**Part 1. Background**

**Applicant:** Town of Woodway  
23920 113th Place W.  
Woodway, WA 98020

**Public Hearing Date:** December 7, 2011

**Public Hearing Purpose:** For the Planning Commission to receive public comments regarding the proposed update of the Town of Woodway Shoreline Master Program and to forward a recommendation to the Town Council for consideration.

**Location of Proposal:** The Shoreline Master Program 2011 Update applies to all land within the existing Town limits, and the unincorporated portion of Point Wells, that lies landward 200 feet from the Ordinary High Water Mark of Puget Sound and any associated wetlands and Shorelines of Statewide Significance lying seaward of the extreme low tide.

**SEPA Compliance:** Pursuant to WMC 16.04, a determination of non-significance was issued on October 30, 2011.

**Public Notification:** A public notice was advertised in the Everett Herald on November 22, 2011 and posted in several public places within the Town of Woodway. In addition, a courtesy copy of the public notice was sent to owners of property of which all or a portion is located within the Shoreline designation on November 23, 2011.

**Part II. Shoreline Management Act-Background Information**

**Statutory Requirements:** The Washington State Shoreline Management Act (RCW 90.58) was passed by the State Legislature in 1971 and endorsed by the public in a referendum in 1972. The Act establishes state policy “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” While protecting shoreline resources by regulating development, the Shoreline Management Act (SMA) is also intended to provide for appropriate shoreline use by encouraging land uses that enhance and conserve shoreline functions and values.

The SMA requires all local governments that include Shorelines...
of the State (Puget Sound) to prepare Shoreline Master Programs (SMPs) to protect shoreline resources by regulating development and to provide for appropriate shoreline uses.

The Town adopted its initial SMP in August 2001 and pursuant to State law (RCW 90.58.080), the Program is required to be updated by December 1, 2011 to address emerging shoreline issues and revisions of State guidelines.

**Update Requirements - Shoreline Master Program Guidelines:**

To assist in the update effort, the state has adopted Shoreline Master Program Guidelines (WAC 173.26.171-251), which are standards that the Town must follow in updating its master program. The Guidelines translate the broad policies of the Act (RCW 90.58.020) into standards for regulation of shoreline uses. The update must also be consistent with the Town’s Comprehensive Plan prepared under the Growth Management Act, including providing protection for critical areas within the shoreline jurisdiction that will ensure no net loss of shoreline ecological function. While the program must be based on these state guidelines it can, and has been, tailored to the specific needs and conditions of Woodway.

The key elements of the Guidelines that were incorporated into the SMP update process are listed below with a brief description:

- **Shoreline Inventory, Analysis and Characterization** - An investigation of shoreline ecosystems and their associated ecological functions used to describe the character of the existing shoreline and a basis for the eventual development of policies and regulations that, when implemented, will result in no net loss of ecological functions.

- **Shoreline Environmental Designations** - A classification system based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the Town as expressed through the comprehensive plan. The designations are illustrated graphically and include specific designation criteria and management policies for specific areas within the shoreline jurisdiction.

- **Restoration Plan** - The identification, prioritization and plan for restoration of ecological functions where functions have been impaired or degraded. Restoration plans are to be done through a combination of public and private programs and actions. The goal is to improve the overall condition of habitats and resources within the shoreline area over time compared to the existing conditions as documented in the Shoreline Inventory.
and Characterization Report.

- **Cumulative Impact Analysis** - An assessment of how the proposed shoreline policies, regulations, and restoration activities would avoid or offset potential impacts from future permitted and exempt development and achieve no net loss of shoreline ecological functions.

### Part III. Process to Prepare the SMP Update

The Department of Ecology (DOE) manages the preparation of SMPs to ensure consistency with the State law (RCW 90.58), the Washington Administrative Code (WAC 173.26), and DOE guidelines. The application of the state provisions requires technical expertise and the DOE provided a $50,000 grant to the Town to fund the preparation of the required update. The Town hired ESA Adolfson (now ESA), who has prepared numerous other SMPs in the Puget Sound Region, to work with staff and the Planning Commission to prepare the update consistent with state provisions.

The Washington Administrative Code establishes the basic elements of the process to prepare the Program. These include a public participation plan; shoreline inventory, analysis and characterization; defining environmental designations; goals, policies and regulations; and a cumulative impact analysis and restoration planning supplemental document. A brief description of each of the required elements, together with the review period by the Planning Commission is provided below.

#### A. Public Participation Plan -

The Public Participation Plan was prepared in December 2009 and established a method for receiving citizen comments throughout the SMP process. The Planning Commission was designated as the primary advisory body responsible for preparing the SMP and recommending it to the Town Council as official public policy. The Commission conducted two open houses in March and April 2010 to discuss the focus of the updated program and in May 2010 adopted the following “vision” to drive the remaining steps in the update process:

*To preserve, protect, and restore ecological functions necessary to maintain shoreline natural resources while encouraging beneficial uses of the shoreline for the community.*

#### B. Inventory, Analysis and Characterization -

Between June and October 2010, the consultants collected all available scientific and planning information from local, state, and federal sources relative to the Town’s shoreline environment. The information was mapped and analyzed to define the
ecosystem-wide processes and functions of the Town’s shoreline area. To gain an up-close understanding of the shoreline, the Planning Commission conducted a site tour of the shoreline area, including the Point Wells site, in July 2010.

The Commission reviewed all of the collected material and provided direction to staff to identify key issues associated with the Woodway shoreline area together with certain restoration opportunities. The final Inventory and Characterization Report was accepted by the Planning Commission in December 2010.

C. Environmental Designations, Policies and Regulations -

With a basic understanding of the natural and developed shoreline environment together with the identification of key issues, the staff and consultants recommended new shoreline environmental designations (SEDs). These geographic areas within the shoreline area serve as the foundation from which general and specific policies and regulations are developed and applied. They include “Urban Conservancy”, “Point Wells Urban” and “Aquatic”.

The Planning Commission discussed the appropriate policies and use regulations applicable to each of the SEDs during a set of regular Commission workshops conducted over seven months from January 2011 through September 2011. The Urban Conservancy and Aquatic designations apply to all lands and water currently located within the town limits. Since Point Wells is currently located within the unincorporated area of the County but within the Town’s Municipal Urban Growth Area (MUGA), the policies and regulations listed for Point Wells Urban will only be applicable if Point Wells is annexed to the Town.

As the Planning Commission, staff, and consultants worked through the draft policies and regulations, it was important to ensure that their effect would result in “no net loss” of shoreline ecological functions identified in the inventory and characterization step.

D. Cumulative Impact Analysis -

To document the “no net loss” test, the next step in the process of preparing the SMP is the analysis of cumulative impacts. Under the guidelines mentioned above, the Town is required to evaluate and consider cumulative impact of reasonably foreseeable future development in the shoreline area. The purpose of the Cumulative Impact Analysis is to ensure that when implemented over time, the goals, policies, and regulations will achieve no net loss of shoreline ecological functions from the current baseline conditions.
The Analysis considered the current circumstances affecting the shoreline and natural processes, evaluated the reasonable foreseeable future shoreline development within the Town and Point Wells, and the beneficial effects of existing local, state, and federal regulatory programs. The Analysis concluded that development in the shoreline area is severely limited due to the BNSF railroad facilities and the existence of the environmentally sensitive bluff situated between the railroad tracks and the upland areas. As a result, no cumulative impacts are anticipated and it is highly likely that no net loss of ecological functions will occur in the Aquatic and Urban Conservancy designations. In the Point Wells Urban designation, it is likely that improvement of ecological functions would occur through redevelopment of the shoreline area consistent with the SMPs policies and regulations.

E. Restoration Plan -

In addition to the above SMP elements that establish policies and regulations for administration of proposed uses in the shoreline area, the Act also requires the SMP to include goals and policies for the restoration of ecological functions that have been historically impaired or degraded.

The Restoration Plan summarizes the existing shoreline functions (as set forth in the Inventory and Characterization Report) including where such functions have been impaired and altered through previous shoreline development and infrastructure (e.g.; the BNSF railroad). The Plan also describes existing plans and programs to “improve” on degraded conditions rather than focusing on actions that will restore conditions to the historical natural state. Restoration goals, priorities are presented and potential funding sources identified as available means to help implement restoration efforts.

Part IV. Shoreline Master Program Summary

The Woodway Shoreline Master Program Update includes the required elements as prescribed by state laws and, as described above, has been prepared consistent with DOE guidelines listed in the Washington Administrative Code. Although the Program is complex by nature, it has been organized into a straightforward document that presents a clear description of the environmental designations, a succinct vision, unambiguous policies, and easy to understand and administer regulations. The following summary describes the purpose and general contents of the Program’s nine chapters.

Chapter 1. Introduction: This chapter describes the purpose and applicability of the Program and defines the Woodway shoreline
area as 200 feet waterward of the Ordinary High Water Mark. Point Wells is also addressed in the introductory chapter and is excluded from the immediate application of the Program goals, policies and regulations due to its current location outside of Town limits.

Chapter 2. Shoreline Vision and Goals: As mentioned above, the Planning Commission established the vision for the Program. Based on that vision, this chapter establishes a series of goals for shoreline use, public access, recreation, circulation conservation, restoration cultural resources, and flood hazard management.

Chapter 3. Shoreline Jurisdiction and Environmental Designations: Chapter III defines the geographic area of the Town governed by the Program and the three environmental designations. The land and water area addressed in the Program includes:

1. “Shorelines of the state”, including the Puget Sound shore within the Town’s limits and its Municipal Urban Growth Area (Point Wells);
2. The open water tidelands extending to the middle of the Sound;
3. The upland area landward 200’ for the OHWM; and
4. All associated wetlands influenced by the regulated waters of Puget Sound.

As mentioned above, the Shoreline Environmental Designations (SEDs) include Urban Conservancy, Aquatic, and Point Wells Urban. The designations are mapped within the shoreline area together with specific purpose statements, designation criteria, and management policies.

Chapter 4. General Use Policies and Regulations: This chapter presents general policies and regulations that are applicable to all uses and activities that occur within the above-described SEDs. Table 1 in this chapter presents the permitted, conditional, and prohibited uses in each of the SEDs.

Chapter 5. Shoreline Modification: Chapter 5 presents policies and regulations that govern contemplated modifications of the shoreline.

Chapter 6. Woodway Shoreline Policies and Regulations: In addition to uses permitted by right, condition, or outright prohibited in Table 1, Chapter 4, this chapter provides specific
policies and regulations for uses within the Town’s jurisdiction. Uses include public access/recreation, residential, boating facilities, transportation facilities, and utilities.

**Chapter 7. Point Wells Shoreline Policies and Regulations:**
The Appendix of the Town’s Comprehensive Plan describes Future Land Use Alternatives for Point Wells, all of which are varying degrees of a mixed-use designation. Further, the County’s current Comprehensive Plan designation is also for a mixed-use land use designation that entertains a mix of residential densities, commercial, recreational, public access, boating, and transportation facilities. The policies and regulations set forth in the Woodway SMP for Point Wells would only be applied to development proposals on the site if Point Wells were annexed to the Town. The listed policies and regulations generally mirror those proposed in the Snohomish County Draft SMP.

**Chapter 8. Administrative Provisions:** Proposed development in the shoreline area requires permits that are administered by the Town and reviewed by the State. This chapter provides for the administration shoreline permits (substantial development, conditional uses, variances, and exemptions) by the Town. The Town Administrator is responsible for administering development permits and listed exemptions while the Town Hearing Examiner is responsible for conditional uses and variances. The DOE is responsible for final approval of conditional use permits.

**Chapter 9. Definitions:** Chapter 9 provides a comprehensive list of key words used throughout the SMP.

**Part V. Findings and Conclusions**
The Woodway Shoreline Master Program Update 2011, Cumulative Impact Analysis, and Restoration Plan have been prepared consistent with the applicable provisions of state laws, codes and the Woodway Comprehensive Plan. As such, the staff makes the following findings:

1. The State of Washington adopted the Shoreline Management Act (SMA) in 1971 to preserve and protect the shorelines of the state.
2. Puget Sound is listed as a “shoreline of the state” and a “shoreline of statewide significance” and local jurisdictions that contain such shorelines are required under the SMA to prepare Shoreline Master Programs pursuant to the provisions of the SMA (RCW 90.58) and the Washington Administrative Code (WAC 126.73).
3. The Town prepared its first Shoreline Master Program in 2001 and, pursuant to RCW 90.58.080, is required to update its Shoreline Master Program by December 2011.
4. The Woodway Comprehensive Plan 2004 Update recognizes the importance of preserving and protecting the shorelines within the Town limits and includes goals and policies for the preservation and use of the Town’s shorelines.
5. Preparing and/or updating Shoreline Master Programs must adhere to guidelines provided in state laws and codes that require a systematic process and approach to ensure public participation, the collection and analysis of technical and scientific information, and the coordination with adjacent jurisdictions, tribes, and the Department of Ecology.
6. The Town was awarded a $50,000 grant from the Department of Ecology to assist in the preparation of the Update in June 2009 and the Town hired ESA Adolfson (now ESA), an experienced environmental consulting firm, to work with the Planning Commission and staff to prepare the SMP update consistent with state laws and codes.
7. In December 2009, the Planning Commission reviewed and approved the Public Participation Plan to guide the public outreach and communication effort with Town residents and effective partners.
8. In March and April 2010, the Planning Commission conducted two open houses to view information on the existing conditions of the shoreline and solicit comments on the scope of the Update. In July 2010 the Planning Commission conducted an on-site tour of the shoreline including Point Wells.
10. Between June 2010 and October 2011, the Planning Commission conducted nine work sessions in which they reviewed and discussed the inventory and analysis of the shoreline conditions, proposed environmental shoreline designations, general goals, policies, and regulations, and administrative provisions sections of the SMP.
11. In September 2011, staff received notification from DOE that the draft SMP should be modified to better address the application of the Town’s critical area ordinance within the shoreline area. Staff discussed such modifications with DOE officials and revised the regulations to address DOE concerns.
12. The Planning Commission completed its review of the draft SMP, which included revisions to the regulation section addressing DOE’s concerns, and accepted the final Restoration Plan and Cumulative Impact Analysis in October
2011. The Commission passed a motion at its October 5, 2011 meeting to forward the SMP to a public hearing in December 2011.

13. The public hearing notice was advertised in the Everett Herald and posted in the Town on November 22, 2011.
14. The Town’s SEPA Official issued a Determination of Non-Significance on October 30, 2011 and no appeals have been filed with the Town.

Part VI. Recommendation

Based on the above findings, staff recommends approval of the Woodway Shoreline Master Program Update 2011 and that such program be forwarded to the Town Council for consideration of a Notice of Intent to Adopt pending approval by the Washington State Department of Ecology.