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

SMP Submittal accepted July 23, 2013, Ordinance No. 01-2013
Prepared by Angela San Filippo on January 22, 2013

Brief Description of Proposed Amendment:

The city of Cashmere 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. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designation maps, and administrative. 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 City of Cashmere currently follows Chelan County’s SMP, originally approved by Ecology in 1975 and last amended in 1979. The SMP has never been comprehensively updated. This SMP update is also needed to address land use changes that have occurred along the City’s shorelines over the past 35 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 Critical Areas Ordinance and Comprehensive Plan.

SMP provisions to be changed by the amendment as proposed:
This comprehensive SMP update is intended to entirely replace the City’s existing SMP. This SMP will regulate approximately 4.5 miles of shorelines on the Wenatchee River (a shoreline of statewide significance) and approximately 1 mile of shoreline on Mission Creek. The updated SMP is a significant upgrade from the current 1975 SMP. Much has changed in Cashmere over the last 40 years including development pressures, state laws and guidance, and knowledge of best development and conservation practices. The proposed SMP contains locally tailored shoreline management policies, regulations, environment designation maps, and administrative provisions that have been updated to reflect these changes. Overall, the state SMP guidelines are more restrictive than they were for the 1975 SMP and this SMP update is consistent with the most current state guidelines.

The following four elements outline the key differences between Cashmere’s proposed SMP and the existing 1975 SMP.

Environment Designations
Cashmere’s existing SMP has four environment designations: Urban, Rural, Conservancy, and Natural Environments. The proposed SMP includes five environment designations: Urban Conservancy, Shoreline Residential, Shoreline Park/Public, High Intensity, and Aquatic (Section 3.2 Environment Designations). The proposed SMP includes a purpose statement, designation criteria, and management policies for each shoreline environment. In addition, the proposed shoreline environments are more descriptive, tailored to the City of Cashmere, and meet current state SMP guidelines.
Development Standards Matrix
In the existing SMP there is no development matrix provided. The proposed SMP provides a development standards matrix (Table 3.3-2) that includes setbacks, buffers, height limits, and lot frontage minimums for all upland shoreline environments.

Shoreline Uses and Modifications and Matrix
The existing SMP does not distinguish between water-oriented and non-water-oriented uses and does not provide a shoreline use and modification matrix.

The proposed SMP distinguishes between water-oriented and non-water-oriented uses for commercial, industrial, institutional, and recreational uses. The proposed SMP includes a shoreline use and modification matrix (Table 3.2-1) that outlines categories and sub-categories of uses and modifications and identifies whether they are permitted, conditional, or prohibited uses and whether they are subject to use limitations. Through the text and the shoreline use and modifications matrix the proposed SMP contains detailed policies and regulations with more direction and detail for specific types of uses.

Amendment History, Review Process: The comprehensive SMP update process originated from a regional county-wide planning effort that, attributable to insurmountable challenges, was not able to be brought to completion. The regional effort included public workshops and an advisory team, but it is unclear how much this public participation reflected Cashmere’s population, stakeholders, and local issues.

The City of Cashmere’s local planning process began in May of 2012 with a draft of the regional SMP. Through public workshops and input from city staff, Planning Commission, and City Council, the SMP was tailored to reflect the City’s shoreline conditions and meet the City’s needs. The record shows that workshops open to the public were held on May 14, June 11, July 9 of 2012, and January 28, 2013 and a public hearing before the Planning Commission was held on January 28, 2013. Affidavits of publication provided by the City indicate notice of the hearing was published on January 9, 2013.

With passage of Resolution #01-2013, on January 28, 2013, 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 July 23, 2013. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on September 5, 2013, in compliance with the requirements of WAC 173-26-12, and as follows: The state comment period began on September 23, 2013 and continued through October 23, 2013. One Tribal agency submitted comments on the proposed amendments. Ecology sent the written comments it received to the City on October 28, 2013. On October 30, 2013, the City submitted to Ecology its responses to issues raised during the state comment period. Ecology’s own responses to issues raised during the comment period are available as part of the SMP amendment process record.

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, including the policies, regulations and environment designations, 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 August 1, 2012. Notice of the SEPA determination was published in the Cashmere Valley Record on August 1, 2012. 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:

- July 2012 public participation plan,
- April 23, 2012 shoreline inventory and characterization,
- July 17, 2012 cumulative impacts analysis,
- July 17, 2012 shoreline use analysis (included in cumulative impacts analysis),
- July 17, 2012 No Net Loss Report (included in cumulative impacts analysis), and
- July 10, 2012 restoration plan

Summary of Issues Raised During The Public Review Process:

The City’s SMP amendment drafting/public review process did not generate much public comment. The City did not receive any comments. Ecology received one comment letter from a Tribal government stating they had no comments at this time but appreciate being kept up to date on the SMP amendment.

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

There appeared to be leftover language from the County-wide regional SMP planning effort. This language was modified to be specific to Cashmere. Ecology’s required changes delete regulations on the establishment of buffers in areas that are not applicable in the City of Cashmere, corrected the geographical region where the SMP applies, and also included some small editorial and formatting changes.

There was language within the SMP that non-regulatory sections could be amended without going through an SMP amendment process. Ecology’s required changes eliminate this language because the SMP is approved, adopted, and implemented as an entire document and changes to any portion of it will require a formal amendment.

A number of duplicate or slightly different definitions were found in the SMP and the Critical Areas Protection Standards found in Appendix B. Ecology reviewed each set of definitions, eliminated duplicates and ensured consistency between the existing definitions and those definitions provided in
WAC 173-22, WAC 173-26, WAC 173-27 and RCW 90.58. These are also included in the required changes.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City’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 WAC 173-26-020 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 and critical area functions will result from implementation of the new updated master program (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 City, be included in Ecology’s approved SMP amendments.

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 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)(d)(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)(ii), 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 is effective 14 days from Ecology’s final action approving the alternative.