepted February 14, 2013
City Resolution No. 708
Prepared by David Pater on May 30, 2013

Brief Description of Proposed Amendment:

The City of Mountlake Terrace has submitted to Ecology for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. This update replaces the City’s 1993 shoreline master program currently in effect. This updated shoreline master program will guide construction and development in the City’s 1.2 miles of Lake Ballinger shoreline and associated wetlands. The SMP contains locally tailored shoreline management policies, regulations, environment designation maps, administrative provisions as well as local ordinance #2370 (Critical Areas Regulations) incorporated as part of the SMP. Additional reports and supporting information and analyses noted below, are included in the submittal.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the City’s local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. The current City SMP was approved by Ecology in 1993. This SMP update is also needed to address land use changes that have occurred along the lake’s shorelines over the past 20 years and to provide consistency between the updated SMP and the environmental protection and land use management policies and practices provided by the City’s 2004 Critical Areas Ordinance #2370 and the City Comprehensive Plan.

Current SMP vs. Comprehensive Update

Mountlake Terrace’s last comprehensive SMP update was in 1993. The current SMP is 75 pages, contains key policy, regulations and administrative provisions.

Overall the updated SMP is a significant upgrade from the current 1993 SMP. The shoreline inventory and characterization information has been effectively integrated into the SMP regulations and shoreline environment designations. There is a set of general policies and regulations, in addition to more comprehensive use and modification policies and regulations. Shoreline setbacks and wetland buffers reflect existing land use conditions and ecological functions, while providing mitigation requirements and vegetation conservation standards that focus on retaining existing vegetation and reestablishing additional buffers on Lake Ballinger. Shoreline Environments including allowed and prohibited uses focus on protecting existing ecological functions on more intact shorelines, while allowing the continuation of established uses. Public access standards recognize existing shoreline access, while providing direction on future public access. This is particularly important in regards to the new city park at the north end of the lake. Wetlands within shoreline jurisdiction are well protected within the incorporated critical areas regulations consistent with Ecology wetland buffer guidance. Critical areas...
regulations are incorporated as an SMP appendix. All the applicable standards are housed in one document which will make implementation more effective.

The State SMP guidelines are significantly more restrictive than the 1993 SMP. The SMP update is consistent with applicable aspects of the guidelines. Overall it provides excellent protection for existing ecological functions, and where appropriate restricts key uses and modifications. Established uses such as residential and recreation are permitted outright within the appropriate shoreline environments. Piers and docks have defined dimensional standards for residential and community and park overwater structures.

Below is a comparison of key elements between the current draft 2011 SMP submittal and the existing 1993 SMP.

**Shoreline Environments:**

Existing 1993 SMP: Shoreline environments include urban, suburban, conservancy, rural and natural environment). The Shoreline Environment map however only contains the Suburban and Conservancy environments. The application of the shoreline environments to the lake Ballinger shoreline also does not reflect the shorelines conditions. Example; Ballinger Island is designated suburban.

2011 SMP submittal: Four shoreline environments including natural, urban conservancy, shoreline residential and aquatic. Chapter 3 (Shoreline Environment Designation and Policies) is consistent with the shoreline environment map. Designations are more thoughtfully applied with integration of Shoreline Inventory and Characterization information. Ex: Ballinger Island is designated natural and the golf course and city parks urban conservancy.

**Shoreline Uses and Modification Matrix:**

Existing 1993 SMP: Figure 3, Basic uses and modifications are defined by permitted, prohibited and see regulations for special circumstances. No conditional uses are outlined. Thirteen activities are listed.

2011 SMP submittal: Table 5.1 (Shoreline Use and Modification Table) provides detailed use and modifications allowances and prohibitions and conditional uses that are consistent with applicable SMP regulations. Twenty activities are listed.

**Development Standards Matrix:**

Existing 1993 SMP: No development standards table. Setbacks and buffers not well defined. Only residential structural setback for conservancy environment, which makes little sense since this environment is a golf course.

2011 SMP submittal: Table 4-4 (Dimensional Requirements) provides setbacks for applicable shoreline environments setbacks range from 50 ft, for residential to 100 feet for urban conservancy. There are no defined lake buffers, but there area defined associated wetland buffers. Also outlines maximum lot coverage, side setbacks, height limits and density standards.
Shoreline Uses and Modifications

Existing 1993 SMP: No general policies and regulations (example public access, vegetation conservation). Includes major uses and modification policies and regulations with more environment specific regulations. SMP has detailed standards for some (utilities and dredging), generalized policies and regulations for others (bulkheads and piers). No nonconforming use standards.

2011 SMP submittal: Contains detailed policies and regulations for all applicable uses in State SMP guidelines. Includes general regulations for vegetation conservation, water quality and public access. Includes integrated critical areas regulations, flood hazard standards and nonconforming use standards. Also dimensional standards for piers and docks including separate community and residential standards.

Amendment History, Review Process: The city indicates the proposed SMP amendments originated from a local planning process that began in July 2009. The record shows that a workshop open to the public was held on April 26, 2010. One public hearing before the Planning Commission on December 12, 2011 and meetings were held on January 25, April 26, September 27, 2010, March 28, April 25, May 23, September 26, October 10, and November 28, 2011. Affidavit of publication provided by the City indicates notice of the hearing was published in the Everett Herald on December 2, 2011. A City Council public hearing was held on December 19, 2011. City Council meetings was also conducted on July 6, 2009, May 3, 2010, May 2, June 20, September 29, December 15, 2011. Affidavit of publication provided by the City indicates notice of the hearing was published in the Everett Herald on December 9, 2011. All City Council and Planning Commission meeting notices were posted on the City website.

With passage of Resolution #708, on December 19, 2011, the City 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 February 14, 2013. Notice of the state comment period was distributed to state task force members and interested parties identified by the City/County on March 15, 2013, in compliance with the requirements of WAC 173-26-120…, and as follows: The state comment period began on March 25, 2013 and continued through April 25, 2012. No Ecology public hearing was held. One citizen commented and no agency comments were received by Ecology.

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 City.

Consistency with SEPA Requirements: The City 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 November 23, 2011. Notice of the SEPA determination was published in the Everett Herald on November 23, 2011. Ecology did not comment on the DNS.

**Other Studies or Analyses supporting the SMP update:** Ecology also reviewed the following reports, studies, map portfolios and data prepared for the City in support of the SMP amendment:

These supporting documents include:

- A December 2009 public participation plan,
- A September 2010 shoreline inventory and characterization,
- A September 2012 cumulative impacts analysis,
- A September 2010 shoreline use analysis,
- A August 2012 restoration plan
- A February 2012 no net loss summary memorandum,

**Summary of Issues Raised During The Public Review Process:**

**City of Mountlake Terrace Public Comment:** No comments were received.

**Department of Ecology public comment period:** One citizen submitted a few general comments on impacts of SMP on their residential property. City later clarified that commenter does not own lakeside property within the City of Mountlake Terrace.

**Summary of Issues Identified by Ecology as Relevant To Its Decision:**

City staff incorporated a number of technical changes to the adopted SMP. These changes were posted for public review during Ecology’s 30 day comment period. Ecology staff has determined that the technical changes should be treated as required changes. Most of the changes are substantive and occurred after the City Council adopted the draft SMP in December 2011. With the incorporation of the required changes (attachment B) into the SMP; all of Ecology’s draft comments will be addressed.

SMP section 5.3.3 (Overwater Structures, Piers, Docks and Floats) was significantly updated. Standards for community/public piers and docks were added in anticipation of development of the new City passive park at the site of the former Ballinger Lake Golf Course.

The City of Mountlake Terrace will need to approve a final SMP adoption ordinance including the Ecology required changes. This will include a public hearing.

**CONCLUSIONS OF LAW**

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City of Mountlake Terraces’s proposed comprehensive SMP update, 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 approval of 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 (WAC 173-26-201(2)(c)).
Consistent with RCW 90.58.090(4), Ecology concludes that those SMP segments relating to critical areas within Shoreline Management Act jurisdiction provide a level of protection at least equal to that provided by the City’s existing critical areas ordinance.

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 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 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.

Ecology concludes that the City's comprehensive SMP update/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.

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 buffer areas of critical areas 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.

**DECISION AND EFFECTIVE DATE**

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the City. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology’s final action approving the amendment.

As provided in RCW 90.58.090(2) (e) (iii) the City may choose to submit an alternative to 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. Approval of the updated SMP and proposed alternative/s is effective 14 days from Ecology’s final action approving the alternative/s.