ATTACHMENT A: FINDINGS AND CONCLUSIONS
COMPREHENSIVE UPDATE TO THE CITY OF UNIVERSITY PLACE
SHORELINE MASTER PROGRAM

SMP Submittal accepted March 26, 2014 - Resolution No. 736
Prepared by Chrissy Bailey on November 24, 2014

Brief Description of Proposed Amendment:

The City of University Place (City) has submitted to the Department of Ecology (Ecology) for review and approval a comprehensive update to its Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines (Guidelines) requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designations, a designation map and administrative provisions, as well as local Ordinance No. 630 (Critical Areas Code Amendments) which will be adopted by reference as part of the SMP. Additional reports and supporting information and analyses as noted below are included in the submittal.

The permit processing, nonconforming development, enforcement, open record public hearing, landscaping and trees and fence standards regulations in sections 22.05, 19.80, 1.20, 22.10, 19.65 and 19.45 of the University Place Municipal Code (UPMC) are identified as elements of the City's updated SMP. These codes are loosely referenced in the SMP and are not being adopted by reference.

FINDINGS OF FACT

The record submitted by the City to Ecology as part of the SMP update, including Resolution No. 736, reports, analyses and local approval materials, provides information supporting the need for the proposed amendment. The City of University Place currently manages shorelines under a Shoreline Master Program that the City adopted and Ecology approved in 2000.

According to the *Shoreline Inventory and Characterization Report* (ESA, 2010) approximately 8.5 linear miles of shoreline within the City are classified as "Shorelines of the State" pursuant to RCW 90.58.030; 2.6 miles of freshwater shoreline along Chambers Creek and 5.9 miles of marine shoreline along Chambers Bay and the Puget Sound. Aquatic areas and adjacent upland areas generally within 200 feet of the shoreline edge in these locations are subject to compliance with the Shoreline Management Act (RCW 90.58). The City does not have any Urban Growth Areas so is not pre-designating shorelines under WAC 173-26-150.

Need for amendment: The proposed amendment is needed to comply with the statutory deadline pursuant to RCW 90.58.080 requiring a comprehensive update to local Shoreline Master Programs. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26, as the SMP has not been comprehensively updated under the new Guidelines. This SMP update also addresses changes that have occurred along the City's shorelines over the past 14 years and will provide consistency between the updated SMP and the environmental protection and land use management policies and practices outlined by the City's Critical Areas Code and Comprehensive Plan. This comprehensive update is intended to entirely replace the City's existing SMP.

The SMP update is also intended to reflect current shoreline conditions, as it is recognized that conditions can change over time (WAC 173-26-090). Changing local circumstances, new information, and improved data may refer to both physical/biological conditions as well as how shorelines and shorelands are currently being used.

Chapter 18.05.010 of the City's SMP provides the following purpose statements:

1. *To guide the future development of shorelines in the City of University Place in a positive, effective, and equitable manner consistent with the Washington State Shoreline Management Act of 1971 (Act), as amended (RCW 90.58).*

2. *To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of University Place's shorelines; and*

3. *To ensure, at minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the policy contained in RCW 90.58.020, Legislative Findings for shorelines of the state.*

Current Conditions Documented:

Documentation of current shoreline conditions is vital to achieving the no net loss of shoreline ecological functions goal of the state SMP Guidelines (WAC 173-26-186). Pursuant to this requirement, ESA Adolfson, on behalf of the City, produced the *Shoreline Inventory and Characterization Report*, which included a shoreline analysis, in 2010 (final draft October 2010). This report served as a basis for and informed development of the City's SMP, including environment designations, policies and use regulations.

The City's *Inventory and Characterization* provides a discussion of the ecosystem processes that influence the City's shorelines as well as a reach-scale description of the ecological functions and land use patterns along each shoreline. The document reflects current and anticipated future land uses, identifies potential use conflicts, and summarizes restoration opportunities and management issues based on information gathered during the assessment.

Shoreline reaches were determined based on water body type; the marine shoreline was divided into three reaches: Day Island, Puget Sound North and Puget Sound South. Reach breaks were based broadly on physical distinctions along the shoreline, the level of ecological functions provided by each segment, and existing land uses and zoning. Chambers Creek constitutes its own reach. Current shoreline conditions are generally summarized as follows for shorelines within SMA jurisdiction in the City of University Place.

Existing Shoreline Uses: As outlined in the *Inventory and Characterization*, the City's marine shoreline is generally developed with uses expected to continue into the future. Significant development and land use changes have occurred over the last decade within the Chambers Creek Properties, including development of the Chambers Bay Golf Course and substantial projects at the wastewater treatment facility. Although additional projects are anticipated on the Properties, much of the significant redevelopment has already occurred. Anticipated enhancements in shoreline jurisdiction will facilitate further access to Puget Sound shorelines over the BNSF Railroad. The BNSF Railroad

right of way extends along the entire length of the mainland shoreline through all of the marine reaches.

Outside of the Chambers Creek Properties, there are two established residential communities west of the BNSF Railroad: Day Island and Sunset Beach. At the northwestern corner of the city, Day Island is actually not an island as it is no longer disconnected from the mainland. Current land use is mainly moderate to low density residential development. Just north of the Chambers Creek Properties, the Sunset Beach residential community stretches along the shoreline for approximately 1,500 feet and consists of moderate density single-family residential development. Excluding these two communities and the Chambers Creek Properties, existing land use along the marine shoreline is generally characterized by the 30 to 40 foot wide railroad corridor and the undeveloped, steep slope open spaces to the east of the corridor.

The Day Island Lagoon, between Day Island and the mainland to the east, is characterized by water-oriented marina, boatyard and boat moorage uses. These facilities include the Day Island Yacht Club, Day Island Yacht Harbor (marina), and Narrows Marina (the majority of which is actually in the City of Tacoma).

The City's freshwater shoreline, Chambers Creek, includes the right (northern) bank of the lower 2.65 miles of the stream. The general land use pattern in this reach is largely open space; both publicly owned lands in Chambers Creek Canyon Park (part of the Chambers Creek Properties) and in undeveloped areas associated with large residential properties. A dam and spillway are located at the mouth of Chambers Creek, where the stream flows into Chambers Bay. The city's Kobayashi Park is located at the upper most extent of the reach.

Ecosystem Processes and Shoreline Ecological Functions: Along the marine shoreline in University Place, shoreline ecological functions have been characterized as moderately to highly altered. Physical modifications to the marine shoreline have highly altered habitat functions. The Chambers Bay shoreline provides moderate habitat, and the intertidal lagoon areas provide significant habitat. Habitat in the estuary is altered by the dam and spillway across the mouth of Chambers Creek. In the Day Island reach, modification of intertidal habitats (dredging) and drainages flowing to the inner waterway (drainages that have been piped) limit habitat provided in the lagoon.

The general trend towards a harder shoreline (bulkheads and revetments) has resulted in less overall wave attenuation along marine shorelines than in pre-modification conditions. Some portions of the shoreline retain a relatively wider beach area, which indicates higher function in these areas. Coastal bluff erosion processes have been modified by structures at the toe of the bluff, and bluff environments along the Puget Sound South reach were historically altered by gravel mining. Sediment processes within Chambers Creek and smaller coastal tributary streams have been modified by development in contributing basins, by the Chambers Creek dam, and by the railroad corridor. Reduction in wetland area has reduced contact time of water with soil, lowering the potential for filtering and cycling of pollutants.

In marine shoreline areas, the delivery, transport, and disposition of nutrients, pathogens, and toxins have also been significantly altered from historic conditions. Upland sources of these pollutants have increased significantly as a result of urban and industrial land uses within and near the shoreline. Potential storage of pollutants has decreased through wetland loss and installation of impervious surfaces throughout the majority of the Chambers Creek basin.

In the Day Island reach, the shoreline is 90 to 100 percent modified along all northern and western facing segments and 21 to 59 percent modified along the east facing shoreline. Numerous groins impair littoral sediment transport. Intertidal and subtidal areas likely provide habitat for numerous species of shellfish and fishes, and nearshore habitat is likely used by forage fish, rockfish, and other nearshore fishes. Chinook salmon and bull trout may occur in offshore waters. Development within the reach and associated armoring of the shoreline has resulted in the loss of marine riparian vegetation and has limited the association between upland vegetation and nearshore areas. Scattered areas of overhanging riparian vegetation can be observed but are uncommon. Impervious surface coverage in the Day Island reach is moderate to high.

In the Puget Sound North reach, the shoreline is 90 to 100 percent modified. The entire reach is armored by either the BNSF revetment or residential shoreline armoring structures, and sediment derived from erosive bluffs no longer feeds local beaches. Several groins and other overwater structures occur along Sunset Beach, and many infringe on the beach resulting in the direct burial of documented sand lance spawning habitat. The deposition and transport of sediment are also degraded as a result of these structures, and minimal upper intertidal or backshore habitats occur due to shoreline modifications. Development and armoring along the shoreline have resulted in the loss of marine riparian vegetation and limited the association between upland vegetation and nearshore areas. The most intact areas of coniferous and mixed forest communities are separated from the shoreline by the railroad, extending up the steep slopes to the residential development above. These forested areas provide wildlife habitat and water quality benefits, but the separation from the shoreline limits ecological functions they can provide. Impervious surface coverage is moderate in areas of development, although no impervious coverage exists in steep slope areas.

In the Puget Sound South reach, the shoreline is significantly modified by riprap associated with the railroad. The Chambers Bay shoreline is minimally modified. Intertidal and subtidal areas likely provide habitat for shellfish and fishes, including documented surf smelt spawning habitat. Nearshore habitat is also likely used by sandlance, rockfish, and other nearshore fishes, although inventoried use is not mapped along the reach. Chinook salmon and other salmonid species are likely to use the offshore waters for foraging. In addition to gravel mining affecting the functions of adjacent bluffs, several large fill areas changed the historic character of this reach. Prior to the construction of the BNSF bridge and causeway, the tide channel that marks the entrance to Chambers Bay was located further landward and was associated with a single barrier that extended northwest across the embayment from the southern shore. The sheltered conditions created by the causeway reduced wave exposure and wave induced erosion along the northern shore, which altered local littoral sediment transport patterns and sediment supply. An area of relatively intact coniferous and mixed forest occurs for approximately 1,000 feet along the north end of this reach. Impervious surface coverage is low throughout and is only associated with the BNSF Railroad.

The summary of management issues for marine shoreline areas in the *Inventory and Characterization Report* identify the following as key issues within all reaches:

- Bluff erosion processes have been modified as the railroad and other structures at the toe have limited the potential for tidal and wave interaction with the bluff.
- Minimal-setback residential communities, along Day Island and at Sunset Beach, pose regulatory challenges. Potential for improvement to hydrologic and habitat functions is restrained along these shorelines.

- Removal of mature trees from riparian areas and from surrounding bluffs has reduced the source and pathways of large woody debris (LWD) to the nearshore system. Chambers Bay is the only shoreline reach where mature vegetation exists in some places within the riparian zone (see above for note about relatively intact portion of Puget Sound South reach).
- Alterations to the shoreline have reduced the extent of kelp and eelgrass beds in the intertidal area, although kelp beds are still mapped intermittently.

Along Chambers Creek the level of alteration to ecological functions is less consistent, and ranges from low to moderate/high depending on the function. Relative to hydrology, the level of alteration is ranked as moderate; runoff flows to Chambers Creek and its major tributaries with varying levels of flow control. Headwater wetlands around Leach Creek (which is not a shoreline stream but intersects with Chambers Creek at Kobayashi Park) improves hydrologic function, as do significant wetlands and riparian areas within the floodplain of Chambers Creek.

Hyporheic functions and ecological function provided by shoreline vegetation have been minimally altered in the Chambers Creek reach. The lack of roads and infrastructure near the stream and lack of residential development has maintained a functioning channel planform with active areas of channel movement. Instream habitat diversity has been moderately to highly altered in some places, likely as a result of development in the upstream basin reducing LWD and pool habitat.

Much of the Chambers-Clover Creek watershed has been urbanized. In general, streams within the watershed have been functionally altered by surrounding land use changes, with key shifts including the timing and volumes of hydrology (increased flooding and summer low-flow levels) and increased stream temperatures. However, a wide unmodified, vegetated corridor exists along Chambers Creek in University Place measuring between 100 and more than 300 feet wide. The corridor is predominantly a second and third generation forest community, with wetlands and steep slopes mapped throughout. Where Chambers Creek is impounded behind the dam, the riparian area is intact, however narrow (approximately 20-30 feet wide). Impervious surface coverage is low, consistent with the undeveloped nature of the reach.

The summary of management issues for Chambers Creek identifies the following as key issues in this reach:

- The presence and ongoing management practices at the Chambers Bay Dam facility, including fish passage above the dam and the impoundment created by the dam (water temperature impacts).
- Significant portions of the city and surrounding area's stormwater runoff is conveyed to Chambers Creek via streams and stormwater systems. Stormwater runoff increases turbidity and other pollutants in the stream, as well as increasing peak flows. These impacts degrade water quality and habitat for aquatic life, including salmon.
- Potential future development of the Chambers Creek Canyon properties with limited recreational uses. Although trails and other low-impact recreational facilities are likely compatible with the open space areas, any development must be planned to consider ecological impacts.

Ecology finds that the City's Shoreline Inventory and Characterization Report (2010) provides a sufficient assessment of existing shoreline conditions to adequately inform the SMP update process as well as provide a basis for future protection and restoration opportunities within the City's shoreline

jurisdiction. The report appears to be consistent with Guidelines requirements of WAC 173-26-201 (3)(c) and (d).

Shoreline Jurisdiction and Shorelines of Statewide Significance:

The City proposes to use the minimum jurisdiction allowed, including the water areas of all shoreline waterbodies, shorelands located within 200 feet of the Ordinary High Water Mark (OHWM), the designated floodway plus 200 feet of the contiguous floodplain on streams, and all associated wetlands.

RCW 90.58.020 specifically calls out Shorelines of Statewide Significance (SSWS) for special consideration, declaring the "the interest of all of the people shall be paramount in the management" of these shorelines. In University Place, waters of the Puget Sound lying seaward of the line of extreme low tide are designated SSWS.

Ecology finds that the University Place SMP, when required changes as outlined in Attachment B have been incorporated, appropriately defines shoreline jurisdiction consistent with the Act. Ecology finds that the SMP has appropriately identified SSWS within the city's jurisdiction and has included principles for management of these areas (chapter 18.05.020.B). As conditionally approved, these policies and principles in the SMP will be consistent with RCW 90.58.020 and WAC 173-26-251.

Shoreline Environment Designations:

Assignment of Shoreline Environment Designations (SED) is a fundamental aspect of the SMP update. Each stretch of shoreline has characteristics distinguishing it from others and that can be used to identify the shoreline ecological functions occurring, or those that historically occurred there and have been altered over time. An SMP update must consider how lands have been and are being used, including a general distinction between presently developed areas and relatively undisturbed shoreline areas. The Shoreline Environment Designation criteria provided in WAC 173-26-211 serve as the primary determinant of how shoreline environment designation assignments are made, along with reference to zoning and other regulatory overlays.

In accordance with WAC 173-26-211 (5)(c)(iii), University Place's upland shoreline environment designations include intertidal lands and extend into adjacent waters to the -10 MLLW (mean lower low water) line. As such, management policies and objectives related to aquatic areas from the Guidelines have been incorporated into the management policies for each upland designation.

The comprehensively updated SMP utilizes a total of five designations, three of which are recommended environment designations from the SMP Guidelines. One of these environment designations (Shoreline Residential) is utilized in the city's current SMP. The City and its consultant for each shoreline reach evaluated the existing SMP environment designations, made recommendations for updated environment designations, and set forth rationale to support the proposed designations.

In addition to the Shoreline Residential designation, the Guidelines-recommended environment designations the city is using are Natural and Urban Conservancy. In the updated SMP, the Shoreline Residential designation has been applied to areas planned for and/or currently developed with residential communities. These areas include Sunset Beach and residential portions of Day Island. The Natural designation was applied to all of the Chambers Creek reach from Grandview Drive extended

south (where the power lines cross the creek) east to the city limits, with the exception of Kobayashi Park and the adjacent road and residences. This area is primarily unaltered forested riparian zones owned by Pierce County and preserved for recreation and habitat.

The Urban Conservancy designation has been applied to Kobayashi Park and the adjacent homes and road, Chambers Creek west of Grandview Drive extended, Chambers Bay and the Chambers Creek properties, and the BNSF railroad corridor and adjacent steep slopes/bluffs within shoreline jurisdiction. The Urban Conservancy designation stops in the northern portion of the city near Day Island, where Day Island Bridge Road crosses the southerly end of the Day Island lagoon. This designation captures portions of the residential properties at the top of the steep slopes/bluffs along the marine shoreline in some areas. The high bluffs east of the railroad tracks are in a landslide hazard zone, are important features of the nearshore environment, and include other sensitive features like eelgrass and Washington Department of Fish and Wildlife (WDFW) priority habitats.

The two remaining designations utilized in the updated SMP are the Marine Deepwater designation and the Day Island Medium Intensity (DIMI) designation. As stated above, the Marine Deepwater designation begins at the -10 MLLW line and extends waterward of the intertidal shorelines of Puget Sound. The purpose of the Marine Deepwater environment is to protect and manage the unique characteristics and resources of the areas waterward of the intertidal shoreline. Although not a Guidelines-recommended environment designation, the Marine Deepwater environment was established by the City to address concerns with activities that are anticipated in deep water marine areas like dredging and mooring buoys.

The purpose of the DIMI environment is to accommodate marinas, yacht clubs with boat moorage and related facilities and activities, water-oriented commercial, transportation and light industrial uses, and moderate density residential uses within mixed use projects, while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. Additional purposes are to provide public access to the shoreline and recreational uses oriented toward the waterfront, and to accommodate non-water-oriented uses on a limited basis where appropriate. The DIMI designation is similar to that of a High Intensity Environment as described in the Guidelines except that development intensities are to be limited to those consistent with the city's Comprehensive Plan designation and zoning for the area.

Ecology finds that the city and the SMP record have sufficiently documented the basis for assigning Shoreline Environment Designations. Areas where ecological functions have not been or have been minimally degraded are protected with the most restrictive environment designations. In the SMP, each environment designation includes a purpose statement, designation criteria, and management policies as required by WAC 173-26-211 (4)(a). Furthermore, designations in the SMP appear to be appropriately assigned and address all known shoreline areas in the City. Ecology finds that the city's decisions regarding formulation and application of the chosen environment designations are rationalized and supported by discussion in the record.

Shoreline Use Conflicts and Preferred Uses:

As part of the *Shoreline Inventory and Characterization,* the city's consultant analyzed current and future potential land uses and trends to address the Guidelines requirement to project shoreline development, identify potential use conflicts and ensure preference is given to uses that are unique to or dependent upon a shoreline location ("water oriented" uses). Potential conflicts in this context are

focused on competing planning priorities inherent in the overall SMA policy objectives, such as the preference for water-dependent uses and for ecological protection. This may also encompass conflicts between SMA policy interests and other interests or regulatory requirements affecting shoreline resources, like zoning or site design requirements.

As documented in the *Inventory and Characterization*, the city's marine shoreline is generally developed with uses expected to continue into the future. Significant development has occurred at the Chambers Creek Properties in the past decade, and remaining enhancements will facilitate access to Puget Sound[1]. Upkeep activities are expected to occur at the Chambers Creek Properties. Maintenance and repair of the railroad and improved publically owned rights-of-way in this area are also expected.

Outside of the Chambers Creek Properties, primary use patterns are also generally established. Tear-down and redevelopment of older homes in the Day Island and Sunset Beach communities has occurred and is expected to continue into the future. Landward of the railroad, development patterns are established and development most likely to occur is anticipated to be maintenance, repair, and remodel of existing structures. Existing residential lots in these areas generally have newer and larger homes that are not candidates for redevelopment. Subdivision potential is limited and along Puget Sound, there are roughly two dozen parcels that could be subdivided when considering acreage. However, all of these are located landward of the BNSF tracks and only a small portion of each lot would fall within shoreline jurisdiction. These areas are generally steep slopes; physical constraints and critical area regulations would preclude most development. Properties on Day Island and Sunset Beach are too small to be subdivided. Maintenance and repair of the railroad and improved publically owned rights-of-way in these areas is expected.

Although not addressed in the *Inventory and Characterization*, redevelopment activities have been completed and are anticipated on portions of the Narrows Marina site. The majority of the Narrows Marina is within the City of Tacoma and not regulated by the University Place SMP. Generally, those portions of the marina facility along the shoreline and south of 19th Street (including boathouses and upland storage buildings), and a group of buildings in the 'triangle' south of 19th between the railroad tracks and 91st Ave W to the Day Island Yacht Club entrance, are the only Narrows Marina facilities within University Place. Only portions of the 'triangle' area are within shoreline jurisdiction, which generally include the most southerly two buildings and part of the next building to the north. It is anticipated that the marina will redevelop over time as a mixed use marina facility with water-oriented commercial, light industrial and recreational/public access facilities in addition to boating facilities, and potentially residential uses.

As detailed above, the Chambers Creek shoreline area is generally publically owned, undeveloped open space. Use and protection as open space is expected to continue into the future. Maintenance and repair of existing utilities and road rights-of-way is expected, including along Chambers Creek Road West. Activity could occur at the mouth of Chambers Creek where it flows into Chambers Bay; initial investigation of removal of the Chambers Creek Dam and estuary restoration has been prioritized by the Puget Sound Nearshore Ecosystem Restoration Project. There are very few parcels located within shoreline jurisdiction in this reach that are of sufficient size to be subdivided (four privately owned parcels have sufficient acreage to be subdivided). The portions of these parcels located in shoreline

[1] According to the Chambers Creek Properties Master Site Plan (February 2007), future activities or development that may occur within shoreline jurisdiction include beach access, dock construction/reconstruction, day use moorage, overwater and over land boardwalks, mooring buoys, beach restoration and a boat launch.

jurisdiction are steep slope areas within the canyon, where physical constraints and critical area regulations preclude most development.

A query of the city planning database showed that 11 development activities requiring a shoreline substantial development permit (SSDP) have occurred since 2004. Many of the projects requiring permits were associated with the Chambers Creek Properties. Along the marine shoreline, if projects associated with the Chambers Creek Properties are excluded only four SSDPs were issued between 2004 and 2010. In the Chambers Creek (freshwater) reach, if projects associated with the Chambers Creek Properties are excluded no SSDPs were issued.

In summary, while additional development and redevelopment are likely to occur within shoreline jurisdiction, few wholesale land use changes are likely. The most likely potential use conflict characterized in the *Inventory and Characterization* is between public access and ecological protection. However, areas where there is a focus on and significant potential for additional public access in University Place are generally limited to the Chambers Creek Properties. The marine shoreline therein is dominated by the railroad tracks, which limits the number and location of public access points. Other activities and development planned for the marine and Chambers Bay shorelines of the Chambers Creek Properties are water dependent, including docks, moorage and a boat launch (see footnote 1 above), which will provide public access and recreation for shoreline users, a major policy objective of the SMA.

In freshwater portions of the Properties along Chambers Creek, the potential for public access to conflict with ecological protection is elevated due to the undeveloped nature of the canyon. While not addressed in the *Inventory*, redevelopment of the Narrows Marina site has the potential to conflict with the views of adjacent residences. However in areas where development or redevelopment may occur, the SMP has been drafted to give priority to water oriented uses and other SMA-preferred uses where they are likely to occur, while achieving no net loss of shoreline ecological functions. Access in the Chambers Creek Canyon will be limited in scope and intensity, and further consideration of building heights and views is required at the time specific projects are proposed within the Narrows Marina. In areas where public access or water oriented uses could potentially conflict with ecological protection or with residential uses[2], appropriate policies and regulations have been crafted to avoid conflicts.

Ecology finds that the City has adequately considered SMA preferred uses and the potential for use conflicts consistent with WAC 173-26-201 (2)(d) and WAC 173-26-201 (3)(d)(ii).

Shoreline Modifications:

Pursuant to WAC 173-26-231, *"Shoreline modifications are generally related to construction of physical elements such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal."* WAC 173-26-231 (2)(b) states as a general principle that Master Programs shall "*reduce the adverse effects of shoreline modifications, and, as much as possible, limit shoreline modifications in number and*

[2] Single family residential uses are considered a preferred use of shoreline areas (after reserving shoreline areas for protecting and restoring ecological functions, reserving shoreline areas for water-dependent and associated water-related uses, and reserving shoreline areas for other water-related and water-enjoyment uses) where appropriate and where they can be developed without significant impact to ecological functions or displacement of water-dependent uses. WAC 173-26-201 (2)(d).

extent." These principles are reinforced through associated mitigation sequencing [WAC 173-26-201 (2)(e)(i)] and no net loss (WAC 173-26-186) requirements of the SMP Guidelines.

The City's *Inventory and Characterization* documents the presence of various shoreline modifications in and along the City's SMA water bodies. As summarized above, the shoreline of the Day Island reach is 90 to 100 percent modified along northern and western facing shorelines and 21 to 59 percent modified along the east facing shoreline. The shoreline of the Puget Sound North reach is 90 to 100 percent modified, and the shoreline throughout the Puget Sound South reach is entirely modified. The BNSF railroad riprap and berm are the primary shoreline modifications along the mainland. No levees or other significant shoreline modifications are mapped along Chambers Creek except for the dam and spillway structure located at the mouth of the stream.

In addition to the railroad riprap and berm, other shoreline modifications exist along the city's marine shorelines. In the Puget Sound South reach, first logging and then over 100 years of intensive gravel mining activities transformed what was once a forested, 250-foot bluff above Puget Sound into a 2 mile long area of gravel mines. A major pier extends out from the shoreline approximately 100 feet north of the mouth of Chambers Bay. The pier was constructed to support gravel mining operations. The Chambers Creek Properties Master Site Plan calls for eventual use of the pier (whether reconstructed or modified) as a public access/recreation facility. The railroad crosses over the mouth of Chambers Bay via a draw bridge.

The Puget Sound North reach is characterized as a low, highly modified bank fronted by a narrow mix of sand and gravel beach. In addition to the railroad berm and riprap, along the Sunset Beach shoreline there are a series of bulkheads fronting residential properties. In addition to bulkheads, residential piers and other in and over-water structures (groins) exist. The Day Island reach is also modified by a series of bulkheads fronting residential properties, which extend up both the east and west shorelines of the island, and bulkheads associated with the marina properties. The shoreline was largely modified at existing levels before 1972, consistent with the typical post-war era of residential development along the island. Numerous residential piers and groins and marina piers extend from the Day Island Reach shoreline, and at the south end of the island (along the Day Island South Spit) there are several residential structures that extend over the water.

According to the City's *Cumulative Impact Analysis* (CIA), reasonably foreseeable development within the shoreline area is anticipated to be mostly residential redevelopment or remodels and maintenance and repair. The city's marine shorelines are generally developed with uses that are expected to continue into the future; although additional projects are anticipated on the Chambers Creek Properties, much of the significant redevelopment has already occurred. For areas outside of the Chambers Creek Properties, the primary shoreline uses also are not expected to change significantly. Development patterns landward of the railroad are largely established, with most development likely to occur as minor maintenance, repair, and remodel of existing structures. Considering the fact that the vast majority of the marine shoreline in University Place is currently armored, new shoreline armoring needs should be minimal to none.

Relative to shoreline modifications, the City's SMP would ensure no net loss of ecological function by requiring compliance with specific standards. Chapter 18.35 of the SMP contains standards that limit the number and extent of shoreline modifications, including installation of shoreline stabilization, dredging, and groins, for example:

- Allow dredging for water-dependent uses and/or essential public facilities only when necessary and when significant ecological impacts are minimized and mitigation is provided.
- New shoreline use and development, including subdivisions, must be located and designed to eliminate the need for concurrent or future shoreline stabilization. New development on steep slopes or bluffs must be set back so that shoreline stabilization will not be needed for the life of the structure.
- The use of hard structural stabilization measures, such as bulkheads, is not allowed unless demonstrated in a geotechnical analysis that soft structural stabilization measures (vegetation) or non-structural measures (increased setbacks) are not effective.
- Hard structural shoreline stabilization, groins and weirs are not allowed in the Natural shoreline environment designation.
- New groins are allowed in the Marine Deepwater, Urban Conservancy, Shoreline Residential, and Day Island Medium Intensity shoreline environments only when necessary to support specific public purposes such as water-dependent uses, public access or public shoreline stabilization. New private groins are prohibited in all shoreline environments.
- An existing structure may be replaced with a similar structure if there is a demonstrated need to protect primary uses or structures from erosion caused by currents, tidal action, or waves. If a primary structure is located less than 25 feet from the ordinary high water mark, the property owner/applicant is not required to demonstrate there is a need for the maintenance or repair. For properties where the primary structure(s) are located more than 25 feet from the ordinary high water mark, the owner/applicant will need to demonstrate there is a need for the proposed maintenance or repair.

Chapter 18.35 also contains standards specific to overwater uses and development, for example:

- Prior to approval of a residential dock (pier, ramp or float), an applicant must demonstrate why the use of a moorage buoy or shared moorage is not feasible.
- The length, width, and height of docks (piers, ramps and floats) is limited to that required for safety and practicality of the intended use. Docks must be spaced and oriented in a manner that avoids shading of substrate below and does not create a 'wall' effect that would impair wave patterns, currents, littoral drift or movement of aquatic life forms.
- New over-water covered moorage and the expansion of existing covered moorage is prohibited.
- New over-water residential development, including floating homes, is prohibited.
- Materials and methods of residential dock construction that allow or increase light passage (grating, orientation, etc.) may be required.

As outlined above, shoreline modifications in University Place have included vegetation removal, shoreline stabilization, dredging, groins, and piers and docks. While the City's SMP addresses these types of modifications, a few minor changes to the SMP language are required so the SMP conforms to the SMP Guidelines. These changes include clarification of which environment designations allow moorage buoys, what types of structures needing protection would justify new or enlarged structural shoreline stabilization, and that structural shoreline stabilization is required to comply with critical areas requirements in the SMP.

Contingent on the City accepting the required changes listed in Attachment B, Ecology finds that the City's Shoreline Modification standards are consistent with mitigation sequencing principles provided for in WAC 173-26-201 (2)(e) and provisions relating to shoreline modifications in WAC 173-26-231.

Furthermore, the City's Cumulative Impact Assessment identified and analyzed the updated development standards and regulations relating to shoreline modifications authorized through the updated SMP; Ecology finds that the Program is consistent with the no net loss policy goal of the SMP Guidelines.

Cumulative Impact Analysis:

The City's consultant conducted a *Cumulative Impact Analysis* (CIA) for the SMP, intended to consider cumulative impacts of reasonably foreseeable future development allowed by the updated SMP. As previously outlined, the City's marine shoreline is generally built out with uses expected to continue into the future. The only freshwater reach in the City, Chambers Creek, is relatively undeveloped and will remain so into the future with the exception of low intensity public access as outlined in the Chambers Creek Properties Master Site Plan. Significant development and land use change activities have occurred over the last decade within the Chambers Creek Properties. Although additional projects are anticipated there, much of the significant redevelopment has already occurred. The majority of anticipated future work will occur outside of shoreline jurisdiction, with potential future public access improvements that could extend into shoreline areas.

Outside of the Chambers Creek Properties, future development is anticipated to include maintenance and repair of existing residential structures and associated appurtenances (including tear down and redevelopment of older homes), and maintenance and repair of railroad and city/private road rights of way. There are no plats in any portion of the shoreline area being processed or considered currently; properties located on Day Island and Sunset Beach are too small to be subdivided and along Puget Sound, there are roughly two dozen parcels that could be subdivided on the basis of acreage. However, all of these are located on the landward (upland) side of the BNSF tracks and only a small portion of each lot is located within the shoreline area. These tend to be steeply sloping areas where physical constraints and critical area regulations would preclude most development.

Portions of the Narrows Marina site fall within University Place, including some of the moorage facilities in the Day Island lagoon, one or at least a portion of one upland storage building adjacent to the lagoon, and two buildings and a portion of a third at the south end of the site (the triangle). The Narrows Marina has been and is anticipated to continue to be redeveloped as a mixed-use marina facility with associated water-oriented commercial, transportation and light industrial uses and potentially moderate density residential uses. The area is currently characterized as supporting a mix of uses related to commerce, industry, transportation or navigation, and recreation and wholesale changes in use, other than the potential addition of residential units, is not anticipated.

The CIA evaluates the future anticipated performance of shoreline ecological functions. This analysis is based on the type and amount of expected development in shoreline jurisdiction, the level of protection the proposed SMP regulations provide, and restoration policies and opportunities. The current performance of shoreline ecological functions was ranked "low", "moderate", or "high" in the *Inventory and Characterization Report* depending on the level of alteration. Future performance of shoreline ecological functions was ranked "reduction," "no change," or "improvement" depending on expected changes from existing conditions within the planning horizon of the updated SMP (20 years). Based on this assessment, the cumulative actions taken over time in accordance with the proposed SMP were reviewed and a determination made as to whether they would result in a net loss of shoreline ecological functions compared to existing baseline conditions.

The existing conditions and ecologic functions described in the *Inventory and Characterization* describe a shoreline environment that is a mix of highly functioning natural areas (Chambers Creek reach) to low/moderately functioning urbanized areas (BNSF railway corridor, Sunset Beach and Day Island). Past and ongoing uses along University Place's marine shoreline have altered shoreline functions. The BNSF railway has led to shoreline modifications that have disconnected the water from the coastal bluffs and altered natural hydrological processes. Residential development on Day Island and at Sunset Beach has also altered natural riparian and nearshore hydrological process. In both instances, these uses have resulted in loss of riparian vegetation, which has altered habitats.

The cumulative impacts analysis shows that comprehensive updates to the SMP would maintain shoreline functions such as hydrology, water quality, and habitat over time. Conclusions on the future performance of these key shoreline functions were summarized as follows:

Hydrology: Hydrology is likely to be unchanged and has the potential for improvement in the lower reaches of Chambers Creek and within Chambers Bay. Removal of the dam at the mouth of the creek would significantly improve hydrologic functions (water movement and related sediment movement) in these areas. Because of the presence of the railroad along the entire Puget Sound shoreline as well as historical modifications associated with the Chambers Creek Properties and pockets of small lot residential development fronting the railroad, coastal bluffs and intact marine vegetation are disconnected from the shoreline and hydrologic processes have been altered. This condition is unlikely to change since the railroad is unlikely to be removed. Shoreline armoring may be removed or 'softened' through replacement at Day Island and/or Sunset Beach, although this would only occur during redevelopment or voluntarily.

Water Quality: Water quality is likely to remain unchanged or improved in all shoreline areas. Regulations would limit any additional impacts to wetlands, and any impacts would be mitigated. SMP policies and regulations encourage the use of LID techniques, addressing nonpoint-source pollution. New development would be required to comply with the City's storm and surface water regulations (UPMC Title 12), which will play a significant role in maintaining water quality functions and achieving no net loss.

Habitat: Habitat elements such as riparian vegetation, large woody debris and organic contributions have been altered throughout the City's marine shorelines. Alternatively, much of the Chambers Creek reach provides high quality habitat, although connectivity to Chambers Bay is altered by the dam. Based on the current altered condition along the marine shorelines, and protection of the Chambers Creek reach within publicly owned open space and parkland, no further loss of this function is expected. Provisions of the locally approved SMP require that impacts to vegetation be avoided and mitigated to achieve no net loss. The SMP requires a new system of shoreline setbacks and vegetation conservation areas (VCAs). Where riparian conditions are intact (typically Conservancy and Natural shoreline environments), VCAs are imposed to ensure protection of existing native vegetation. On Day Island where existing conditions are degraded, allowances for water oriented uses and activities (pedestrian access, viewpoints, equipment such as boat lifts) and limited accessory residential structures (uncovered decks, benches, fire pits, play equipment) in the VCA will trigger requirements for enhancement (except for the highly constrained Day Island South Spit, where there is no potential for enhancement). This approach will require protection of riparian conditions where intact and enhancement in highly degraded areas where some potential for riparian improvement remains. In addition, shoreline setbacks are established for all non-water dependent shoreline uses in each shoreline environment designation.

The City's CIA concludes that based on anticipated low levels of foreseeable future development in University Place's shorelines, the protective provisions of the updated SMP – and with the expected implementation of restoration actions by the City and the continued implementation of on-going state, tribal and federal programs – a net loss of shoreline ecological functions from existing baseline conditions is not anticipated. The CIA also recommends that, to continue the trend toward improvement of shoreline ecological functions and decrease the likelihood of potential net loss, the City should ensure enforcement of updated SMP provisions as limited shoreline development occurs, educate/encourage existing property owners/users on low impact development techniques and best practices for shoreline use, and seek out opportunities to implement significant restoration opportunities identified in the Restoration Plan.

Contingent on the City accepting the required changes listed in Attachment B, Ecology finds that the City's Cumulative Impact Assessment provides an accurate examination of anticipated development and potential effects to shoreline ecological functions. This finding is based on review and analysis of existing shoreline characteristics, reasonably foreseeable future development and use, new shoreline environment designations and regulations, development standards such as setback and nonconforming use and structure provisions, and shoreline stabilization standards, which have been demonstrated within the Cumulative Impact Assessment to satisfy the no net loss of shoreline ecological function requirement as provided by the SMP Guidelines.

Restoration Plan:

Pursuant to WAC 173-26-201 (2)(c), "Master programs shall also include policies that promote restoration of ecological functions, as provided in WAC 173-26-201 (2)(f), where such functions are found to have been impaired based on an Inventory and Characterization as described in WAC 173-26-201 (3)(d)(i)".

It is intended that local government, through the master program, along with other regulatory and non-regulatory programs, contribute to restoration by planning for and fostering restoration and that such restoration occur through a combination of public and private programs and actions. Local governments should identify restoration opportunities through the shoreline inventory process and authorize, coordinate and facilitate appropriate publicly and privately initiated restoration projects within their master program. The goal of this effort is to produce master programs that include planning elements which, when implemented, serve to improve the overall condition of habitat and resources within the shoreline area of each city and county.

The City conducted restoration planning actions consistent with the requirements of the SMP Guidelines and its consultant produced a *Shoreline Restoration Plan Element* in June 2012. The plan provides a conceptual framework for understanding how and where shoreline ecological functions can be restored in University Place. The plan also recognizes that a great deal of attention and resources have been focused on Puget Sound restoration activity in recent years, and describes how those existing plans and planning efforts can provide a framework of goals, policies, and in some cases, funding mechanisms to inform the City's restoration plan.

Both programmatic and site specific restoration actions are described and discussed in the City's *Restoration Plan*. Actions that are intended to be broadly and comprehensively implemented to help achieve restoration goals are considered programmatic actions. The plan notes that opportunities to

educate property owners and boaters about proper vegetation/landscape maintenance, low impact development practices and proper waste disposal methods should be explored. Programmatic categories identified in the plan include education and incentives, and marine nearshore actions such as developing beach nourishment or landslide side-casting programs along the railroad, encouraging removal of creosote pilings and derelict overwater structures, and replacing/restoring riparian vegetation in degraded areas. Freshwater actions include eradicating invasive plant species and treating stormwater prior to releasing it in riparian areas, particularly from streets and parking lots. Other programmatic categories include infrastructure and planning and coordination.

Site specific actions identified in the *Restoration Plan* include restoration activities that would be applied to University Place shorelines due to specific impairments. The opportunities described are generally considered to be site-specific but may cover many parcels. The *Restoration Plan* includes a table summarizing the recommended restoration actions for shorelines under shoreline jurisdiction in the City. The table also provides an assessment of the scale and potential length of time required to implement restoration activities and projects. For each identified opportunity, the table indicates whether the project is of a short term, medium term, or long term nature. Marine site-specific restoration opportunities were identified on a map in the plan. Due to existing high-functioning conditions within the City's Chambers Creek shoreline planning area, limited opportunities for site-specific restoration have been identified. The plan also identifies several capital improvement projects that the City (or Pierce County, on the Chambers Creek Properties) has already undertaken or that are in the planning and/or design phase that will have beneficial effects on shoreline ecological functions.

Ecology finds that the City's Restoration Plan is based on appropriate technical information available during the SMP update. The Restoration Plan will serve as an effective tool for the City, non-profit organizations and the public to guide individual or collective improvements to shoreline conditions over time.

Amendment History, Review Process:

The city initiated the comprehensive SMP update by entering into a grant agreement with the Department of Ecology in July 2009. The record shows that the City held a public open house in May 2010 to kick-off the SMP update process. The City established a Citizens Advisory Committee (CAC) for the purposes of reviewing technical work, discussing issues and suggesting solutions. The CAC included representatives of various groups and property owners with the intent of representing a cross section of interests and public values. The CAC met 31 times between September 2010 and August 2012.

The September 2012 draft SMP recommended by the CAC established the DIMI SED, which was applied to Narrows Marina and Day Island Yacht Club on the mainland (east) side of the Day Island lagoon, and Day Island Yacht Harbor (marina) on Day Island proper. The CAC's recommendation represented a significant change in how the city would apply shoreline policies and regulations to these properties, as the city's 2000 SMP designates the properties Shoreline Residential. Adoption of the DIMI SED would require amendments to the Comprehensive Plan and Zoning Code – both in terms of maps and text, to ensure consistency among all three policy and regulatory documents. The Comprehensive Plan had designated the entire Day Island area Low Density Residential (LDR), which did not accommodate marinas and yacht clubs. Similarly, the Zoning Code classified these properties as R1 Residential, which recognized existing marinas as permitted uses but did not explicitly allow for

expansions or conversions to other non-residential uses. City staff and the CAC recommended the City Planning Commission address these potential inconsistencies prior to adoption of the SMP.

The City Planning Commission began its review of the SMP in October 2012, and held another public open house on March 20, 2013. The open house was intended to provide an opportunity for the public to learn more about the SMP and related Comprehensive Plan and zoning code amendments being proposed and to learn how specific areas of the shoreline could be affected. A public hearing was held before the Planning Commission on April 17, 2013, for which the comment period was held open until May 1st. Due to the extent of comments received, the Planning Commission further extended the hearing to its May 15th meeting. The City notified the public of the hearing via a Notice of Public Hearing, which was published in the Tacoma News Tribune on March 30, 2013, posted at City Hall and locations around Day Island and the mainland, and mailed to agencies, organizations, stakeholder groups and property owners within shoreline jurisdiction in the City. The City notified the Washington State Department of Commerce of the pending adoption; the confirmation from Commerce was dated May 20, 2013.

After considering public comment, the Planning Commission determined that a number of revisions to the City's approach should be made, the most significant of which (and that didn't relate to the SMP) was that the proposed Mixed-Use Maritime zoning classification should be applied to only two properties containing boating facilities - the Narrows Marina and Day Island Yacht Club on the mainland side of the Day Island lagoon. At its June 19, 2013 meeting, the Planning Commission passed Resolution 2013-01 recommending the City Council approve the proposed SMP amendment package and forward it to the Department of Ecology.

City Council began consideration of the Planning Commission's Resolution in August 2013 and called for a hearing on October 7th, 2013. The city published a notice of hearing in the Tacoma News Tribune on September 23 and 30, 2013, and mailed 315 notices to owners of property within shoreline jurisdiction and other nearby properties, surrounding jurisdictions, and interest groups and other interested parties on September 25 and 26, 2013. The October 7 hearing was continued to October 21st, 2013. With the passage of Resolution #736 on October 21, 2013, the City Council authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendment was received by Ecology for state review on February 19, 2014, and was accepted as complete for purposes of state review on March 26, 2014. Notice of the state comment period was distributed to 483 state task force members and local interested parties identified by the City on May 5, 2014 in compliance with the requirements of WAC 173-26-120. Three tribal governments were individually and specifically notified, and invited to comment and to consult government to government as needed. These tribal governments included the Muckleshoot Tribe, the Nisqually Tribe, and the Puyallup Tribe.

The state comment period began on May 8, 2014 and continued through June 9, 2014. In accordance with Ecology's discretion under WAC 173-26-120 (4), a public hearing was not conducted as part of the state comment period. Three sets of comments were submitted in regard to the proposed amendment. Ecology sent all comments it received to the City on June 24, 2014. On July 11, 2014, 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.

Ecology finds that City sufficiently engaged the public and interested parties in the SMP update process in accordance with WAC 173-26-100 and 110.

Summary of Issues Raised During The Public Review Process:

The City's SMP update process included multiple meetings, open houses and opportunities for public input, as well as two hearings. A summary of comments received was compiled and responded to by the City in a responsiveness summary. The responsiveness summary discusses how the draft SMP addresses the issues identified in each comment. The City's responsiveness summary responds to comments received during the Planning Commission and the City Council's public hearings. Both hearings provided the opportunity for the public to comment on the draft SMP as well as associated amendments to University Place Municipal Code (UPMC) Title 17 Critical Areas, UPMC Title 19 Zoning, and the Land Use Element of the City's Comprehensive Plan. The responsiveness summary responds only to the comments that addressed SMP topics, and not to zoning or Comprehensive Plan related comments.

According to the City's responsiveness summary, only a handful of the comments received addressed SMP topics, including comments from Ecology; the vast majority of comments received related to the proposed zoning amendments. SMP-focused comments related to flexibility for expansion of existing homes on the Day Island South Spit, a request for continuance of the planning commission hearing to allow an opportunity for a neighborhood meeting to discuss shoreline issues of concern related to the Day Island Yacht Harbor (marina), an analysis of potential view impacts from a range of potential building heights at the Narrows Marina, concerns over environmental and quality of life impacts that could result from redevelopment at Narrows Marina, discussion of compromise with regard to building heights at the Narrows Marina to protect Crystal Creek Estates residents' views of the shoreline, and questions from WDFW about any studies the City may possess related to anecdotal evidence from local residents about heron use of habitats in and around the area of the Day Island lagoon.

The responsiveness summary outlines how provisions in the locally adopted SMP address comments received during the two public hearings. These include revision to the draft SMP to allow for expansion of existing homes on the Day Island South Spit up to a maximum of 1,600 square feet provided there is no expansion of the overwater footprint, adopting height limits that are agreeable to the marina owner but that will also protect adjoining residents' views of the shoreline, and requiring a view analysis when proposed buildings heights exceed 35 feet. The Planning Commission honored the comment requesting continuance of its public hearing to accommodate a neighborhood meeting about the Day Island Marina, and presented the information noted in the analysis of potential view impacts from a range of potential building heights as submitted by the developer of Narrows Marina.

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

As previously stated, Ecology received three sets of comments from interested parties during the state public comment period. These comments concentrate on the same issues brought forward during the city's SMP public process, detailed above. One commenting party is concerned about wetlands east of the railroad tracks near the Day Island lagoon and about building heights east of the Day Island lagoon in the DIMI environment designation. A second commenter also noted concern about all future building heights. The third set of comments received was in the form of a petition from 65 residents of Day Island and the Crystal Creek neighborhood with regard to maximum building heights in the southerly section of the DIMI environment designation on the east side of the Day Island lagoon

(Narrows Marina triangle). An additional issue identified by Ecology relevant to its decision is the City's prohibition on aquaculture; each of these issues is further discussed below.

Wetlands east of the railroad tracks: It is unclear if the area in question is within shoreline jurisdiction. According to the approximate shoreline jurisdiction maps prepared as part of the SMP update, land east of the railroad tracks may be within shoreline jurisdiction on the Narrows Marina properties at the very south end of the facility. Areas further south (behind the Day Island Yacht Club) may include property east of the railroad tracks within shoreline jurisdiction. If the presence of a wetland was confirmed and such wetland was within shoreline jurisdiction, the wetland would be regulated under the City's SMP. At the time development was proposed on or adjacent to the site in question, the applicant would determine if there was a wetland or buffer on the site or that would be affected by the proposed development.

Building heights: Ecology's authority at a programmatic level is limited to ensuring building or structure heights are addressed in an SMP if necessary to account for different shoreline conditions (WAC 173-26-211 (4)(a)(iv)(B)), and assuring master programs include provisions that minimize impacts to existing views from public property or a substantial number of residences, which provisions may include building heights, setbacks or view corridors (WAC 173-26-221 (4)(d)(iv) and RCW 90.58.320). With respect to the first reference, building and structure heights have been addressed in Table 18.30.B for each environment designation to account for different shoreline conditions. With respect to the second references, the SMP contains policies and regulations in Chapter 18.25.110 that are intended to preserve and protect public views of the water, establish view corridors, and require visual impact assessments when any building more than 35 feet in height is proposed. These regulations explicitly prohibit buildings or structures that obstruct the view of a substantial number of residences in areas adjacent to shorelines.

Specific to the geographic area in question, the City and owner/developer of Narrows Marina engaged with the Crystal Creek Estates Homeowners Association (CCEHOA) to discuss their concerns related to view blockage from their neighborhood, which is landward of and at the top of the hill behind/adjacent to the 'triangle' portion of the marina. The record indicates that after reviewing various sources of information, the developer and CCEHOA acknowledged that buildings taller than 55 feet in the center portion of the triangle would block views of Day Island from adjacent residences, and buildings 65 feet or taller in this area would block views of Puget Sound. Subsequently the height provisions in both the proposed zoning code and SMP text were revised; as locally adopted the proposed SMP in the DIMI designation limits building height at the marina to 35 feet if within 100 feet of the ordinary high water mark (OHWM). Buildings more than 100 feet from the OHWM are assigned maximum building heights of between 45 and 65 feet, subject to approval of a visual impact assessment. The visual impact assessment is required for any building proposed in excess of 35 feet in height, and must evaluate blockage of *public* shoreline views resulting from the proposal. As part of the changes necessary for the proposed SMP to conform to the SMA and the SMP Guidelines, Ecology has required (Attachment B, item R) that the Hearings Examiner be given the authority in the SMP to limit the height of the proposed structure, require design revisions or relocation to prevent proposed structures from blocking or significantly compromising the view of a substantial number of *residences*.

In the zoning code, the City established three maximum height limit 'subareas' (35 feet, 45 feet and 65 feet) on the Narrows Marina triangle; the 35 foot limit applies to the marina's existing "sawtooth" building. This entire subarea is located outside of shoreline jurisdiction and therefore restrictions on building heights result solely from zoning limitations. The 45 foot height limit corresponds to the

marina's tallest existing building, estimated to be 40 to 42 feet. Most of this subarea is located outside of shoreline jurisdiction. An email from Kevin Hayes (Exhibit EEEE – University Place Public Hearing Record) confirmed the position of CCEHOA in 2013 that building height should be limited to 45 feet west of their neighborhood to avoid impacting territorial views toward Day Island and Puget Sound; the city maintains that the 45 foot height limit in this area is consistent with the CCEHOA position. The 65 foot height limit applies to the southeast corner of the marina. Based on the evidence presented during the public hearings, the City determined it to be unlikely that a building constructed up to 65 feet in this area would block views of Day Island or the Sound from upland properties to the east, including those located within Crystal Creek (see City response to comment 3 on Attachment D and Figure 1 below).

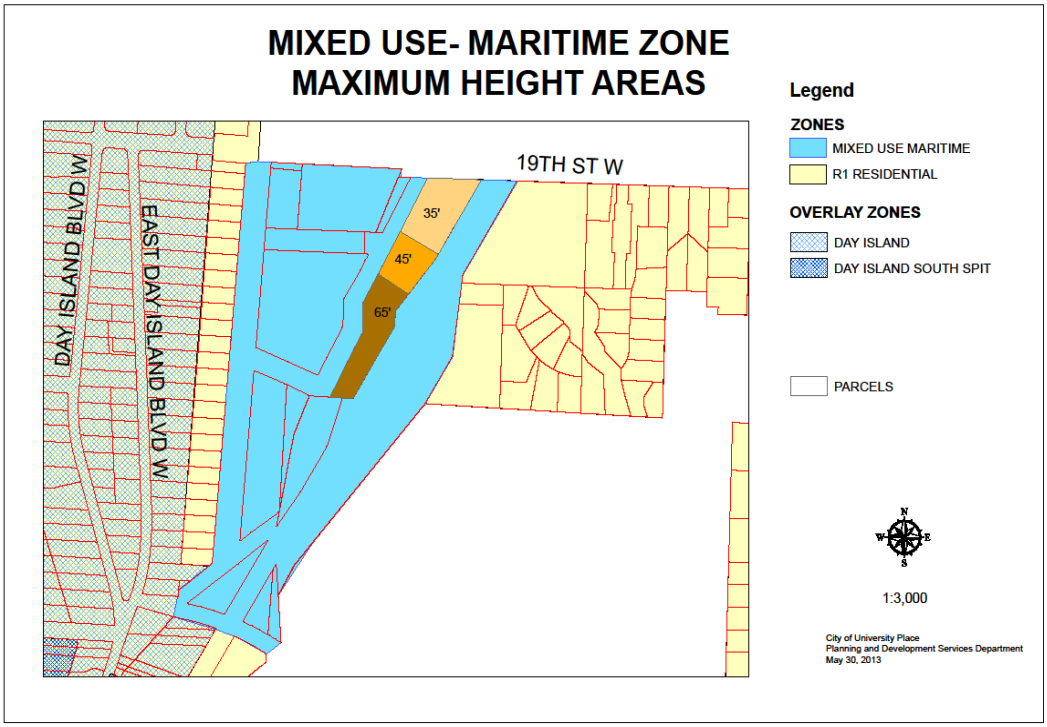

Figure 1.

In concert with the City's zoning code provisions, Ecology believes the City's proposed SMP building height and view provisions strike a reasonable balance between concerns related to view blockage from adjacent residences and the potential for water-oriented mixed use development at the Narrows Marina. If specific projects are proposed on these properties at some point in the future, the SMP and zoning provisions together ensure that building heights both the neighbors and marina owner agreed would block views will not be allowed. The SMP also requires a visual impact analysis be conducted for any buildings or structures taller than 35 feet to ensure public and adjacent residential views of the water will not be obstructed.

Petition from nearby residents: Nearby residents submitted a petition expressing the concern that development that could be authorized under the SMP at Narrows Marina will have a negative impact on their neighborhoods in terms of view diminishment, increased sound levels, ecological and other qualities. The SMP Guidelines contain standards relating to the ecological functions and views associated with shoreline areas, but do not address issues like building design and noise. While Ecology understands and acknowledges the concerns of the residents, we believe potential impacts and restrictions beyond those outlined in the SMP will be most appropriately evaluated at the time a

specific project is proposed. This will allow the City and the public to evaluate if or the extent to which scenic vistas, public views and aesthetic qualities of the shoreline are being affected, if the proposed development is similar in scale to its surroundings, or will result in an increase in noise or impacts to other qualities of interest, based on the specific elements of each proposal. While important development considerations, items such as noise are beyond the scope of the SMA and the SMP.

Aquaculture: A number of the changes Ecology has required to the city's proposed SMP relate to commercial aquaculture, including a requirement to allow consideration of aquaculture as a conditional use in all but the Natural shoreline environment designation (the Chambers Creek reach). As outlined in the SMP Guidelines, aquaculture is an activity of statewide interest and when properly managed, can result in long term over short term benefit. When consistent with control of pollution and prevention of damage to the environment, it is a preferred use of the water area. Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, adjacent land uses, commercial navigation, and other considerations. Along the southerly half of the marine shorelines within University Place, the sale for human consumption of commercial shellfish is currently prohibited by the State Department of Health due the presence of wastewater treatment outfalls.

With regard to shorelines of statewide significance (SSWS), the Guidelines at WAC 173-26-251 require that SMPs recognize the specific use preferences identified in the SMA and provide for *"optimum implementation"* of the statutory policy. This is done by providing SMP provisions that implement: (a) statewide interest, (b) preserve resources for future generations and (c) give preference to uses identified in RCW 90.58.020. Ecology is required to ensure "optimum implementation of the policy of this chapter to ensure the statewide interest" (RCW 90.58.090). The Guidelines recognize that the state's interest will vary depending on the geographic location, type of shoreline, and local conditions (WAC 173-26-251(2)).

In developing master program provisions, local governments are required to give preference to priority uses set forth in RCW 90.58.020 (1) through (7) in SSWS. Development standards must be established that: ensure long-term protection of ecological resources of statewide importance; provide for the shoreline needs of water-oriented uses and other shoreline economic resources of statewide importance, including navigable harbors; and provide for the right of the public to use, access, and enjoy public resources of statewide importance.

Ecology appreciates the impracticality of allowing aquaculture uses on upland bluff sites or shoreline areas where recreation and public access are intended to be the focus. Additionally, physical constraints such as the railroad tracks and use conflicts limit the ability to utilize upland areas for support facilities. Recognizing this but also acknowledging that the SMP Guidelines call for latitude in the development of aquaculture uses, as well as define aquaculture as a preferred use of the water area, and upon finding no specific support for a prohibition of such use in SSWS in the record for this SMP, Ecology's required changes to the locally adopted SMP allow aquaculture uses in all but the Natural designation with a conditional use permit. Such conditional authorization would still be predicated on site-specific suitability, compliance with applicable standards, potential visual and cumulative impacts being identified and analyzed, and a finding of no net loss. Required regulations highlight that in the SMP aquaculture does not include activities on private property for personal consumption, clarify where aquaculture activities and facilities can be located, outline permit timelines and requirements, and identify additional standards that apply to commercial geoduck aquaculture.

Consistency with Chapter 90.58 RCW and Chapter 36.70A.480: 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 amendment was also reviewed for consistency with RCW 36.70A.480 as required by RCW 90.58.610. The record also contains evidence of the City's compliance with SMA procedural requirements for amending SMPs 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) as well as the definitions in 173-26-020. This included review of an SMP Submittal Checklist, which was completed by the City and its consultant.

As described in Attachment B (Required Changes), a few revisions are required to ensure the City's SMP is consistent with the SMP Guidelines. These amendments are generally focused on consistency with "Master Program Contents" (WAC 173-26-191), "General Master Program Provisions" (WAC 173-26-221), "Shoreline Modifications" (WAC 173-26-231) and "Shoreline Uses" (WAC 173-26-241).

Therefore, Ecology finds that the proposed SMP as approved by the City under resolution No. 736 is <u>not</u> consistent with the applicable SMP Guideline requirements, as specifically identified within Attachment B (Required Changes). However, Ecology also finds that the SMP can be amended to ensure compliance with the SMP Guidelines through the City's acceptance of "Required Changes" listed within Attachment B together with supporting rationale. Ecology has also identified "Recommended Changes" (Attachment C) to the SMP, for consideration by the City.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist, Determination of Non-Significance (DNS), and Notice of DNS publication affidavit (combined with the public hearing notice). Notice of the SEPA determination was published in the Tacoma News Tribune on March 30, 2013. Ecology's Toxics Cleanup Program commented on the DNS, recommending that the city consider adopting future policies related to soil contamination from the Tacoma Smelter Plume.

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

- *Public Participation Plan, prepared by City of University Place and dated November 2009;*
- *Shoreline Environment Designation Justification Memorandum, prepared by ESA Adolfson and dated December 2, 2010;*
- *Shoreline Inventory and Characterization Report, prepared by ESA Adolfson and dated October 2010 (revised);*
- *Cumulative Impact Analysis and No Net Loss Report, prepared by ESA and dated December 2013;*
- *Shoreline Restoration Plan Element, prepared by ESA and Coastal Geologic Services and dated June 2012; and*
- *Final SMP Submittal Checklist, prepared by the City of University Place and dated January 23, 2014.*

Ecology also received and reviewed Title 17 of the University Place Municipal Code, which constitutes the City's Critical Areas Ordinance and is being incorporated by reference, with exceptions, into the SMP.

Contingent on the City accepting the required changes listed in Attachment B, Ecology finds that the City's critical areas regulations, which will be incorporated by reference into the SMP with the appropriate exceptions and revisions, implements the principles and adheres to the provisions in the Guidelines relating to critical areas (WAC 173-26-221 [2]). Therefore, the critical areas segment of the Master Program provides a level of protection that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources (WAC 173-26-221 [2][a][ii]).

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's comprehensive SMP update proposal, subject to and including Ecology's required changes (itemized in **Attachment B**), is consistent with the policy and standards of RCW 90.58.020, RCW 90.58.090, RCW 36.70A.480 and the applicable SMP guidelines (WAC 173-26-171 through 251) as well as the definitions in WAC 173-26-020. This includes a conclusion that 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 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 if accepted by the City, can be included in Ecology's approved SMP amendment.

As stipulated in RCW 90.58.610, RCW 36.70A.480 governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under chapter 36.70A RCW. Consistent with RCW 36.70A.480(4), Ecology concludes that the SMP provides a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

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 buffers for critical areas located 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 buffer shall continue to be regulated by the City's Critical Area Protection regulations.

Ecology concludes that subject to and including Ecology's required changes, 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 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 process.

Ecology concludes that the City has complied with the purpose and intent of the local update 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 an 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.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP are consistent with the policy of the Shoreline Management Act, the applicable Guidelines and implementing rules, once required changes set forth in **Attachment B** are accepted 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 all or part of 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 action.

REFERENCES

City of University Place. *University Place Response to Public Comments Received by Ecology.* Submitted by Jeff Boers, Principal Planner. University Place, WA. July 2014.

ESA Adolfson. *City of University Place Shoreline Master Program Update Shoreline Inventory and Characterization Report*. Seattle, Washington. April 2010, revised October 2010.

ESA and Coastal Geologic Services. *Shoreline Restoration Plan Element.* Prepared for the City of University Place. Seattle, Washington. June 2012.

ESA. *City of University Place Shoreline Master Program Update Cumulative Impact Analysis and No Net Loss Report.* Seattle, Washington. December 2013.

Pierce County. *Chambers Creek Properties Master Site Plan*. Pierce County Public Works and Utilities, Pierce Parks and Recreation. Pierce County, Washington. Original Date of Adoption: August 19, 1997. Update Adopted February 27, 2007.