ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED AMENDMENTS TO THE CITY OF SEATAC SHORELINE MASTER PROGRAM

SMP Submittal Accepted: June 14, 2010, Ordinance No. 10-1002
Prepared by David Pater, on December 16, 2010

Brief Description of Proposed Amendments:
The City of SeaTac is proposing a comprehensive update of its entire shoreline master program (SMP). The SMP update replaces the 1976 King County master program that the City has been implementing since City incorporation in 1990. SeaTac’s only shoreline is 100 acre Angle Lake which is located entirely within the city limits. This update will provide SeaTac with an SMP that is tailored to Angle Lake’s shoreline issues.

Incorporation of the City’s critical area’s ordinance was not required for this update for a couple of reasons. Under the current SeaTac Environmental Sensitive Area’s ordinance the shoreline of Angle Lake is incorrectly defined as a class II wetland with 50 foot buffer/setback and 15 foot building setback. The SMP update has incorporated this 65 setback and has significantly upgraded vegetation conservation standards and added new voluntary flexible setback standards to encourage shoreline restoration. The city shoreline inventory & characterization determined that there are no wetlands present within shoreline jurisdiction. A few key CAO sections were also incorporated directly into the SMP to fulfill a number of the SMP guideline requirements.

A few City codes are referenced within the SMP but not considered necessary to fulfill SMA requirements: SeaTac Municipal Code (SMC) Ch. 13.190-Clearing and Grading Code, SMC Ch. 15.14-Tree Retention and Landscaping, and City Phase II storm water management requirements. These codes are not incorporated by reference as a part of the SMP, and are considered loose references.

FINDINGS OF FACT

Need for Amendment: The proposed amendment is needed to update the shoreline master program (SMP) environment designations, policies and regulations. SeaTac’s current SMP is the 1976 King County SMP. This SMP update is needed to address the need for updated shoreline policies and regulations which reflect the current level of environmental protection and land use management provided by city comprehensive plan elements, and other applicable city code. It also needs to meet the State Shoreline Master Program Guidelines (WAC 17-26) and comply with the statutory deadline for comprehensive update of the SMP (RCW 90.58.250 080).

Amendment History, Review Process: The proposed SMP update originated from a State Shoreline Master Program Update Grant that began in January 2008. The Shoreline Citizen Advisory Committee assisted with developing the SMP from June 2008 to September 2009. The record shows that SMP workshops open to the public were held on
Seven Planning Commission Meetings were held from February 23, 2009 to July 27, 2009. Three City Council meetings November 3, 2009, January 12, 2010 and January 26, 2010. Two public hearings before the City Council were held on January 12, 2010 and January 26, 2010. Affidavits of publication provided by the City indicate notices of the hearings were published.

With passage of Ordinance No. 10-1002, on January 26, 2010, the SeaTac City Council adopted the 2010 SMP Update and authorized staff to forward the proposed SMP update to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review on May 20, 2010, and verified as complete on June 14, 2010. Notice of the State comment period was distributed to state task force members and interested parties identified by the City of SeaTac on July 23, 2010, in compliance with the requirements of WAC 173-26-120…, and as follows: The state comment period began on July 28, 2010 and continued through September 16, 2010. Ecology staff determined a public hearing was not necessary. Notification of the State comment period was provided in the July 23, 2010 and August 23, 2010 edition of the Seattle Times, SeaTac’s official newspaper of record. A total number of two individuals or organizations submitted comments on the proposed amendments. Ecology sent all written comments it received to the City on September 27, 2010. On November 9, 2010 the City of SeaTac submitted to Ecology its responses to issues raised during the state comment period. No required or recommended changes resulted from comments received during Ecology public comment period.

Consistency with Chapter 90.58 RCW: The proposed amendments have 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 (see above) of its compliance with SMA procedural requirements for amending an SMP contained in RCW 90.58.090.

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 -020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City of SeaTac.

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 for the proposed SMP amendment on October 7, 2009; notice of the SEPA determination was published in the Seattle Times on October 7, 2009. Ecology did not comment on the DNS.

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

- An April 2008 public participation plan,
- A January 2009 shoreline inventory and characterization,
- An April 2010 cumulative impacts analysis,
- An January 2009 shoreline use analysis, and
- An March 2010 shoreline restoration plan

**Summary of Issues Raised During The Public Review Process:** The City's SMP amendment drafting/public review process brought out a few issues that required further discussion and analysis.

**Setbacks:** The final draft SMP provided to the SeaTac City Council contained a 75 foot residential shoreline setback. The City Council reduced the setback to 65 feet, mainly because of the Lake side property owners comfort level with the existing 65 foot setback from the City Environmental Sensitive Areas Ordinance. Angle lake shoreline contains little remaining buffer, so the term setback is more appropriate. Vegetation Conservation standards in addition to shoreline setback reduction mechanisms (table II) will over time help to reestablish some of the lake buffer as residential lots are redeveloped.

**Beach Restoration:** Maintaining existing small residential beaches was an important issue for lake side property owners that was discussed at length at the City public workshops. These small beaches have traditional been maintained by adding sand/ gravel material in late spring/early summer to replace material lost during the winter season. The SMP sets a beach restoration threshold of material at the US Army Corps regulatory threshold of 25 cubic yards. A CUP is required for projects exceeding this threshold. The SMP also has beach enhancement regulations which provide further direction for reducing ecological impacts.

**Shoreline Setback Reduction Mechanisms (Table II):** The City SMP update (Ch 5) proposes a number of voluntary flexible shoreline setback options for single family residential shoreline. Reductions in the proposed 65 foot shoreline setback are oriented towards reestablishing more lake side buffer areas improving storm water treatment and reducing the amount of existing shoreline stabilization. These were identified as two key issues in the local public process. Any combination of setback options cannot result in a shoreline setback of less than fifty feet.

**Storm Water Management.** Since Angle Lake’s watershed has a high level of impervious surface. Many citizens are concerned about untreated storm water discharges into Angle Lake. The City of SeaTac would prefer that city storm water regulations serve as the regulatory mechanism for managing storm water. The SMP Water Quality, Storm Water and Nonpoint Pollution regulations are meant compliment the City’s existing storm water policies and regulations. The City does have regulations in place to address Phase II NPDES storm water management requirements. SMP vegetation conservation
regulations are also stringent, which help reduce storm water impacts over time. The SMP shoreline setback reduction mechanisms also provide credit to property owners for installing low impact development and preserving significant areas of existing vegetation.

Relevant Citizen comments from Ecology public comment period:
James N. Pepper, Citizen

Comment #1: The proposed SMP reflects a dismal understanding of freshwater management. The City has instituted a saltwater management program on a freshwater lake.

Under the State Shoreline Master Program (SMP) Guidelines SeaTac’s SMP must manage Angle Lake so there is no net loss of ecological function. As part of the process of updating the SMP, the City hired a consulting team (including biologists and other scientists) that documented Angle Lake shoreline ecological conditions, functions and processes based on available existing information. The findings of this work, including documented sources of information and analysis of lake ecological functions, are included in the Shoreline Analysis and Characterization report.

Impacts to lake functions result from a wide variety of factors, both within the larger basin and within the immediate shoreline environment. However, only areas within 200 feet of the shoreline of Angle Lake (and associated wetlands) can be addressed under this SMP. Impacts to Angle lake include loss of native vegetation, increased impervious surfaces (surfaces that prevent water from infiltrating), and the resulting urban storm water run-off from roads, homes and businesses that carries pollutants. Shoreline modifications, such as docks and bulkheads, also negatively impact lake functions such as sediment transport and erosion, and aquatic and upland habitat. Accordingly, the SMP contains a variety of standards to address the range of activities that can result in impacts to shoreline functions.

While some of the functions (and the factors that impact them) are similar between fresh and saltwater bodies, some of them are different or vary in the degree of importance, depending on the type and size of water body and other factors. For example, smaller lakes generally have less potential for erosion and sediment transport than marine waters and there is usually less of a functional need for bulkheads if watercraft speed is not an issue. Some lakes, such as Angle Lake, do not have a surface connection to Puget Sound and do not provide habitat for federally protected salmonid species. However, small lakes may be more susceptible to water quality impacts. While there are differences in functions and impacts between water bodies, we must still meet state requirements for ensuring no net loss of the shoreline ecological functions provided by Angle Lake. We must protect functions provided by shoreline vegetation, such as sediment removal and stabilization, and habitat for a wide range of species. We are required by law to protect water quality for wildlife and beneficial human use. In addition, we must meet specific state requirements that require the City to put certain restrictions in place, such as limits on bulkheads.
Summary of Issues Identified by Ecology as Relevant To its Decision:

All Ecology draft SMP comments have been addressed. The State public comment process did not bring out additional issues of concern. There are a few minor Recommended Changes (Attachment B) which correct typographical errors, that should be addressed in the final document.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City of SeaTac’s SMP proposal, 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, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new master program amendments (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 of SeaTac’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 of SeaTac has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

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

Ecology concludes that the City of SeaTac's 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.

Ecology concludes that the City of SeaTac 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 all 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 amendment is consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules. Ecology approval of the proposed amendments is effective on the date the Director receives written notice of the City’s agreement to the changes addressed in Attachment B.