

Town of Concrete Shoreline Master Program

Prepared for:

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Attachment A -----	Shoreline Environment Designation Map
Attachment B -----	Critical Area Regulations
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List of Commonly Used Acronyms and Abbreviations

<i>SMA -----</i>	<i>Shoreline Management Act</i>
<i>SMP -----</i>	<i>Shoreline Master Program</i>
<i>Town -----</i>	<i>Town of Concrete, Washington</i>
<i>WAC -----</i>	<i>Washington Administrative Code</i>
<i>RCW -----</i>	<i>Revised Code of Washington</i>
<i>CFS -----</i>	<i>Cubic Feet Per Second</i>
<i>OHWM -----</i>	<i>Ordinary High Water Mark</i>
<i>FEMA -----</i>	<i>Federal Emergency Management Agency</i>
<i>NFIP -----</i>	<i>National Flood Insurance Program</i>
<i>GMA -----</i>	<i>Growth Management Act</i>
<i>CARs -----</i>	<i>Critical Area Regulations</i>
<i>SEPA -----</i>	<i>State Environmental Policy Act</i>
<i>WDOE -----</i>	<i>WA State Department of Ecology</i>
<i>WDFW -----</i>	<i>WA State Department of Fish and Wildlife</i>
<i>WDNR -----</i>	<i>WA State Department of Natural Resources</i>
<i>CWA -----</i>	<i>Clean Water Act</i>
<i>NEPA -----</i>	<i>National Environmental Policy Act</i>
<i>USACE -----</i>	<i>U.S. Army Corps of Engineers</i>
<i>USFWS -----</i>	<i>U.S. Fish and Wildlife Service</i>
<i>NMFS -----</i>	<i>National Marine fisheries Services</i>
<i>ESA -----</i>	<i>Endangered Species Act</i>
<i>WSR -----</i>	<i>Wild and Scenic River</i>
<i>BMPs -----</i>	<i>Best Management Practices</i>
<i>HPA -----</i>	<i>Hydraulic Project Approval</i>
<i>LWD -----</i>	<i>Large Woody Debris</i>
<i>HMP -----</i>	<i>Habitat Management Plan</i>
<i>FERC -----</i>	<i>Federal Energy Regulatory Commission</i>
<i>BAS -----</i>	<i>Best Available Science</i>
<i>CMC -----</i>	<i>Concrete Municipal Code</i>

1.

Introduction

1.1 The Washington State Shoreline Management Act

Shoreline management evolved from a citizen-generated initiative into legislative action in the form of the Shoreline Management Act (SMA) in 1971. The goal of the act is to “prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines”. The act recognizes that “shorelines are among the most valuable and fragile” of the state’s resources. The primary purpose of the Act is to provide for the management and protection of the state’s shoreline resources by planning for their reasonable and appropriate use.

The Act attempts to establish a balance of authority between local and state government. Cities and counties are the primary regulators of shoreline development while the state, through the Department of Ecology (Ecology) retains the authority to review and approve local Shoreline Master Programs (SMPs). In addition Ecology also reviews shoreline permit decisions made by local government and has authority to approve condition or deny shoreline variances and conditional use permits. This partnership between local and state government represents a cornerstone of the SMA.

1.2 Legislative Findings and Shoreline Management Act Policies

The Washington State Legislature documented its rationale for adoption of the SMA through RCW 90.58.020. The legislature determined that ever-increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further found that much of the shorelines of the state and uplands adjacent to shorelines are in private ownership and that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest, therefore coordinated planning is necessary to protect the public interest.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to ensure the development of shorelines in a manner that, while allowing for limited reduction of rights of the public in navigable water, will promote and enhance the public interest. This policy is intended to protect against adverse effects to the public health, the land and its vegetation and wildlife and the water of the state and its aquatic life while generally protecting public rights of navigation and its associated activities.

1.3 Shorelines Regulated Under the SMA

Shorelines regulated under the SMA within the Town of Concrete’s municipal boundaries are limited to areas along the Baker River, Skagit River and Lake Shannon. Streams and lakes which constitute shorelines of the state are defined under WAC 173-18-040 and 173-20-030 as:

“Western Washington. Streams in Western Washington from the point at which the stream reaches a mean annual flow of twenty cubic feet per second down to the mouth of said stream or river...”

"Lakes" means all the surface water areas of the state, including reservoirs; except

(a) Lakes less than twenty acres in size;”

The Baker River and the Skagit River exceed a mean annual flow of 20 CFS and Lake Shannon exceeds 20 surface acres and are therefore subject to the policies and regulations of the SMA. The mean annual flow of the Baker River, measured at the City of Concrete downstream of the Lower Baker River Dam is approximately 2,649 cubic feet per second. The mean annual flow of the Skagit River measured at Mount Vernon is 16,710 cubic feet per second. Lake Shannon exhibits a surface area of 2,190 acres. The area subject to SMA jurisdiction is based on language contained under the SMA (RCW 90.58.030(2)(f)):

“those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways; and contiguous floodplain areas landward 200 feet from such floodways and all associated wetlands and river deltas”

The areas within shoreline jurisdiction as defined above are the areas within 200 feet landward of the ordinary high water mark (OHWM) of the Baker River, Skagit River and Lake Shannon. Also included within the jurisdictional area are the FEMA designated floodway, 200 feet of the FEMA designated 100-year floodplain contiguous to the Floodway and wetlands “associated” by proximity and influence to the shoreline.

1.4 Shorelines of Statewide Significance

Rivers, in Western Washington, with flows exceeding 1000 cubic feet per second and lakes with a surface area greater than 1000 acres are also designated as Shorelines of Statewide Significance (RCW 90.58.030(2)(f)(v)(A)). All shorelines within the Town’s municipal boundaries are designated as Shorelines of Statewide Significance. The Baker and Skagit Rivers within the Town’s municipal boundaries exceed the 1000 cubic foot per second threshold and are designated Shorelines of Statewide Significance. Lake Shannon exceeds the 1000 surface acre threshold and is therefore also designated as a

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Shoreline of Statewide Significance. Shorelines of Statewide Significance also include associated uplands located within the SMA jurisdictional area. The SMA requires “*optimum implementation*” of its provisions within Shorelines of Statewide Significance.

RCW 90.58.020 identifies specific policy guidance for management of Shorelines of Statewide Significance as follows:

“The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;*
- (2) Preserve the natural character of the shoreline;*
- (3) Result in long term over short term benefit;*
- (4) Protect the resources and ecology of the shoreline;*
- (5) Increase public access to publicly owned areas of the shorelines;*
- (6) Increase recreational opportunities for the public in the shoreline;*
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.”*

1.5 Purpose of the Shoreline Master Program

The SMA defines a Shoreline Master Program (SMP) as a “*comprehensive use plan for a described area.*” A SMP differs from other regulatory programs (such as zoning) in that it is both a comprehensive planning tool and regulatory ordinance. The SMP emphasizes protection of the shoreline environment through the management of uses rather than maximizing development potential. The purposes of the SMP are:

1. To carry out the responsibilities imposed on the Town of Concrete by the SMA (RCW 90.58).
2. To promote the public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of the Town.
3. To further, by adoption, the policies of RCW 90.58 and the goals of the SMP both of which are described in this document.

1.6 The Town’s Role in implementing the SMA

In order to protect the public interest in the preservation of the shorelines of the state, the SMA establishes a planning program coordinated between the state and local jurisdictions to address the types and effects of development occurring along the state’s shorelines. By law the town is responsible for the following:

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1. Development of an inventory of the characteristics and land use patterns along shorelines regulated by the SMA. This inventory provides the foundation for development of a system that classifies the shoreline into distinct environment designations. The environment designations provide the framework for implementing shoreline policies and regulations.
2. Preparation of an SMP to guide and determine the future of the shorelines. The SMP contains policies and regulations that direct development and use of shorelines along the rivers and lake within the Town's municipal boundaries. The future of the Town's shorelines is guided and defined through the goals developed for land and water use elements included in Chapter 4.
3. The City is encouraged to adopt goals for any other elements, which because of present uses or future needs, are deemed appropriate and necessary to implement the intent of the SMA. In addition policy statements are developed to provide a bridge between the goals of the SMP and the Use/activity regulations developed to address different types of development along the shorelines. SMP regulations are developed and adopted as appropriate, for various types of shoreline development addressed under Chapter 7.

The Town has the primary responsibility for initiating the planning program and administering the regulatory requirements. The Town must develop a SMP that is consistent with the guidance of the SMA.

The role of the Department of Ecology is to provide technical support and assistance, to review and approve the SMP, and to provide review of local actions relating to shoreline permit applications to ensure their compliance with the Shoreline Management Act and the adopted SMP.

1.7 The SMP and Comprehensive Plan

Shoreline management is most effective when accomplished in the context of comprehensive planning. The Growth Management Act (GMA) defines SMP policies as a part of the local comprehensive plan. RCW 36.70A.480 (1) incorporates the goals and policies of the SMA into the GMA as follows:

“For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the fourteen goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.”

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Cities that plan under the GMA are required under RCW 36.70A to ensure that there is a mutual and internal consistency between the comprehensive plan elements and implementing development regulations including the SMP. RCW 365-195-500 requirements include consistency between the SMP and the future land use plan, specifically demonstrating that there is consistency regarding:

- (1) *“Ability of physical aspects of the plan to coexist on the available land.”*
- (2) *“Ability of the plan to provide adequate public facilities when the impacts of development occur (concurrency).”*

In addition the GMA also calls for coordination and consistency of comprehensive plans among local jurisdictions under RCW 36.70A.100:

“The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues”

1.8 The Town of Concrete Shoreline Master Program

The Town of Concrete adopted the Skagit County Shoreline Management Master Program following completion of its development 1976. The Town has utilized the County Master Program since that time. The existing (Skagit County) Shoreline Master Program provides policies and regulations for protection of the various shoreline environment designations, standards for development of compatible uses and administrative provisions for implementation of permit requirements. While the Town has effectively implemented the County Master Program, City officials have determined that the development of a Concrete SMP will enhance coordination with other Town regulations, local conditions and the needs of citizens.

The updated SMP differs significantly from the Skagit County Master Program in that it is based on an inventory of current shoreline conditions which represent the existing baseline environment. Existing conditions provide a practical point of beginning for shoreline environment designations and a benchmark from which a “no net loss” standard is established. The “no net loss” standard is intended to protect the shoreline environment over the planning period by preventing degradation of ecological functions below existing conditions. In addition the update provides a more detailed shoreline designation map which reflects current municipal boundaries. The update also allows the City to utilize many data sources and incorporates the best available science (BAS) utilized in developing critical area protection standards recently adopted in conjunction with the Town’s Critical Area Regulations (CARs). RCW 90.58.100(1) lists the methods of collecting scientific and technical information including local knowledge. For the purposes of this SMP, this will be referred to as “best science”.

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The Town's SMP is developed concurrent with Skagit County's SMP update which enables coordination and the establishment of consistent shoreline area designations and protection standards on contiguous Town/County parcels which exhibit similar shoreline attributes.

1.9 Shoreline Environment Designations

All shorelines of the state receive a shoreline environment designation that reflects the specific character of the shoreline reach as documented in the shoreline inventory. The Town of Concrete has applied four (4) shoreline area designations to its shorelines consistent with the guidance provided under WAC 173-26-211: High Intensity, Urban conservancy, Natural and Aquatic. The purpose, designation criteria and management policies associated with each of the environment designations is included in the SMP under Chapter 5. Shoreline environment designations are depicted on the official shoreline area designation map adopted in conjunction with the SMP.

2.

How the Shoreline Master Program is Used

2.1 Relationship Between SMA and SMP

The SMA defines for local governments the overall content and goals that should be included in the SMP developed for each local jurisdiction. Within these overall guidelines the local government must develop specific policies and regulations appropriate to that community.

The Town's SMP is both a planning and regulatory document. The SMP outlines goals and policies for the Town's shorelines and establishes regulations for development occurring specifically within the area of SMA jurisdiction. The shoreline development regulations are contained within the SMP and have been reviewed by Ecology for consistency with SMA Guidelines (WAC 173-26 Part III and by the Town for consistency with other development regulations contained in the Concrete Municipal Code.

In order to preserve and enhance the shorelines of the Town of Concrete it is important that all development proposals within SMA jurisdiction be evaluated by the Shoreline Administrator under the SMP. In the Town of Concrete this administrative function is filled by the Town Planner.

2.2 How the SMP Applies to Development

The Concrete SMP addresses a broad range of uses that could be proposed within the Town's shoreline areas. The inclusion of many uses ensures that the Town's shorelines will be protected from all activities and uses that could be developed inappropriately, potentially damaging shoreline ecological functions and/or aesthetic values. Some types of development may be exempt from regulation while others may require compliance with established guidelines and standards. The SMP provides the regulatory standards within which development may occur and also prohibits certain uses and activities which are considered unacceptable for a given shoreline environment designation. The SMP identifies requirements for specified activities and uses and the type of shoreline authorization required to permit them.

2.3 When is a Shoreline Permit Required?

The SMP regulates development on shorelines of the state and further defines what is considered "substantial development". Unless specifically identified as exempt all substantial development requires the issuance of a shoreline substantial development permit from the Town. "Development," as defined under the SMA (RCW 90.58.030(3d) as:

"A use consisting of the construction or exterior alteration of structures; dredging; drilling, dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of waters of the state subject to Chapter 90.58 RCW at any state of the water level."

Projects that are identified as "developments" but not "substantial development" do not require a Shoreline Substantial Development Permit, however they still must comply with all applicable regulations in the SMP. "Substantial development" is defined under the SMA (RCW 90.58.030(3e) as:

"Substantial development" shall mean any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period." As of September 15, 2012, the dollar threshold is \$6,016.00.

In addition some developments may require a conditional use or variance from SMP provisions even if they do not meet the definition of substantial development. Conditional Use Permits (CUPs) allow greater flexibility in applying use regulations

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of the SMP. A CUP is needed if a proposed use is listed as a conditional use in the environment designation, *or* if the SMP does not specifically address the use. Variance permits are used to allow a project to deviate from an SMP's dimensional standards (e.g., setback/buffer, height, or lot coverage requirements). A conditional use or variance must meet specified criteria and be consistent with other environment and use requirements.

The Town Planner acting as “Shoreline Administrator” is responsible for implementing and enforcing the SMP. The Shoreline Administrator can help the public with technical requirements associated with the Master Program and to identify authorization requirements for various shoreline activities and uses. The Administrator can determine if a project is exempt or subject to the substantial development permit requirements or if a conditional use or variance is required. The Administrator can also provide guidance on the applicability of other regulations including the environmental review process required under the State Environmental Policy Act (SEPA).

Requests for a Shoreline Substantial Development Permit, Variance or a Conditional Use require review and authorization by the Concrete Town Council. There may be instances where a Conditional Use or Variance may be approved without the need for Substantial Development Permit. The Council will hold a public hearing on the proposal and approve, approve with conditions or deny the application. Requests for CUPs and Variances require final approval by the State Department of Ecology. Appeals of the Council's or Ecology's decision go to State Shoreline Hearings Board. Administrative procedures for Shoreline Substantial Development Permits, Conditional Uses and Variances are established under the SMA (RCW 90.58.140).

3.

Shoreline Inventory

3.1 Introduction to the Inventory

The foundation of the Town's Shoreline Master Program is the Concrete Shoreline Inventory and Characterization (December 2011). The inventory documents existing conditions and provides the basis for development of SMP goals, policies and regulations. The Inventory documents baseline shoreline conditions from which the “no net loss” policy developed through the SMP is established. In addition the inventory analyzes functions and values of resources within shoreline jurisdiction and explores opportunities for conservation and restoration of ecological functions. The report also includes a map folio providing visual representations of relevant shoreline features. The inventory is considered the technical companion of the SMP. This chapter summarizes portions of the inventory.

3.2 Study Area Boundary and Planning Segments

The inventory focuses on the Town's area of shoreline jurisdiction. The jurisdictional area represents the overall study area boundary and is described in detail in Chapter 1 under 1.3 (Town Shorelines Regulated Under the SMA). Five planning segments were identified and assessed. The planning segments were identified based on distinct geographic boundaries, similar shoreline characteristics, land use patterns and comprehensive plan and zoning designations. The planning segments are.

1. The Lake Shannon Segment is located north (upstream) of the Lower Baker River Dam and extends north to the City's municipal boundary. Lake Shannon is a reservoir created by the Lower Baker River Dam. While the reservoir is characterized as a lake it is an impoundment of the Baker River. The Lake Shannon Segment constitutes approximately 880 linear feet of shoreline and a shoreline jurisdictional area of approximately 17.77 acres. The shoreline is lacustrine in character. The lake level rises and falls seasonally and in conjunction with rainfall/snow melt events and through operation of the Baker River Dams. Comprehensive plan and zoning designations are public lands/open space. The only significant development is associated with the Lower Baker Dam including the log boom and surface fish collector.
2. The Baker River Canyon Segment is located south (downstream) of the Lower Baker Dam and extends south to and including the Thompson Bridge. The right (west) bank of the segment is riverine and relatively natural in character while the left (east bank) includes the Lower Baker powerhouse and powerhouse access road. The Baker River Canyon Segment constitutes approximately 2,860 linear feet of shoreline and a jurisdictional area of approximately 43 acres. Comprehensive plan and zoning designations are public lands/open space along the right bank and public lands/open space and industrial along the left bank.
3. The Baker River Channel Segment is located south (downstream of the Thompson Bridge and extends southward past the SR-20 Bridge. The left (east) bank continues on to the confluence with the Skagit River while the right (west) bank ends at the City's municipal boundary approximately 350 feet north of the confluence. The segment is riverine in character and is maintained as a conveyance channel. Both banks are armored with rock. The right bank is generally undeveloped while the left bank has been subject to structural development. The area from the Thompson Bridge south to SR-20 is utilized by Puget Sound Energy in conjunction with Baker River Hydropower Facilities. Shoreline jurisdiction within this segment includes areas of designated floodway and contiguous floodplain. The Baker River Channel Segment consists of approximately 2,420 linear feet of shoreline and a jurisdictional area of approximately 36.7 acres. Comprehensive plan and zoning designations consist of public lands along the right bank and industrial along the left bank.

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4. The Upper Skagit River Segment extends from the Baker/Skagit confluence upstream (east) to the City’s eastern municipal boundary. The shoreline itself is riverine and relatively natural in character, however, portions of the floodway and contiguous floodplain have been subject to residential and commercial development. The segment includes the two existing public shoreline access areas in the City. Shoreline jurisdiction within this segment includes areas of designated floodway and contiguous floodplain. The segment consists of 1100 linear feet of shoreline and 16.7 acres. Comprehensive plan and zonings designations are public lands, commercial, light industrial, and residential.

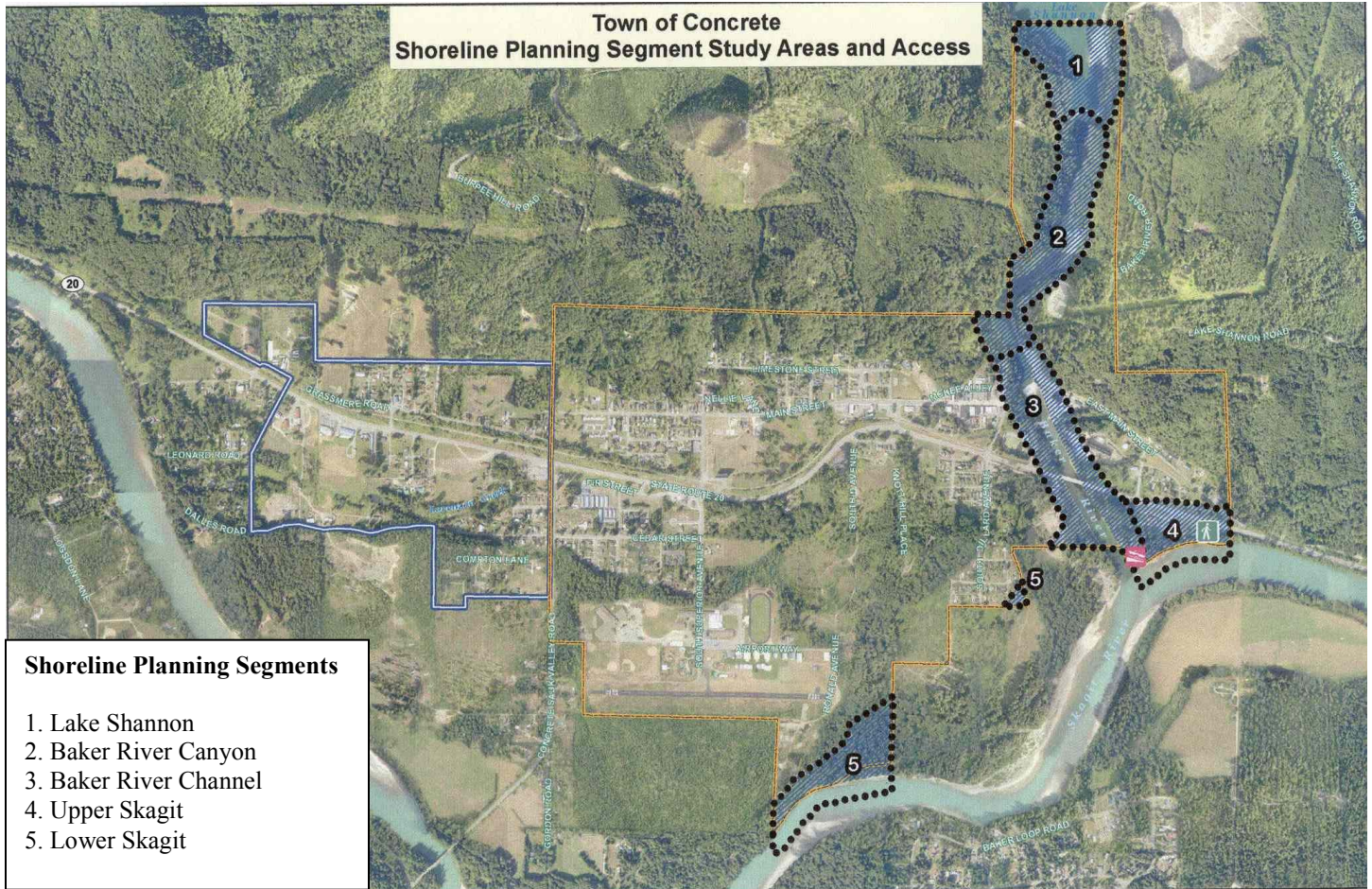
5. The Lower Skagit River Segment is located approximately .5 miles downstream from the Baker/Skagit confluence. The shoreline is riverine in character and exists in a natural condition that provides a full suite of riparian functions including a side channel that may be a remnant of the Little Baker River. Shoreline jurisdiction within this segment includes areas of designated floodway and contiguous floodplain. The segment includes a shoreline area of 1540 linear feet and an area of 23.3 acres. There is no development within the shoreline area. The comprehensive plan and zonings designation is open space.

The following summary table compares the five planning segments in terms of size, shoreline type, condition, comprehensive plan and zoning designation, and existing land use. The five planning segments are delineated on an aerial photograph following the table. The complete inventory is available for review at the Concrete Town Hall.

Table 1: Comparison of Planning Segments

Segment	Size	Condition	Comp/Zoning	Land Use
1. Lk. Shannon	880-lf 17.7-acres	Lake (Reservoir)	Open Space	Hydropower Open Space
2. Baker Canyon	2,860-lf 43-acres	River Natural/Altered	Open space Residential Industrial	Open Space Residential (2) Hydropower
3. Baker Channel	2,420-lf 36.7-acres	River Channelized Armored	Public lands Industrial Comm/Lt.Ind.	Public Lands Hydropower
4. Upper Skagit	1,100-lf 16.7-acres	River Natural shoreline Developed floodway- Floodplain	Public lands Residential Commercial Light Industrial	Public lands Residential (1) Commercial Light Industrial
5. Lower Skagit	1,540-lf 23.3-acres	River Natural Shoreline	Open space	Open space
Area Totals:	8,800-lf 122.4-acres			

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3.3 Features Identified Through the Inventory

3.3.1 Shoreline modifications such as the Lower Baker Dam and its associated reservoir (Lake Shannon) in Planning Segment 1, channelized portions of the Baker River below the dam along the left bank of Planning Segment 2 and right and left bank of Planning Segment 3, rock armor (riprap) along portions of the Baker River and recently permitted improvements to Puget Sound Energy’s hydroelectric facilities including fish migration components in Segments 1, 2 and 3, represent modifications to the shoreline environment reflected in the existing environmental baseline.

3.3.2 Existing and potential public access sites are documented and assessed. These sites include the shoreline access managed jointly by the U.S. Forest Services, Washington Department of Fish and Wildlife and Washington Department of Transportation located near the City’s eastern boundary within Planning Segment 4 and the wood frame gazebo and picnic area maintained by the City near the western approach to the Thompson Bridge east of Dillard Avenue in Planning Segment 3. In addition the access road along the left and right bank of the Baker River in Segments 3 and 4 are utilized on an informal basis for recreational purposes. Potential additions based on the Town’s Bike and Trail Plan and recommendations for improvements to existing facilities are also provided.

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3.3.3 Floodplains and Channel Migrations Zones are documented discussed and mapped in the context of shoreline jurisdiction and shoreline environment designations. While the Town has not attempted to map the channel migration zone, currently adopted Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps were utilized to identify special flood hazard areas in Segments 3, 4 and 5. Skagit County Geographic Information Systems utilized the presently adopted Q3 flood data which identifies the floodway and floodplain on the Flood Insurance Rate Maps and in turn establishes the shoreline management jurisdiction layer on the Shoreline Environment Designation Map. Shoreline jurisdiction is based on the greater of the area 200 feet landward of the FEMA floodway within the floodplain or 200 feet of the OHWM.

3.3.4 Critical Area Regulations (CARs) were adopted in 2008 under Chapter 16.12 of the Concrete Municipal Code. Critical areas identified and regulated by the City are geologically hazardous areas, aquifer recharge areas, fish and wildlife habitat conservation areas, wetlands and frequently flooded areas. Frequently flooded areas, wetlands and fish and wildlife habitat conservation area relate directly to the City's Shorelines. The City has mapped potential critical areas on the Critical Areas Overlay District Map. The City is required to assure consistency between the comprehensive plan and development regulations including CARs and the SMP under the Growth Management Act. The City's Critical Areas Overlay District Map is included in the inventory. With the approval of the SMP by Ecology, the critical areas within shoreline jurisdiction are protected by the SMP. The CARs have been reviewed to be consistent with Chapter 80.58 RCW and the Guidelines to ensure no net loss of ecologic functions.

3.3.5 Traditional Cultural and Historic Resources and National Register Properties were discussed, identified and located as appropriate. The Lower Baker River Hydroelectric Power Plant (constructed 1924-1925) was listed in the National Register of Historic Places on July 7, 1990. Contributing structures in the listing include the dam, intake, main pressure tunnel, circular forbay or surge chamber, branch tunnel and penstocks. The significance was documented to be based on its example of medium-head hydroelectric technology from the 1920s with the Dam reflecting the standard design for deep narrow canyons. The construction of the dam and tunnel in difficult terrain represents an important engineering accomplishment.

3.3.6 Restoration Opportunities were discussed on a preliminary basis with the City of Concrete Planning Commission. Several potential projects were identified, most notably, restoration of the Little Baker River. The restoration site is located in both the Town of Concrete and in unincorporated Skagit County. The project has received considerable attention for many years. The Skagit Fisheries Enhancement Group prepared the Little Baker River Restoration Conceptual Alternative Study in 1999. The study identified a preferred alternative which included construction of a perched channel adjacent to the Baker River, access trail and viewing areas to observe salmon and habitat areas and restrooms and interpretive/educational facilities. Both the right and left banks of the Lower Baker River and right bank of the Skagit River in Planning Segments 3 and 4 were subsequently identified as candidate sites for restoration activities (See Appendix).

4.

Shoreline Elements

4.1 Goals and Objectives

The Shoreline Management Act (RCW 90.58.100) requires that specified elements be considered in the preparation of this Master Program including: Economic Development, Public Access, Recreation, Circulation, Shoreline Use, Conservation, Historic/Cultural Resources, and Floodplain Management. The goals and objectives established for these elements provide the basis for policies and regulations included under the general and specific requirements of the Master Program

4.2 Economic Development Element

Goal: Provide for economically productive uses that are particularly dependent on their shoreline location or use.

Objective: Plan for economic activity that is water-dependent, water related, or that enables water enjoyment by providing an opportunity for a substantial number of people to enjoy the shoreline.

4.3 Public Access Element

Goal: Increase public access to publicly owned areas of the shoreline, and preserve and enhance shoreline views.

Objective: To provide for public access to publicly owned shoreline areas, except where deemed inappropriate due to safety hazards, security problems, environmental impacts, or conflicts with adjacent uses.

Objective: Preserve and enhance shoreline views and vistas.

4.4 Recreational Element

Goal: Provide for the preservation and improvement of public and private recreational opportunities and facilities along the Town's shorelines wherever appropriate.

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Objective: Develop public and private recreational opportunities that are compatible with adjacent uses and that protect the shoreline environment.

4.5 Circulation Element

Goal: Provide a safe and adequate circulation system including existing and proposed major thoroughfares, transportation routes, terminals, and other public facilities within shorelines that benefit permitted uses without degrading shoreline ecological functions or aesthetic values.

Objective: Ensure that uses permitted in shoreline areas are designed and conducted in a manner that minimizes interference with the public's use of the water and shoreline to the degree practicable.

4.6 Shoreline Use Element

Goal: Assure that coordinated land use plans will locate activity and development in areas of the shoreline that will be compatible with adjacent land uses and be sensitive to existing shoreline environments and ecological functions.

Objective: To promote the best possible pattern of land and water uses consistent with the Shoreline Management Act and land use regulations adopted by the Town of Concrete.

4.7 Conservation Element

Goal: Preserve, protect, and restore the natural resources of the shoreline, including but not limited to scenic vistas, aesthetics and vital riparian areas for fish and wildlife protection.

Objective: Through the use of best science develop and implement siting criteria, design standards, and best management practices that will ensure the long term enhancement of unique shoreline features natural resources, and fish and wildlife habitat.

Objective: To designate and develop areas where there is an opportunity to restore, enhance, and conserve the natural shoreline for the benefit of fish and wildlife habitat.

4.8 Historical/Cultural Element

Goal: Identify, preserve, protect and restore shoreline areas, buildings and sites having historical, cultural, educational, or scientific values.

Objective: To ensure the recognition, protection, and restoration of shoreline areas that have historical and or cultural value to the Town of Concrete and create a unique “sense of place” for public facilities and recreation areas in shoreline jurisdiction.

Objective: To ensure the recognition, protection, and restoration of shoreline areas that have educational or scientific values to the Town of Concrete.

4.9 Flood Hazard Management

Goal: Protect the Town of Concrete from damage and loss caused by flooding.

Objective: To seek regional solutions to flooding problems through coordinated planning with state and federal agencies and the public.

Objective: To ensure that flood hazard protection projects have positive environmental benefits that emphasize long term solutions.

4.10 Restoration Element

Goal: To protect and improve water quality, reduce the impacts of flood events; and preserve natural areas, vegetation and preserve and restore shoreline ecological functions.

Objective: The degraded shoreline processes of Concrete will be restored to promote a net improvement to the shoreline ecological functions including, but not limited to water quality, vegetation, fish and wildlife habitat. (A Restoration plan is attached to this SMP as an appendix)

5.

Shoreline Environments

5.1 Shoreline Environment Designations

Shoreline environments are designated to encourage development that will enhance the present or desired character of a shoreline. Designation of shoreline areas is based on existing development patterns, biophysical capabilities and limitations of distinct shorelines and the aspirations of the local citizenry. Environment designations reflect the type of development that has or should take place over a given shoreline area.

Policies and regulations of the SMP are based to a significant degree on the shoreline environment designation(s) applied to the Town's shorelines. Ecology's Guidelines recommend potential use of six (6) environment designations described under WAC 173-26-211 as; High Intensity, Rural Conservancy, Urban Conservancy, Shoreline Residential, Natural and Aquatic. Two designations (Shoreline Residential and Rural Conservancy) are not included in this summary because conditions supporting those designations were not identified through the inventory process. Subsection 5.2 through 5.5 (below) describe the purpose, management policies and criteria for the designations found within the Town's municipal boundaries. The attached map identifies shoreline environment designations. (**Attachment A: Shoreline Environment Designation Map**)

5.2 Natural Environment

5.2.1 Purpose: The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, local government should include planning for restoration of degraded shorelines within this environment.

5.2.2 Management policies:

(A) Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.

(B) The following new uses should not be allowed in the "natural" environment:

- Commercial uses.
- Industrial uses.

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- Nonwater-oriented recreation.
- Roads, utility corridors, and parking areas that can be located outside of "natural" designated shorelines.

(C) Single-family residential development may be allowed as a conditional use within the "natural" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.

(D) Commercial forestry may be allowed as a conditional use in the "natural" environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation.

(E) Agricultural uses of a very low intensity nature may be consistent with the natural environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.

(F) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.

(G) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

5.2.3 Designation criteria: A "natural" environment designation should be assigned to shoreline areas if any of the following characteristics apply:

(A) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;

(B) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or

(C) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety. Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline

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habitats. Shorelines inside or outside urban growth areas may be designated as "natural."

Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

The term "ecologically intact shorelines" applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.

Areas with significant existing agriculture lands should not be included in the "natural" designation, except where the existing agricultural operations involve very low intensity uses where there is no significant impact on natural ecological functions, and where the intensity or impacts associated with such agriculture activities is unlikely to expand in a manner inconsistent with the "natural" designation.

(Note: The Town has no Agricultural lands designated on the Comprehensive Plan/Zoning Map. Agricultural activities are limited within the municipal boundaries, however, low intensity agricultural activities do occur. New agricultural development may be permitted within the Natural Shoreline Area through a conditional use permit as an unclassified use.)

5.3 Aquatic Environment

5.3.1 Purpose: The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

5.3.2 Management policies:

(A) Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

(B) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

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(C) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

(D) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

(E) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201 (2)(e) as necessary to assure no net loss of ecological functions.

(F) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

(G) Local governments should reserve shoreline space for shoreline preferred uses. Such planning should consider upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing shellfish protection districts and critical habitats, aesthetics, public access and views.

5.3.3 Designation criteria: Assign an "aquatic" environment designation to lands waterward of the ordinary high-water mark.

Local governments may designate submerged and intertidal lands with shoreland designations (e.g., "high-intensity" or "rural conservancy") if the management policies and objectives for aquatic areas are met. In this case, the designation system used must provide regulations for managing submerged and intertidal lands that are clear and consistent with the "aquatic" environment management policies in this chapter. Additionally, local governments may assign an "aquatic" environment designation to wetlands.

5.4 High-Intensity Environment.

5.4.1 Purpose: The purpose of the "high-intensity" environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

5.4.2 Management policies:

(A) In regulating uses in the "high-intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed use developments. Nonwater-oriented uses may also be allowed in limited

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situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-200 (3)(d).

If an analysis of water-dependent use needs as described in WAC 173-26-201 (3)(d)(ii) demonstrates the needs of existing and envisioned water-dependent uses for the planning period are met, then provisions allowing for a mix of water-dependent and nonwater-dependent uses may be established. If those shoreline areas also provide ecological functions, apply standards to assure no net loss of those functions.

(B) Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "high-intensity." However, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.

(C) Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply in accordance with any relevant state and federal law.

(D) Where feasible, visual and physical public access should be required as provided for in WAC 173-26-221 (4)(d).

(E) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

5.4.3 Designation criteria: Assign a "high-intensity" environment designation to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "limited areas of more intensive rural development," as described by RCW 36.70A.070, if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

5.5 Urban Conservancy Environment

5.5.1 Purpose: The purpose of the "urban conservancy" environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

5.5.2 Management policies:

(A) Uses that preserve the natural character of the area or promote preservation of

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open space, flood plain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

(B) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

(C) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

(D) Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

(E) Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the urban conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-240 (3)(h) [173-26-241 (3)(h)] and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.

5.5.3 Designation criteria: Assign an "urban conservancy" environment designation to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "limited areas of more intensive rural development" if any of the following characteristics apply:

(A) They are suitable for water-related or water-enjoyment uses;

(B) They are open space, flood plain or other sensitive areas that should not be more intensively developed;

(C) They have potential for ecological restoration;

(D) They retain important ecological functions, even though partially developed; or

(E) They have the potential for development that is compatible with ecological restoration.

Lands that may otherwise qualify for designation as urban conservancy and which are designated as "mineral resource lands" pursuant to RCW 36.70A.170 and WAC 365-190-070 may be assigned a designation within the "urban conservancy" environment that

allows mining and associated uses in addition to other uses consistent with the urban conservancy environment.

5.6 Narrative Description of Shoreline Environment Designations by Planning Segment

RCW 90.58.030 allows local government a choice in identifying the shoreline jurisdictional area. The Town of Concrete's jurisdictional area includes the area within 200 feet of the OHWM of Lake Shannon, the Baker and Skagit Rivers including the FEMA designated floodway and 200 feet of the contiguous floodplain, whichever is greater. In addition wetlands "associated" by proximity or influence with the Towns shorelines also fall within the shoreline jurisdictional area. The Town has chosen not to include the shoreline jurisdiction land necessary for buffers for critical areas as allowed by RCW 90.58.030(2)(d)(ii).

- Planning Segment 1 (Lake Shannon): The entire segment from the northern municipal boundary south to the Lower Baker Dam is designated Urban Conservancy. The Urban Conservancy designation has been applied to the segment because the segment has been altered through hydroelectric facility development while continuing to provide open space, flood control and other shoreline ecological functions.
- Planning Segment 2 (Baker River Canyon): The entire left (east) bank is designated High Intensity from and including the Lower Baker Dam south to the Thompson Bridge. The right (west) bank is designated Natural from the Lower Baker Dam south to the western municipal boundary, then Urban Conservancy from the municipal boundary south to the Thompson Bridge. The left bank has been designated as High Intensity to reflect the relative intensity of hydropower development which is considered a "water oriented" use. The more natural shoreline conditions, which include an intact suite of shoreline/riparian ecological functions along the right bank are reflected in the Natural and Urban Conservancy designations.
- Planning Segment 3 (Baker River Channel): The left (east) bank is designated High Intensity from the Thompson Bridge south to the SR-20 Bridge, then Urban Conservancy to the boundary of Planning Segment 4. The right (west) bank is designated Urban Conservancy from the Thompson Bridge south to the municipal boundary. The left bank downstream to the SR-20 Bridge has been developed and redeveloped for hydroelectric related facilities associated with the relicensing of the Lower Baker Dam. The area includes the fish trap for up stream fish migration and visitor center which represent a High Intensity designation (water oriented) use. The areas along the left bank below the SR-20 Bridge and entire right bank reflect multiple current and historic uses and degraded shoreline/riparian ecological conditions indicating an Urban Conservancy designation and potential candidate areas for restoration activities.
- Planning Segment 4 (Skagit River Upstream of Baker River): The entire segment from the eastern municipal boundary west to the Baker River is designated Urban

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Conservancy. The designation reflects an urban developed environment that includes a variety of recreational, open space, transportation and commercial uses.

- Planning Segment 5 (Skagit River Downstream of Baker River): The small triangular floodplain parcel at the southeast municipal boundary is designated Urban Conservancy in recognition of its existing developed condition while the remainder of the segment is designated Natural which reflects an area relatively free of human influence that includes intact native vegetation communities and off channel fish habitat.
- Note: All areas waterward of the ordinary high water mark are designated as Aquatic with the exception of wetlands defined consistent with RCW 90.58.030 (2) (h).
- Any lands found to be in shoreline jurisdiction but not described here shall be designated urban conservancy.

5.7 Shoreline Environment Designations and Specific Categories of Development

Chapter 8 of this Master Program establishes policies and regulations for a range of types or categories of development and activities. For each of these developments or activities, a determination is made on whether it can be permitted through an exemption, by a shoreline substantial development permit, a conditional use permit or whether it is prohibited in the specified shoreline environment. A matrix is provided for each category of development or use as a general source of guidance in identifying the shoreline management requirements related to the development or activity. While the matrix may be utilized as a generalized source of information the full text of the Master Program provides the controlling regulations.

5.8 Town of Concrete Shoreline Environment Designation Map

The Town of Concrete Official Shoreline Area Designation Map depicts the areas within the municipal boundaries which are under shoreline jurisdiction and identifies the four shoreline environment designations. An official copy of the map will be maintained by the Shoreline Administrator (Town Planner) and Department of Ecology. The official copy will be available for public inspection at all times during normal business hours. Unofficial copies are included in all distributed copies of this Master Program.

5.9 Amendments to the Shoreline Environment Designation Map

Proposed amendments to the Official Shoreline Area Designation Map shall be based on the designation criteria contained in WAC 173-26-211 as outlined in this section of the Master Program. Proposed map amendments shall be processed in accordance with WAC 173-26-100 and Section 9 of this Master Program.

6.

Shoreline Modifications

6.1 Shoreline Modifications

Shoreline modifications are distinguished from uses in that modifications alter the physical character of the shoreline (WAC 173-26-231). Shoreline modifications are generally related to construction of a physical feature such as a dike, breakwater, dredged basin or fill, but can include other actions such as clearing, grading, application of chemicals or significant vegetation removal. Shoreline modifications are usually undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) required for a cargo terminal (industrial use) or dredging (shoreline modification) to allow for a marina (boating facility use). Categories of shoreline modifications include:

The following general policies or principles shall apply to all shoreline modifications within shoreline jurisdiction:

1. Shoreline modifications should only be allowed where they are demonstrated to support or protect an allowed primary use or legally established structure that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
2. The adverse effects of shoreline modifications should be limited in number and extent.
3. Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.
4. Where applicable base review on best science, technical information and analysis of the river or lake shoreline.
5. Encourage enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem wide processes.
6. Avoid and reduce significant ecological impacts according to the mitigation sequence outlined under subsection 7.6.

6.2 Types of Shoreline Modifications

The listed types of shoreline modifications below are followed by the policies guiding their utilization.

1. Shoreline stabilization – Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings or new structures, including expansion of existing structures, caused by natural processes such as current, flood, wind, or wave action. Shoreline stabilization can be divided into three categories:

- “Nonstructural” methods include setbacks, buffers, relocation measures to avoid the need for structural stabilization.
- “Hard structural methods” utilize hard surfaces such as concrete bulkheads or rock rip rap to stabilize the shoreline.
- “Soft stabilization” measures rely on less rigid methods such as biotechnical vegetation enhancement.

Soft stabilization or nonstructural methods are preferred over hard structural methods. Utilization of hard methods must demonstrate that nonstructural or soft techniques are not feasible. Enlargement of existing structures is considered new development.

2. Piers and docks – Piers are large structures built primarily for commercial, industrial and port related traffic while docks are generally built from shore extending out over the water to provide moorage for commercial and/or private watercraft. New piers or docks should be prohibited on the Town’s shorelines unless it is demonstrated that a specific need exists to support a water dependent utility development.

3. Fill – Fill (landfill) is material, generally of an earthen nature consisting of soil and/or rock which is used to *fill in* a depression or hole in the ground or create mounds or otherwise artificially change the grade or elevation of real property or to place material in an aquatic area. Fill waterward of the OHWM shall be allowed only when necessary to support: water dependent access, cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan, disposal of material considered suitable under, and conducted in accordance with the dredged material management program of the Department of Natural Resources, expansion or alteration of transportation facilities of statewide significance, mitigation actions and environmental restoration projects. Fills waterward of the OHWM for any use except ecological restoration require a conditional use permit.

4. Groins and weirs - Groins are wall like structures frequently constructed of rock built waterward of the shore into the lake or river for the purpose of building or preserving sediments or diverting currents away from eroding banks. Weirs are barriers across a river designed to alter the flow characteristics. In most cases, weirs take the form of a barrier across the river that causes water to pool behind the structure (not unlike a dam) but allows water to flow over the top. Groins and weirs are located waterward of the

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OHWL and are allowed only when supporting water dependent uses, public access or shoreline stabilizations projects promoting a specific public purpose. Groins and weirs require a conditional use permit.

5. Dredging and dredge material disposal – Dredging and dredge material disposal shall be accomplished in a manner that minimizes significant ecological impacts. Impacts which cannot be avoided should be mitigated in a manner that avoids a loss of shoreline ecological functions. New development should be designed to avoid or to minimize the need for new dredging. Disposal of dredge material on shorelines or wetlands within river channels and lakes shall be discouraged, however, in instances where it is allowed such disposal shall require a conditional use permit.

6. Shoreline Habitat and natural systems enhancement projects - Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat for priority species in shorelines. Specific activities associated with these projects may include but are not limited to modification of vegetation, removal of nonnative or invasive plants and shoreline dredging and filling provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shorelines.

7.

Integration of Critical Area Regulations

7.1 Introduction

Updated Critical Area Regulations (CARs) were adopted by the Town, effective December 31, 2008 (Ordinance 631), under Chapter 16.12 of the Concrete Municipal Code (CMC) and are adopted herein by direct reference and included as an attachment to this Master Program. The Town's CARs incorporate Best Available Science (BAS) as referenced under CMC 16.12.030 and have been reviewed for consistency with Shoreline Management Act and Guidelines. Changes to the CARs to make them consistent with Ecology Guidelines or as an improvement have been inserted into appropriate section of the body of this SMP. Where there is a conflict in language between the CARs and the body of the SMP, the policies and regulations of the SMP will prevail. References to areas outside of shoreline jurisdiction in the CARs are not under the authority of this SMP. **(Attachment B: Critical Area Regulations)**

Critical areas identified within shoreline jurisdiction and regulated by the Town are wetlands, habitat conservation areas, frequently flooded areas and geologically hazardous areas. The Town has mapped potential critical areas on the Critical Areas Overlay District Map. The Town is required to assure no net loss of shoreline ecologic functions necessary to sustain shoreline natural resources as defined by Department of Ecology

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Guidelines and consistent with the Growth Management Act. The following table summarizes the presence of critical areas by Planning Segment.

Table 2: Critical Areas Located in Shoreline Jurisdiction by Planning Segment

Planning Segment	NWI Wetlands Hydric Soils	Habitat conservation Areas	Aquifer Recharge Ares	Geologic Hazard Areas	Frequently Flooded Areas
1. Lake Shannon		*Lake Shannon Type S Water	N/A	>30% Slope	Floodplain
2. Baker Canyon		*Baker River Type S Water	N/A	>30% Slope	
3. Baker Channel	Hydric Soils	*Baker River Type S Water	N/A	>30% Slope	Floodplain
4. Upper Skagit	Hydric Soils	*Skagit River Type S Water	N/A		Floodplain
5. Lower Skagit	NWI Wetlands	*Skagit River Type S Water	N/A		Floodplain

*Type S waters require a standard 200-foot riparian buffer under Subsection 16.12.120 of the CARs

All shoreline uses and activities shall be located, designed, constructed and managed to protect and/or not adversely affect shoreline/riparian ecological functions and to facilitate an appropriate intensity of human use. All projects within shoreline jurisdiction require a site visit to determine if a critical area site assessment is needed or if the proposal should be exempt under CAR subsection 16.12.050(5). Review of site assessments may require a habitat management plan as described in subsection 16.12.120. In addition to the criteria for a reasonable use allowance as described in subsection 16.12.170, a shoreline variance permit is also required.

7.2 Wetlands

Wetlands are defined under the Shoreline Management Act RCW90.58.030 (2)(h) and subsection 16.12.020 of the CARs as “areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands created from non-wetland sites, including but not limited to, irrigation and drainage ditches, grass lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.”

Wetlands located within SMA jurisdiction are considered associated wetlands. “Associated wetlands” are defined as “those wetlands meeting the definition of wetlands under subsection 16.12.020 of the CARs which are in proximity to and either influence or are influenced by a lake or stream subject to the Shoreline Management Act.” Such

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associated wetlands may extend shoreline management jurisdiction beyond the standard 200-foot jurisdictional area.

The presence, location and boundaries assessment of wetlands and mitigation of wetland impacts shall be determined by a qualified professional consistent with subsection 16.12.100 of the CARs and the procedures in the 1987 Corps delineation manual and applicable regional supplement. Compensatory mitigation and wetland buffers shall be consistent with those listed in Small Cities Guidance Table G (p. A-18).

Wetland buffers are established in Table 16.12.100(4) of the CARs. Wetland buffers shall not be reduced below 25 percent of the standard buffer width without a variance. All buffer reductions will be based on a functional assessment provided by a qualified wetland professional.

7.3 Habitat Conservation Areas

Habitat conservation areas (HCAs) are defined under subsection 16.12.020 of the CARs as “habitat necessary for the survival of endangered, threatened, rare, sensitive, priority or monitor species.

Identification of HCAs within a proposed project area and preparation of a required habitat management plan (HMP) including mitigation recommendations shall be conducted by a qualified professional with knowledge of the species in question consistent with subsection 16.12.120 of the CARs.

Buffer widths shall not be reduced below 50 percent of the standard buffer width except through a shoreline variance permit which demonstrates no net loss of ecologic functions based on a functional assessment provided by a qualified professional.

7.4 Frequently Flooded Areas and Flood Hazard Reduction

Frequently flooded area is defined under subsection 16.12.020 of the CARs as “an area within a floodplain subject to a 1 percent or greater chance of flooding in any given year.

Development in areas of special flood hazards shall comply with Chapter 15.08 of the Concrete Municipal Code, Floodplain Management.

The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway.

Actions that protect or restore ecosystem-wide processes or ecological functions.

Forest practices in compliance with the Washington State Forest Practice Act and its implementing rules.

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Mining when conducted in a manner consistent with the environment designation and with the provisions of WAC 173-26-241(3)(h).

Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected section of watershed or drift cell.

Repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts or increase flood hazard to other uses.

Development with the primary purposes of protections or restoring ecological functions and ecosystem wide processes.

Modification or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.

Development in incorporated municipalities and designated urban growth areas, as defined in chapter 36.70A RCW, where existing structures prevent active channel movement and flooding.

Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

7.5 Geologically Hazardous Areas

Geologically hazardous area is defined under subsection 16.12.020 of the CARs as “an area susceptible to erosion, sliding, earthquake or other geologically event and thus not suited to siting of commercial, residential or industrial development consistent with public health or safety concerns. As used in the CARs, the geologic hazardous area includes the established buffer/setback.

A minimum 50-foot buffer/setback as required by the Administrator shall be established from the boundary of an identified geological hazard including landslide hazard area, seismic hazard areas, mine hazard areas, landfills or steep slope areas (40% or greater). The buffer may be increased as deemed necessary to protect public health safety and welfare, based on information contained in a geotechnical report prepared by a qualified professional.

7.6 Mitigation Sequence

Central to Critical Area and Shoreline Management is the concept of mitigation. Mitigation is defined under subsection 16.12.020 of the CARs as “a negotiated action involving the avoidance, reduction or compensation for possible adverse impact”. Mitigation actions are outlined in order of a sequence of preference the sequence must be addressed for all shoreline use and development in order to achieve no net loss of ecologic function. (WAC173-26-201(2,e.)

- (1) Avoid the impact altogether by not taking a certain action or parts of an action;
- (2) Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- (3) Rectify the impacts by repairing, rehabilitating or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;
- (4) Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
- (5) Compensate for the impact over time by replacing, enhancing, or providing substitute resources or environments.

7.7 Riparian Functions/Shoreline Ecological Functions

Because all shorelines within the Town’s municipal boundaries (including Lake Shannon) are riparian in character, riparian functions and shoreline ecological functions are considered synonymous. Riparian functions documented in the Shoreline Inventory include the following:

7.7.1 Water Quality - Sediment contributions to streams is generally supplied by erosion and upland processes. Sediment input to confined low order streams such as the tributaries to Lake Shannon is generally provided by hillside slope processes. Sediment input to higher order streams such as the Baker River and Skagit River is typically driven by fluvial or stream action processes. In undeveloped or unmodified watersheds, aquatic systems and their associated organisms are adapted to the natural rate of sediment input. Slope aspect, soils and vegetation act together in a manner which promotes a natural equilibrium. Modifications which remove native vegetation and increase the area of impervious surfaces, are accompanied by increased storm water runoff. Such modifications alter the balance of the aquatic regime resulting in higher flow rates and increases in turbidity and nutrient concentrations.

7.7.2 Bank Stabilization – Riparian vegetation is generally recognized as contributing the stability of stream banks. This function is accomplished through the network of tree roots, brush and soil/rock that weaves soil and rock together in a manner that withstands increased flows and velocity. In addition to stream bank vegetation and root structure

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large woody debris (LWD) also promotes stable banks on smaller streams by slowing velocities and capturing sediments as they are transported downstream thereby promoting the water quality function described above.

7.7.3 Shade and Temperature – The primary factors influencing water temperature are shade, humidity, ambient air temperature, channel size groundwater and overhead vegetation cover. Shade, provided by a forest canopy appears to be the most valuable contributor to the maintenance of cool stream temperatures.

7.7.4 Microclimate – Microclimate affects many ecological processes and functions, including plant growth, decomposition, nutrient cycling, succession, productivity, migration and dispersal of flying insects, soil microbe activity and fish habitat. Microclimate, like other riparian functions is closely linked to native vegetation communities particularly intact forest canopy.

7.7.5 Wildlife Habitat – Because it exists as a narrow band, riparian habitat represents a relatively small portion of the City. While riparian habitat performs many functions that are essential to fish species, these areas are also of critical importance to wildlife. Up to 80% of Washington States vertebrate species use riparian habitat for essential life activities. Forested riparian habitat includes an abundance of snags, downed logs and multi layered vegetation communities which provide habitat for birds amphibians, reptiles and small animals as well as the fish species which inhabit the stream itself. Overall, riparian wildlife habitat is based on structural complexity, ecological connectivity, food and water availability and moderate microclimate. Riparian areas serve as refuges and travel corridors for wildlife. The number of wildlife species present in riparian areas is directly proportional to the width of the vegetated riparian zone.

7.7.6 In-stream Habitat (Large Woody Debris) – As discussed above under “bank stabilization” LWD contributes to stable channel morphology in smaller streams. In larger streams such as the Baker and Skagit Rivers LWD plays an important role in providing in-water habitat structures. These structures range from isolated root wads and anchored logs to large semi-permanent log jams. The structures improve salmon habitat by creating refugia which provides safe havens from heavy flow velocities and predators and improved foraging conditions. LWD also traps additional woody debris which in turn further enhances habitat conditions. LWD is “recruited” from adjacent riparian forests when trees fall into the stream. A sufficient forest contiguous to the stream is essential to assure a source of LWD over the long term.

7.7.7 Productivity – Smaller streams receive nutrients from allochthonous input (consisting of litterfall and terrestrial insects) from the riparian zone adjacent to the channel. These smaller streams serve as food conduits to larger streams contributing a significant numbers of macroinvertebrates to rivers. Studies in the Puget Sound Region have found that stream health is closely tied to the vegetated character of the riparian zone. In short fully vegetated riparian areas provide the functions listed above as well as a food source that supports salmon and other fish species.

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7.7.8 Storage and Conveyance – In addition to the functions discussed above the channel migration zone (CMZ) is an area within the lateral extent of likely stream channel movement resulting from stream bank destabilization and erosion, rapid stream incision aggradations, avulsions and shifts in the location of the channel. The extent of the CMZ is limited by hydrologic modifications resulting from the development and operation of the Lower Baker Hydroelectric facility. While the CMZ has not been mapped for the Town, the floodplain and floodway have been mapped by the Federal Emergency Management Agency. The floodplain provides an area for the storage of floodwaters during overbank flood events. The floodway, generally located immediately adjacent to the active channel provides for the discharge and conveyance of flood flows. The floodplain and floodway have special significance in the context of shoreline management as discussed earlier under section 1.2 Shoreline Jurisdiction and Study Area Boundary. In addition new development within the CMZ or floodway are limited to uses and activities listed in WAC 173-26-221(3)(b) and (3)(c)(i).

In addition to conveyance and storage functions the floodplain of the Baker River and Skagit River provide valuable habitat functions including enhanced water quality, a source of potential woody debris, shade and refugia. The National Marine Fisheries Service issued a Biological Opinion (BO) on September 22, 2008. The opinion concluded that discretionary elements of the National Flood Insurance Program (NFIP) cause harm to Puget Sound ESU Chinook Salmon and the distinct population segment (DPS) of southern resident killer whales (*Orcinus orca*). The service developed reasonable and practical alternatives (RPAs) including guidelines and procedures to avoid harm to listed species. In response to the BO, the Federal Emergency Management Agency (FEMA) has required communities participating in the NFIP to address the RPAs in a manner that avoids impacts to listed species. FEMA has directed local governments that have not mapped the CMZ to consider the entire 100-year floodplain or special flood hazard area in the evaluation of impacts to listed salmonids.

7.8 Mitigation Monitoring

Where mitigation is required relative to wetlands and fish and wildlife habitat, monitoring will be required to assure successful installation of native plants. For mitigation intended to result in emergent vegetation communities, monitoring will be required for a period of 5 years. For mitigation proposed to result in a forested and/or shrub community, a 10 year monitoring period is required. For emergent plantings monitoring should occur in a minimum of years 1, 3 and 5. For forested and/or shrub communities, in years 0, 1, 2, 3, 5, 7, and 10. Monitoring requirements should include measurable performance standards including percent survival and plant cover.

7.9 Critical Areas and Shoreline Dimensional Standards

As noted in Table 2 all shorelines within the Town's municipal boundaries are classified as Type S Waters. Type S Waters require a standard 200-foot riparian buffer. The standard buffer is based on best available science and is considered sufficient to avoid

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impacts to the riparian functions listed above. The standard buffer satisfies the avoidance standard of the mitigation sequence referenced under subsection 7.6.

While the standard riparian buffer “avoids” impacts to riparian or shoreline ecological functions, the CARs provide for reductions of the standard buffer requirements based on specified criteria which incorporate the use of best science. Reductions of the standard riparian buffer may be accomplished while maintaining “no net loss” of riparian or shoreline ecological functions. Subsection 16.12.120 (5), (b) provides the following criteria for decreasing buffer widths:

(b) Decreasing Buffer Widths. Decreasing standard buffers will be allowed by the town council only if the applicant demonstrates that all the following criteria are met:

- (i) A decrease is necessary to accomplish the purpose of the proposal and no reasonable alternative is available;
- (ii) Decreasing width will not adversely affect the fish and wildlife habitat functions and values;
- (iii) If a portion of the buffer is to be reduced the remaining buffer area will be enhanced, using native vegetation, artificial habitat features, vegetative screening, and/or barrier fencing as appropriate to improve the functional attributes of the buffer and to provide equivalent or better protection for fish and wildlife habitat functions and values;
- (iv) The buffer width will not be reduced below 50 percent of the standard buffer width unless the town council determines that no other reasonable alternative exists and that no net loss of HCA riparian functional values will result, based on a functional assessment provided by the applicant utilizing a methodology approved by the Town.

Buffer reductions may occur without compromising riparian/shoreline ecological functions provided that such reductions are supported by best science and sufficiently mitigated. However, buffer reductions below a specified threshold will require expanded review under the shoreline variance requirements. Certain specified and unclassified uses may also require a conditional use.

Table 3 summarizes standard riparian/shoreline buffer requirements by shoreline area designation, the percentage of buffer reduction allowed based on an approved HMP including mitigation without a shoreline variance and the shoreline variance threshold.

Table 3: Shoreline/Riparian Buffer Requirements

Shoreline Environment Designation	Standard shoreline or riparian buffer (in feet)	% Reduction with approved mitigation	Shoreline Variance Threshold
Natural	200 feet	25%	Variance > 25% reduction
Aquatic	N/A	N/A	N/A
High Intensity	200 feet	50%	Variance > 50% reduction
Urban Cons.	200 feet	50%	Variance > 50% reduction

In addition to the shoreline/riparian buffer requirements height, lot coverage and building setback standards also apply to development within the Town’s shoreline areas. Table 4

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summarizes height, lot coverage and building setback requirements by shoreline environment designation.

Table 4: Height, Lot Coverage and Building Setback Requirements

Shoreline Area Designation	Height Limit (measured in feet from pre-existing average grade to top of structure)	Lot Coverage (area of lot covered with impervious surfaces)	Building Setback (measured in feet from outer shoreline buffer)
Natural	30 ft	20%	10 ft
Aquatic	N/A	N/A	N/A
High Intensity	0 to 100 ft from OHWM = 30 ft 100 to 200 ft from OHWM = 50 ft	60%	10 ft
Urban Cons.	0 to 100 ft from OHWM = 30 ft 100 to 200 ft from OHWM = 40 ft	30%	10 ft

Projects requiring shoreline review will be evaluated concurrently under the CARs and SMP. Habitat management plans prepared in conjunction with Section 16.12.120 of the CARs may include analysis required to demonstrate compliance with the standards of the SMP. The shoreline administrator may also require analysis specific to the requirements of the SMP.

8.

Policies and Regulations

8.1 Introduction

The following policies and regulations apply to specific types of development and uses that may be proposed along the Town's shorelines. A proposal may be addressed under one or more of these development types. Example: If a boat launch project also requires an access road to the launch site, then review would require analysis under the boating facilities, recreation and transportation sections of this chapter. In addition, all types of shoreline development must be consistent with the general regulations and regulations specific to the shoreline environment designations applied to the site. Permit requirements are summarized on a Use Matrix Table following the definition of the use under each section; however, the table is intended only as a convenient summary. The text of the Master Program represents the controlling regulations. Shoreline environment designations are depicted on the Shoreline Designation Map included as an attachment to this Master Program and are described further under Chapter 5. Note: All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

In addition to the Town of Concrete Critical Area Regulations (Chapter 16.12) which are incorporated into this Master Program, the Zoning Code (Title19) and State

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Environmental Policy Act (Chapter 16.04) are hereby acknowledged by reference to be utilized in conjunction with this Master Program. The complete municipal code is available for review at Town Hall. Any conflicts between incorporated ordinances and this Master Program are resolved in accordance with the regulation most protective of shoreline ecological functions or most consistent with the provisions of the Shoreline Management Act.

8.2 Boating Facilities

Definition: Boating facilities generally include docks, piers, boat launch ramps (public and private) wet and dry boat storage, related sales and services for pleasure and commercial watercraft.

Table 5: Boating Facilities - Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Boat Launch Ramps	Prohibited	CU	CU	CU
Dry Boat Storage	Prohibited	CU	CU	CU
Docks and Piers	Prohibited	Prohibited/CU*	Prohibited/CU*	Prohibited/CU*
Marinas	Prohibited	Prohibited	Prohibited	Prohibited

CU = Conditional Use/CU* Permitted in conjunction with Hydropower Development only as a conditional use

8.2.1 Policies

- (a) Because boating facilities can have a significant adverse impact on riparian habitat such projects should be reviewed thoroughly before being permitted within the Town's shoreline jurisdiction.
- (b) Boating facilities associated with shoreline public access are preferred over private facilities.
- (c) New commercial boating facilities may be allowed as a conditional use within the Town's shoreline jurisdiction only when designed to accommodate public access and enjoyment of the shoreline location.
- (d) Dry boat storage should not be considered a water-oriented use. Only boat hoists, boat launch ramps, docks and access routes associated with such projects should be considered a water-oriented use.

8.2.2 General Regulations

- (a) Unless otherwise specified below, boating facilities as defined in this section, shall require a shoreline conditional use permit.
- (b) The Town of Concrete shall require the following project information in reviewing boating facilities proposals.
 - (i) A description of existing natural and built shoreline features and uses;
 - (ii) A description of the geohydraulic processes at the site including; accretion/erosion characteristics, flood elevations and surface drainage;

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- (iii) A description of biological resources and habitats in the upland and aquatic environments;
- (iv) An estimate of the area of substrate and/or surface water to be appropriated for the proposed development;
- (v) A description of any shore defense works or shoreline stabilization and flood protection proposed as part of the project; and
- (vi) Other project information determined by the shoreline administrator to be relevant to the protection or shoreline habitat, species and ecological functions.
- (vii) A completed Joint Aquatic Resource Permit Application (JARPA) submitted to the appropriate agencies of expertise and jurisdiction.

8.2.3 Boat Launch Ramps

- (a) Boat Launch Ramps shall locate on stable shorelines where water depths are adequate to eliminate or minimize the need for channel maintenance activities.
- (b) Boat launch ramps may be permitted on accretion shore forms, provided any necessary grading does not adversely effect shoreline ecological functions and accessory facilities are located outside of the designated floodway.
- (c) Where boat launch ramps are permitted, parking and shuttle areas shall not be sited on accretion shoreforms of high value for general shoreline access and recreation. Aesthetic impacts shall be mitigated through appropriate design.
- (d) Boat launch ramps may be permitted on stable non-erosional banks where the need for shore stabilization structures is minimized.
- (e) Ramp structures shall be placed near flush with the foreshore slope to minimize the interruption of geohydraulic processes.
- (f) Public boat launch sites shall have adequate sanitary facilities operated and maintained in compliance with Skagit County Health Department regulations.

8.2.4 Docks and Piers

- (a) Docks and piers are prohibited on the Town of Concrete's shorelines with the exception of docks related to the service and maintenance of hydropower facilities including fish collection activities which are permitted as a conditional use.

8.2.5 Dry Boat Storage

- (a) Dry boat storage shall not be considered a water oriented use and must be consistent with the applicable shoreline/riparian buffer for the shoreline environment designation.
- (b) Only water-dependent dry boat storage components such as boat hoists may be permitted within the Town's shorelines.
- (c) Boat launch ramps associated with dry boat storage shall be consistent with applicable requirements of this section.

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8.2.6 Marinas

- (a) Marinas are prohibited within the Town's shorelines.

8.2.7 Environment Specific Regulations

- (a) Natural Shoreline Environment - Boating facilities are prohibited.
- (b) Aquatic Shoreline Environment – Boat launch ramps and docks associated with hydropower development including fish collection activities are permitted as a conditional use.
- (c) High Intensity Shoreline Environment – Boat hoists associated with a water dependent use, boat launch ramps and docks associated with hydropower development including fish collection activities are permitted as a conditional use.
- (d) Urban conservancy Shoreline Environment - Boat hoists associated with a water dependent use, boat launch ramps and docks associated with hydropower development including fish collection activities may be permitted as a conditional use.

8.3 Clearing and Grading

Definition: Clearing and grading is the activity associated with developing property for commercial, industrial, residential or public use. Clearing involves the removal of vegetation or topsoil. Grading involves the physical alteration of the earth's surface through excavation and or filling.

Table 6: Clearing and Grading - Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Commercial Forestry	CU/FPA	Prohibited	FPA	FPA
Clearing	Prohibited	Prohibited	CU	CU
Grading	Prohibited	Prohibited	SD	SD

CU = Conditional Use/FPA = DNR Forest Practice Application/ SD = Substantial Development

8.3.1 Policies

- (a) Clearing and grading activities should only be allowed in association with an approved Forest Practice Application (FPA) and/or permitted shoreline development.
- (b) Clearing and grading activities should be limited to the minimum necessary to accommodate the shoreline development or a landscape plan developed in conjunction with the shoreline development.
- (c) Clearing and grading should not be permitted within the shoreline/riparian buffer or associated wetland buffer unless supported by a habitat management plan demonstrating that buffer functions will not be degraded.
- (d) Best management practices should be used during clearing and grading to control erosion.

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- (e) For extensive clearing and grading proposals, a plan addressing species removal, revegetation, irrigation, erosion and sedimentation control and other methods of protecting shoreline ecological functions should be required.

8.3.2 General Regulations

- (a) Clearing and grading activities shall only be allowed in association with an approved FPA or permitted shoreline development permit. The provisions of the Forest Practice Act (RCW 76.09) shall control commercial timber harvest activities including harvests on shorelines of statewide significance pursuant to the limitations of RCW 90.58.150. Exceptions to this standard require a shoreline conditional use permit.
- (b) Clearing and grading activities shall be limited to the minimum necessary for the intended development, including any clearing and grading approved as part of a landscape plan. Surfaces cleared during construction activities and not developed must be replanted following construction with native vegetation. Vegetation must be re-established within two years following completion of construction.
- (c) Clearing and grading within the shoreline/riparian or associated wetlands buffer shall comply with the special requirements for those buffers following the general regulations.
- (d) Outside of shoreline/riparian buffers normal pruning and trimming of vegetation for maintenance purposes shall be permitted.
- (e) Clearing invasive non-native vegetation listed on the Skagit County Noxious Weed List is permitted in shoreline locations; provided hand tools are utilized and native vegetation is promptly re-established in disturbed areas.
- (f) All shoreline development activity shall use effective measures to minimize increases in surface water runoff that may result from clearing and grading. The applicant must include in the proposal the methods that will be used to control, treat, and release runoff so that receiving water quality will not be adversely affected. Such measures may include but are not limited to berms, catch basins, or settling ponds, installation and maintenance of oil water separators, grassy swales, interceptor drains, and landscape buffers.
- (g) Stabilization of exposed surfaces susceptible to forces of erosion shall, whenever feasible utilize bioengineering techniques.

8.3.3 Special Provisions for Shoreline/Riparian Buffers

Definition: The shoreline/riparian or associated wetland buffer is a managed area extending from the OHWM landward 200 feet (see Table 3). The managed buffer may be reduced in width through a mitigation proposal developed in conjunction with a Habitat Management Plan and/or a shoreline variance.

8.3.4 Policies

- (a) Shoreline/Riparian Buffers should be managed to preserve their natural character including, to the extent feasible, native vegetation communities.

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- (b) Because all shorelines within the Town's municipal boundaries are designated shorelines of statewide significance, the policies listed under subsection 1.4 of this Master Program should be followed in conjunction with all development proposals including clearing of shoreline vegetation.

8.3.5 General Regulations

- (a) Topping of trees and trimming of vegetation may be permitted in shoreline/riparian or associated wetland buffers provided:
- (i) This provision is not interpreted to allow wholesale clearing of vegetation; and
 - (ii) The Shoreline Administrator determines after consultation with the Washington Department of Fish and Wildlife, that such topping and/or trimming is not detrimental to shoreline ecological functions.
- (b) Clearing within the shoreline/riparian buffer is regulated as follows:
- (i) For water oriented uses, clearing shall be limited to the minimum necessary for the successful utilization of the permitted development or use subject to the additional clearing and grading requirements of this section of the Master Program.
 - (ii) For non-water oriented uses, clearing is permitted for river access provided that it meets the requirements for public access as set forth in this Master Program.
 - (iii) Clearing for landscape purposes may be permitted upon approval of a detailed landscape plan prepared by a qualified professional. The landscape plan may be incorporated into a habitat management plan and shall include:
 - A map depicting the location and extent of existing plant communities
 - A narrative description describing existing soil conditions vegetation strata and accompanying shoreline/riparian functions and values
 - A site plan depicting areas of existing vegetation proposed for clearing, areas to be preserved and proposed landscape plan
 - A description of vegetation proposed to enhance shoreline/riparian habitat functions
 - The plan shall outline criteria for determining successful implementation including maintenance, monitoring and contingency provisions
 - The plan shall include an analysis of existing shoreline/riparian functions and proposed conditions demonstrating no net loss of shoreline ecological functions.
- (c) In all cases where clearing is approved, exposed soils not subject to permitted development shall be revegetated with native plants to prevent erosion.
- (d) In all cases where clearing is followed by revegetation, native plants shall be preferred.

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- (e) The Town may require a performance bond as a condition of permit approval, to ensure compliance with the special provisions for management of the shoreline/riparian buffer.
- (f) Proposals for clearing in shoreline/riparian or associated wetland buffers may also require approval of State and Federal Agencies of jurisdiction.

8.3.6 Environment Specific Regulations

- (a) Natural Shoreline Environment - Commercial forestry may be allowed as a conditional use in the "natural" environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation. Additional clearing and grading activities unless otherwise specified above are prohibited.
- (b) Aquatic Shoreline Environment – Clearing and grading is prohibited.
- (c) High Intensity Shoreline Environment – Vegetation removal is permitted on a limited basis consistent with permitted development and uses in conjunction with an approved habitat management and/or landscape plan.
- (d) Urban Conservancy Shoreline Environment - Vegetation removal is permitted on a limited basis consistent with permitted development and uses in conjunction with an approved habitat management and/or landscape plan.

8.4 Commercial Development

Definition: Commercial development involves a use associated with the Wholesale, retail, service and business trades.

Table 7: Commercial Use - Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Commercial Uses	Prohibited	Prohibited**	SD	CU*

CU* = Conditional Use must be water oriented/SD = Substantial Development/**Except for Water Access Facilities

8.4.1 Policies

- (a) When permitted commercial development should give preference to water dependent, water related and water enjoyment uses. Such uses may include restaurants, hotels and motels that provide public shoreline access.
- (b) Over-water commercial development should be prohibited.
- (c) New commercial development should be encouraged to locate in areas of existing commercial use consistent with zoning designations.
- (d) Commercial development should be required to provide physical or visual access to the shoreline for public enjoyment of shorelines of statewide significance.
- (e) Commercial development should include multiple use components such as open space and recreation.

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- (f) Commercial development should include a landscape plan utilizing native vegetation to enhance undeveloped areas within the shoreline/riparian buffer.

8.4.2 General Regulations

- (a) Over-water construction of commercial facilities is prohibited, provided that boat launch ramps and or other access facilities developed in conjunction with a commercial operation and consistent with the provisions of this Master Program are allowed.
- (b) Alternatives to conventional storm-water treatment, such as the use of pervious materials, shall be considered in order to minimize impacts of runoff and the need for storm water treatment.
- (c) All commercial development within shoreline jurisdiction shall provide for physical and/or visual access to the shoreline. Where on-site public access is appropriate commercial development shall dedicate, improve and provide for maintenance of access facilities.
- (d) All loading and service areas shall be located on the landward side of commercial development.
- (e) Commercial development shall be designed and maintained in a neat and orderly manner consistent with the character and features of the surrounding shoreline area.
- (f) All commercial development within shoreline jurisdiction shall demonstrate no net loss of shoreline ecological functions through development approval and implementation of a shoreline/riparian habitat management plan.

8.4.3 Environment Specific Regulations

- (a) Natural Shoreline Environment – Commercial development is prohibited.
- (b) Aquatic Shoreline Environment – Boat launch ramps associated with water oriented commercial development are permitted as a conditional use subject to the general regulations.
- (c) High Intensity Shoreline Environment – Commercial developments allowed under Title 19 (Zoning Code) are permitted subject to the general regulations.
- (d) Urban Conservancy Shoreline Environment – Water oriented commercial development may be allowed consistent with Title 19 as a Conditional Use. Non-water oriented commercial development is prohibited.

8.5 Dredging and Disposal of Dredged Spoils

Definitions: Dredging is the removal or displacement of earth such as gravel, sand, mud or silt from lands covered by water. Lands covered by water include stream and lakebeds and wetlands. Dredging is generally done for specific purposes or uses such as maintaining navigation channels, constructing bridge footings or laying pipe and cable.

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Dredge spoil is the material removed by dredging. Dredge spoil disposal is the depositing of dredged material on land or into water bodies for the purposes of creating uplands or disposal of the material in an acceptable manner.

Table 8: Dredge & Dredge Disposal - Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Dredging	Prohibited/CU	CU/E	N/A	N/A
Dredge Disposal	Prohibited/CU/E	Prohibited/UE/E	CU	CU

CU = Conditional Use/E =Exempt/ NA = Not applicable

8.5.1 Policies

- (a) Dredging waterward of the OHWM for the purpose of obtaining fill material is prohibited except when associated with a restoration project.
- (b) Dredging operations should be planned and conducted to minimize interference with navigation; avoid creating adverse impacts on existing shoreline uses and properties and avoid adverse impacts on fish and wildlife species and habitat.
- (c) Dredge spoil disposal in water bodies should be prohibited except for habitat enhancement projects reviewed and approved by appropriate resource agencies. Such projects may be exempt from the Substantial Development Permit permit requirement pursuant to RCW 77.55.
- (d) Dredge spoil disposal on land should be limited to areas where significant adverse environmental impacts are avoided.

8.5.2 General Regulations

- (a) Applications for shoreline dredging and dredge spoil disposal shall provide, at a minimum, the following information:
 - (i) Source of material site and analysis of physical, chemical and biological character of material to be dredged, including material composition, particle size and organic content.
 - (ii) Dredging technique including dredge method and affect of dredging on bedlands adjacent to dredge site, schedule, and hours of operation.
 - (iii) Assessment of impacts on water quality and fish and wildlife species and habitats.
 - (iv) Method of dredge spoil disposal including location of disposal site, size, capacity and physical characteristics of the disposal area.
 - (v) Transportation method, haul route, schedule and hours of operation.
- (b) Dredging and dredge spoil disposal shall be permitted only where it is demonstrated that proposed actions will not result in significant adverse impacts to water quality, fish and wildlife, natural drainage patterns, currents, river flows and flooding.

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- (c) Dredging and dredge spoil disposal shall not occur in wetlands, unless specifically permitted by this Master Program and authorized by appropriate federal and state resource agencies.
- (d) Dredging within the floodway shall only be approved for the following developments and uses:
 - (i) For navigational purposes;
 - (ii) In conjunction with a water dependent use;
 - (iii) As a part of an agency approved habitat enhancement project;
 - (iv) To improve flood control, water flow or water quality;
 - (v) In conjunction with a permitted bridge, utility, navigational structure or instream structure for which there is a documented public need and where other feasible sites or routes do not exist.
- (e) When permitted, dredging shall be the minimum necessary to accommodate the proposed use or development.
- (f) Dredging shall utilize techniques that minimize dispersal and broadcast of dredged materials; hydraulic dredging shall be utilized in preference to mechanical dredging.
- (g) Dredged spoils may be disposed at approved locations within shoreline jurisdiction, and must be consistent with the applicable provisions of this Master Program. Upland sites may be addressed under the grading provisions while disposal in associated wetlands shall require review under the “landfill” provisions.
- (h) Depositing dredge spoils within water and/or shoreline/riparian buffers shall be allowed only through issuance of a conditional use permit or exemption pursuant to RCW 77.55 for the following uses:
 - (i) Fish and wildlife enhancement projects;
 - (ii) To correct sediment distribution adversely affecting fish resources; or
- (i) If suitable alternatives for land disposal are not available or are infeasible, aquatic disposal sites shall be identified consistent with the following criteria:
 - (i) Disposal will not interfere with geohydraulic processes;
 - (ii) The dredge spoil has been analyzed by a qualified professional and found to be non-polluting;
 - (iii) Aquatic life will not be adversely affected; andThe site and method of disposal meets all requirements of appropriate regulatory agencies.

8.5.3 Environment Specific Regulations

- (a) Natural Shoreline Environment – Dredging and dredge spoil disposal is prohibited except for authorized habitat enhancement projects which are permitted as a conditional use or an exemption pursuant to RCW 77.55.

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- (b) Aquatic Shoreline Environment - Dredging may be permitted consistent with the general regulations as a conditional use or an exemption pursuant to RCW 77.55. Dredging for the purpose of obtaining fill material is prohibited except when associated with restoration through a conditional use permit.
- (c) High Intensity Shoreline Environment – Dredge disposal may be permitted consistent with the general regulations as a conditional use. Authorized habitat enhancement projects may be exempt pursuant to RCW 77.55.
- (d) Urban Conservancy Shoreline Environment - Dredge disposal may be permitted consistent with the general regulations as a conditional use. Authorized habitat enhancement projects may be exempt pursuant to RCW 77.55.

8.6 Instream Structures

Definition: Instream structures provide for the impoundment, diversion, or use of water for hydroelectric power generation, flood control, irrigation and water supply. Instream structures can also function for recreational purposes or fisheries enhancement and for the discharge of effluent. This section applies to construction, operation and maintenance as well as the expansion of existing structures and instream facilities.

Table 9: Instream Structures - Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Instream Structures	N/A	CU/E	N/A	N/A

CU = Conditional Use/ NA = Not applicable/E = Exemption

8.6.1 Policies

- (a) Application for instream structures should clearly document the suitability of the proposed site and demonstrate consideration of alternative locations for the specific type of development.
- (b) Site analysis should include thorough consideration of the environmental effects of the proposed facility compared with alternative locations.
- (c) All instream structures should be designed to permit the natural transport of bed load materials and maintenance of shoreline ecological functions.
- (d) Instream structures and support facilities should be designed to minimize removal of riparian vegetation and the need for shore defense structures.
- (e) If feasible all nonwater-oriented facilities associated with instream structures such as staging and storage areas, utility transmission lines and power houses should be located outside of shoreline jurisdiction.
- (f) Mitigation should be required for loss of fish and wildlife resources and wetland impacts. No net loss of critical area function, value or acreage should occur without appropriate mitigation.
- (g) When required mitigation should be properly planned, monitored and maintained to ensure effectiveness.
- (h) When possible instream structures should be designed and constructed to provide public access to and along the adjacent shoreline in accordance with the public

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access policies and regulations contained in this Master Program. Existing public access and recreational facilities should be retained, enhanced, or replaced.

8.6.2 General Regulations

- (a) All permit applications should include the following elements:
 - (i) A site suitability analysis that provides sufficient justification for the proposed location of the structure. The analysis must include a thorough assessment of alternative site locations.
 - (ii) The purpose(s) need, location and design of the proposed instream structure, access structures and access/service roads.
 - (iii) Public access element to and along the affected shoreline and proposed recreational features at the site where appropriate.
 - (iv) A hydraulic analysis prepared by a licensed professional engineer which describes the project's effects on floodway hydraulics, including potential increases in base flood elevation, changes in stream velocity, and the potential for re-direction of the flow of the affected river.
 - (v) Biological resource inventory and analysis prepared by a qualified professional that describes the project's effects on fish and wildlife resources and provides recommendations for the protection of water quality, and preservation of fish and wildlife resources during the construction phase and maintenance of shoreline ecological functions over the long term.
 - (vi) Long term management plan that describes in detail management and maintenance of the facility during the operational life of the project.
- (b) Instream structures shall be located, designed and constructed in a manner that avoids extensive topographical alteration.
- (c) In stream structures that divert water should return flow to the river in as short a distance as possible.
- (d) All instream structures shall be designed to permit the natural transport of bed load materials and provide for the maintenance of shoreline ecological functions.
- (e) Powerhouses associated with hydroelectric facilities shall be located a minimum of 50 feet from the FEMA designated floodway.

8.6.3 Environment Specific Designations

Aquatic Environment Designation – Instream structures may be permitted as a conditional use or as an exemption for authorized habitat enhancement projects pursuant to RCW 77.55.

8.7 Landfill/Fill

Definition: Landfill/Fill is the placement of soil, rock, sediment or other material (excluding solid waste) to create new land along the shoreline below the OHWM or on wetlands or shorelands in order to raise the elevation.

Table 10: Landfills - Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Landfills	CU	CU	CU	CU

CU = Conditional Use/ NA = Not applicable

8.7.1 Policies

- (a) Landfills within the floodway should be discouraged and allowed only when necessary to facilitate water dependent uses consistent with this Master Program for river crossings and projects beneficial to shoreline ecological functions.
- (b) The perimeter of landfills should be designed to avoid or eliminate erosion and sedimentation during both landfill activity and over the long term.
- (c) Where permitted, landfills should be the minimum necessary to provide for the proposed use and should be permitted only when tied to a specific development proposal that is permitted under the Master Program. Speculative landfills should be prohibited.
- (d) Mitigation for wetland impacts must be implemented pursuant to the policies and regulations contained in the Master Program and Critical Areas Regulations.

8.7.2 General Regulations

- (a) Application for landfills shall include the following:
 - (i) Proposed use of the landfill area;
 - (ii) Source of the landfill material
 - (iii) Physical, chemical and biological characteristics of the fill material;
 - (iii) Location of landfill relative to existing or natural drainage patterns;
 - (iv) Location of the landfill perimeter relative to the floodway;
 - (v) Proposed perimeter erosion and sedimentation controls;
 - (vi) Types of surfacing and runoff control devices; and
 - (vii) Location of wetlands based on a current delineation verified by agencies of jurisdiction, or other critical areas.
- (b) Landfills within the FEMA designated floodway shall only be permitted as a conditional use in conjunction with the following activities:
 - (i) A shoreline dependent permitted use under this Master Program.

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- (ii) A bridge, utility, or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or alternative routes exist; or
 - (iii) As part of an approved fish and wildlife enhancement project or shoreline restoration activity.
 - (iv) Pier or pile supports shall be preferred over landfills. Landfills for road development in floodways or wetlands shall be permitted only if pile or pier supports are proven infeasible.
- (c) Landfills shall be permitted only where it is demonstrated that the proposed action will not result in adverse impacts to fish and wildlife, alter natural drainage patterns or of significantly reduce flood capacities.
 - (d) Where landfills are permitted, the landfill shall be the minimum necessary to accommodate the proposed use.
 - (e) Dredging and dredge material disposal shall be accomplished in a manner that avoids or minimizes adverse impacts to shoreline ecological functions. Impacts which cannot be avoided must be mitigated in a manner that assures no net loss of functions.
 - (f) Dredging waterward of the OHWM for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of shoreline ecological functions.
 - (g) Disposal of dredge material shall be done in accordance with the Washington State DNR Dredge Material Management Program.
 - (h) Landfills shall be designed, constructed and maintained to prevent, minimize, and control all material movement, erosion and sedimentation from the affected area.
 - (i) Fill materials shall be clean sand, gravel, rock or similar material. Use of polluted dredge spoils and sanitary fill materials is prohibited. The applicant shall provide evidence that the material has been obtained from a clean source prior to placement.
 - (j) Landfills shall be designed to allow surface water penetration into aquifers, if such conditions existed prior to placement of material.

8.7.3 Environment Specific Regulations

- (a) Natural Environment Designation – Landfills are allowed in conjunction with fish and wildlife enhancement projects as a conditional use and may be authorized as an exemption for habitat enhancement projects pursuant to RCW 77.55.
- (b) Aquatic Environment Designation – Landfills are allowed only in conjunction with a permitted shoreline dependent use as a conditional use and may be authorized as an exemption for habitat enhancement projects pursuant to RCW 77.55.
- (c) High Intensity Environment Designation - Landfills are allowed only in conjunction with a permitted shoreline dependent use as a conditional use and may be authorized as an exemption for habitat enhancement projects pursuant to RCW 77.55.

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- (d) Urban Conservancy Environment Designation - Landfills are allowed only in conjunction with a permitted shoreline dependent use as a conditional use and may be authorized as an exemption for habitat enhancement projects pursuant to RCW 77.55.

8.8 Parking

Definition: Parking is the use of land for the purpose of parking motor vehicles, motorized equipment, or accessory units such as trailers. Land used for this purpose is graded level and often covered with an impermeable surface.

Table 11: Parking Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Parking Facilities	CU**	Prohibited	SD	CU

CU = Conditional Use/SD = Substantial Development/** = Parking Facilities are prohibited within 150 feet of the OHWM and allowed as a Conditional Use outside of 150 feet.

8.8.1 Policies

- (a) The utilization of shoreline areas for parking should be minimized.
- (b) Parking within shoreline jurisdiction should only serve a permitted use on the property and should be sensitive to adjacent shorelines and properties.
- (c) Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to storm water runoff, water quality, visual qualities, public access and vegetation and habitat maintenance.
- (d) Landscaping materials should consist of native vegetation supportive of shoreline/riparian ecological functions.
- (e) Parking facilities should not be located in critical areas and their associated buffers.

8.8.2 General Regulations

- (a) Parking facilities proposed for areas within shoreline jurisdiction shall serve only approved shoreline uses.
- (b) Parking facilities proposed for areas within shoreline jurisdiction shall be designed and landscaped to minimize impacts on shoreline ecological functions.
- (c) Parking areas shall not be located in critical areas or their associated buffers as established through an approved habitat management plan.
- (d) Alternatives to conventional stormwater treatment, such as use of pervious materials, shall be utilized in order to minimize runoff.

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8.8.3 Environment Specific Regulations

- (a) Natural Environment Designation – Parking facilities are prohibited within 150 feet of the OHWM and may be permitted as a conditional use landward of 150 feet.
- (b) Aquatic Environment Designation – Over water parking facilities are prohibited.
- (c) High Intensity Environment Designation – Parking facilities proposed in conjunction with permitted uses shall be allowed subject to the general regulations.
- (d) Urban Conservancy Environment Designation - Parking facilities proposed in conjunction with permitted uses shall be allowed as a conditional use.

8.9 Recreational Facilities

Definition – Recreational facilities include public and private elements that provide for passive and active forms of play, sport, relaxation, amusement or contemplation. Recreational facilities may be provided by public entities for hiking, photography, viewing and fishing or more intensive commercial uses such as campgrounds, and golf courses.

Table 12: Recreational Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Recreational Facilities	CU	CU	SD	SD

CU = Conditional Use/SD = Substantial Development

8.9.1 Policies

- (a) Coordination of local, state and federal recreational planning should be encouraged to assure that recreation developments are consistent with all adopted park, recreation and open space plans.
- (b) Shoreline areas appropriate for public access and recreational development should be identified and acquired by lease or purchase for incorporation into the Town’s adopted park, recreation and open space plans.
- (c) The linear linkage of shoreline parks, recreation areas, and public access points such as hiking and bicycle paths fishing and viewing areas should be encouraged.
- (d) Recreational Development should maintain and enhance shoreline/riparian ecological functions.

8.9.2 General Regulations

- (a) Recreational development should be located and designed to preserve, enhance, or create scenic views and vistas.
- (b) All recreational development should provide adequate provisions for:
 - (i) Vehicular and pedestrian access both on and off site.
 - (ii) Proper water, solid waste, and sewage disposal methods.

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- (iii) Security and fire protection for the use itself and for any use-related impacts to adjacent private property.
 - (iv) The prevention of overflow and trespass onto adjacent properties.
 - (v) Buffering of development from adjacent private property or natural areas.
- (c) Fragile or unique areas such as wetlands and accretion shore forms shall be utilized only for non-intensive and nonstructural recreation activities.
 - (d) Recreational facilities shall prevent impacts of overflow through the utilization of native vegetation buffers, fencing and signs.
 - (e) No recreational buildings or structures shall be built waterward of the OHWM except water dependent and/or water enjoyment structures such as bridges, viewing structures or launch ramps. Such uses may be permitted as a conditional use.
 - (f) Proposals for recreational development shall include adequate facilities for water supply, sewage and garbage disposal.
 - (g) Proposals for recreational development shall maintain and improve shoreline/riparian ecological functions. Applications must demonstrate no net loss of ecological functions.

8.9.3 Environment Specific Regulations

- (a) Natural Environment Designation – Low impact, water dependent recreational facilities are allowed pursuant to the policy guidance and general regulations of this section as a conditional use.
- (h) Aquatic Environment Designation - Water dependent and/or water enjoyment structures may be permitted as a conditional use.
- (b) High Intensity Designation - Public and private recreational facilities are allowed pursuant to the policy guidance and general regulations of this section.
- (c) Urban Conservancy Environment Designation - Public and private recreational facilities are allowed pursuant to the policy guidance and general regulations of this section.

8.10 Residential Development

Definition – Residential development refers to one or more buildings, structures, lots, or portions of parcels that are used or intended to be used to provide a dwelling place for human beings. Residential development includes single family residences, duplexes, multi family residences apartments townhouses, mobile home parks, subdivisions, planned unit developments and short subdivisions. Residential development also includes accessory uses and structures such as garages, decks and sheds. Residential development does not include hotels, motels or other types of overnight or transient housing or camping facilities.

Note: A single family residence for use by the owner, lessee or contract purchaser is exempt from the shoreline substantial development permit requirement. It should be noted however, that development must conform to the dimensional standards and other

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provisions of this Master Program, including the variance and conditional use permit requirements.

Table 13: Residential Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Single Family Residential	CU	Prohibited	E	E
Multi Family/Subdivision	Prohibited	Prohibited	SD	SD

CU = Conditional Use/E = Exemption/SD = Substantial Development

8.10.1 Policies

- (a) Residential development and accessory uses should be prohibited over the water.
- (b) New subdivision development should be encouraged to preserve natural features, minimize impacts to shoreline ecological functions and provide for public access to the shoreline.
- (c) New subdivisions should include provisions for joint use shoreline facilities.
- (d) Residential accessory uses and developments should be designed and located to minimize visual impacts to and from the shoreline and should be located landward of the principal residence.
- (e) Residential development should utilize best management practices for stormwater management during the construction phase and operational life of the residential development.

8.10.2 General Regulations

- (a) Residential development is prohibited waterward of the OHWM. Residential development within the shoreline/riparian buffer or associated wetland buffer may be reduced through authorization of a habitat management plan and/or a shoreline variance.
- (b) Residential development shall not be approved if analysis indicates that flood control or shoreline protection measures are necessary to create a residential lot or building site. Residential development shall be designed and located to avoid the need for shore defense and flood protection.
- (c) Drainage systems associated with residential development shall include provisions to prevent the direct entry of uncontrolled and untreated surface water runoff into receiving waters.
- (d) Subdivisions of five (5) or more shoreline lots shall dedicate, improve and include maintenance provisions for a pedestrian easement that provides a sufficient area of shoreline access for all residents of the development.

8.10.3 Environment Specific Regulations

- (a) Natural Environment Designation – A single family residence is permitted on each lot of record through issuance of a conditional use permit and compliance with the dimensional standards outlined in Chapter 7 under Tables 3 and 4.
- (b) Aquatic Environment Designation – Residential development is prohibited.

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- (c) High Intensity Environment Designation - Residential development is permitted subject to the provisions of this Master Program and the dimensional standards outlined in Chapter 7 under Tables 3 and 4.
- (d) Urban Conservancy Environment Designation - Residential development is permitted subject to the provisions of this Master Program and the dimensional standards outlined in Chapter 7 under Tables 3 and 4.

8.11 Shore Defense Works: Bulkheads/Rock Armor

Definition – Bulkheads are walls usually constructed parallel to the shore whose primary purpose is to contain and prevent the loss of soil by erosion, wave or current action. Bulkheads are used to protect river banks by retaining soil at the toe of slope or by protecting the toe of the bank from erosion and undercutting. While bulkheads are typically constructed of poured in place concrete, steel or aluminum sheet piling or wood piles and timber, rock armor or rip rap placed along the river bank is also considered a bulkhead for the purposes of this Master Program.

Note: The Shoreline Management Act only exempts the construction of a normal protective bulkhead common to an existing single family residence from the shoreline Substantial Development Permit requirement. Bulkhead proposals are required to comply with all the policies, regulations and development standards of this Master Program.

Table 14: Shore Defense Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Shore Defense	Prohibited	Prohibited	E/CU	E/CU

CU = Conditional Use/E = Exemption/SD = Substantial Development

8.11.1 Policies

- (a) Soft shore defense works of natural materials and methods such as protective berms, beach enhancement, or vegetative stabilization are preferred over structural materials such as steel, wood, concrete or rock. Proposals for bulkheads should demonstrate that natural materials and methods are infeasible.
- (b) Bulkheads should be located, designed and constructed to prevent damage to an existing primary structure. New developments that require bulkheads should be discouraged.
- (c) The cumulative effect of authorizing bulkheads along river segments should be evaluated. If it is determined that the cumulative effect on the shoreline has an adverse impact on shoreline ecological functions, then exemptions and permits should not be authorized.
- (d) Bulkheads should not be approved as a response to geophysical problems such as mass slope failure, sloughing or landslides. Bulkheads should only be approved for the purpose of preventing bank erosion by a river.

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8.11.2 General Regulations

- (a) Bulkheads may be authorized only when evidence is presented by a qualified professional that demonstrates the need for a bulkhead including estimated rate of erosion and evaluation of alternative solutions when one of the following conditions exist:
 - (i) River erosion threatens an established use or existing primary structure on upland property.
 - (ii) A bulkhead is necessary for the location and operation of water dependent or water related activities consistent with this Master Program; provided that all other alternative methods of shore protection have been demonstrated to be infeasible.
 - (iii) A bulkhead is necessary to retain a landfill that has been approved consistent with the provisions of this Master Program.
 - (iv) Proposals for bulkheads must demonstrate through appropriate analysis that use of natural materials and processes and non-structural methods of shore protection are infeasible.

- (b) The construction of a bulkhead for the primary purpose of retaining a landfill shall be allowed only in conjunction with:
 - (i) A water dependent use.
 - (ii) A bridge, launch ramp or navigational structure for which there is a demonstrated public need and where no feasible upland sites, designs or routes exist;
 - (iii) A fish and wildlife enhancement project.

- (c) Bulkheads shall be located landward of the OHWM and parallel to the natural shorelines. In Addition:
 - (i) Where there are no adjacent bulkheads, the proposed bulkhead shall be as close to the eroding bank as possible.
 - (ii) A bulkhead for a permitted landfill shall be located at the toe of fill.

- (d) Materials used in bulkhead construction shall meet the following standards:
 - (i) Bulkhead proposals shall demonstrate that soft shore protection techniques have been considered prior to utilization of stable, non-eroding homogeneous materials such as rock.
 - (ii) Shoreline soils and gravels shall not be utilized for backfill landward of the bulkhead structure. Only clean material from a permitted offsite location may be utilized.

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- (e) Bulkheads shall not be located on shorelines where valuable geo-hydraulic or biological processes are sensitive to interference. Examples of such areas include wetlands, fish and wildlife habitat and accretion landforms.
- (f) All proposed bulkheads will be sited and designed consistent with appropriate engineering standards including geotechnical analysis and consideration of methods consistent with the WDFW's Integrated Streambank Protection Standards.
- (g) Bulkheads required in conjunction with public access sites shall include provisions for safe access to the shoreline and/or aquatic area.
- (h) Bulkheads shall be designed for the minimum dimensions necessary to protect the permitted development.
- (i) New development and the creation of new lots shall not be allowed if structural shoreline stabilization would result over the life of the proposed development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecologic function will result.

8.11.3 Environment Specific Regulations

- (a) Natural Environment Designation – Shore defense works are prohibited.
- (b) Aquatic Environment Designation – Shore defense works proposed for locations waterward of the OHWM are prohibited
- (c) High Intensity Environment Designation – Shore defense works proposed in conjunction with existing industrial, commercial and residential development are permitted as a conditional use.
- (d) Urban Conservancy Environment Designation – Shore Defense works are permitted as a conditional use.

8.12 Signs

Definition - "Sign," means any visual presentation or representation whatsoever which is displayed outside in view of the general public so as to bring attention to the subject thereof. This definition specifically includes billboards, ground-mounted signs, free-standing signs, wall signs, roof signs, logo signs, and signs on marquees, awnings, canopies and furniture. Specifically excluded are house numbers; the flag, badge or insignia of any government or government agency and any authorized traffic control sign. Each display surface of the sign shall be considered to be a sign.

Table 15: Sign Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Signs	E/SD	E/SD	E/SD	E/SD

E = Exemption/SD = Substantial Development

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8.12.1 Policies

- (a) Signs should be designed and placed so that they are compatible with the natural quality of the shoreline environment and adjacent land and water uses.

8.12.2 General Regulations

- (a) Signs should only be allowed in, or over water for navigation, highway or railway crossing as necessary for operation, safety and direction; or related and necessary as a water dependent use.
- (b) The following types of signs are permitted in all upland shoreline environments provided that they are compliant with the Town's sign regulations.
 - (i) Navigational signs, highway, and railroad signs necessary for operation, safety and direction.
 - (ii) Public information signs directly relating to a permitted shoreline use or activity.
 - (iii) Off premise freestanding signs for community identification, information or directional purposes.
 - (iv) Historic sites and markers and institutional flags for temporary decorations customary for holidays or special events of a public nature.
 - (v) United States and Washington State Flags
 - (vi) Temporary directional signs to public or quasi-public events, provided that these signs are removed within fourteen (14) days following the event.
 - (vii) Signs identifying developments approved in compliance with the provisions of this Master Program.
- (c) The following types of signs are prohibited in all shoreline environments:
 - (i) Signs that impair shoreline visual access from public view corridors
 - (ii) Signs placed on trees and/or other natural features
 - (iii) Roof mounted signs.
- (d) Temporary or obsolete signs shall be removed within 10 days of elections, closures of businesses, or termination of any other function. Examples of temporary signs include real estate signs, directions to events, political advertisements, event or holiday signs.
- (e) Signs that are not compliant with the policies and regulations of this Master Program shall be considered nonconforming signs and regulated consistent with the Town's sign regulations.
- (f) Permanent signs shall be constructed of durable weather resistant materials.
- (g) Billboard and other off premises signs shall be regulated consistent with the Town's sign regulations.
- (h) All public and private enterprises, development and services located in shoreline areas shall have no more than two (2) on-premise signs or advertising devices.

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- (i) Spinners, streamers, pennants, flashing lights and other animated signs used for commercial purposes shall be prohibited.

8.12.3 Environment Specific Regulations

- (a) Natural Environment Designation – Signs are permitted subject to the general regulations.
- (b) Aquatic Environment Designation – Signs are permitted subject to the 12.2 General Regulations (a).
- (c) High Intensity Environment Designation – Signs are permitted subject to the general regulations.
- (d) Urban Conservancy Environment Designation - Signs are permitted subject to the general regulations.

8.13 Stormwater Management Facilities

Definition – Stormwater management facilities are utilities that retain, detain, treat and convey stormwater runoff.

Table 16: Stormwater Management Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Stormwater Management	SD	Prohibited	SD	SD

SD = Substantial Development

8.13.1 Policies

- (a) Stormwater conveyance facilities should utilize existing transportation and utility sites, right-of-ways and corridors whenever possible. Joint use of right-of-ways and corridors should be encouraged.
- (b) New stormwater facilities should be prohibited within critical areas and their associated buffers unless accompanied by and approved shoreline/riparian habitat management plan.
- (c) New stormwater facilities should be located so as not to require shoreline protection works.
- (d) Low impact development techniques that allow for a greater amount of stormwater to infiltrate should be encouraged to reduce stormwater runoff.

8.13.2 General Regulations

- (a) Applications for installation of stormwater management facilities shall be prepared by a qualified professional and include the following elements:
 - (i) Description of the proposed facility;
 - (ii) Rationale for siting the facility within a shoreline area;
 - (iii) Alternative locations considered and reasons why they were not utilized;

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- (iv) Locations of other stormwater facilities in the vicinity of the proposal and description of any plans to consolidate area wide facilities;
 - (v) Plans for reclamation of any areas disturbed during construction;
 - (vi) Development of a erosion and sedimentation control measures during the construction and operation of the facility; and
 - (vii) Mitigation and monitoring plan to assure proper functioning throughout the operational life of the facility.
- (b) New stormwater facilities shall be located so that they do not require shoreline protection works.
 - (c) New stormwater facilities shall not be located within critical areas and their associated buffers unless accompanied by a habitat management plan which demonstrates that alternative locations are infeasible and that facilities are limited to dispersion outfalls and bioswales located in the outer 25% of Category III and IV wetlands and that no net loss of riparian/shoreline ecological functions will occur. Stormwater management facilities are not allowed in buffers of Category I and II wetlands.
 - (d) Development of stormwater facilities shall include public access to shoreline trail systems and other forms of recreation provided that such uses will not interfere with the operation of the stormwater facility, endanger public health or safety or create a significant liability for the property owner.
 - (e) Construction of stormwater facilities in shoreline areas shall be timed to avoid impacts to fish and wildlife migratory and spawning periods.

8.13.3 Environment Specific Regulations

- (a) Natural Environment Designation – Stormwater facilities are allowed when accompanying a permitted development subject to the provisions of this Master Program.
- (b) Aquatic Environment Designation – Stormwater facilities are prohibited.
- (c) High Intensity Environment Designation – Stormwater facilities are permitted subject to the general regulations.
- (d) Urban Conservancy Environment Designation - Stormwater facilities are permitted subject to the general regulations.

8.14 Transportation Facilities

Definition – Transportation facilities are those structures and developments that aid in land and water surface movement of people, good and services. They include roads, highways, bridges, bikeways, trails and railroad facilities.

Table 17: Transportation Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Transportation Facilities	SD	Prohibited	SD	SD
Bridge Piers and Abutments	SD	CU	SD	SD

SD = Substantial Development/ CU = Conditional Use

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8.14.1 Policies

- (a) New non-recreational transportation facilities within shoreline jurisdiction should be minimized.
- (b) When allowed in shoreline areas roads should be compatible with the character of the shoreline so that alteration of the shoreline environment is minimized.
- (c) Pedestrian trails should be encouraged along the shoreline of Lake Shannon, the Baker River and the Skagit River.
- (d) When existing transportation corridors are abandoned they should be utilized for water dependent uses and/or shoreline access.

8.14.2 General Regulations

- (a) Transportation facilities shall utilize existing corridors wherever possible, provided the shoreline that shoreline ecological functions are not impacted and the development is otherwise consistent with this Master Program.
- (b) Transportation facilities shall be required to make joint use of right-of-ways and to consolidate river crossings.
- (c) Landfills for transportation facility development are prohibited in water bodies and wetlands and on accretion beaches except when all alternatives have been demonstrated to be infeasible and the facilities are necessary to support uses consistent with this Master Program.
- (d) New transportation facilities shall be located and designed to avoid or minimize the need for shoreline modifications.
- (e) Bridge piers, abutments and necessary approach fills shall be located landward of the floodway except bridge piers and abutments may be permitted in the water body as a conditional use.

8.14.3 Environment Specific Regulations

- (e) Natural Environment Designation – Transportation facilities are allowed when accompanying a permitted development subject to the provisions of this Master Program.
- (f) Aquatic Environment Designation – Transportation facilities are prohibited except for bridge piers and abutments which are permitted as a conditional use.
- (g) High Intensity Environment Designation – Transportation facilities are permitted subject to the provisions of this Master Program.
- (h) Urban Conservancy Environment Designation - Transportation facilities are permitted subject to the provisions of this Master Program.

8.15 Utilities

Definition – Utilities are services and developments that produce, transmit, carry, store, process, or dispose of electric power, oil, gas, water, sewage and communication facilities. Primary utilities include hydroelectric generation development, substations,

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pump station, treatment plants, sanitary sewer outfalls, electrical transmission lines greater than 5,000 volts, water sewer or storm drainage mains greater than 8 inches in diameter, gas and petroleum transmission lines and submarine communications cables. Accessory utilities supporting an associated shoreline use are considered part of the primary use.

Table 18: Utility Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Utilities (except hydropower)	CU	Prohibited	SD	SD
Hydropower	CU	CU	CU	CU
Utility River Crossings	N/A	CU	N/A	N/A
Solid Waste Treatment	Prohibited	Prohibited	Prohibited	Prohibited

SD = Substantial Development/CU = Conditional Use/N/A = Not Applicable

8.15.1 Policies

- (a) Utilities should utilize existing transportation and utility right-of ways and corridors whenever possible. Joint use of right-of ways and corridors should be encouraged.
- (b) To the extent possible utility development should be sited outside of shoreline jurisdiction.
- (c) Hydropower development proposals should be consistent with all federal state and local planning functions and efforts including comprehensive plans.
- (d) Authorization of operation and maintenance activities associated with existing hydropower facilities should consider information generated and authorizations provided through the Federal Energy Regulatory Commission (FERC) licensing process.
- (e) Unless no other feasible alternative exists, utilities should be prohibited within wetlands, fish and wildlife habitat and other critical areas.
- (f) New utility facilities should be located in a manner that does not require extensive shoreline protection works.
- (g) Whenever possible, utilities should be placed underground or alongside or under bridges.
- (h) Solid waste disposal activities and facilities should be prohibited within shoreline jurisdiction.
- (i) Utility development should be designed and developed to maintain, enhance and prevent a net loss of shoreline ecological functions.

8.15.2 General Regulations

- (a) Solid waste disposal and treatment facilities and utility accessory uses and administrative structures (except those related to existing hydropower development) are prohibited within shoreline jurisdiction.
- (b) Utility development including power lines, cables and pipelines shall be located outside of shoreline jurisdiction where feasible. If such facilities must be located

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- within a shoreline area, no net loss of shoreline ecological functions must be demonstrated.
- (c) When applicable the Town shall utilize existing environmental and technical information required by the FERC to satisfy shoreline permit application requirements for hydroelectric proposals.
 - (d) Applications for utility projects shall include, but are not limited to, the following:
 - (i) Description of the proposed utility project.
 - (ii) Reasons why the proposed facility requires a shoreline location.
 - (iii) Alternative locations considered and the reasons for their elimination.
 - (iv) Location and potential for consolidation of other utility facilities in the vicinity.
 - (v) Plans for erosion and sedimentation control during the construction phase.
 - (vi) Plans for reclamation of areas disturbed during construction and operation.
 - (e) Utility development shall, through coordination with local government agencies provide for compatible, multiple use of sites, corridors and rights-of-way.
 - (f) Utility development shall include public access to designated shoreline trail systems and other forms of shoreline recreation, provided such uses will not unduly interfere with utility operation, endanger the public health, safety and welfare or create a significant liability for the property owner.
 - (g) Proposals of new utility corridors or river crossings shall substantiate the infeasibility of existing corridor routes.
 - (h) Existing solid waste disposal and transfer facilities within shoreline jurisdiction shall be phased out and reclaimed.
 - (i) The following primary utility facilities which are not water dependent may be permitted as a conditional use if it can be demonstrated that no reasonable alternative exists.
 - (i) Water system treatment plants.
 - (ii) Sewage system lines, interceptors and pump stations.
 - (iii) Electrical energy generating plants except for instream structure, substations lines and cables.
 - (iv) Petroleum and gas pipelines.
 - (j) New solid waste disposal sites and facilities are prohibited.
 - (k) New utility lines including electricity, communications and fuel lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible. Existing above ground lines shall be moved underground during replacement processes.
 - (l) Utilities including transmission and distribution facilities shall utilize the most direct crossings of shoreline areas unless such crossings would compromise shoreline ecological functions.
 - (m) Utility development shall be located and designed to avoid the need for structural or artificial shore defense works.

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- (n) Water lines shall be completely buried under the riverbed in all river crossings except where such lines may be affixed to a bridge structure and except for appropriate water or sewage treatment plants intake pipes or outfalls.
- (o) Construction of utilities underwater or in adjacent wetlands shall be timed to avoid fish and wildlife migration and spawning periods.
- (p) All new utility development shall prevent a net loss of shoreline/riparian ecological functions.

8.15.3 Environment Specific Regulations

- (a) Natural Environment Designation – Utility facilities demonstrating a need for shoreline locations are permitted as a conditional use subject to the general regulations.
- (b) Aquatic Environment Designation – Utility facilities demonstrating a need to cross aquatic areas are permitted as a conditional use subject to the general regulations.
- (c) High Intensity Environment Designation – Utility facilities are permitted subject to the general regulations.
- (d) Urban Conservancy Environment Designation - Utility facilities are permitted subject to the general regulations.

8.16 Mining

Definition – Mining is the removal of naturally occurring metallic and nonmetallic minerals and other related materials from, on and beneath the earth’s surface. Normally, such removal is for commercial and construction purposes. Mining in general includes deep pit, open pit or surface mining, quarrying, and placer or hydraulic mining.

Surface or open pit mining involves either the removal of surface material (overburden) to enable the underlying mineral resources to be exposed and extracted (quarried) or the direct extraction of naturally occurring surface minerals such as rock, sand, gravel and aggregate. Removal of gravel from river bars is also considered surface mining activity.

Table 19: Mining Use Matrix by Shoreline Environment Designation

Shoreline Use	Natural	Aquatic	High Intensity	Urban Conservancy
Recreational Mining	E	E	E/SD	E/SD
Mining of Sand and Gravel Bars	Prohibited	Prohibited	Prohibited	Prohibited
Placer and Hydraulic Mining	Prohibited	Prohibited	Prohibited	Prohibited
All Other Commercial Mining	Prohibited	Prohibited	CU	CU

E = Exemption/SD = Substantial Development/CU = Conditional Use

8.16.1 Policies

- (a) Recognizing that minerals, especially sand, gravel and quarry rocks are in demand yet relatively limited in quality and quantity and that shorelines are also a valuable and limited resource where mining has irreversible impacts, mining

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- activities, therefore, should be encouraged to be located outside of shoreline management jurisdiction.
- (b) Placer or hydraulic mining activities should be prohibited within shoreline management jurisdiction.
 - (c) Mining activities should not substantially interfere or disrupt normal geohydraulic processes, channel form and alignment, migration and meander patterns.
 - (d) Mining activities should take all appropriate measures to avoid impacts to resident and anadromous fisheries.
 - (e) Mining operations and practices within shoreline jurisdiction should take appropriate measures to protect water bodies from sedimentation and siltation, chemical and petrochemical use and spillage, and storage or disposal of mine wastes and spoils.
 - (f) All equipment works and structures of mining operations should be able to withstand flooding without becoming hazards in themselves and without the placement of structural shore defense works.
 - (g) Mining operations should take appropriate measures or controls to avoid or minimize hazardous conditions, use conflicts and impacts to other shoreline and water users.
 - (h) Reclamation plans should ensure compatibility between the proposed site reclamation and land use and shoreline designations.

8.16.2 General Regulations

- (a) Recreational mining consistent with the requirements of the Washington State Department of Fish and Wildlife's Gold and Fish Pamphlet including any applicable timing restrictions, is allowed subject to the shoreline exemption or shoreline substantial development permit requirements.
- (b) The mining or scalping of sand and gravel from river and lake bars for commercial purposes is prohibited.
- (c) All equipment works and structures of mining operations should be able to withstand flooding without becoming hazards in themselves and without the placement of permanent structural shore defense works.
- (d) Placer or hydraulic mining activities are prohibited within the Town's area of shoreline management jurisdiction.
- (e) Proposals for all forms of commercial mining shall require a conditional use permit.
- (f) Mining operations in existence prior to the final adoption of this Master Program are exempt from the provisions of this chapter unless operations are expanded or significantly modified as determined by the administrator.
- (g) Proposals for all forms of mining shall provide the following information:
 - (i) Materials to be mined
 - (ii) Quantity of materials to be mined, by type
 - (iii) Quality of material to be mined, by type, for certain materials a qualified geologist's evaluation may be required.
 - (iv) Mining technique and equipment to be utilized.

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- (v) Depth of overburden.
- (vi) Total mineral deposit; lateral extent and depth.
- (vii) Proposed depth of mining.
- (viii) Cross section diagrams indicating existing and proposed elevations and/or extraction levels.
- (ix) Existing drainage patterns seasonal or continuous and proposed alteration of existing conditions.
- (x) Proposed means of controlling/handling surface runoff and preventing or minimizing erosion and sedimentation.
- (xi) Subsurface water resources, aquifer recharge areas; origin depth and extent.
- (xii) Quality analysis of overburden, excavation material and tailing with plans for storage, usage, or disposition.
- (xiii) Mining plan and scheduling, including seasonal, phasing and daily operation schedules.
- (xiv) Reclamation plan that meets Washington State Department of Natural Resource requirements and the standards of this Master Program.
- (xv) Screening, buffer and/or fencing plan.

8.16.3 Environment Specific Regulations

- (a) Natural Environment Designation – Mining activities are prohibited with the exception of non structural recreational mining conducted consistent with the Washington State Department of Fish and Wildlife’s Gold and Fish Pamphlet including any applicable timing restrictions.
- (b) Aquatic Environment Designation – Mining activities are prohibited with the exception of non structural recreational mining conducted consistent with the Washington State Department of Fish and Wildlife’s Gold and Fish Pamphlet including any applicable timing restrictions.
- (c) High Intensity Environment Designation – Mining activities are permitted as a conditional use subject to the general regulations.
- (d) Urban Conservancy Environment Designation - Mining activities are permitted as a conditional use subject to the general regulations.

8.17 Historic and Archaeological Resources

Definition – Historic and archaeological resources are resources that are either recorded at the state historic preservation office and/or local jurisdictions or have been inadvertently uncovered. Archaeological sites both within and outside shoreline jurisdiction are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites and records) and development or uses that may impact such sites shall comply with WAC 25-48 as well as the provisions of this master program.

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8.17.1 Policies

- (a) Due to the limited and irreplaceable nature of historic and archaeological resources destruction or damage to any site having historic, cultural, scientific or educational value should be avoided. Such resources are identified by the appropriate authorities including affected Indian tribes and the Office of Archaeology and Historic Preservation.

8.17.2 General Regulations

- (a) Applicants for proposals within any shoreline environment designation shall immediately stop work and notify the Administrator, Office of Archaeology and Historic Preservation and affected Indian tribes if archaeological resources are discovered during site work.
- (b) Permits issued by the Town in areas documented to contain archaeological resources shall require a site inspection by a professional archaeologist prior to initiating site disturbing activities. This provision shall apply within any shoreline environment designation.

8.18 Unclassified Uses and Development

Definition – Unclassified uses and developments are uses or developments which are not specifically identified under Chapter 8 of this Master Program.

8.18.1 Policy - It is the policy of the Town to review proposals for unclassified uses and developments as conditional uses subject to the criteria listed under Chapter 9 of this Master Program.

8.19 Nonconforming Developments and Uses

Definition - Nonconforming development is a shoreline use or structure which was lawfully established or constructed prior to the effective date of the Shoreline Management Act or this Master Program, or amendments thereto, but which does not conform to present regulations or standards of the Master Program. Nonconforming developments and uses will be considered in accordance with the following policies and the guidance contained under Chapter 19.66 of the Town of Concrete Municipal Code.

8.19.1 Policies

- (a) Nonconforming development may be continued provided that it is not enlarged or expanded and said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where development would not be allowed for new developments or uses.

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- (b) A nonconforming development or use which is moved any distance must be brought into conformance with this Master Program and the Shoreline Management Act.
- (c) If a nonconforming use is discontinued for twelve (12) consecutive months any subsequent use shall be conforming.
- (d) If a nonconforming use is discontinued and changed to a conforming use, any future use or structure shall be in conformity to the regulations of the shoreline area designation in which the site is located.
- (e) There may be a change of tenancy, ownership or management of any legally established and continued nonconforming use, provided there is no change in the nature character or occupancy classification of such nonconforming use except as authorized within this Master Program and Chapter 19.667.
- (f) When a legally established nonconforming building or structure that does not comply with the provisions of this Master Program is damaged to an extent that does not exceed 75% of the existing assessed value of the building or structure for tax purposes, said building or structure may be restored or repaired, providing:
 - Reconstruction is started within nine months and is completed within eighteen (18) months from the date of damage.
 - After such repair has been completed, the building can be repaired or altered in the future only if its use and the damaged portions conform to all provisions of this Master Program

9

Administrative Procedures

9.1 General Provisions

There is hereby established an administrative system designed to assign responsibilities for implementation of this Master Program. The system prescribes an orderly process by which to review proposals for permit applications, and to ensure that all persons affected by this Master Program are treated in a fair and equitable manner.

9.1.1 Legal Authority - The Town of Concrete Shoreline Master Program is adopted in accordance with the Shoreline Management Act (Chapter 90.58 RCW) and the Shoreline Guidelines established under the Washington Administrative Code (Chapter 173-26 WAC).

9.1.2 Severability - If any section, subsection or provision of this Master Program or its application to any person or circumstance is held invalid, the remainder of the program or the application of the portion held invalid to other persons or circumstances shall not be affected.

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9.1.3 Effective Date - This Master Program shall become effective fourteen days from the date of final approval by the Department of Ecology, pursuant to RCW 90.58.090.

9.1.4 Court Actions to Ensure Against Conflicting Uses and to Enforce

(1) As provided by RCW 90.58.210 and 220, and as expanded in WAC 173-27-260 through 300, the Town of Concrete has the authority to bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the shorelines of the state in conflict with the provision and programs of this chapter, and to otherwise enforce the provisions of this chapter.

(2) Any person who shall fail to conform to the terms of a permit issued under this chapter or who shall undertake development on the shorelines of the state without first obtaining any permit required under this chapter shall also be subject to a civil penalty not to exceed one thousand dollars for each violation. Each permit violation or each day of continued development without a required permit shall constitute a separate violation.

(3) The penalty provided for in this section shall be imposed by a notice in writing, either by certified mail with return receipt requested by the personal service, to the person incurring the same from the department or local government describing the violation with reasonable particularity and ordering the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time.

(4) The person incurring the penalty may appeal within thirty days from the date of receipt of the penalty. The term "date of receipt" has the same meaning as provided in RCW 43.21B.001. Any penalty imposed pursuant to this section by the department shall be subject to review by the shorelines hearings board. Any penalty imposed pursuant to this section by local government shall be subject to review by the local government legislative authority. Any penalty jointly imposed by the department and local government shall be appealed to the shorelines hearing board.

9.2 Administrative Responsibilities

9.2.1 Administrator – The Town Planner, herein identified as the Shoreline Administrator is vested with the overall responsibility for administration of this Master Program including:

- (a) Authority to grant statements of exemption from the shoreline substantial development permit requirement;
- (b) Preparation of staff reports and recommendations regarding permit decisions to the Planning Commission and Town Council;
- (c) Authority to determine compliance with RCW 43.21C, State Environmental Policy Act.

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- (d) Establishing the procedures and preparing forms deemed essential for the administration of this program.
- (e) Advising interested citizens and applicants of the policies regulations and procedures of the program.
- (f) Making administrative decisions and interpretations of the principals and policies of this program.
- (g) Collecting fees pursuant to the Town's adopted fee schedule.
- (h) Determining that all applications and necessary data are complete and in proper form to review.
- (i) Reviewing, insofar as possible, all applications and related data deemed necessary for application needs.
- (j) Assuring that proper notice is given to appropriate persons and the public of all shoreline hearings.
- (k) Providing technical and administrative assistance to the Planning Commission and Town Council as required for effective and equitable implementation of this program.
- (l) Informing the citizens of the Town of the purposes, goals, policies and regulations of this program and any changes or amendments thereto.
- (m) Investigate, develop and proposes amendments to this program as deemed necessary to more effectively and equitable achieve its goals and purposes.
- (n) Seek remedies for violations of the program, or the conditions of any shoreline substantial development, conditional use or variance permit issued by the Town.
- (o) Coordinate shoreline access and restoration activities with local state and federal agencies.
- (p) Forwarding materials and local permit decisions to the Department of Ecology in a timely manner.
- (q) Tracking, documenting and evaluation the cumulative impacts of all shoreline development and use.

9.2.2 Planning Commission – The Town of Concrete Planning Commission herein identified as the Commission is vested with:

- (a) The authority to hear, review, and pass recommendations on shoreline substantial development, conditional use and variance permit applications and any terms or standards attached thereto before public meetings and/or hearings.
- (b) The responsibility for reviewing this program from time to time for the purpose of assessing the program's effectiveness as a major element of the Town's planning and regulatory responsibilities.
- (c) The responsibility for proposing and and/or reviewing and making recommendations to the Town Council deemed necessary to more effectively and equitably achieve the program's goals and purposes.

9.2.3 Town Council - The Town Council of Concrete herein identified as the Council is vested with the authority to:

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- (a) Final local government authority to grant or deny shoreline substantial development, conditional use or variance permits after considering the recommendations of the Commission and advice of the Administrator; PROVIDED that permit decisions may require actions from the Department of Ecology and may be further appealed to the State Shoreline Hearings Board as provided for in the Shoreline Management Act.
- (b) Decide appeals of the Administrator's actions and interpretations.
- (c) Scheduling meetings or, if necessary, public hearings in order to consider shoreline substantial development, conditional use or variance permit applications or appeals of the Administrator's decisions or interpretations.
- (d) Reviewing the decisions and/or findings of recommendations for permit applications and appeals of the Administrator on regular meeting days or public hearings.
- (e) Base all decisions on shoreline substantial development, conditional use or variance permit applications on the criteria established under 9.3 Permit Requirements.

9.3 Shoreline Permit Requirements

Any person undertaking substantial development (as defined in Section 2 of this Master Program) within the Town's shoreline management jurisdiction shall apply for a shoreline authorization. Based on the provisions of this Master Program, the Administrator shall determine if a proposed development is exempt from the substantial development permit requirement and/or if the proposal requires a substantial development, conditional use or variance permit.

9.3.1 Exemption from Substantial Development

Exemption from the substantial development permit requirement may be requested (in writing) from the administrator for the following activities and developments (See WAC 173-27-040 for complete language):

- (a) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;
- (b) Construction of the normal protective bulkhead common to single-family residences;
- (c) Emergency construction necessary to protect property from damage by the elements;
- (d) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of

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- being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
- (e) Construction or modification of navigational aids such as channel markers and anchor buoys;
 - (f) Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;
 - (g) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple-family residences. This exception applies if the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;
 - (h) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands;
 - (i) The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
 - (j) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;
 - (k) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - (i) The activity does not interfere with the normal public use of the surface waters;
 - (ii) The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - (iii) The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - (iv) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
 - (v) The activity is not subject to the permit requirements of RCW 90.58.550;

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- (l) The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under chapter 43.21C RCW.
- (m) A public or private project that is designed to improve fish or wildlife habitat or fish passage shall be exempt from the substantial development permit requirements of this chapter when all of the following apply:
 - (i) The project has been approved by the department of fish and wildlife;
 - (ii) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and
 - (iii) The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.
 - (iv) Fish habitat enhancement projects that conform to the provisions of *RCW 77.55.290 are determined to be consistent with local shoreline master programs.

9.3.2 Substantial Development Permits

No substantial development except those listed under 9.3.1 shall be undertaken on shorelines of the Town without first obtaining a shoreline substantial development permit.

- (a) Applications shall be made on forms provided by the Administrator. For conditional use and variance requests the application shall also include a demonstration of compliance with the applicable criteria listed under subsections 9.3.3 and 9.3.4 of this section.
- (b) A site plan drawn to an appropriate scale approved by the Administrator shall include the following elements:
 - (i) Site boundary
 - (ii) Property dimensions
 - (iii) Ordinary high water mark
 - (iv) Typical cross section or sections showing
 - (v) Existing ground elevation
 - (vi) Proposed ground elevation
 - (vii) Height of existing structures
 - (viii) Height of proposed structures
 - (ix) If development involves grading, cutting, filling or other alteration of land contours appropriate land contours using one foot intervals shall be included
 - (x) Dimensions and locations of existing structures that will be maintained
 - (xi) Dimensions and locations of proposed structures
 - (xii) Source, composition and volume of fill material

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- (xiii) Composition and volume of any extracted material and location of proposed disposal area
 - (ivx) Location of on-site sewage disposal systems if applicable
 - (xv) Shoreline environment designation(s) of the Master Program.
 - (xvi) Designated shorelines of statewide significance.
- (c) A vicinity map shall include the following elements:
- (i) Location of site utilizing appropriate points of reference (roads, state highways, prominent landmarks, etc.)
 - (ii) If the development involves removal of soils, identify the location of the proposed disposal site. If the disposal site is beyond the area depicted on the vicinity map provide additional information describing the precise location of the disposal site and its distance to the nearest city or town.
 - (iii) Give a brief narrative description of the general nature of the improvements and land use within 1000 feet of the proposed development.
- (d) Criteria for Approval of Substantial Development Permits

A shoreline substantial development permit shall only be granted only when the proposed development is consistent with:

- (i) Policies and regulations of this Master Program; and
- (ii) Policies for Shorelines of Statewide Significance listed under Subsection 1.4 of this Master Program and RCW 90.58.020; and
- (iii) Regulations adopted by the Department of Ecology pursuant to the Act (WAC 173-26).

9.3.3 Shoreline Conditional Use Permits

Conditional use permits allow more control and additional flexibility in the implementation of this Master Program. By applying special conditions, the scope of uses within each of the four shoreline environment designations can be expanded to include additional uses. Activities classified as conditional uses shall be permitted only where the applicant can meet the standards and criteria that ensure that the proposed use will be compatible with permitted uses within the same shoreline environment designation.

- (a) Uses classified as conditional uses are
- (i) Developments which are permitted under these regulations in particular shoreline environment designations only as conditional uses;
 - (ii) Development for expansion of non conforming uses and structures within shoreline management jurisdiction; or
 - (iii) Repair or restoration of non conforming uses and structures; or
 - (iv) Development for a use which may be unnamed and/or not contemplated in this program.

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- (b) In addition to the application requirements for a Substantial Development Permit, Conditional Uses which are classified or set forth in the applicable master program as “conditional uses” may be authorized provided that the applicant demonstrates all of the following:
 - (i) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
 - (ii) That the proposed use will not interfere with the normal public use of public shorelines;
 - (iii) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
 - (iv) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - (v) That the public interest suffers no substantial detrimental effect.
- (c) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- (d) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.
- (e) Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.

9.3.4 Shoreline Variance Permits

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this Master Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

- (a) Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - (i) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

Town of Concrete Shoreline Master Program

- (ii) That the hardship described in (i) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
 - (iii) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
 - (iv) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - (v) That the variance requested is the minimum necessary to afford relief; and
 - (vi) That the public interest will suffer no substantial detrimental effect.
- (b) Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:
- (i) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
 - (ii) That the proposal is consistent with the criteria established under subsection (a) (ii) through (vi) of this section; and
 - (iii) That the public rights of navigation and use of the shorelines will not be adversely affected.
 - (iv) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
- (c) Variances from the use regulations of the master program are prohibited.

9.3.5 Revisions to Shoreline Permits – A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in a permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision. All permit revisions shall conform to WAC 173-27-100 as amended.

9.3.6 Time Requirements of Permits – The time requirements shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized by this chapter. Time requirements shall be governed by WAC 173-27-090 as amended.

9.4 Shoreline Permit Process

Except as otherwise stated below permit procedures shall be conducted in accordance with Chapter 18.08 of the Concrete Municipal Code. Completeness of the application materials shall be determined by the Administrator. When an application for a Shoreline Substantial Development Permit is determined technically complete pursuant to Concrete Municipal Code subsection 18.08.070, the Administrator shall take the following actions. These actions also apply to Shoreline Conditional Use Permits and Shoreline Variances.

9.4.1 Public Notice of Application – The Administrator shall take the following actions to notify the public that a complete application has been filed for processing.

- (a) Notice of application for a Substantial Development Permit, Conditional Use Permit or Variance (as applicable) shall be published in a newspaper of general circulation. Notice shall also be provided to all properties within 300 feet of the site proposed for the development or use.
- (b) The notice of application shall include the following information:
 - Location of the proposed project
 - A request for interested parties to submit comments within 30 days of notice
 - A date and time anticipated for the public hearing to consider the application
 - A statement inviting written and/or oral testimony at the public hearing
- (c) The Administrator shall also require that the applicant post the notice of application in a conspicuous location on site.
- (d) The Administrator may also provide other manner of public notice deemed appropriate to accomplish the objective of reasonable notice to adjacent landowners and the public at large.

9.4.2 Application Review – The Administrator, Planning Commission or Council shall review an application for a Substantial Development Permit, Conditional Use or Variance using the following information. All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program whether or not a permit is required.

- Application and supporting documents
- Applicable SEPA documents
- Evidence presented at the public hearing
- Written and oral comments and testimony from interested persons
- The findings, conclusions and recommendations of the Administrator
- Information and comments from other departments and agencies

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- Independent studies

9.4.3 Review of Substantial Development Permits. The Administrator shall review the application and related information and issue a written staff report and recommendation to the Planning Commission to approve, approve with conditions, or deny the application for a Substantial Development Permit. Substantial Development Permits shall be processed as a Class II Action consistent with subsection 18.08.030 of the Concrete Municipal Code. No permit shall be granted unless the proposed development is consistent with the provisions of this Master Program, The Shoreline Management Act of 1971 and the rules and regulations adopted by the Department of Ecology pursuant to the Act.

9.4.4 Public Hearing Required for a Conditional Use or Variance Permit. The Planning Commission shall hold a public hearing on all Substantial Development, Conditional Use and Variance permit requests and provide a recommendation to the Council to approve, approve with conditions or deny the application. The recommendation along with the record established pursuant to the hearing will be forwarded to the Council for final local government action. Conditional Use Permits and Variances shall be processed as a Class III Action consistent with subsection 18.08.030 of the Concrete Municipal Code. A public hearing with the Commission should be held at the earliest possible date after the 30 day comment period held in conjunction with the notice of application has ended. Following deliberation, the council may adopt the recommendation of the Commission or hold its own public hearing. A written notice of the public hearing at which the Council will consider the application shall be mailed or delivered to the applicant and parties of record a minimum of 7 days prior to the hearing. The Administrator's findings, conclusions and recommended action and recommendation of the Commission on the application shall be sent to the applicant and parties of record with the notice of public hearing.

9.4.5 Council Review Criteria – The Council shall review the application and related information along with the Administrator's findings and recommended action and recommendation of the Commission and render a decision to approve, approve with conditions, or deny the application for a Shoreline Substantial Development, Conditional Use and or Variance Permit. No permit shall be granted unless the proposed development is consistent with the provisions of this Master Program, The Shoreline Management Act of 1971 and the rules and regulations adopted by the Department of Ecology pursuant to the Act.

9.4.6 Burden of Proof on Applicant – The burden of proving that the proposed development is consistent with the applicable criteria for approval is on the applicant. The applicant may, but is not required to, respond to comments made in response to the notice of application or at the public hearing.

9.4.7 Conditional Approval – Should the Administrator or Council find that any application does not substantially conform with the criteria imposed by this Master Program and the Shoreline Management Act, it may deny such application or attach any

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terms or conditions deemed suitable and reasonable to affect the purpose and objectives of this Master Program and the Act.

9.4.8 Bonds – The Town of Concrete may require the applicant to post a bond, assignment of account, real estate agreement or similar instrument in favor of the Town to assure full compliance with any terms and conditions imposed on any Substantial Development Permit, Conditional Use Permit or Variance. Said bond shall be in an amount to reasonably assure the Town that any deferred improvements will be carried out within the time stipulated on the applicable permit.

9.4.9 Local Appeals – Decisions regarding Class II and Class III actions may be appealed by any party of record to the appropriate body listed under Subsection 18.08.030, Table 1. Appeals shall be filed in accordance with subsection 18.08.170 of the Concrete Municipal Code.

- (a) Class I administrative interpretations and Class II decisions regarding Substantial Development Permits made by the Administrator may be appealed to the Council.
- (b) Class III actions regarding Conditional Use Permits and Variances may be appealed to the Shoreline Hearings Board and Skagit County Superior Court.

9.4.10 Department of Ecology Review – After the Administrator or Council has approved a Substantial Development, Conditional Use or Variance, the administrator shall file the permit with the Washington State Department of Ecology and the Attorney General.

- (a) Substantial Development Permit – Developments authorized by a Substantial Development Permit shall not begin until twenty one (21) days after the date of filing by the Department of Ecology; provided no appeals have been initiated during the 21 day appeal period. The date of filing is the date the Department of Ecology receives all required documents.
- (b) Conditional Use Permits and Variances – Developments authorized by the Town through a Conditional Use Permit or Variance shall be filed with the Department of Ecology for review and approval, approval with conditions, or denial. When a Substantial Development Permit and a Conditional Use Permit or Variance are required for a development the filing shall be made simultaneously. The Department of Ecology will issue its decision on a Conditional Use Permit or Variance within 30 days of filing. Developments authorized by Conditional Use Permit or Variance shall not begin until twenty one (21) days following Ecology's approval, provided no appeal proceedings have been initiated.

9.4.11 Appeals to the Washington State Shoreline Hearings Board – Any person aggrieved by the granting, denying, rescission or modification of a shoreline permit may seek review from the State Shoreline Hearings Board. An appeal of a Shoreline Substantial Development Permit shall be initiated by filing an original and one copy of request for review with the Hearings board within 21 days of the Department of Ecology's receipt of the final decision by the Administrator or Council. An appeal of a

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Conditional Use Permit or Variance shall be filed with the Hearings Board within 21 days of the Department of Ecology's decision. The request for review shall be in the form required by the rules for practice and procedure before the Shoreline Hearings Board. The person seeking review shall also file a copy of the request for review with the State Department of Ecology and the Attorney General.

10.

Definitions

Act – The Washington State Shoreline Management Act (Chapter 90.58 RCW).

Activity – An occurrence associated with a use; the use of energy towards a specific action or pursuit. Examples of shoreline activities include, but are not limited to, fishing, swimming, boating, dredging, fish spawning, wildlife nesting, or discharging of materials.

Administrator – The official responsible for implementing and enforcing the Shoreline Master Program. The Town Planner is identified as the Administrator for the Town of concrete.

Anadromous Fish – Fish species such as salmon which are born in fresh water, migrate to the sea then return to freshwater to procreate.

Associated Wetlands – Those wetlands that are either in proximity to or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act pursuant to WAC 173-22-030(1).

Best Management Practices - Physical or structural tools and/or management practices which, when used singularly or in combination, prevent or reduce adverse impacts to riparian/shoreline ecological functions.

Boating Facility – For the purposes of this shoreline master program, boating facilities generally include docks, piers, boat launch ramps (public and private), wet and dry boat storage, related sales and services for pleasure and commercial watercraft.

Boat Launch Ramp – Graded slopes, slabs, pads, planks or rails used for launching boats by means of a trailer, hand or mechanical devise.

Building Setback – A building setback is an additional setback for construction activities that is measured from the riparian/shoreline buffer or other designated line or area.

Buffer – An area that is contiguous to a shoreline or critical area and protects riparian/shoreline ecological functions.

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Channel Migration Zone – The area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

Conditional Use – A use, development or substantial development that is classified as a conditional use or is not classified in the Master Program pursuant to WAC 173-27-030(4).

Comprehensive Plan – The document and maps adopted by the Town Council that outlines the Town’s goals and policies relating to management of growth and prepared in accordance with the Growth Management Act (RCW 36.70A).

Critical Area Regulations District (CARs District) – That area within 225 feet of critical areas located in all or partly within the incorporated town limits pursuant to Section 16.12.010 of the CARs.

Development - A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of waters of the state subject to Chapter 90.58 RCW at any state of the water level.”

Ecological Functions (Riparian/Shoreline) – Ecological functions associated with the Towns shorelines are riparian in nature and include: water quality, bank stabilization, shade and temperature, microclimate, wildlife habitat, instream habitat, productivity, and flood storage and conveyance.

Enhancement – Alteration of existing conditions to improve its characteristics, processes and functions without degrading other existing functions. Enhancement is distinguished from resource creation or restoration projects.

Erosion - Erosion is the wearing away of land by the action of natural forces such as wind, rain and river currents.

Exemption – Certain specific categories of development are listed in WAC 173-27-040 are exempt from the definition of substantial development and are therefore exempt from the substantial development permit requirements of the SMA. An activity that is exempt from the substantial development permit requirements must still be carried out in compliance with the standards of the SMA and the Master Program. Conditional use and/or variance permits may still be required even though the activity does not require a substantial development permit pursuant to WAC 173-27-040(b).

Fair Market Value – Fair market value is the open market bid price for conducting work, using the equipment and facilities, and purchase of the goods services and materials necessary to accomplish the development. The fair market value of a

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development shall include the value of any donated, contributed or found labor, equipment or materials.

Flood Control – Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally heavy rains or stream overflow.

Floodplain – A term synonymous with the one hundred-year floodplain and means the land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area is identified on the Flood Insurance Rate Map adopted for use in conjunction with the National Flood Insurance Program.

Floodway – The river channel and adjacent overbank areas through which the base flood is discharged without cumulatively increasing the surface elevation more than 1 foot. The limit of this area is identified on the Flood Boundary and Floodway Map adopted for use in conjunction with the National Flood Insurance Program.

Habitat – A specific place or type of site where a plant or animal naturally or normally lives and grows.

Hearings Board – The Shoreline Hearings Board established by the Act under RCW 90.58.170.

Landward – Away from the ordinary high water mark or aquatic area.

Master Program – Means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts and other descriptive material and text, a statement of the desired goals and standards developed in accordance with the policies enunciated in RCW 90.58.200.

Mitigation – The steps necessary to avoid, minimize or compensate for environmental impacts.

Native Plants or Native Vegetation – Plants that occur naturally, and that distribute and reproduce without assistance. Native plants in Western Washington are those that existed prior to intensive settlement that began in the 1850s.

Nonwater-oriented uses – Uses that are not shoreline dependent, related or associated with shoreline enjoyment.

Ordinary High Water Mark - "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any

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area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining freshwater shall be the line of mean high water.

Permit or Shoreline Permit – Any substantial development, conditional use or variance permit or revision, or any combination thereof authorized by the Act pursuant to WAC 173-27-030(13).

Public Access – Public access is the ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and shoreline from adjacent locations pursuant to WAC 173-26-221(4).

Qualified Professional – A person with experience and training in the applicable field or discipline.

Restoration – The reestablishment or upgrading of impaired riparian or shoreline ecological functions. This may be accomplished through measures, including but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to pre-settlement conditions.

Riparian – Of on or pertaining to the banks of a river. Within the Town of Concrete riparian areas include the Baker and Skagit Rivers and the Reservoir of Lake Shannon.

Riprap – A layer of rock or stone placed along the banks of a river as protection from erosion.

Shall – A mandate; the action must be done.

Shoreline Environment Designations – Shoreline environment designations are based on existing development patterns, biophysical capabilities and limitations of distinct shorelines and the aspirations of the local citizenry. Environment designations reflect the type of development that has or should take place over a given shoreline area. Four designations are applied to the Town's shorelines: Natural, Aquatic, Urban Conservancy and High Intensity. The designations are described in detail under Chapter 5 of the Master Program and are depicted graphically on the Shoreline Designation Map.

Should – The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

Water Dependent Use – A use or portion of a use which cannot exist in a location that is not adjacent to the water but is dependent on the water by reason of the intrinsic nature of its operations. Examples of water dependent uses include fishing, ferry, and vessel loading facilities.

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Waterward – Towards the ordinary high water mark or aquatic area.

Water Enjoyment Uses – A recreational use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline.

In order to qualify as a water enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Primary water-enjoyment uses may include, but are not limited to:

- Parks with activities enhanced by proximity to water;
- Piers and other improvements that facilitate public access to shorelines of the state;
- Restaurants with water views and public access improvements;
- Museums with an orientation to shoreline topics;
- Aquariums;
- Scientific/ecological reserves;
- Resorts with uses open to the public and public access to the shoreline;
- Any combination of those uses listed above.

Water Oriented Use – A use that is water-dependent, water-related, or water- enjoyment or a combination of such uses.

Water Related Use – A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because;

- (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Water-related uses include manufacturing of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water dependent uses, and storage of water transported foods.

Other examples of water-related uses include the warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and upland log storage for water borne transportation. In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

Shoreline Environment Designation Map

Attachment A

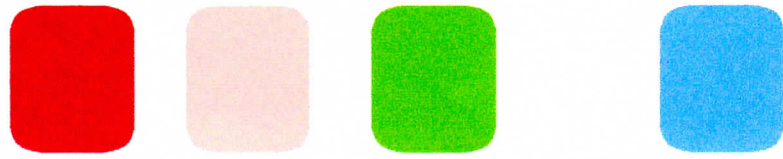
Shoreline Environment Designations

High Intensity: The purpose of the "high-intensity" environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

Urban Conservancy: The purpose of the "urban conservancy" environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

Natural: The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, local government should include planning for restoration of degraded shorelines within this environment.

Aquatic: The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.



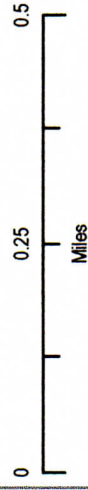
- Town Of Concrete Limits
- Urban Growth Area Boundary
- [URR] Urban Reserve Residential
- [URC-I] Urban Reserve Commercial Industrial
- Shorelines of Statewide Significance
- Shoreline 200 Ft Minimum Jurisdictional Area
- Fema Q3 100 Year Floodplain
- Fema Q3 Floodway

The minimum shoreline jurisdiction is the greater of the following:

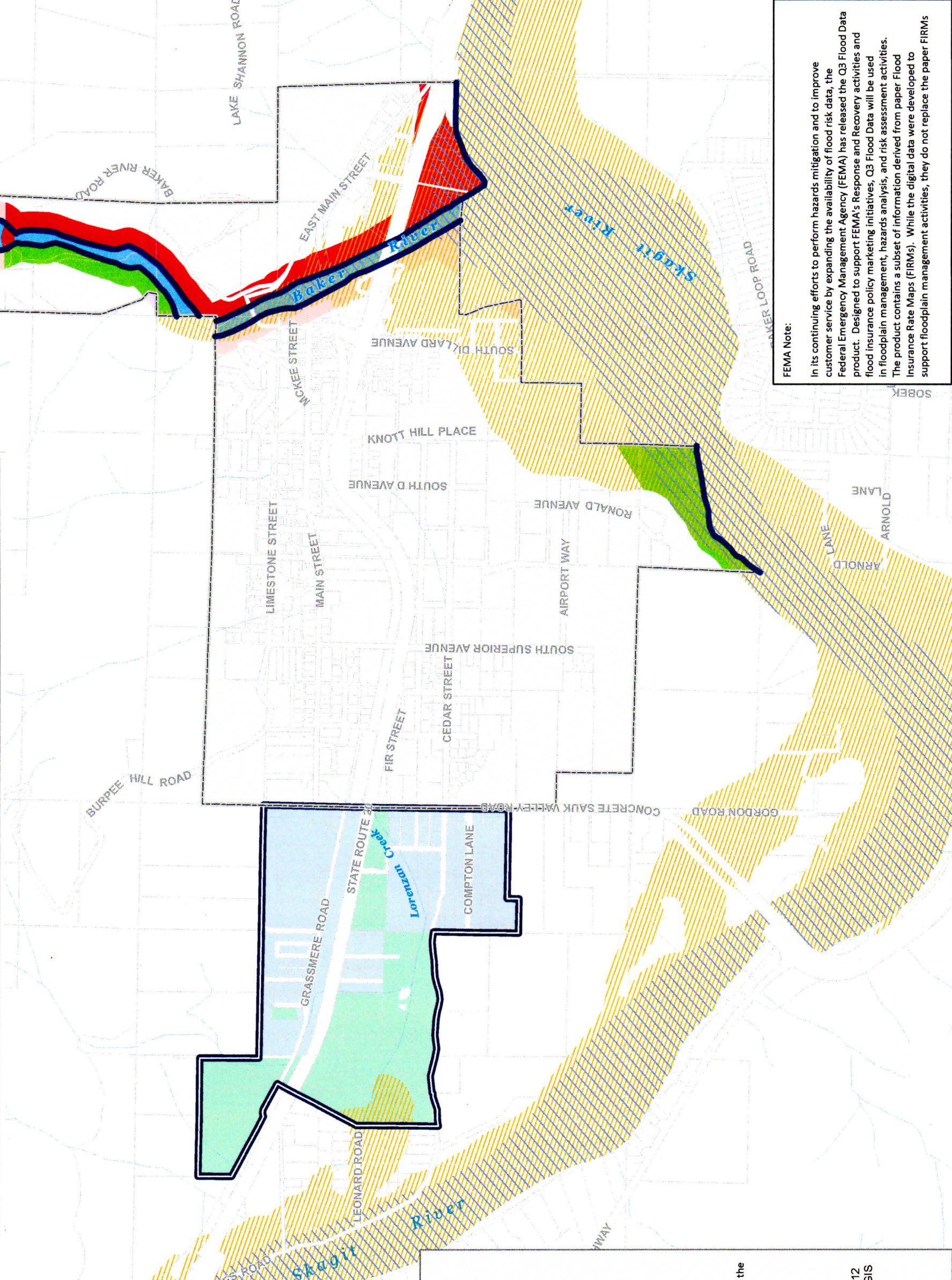
- Lands extending 200 feet landward of the Ordinary High Water Mark (OHWM) as defined in RCW 90.58.030 Shoreline Management Act
- The floodway plus the contiguous floodplain 200 feet landward of the floodway
- Associated wetlands (wetlands associated by proximity and/or influence with the shoreline)

Note:
Shoreline jurisdiction boundaries depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.

October 12, 2012
Skagit County GIS



Town of Concrete Shoreline Environment Designation Map



FEMA Note:
In its continuing efforts to perform hazards mitigation and to improve customer service by expanding the availability of flood risk data, the Federal Emergency Management Agency (FEMA) has released the Q3 Flood Data product. Designed to support FEMA's Response and Recovery activities and flood insurance policy marketing initiatives, Q3 Flood Data will be used in floodplain management, hazards analysis, and risk assessment activities. The product contains a subset of information derived from paper Flood Insurance Rate Maps (FIRMs). While the digital data were developed to support floodplain management activities, they do not replace the paper FIRMs.

Town of Concrete Critical Area Regulations (CARs)

(Note: This Master Program adopts by direct reference the attached CARs. The provisions of this Master Program amend and are the controlling critical area regulations within shoreline management jurisdiction.

Attachment B

Chapter 16.12**CRITICAL AREAS REGULATIONS (CAR)**

Sections:

- 16.12.010 Purpose, intent and applicability.
- 16.12.020 Definitions.
- 16.12.030 Best available science.
- 16.12.040 Permitted, conditional and prohibited uses.
- 16.12.050 Project review required.
- 16.12.060 Critical area markers, signs and fencing.
- 16.12.070 Notice on title.
- 16.12.080 Critical area tracts and designations on site plans.
- 16.12.090 Building setbacks.
- 16.12.100 Wetlands.
- 16.12.110 Critical aquifer recharge areas.
- 16.12.120 Habitat conservation areas.
- 16.12.130 Density/floor area calculations and transfer of density/floor area.
- 16.12.140 Frequently flooded areas.
- 18.12.150 Geologically hazardous areas.
- 16.12.160 Special consideration for anadromous fisheries.
- 16.12.170 Reasonable use allowance.
- 16.12.180 Lorenzan Creek setback requirement.
- 16.12.190 Application.
- 16.12.200 Enforcement.

16.12.010**Purpose, intent and applicability.**

(1) The purpose of this chapter is to designate, classify and protect the functions and values of critical areas and anadromous fisheries in a manner consistent with state law while allowing for reasonable use of private property. By adopting this chapter, the town of Concrete acknowledges that critical areas and anadromous fisheries provide a variety of important biological and physical functions that benefit the community and its residents or may pose a threat to human safety or property.

(2) The CAO district (zone) consists of that area within 225 feet of critical areas located in all or in part within the incorporated town limits, including wetlands (all areas which meet the definition of a wetland), critical aquifer recharge areas (as designated by Skagit County Code 14.24.310 and consistent with requirements of the Growth Management Act), frequently flooded areas (within District A as shown in the Federal Emergency Management Agency National Flood Insurance Program Map), geologically hazardous areas (as designated by the U.S. Geological Survey Soil Survey Map and the 1999 Skagit County Potential Landslide and Erosion Areas Map), habitat conservation areas (as designated by the Washington Department of Fish and Wildlife Habitats and Species Map), and anadromous fisheries (as designated by the Washington Department of Fish and Wildlife Habitats and Species Map). Any development proposed on a parcel of land within the CAO district shall be subject to project review as required in CMC 16.12.050 unless specifically exempted. [Ord. 631 § 1, 2008]

16.12.020**Definitions.**

“Alteration” means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, construction, compaction, excavation or any other activity that alters the character of the critical area.

“Anadromous fisheries” means endangered, threatened, rare, sensitive, or monitor species of anadromous fish, or resident fish species or species of local importance, that occupy an area proposed for development during life stages important to species survival.

“Applicant” means a person who files an application for a permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a lessee of the land, the person who would actually control and direct the proposed activity or the authorized agent of such a person.

“Best available science” means current scientific information used in the process to designate, protect, or restore critical areas, derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925. Sources of best available science are included in Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas published by the State Office of Community Development in 2002. In addition, the Department of Ecology publications Wetlands in Washington State – Volume 1: A Synthesis of the Science, March 2005, and Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands, April 2005, are sources of best available science.

“Best management practices” means conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment; minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands; protect trees and vegetation designated to be retained during and following site construction; and provide standards for proper use of chemical herbicides within critical areas.

“Buffer” means an area required by this chapter that provides a natural vegetated zone surrounding a natural, restored or newly created critical area which serves as a buffer between the critical area and the adjacent developed area and as an integral part of the habitat ecosystem.

“Critical aquifer recharge areas” means areas designated by using criteria in WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-080(2).

“Development” means any activity upon the land consisting of construction or alteration of structures, earth movement, dredging, dumping, grading, filling, mining, removal of any sand, gravel, or minerals, driving of piles, drilling operations, bulk heading, clearing of vegetation, or other land disturbance. Development includes the storage or use of equipment or materials inconsistent with the existing use. Development also includes approvals issued by the town that bind land to specific patterns of use, including, but not limited to, subdivisions, short subdivisions, zone changes, conditional use permits, and binding site plans. Development does not include the following activities:

- (a) Interior building improvements;
- (b) Exterior structure maintenance activities, including painting and roofing;
- (c) Routine landscape maintenance of established native vegetation, ornamental landscaping, such as lawn mowing, pruning and weeding;
- (d) Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells, individual utility service connections; and individual cemetery plots in established and approved cemeteries.

“Frequently flooded area” means an area within a floodplain subject to a one percent or greater chance of flooding in any given year.

“Functions and values” means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, wave attenuation, protection from hazards, historical and archaeological and aesthetic value protection, and recreation. These beneficial roles are not listed in order of priority.

“Geologically hazardous area” means an area susceptible to erosion, sliding, earthquake or other geological event and thus not suited to siting of commercial, residential or industrial development consistent with public health or safety concerns.

“Habitat conservation area (HCA)” means habitat necessary for the survival of endangered, threatened, rare, sensitive, priority or monitor species.

“Hydrogeologic susceptibility” refers to the permeability of soils and underlying ground that protect a critical aquifer recharge area from contamination. A high susceptibility rating indicates very high permeability of soils and/or a shallow water table that is more likely to be impacted by a contaminant released on the surface.

“Mitigation” means a negotiated action involving the avoidance, reduction or compensation for possible adverse impact. Mitigation actions include the following, in order of preference:

- (a) Avoiding the impacts altogether by not taking action;
- (b) Reducing or eliminating impacts by preservation or maintenance;
- (c) Minimizing impacts by limiting degree or magnitude;
- (d) Rectifying impacts by repairing, rehabilitating or restoring;
- (e) Compensating for impacts by in-kind replacement;
- (f) Monitoring impacts by a planned evaluation process.

“Monitoring” means evaluating the impacts of development proposals on the biological, hydrological and geological elements of ecosystems and assessing the performance of required mitigation measures throughout the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data.

“Native vegetation” means plant species that are indigenous to the area in question.

“Priority habitat” means habitat type or elements with unique or significant value to one or more species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element (WAC 173-26-020(34)).

“Qualified professional” means a person or professional services firm contracted with the town with experience and trained personnel in a discipline applicable to the critical area in question. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or a related field, and two years of related work experience. A qualified professional for habitats, wetlands or anadromous fisheries must have a degree in biology or a related field and professional experience related to the subject species. A qualified professional for a frequently flooded area or geologically hazardous area must be a professional engineer or geologist licensed in the state of Washington. A qualified professional for critical aquifer recharge areas must be a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments. A qualified professional may include a consulting firm or agency which the town is contracting with to provide critical area review of projects.

“Restoration” means measures taken to restore an altered or damaged natural feature including:

- (a) Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration;
- (b) Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events;
- (c) Actions taken to protect and enhance anadromous fisheries resources.

“SEPA” means the Washington State Environmental Policy Act, Chapter 43.21C RCW.

“Species, endangered” means any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.

“Species of local importance” means those species of local concern due to their population status or their sensitivity to habitat manipulation, or that are game species.

“Species, priority” means any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

“Species, threatened” means any fish or wildlife species that is likely to become an endangered species within the foreseeable future through a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

“Wetland” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. [Ord. 631 § 1, 2008]

16.12.030

Best available science.

The town has reviewed and incorporated best available science in the development of this chapter. The following sources, in the most updated version available on the date of the ordinance codified in this chapter, are considered the best available science for delineation of critical areas:

(1) Wetlands.

(a) U.S. Fish and Wildlife National Wetlands Inventory Map.

(b) Washington State Wetland Identification and Delineation Manual (Ecology Publication No. 96-94, March 1997), or as revised.

(c) “Wetlands in Washington State, Volume 2: Guidance for Protecting and Managing Wetlands,” April 2005, available on Ecology’s website at: http://ecy.wa.gov/programs/sea/bas_wetlands/interestform.html.

(d) Washington State Wetlands Rating System for Western Washington, August 2004, annotated version.

(e) “Guidance on Wetland Mitigation in Washington State” in two volumes, available through Ecology as Publication Nos. 04-06-013a and 04-06-013b at <http://ecy.wa.gov/programs/sea/wet-updatedocs.htm>.

(2) Critical Aquifer Recharge Areas.

(a) Skagit County Code 14.24.310, Aquifer recharge areas designations.

(b) Skagit County hydrology map.

(c) “Critical Aquifer Recharge Areas” guidance document available through Ecology as Publication No. 05-10-028, January 2005.

(3) Frequently Flooded Areas.

(a) Federal Emergency Management Agency Flood Insurance Program Map.

(4) Geologically Hazardous Areas.

(a) Skagit County landslide and erosion areas map.

(b) U.S. Geological Survey Soil Survey Map.

(5) Habitat Conservation Areas.

(a) Washington Department of Fish and Wildlife Priority Habitat and Species Map.

(6) Special Consideration for Anadromous Fisheries.

(a) Washington Department of Fish and Wildlife Priority Habitat and Species Map. [Ord. 631 § 1, 2008]

16.12.040

Permitted, conditional and prohibited uses.

(1) Permitted uses or uses allowed by conditional use permit or uses altogether prohibited in the CAO district shall be the same as those listed in the underlying zoning district.

(2) Proposed uses or sites within the CAO district that are currently regulated under the Skagit County shoreline management program or other county, state or federal regulations, or uses listed as categorical exemptions from the State Environmental Policy Act, shall be subject to the most restrictive of the applicable regulations and associated review requirements. [Ord. 631 § 1, 2008]

16.12.050

Project review required.

(1) Land use or building permits for development within the CAO district shall be subject to review under provisions of this chapter unless specifically exempted in subsection (5) of this section.

(2) Applicants shall be required to submit a critical areas checklist, provided by the town, for review with their permit application that describes the project and proposed site and informs the town of any potential impacts on critical areas. If the applicant has submitted a critical areas checklist to Skagit County, pursuant to Skagit County Code 14.24.080, the same checklist may be submitted to the town to fulfill this requirement.

(3) For those projects determined by the town planner and/or building official likely to have a significant impact on a critical area(s), the applicant shall submit a technical report as part of the application. The technical report shall be prepared by a qualified professional(s) with demonstrated qualifications in the area of concern and shall apply best available science as part of its analysis. The town may require, at its discretion, an independent, third party review of any technical report in order to ensure its sufficiency. The applicant shall be responsible for the costs associated with this review. At a minimum, the technical report shall:

- (a) Identify the precise limits of the critical area(s) and its function and resource values;
- (b) Analyze the potential impacts of the proposed development on the critical area(s); and
- (c) Provide a detailed plan for mitigation of those impacts, to be implemented by the applicant.

(4) If the applicant has submitted a technical report to another jurisdiction as part of a county, state or federal permit application, SEPA or NEPA environmental review, the same technical report may be submitted to the town to fulfill this requirement. If the applicant has undergone critical areas review and has a current permit authorizing the proposed critical areas alteration from another jurisdiction including but not limited to the Army Corps of Engineers, Department of Ecology, or Washington Department of Fish and Wildlife, the town may waive the project review requirements under this section.

(5) The following activities shall be allowed in critical areas without a critical area review, provided they are conducted using best management practices and at a time and in a manner designed to minimize adverse impacts to the critical area. The town may require a critical areas permit to ensure the critical area is protected using best management practices.

- (a) Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife;
- (b) Outdoor recreational activities which do not involve disturbance of the resource or site, including but not limited to fishing, hunting, bird watching, hiking, horseback riding, and bicycling;
- (c) Harvesting wild crops in a manner that is not injurious to the natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops or alteration of the resource by changing existing topography, vegetation, water conditions, or water resources;
- (d) Education, scientific research and use of nature trails;
- (e) Site investigation work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities;
- (f) Existing and ongoing agriculture activities, including farming, horticulture, aquaculture, irrigation, ranching or grazing of animals;
- (g) Normal and routine maintenance of legally constructed irrigation and drainage ditches;
- (h) Normal and routine maintenance, repair or operation of existing serviceable structures, facilities or improved areas, not including expansion, change in character or scope or construction of a maintenance road;

(i) Emergency construction necessary to protect life or property from immediate damage by the elements;

(j) Minor modification (such as construction of a patio, balcony or second story) of existing serviceable structures where the modification does not adversely impact the functions of the critical area or associated buffer;

(k) Construction of serviceable structures that are 640 square feet or less (such as a garage, carport or storage shed) where the placement or building of the structure does not adversely impact the functions of the critical area or associated buffer;

(l) Clearing nonnative vegetation, invasive species or hazardous trees that do not adversely impact the functions of the critical area or associated buffer. Such activity shall require a critical areas permit from the town of Concrete;

(m) Replacement, operation, repair, modification, installation, or construction in existing developed utility corridors, an improved city street right-of-way or city-authorized private street of all electric facilities, lines, equipment, or appurtenances, not including substations;

(n) Relocation of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment, or appurtenances, only when required by a local governmental agency that approves the new location of the facilities and only when all other alternative sites have been examined and determined to be infeasible; mitigation will be required. Local approval does not relieve the applicant of the need to obtain applicable state and federal permits (e.g., permits authorizing in-water work);

(o) Replacement, operation, repair, modification, installation, or construction of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment, or appurtenances when such facilities are located within an improved public right-of-way or authorized private street;

(p) Maintenance, operation, repair, modification, or replacement of publicly improved streets as long as any such alteration does not involve the expansion of streets or related improvements into previously unimproved rights-of-way or portions of rights-of-way;

(q) Maintenance, operation, or repair of parks, trails and publicly improved recreation areas as long as any such alteration does not involve the expansion of improvements into previously unimproved areas or new clearing of native vegetation beyond routine pruning and related activities.

(6) The town requires applicants to demonstrate that development on a site determined to have critical areas will protect the resource by taking one of the following mitigation steps (listed in order of preference):

(a) Avoid impacts to the resources altogether.

(b) Minimize the impact by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.

(c) Rectify the impact by repairing, rehabilitating or restoring the affected environment to the conditions existing at the time of the initiation of the project.

(d) Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensate for the impact by replacing, enhancing or providing substitute resources or environments.

(f) Monitor the impact and take appropriate corrective measures.

(7) If a critical area within the incorporated town limits is subject to regulation by a county, state or federal agency (i.e., waters of the state), it is the responsibility of the applicant to satisfy environmental review and mitigation requirements of that agency.

(8) If a critical area on the property that is being developed in the town crosses a jurisdictional line, the town shall coordinate with Skagit County or the appropriate jurisdiction in the review of the project.

(9) Site Assessment Required. If, after the site visit, the town determines that the proposed activity area is within 225 feet, or within a distance otherwise specified in this chapter, of an area that may contain critical area indicators, or if the director determines that the proposed activity will adversely impact a critical area or

its associated buffer, then a complete critical areas site assessment shall be required. Critical areas site assessments, as described in more detail in the various sections for each type of critical area, shall be submitted as part of a complete application for a development permit or other approval of land use activities having the potential to impact critical areas or their buffers, by a qualified expert.

(10) Development on Preexisting Lots.

(a) For development proposals and other land use activities that can adversely impact critical areas on preexisting lots, which are not part of a proposed land division or other form of multiple lot development, critical areas shall be identified on a scaled site plan showing the location of the critical area, structures (existing and proposed) and their distances from the critical area and lot lines to show relative location within the subject parcel(s). The project or activity shall be conditioned for critical area protection using best management practices.

(b) For development on preexisting lots, such as single-family residential or commercial building permits, within the CAO district that may impact critical areas, the applicant shall provide a habitat management plan incorporating best management practices to ensure that the development does not adversely impact the functions of the critical area. Such plan shall be submitted for review and approval by the town planner or designee. [Ord. 631 § 1, 2008]

16.12.060

Critical area markers, signs and fencing.

The town planner, at mitigation sites or where a buffer reduction has been authorized, shall require fencing, signs and or survey markers as needed to delineate and protect critical areas. If found to be necessary, permanent fencing shall be required at the edge of the critical area or buffer. Fencing installed in accordance with this section shall be designed to not interfere with fish and wildlife migration and shall be constructed in a manner that minimizes critical area impacts. [Ord. 631 § 1, 2008]

16.12.070

Notice on title.

The owner of any property containing critical areas or buffers on which a development proposal is submitted or any property on which mitigation is established as a result of development, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by the city with the county property records office. The required contents and form of the notice shall be determined by the director. The notice shall inform the public of the presence of critical areas, buffers or mitigation sites on the property, of the application of this chapter to the property and that limitations on actions in or affecting such critical areas or buffers may exist. The notice shall run with the land. [Ord. 631 § 1, 2008]

16.12.080

Critical area tracts and designations on site plans.

(1) Critical area tracts shall be used to protect those critical areas and buffers listed below in development proposals for subdivisions, short subdivisions, planned unit developments or binding site plans and shall be recorded on all documents of title of record for all affected lots:

- (a) All landslide hazard areas and buffers that are one acre or greater in size;
- (b) All wetlands and buffers; and
- (c) All streams and buffers.

(2) Any required critical area tract shall be held in an undivided interest by each owner of a building lot within the development with this ownership interest passing with the ownership of the lot or shall be held by an incorporated homeowners' association or other legal entity which assures the ownership, maintenance, and protection of the tract, or dedicated to the city, at the city's discretion. [Ord. 631 § 1, 2008]

16.12.090

Building setbacks.

Unless otherwise provided, building setbacks shall be located a distance of 10 feet from the edges of a required critical area buffer. [Ord. 631 § 1, 2008]

16.12.100

Wetlands.

(1) The existence of a wetland and the location of its boundary shall be determined by a qualified professional through the performance of a field investigation using the Washington State Wetlands Identification and Delineation Manual (Ecology Publication No. 96-94), or as revised. Qualified professionals shall perform wetland determinations, delineations and classifications using the acceptable methodology. A technical report will be prepared by a qualified professional and submitted by the applicant.

(2) The town of Concrete wetlands will be classified by the Washington State Wetlands Rating System for Western Washington, August 2004, or as revised.

(3) Development near wetlands shall observe buffers from the edge of the wetland. The size and extent of the required buffer will be determined on a site-specific basis using the Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands, April 2005 (Ecology Publication No. 05-06-008), for guidance. The town’s buffer widths are based in part on Buffer Alternative 3. No development or activity shall occur within the required buffer unless the applicant can demonstrate that the proposed use or activity will not degrade the functions and values of the wetland. In no case shall any development reduce the buffer width by more 25 percent of the required buffer.

(4) The following critical area buffers are hereby established. Buffers are measured from the wetland boundary:

Table 16.12.100(4) – Designation of Wetland Critical Area Buffer

Category	Wetland Characteristic	Buffer
I	Natural heritage wetlands	190 feet
	Bogs	190 feet
	Forested	Based on score for habitat or water quality functions
	Habitat score of 29 to 36	225 feet
	Habitat score of 20 to 28	110 feet
	Water quality score of 24 to 32 and habitat score of less than 20	75 feet
	Not meeting any of the above	75 feet
II	Habitat score of 29 to 36	225 feet
	Habitat score of 20 to 28	110 feet
	Water quality score of 24 to 32 and habitat score of less than 20	75 feet
	Not meeting any of the above	75 feet
III	Habitat score of 20 to 28	110 feet
	Not meeting any of the above	60 feet

Category	Wetland Characteristic	Buffer
Nonexempt Category IV	Score for functions less than 30 points	40 feet

(a) Requirements for Exemption of Small Wetlands.

(i) Wetlands less than 1,000 square feet in size may be exempt from these regulations where it has been shown by the applicant that they are not associated with a riparian corridor, they are not part of a wetland mosaic, and they do not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife (WDFW). However, exempted wetlands continue to be regulated by state and federal agencies.

(ii) The 2004 Wetland Rating System for Western Washington shall be used to determine category and to evaluate the functions of wetlands between 1,000 square feet and 4,000 square feet in size. The following criteria, in addition to local knowledge of natural resources, shall be used when determining the exemption of wetlands between 1,000 square feet and 4,000 square feet from the requirement to avoid impacts:

(A) The requirement to avoid impacts may be removed for Category III and IV wetlands between 1,000 square feet and 4,000 square feet, providing they meet all of the following criteria:

1. The wetland is not associated with a riparian corridor; and
2. The wetland is not part of a wetland mosaic; and
3. The wetland does not score 20 points or greater for habitat in the 2004 Western Washington

Rating System; and

4. The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife (WDFW).

(B) Impacts allowed under this provision to the wetlands will be fully mitigated as required in subsection (5) of this section.

(C) All Category I and II wetlands between 1,000 square feet and 4,000 square feet shall be evaluated with full mitigation sequencing; that is, avoidance, minimization, compensation for unavoidable impacts and buffer establishment. All approved impacts should be adequately compensated by mitigation.

(b) Performance Standards. Development on sites with a wetland or wetland critical area buffer shall incorporate the following performance standards in design of the development, as applicable:

(i) Lights shall be directed away from the wetland.

(ii) Activity that generates noise, such as parking lots, generators, and residential uses, shall be located away from the wetland, or any noise shall be minimized through use of design and insulation techniques.

(iii) Toxic runoff from new impervious areas shall be routed away from the wetlands.

(iv) Treated water may be allowed to enter the wetland critical area buffer.

(v) The outer edge of the wetland critical area buffer shall be planted with dense vegetation to limit pet or human use.

(vi) Use of pesticides, insecticides and fertilizers within 150 feet of the edge of the buffer shall be limited. Property owners and contractors shall follow regulations of the State Departments of Agriculture, Ecology, and the U.S. EPA regarding chemical applications.

(5) If activities result in the loss or degradation of a regulated wetland, a mitigation or enhancement plan prepared by a qualified professional shall be submitted for review and approval by the town. Any mitigation or replacement wetland shall be located in the same watershed as the impacted wetland of the same category and level of function. Where mitigation ratios are necessary the town recommends using Table 1a, Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Publication No. 06-06-011a, March 2006).

(6) Buffer Width Averaging. Buffer averaging allows limited reduction of the buffer width in specified locations, while requiring increases in others. Averaging of required buffer widths will be allowed only if the applicant demonstrates that all of the following criteria are met:

(a) Averaging is necessary to accomplish the purposes of the proposal and that no reasonable alternative is available; and

(b) The total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging. The buffer width shall not be reduced below 25 percent of the standard buffer width or 25 feet, whichever is greater, unless the administrative official determines that no other reasonable alternative exists and that no net loss of wetland functional values will result, based on a functional assessment provided by the applicant utilizing a methodology approved by the administrative official.

(7) Wetland buffers may be used for enhancement, conservation and restoration activities, passive recreation (including trails, wildlife viewing structures and fishing access areas) and stormwater management facilities (limited to outfalls or bioinfiltration swales) are allowed only if they do not alter the hydroperiod of the wetland or adversely affect water quality. Pedestrian trails in wetland buffers shall be limited to permeable surfaces and shall be no more than five feet in width. Trails should be located only in the outer 25 percent of a wetland buffer and should be designed to avoid removal of significant trees. Stormwater management facilities are limited to the outer 25 percent of the wetland buffer of Category III and IV wetlands. [Ord. 631 § 1, 2008]

16.12.110

Critical aquifer recharge areas.

(1) The existence of a critical aquifer recharge area and its boundary shall be determined by a qualified professional using Skagit County aquifer recharge area designations as guidance. Aquifer characterization and rating of hydrogeologic susceptibility to contamination will be conducted using the guidelines and methodology provided in the Washington Department of Ecology Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances (Publication No. 05-10-02897). A technical report prepared by a qualified professional will be submitted by the applicant.

(2) In areas designated as high susceptibility for aquifer contamination, all uses shall be connected to the town's sewer system to prevent possible contamination of the aquifer by septic system leaks. No new uses on a septic system are permitted in high susceptibility areas of critical aquifer recharge.

(3) Impervious surfaces shall be minimized within the critical aquifer recharge areas to protect the aquifer from contamination by storm runoff.

(4) Best management practices shall be followed by commercial and industrial uses located in the critical aquifer recharge areas to ensure that potential contaminants do not reach the aquifer.

(5) If the proposed development involves the use of any hazardous materials or substances regulated by the county, state or federal government, a spill prevention and emergency response plan shall be prepared and submitted for review and approval by the town and fire district. [Ord. 631 § 1, 2008]

16.12.120

Habitat conservation areas.

(1) The applicant for development in the CAO district that may impact habitat conservation areas shall provide a habitat management plan which identifies critical areas within the project area, prepared by a qualified professional with knowledge of the species in question, for evaluation by local, state, and federal agencies.

(2) The habitat management plan shall address the project area of the proposed activity, all habitat conservation areas, and shall recommend appropriate buffers to protect the critical area.

(3) The habitat management plan shall be based on best available science and best management practices and shall be designed to achieve specific habitat objectives and shall include, at a minimum:

(a) A detailed description of vegetation on and adjacent to the project area;

(b) Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

(c) A discussion of any federal, state or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

(d) A detailed discussion of the potential impact on habitat by the project, including potential impact to water quality;

(e) A discussion of mitigation measures proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity;

(f) A discussion of continuing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

(4) A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the functions and values of the habitat.

(5) No plant, wildlife or fish species that is not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit approval.

Water Type Riparian Buffer	
S (Shorelines)	200 feet
F (Fish)	100 feet
NP (Nonfish perennial) NS (Nonfish seasonal)	50 feet

Once buffers are established, they shall not be altered except as allowed in this subsection. Riparian buffers not currently meeting the minimum standards shall be restored; provided, that such restoration does not conflict with other provisions of this chapter. In implementing buffer widths other than the standard riparian buffers identified above, the town may provide opportunity for review and comment from appropriate federal, state or tribal natural resource agencies to ensure the use of best available science. These comments shall be included in the public record along with the basis and rationale for requirement or approval of any such nonstandard buffers.

(a) Increasing Buffer Widths. The town has the authority to increase the standard buffer widths on a case-by-case basis, or to establish nonriparian buffer widths, when such buffers are necessary to protect priority fish or wildlife (e.g., great blue heron nesting colonies, osprey or cavity nesting ducks). This determination shall be supported by appropriate documentation from the Departments of Ecology and Fish and Wildlife, showing that the increased buffer width is reasonably related to the protection of the fish and/or wildlife using the HCA.

(b) Decreasing Buffer Widths. Decreasing standard buffers will be allowed by the town council only if the applicant demonstrates that all of the following criteria are met:

(i) A decrease is necessary to accomplish the purposes of the proposal and no reasonable alternative is available;

(ii) Decreasing width will not adversely affect the fish and wildlife habitat functions and values;

(iii) If a portion of a buffer is to be reduced, the remaining buffer area will be enhanced, using native vegetation, artificial habitat features, vegetative screening and/or barrier fencing as appropriate to improve the functional attributes of the buffer and to provide equivalent or better protection for fish and wildlife habitat functions and values;

(iv) The buffer width shall not be reduced below 50 percent of the standard buffer width unless the town council determines that no other reasonable alternative exists and that no net loss of HCA riparian functional values will result, based on a functional assessment provided by the applicant utilizing a methodology approved by the town.

(6) Allowed Uses in HCAs or Buffers.

(a) Docks. Docks designed to facilitate low impact uses, such as education and/or private, non-commercial recreation may be permitted within fish and wildlife HCAs under the following conditions:

(i) The activity will have minimum adverse impact to the fish and wildlife habitat conservation area;

(ii) The activity will not significantly degrade surface or groundwater;

(iii) The intrusion into the fish and wildlife habitat conservation area and its buffers is mitigated; and

(iv) The director may provide opportunity for review and comment by federal, state and tribal natural resource agencies.

(b) Limited park or recreational access to a fish and wildlife habitat area or its required buffer; provided, that all of the following are satisfied:

(i) The access is part of a public park or a recreational resort development that is dependent on the access for its location and recreational function;

(ii) The access is limited to the minimum necessary to accomplish the recreational function;

(iii) The access and the balance of the development is consistent with other requirements of the Concrete Municipal Code and the Skagit County shoreline management master program; and

(iv) The proponent obtains a written approval from the town council for the limited access and associated mitigation.

(c) Low impact uses and activities which are consistent with the purpose and function of the habitat buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat involved; provided, that such activity shall not result in a decrease in riparian functional values and shall not prevent or inhibit the buffer's recovery to at least prealtered condition or function. Examples of uses and activities which may be permitted in appropriate cases include removal of noxious vegetation, pedestrian trails, viewing platforms, and stormwater management facilities such as grass-lined swales and wet ponds or stormwater wetlands.

(d) In the riparian buffer, removal of hazardous, diseased or dead trees and vegetation when necessary to control fire, or to halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 75.09 RCW, or when the removal is necessary to avoid a hazard such as landslides that pose a threat to existing structures may be permitted with prior written approval. Any removed tree or vegetation shall be replaced with appropriate species. Replacement shall be performed consistent with accepted restoration standards for riparian areas within one calendar year. The director may approve alternative tree species to promote fish and wildlife habitat.

Prior to commencement of tree or vegetation removal and replacement, the landowner must obtain written approval from the director. [Ord. 631 § 1, 2008]

16.12.130

Density/floor area calculations and transfer of density/floor area.

(1) An owner of a site or property in the R residential zoning district containing critical areas shall be entitled to transfer the residential density attributable to the critical area(s), including buffers, on the property to the unconstrained portion of the same property zoning districts subject to compliance to the requirements of this code for residential planned unit developments, and cluster subdivisions.

(2) An owner of a site or property in the airport land use district, CL commercial/light industry district, TC town center district, I industrial district, P public lands district and O-S open space zoning districts containing critical areas shall be entitled to transfer the floor area attributable to the critical area(s) including buffers to the unconstrained portion of the same property subject to the requirements of the dimensional and density requirements within the applicable zoning district. Parking for the transferred floor area may be reduced to provide and ensure economic use of the property. [Ord. 631 § 1, 2008]

16.12.140

Frequently flooded areas.

Development in areas of special flood hazards shall comply with Chapter 15.08 CMC, Floodplain Management. [Ord. 631 § 1, 2008]

18.12.150

Geologically hazardous areas.

(1) A minimum 50-foot buffer shall be established from the boundary of an identified geological hazard, including landslide hazard areas, seismic hazard areas, mine hazard areas, landfills or steep slope areas (40 percent or greater), except as specified in this section. The buffer may be increased as deemed necessary to protect public health, safety and welfare, based on information contained in a geotechnical report prepared by a qualified professional submitted by the applicant.

(2) Buffers may be decreased in size, provided the geotechnical report substantiates the following findings:

(a) The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, erosion or sedimentation to off-site properties or bodies of water;

(b) The proposal uses construction techniques that minimize destruction of existing topography and natural vegetation;

(c) The proposal mitigates all impacts identified in the geotechnical report.

(3) The following activities are allowed in geologically hazardous areas, provided they do not create a hazard to the subject property or surrounding properties, do not increase erosion or sedimentation, do not compromise the stability of the slope, and utilize techniques to minimize the destruction of existing topography and natural vegetation:

(a) Additions to existing residences that are 640 square feet or less.

(b) Installation of fences.

(c) Removal of vegetation may be permitted only when necessary to protect the public health, safety, and general welfare. Significant trees and shrubs removed shall be replaced with similar species at a location approved by the town. Such activities shall require a critical areas permit by the town of Concrete.

(d) Activities identified in CMC 16.12.050(E). [Ord. 631 § 1, 2008]

16.12.160

Special consideration for anadromous fisheries.

(1) The applicant for development proposed in the CAO district that may impact anadromous fisheries shall provide an anadromous fisheries protection plan prepared by a qualified professional with knowledge of the species in question. If the applicant must submit a habitat management plan, these reports and mitigation plans may be combined.

(2) The anadromous fisheries protection plan shall be based on best available science and best management practices and shall be designed to protect and enhance anadromous fisheries resources and shall include, at a minimum:

(a) A detailed description of the landscape and vegetation on and adjacent to the project area;

(b) Identification of any endangered, threatened, rare, sensitive, or monitor species of anadromous fish, or resident fish species or species of local importance that are known to occur on or adjacent to the proposed site, and a detailed description of those species' life cycles and limiting factors;

(c) A discussion of any federal, state or local special management recommendations have been developed for salmonid recovery or anadromous fish species or habitats located on or adjacent to the project area;

(d) A detailed description of the potential impact on anadromous fisheries by the project, particularly with regard to life stages important to species survival;

(e) A discussion of conservation or protection measures proposed to preserve and enhance existing habitat and restore any habitat that was degraded prior to development;

(f) A discussion of continuing management practices that will protect and enhance anadromous fisheries and associated habitat after the project site has been developed, including proposed monitoring and maintenance programs. [Ord. 631 § 1, 2008]

16.12.170

Reasonable use allowance.

If application of the requirements in this chapter would deny all reasonable economic use of the lot, development will be permitted if the applicant demonstrates all of the following to the satisfaction of the town as part of the critical areas review in addition to demonstrating all of the findings required of variances from provisions of the zoning ordinance:

(1) There is no other reasonable use or feasible alternative to the proposed development with less impact on the critical area;

(2) The proposed development does not pose a threat to the public health, safety and welfare on or off of the subject property;

(3) Any alterations permitted to the requirements of this chapter shall be the minimum necessary to allow for reasonable use of the property;

(4) The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line and creating the undevelopable condition after the effective date of the ordinance codified in this chapter;

(5) The proposal mitigates the impact on the critical area to the maximum extent possible;

(6) Reasonable use of property shall generally be described as one dwelling unit per legal lot of record, or one equivalent residential unit for commercial and industrial uses per legal lot of record;

(7) The town may assist applicants in providing the information required in this section;

(8) Appeals. The applicant may appeal a decision of the town planner and/or building official on a reasonable use allowance application to the town council. [Ord. 631 § 1, 2008]

16.12.180

Lorenzan Creek setback requirement.

This chapter incorporates by reference the settlement agreement between the town of Concrete, State of Washington Department of Fish and Wildlife, and the State of Washington Department of Ecology, Exhibit B, of Shorelines Hearing Board Case No. 98-18. [Ord. 631 § 1, 2008]

16.12.190

Application.

This chapter shall apply to all development activities and land use approvals required by the town of Concrete for which a complete application is filed and fee paid after the effective date of the ordinance codified in this chapter. [Ord. 631 § 1, 2008]

16.12.200

Enforcement.

Enforcement of this chapter is as described in Chapter 19.84 CMC, contained in the zoning code. [Ord. 631 § 1, 2008]

Restoration Plan

Appendix

Town of Concrete Shoreline Restoration Plan

Prepared for:

Town of Concrete
45672 Main Street
P.O. Box 39
Concrete, WA 98237

Grant No. G1000082



Prepared by:



Graham-Bunting Associates

Environmental & Land Use Services

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January 28, 2013

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Introduction

This restoration plan has been prepared consistent with the requirements of the Washington State Department of Ecology shoreline management guidelines (WAC 173-26-201(2)(f)). The guidelines require restoration plans to address the six subjects outlined below. The plan is intended to provide an overall improvement in shoreline/riparian functions over time when compared to the existing baseline conditions established under the Shoreline Inventory and Characterization (December 2011).

1. Identification of Degraded Areas, Impaired Ecological Functions, and Sites With Potential for Ecological Restoration

The Town's shorelines are located along the Skagit and Baker Rivers and are riparian in character. Therefore shoreline ecological functions relate directly to the commonly recognized riparian functions described in the Shoreline Inventory and Characterization. Riparian functions include water quality, bank stabilization, shade and temperature, microclimate, wildlife habitat, instream habitat, productivity, storage and conveyance. Impairment of these functions results largely from human disturbance along the river banks and is linked closely to removal of native plant communities and replacement of vegetated riparian corridors with impervious surfaces. Utility, mining and processing, transportation and commercial development have contributed to impairment of shoreline functions within the shoreline areas of the Town. Discussion relating to impairment of shoreline functions is framed in the context of the riparian functions outlined under subsections 3.3 and 3.4 of the Shoreline Inventory and Characterization.

1.1 Assessment by Planning Segment

Five planning segments were identified and assessed in the Town of Concrete Shoreline Inventory and Characterization. The planning segments were identified based on distinct geographic boundaries, similar shoreline characteristics, land use patterns and comprehensive plan and zoning designations.

1.1.1 Segment 1 - The Lake Shannon Segment is located north (upstream) of the Lower Baker River Dam and extends north to the City's municipal boundary. Lake Shannon is a reservoir created by the Lower Baker River Dam. While the reservoir is characterized as a lake it is an impoundment of the Baker River. The Lake Shannon Segment constitutes approximately 880 linear feet of shoreline and a shoreline jurisdictional area of approximately 17.77 acres. The shoreline is lacustrine in character. The lake level rises and falls seasonally and in conjunction with rainfall/snow melt events and through operation of the Baker River Dams. Comprehensive plan and zoning designations are public lands/open space. The only significant development is associated with the Lower Baker Dam including the log boom and surface fish collector.

1.1.2 Segment 2 - The Baker River Canyon Segment is located south (downstream) of the Lower Baker Dam and extends south to and including the Thompson Bridge. The right (west) bank of the segment is riverine and relatively natural in character while the left

(east bank) includes the Lower Baker powerhouse and powerhouse access road. The Baker River Canyon Segment constitutes approximately 2,860 linear feet of shoreline and a jurisdictional area of approximately 43 acres. Comprehensive plan and zoning designations are public lands/open space along the right bank and public lands/open space and industrial along the left bank.

1.1.3 Segment 3 - The Baker River Channel Segment is located south (downstream of the Thompson Bridge and extends southward past the SR-20 Bridge. The left (east) bank continues on to the confluence with the Skagit River while the right (west) bank ends at the City's municipal boundary approximately 350 feet north of the confluence. The segment is riverine in character and is maintained in a channelized condition. Both banks are armored with rock. Impervious access roads are present near the top of both banks. The area along the left bank from the Thompson Bridge south to SR-20 is utilized by Puget Sound Energy in conjunction with Baker River Hydropower development. Shoreline jurisdiction within this segment includes areas of designated floodway and contiguous floodplain. The Baker River Channel Segment consists of approximately 2,420 linear feet of shoreline and a jurisdictional area of approximately 36.7 acres. Comprehensive plan and zoning designations consist of public lands along the right bank and industrial along the left bank.

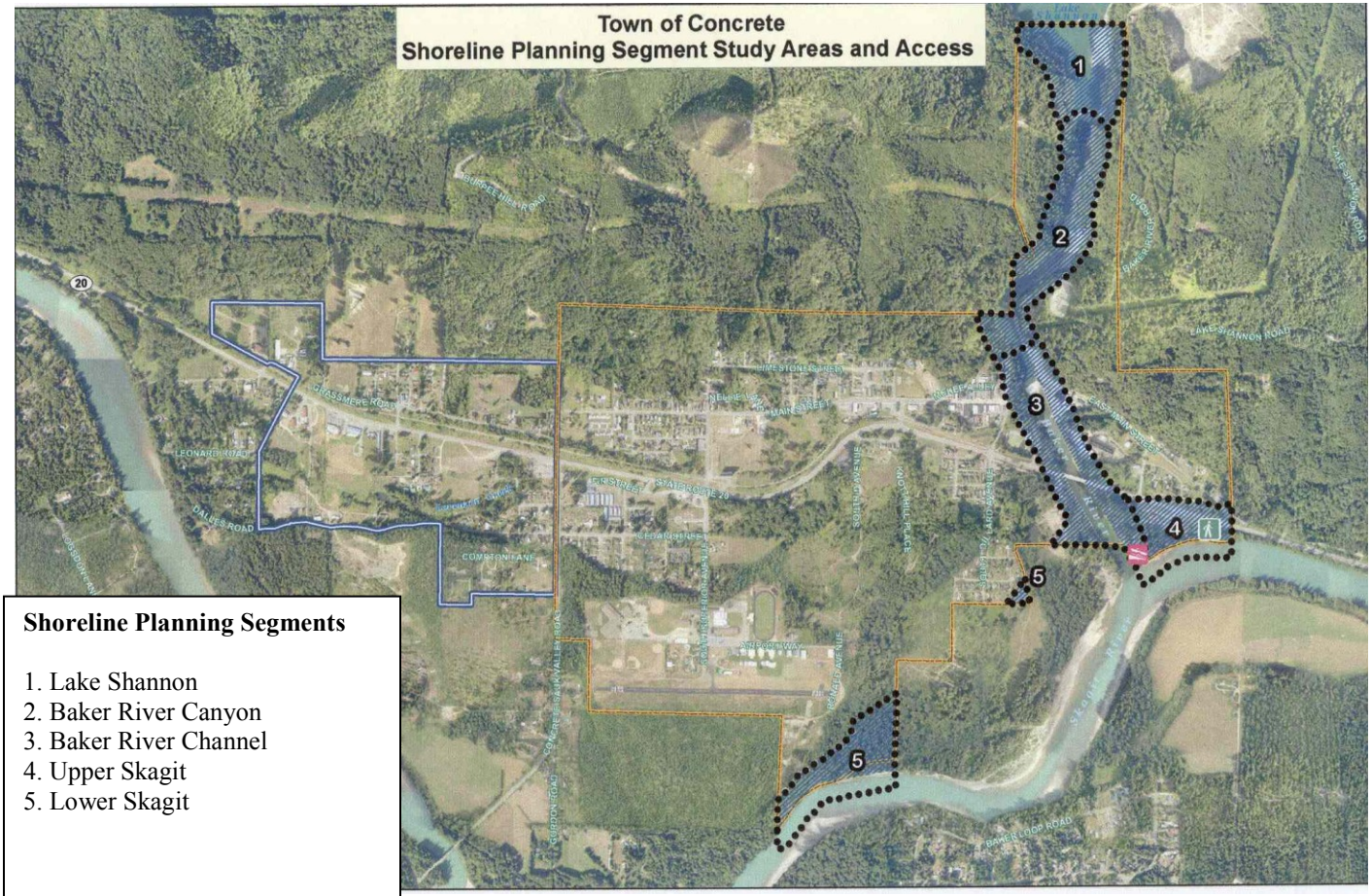
1.1.4 Segment 4 - The Upper Skagit River Segment extends from the Baker/Skagit confluence upstream (east) to the City's eastern municipal boundary. The shoreline itself is riverine and relatively natural in character, however, portions of the floodway and contiguous floodplain have been subject to residential and commercial development. The segment includes the two existing public shoreline access areas in the City. The access sites are owned by the Washington State Department of Transportation Fish and Wildlife. and Shoreline jurisdiction within this segment includes areas of designated floodway and contiguous floodplain. The segment consists of 1100 linear feet of shoreline and 16.7 acres. Comprehensive plan and zonings designations are public lands, commercial, light industrial, and residential.

1.1.5 Segment 5 - The Lower Skagit River Segment is located approximately .5 miles downstream from the Baker/Skagit confluence. The shoreline is riverine in character and exists in a natural condition that provides a full suite of riparian functions including a side channel which may be a remnant of the Little Baker River. Shoreline jurisdiction within this segment includes areas of designated floodway and contiguous floodplain. The segment includes a shoreline area of 1540 linear feet and an area of 23.3 acres. There is no development within the shoreline area. The comprehensive plan and zonings designation is open space.

The five planning segments are compared on the following table. The segments are delineated on an aerial photograph following the table. The complete inventory is available for review at the Concrete Town Hall.

Table 1: Comparison of Planning Segments

Segment	Size	Condition	Comp/Zoning	Land Use
1. Lk. Shannon	880-lf 17.7-acres	Lake (Reservoir)	Open Space	Hydropower Open Space
2. Baker Canyon	2,860-lf 43-acres	River Natural/Altered	Open space Residential Industrial	Open Space Residential (2) Hydropower
3. Baker Channel	2,420-lf 36.7-acres	River Channelized Armored Impervious road surfaces	Public lands Industrial Comm/Lt.Ind.	Public Lands Hydropower Unimproved public access
4. Upper Skagit	1,100-lf 16.7-acres	River Natural shoreline Developed floodway- Floodplain	Public lands Residential Commercial Light Industrial	Public lands (river access) Residential (1) Commercial Light Industrial
5. Lower Skagit	1,540-lf 23.3-acres	River Natural Shoreline	Open space	Open space
Area Totals:	8,800-lf 122.4-acres			



1.2 Causes of Shoreline/Riparian Impairment

A single shoreline use (hydropower) dominates the majority of the Town's shorelines. Hydropower and other historic and existing land uses have contributed to the impairment of shoreline/riparian ecological functions within the town's shoreline areas.

1.2.1 Hydropower – Hydropower development has resulted in significant impairment to riparian functions along the Baker and Skagit Rivers. Although operators (Puget Sound Energy, Seattle City Light) have worked diligently to minimize impacts on fish, dams have reduced the magnitude of peak flows in the Skagit River by an estimated 50%. Reduction of peak flows impairs sediment and water transport processes, as well as the development and maintenance of off channel habitats, woody debris recruitment and other riparian functions (Watershed Company, May 2007). PSE received a 50-year operating license from the Federal Energy Regulatory Commission (FERC No. 2150) on October 17, 2008.

1.2.2 Timber Harvest/Forest Products – Timber harvest conducted over the past 150 years has also had the effect of impairing riparian functions. Large woody debris recruitment, shade, bank stability, water quality, microclimate and wildlife habitat have been impacted by the removal of mature forests along the Baker and Skagit Rivers. In some cases the forest canopy has been replaced with developed impervious surfaces which accelerate stormwater runoff rates increasing peak flows, and resulting in the problems of flooding, erosion and sedimentation. In addition shingle mills were established in shoreline areas and utilized excavated and dredged channels such as the Little Baker River as transportation corridors.

1.2.3 Mining - Mineral extraction and processing facilities have impacted shoreline areas through mining activities associated with aggregate extraction, asphalt and cement production. Areas along the shoreline of the Lower Baker River have been utilized in conjunction with aggregate processing, stockpiling and storage.

1.2.4 Transportation Facilities - A number of public and private transportation facilities are located along the shorelines of Concrete. The Baker River is crossed by two bridges within the City's municipal boundaries. The SR-20 Bridge crosses the Baker River approximately 0.25 miles upstream from the confluence with the Skagit River. The Thompson Bridge is located an additional 0.25 miles upstream connecting East Main Street along the left (East) bank of the Baker River with Main Street on the right (west bank). Unimproved river access roads are also located near the left and right banks of the Baker River linking City roads and SR-20 with the shoreline of the Baker to its confluence with the Skagit River. Transportation infrastructure along the City's river shorelines confine channel migration and may require maintenance activities such as bank armoring which further degrades riparian functions. In addition concrete supporting piers are located in-stream at both the Peterson and Thompson bridges.

1.2.5 Other Causes of Impairment – While the discussion above focuses on specific causes of impairment it should be recognized that any activities which result in removal of native plant communities and replacement with impervious surfaces impact

shoreline/riparian functions. Commercial, residential and recreational development within the Town’s shorelines has also contributed to impairment of ecological functions.

1.3 Assessment of Shoreline/Riparian Function Impairment by Planning Segment

The following table summarizes impairment of riparian functions by planning segment. Numerical values are attributed to the level of impairment of the function, with 1 representing a high level of impairment and 5 a low level. A full suite of riparian functions, based on a three strata native plant community and intact mature forest canopy, functioning at the highest level would score 40 points.

Table 2: Comparison of Riparian Function Impairment by Planning Segment

Plan. Seg.	Water Quality	Bank Stability	Shade/Temp.	Micro-Climate	Wildlife Habitat	Instream Habitat	Productivity	Convey/Storage	Total Score
1	3	3	2	2	3	4	3	4	24
2	2	2	2	2	2	2	3	3	18
3	2	2	2	2	2	2	2	4	18
4	3	3	3	3	2	2	3	2	21
5	4	4	4	4	4	4	4	4	32

1.3.1 While Planning Segment 1 consists of the reservoir above the Lower Baker Dam known as Lake Shannon, riparian functions within the segment rank relatively high with a total score of 24 points. The contributing basin is managed, in large, as federal forest and park lands. Many of the tributaries to the lake include forested riparian corridors that promote water quality and productivity. The shoreline of the lake itself is bordered by a mixed forest. Although sand bars are present during low lake levels, the banks are relatively stable. Because the lake bottom was logged prior to construction of the Lower Baker Dam there is an abundance of in-lake habitat suitable for a variety of fish species. The lake plays a valuable storage function during storm events by holding floodwaters before release to the Skagit River and its associated floodplain.

1.3.2 Planning Segments 2 and 3 received scores of 18 points indicating the highest degree of riparian function impairment. Although the segments received identical total overall scores they differ significantly. Segment 2 extends from the Lower Baker Dam to and including the Thompson Bridge. The left (east) banks of Segment 2 and Segment 3 to the SR-20 Bridge are dominated by hydropower related facilities operated by Puget Sound Energy. Management of the segment for hydropower contributes to low to moderate scores for all riparian functions.

1.3.3 Segment 3 extends from the Thomson Bridge to a point approximately 0.25 miles south of the SR-20 (Lowell Peterson) Bridge. The right bank of segment 3 consists of an area utilized historically for aggregate extraction, processing and stockpiling. The primary distinction between the left and right banks is that the left bank extends downstream to the confluence with the Skagit River, while the right bank ends at the boundary between the municipality and unincorporated Skagit County. The left bank is managed for a mix of land uses including open space and public lands. Public access along both banks of the Baker River below the SR-20 Bridge is provided via impervious access roads which contribute to the impairment of ecological functions in Segment 3.

1.3.4 Planning Segment 4 received a total score of 21 points. Riparian functions are provided by a three strata native plant community that includes a mixed forest canopy. The riparian plant community broadens from the City boundary in the east to the mouth of the Baker River in the west. Shoreline jurisdiction in the segment extends landward from the OHWM and includes the FEMA designated floodway and 200 feet of the contiguous floodplain. While native vegetation is present contiguous to the OHWM, commercial, transportation and residential development impairs riparian water quality, microclimate, wildlife habitat, and conveyance and storage functions within the adjacent floodway and floodplain.

1.3.5 Planning Segment 5 ranked the highest of the segments for riparian functions scoring a total of 32 points. The segment exhibits diverse topography ranging from floodway/floodplain to a steep but stable (> 30%) slope. Alder and cottonwood transitioning to a dominance of cedar and fir along the upland slope dominate the floodway/floodplain portion. The segment also includes a side channel which provides for conveyance and storage of floodwaters as well as off channel habitat which provides refugia for juvenile salmonids during flood events. The side channel appears to be the mouth of the little Baker River which, because of its high potential for salmon habitat restoration, has been the subject of study for many years. Overall segment 5 is a relatively undisturbed shoreline which has retained its natural character.

1.4 Placing Impairment of Shoreline/Riparian Functions in Historic Context

Impairment of shoreline functions can be demonstrated based on the current state of aquatic resource science. It is important to recognize, however, that impairment requires an understanding of the historic context in which development and its associated impacts occurred and the societal benefits derived from the activities which resulted in impairment. For example, while hydropower development has resulted in significant impacts to fisheries resources, it has also provided our communities with relatively low cost electric power. Similarly resource extraction activities associated with forest products, minerals and aggregate provided the economic basis for establishment of a viable frontier community.

1.5 Identification of Restoration Sites

Given the ecological significance of the confluence area of the Baker and Skagit Rivers and the existing level of shoreline/riparian function impairment, the lower portion of Segment 3 (below SR-20) has been identified as the area that would most benefit from restoration activities. Restoration along the right bank may be linked with contiguous Skagit County initiatives that could link the restored areas within the Town and County to the natural shoreline area identified as Segment 5. Such a linkage could, over time, provide for an uninterrupted forest canopy extending from the SR-20 Bridge on the Baker River southwest approximately 1 mile to the Dalles Bridge on the Skagit River.

Preliminary discussions with the Town of Concrete Planning Commission identified several potential restoration projects in Segment 3, most notably the Little Baker River. The site is located in the City of Concrete and in unincorporated Skagit County A

restoration project was pursued jointly by the Skagit Fisheries Enhancement Group, local, state and federal agencies and discontinued in 2010 for lack of federal funds.

In addition to the lower portion of Segment 3, Segment 4, upstream of the Baker Skagit Confluence, has also been identified as a location that will benefit from restoration. The Washington State Department of Transportation is removing an existing dilapidated stairway that provides shoreline access from a parking area along SR-20 to the Skagit River. The stairway is being removed because it has been determined a hazard and consequently a liability to the State. Impaired conditions are depicted in photographs as an attachment to this plan. (Attachment A: Photo log of Impaired Riparian Features)

2. Establishment of Overall Goals and Priorities for Restoration of Degraded Areas and Impaired Ecological Functions

Goal:

Through cooperative action, restore shoreline/riparian functions while providing shoreline access and low impact recreational opportunities consistent with a restoration plan developed in accordance with WAC 173-16-201(2)(f).

Priorities:

1. Reduce impervious surfaces in the area immediately adjacent to rivers by substituting pervious pedestrian trails for impervious vehicular access road and parking area.
2. Control invasive species, maintain existing native vegetation and install appropriate native plant species capable of providing riparian functions over the long term.
3. Provide for monitoring and maintenance of restoration actions to assure success over the long term including provisions for replacement plantings as needed.
4. Improve shoreline/river access and recreational opportunities by identifying and developing an appropriately sited boat launch, picnic camping and other recreational facilities.
5. Enter into intergovernmental/interagency/landowner agreements to provide for shoreline/river access and other recreational improvement and for maintenance of facilities over the long term.

Preliminary Steps:

1. Review existing site conditions with potential stakeholders including property owners, funding entities, agency representatives, technical advisors and other potential participants.
2. Identify practicable measures which will help restore degraded shoreline/riparian ecological functions documented in lower Baker/Skagit reach identified as Planning Segments 3 and 4 in the Shoreline Inventory.

3. Consider incorporating shoreline/river access and recreational improvements in areas that do not compromise restoration of shoreline/riparian ecological functions.
4. Develop a restoration strategy which includes the participation of Skagit County, private property owners and the Department of Natural Resources along the right (west) bank of the Lower Baker/Skagit Confluence.

3. Identification of Existing and Ongoing Projects, Partners and Funding Sources

3.1 Known Projects and Programs

There are no known existing or ongoing projects and programs currently being implemented relative the impaired shoreline areas identified in this plan. Similarly there are no secured funding sources. In short, the Town cannot reasonably assure that restoration activities proposed for impaired shoreline areas will be implemented. While uncertainty exists, the town has taken preliminary steps to identify a working group that possesses knowledge of existing and ongoing programs and funding sources as well as technical expertise in the restoration of riparian functions.

3.2 Potential Project Partners

A preliminary group of stakeholders met with the Town Planning Commission in study session at the regularly scheduled monthly meeting held on October 2, 2012. Project goals and funding strategies were discussed for the lower Baker River confluence area. An expanded group of stakeholders who includes property owners, agency representatives, and restoration ecologists met on site on January 15, 2013. The group reviewed existing site conditions in Segments 3 and 4 as well as contiguous shoreline areas in Skagit County. Impaired areas were assessed and potential restoration activities discussed. A roster of potential stakeholders and partners for future restoration activities is listed in Table 3 below:

Table 3: *Preliminary Partner/Stakeholder Roster

Name	Representing	Phone	e-mail
Jeff McMeekin	Puget Sound Energy	(425) 462-3824	Jeff.McMeekin@PSE.com
Sue Madsen	Skagit Fisheries Enhancement Group	(360) 336-0172	smadsen@skagitfisheries.org
Phil Kincare	U.S Forest Service	(360) 854-2631	pkincare@fs.fed.us
George Theodoratus	Property Owner	(360) 391-1470	loistheo@gmail.com
Betsy Stevenson	Skagit County Planning and Development Services	(360) 336-9310	betsys@co.skagit.wa.us
Jason Miller	Editor, Concrete Herald	(360) 853-8213	editor@concrete-herald.com
Dennis Clark	WA State Department of Natural Resources	(360) 854-2805	Dennis.clark@dnr.wa.gov
Jeroldine Hallberg	Town of Concrete Planner	(360) 853-8002	jeroldine@concretewa.gov
Brian Adams	Skagit County Parks and Recreation	(360) 336-9415	briana@co.skagit.wa.us
Oscar Graham Patricia Bunting	Graham-Bunting Associates	(360) 766-4441	gba@wavecable.com

* List will be expanded as additional stakeholders and interested parties are identified

In addition to the stakeholders listed in Table 3, other property owners including private and public entities will have a stake and interest in restoration proposals addressing the confluence area. In addition to the parking area and shoreline access stairway discussed under 1.5 Identification of Restoration Sites, the Washington State Department of Transportation also owns property along the left bank of the Baker River in Planning Segment 3. The Washington State Department of fish and Wildlife owns a parcel at the Confluence of the Baker/Skagit Rivers that includes a primitive boat launch area. Glacier Northwest Inc. also owns a parcel along the left bank of the lower Baker River in Planning Segment 3. An aerial photograph depicting potential restoration concepts, jurisdictional boundaries and property ownership is attached. (Attachment B: Conceptual Sketch Map for Shoreline Restoration Opportunities)

3.3 Potential Contributing Partners

It is unlikely that the Town can provide the necessary initiative to implement restoration activities at the scale required to remediate impaired functions at the confluence area. In order to pursue such actions it will be necessary to enlist the support of partners who possess the ability to secure funding and provide the technical know how to successfully complete such undertakings. Following is partial list of potential partners identified through the development of the Town's Shoreline Master Program:

3.3.1 Puget Sound Energy (PSE) operates two hydroelectric power plants on the Baker River, one at Concrete. As part of its 2008 FERC relicensing agreement, Puget Sound Energy developed and funded an Aquatic Riparian Habitat Protection, Restoration, and Enhancement Plan (Puget Sound Energy 2010).

3.3.2 United States Forest Service (USFS) Manages approximately 158 miles of the Skagit River and its tributaries, upstream of the pipeline crossing at Sedro Woolley as a federally designated "Wild and Scenic River" (WSR). The WSR designation identifies the Skagit River as "recreational" indicating that portions are accessible by road, may have some shoreline development and may have a history of impoundment or diversion. While the WSR designation is not a regulatory program the designation applies to approximately 58 miles of the Skagit River including the portions of the river within the municipal boundaries of Concrete. The Forest Service may provide technical assistance to landowners in avoiding adverse impacts, and has the authority for limited purchase of private lands in fee title or a scenic or access easement. The WSR designation and its associated programs are administered by the Mount Baker/Snoqualmie District of the U.S. Forest Service. (Skagit Wild and Scenic River Management Plan, 1983)

3.3.3 Washington State Department of Ecology (Ecology) staff act as a resource for technical support and regulatory assistance to the town as needed. Ecology plays a primary role in the development and review of critical area regulations relating to wetlands by providing technical assistance to local governments pursuant to the GMA. WDOE plays a particularly critical role in shoreline management by providing technical support and oversight in the development of local master programs and reviewing all projects that require a shoreline permit. The department maintains specific authority over

Shoreline Conditional Use Permits and Shoreline Variances. It is anticipated that Ecology would play a technical role in the development of restoration plans for the confluence area.

3.3.4 Washington State Department of Natural Resources (DNR) owns and manages several properties within the Town, including aquatic lands along the right bank of the Baker River in Planning Segment 3. DNR has partnered with entities within Skagit County to facilitate aquatic and forest land conservation. As a property owner and land manager it is anticipated that DNR would play a significant role in the development of restoration plans for the confluence area.

3.3.5 Washington State Department of Transportation (WSDOT) owns and manages a scenic pull out and parking area which includes the stairway access to the Skagit River proposed for removal. Additionally WSDOT owns a parcel of land along the lower left bank of the Baker River in Planning Segment 3. Both properties are key to restoration plans for the confluence area.

3.3.6 Skagit County (County) manages shorelines contiguous to the Town's municipal boundaries. The County is currently preparing a comprehensive shoreline master program update that is anticipated to be adopted later this year. The master program will establish shoreline environment designations, policies and regulations which will work in concert with the Town's master program. It is anticipated that County Planning and Development Services and County Parks and Recreation would play a significant role in the development of restoration plans for the confluence area as well as any proposal for improved park and recreation facilities. Cooperative development and implementation of restoration and recreational improvements will depend to a significant degree on support from the County.

3.3.7 The Skagit Fisheries Enhancement (SFEG) is a nonprofit organization formed in 1990 to engage communities in habitat restoration and watershed stewardship in order to enhance salmon populations. Working in partnership with local landowners, conservation groups, government agencies and tribes, the SFEG sponsors and supports implementation of restoration projects. In addition to sponsoring restoration projects, the SFEG collects monitoring data on stream habitat, stream macro-invertebrates, spawning salmon, and vegetation.

3.3.8 Private landowners including Glacier Northwest Inc., Puget Sound Energy and George Theodoratus own parcels which represent a sizable portion of the confluence area. Careful negotiations with landowners should occur on an early and continuous basis throughout development of restoration plans to ascertain their willingness and level of support for restoration activities.

3.4 Potential Funding Sources

Potential partners are likely to pursue funding through federal or state grants, as well as local, private, or non-profit matching funds. Projects may be funded in multiple phases, with different funding sources appropriate for each phase. Following are several potential sources of restoration funding.

- Aquatic Lands Enhancement Account (ALEA): Provides funding to buy, protect, and restore aquatic lands habitat and to provide public access to the waterfront.
- Salmon Recovery Funding Board (SRFB): Provides funding to improve important habitat conditions or watershed processes to benefit salmon and bull trout. Projects must go through screening and selection process by local lead entities and must address goals and actions defined in regional recovery plans or lead entity strategies.
- Washington Wildlife and Recreation Program (WWRP): Provides funding to protect habitat for wildlife including habitat for endangered, threatened, or sensitive species. Provides funds to restore riparian vegetation.
- Aquatic Riparian Habitat Protection, Restoration and Enhancement Plan (ARHPRHP): The plan under PSE Settlement Agreement 505 establishes an initial budget of \$8.6 million to conduct habitat protection, restoration, and enhancement, and includes a provision for an additional \$1.6 million contingent on future dam development. The plan does not identify specific projects for funding, but instead it establishes standards and guidelines to “protect and enhance low-elevation bottomland ecosystems in the Skagit River basin, including the Baker River sub-basin. (The settlement agreement also includes similar provision for funding of recreational projects in the Lower Baker area)

4. Identify Additional Projects and Programs Needed to Achieve Local Restoration Goals

4.1 Steering Committee

Establish a steering committee consisting of Town Council and Planning Commission representatives, citizens and other stakeholders. The committee should consider supporting a phased approach to restoration activities linked with low impact shoreline access and recreation improvements in the confluence area. In concept a phased restoration/shoreline access plan could proceed in the following manner:

4.1.1 Phase 1: WSDOT Skagit River Shoreline Access - Work cooperatively with the Skagit Fisheries Enhancement Group and the WSDOT to apply for ALEA funding to replace the existing shoreline stairway to the Skagit River located adjacent to SR-20 and east of the Baker River Bridge. The stairway may be replaced with a shoreline trail possibly with a pervious surface. Invasive plant species should be removed and replaced with native trees and shrubs. Volunteers may be enlisted from the conservation community and sport fishing groups for trail construction and plant installation. New signage near the trailhead acknowledging the work of the volunteers would be a fitting

completion of the project. It may also be possible for maintenance of the trail and plantings to be accomplished by volunteers.

4.1.2 Phase 2: Left Bank Baker River Downstream of SR-20 - Work cooperatively with stakeholders to identify areas of existing road along top of left bank which may be abandoned and returned to a pervious natural surface. Consider utilizing higher ground (outside of FEMA designated Floodway) for vehicular access, parking and sanitary facilities. Substitute pedestrian shoreline access trails and points of shoreline access for continuous impervious road surfaces. Remove invasive species and install native trees and shrubs. Explore the possibility of improving existing launch site with WDFW. Develop conceptual plan and apply for WWRP funding.

4.1.3 Phase 3: Right Bank Baker/Skagit River Confluence – Work cooperatively with stakeholders and on an inter-jurisdictional basis with Skagit County to restore shoreline/riparian ecological functions along the right bank of the Baker River and contiguous properties to the south within Skagit County. Consider feasibility of re-establishing meander in lower Baker River. Substitute pedestrian shoreline access trails for impervious road surfaces. Remove invasive species and install native trees and shrubs. Consider linkages to off channel habitats such as the Little Baker River. Work with Skagit County Parks and Recreation to assess feasibility of recreational improvements including campgrounds to be located outside of the FEMA designated floodway. Assess eligibility for Aquatic Riparian Habitat Protection, Restoration and Enhancement Plan funding under PSE Settlement Agreement Article 505.

5. Identify Timelines and Benchmarks for Implementing Restoration Projects

5.1 Phased Approach

As outlined above in Section 4., a phased approach to restoration activities will require the guidance of a steering committee, commitment of partners and availability of funding. Timelines and benchmarks will be determined by the scope of the restoration project, application requirements for grants and awarding of funds.

5.1.1 (Short Term/2013) – Phase 1 is a project of relatively modest scope. The Skagit Fisheries Enhancement Group may assist with application for ALEA grant funds available early in 2013. If grant funds are awarded, trail construction, invasive species removal and installation of native plant materials may follow in relatively short order with much, if not all, work donated by volunteers. It should be noted that phase 1 activities are of a limited scope that is not likely to require a shoreline substantial development permit. Completion of phase 1 may provide a sense of accomplishment and momentum as restoration activities transition into the more ambitious scopes of phases of 2 and 3.

5.1.2 (Mid to Long Term/2014-2017) - Phases 2 and 3 will require more intensive assistance in the preparation of plans and applications for funding possibly from sources including WWRP and PSE. Because of the expanded scope and cost associated with

restoration activities pre-project planning, preparation of detailed grading plans and utilization of heavy equipment may be required. Accordingly, grant application procedures will be more exacting and protracted. The enlistment of Skagit County in restoration activities associated with Phase 3 may include coordinated recreational improvements within both Town and County jurisdictions. The inclusion of structural shoreline access and recreational components may require a shoreline substantial development permit that could attenuate timelines.

6. Provide Mechanisms to Ensure Implementation and Effectiveness of Restoration Actions

6.1 Phase 1

As Phase 1 is implemented the following tasks should be completed:

- Care should be taken to assure that an appropriate trail design is prepared and reviewed by WSDOT
- Trail construction should rely primarily on hand tools including hand operated power tools
- Use of pervious material on the trail surface should be researched and utilized if possible
- If removal of invasive species is accompanied by application of herbicide, an appropriate aquatic friendly product should be utilized
- Follow-up maintenance controls should be anticipated to confirm removal of invasive species over time
- Plant installation should provide for monitoring and maintenance consistent with the requirements of the CARs and SMP
- Replacement of the existing sign should be coordinated with WSDOT, WDFW, USFS and other participating partners

6.2 Conclusion

It is clear that the ecological importance and impaired condition of the confluence area recommend it as a candidate for restoration activities. Growing interest in the area by conservation organizations and potential availability of restoration funds through the entities listed under subsection 3.4 suggest that it is but a matter of time until restorative actions are actually implemented. It should be recognized that conservation organizations will likely take the lead in planning and implementing these actions. The Town of Concrete however has a vital stake in area. While the confluence area is undeniably significant as a restoration site it has been used for shoreline access and recreation for many years. Including appropriately designed and sited access and recreation improvements in the area can promote the dual mandates of the Shoreline Management Act by protecting shoreline ecological functions and providing shoreline access.

7. References

Graham-Bunting Associates: August 2011. Revised December 2011. City of Concrete Shoreline Inventory and Characterization; Grant No. G1000082.

Puget Sound Energy. Baker River Hydroelectric Project, FERC No. 2150, Application for New License Major Project. – Existing Dam: Baker River Project Documents. Initial Consultation Document Sections 3.1 – 3.12 + Appendices, (March 2010), Bellevue WA. 202 pp.

Watershed Company, 2007. Final Best Available Science Report Prepared for Skagit County Planning and Development.

Personal Communications

Adams, Brian – Director, Skagit County Parks and Recreation: Planning Commission Meeting of October 2, 2012 and follow up e-mail correspondence.

Hallberg, Jeroldine – Town of Concrete Planner. Ongoing correspondence and field review of January 15, 2013.

Kincare, Phil – United States Forest Service. Planning Commission Meeting of October 2, 2012 and follow up e-mail correspondence and field review of January 15, 2013.

Madsen, Sue – Skagit Fisheries Enhancement Group. Planning Commission Meeting of October 2, 2012 and follow up e-mail correspondence and field review of January 15, 2013.

McMeekin, Jeff - Land Planner, Puget Sound Energy: Site Inspections and discussions regarding history and use of Lower Baker Hydroelectric Power Plant. August 23, 2010 and September 27, 2010.

Stevenson, Betsy – Senior Planner/Team Supervisor, Skagit County Planning and Development Services: Meetings regarding coordination with County wide SMP update process. March 2010 and field review of January 15, 2013.

Theodoratus, George – Resident and Town of Concrete Planning Commissioner: Discussion of the origins of Little Baker River. June 22, 2010 and field review of January 15, 2013.

Impaired Riparian Features at Identified Restoration Opportunity Sites.



Photo 1: (Segment 3) View south showing Impervious shoreline access road along left bank of Baker River. Note absence of canopy along bank.



Photo 2: (Segment 3) View west showing stormwater discharging to Baker River from access road shown in Photo 1.



Photo 3: (Segment 3) View east showing vandalized portable toilet at boat launch near confluence of Baker/Skagit River.



(Photo 4: (Segment 4) View south showing dilapidated stairway access to Skagit River to be removed by WSDOT.

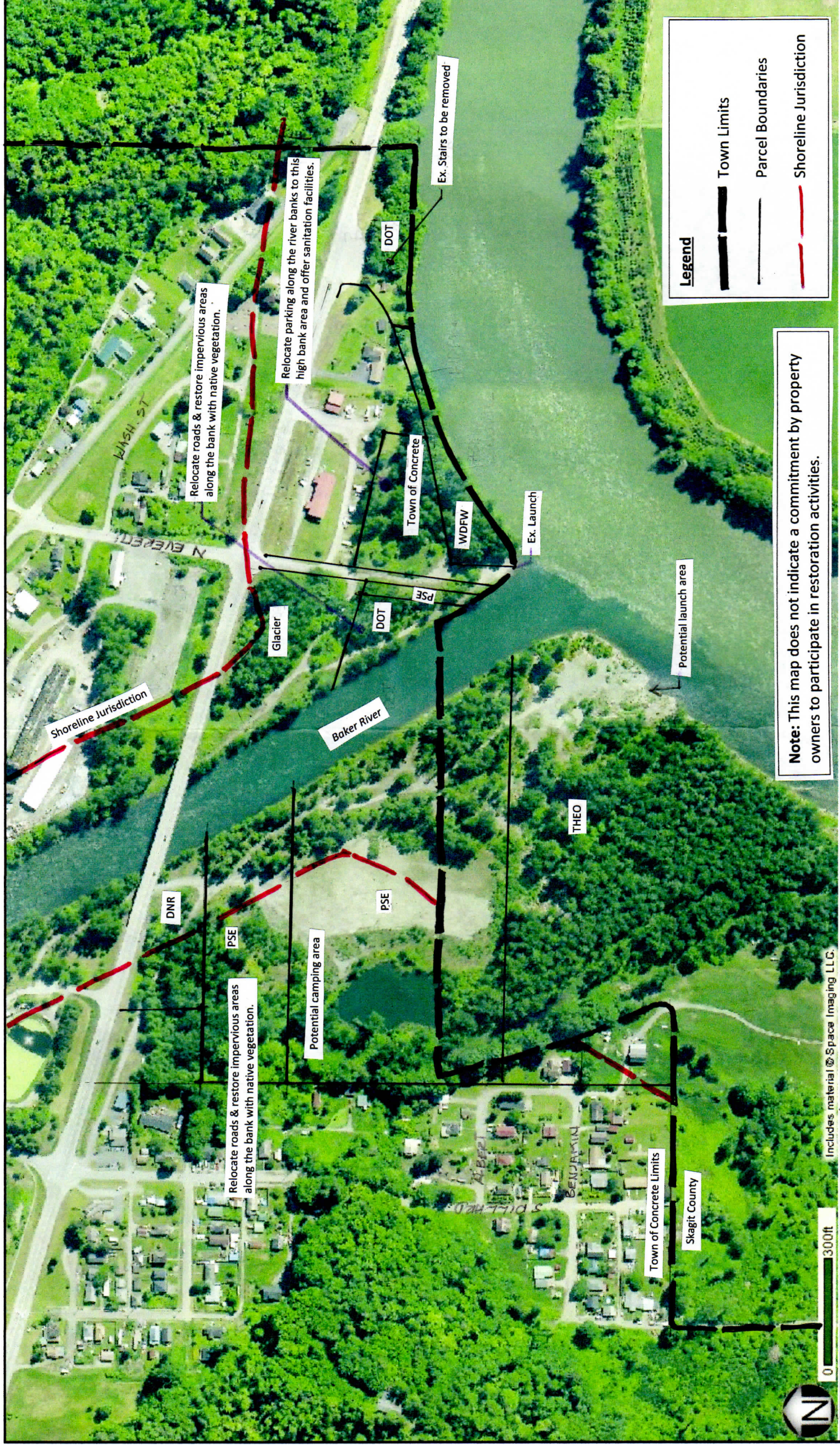


Photo 5: (Segment 3) View southeast showing impervious access road along right bank of Baker River.



Photo 6 (Segment 3) View west showing access to permitted temporary rock storage area adjacent to right bank of Baker River.

Skagit County GIS Map



Skagit County iMap

SKAGIT COUNTY does not attest to the accuracy to the data contained herein and makes no warranty with respect to the correctness or validity of this map. Data contained in this map is limited by the method and accuracy of its collection.

Map Scale: 1 inch = 300 Feet (1 inch = 0.1 Miles)

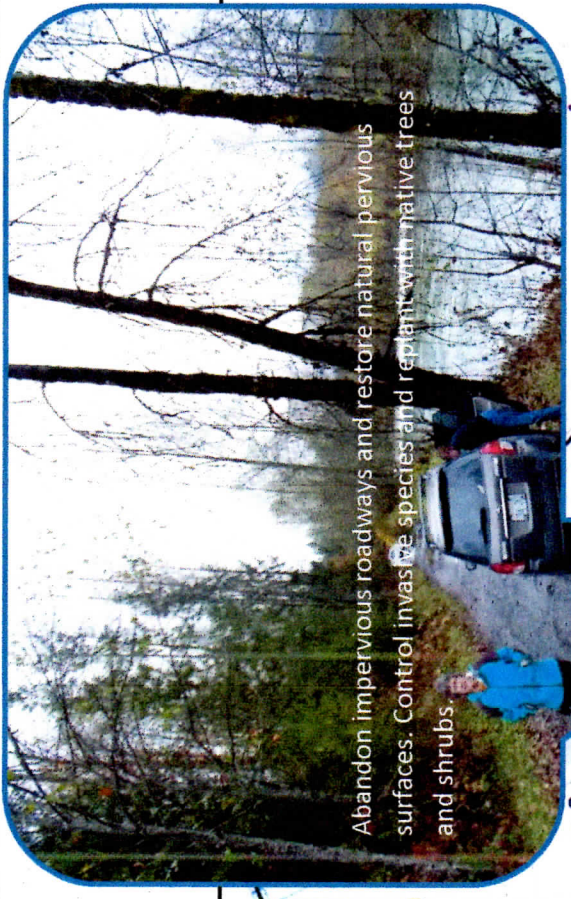
Conceptual Sketch Map for Shoreline Restoration Opportunities

Date: January 2013 Prepared by: Graham-Bunting Associates

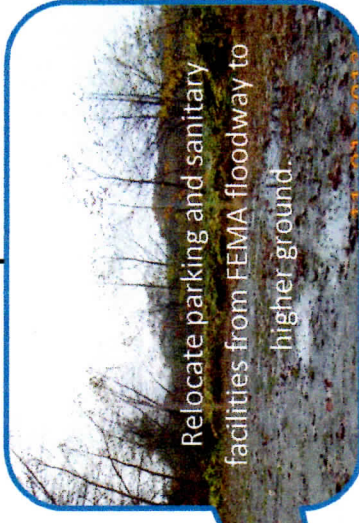
Note: This is not a legal survey.



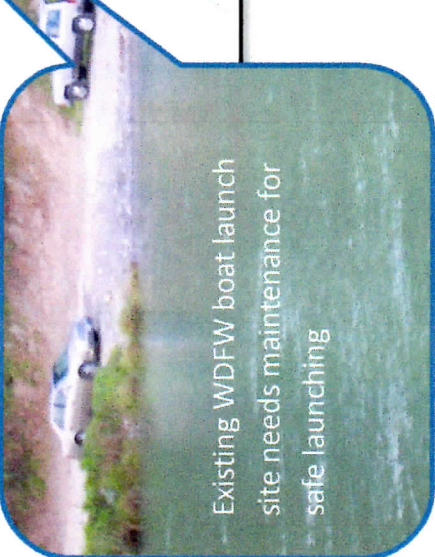
Work with SPS, Skagit County, PSC and Private Landowners to Enhance Shoreline areas with native vegetation, reduce impervious surfaces, improve recreation such as picnicking and boat launch.



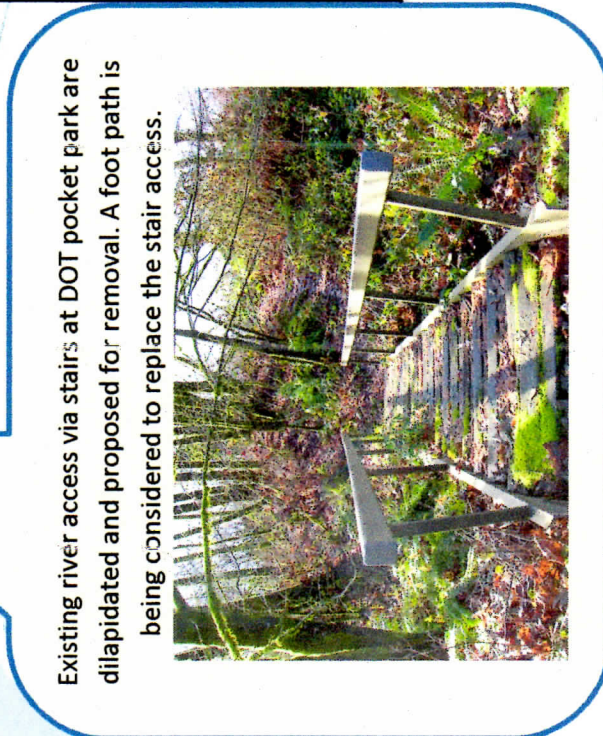
Abandon impervious roadways and restore natural pervious surfaces. Control invasive species and replant with native trees and shrubs.



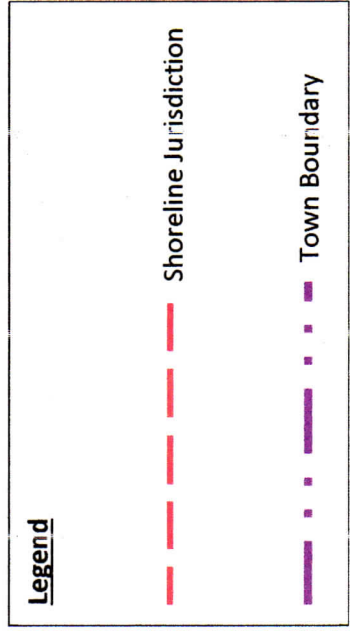
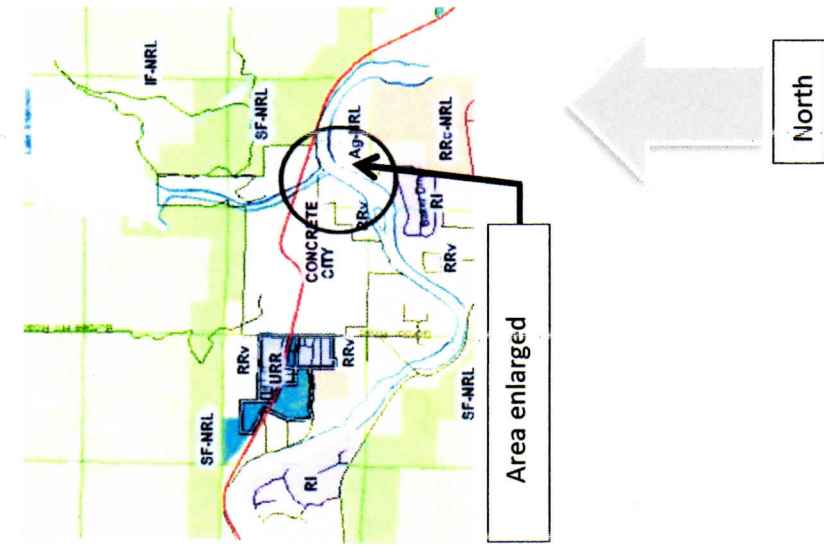
Relocate parking and sanitary facilities from FEMA floodway to higher ground.



Existing WDFW boat launch site needs maintenance for safe launching



Existing river access via stairs at DOT pocket park are dilapidated and proposed for removal. A foot path is being considered to replace the stair access.



Town of Concrete Shoreline Restoration Plan
Preliminary Restoration Concepts
 Date: January 28, 2013