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

SMP Submittal accepted August 24, 2012, Ordinance No.886
Prepared by Anthony Boscolo on May 6, 2013

Brief Description of Proposed Amendment:

The City of Medina 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 provisions. 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 policies of the Shoreline Management Act, the applicable guidelines and implementing rules. The original City SMP was approved by Ecology in 1975 and was last amended in 1990. 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 23 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.

The existing SMP lacks the details to ensure consistent application. As indicated in the City’s letter of submittal, there is a desire to make the new SMP regulations clearer and more predictable, while protecting the community’s desire to maintain its low-density residential nature.

SMP provisions to be changed by the amendment as proposed:

This comprehensive SMP update is intended to entirely replace the City’s existing SMP. Under the existing SMP, there are two environment designations; Urban and Recreation Conservancy. In contrast, the updated SMP regulates activities and development along the City’s shorelines using the following four (4) new designations, each containing purpose statements, designation criteria, and management policies. The new designations and their purposes statements are listed below:

1) Residential: The purpose of the Residential environment designation is to accommodate single-family residential development and appurtenant structures that are consistent with shoreline master program. A secondary purpose is to provide, where appropriate, public access and recreational uses.
2) **Urban Conservancy** – The purpose of the Urban Conservancy environment designation is to protect and restore shoreline ecological functions of open space and other sensitive lands while allowing a variety of compatible uses.

3) **Transportation** – The purpose of the Transportation environment designation is to accommodate the infrastructure necessary for the SR 520 floating bridge and highway. A secondary purpose is to ensure those areas not needed for ongoing operations are considered for potential public access and habitat enhancement uses.

4) **Aquatic** – The purpose of the Aquatic environment designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

The table below is a summarization of the changes in the updated SMP along with a comparison to the existing 1990 SMP.

<table>
<thead>
<tr>
<th>Proposed Change Topic</th>
<th>Existing 1990 SMP Requirement</th>
<th>Proposed Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shoreline Stabilization</td>
<td>Bulkheads allowed for the control of erosion, but demonstration of need is not required. Precautions to avoid adverse effects to neighboring lots. However, no prescriptions for avoiding/minimizing impacts described.</td>
<td>Consistent with Guideline requirements of WAC 173-26. New Stabilization restricted to the minimum size necessary and allowed only with a demonstrated need for protection and proof of infeasibility of softer alternatives through a geotechnical analysis.</td>
</tr>
<tr>
<td>Critical Area Regulations</td>
<td>General regulations to avoid impacts to water quality, vegetation, fish and/or wildlife. Only the steep slopes subset of the geologically hazardous areas is specifically addressed.</td>
<td>Incorporated CAO provisions which have been modified for consistency with the SMA and include protections for fish and wildlife habitat conservation areas, geologically hazardous areas, and wetlands. Buffer widths range from 30 – 225 feet.</td>
</tr>
<tr>
<td>Allowed/Prohibited Uses</td>
<td>Use and modification table does not exist. With limited environment designations, uses were generally covered in the body of the SMP. Specific sections cover following uses: residential, accessory structures, shoreline structures, trams, shoreline stabilization, landfill and dredging, signs, and utilities</td>
<td>A use and modification matrix is embedded in the SMP which was created to align with the City of Medina’s anticipated future land use. The new matrix specifically addresses types of modifications anticipated and their appropriateness in a lacustrine environment. The following uses have been prohibited outright: multi-family dwellings, parking facilities, commercial and industrial uses, primary utilities, boathouses, marinas, and moorage for floatplanes and helicopters.</td>
</tr>
<tr>
<td>Environment designations</td>
<td>Urban and Recreation Conservancy</td>
<td>Residential, Urban Conservancy, Transportation, Aquatic</td>
</tr>
<tr>
<td>SMP SETBACKS</td>
<td>Setbacks are divided into three categories; 30’, 50’, Stringline.</td>
<td>Setbacks are divided into five categories to allow more flexibility given existing conditions; 30’, 30’ with enhancements, 50’, 30’-50’ stringline, 70’-125’ stringline.</td>
</tr>
<tr>
<td>Breakwaters, Jetties, Groins, Weirs</td>
<td>Only allowed where no other alternatives to the protection of the shoreline.</td>
<td>Allowed through a conditional use permit when necessary to support public access, water-dependent use, shoreline stabilization or other specific public purpose.</td>
</tr>
<tr>
<td>Piers, docks</td>
<td>Permitted. No longer than 100’</td>
<td>Permitted to 100’. Minimum size needed for access to the watercraft. Limited to 4’ in the first 30’</td>
</tr>
<tr>
<td>Ecological protection</td>
<td>Requirements to avoid and minimize impacts of some projects.</td>
<td>Implementation of the concepts of no net loss of shoreline ecological function and mitigation sequencing.</td>
</tr>
</tbody>
</table>

The SMP changes include more site and use-specific policies and regulations designed to achieve no net loss of ecological function such as:
• Stabilization preference hierarchy from non-structural, to soft, to hard being the least preferred option.
• Geotechnical reports required as specified in WAC 173-26 for shoreline stabilization and the placement of structural flood hazard reduction measures.
• Mitigation sequencing is applied to all development regulated by the SMP within the shoreline jurisdiction.
• Vegetation conservation is applied throughout shoreline jurisdiction across all shoreline environment designations. Vegetation conservation standards are also applied through the critical area regulations with buffers ranging from 30 to 225 feet.

**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 notice went to all addresses within the city limits notifying residents of the shoreline master program update. An open house was held on April 7, 2010. A citizen advisory committee was formed to provide informal policy and regulatory recommendations. The record shows that the Citizen advisory committee held meetings that were advertised and open to the public on January 12, February 9, March 9 and 16, April 13 and 20, and August 17, 2011. The Planning Commission received and considered the recommendations of the citizen advisory committee and received and considered public comments received during meetings held on February 16, March 22, April 26, May 24, June 28, July 26, August 30, September 28, October 26, November 28, December 28, 2011, January 24, and February 28, 2012.

In accordance with WAC 173-26-100 and RCW 36.70A.106, notice of intent was transmitted to the Washington State Department of Commerce and the Department of Ecology on March 5, 2012. A SEPA DNS was issued on March 9, 2012. After providing public notice in The Seattle Times on March 7, 2012, the Planning Commission held public hearing on March 27, 2012 and forwarded a recommended Shoreline Master Program to the City Council on April 9, 2012.

Legal notice of the City Council’s public hearing was published in The Seattle Times on April 30, 2012. The City Council held a public hearing on May 14, and June 12, 2012. With passage of Ordinance # 866, on June 12, 2012 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 August 24, 2012. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on October 9, 2012, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on October 15 and continued through November 20, 2012. On October 25, 2012, Ecology held a public hearing at Medina City Hall to seek input on the proposed amendments. Notice of the hearing, including a description of the proposed amendment and the authority under which the action is proposed, the times and locations of the hearing and the manner in which interested persons may obtain copies and present their views was provided in the Monday, October 15, 2012 edition of The Seattle Times, the City’s official newspaper of record. A total number of 8 individuals or organizations submitted comments on the proposed amendments. Ecology sent all oral and written comments it received to the City on December 3, 2012. On March 6, 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.

Pursuant to WAC 173-26-110, as indicated below, the City of Medina has satisfied the submittal requirements for a comprehensive SMP update:

- Pursuant to WAC 173-26-110(1), a signed resolution was provided to the department which indicated that the SMP had been approved by Ordinance No. 886, on June 12, 2012.

- As a comprehensive update, Ordinance No. 886 is consistent with WAC 173-26-100(2).

- Pursuant to WAC 173-26-110(3), amended environment designation maps were submitted to the department.

- Pursuant to WAC 173-26-110(4), materials, minutes, and process summary were provided to the department.

- Pursuant to WAC 173-26-110(5), SEPA was noticed on March 13, 2012. On March 9, 2012, the City issued a SEPA Determination of Non-Significance (DNS) with a comment period ending March 27, 2012. No appeals were filed.

- Pursuant to WAC 173-26-110(7), copies of all public, tribal, and agency comments were submitted to the department.

- Pursuant to WAC 173-26-110(8), a completed SMP checklist was submitted to the department.

- Pursuant to WAC 173-26-110(9), copies of the use analysis, inventory and characterization, cumulative impacts analysis, and restoration plan were submitted to the department.

**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.

Ecology staff thoroughly reviewed the SMP goals, policies, regulations, environment designations, maps, administrative provisions, definitions, and legal provisions for consistency with the Guidelines. Ecology staff also thoroughly reviewed and evaluated the City’s SMP inventory, characterization and analysis, public involvement process, and Growth Management Act integration, including critical
areas. In addition, Ecology staff reviewed and evaluated the City’s Shoreline Restoration Plan including the background data and documentation.

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 March 9, 2012. Notice of the SEPA determination was published in The Seattle Times on March 13, 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:

- a November 2010 public participation plan,
- a November 2010 shoreline inventory and characterization,
- a April 2012 cumulative impacts analysis/No Net Loss Report, and
- a November 2011 restoration plan

Summary of Issues Raised During The Public Review Process:

The City's SMP amendment drafting/public review process had quality participation with numerous oral and written comments submitted. These comments were included in the City’s complete submittal package. The City did an exemplary job of addressing the concerns of interested parties. During the public participation period, extensive debate centered on the following topics: Dredging, Setbacks/buffers, public access, vegetation conservation, boat lifts, stormwater, Docks, nonconforming structures/uses, and impervious surfaces

Summary of Issues Identified by Ecology as Relevant To It’s Decision:

Vegetation conservation – As proposed, the vegetation conservation standards are divided up into two main groups; trees, and general vegetation. The tree standards allow for removal of all trees, and require mitigation for trees removed which are greater than 10 inches in diameter and are ‘Listed’. Mitigation for tree removal can come in one of two forms; payment into the ‘Medina Tree Fund’, or planting replacement trees. Trees which are deemed ‘hazardous’, and those within the ‘Building Footprint’ never require mitigation. These standards apply throughout shoreline jurisdiction.

Within 50 feet landward of the ordinary high water line the standards require an additional level of review. A restoration plan demonstrating NNL of ecological function is required when any of the following occur: Clearing and/or grubbing of 2,500 square feet of land area or more; land surface modifications involving 25 cubic yards of earth materials or more; and/or Removal of any trees 10 inches or greater.

As written, these standards are in conflict with WAC 173-26-221(5), vegetation conservation, WAC173-26-201(2)(e), mitigation sequencing, and WAC 173-26-186(8)(b), no net loss of shoreline
ecological function. Limited vegetation removal is allowable for safety and view protection. General vegetation removal must be consistent with mitigation sequencing and provide restoration to offset unavoidable impacts. Required changes have been included to ensure vegetation removal consistent with WAC 173-26-221(5), WAC 173-26-201(2)(e), and WAC 173-26-26-186(8)(b).

**Fish and wildlife habitat conservation areas** – As proposed, the SMP contains provisions for critical areas within section 20.67. Fish and wildlife habitat conservation areas are specifically addressed in section 20.67.090. This section is generally consistent with the requirements of WAC 173-26-221(2), however, the submitted language specifically excludes ‘shorelines of the state’ from designation and protection as a Fish and Wildlife habitat Conservation Area.

Shoreline master programs are required to provide for management of critical areas designated as such pursuant to RCW 36.70A.170 (WAC 173-26-221). WAC 365-190-130 establishes the minimum guidelines for the development of fish and wildlife habitat conservation area regulations. Required changes have been included to ensure critical area protection consistent with WAC 173-26-221(2), WAC 365-190, and RCW 90.58.090 (4).

**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 .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).

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.

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 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 alternatives is effective 14 days from Ecology’s final action approving the alternatives.