

## STAFF REPORT

# WHATCOM COUNTY PLANNING & DEVELOPMENT SERVICES

### I. BACKGROUND INFORMATION

**File #:** ZON2004-00027

**File Name:** Whatcom County Shoreline Management Program

**Applicant:** Whatcom County Planning and Development Services Department

**Public Notice:** Pursuant to RCW 36.70.590, legal notice was published in the Bellingham Herald on September 14, 2006 and a Planning Commission public hearing is scheduled on Thursday, September 28, 2006.

**SEPA:** The Whatcom County SEPA Official issued a Determination of Non-Significance (DNS) for the proposed *Whatcom County Shoreline Management Program* update on August 25, 2006.

**Summary of Request:** The request is to amend WCC, Title 23 – *Shoreline Management Program* (SMP) and the *Official Shoreline Map*; WCC, Title 16, Chapter 16.16 – *Critical Areas Ordinance* (CAO); and WCC, Title 20 – *Zoning Ordinance*. The proposal amends WCC, Title 23 and incorporates use of an Inventory and Characterization of ecological processes and functions, a Restoration Plan, a Cumulative Effects Analysis, as well as the CAO Best Available Science (BAS) report (previously submitted in support of the recently adopted CAO). The proposed amendments are intended to bring the SMP into compliance with the State Shoreline Guidelines (WAC 173-26) and other applicable local, State and Federal environmental regulations, clearly define the role of the County and the requirements for applicants proposing activity within shoreline areas, streamline the shoreline development review process, as well as improve consistency and integration with other land use and natural resource policies and regulations.

**History:** Recognizing that the shorelines of the state are among our most valuable and fragile natural resources, the State Legislature passed the Washington State Shoreline Management Act (RCW 90.58 (SMA or the Act)) in June 1971. The SMA was subsequently passed by public initiative in 1972. Under the SMA, each county and city is required to adopt and administer a local shoreline management program to carry out the provisions of the Act for:

#### *Shorelines*

- All marine shorelines
- Stream segments with a mean annual flow of 20 cubic feet per second (c.f.s.) or more (Sumas River, Fishtrap Creek, California Creek, Tenmile Creek, etc.)
- Lakes greater than 20 acres (Lake Samish, Wiser Lake, Silver Lake, etc.)
- Shorelines of State-wide Significance (Birch Bay, Lake Whatcom, Ross Lake, Nooksack River, Skagit River, Baker Lake, Marine Waters)

#### *Shorelands*

- Lands extending 200 feet landward from the ordinary high water mark (OHWM)
- Floodways and contiguous floodplain areas 200 feet from such floodways
- All wetlands and river deltas associated with the shorelines noted above

Whatcom County Shoreline Management Program jurisdiction includes:

- More than 115 miles of marine shoreline
- More than 60 miles of lake shoreline
- More than 220 miles of stream channels
- All wetlands, deltas and floodways associated with the above shorelines, together with all upland areas within 200 feet of the OHWM

Pursuant to the Act, all development within shorelines jurisdiction is required to comply with the provisions of local shoreline management programs. The Whatcom County SMP is the document that implements the goals and policies of the SMA at the local level in Whatcom County. The SMP was originally adopted by the County Council in May 1976 in accordance with RCW 90.58 and the shoreline guidelines issued by the Washington State Department of Ecology (Ecology) in 1972. The SMP has been revised a number of times over the years, including updates in 1986, 1993 and 1998. The County's SMP works with other chapters of the Whatcom County Code to protect and preserve saltwater and freshwater shorelines throughout the county by fostering appropriate shoreline development and managing resources within the shoreline environment.

In accordance with the SMA, at RCW 90.58.050, Whatcom County and Ecology share joint authority and responsibility for the administration and enforcement of the Whatcom County SMP. Whatcom County Planning and Development Services (PDS) is the primary agency responsible for implementing the shoreline program and Ecology is responsible for supervising the administration of the code, ensuring proper implementation, and assuring consistency with the SMA. Because the SMP is approved and adopted by Ecology, it has the authority of state law.

#### **Update Requirements:**

*Washington State Shoreline Management Program Guidelines (WAC 173-26)*

The Shoreline Management Act charges Ecology with the task of writing and periodically reviewing and updating guidelines for implementation of the Act. The Shoreline Management Program Guidelines (WAC 173-26) are the standards and guidance that have been adopted by Ecology that local governments must follow in drafting their local shoreline management programs. These guidelines translate the broad and varied policies of the SMA into standards for regulating shoreline use at the local level. In 1995, the State Legislature directed Ecology to update the State's guidelines to ensure consistency with the SMA and the State Growth Management Act (RCW 36.70A [GMA]). The Shoreline Guidelines had not been updated since their original adoption in 1972. In December 2003, Ecology adopted new, revised State shoreline guidelines that require Whatcom County to review and update its existing SMP (1998).

Consistent with the new 2003 Guidelines, Whatcom County must consider several key elements and governing principles when updating the SMP. Incorporated in these are several new concepts, including the following:

- *No Net Loss of Ecological Function* – Local shoreline management programs shall include regulations and mitigation standards designed to achieve no net loss of shoreline ecological functions and processes (WAC 173-26-186(8)(b)). No net loss of ecological function is to be accomplished through:

- Applying shoreline area designations with appropriate use and development standards;
  - Incorporating provisions to address the impacts of specific common shoreline uses, development activities and modification actions;
  - Protecting critical areas within the shoreline;
  - Requiring mitigation measures and methods to address unanticipated impacts as part of the shoreline permitting process; and
  - Evaluating reasonably foreseeable “cumulative impacts” to shoreline functions resulting from development allowed by the SMP.
- *Restoration* – Local shoreline management programs shall include goals and policies that provide for restoration of impaired shoreline ecological functions and processes (WAC 173-26-186(8)(c)). The objective of restoration is to achieve a net gain in shoreline ecological functions over time by providing for the timely restoration of impaired shoreline ecological functions through a combination of incentive based, non-regulatory and voluntary public and private programs and actions.
  - *Vegetation Conservation* – Local shoreline management programs shall include planning and regulatory provisions that address conservation of sufficient shoreline vegetation to protect and maintain shoreline ecological functions and ecosystem-wide processes over time (WAC 173-26-221(5)(b)).
  - *Cumulative Impacts* - Local shoreline management programs shall evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the Act. To ensure no net loss of ecological functions and protection of other shoreline functions and/or uses, shoreline programs shall contain policies, programs, and regulations that address adverse cumulative impacts and fairly allocate the burden of addressing cumulative impacts among development opportunities. Evaluation of such cumulative impacts should consider:
    - Current circumstances affecting the shorelines and relevant natural processes;
    - Reasonably foreseeable future development and use of the shoreline; and
    - Beneficial effects of any established regulatory programs under other local, state, and federal laws.

The general process for updating Whatcom County’s Shoreline Management Program, based on the State Guidelines, is as follows:

- ✓ Coordinate with partner jurisdictions, agencies, and districts to integrate parallel projects and planning processes
- ✓ Provide opportunities for public involvement, such as: open houses, workshops, Citizen Advisory Committee meetings, stakeholder meetings, work sessions, public hearings, etc.
- ✓ Inventory and characterize the ecosystem-wide processes that impact the management of aquatic systems by maximizing use of available information and resources
- ✓ Inventory and characterize shoreline ecological functions and processes of shorelines
- ✓ Evaluate and update shoreline area designations

- ✓ Evaluate and update policies and development standards
- ✓ Integrate shoreline policies and regulations with parallel planning efforts and development regulations
- ✓ Coordinate the shoreline restoration plan with current restoration programs and efforts
- ✓ Conduct a cumulative impact analysis of potential affects to shoreline ecological functions based on future growth projections and predicted development demands
- ✓ Submit for adoption by County Council and approval by the Department of Ecology

### *Washington State Growth Management Act and Other Legislation*

In 1995, the State Legislature amended the Growth Management Act and the Shoreline Management Act to partially integrate the provisions of the two statutes. The amendments collectively added the goals and policies of the SMA as a 14<sup>th</sup> planning goal under the GMA and further revised the GMA to reflect that the goals and policies of a county's approved SMP shall be considered an element of the county's comprehensive plan (RCW 36.70A.480(1)). Additionally, in 2003, the Legislature adopted ESHB 1933, which clarified that critical areas in shorelines are to be identified and "designated" pursuant to the GMA, at RCW 36.70A.170(1)(d), but are also to be protected under the SMA. In accordance with the amendments adopted under ESHB 1933, local jurisdictions must adopt shoreline management programs that "provide a level of protection to critical areas located within shorelines... that is at least equal to the level of protection provided... by the local government's critical areas ordinance..." adopted under the GMA (RCW 90.58.090(4); RCW 36.70A.480(4)).

Pursuant to RCW 36.70A.130, all counties and cities planning under the GMA are required to review and update their adopted comprehensive plans and associated development regulations, including critical areas regulations, as needed to ensure continued compliance with the provisions of the GMA. Beginning in 2004, Whatcom County initiated the GMA required review and update of its CAO as an integrated critical areas component of the SMP update. The updated Whatcom County Critical Areas Ordinance was adopted in September 2005 (Ordinance No. 2005-068).

### **Background:**

#### ✓ **Agency Coordination and Public Involvement**

##### *Citizens Advisory Committee (CAC)*

In May 2004, the Whatcom County Executive officially appointed a twelve (12) member Citizens Advisory Committee (CAC) specifically for the purpose of assisting Whatcom County PDS in reviewing and considering appropriate updates to the CAO and the SMP. To facilitate a fair and inclusive process, it was important that PDS work with a citizen-based advisory body that represented the many diverse interests and perspectives on resource management in the county. The purpose of the CAC has been to help focus discussions and identify key technical and policy issues that are important to the many stakeholder groups in the county.

The CAC membership represents the following stakeholder interests:

- Agricultural Industry
- Forestry Industry

- Development Industry (Building Industry and Real Estate)
- Environmental Interests
- Key shoreline areas
- Cherry Point Industrial Community
- Citizen at large

To date, there have been forty-three (43) meetings of the CAC between July 2004 and September 2006. The CAC has reviewed and commented on all of the draft SMP code amendments and draft Shoreline Area Designation map amendments, and has had opportunity to review and comment on the draft SMP background documents. The CAC also contributed to the review and update of the 2005 CAO. Each CAC meeting has been open to the public and the times, locations, agendas, and meeting summaries have been posted on the Whatcom County PDS Natural Resource Management website. The CAC has reviewed multiple versions of the Draft SMP and provided substantive input that helped shape the official public review draft.

#### *Technical Advisory Committee (TAC)*

In May 2004, the Whatcom County Executive officially approved the formation of a Technical and Policy Advisory Committee (TAC) to assist Whatcom County Planning & Development Services (PDS) in the review and update of the Whatcom County CAO and SMP. To facilitate a coordinated and science-based approach to natural resource management, it was important to formulate an intergovernmental/technical advisory group that represents the various interests of other agencies and governments in the county as they relate to Whatcom County natural resource management. The purpose of the TAC has been to help focus technical discussions, identify and verify sources of best available science, and identify key technical and policy issues associated with natural resource management that are important and/or relevant in Whatcom County. Additionally, the TAC has provided an opportunity to draw upon agency/governmental technical and regulatory expertise, as well as an opportunity to add to the existing knowledge base in the county related to natural resource management.

The following governments and agencies participated on the TAC:

- City of Bellingham
- Lummi Nation
- Nooksack Tribe
- Small Cities Caucus (Blaine, Lynden, Ferndale, Sumas, Everson, and Nooksack)
- Port of Bellingham
- Washington State Department of Ecology
- Washington State Department of Fish and Wildlife
- Washington State Department of Natural Resources
- Whatcom Conservation District/NRCS
- Puget Sound Action Team

In addition to regular participating governments and agencies, representatives from special districts within Whatcom County, such as Shellfish Protection Districts and the Watershed Improvement Districts, were invited for focused discussions related to their specific area of interest and expertise. Additionally, specific staff members from other parallel planning processes in the county, such as, WRIA Watershed Management Planning, Salmon Recovery, Lake Whatcom Management, and the Whatcom County Marine Resources Committee (MRC) participated in discussions with the advisory committee as appropriate.

To date, there have been thirty-four (34) meetings of the TAC between July 2004 and May 2006. The TAC has reviewed and commented on all of the draft SMP code and map amendments, as well as information presented in the Draft SMP Update Background Information: Volume 1 – *Shoreline Inventory and Characterization Report*; Volume 2 – *Scientific Literature Review*; Volume 3 – *Restoration Plan*; and Volume 4 – *Shoreline Cumulative Effects Analysis*. In many cases, the TAC provided scientific studies and data to be included in the review and analysis. The TAC also contributed to the integrated review of the 2005 CAO update and associated Best Available Science (BAS) reports, which, pursuant to ESHB 1933, represent the critical areas component of the SMP update. The TAC meetings have been open to the public and the meeting times, dates and locations have been posted on the events calendar of the Whatcom County PDS website (<http://whatcomcounty.us/shorelines>) as they have been scheduled. Meeting agendas and summaries are also posted on the website. It should be noted that the TAC was provided multiple opportunities to review the draft SMP and submitted substantive comments that were incorporated into the official public review draft.

#### *Public Involvement and Education*

Whatcom County PDS hosted CAO/SMP public workshops and expert panel discussions on September 30 and October 6, 2004. The workshops were held in Bellingham and Lynden respectively. The purpose of the initial workshops was to inform interested citizens of the intent, scope, and status of the CAO/SMP update processes, as well as to obtain preliminary public comments and questions before drafting any proposed amendments to the CAO or SMP.

Two SMP public workshops were held in Bellingham and Lynden on July 12 and 13, 2006 respectively to introduce and discuss important changes and additions presented in the June 30, 2006 public review draft of the Shoreline Management Program. Additional SMP public open houses were held in Birch Bay and at Lake Whatcom on August 15 and 16, 2006. Public comments, questions and concerns received at the workshops and open houses were recorded and addressed in the comment matrix, attached as Appendix B, and incorporated into the Planning Commission Review Draft SMP (September 2006) as appropriate.

Additional public education and involvement opportunities included the 2004 Birch Bay and Bellingham Marine Shoreline Stewardship Workshops, the 2005 Nooksack Recovery Team Annual Salmon Summit, the 2005 and 2006 Whatcom County Home & Garden Show, and the 2005 and 2006 Drayton Harbor Shellfish District Open House.

It is also important to note that Whatcom County staff has attended meetings with and/or given presentations to a number of stakeholders throughout the SMP/CAO update processes such as the Washington Dairy Federation, Washington Farm Bureau, Building Industry Association of Whatcom County, Nooksack Recovery Team (NRT), Whatcom County Association of Realtors, Marine Resources Committee (MRC), and the Environmental Community. Additionally, staff has met with the Whatcom County Agricultural Advisory Committee on a number of occasions to discuss provisions of the CAO and draft SMP as they relate to agricultural operations.

#### *Public Review Draft - Comment Period*

The draft SMP was released for public review and comment on June 30, 2006. The public was invited to submit comments and/or propose changes to the SMP public review draft during an official 60-day comment period, which concluded on August 30, 2006. Following the close of the official public comment period, all of the comments received were entered into a matrix and a

response was developed for each comment. Many of the comments and recommendations submitted resulted in changes to the draft SMP.

✓ **Use of Scientific and Technical Information**

*Assembly and Analysis of Literature and Data*

To satisfy the requirements for use of scientific and technical information in updating its local SMP, Whatcom County is required to identify and assemble the most current, accurate, and complete scientific and technical information applicable to the shoreline issues of concern in Whatcom County (WAC 173-26-201(2)(a)). In preparing this body of information, multiple local, State, and Federal agencies, tribes, watershed representatives, and other appropriate sources were contacted and invited to share scientific and technical data, reports, inventories, technical assistance, etc. applicable to Whatcom County shorelines.

Additionally, a 1995 regulatory reform amendment to the Washington State Growth Management Act (GMA) requires that all counties and cities planning under the GMA include the use of best available science (BAS) to inform the development and implementation of critical area policies and regulations to protect the functions and values of critical areas (RCW 36.70A.172(1)). Pursuant to the GMA, best available science requirements associated with the CAO update, Whatcom County PDS prepared a review and analysis of Best Available Science (BAS) pertinent to Whatcom County. The report is attached as Appendix C, Volume 2 – *Scientific Literature Report*.

*Shoreline Inventory and Characterization*

The *Shoreline Management Program Inventory and Characterization* (June 2006) is intended to document existing shoreline conditions in Whatcom County and to present a baseline inventory and characterization of ecosystem-wide processes and shoreline ecological functions in accordance with the state Guidelines, at WAC 173-26-201(3)(c) and (3)(d). The three primary objectives of the report are to:

1. Identify the ecosystem-wide processes and ecological functions that influence the shoreline(s) of Whatcom County;
2. Assess ecosystem-wide processes to determine their relationship to ecological functions present within the County and identify which functions are healthy, altered, or missing; and
3. Identify specific opportunities and measures to protect and/or restore shoreline functions and ecosystem-wide processes.

A draft *Shoreline Inventory and Characterization* (June 2006) has been developed in association with the SMP update and is a companion background document (Appendix C, Volume 1) to the draft SMP.

Collectively, the assembly and analysis of scientific and technical information relevant to Whatcom County shorelines, as well as the findings and analysis of the draft Inventory and Characterization report have been used to inform the review and revision of shoreline goals and policies, and have provided the basis for review and evaluation of existing shoreline area designations, preparation of a restoration plan, and assessment of cumulative impacts.

✓ **Review of Shoreline Goals, Policies, and Area Designations**

The goals, policies and shoreline area designations of the existing SMP (1998) have been reviewed and updated in consultation with the CAC and TAC, and are reflective of the many comments submitted by the public and various stakeholder groups. The proposed amendments are intended, among other things, to bring the SMP into compliance with the State Shoreline Guidelines and other applicable State and Federal environmental regulations, clarify administrative roles and responsibilities, streamline the shoreline development review process, as well as improve consistency and integration with other land use and natural resource policies and regulations. The following is a summary of the proposed amendments:

- *Whatcom County Comprehensive Plan and Zoning* – The SMP update reflects the adopted goals, policies and action items of the 2005 Whatcom County Comprehensive Plan as they relate to land use and natural resource management, regulatory review, inter-agency coordination, public involvement, etc. The update also includes changes that provide greater consistency between the SMP, comprehensive land use designations, as well as zoning map designations and regulations (e.g. identification and management of Resource lands).
- *Critical Areas Ordinance and Flood Management* – Improved coordination and integration between the SMP, the Critical Areas Ordinance (WCC, Chapter 16.16), Flood Damage Prevention Ordinance (WCC, Title 17), and other natural resource regulations. The purpose of the integration effort is to ensure compliance with ESHB 1933, and provide consistency and eliminate unnecessary redundancy, gaps, and/or conflicts between natural resource policies and regulations.
- *No Net Loss of Shoreline Ecological Functions* – The concept of no net loss of shoreline ecological functions and processes – a key objective of the 2003 Shoreline Management Program Guidelines – has been broadly addressed through SMP goals, policies and regulations that integrate implementation of development standards, mitigation sequencing, vegetation conservation within CAO buffers, evaluation of cumulative effects, etc. The principle of no net loss is primarily addressed through integration with the CAO consistent with ESHB 1933.
- *Vegetation Conservation* – The proposed amendments include policies and regulations to conserve native shoreline vegetation to protect and maintain the shoreline ecological functions and ecosystem-wide processes provided by such vegetation, as well as mitigate potential impacts of new developments or uses proposed within the shoreline. Vegetation conservation objectives are primarily addressed through compliance with CAO standards for protection and maintenance of critical area and buffer vegetation.
- *Shoreline Restoration* – Changes to the existing SMP include a new section related to restoration of ecological functions – another key objective of the 2003 Shoreline Master Program Guidelines. The new Restoration section encourages coordinated and cooperative restoration of impaired shoreline ecological functions and processes through comprehensive planning, non-regulatory actions and voluntary implementation, as well as incentive-based provisions.
- *Administration: Predictability and Consistency* – The proposed amendments also include provisions that clarify requirements and roles and responsibilities for permit applicants,

county staff and consultants to ensure that all applicants are subject to the same standards.

Improvements and changes to the administration of the Shoreline Management Program include:

- A streamlined permit review process for shoreline substantial development permits associated with agriculture, commercial forestry, single-family residences, and restoration.
  - More detailed regulatory standards to improve consistency and predictability
  - Clear emphasis on impact avoidance, the first step in protecting shorelines and critical areas as required by the Shoreline Guidelines and ESHB 1933
  - Improved administrative flexibility
  - Provides clearer review and notice procedures, timelines, etc. related to cultural resource management
  - Pre-application review process – allows early communication and preliminary project review
  - More detail for technical analyses to ensure sound decision making and predictability
  - Integrates special provisions for agriculture (CPAL) through the Critical Areas Ordinance
- *Non-conforming Uses* – Non-conforming uses include lawfully established development, uses and structures that pre-date the initial adoption of the Shoreline Program and/or any subsequent amendments and no longer conform to shoreline regulations. The SMP includes clearer provisions for non-conforming uses and development, allowing for continued equitable use. Additionally, new provisions have been added to allow for the development of non-conforming lots lawfully created prior to the adoption of the SMP.
  - *Nonwater-oriented Development* – In accordance with WAC 173-26-241(3)(d) and (f), nonwater-oriented uses may only be allowed when they provide a public benefit in the form of increased public access or restoration. While, the current SMP prohibits non water-oriented commercial and industrial developments from locating on the shoreline the proposed draft SMP provides greater flexibility by incorporating the provisions of the WAC allowing nonwater-oriented development while providing an incentive for restoration and public access.

#### ✓ **Environmental Policy Integration**

As a part of the SMP/CAO update process Whatcom County PDS has developed an *Environmental Policy Integration Recommendations Report* (December 2004) to create consistency and eliminate unnecessary redundancy and gaps in environmental policies and regulations. The Policy Integration Report incorporates review and discussion of existing local, state and federal planning efforts and requirements, as well as staff comments, in relation to the relevant goals, policies, and action items of the Whatcom County Comprehensive Plan. The report also includes a set of formal recommendations to address identified policy issues that were used in developing the draft SMP update. These recommendations may also be considered as other plans and programs are updated in the future.

#### ✓ **Coordination of Restoration Planning**

As previously noted, local shoreline programs are required to include goals and policies that provide for restoration of impaired shoreline ecological functions and processes identified through a detailed Shoreline Inventory and Characterization. Overall improvements in shoreline ecological functions are to occur through a combination of incentive-based, non-regulatory and voluntary public and private programs and actions over time. The Guidelines further specify that local governments must include within their management programs a “real and meaningful use of established or funded non-regulatory policies and programs” that contribute to restoration of ecological functions (WAC 173-26-186(8)(c)).

Pursuant to WAC 173-26-201(2)(f), a draft *Restoration Plan* (July 2006) has been developed in association with the SMP update and is a companion background document (Appendix C, Volume 3) to the draft SMP. The intent of the draft *Restoration Plan* is to highlight general restoration goals, priorities, and potential restoration opportunities; identify opportunities to coordinate with existing or planned non-regulatory restoration projects or programs; and create a framework for future implementation.

The proposed draft SMP also includes a restoration and enhancement element that outlines updated goals and objectives for restoring shorelines based on the latest scientific information and technical guidance, including the *Shoreline Management Program Inventory and Characterization, Restoration Plan* and the *WRIA 1 Salmonid Recovery Plan*, and identifies priority restoration actions. New policies and regulations have also been added for restoration uses.

#### ✓ **Cumulative Effects Analysis**

Under the governing principles of the Shoreline Guidelines, local shoreline programs are required to achieve “no net loss” of shoreline ecological functions. To ensure compliance with this principle, the Guidelines require that shoreline programs “contain policies, programs, and regulations to address adverse cumulative impacts and fairly allocate the burden of addressing cumulative impacts among development opportunities.” In accordance with this obligation under the Guidelines, the proposed amendments provide for the consideration of cumulative effects for all applications for shoreline substantial development permit, shoreline conditional use permit, and shoreline variance.

Additionally, the Guidelines, at WAC 173-26-186(8)(d), require an evaluation of cumulative impacts of “reasonably foreseeable” future development on shoreline ecological functions and other uses and functions of the shoreline associated with the proposed SMP policies and regulations. An evaluation of cumulative effects of the updated SMP on shoreline ecological functions is required to consider the following:

- Current circumstances affecting shorelines and relevant natural processes;
- Reasonably foreseeable future development and use of the shoreline; and
- Beneficial effects of any established regulatory programs under other local, state, and federal laws; and
- Effects of development activities exempt from shoreline permitting or otherwise unregulated.

A draft *Shoreline Cumulative Effects Analysis* (June 2006) has been developed in association with the SMP update and is a companion background document (Appendix C, Volume 4) to the draft SMP. The draft Cumulative Effects Analysis evaluates the potential long-term cumulative impacts to shoreline ecological functions and processes that may result from development or

activities that may occur under the provisions of the proposed SMP over time. The draft Cumulative Effects Analysis was utilized by the Whatcom County SEPA Official in assessing the likely environmental impacts associated with the SMP update. As previously noted, the Whatcom County SEPA Official issued a Determination of Non-Significance (DNS) for the proposed *Whatcom County Shoreline Management Program* update on August 25, 2006.

## II. ANALYSIS OF THE PROPOSED AMENDMENT

The factors that are to be considered in evaluating a proposed amendment are set forth in WCC 20.90.060, and RCW 36.70. These factors are addressed below.

### A. Whether the proposed amendment conforms to the requirements of the GMA, is internally consistent with the Comprehensive Plan, is consistent with the County-Wide Planning Policies, and is consistent with any interlocal planning agreements.

#### Washington State Growth Management Act (GMA)

The proposed amendments are generally consistent with and will implement the following GMA Planning Goals, at RCW 36.70A.020:

- (6) *Property Rights.* Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.
- (7) *Permits.* Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.
- (8) *Natural Resource Industries.* Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.
- (9) *Open Space and Recreation.* Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands, water and develop parks and recreation facilities.
- (10) *Environment.* Protect the environment and enhance the state's high quality of life, including air and water quality and the availability of water.
- (11) *Citizen Participation and Coordination.* Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.
- (13) *Historic Preservation.* Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.
- (14) *Shoreline Management.* Per RCW 36.70A.480 Shorelines of the State, the goals and policies of the Shoreline Management Act, as set forth in RCW 90.58.020.

## **Whatcom County Comprehensive Plan**

A non-exhaustive list of *Whatcom County Comprehensive Plan* goals, policies and action items relevant to the proposed amendments are attached herein as Appendix A.

As outlined in WAC 173-26-191, shoreline management programs serve two fundamental purposes - a planning function and a regulatory function. The planning element of a shoreline program seeks to balance and integrate the objectives and interests of local citizens, the statewide interest, as well as address the variety of conditions present on local shorelines. Shoreline programs also influence land use planning and regulatory measures for adjacent lands through the establishment of management policies. Whatcom County's existing SMP outlines the County's goals, policies, and regulations for land use and development activities within all shorelines, shorelines of statewide significance, and shorelands. The SMP is a comprehensive document that reflects the community's vision of how Whatcom County's shoreline areas will be used over time and describes the standards that shoreline projects and uses must meet to achieve a rational, and balanced approach to shoreline management.

The GMA, at RCW 36.70A.480(1), and Comprehensive Plan Policy 11B-8, each state that the goals and policies of the Whatcom County Shoreline Management Program shall be recognized as constituting a "shoreline element" of the Comprehensive Plan. Whereas the SMA serves as the sole basis for the adoption and determination of compliance of a shoreline program, shoreline programs are also required to comply with the internal consistency provisions of the GMA for all "elements" of a comprehensive plan and the future land use map (RCW 36.70A.480(3); WAC 365-195-500). Comprehensive Plan Policy 2D-6 and Environment Action Item 3 further state that, when the SMP is updated to address the new Shoreline Guidelines, the update should "improve integration of the Shoreline Program with Growth Management" to provide predictability and consistency, as well ensure that local environmental regulations (e.g., SMP, CAO, Flood Hazard Management, Zoning, etc.) are integrated, consistent with each other, and consistent with the Comprehensive Plan.

Pursuant to RCW 36.70A.480(4) (ESHB 1933), local shoreline management programs are also required to "provide a level of protection to critical areas located within shorelines" that is "at least equal" to the level of protection provided by the County's adopted Critical Areas Ordinance. As noted previously, the Whatcom County Critical Areas Ordinance was updated and adopted in September 2005 as an integrated critical area component of the SMP update. Therefore, the applicability of critical area regulations under the SMP meets the requirements to provide a level of protection for critical areas in the shoreline that is at least equal to that provided under the adopted CAO.

Based upon review of the Whatcom County Comprehensive Plan and the applicable provisions of the Growth Management Act, staff has concluded that the proposed amendments presented in Exhibits 1-3 of this report are consistent with the requirements of the GMA and are internally consistent with the adopted goals, policies and action items of the 2005 Whatcom County Comprehensive Plan as they relate to land use and natural resource management, regulatory review, inter-agency coordination, public involvement, etc. Additionally, the proposed amendments include changes that provide greater consistency between the SMP and comprehensive land use designations, Title 20 zoning designations and regulations, as well as the CAO.

## **Whatcom County County-wide Planning Policies**

The proposed amendments and the public involvement process conducted in association with the SMP update implement and are consistent with the following County-wide Planning Policies:

*A. Citizen Involvement*

1. The county and the cities shall cooperate to provide public education on the requirements of the Growth Management Act.
2. The county and the cities shall provide opportunities for citizens to become involved in the growth management planning process through various mechanisms, such as surveys, public workshops, meetings, hearings, and advisory committees. The method of citizen involvement may vary based on the needs and constituents in various communities and shall include representation of both rural and urban interests on those issues that affect both urban and rural areas.
3. Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas.
4. Citizen comments and viewpoints shall be incorporated into the decision-making process in development of draft plans and regulations. Consideration of citizen comments shall be evident in the decision-making process.

*H. Open Space/Greenbelt Corridors*

4. The County and Cities should work cooperatively to protect and restore stream corridors within Urban Growth Areas that support anadromous fish.

*M. Intergovernmental Cooperation*

1. To adequately plan for growth and implement the policies of the Growth Management Act, the governmental jurisdictions in Whatcom County, including the Lummi Nation and Nooksack Tribe, and the Port of Bellingham shall work together to establish on-going mechanisms to improve communication, information sharing and coordinated approaches to common problems.

*N. Water Quality and Quantity*

2. The Cities and the County in cooperation with other municipal corporations and tribal governments, shall adopt zoning regulations and development standards to protect water resources. Where there are potential conflicts with designations required by the Growth Management Act, such as natural resource lands and critical areas, water resource protection shall generally have priority.

3. Jurisdictions shall cooperate to protect and restore water resources and fish habitat within UGAs and across jurisdictional boundaries to maintain quality of life and economic health in Whatcom County.

The proposed amendments are also intended to further integrate and coordinate the SMP with other local, state and federal environmental resource policies and regulations, including the County-wide Planning Policies. As described previously, the SMP update process has provided multiple avenues and opportunities for public and intergovernmental input, cooperation and coordination to identify and address key natural resource management policy issues that are important in Whatcom County. Therefore, staff has concluded that the proposed amendments are also consistent with, and implement, the County-wide Planning Policies.

**B. That further studies made or accepted by the department of planning and development services and planning commission indicate a need for the amendment or that changed conditions indicate a need for the amendment.**

The *Shoreline Management Program Inventory and Characterization*, June 2006, is the basis for the analysis of ecological functions and processes associated with management of shorelines within unincorporated Whatcom County. The *Cumulative Effects Analysis*, June 2006, addresses most issues of concern for environmental impacts. Additionally, pursuant to the GMA, at RCW 36.70A.172, an analysis of Best Available Science (BAS) was prepared in association with this proposal as a basis for proposed regulatory amendments. Whatcom County has also adopted an updated CAO that will regulate critical areas within SMA jurisdiction in accordance with ESHB 1933.

A variety of technical information was incorporated into the Whatcom County CAO update, including, but not limited to, the Best Available Science Record prepared for the CAO update, the *Washington State Wetland Rating System for Western Washington* (Ecology, August 2004); *DRAFT – Wetlands in Washington State, Volume 2: Guidance for Protecting and Managing Wetlands* (Ecology, August 2004); *Critical Areas Assistance Handbook* (CTED, November 2003); as well as CTED Best Available Science guidance, technical bulletins, and other recommended BAS sources.

The technical information and analyses referenced above have provided the basis for specific amendments to the SMP and official shoreline map. However, in many instances, these studies support the existing provisions of the County code.

*Changes to Shoreline Area Designations*

Shorelines are classified into specific “area designations” and every shoreline regulated under the SMP has a shoreline area designation that is based on physical, biological and development characteristics (i.e., Urban, Urban Resort, Rural, Conservancy, Natural, Aquatic and Cherry Point Management Area). The purpose of each designation is to provide a systematic, rational, and equitable basis for guiding and regulating development within shoreline jurisdiction. The proposed designations have been applied to the shoreline following review and consideration of multiple factors, including information presented on shoreline ecological functions and processes identified in the *Shoreline Management Program Inventory and Characterization*, degree of human alteration, existing and planned development patterns (i.e., Comprehensive Plan designations, WCC Title 20 Zoning designations), policies of the SMA, public ownership, etc.

The following changes, including the proposed map amendments shown on Exhibit 3, are recommended to make the County's existing SMP (1998) shoreline classification system more compatible with the recommended classification system of the Department of Ecology Guidelines (WAC 173-26-211(4)(b)) and more consistent with current zoning and Comprehensive Plan designations. Existing designations have been retained where they are consistent with the purposes and policies contained in WAC 173-26-211.

Existing Area Designations	Proposed Area Designations
Urban Resort .....	Urban Resort
Urban .....	Urban
Rural .....	Shoreline Residential
	Rural
	Resource
Conservancy .....	Conservacny
Natural .....	Natural
Aquatic .....	Aquatic
Cherry Point Managemnet Unit .....	Cherry Point Management Area

*Changes to Whatcom County Shoreline Jurisdiction*

There are a few recommended changes to the Shoreline jurisdiction based on information that has become available since the adoption of the existing SMP. The proposed amendments to shoreline jurisdiction are intended to provide for a more scientific, comprehensive and predictable way to determine shoreline jurisdiction. Shoreline jurisdiction along the Nooksack and Sumas Rivers will be tied to the physical (geomorphic) floodway. The geomorphic floodway includes the Whatcom County River and Flood Division draft river management hazard mapping on the Nooksack River and the FEMA floodway on the Sumas and Samish Rivers. This floodway layer was clipped to fall within the geomorphic floodplain. Shoreline jurisdiction includes this floodway plus 200 ft within the geomorphic floodplain. This was used to denote the effective floodway consistent with the SMA rather than the modeled FEMA floodway (existing SMP). Additionally, an analysis of Whatcom County lakes using high-resolution aerial photography revealed Jorgensen Lake (26 surface acres) as a shoreline of the state as it exceeds the state-defined 20-acre threshold for shoreline jurisdiction. Also, based on a 1996 analysis of stream flow completed by USGS several minor adjustments are proposed to shoreline jurisdiction along streams in Whatcom County (see Exhibit 3). A few of the more significant changes to the shoreline jurisdiction along Whatcom County streams are as follows:

*Stream Segments Added*

- Smith Creek (Lake Whatcom) – Included in WAC (173-18-410)
- Porter Creek (Middle Fork Nooksack) – Jurisdictional limit moved approximately 700 feet upstream based on a USGS estimate of flow
- Cultus Creek (Chilliwack Basin) – Small segment added, based on a USGS estimate of flow

*Stream Segments Removed*

- Squalicum Creek – Shoreline jurisdiction is now entirely within the City of Bellingham
- Fishtrap Creek – Jurisdiction limit moved approximately 1,200 feet downstream of current site

- Howard Creek (South Fork Nooksack) – No jurisdictional shoreline in Whatcom County

**C. That the public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:**

- **The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the Comprehensive Plan.**

The updated January 2005 Whatcom County Comprehensive Plan adopted population numbers that project an increase of approximately 70,000 people, or 41% growth, in Whatcom County by the year 2022. As Whatcom County's population increases, associated development activities including construction, impervious surfaces, vegetation removal, fill activities, etc. will continue to create greater challenges for the preservation and protection of shoreline resources within Whatcom County's jurisdiction. Growth pressures and development activities along or within shoreline areas can stress natural systems and create significant shifts in ecosystem conditions. Without appropriate planning and management, land use activities can create adverse impacts that may threaten both shoreline resources and the public welfare.

Though specific land use impacts vary depending on the type of development and the type of shoreline resource affected, they may generally include:

- Surface and ground water pollution
- Erosion and sedimentation
- Habitat loss / fragmentation
- Increased stormwater runoff and flood frequency
- Loss of property
- Removal of riparian trees and vegetation
- Loss or damage to cultural, historic and archeological resources
- Loss of visual and/or physical public access to the shoreline

It is also important to note that developments can also be adversely impacted and can expose occupants to risk from the surrounding environment when not planned, designed and sited appropriately with due consideration to natural hazards (e.g. flooding, landslides and erosion).

The critical area regulations are applicable within SMA jurisdiction and provide buffers and development standards to protect critical areas from adjacent developments and protect developments from hazards. The SMP provides additional standards to ensure compatibility of new development with adjacent development as well as with the scenic character of the shoreline through bulk and dimensional standards, site design standards, etc. In addition, all new uses must be consistent with the policies and regulations of the program, including meeting the criteria for "no net loss of ecological functions and processes". However, the proposed amendments are not applicable to existing legally nonconforming land uses unless there is a change in use, or a new development activity or reconstruction is proposed.

The range of uses allowed within the shoreline are not changed by the proposed revisions to the Program and new policies and regulations are not likely to change the amount or rate of growth. However, similar to the existing SMP and pursuant to the Legislative findings in RCW 90.58.020, the SMP incorporates specific preference for water-dependent use within the shoreline.

The proposed SMP updates and associated amendments are intended to foster appropriate use and development of shoreline areas, protect shoreline ecological functions and processes, as well as integrate land and shoreline use requirements with the Comprehensive Plan to ensure consistency between planning documents. Therefore the proposed amendments are not anticipated to encourage land or shoreline uses and development that are incompatible with the adopted Comprehensive Plan.

- ❑ **The anticipated effect upon the ability of County and/or other service providers, as applicable, to provide adequate services and public facilities including transportation facilities.**

It is not anticipated that the proposed amendments to WCC, Title 23, Title 16 and Title 20 will have an adverse impact upon the ability of County and/or other service providers to provide adequate public facilities within Whatcom County. The proposed update would not increase demands on transportation, public services or utilities. The range of uses allowed within the shoreline is not changed by the proposed SMP update and associated amendments.

- ❑ **Anticipated effect upon critical areas.**

It is not anticipated that the proposed amendments to the SMP will have an adverse affect upon designated critical areas. The SMP proposal includes the applicability of Critical Area regulations to protect critical areas within the jurisdiction of the SMA via reference to WCC, Chapter 16.16. The Critical Areas Ordinance, which regulates development in and adjacent to designated critical areas, is applicable within SMA jurisdiction and provides buffers and other development standards to protect critical areas from adjacent developments.

The intent of the integrated approach to shoreline and critical area management is to provide consistency and eliminate unnecessary redundancy, gaps, and/or conflicts between land use and natural resource policies and regulations, as well as to ensure compliance with the Guideline requirements to ensure no net loss of ecological functions and processes and to provide critical areas within shorelines of the state with a level of protection that is "at least as protective" as the provisions of the adopted 2005 CAO consistent with the requirements of ESHB 1933.

Specifically, the proposed shoreline area designations, policies and regulations, together with Critical Areas regulations, seek to protect shoreline area functions, processes, and associated critical areas by:

- Conserving and enhancing native shoreline vegetation;
- Providing buffers for aquatic areas and wetlands and limiting alterations to critical areas and buffers;
- Limiting the amount of clearing and encroachment in shoreline areas and associated buffers;
- Providing mitigation requirements for activities that generate unavoidable impacts or alter shorelines or critical areas;
- Protecting hazard areas from alterations that could create or increase a hazard;
- Protecting surface and groundwater quality, including control of surface water runoff and sedimentation from development activities;
- Providing setbacks and development standards to protect shorelines and critical areas from adjacent development activities; and

- Providing a farm management program to specifically tailor critical area protections to farming activities.

Overall, the combination of SMP designations, policies and regulations together with improved coordination and integration with the CAO and other natural resource regulations applicable within the shoreline are anticipated to result in less impact from use and development activities on shoreline ecological functions and processes.

- **Anticipated effect upon designated agricultural, forest and mineral resource lands.**

The proposed amendments have been drafted in consultation with the CAC, TAC, and other stakeholder groups representing environmental and natural resource interests. As a result, it is anticipated that the proposed SMP updates will facilitate a balanced management program that provides for both sustainability of long-term natural resource production (i.e. agriculture, forestry, mineral), as well as protection of shoreline ecological functions and processes. The proposed SMP update and revised shoreline area designations are intended to integrate land and shoreline use requirements with existing plans and policies for designated resource lands.

#### *Agriculture*

The proposed Shoreline Management Program amendments continue to permit ongoing agriculture activities within shoreline areas and/or their associated buffers when conducted in accordance with the standards of the SMP or conducted pursuant to a farm management plan developed and approved pursuant to the CAO. The Conservation Program on Agriculture Lands (CPAL) is a special farm management program that is included in the adopted CAO and it applies throughout shoreline jurisdiction. The provisions under this program allow farmers to develop a plan that incorporates best management practices as an alternative to strict compliance with the regulatory standards. This program allows farmers to specifically tailor their agriculture practices to minimize impacts to critical areas while continuing to engage in farming activities. As the proposed amendments are intended to streamline the existing SMP policies and regulations related to agriculture use and development, and closely integrate the SMP with the CAO provisions for agriculture activities, including CPAL, it is not anticipated that the proposed amendments will have a significant affect on agricultural lands of long-term commercial significance that have been designated per RCW 36.70A.170(a).

#### *Forestry*

Forest practice activities within shorelines are permitted and primarily regulated by the State Forest Practices Act (RCW 76.09) through the Washington State Department of Natural Resources (DNR); provided that, as with the existing SMP, a shoreline conditional use permit is required for commercial forestry activities within areas designated "Natural" and within shorelines of statewide significance. It is important to note that the current requirement for shoreline conditional use permits for commercial forestry activity within the "Conservancy" area designation has been removed to streamline permitting of such activities. Where road construction and other development associated with timber harvest is needed within shoreline jurisdiction, shoreline permits may also be required. Therefore, as the provisions related to forestry activities have been streamlined and are otherwise generally unchanged, the proposed amendments are not anticipated to have a significant affect on designated forest lands of long-term commercial significance that have been designated by Whatcom County per RCW 36.70A.170(b).

As with the existing Shoreline Program, lands that have been or are proposed to be converted to a use other than commercial forest production under an approved Conversion Option Harvest Plan (COHP), or forest practices on lands that have been platted after January 1, 1960 as provided in Chapter 76.09 RCW, the clearing activity will be regulated under the requirements for the proposed use.

#### *Mineral Resource Lands (MRLs)*

Mining activities are permitted within critical areas where such activities are associated with an approved flood control program, conducted in conjunction with a habitat restoration or enhancement program, or demonstrated to be water-dependent. Pursuant to proposed section 23.100.08.B.1, determination of water-dependency will include evaluation of geologic, economic, transportation and land use factors, as well as an evaluation of need. Consistent with the provisions under Goal 80 of the Comprehensive Plan, scalping of accretional point bars may be conditionally permitted for flood control purposes and market demands, and mining activities may be conditionally permitted within floodplains and on marine and lake shores. As the proposed amendments include provisions to evaluate proposed mining activities within the context of demonstrated "need" and/or "market demand", it is not anticipated that the proposed amendments will have an adverse effect on designated mineral resource lands of long-term commercial significance in Whatcom County.

- ❑ **Other anticipated effects on the Comprehensive Plan, its policies and objectives that in the opinion of the Planning Department warrant consideration by the Planning Commission.**

Planning and Development Services staff has not identified any additional factors related to the proposed amendments that have not already been addressed in this report or any exhibits attached hereto which warrant further consideration by the Planning Commission.

#### **D. The amendment must bear a substantial relationship to the public health, safety, morals, or welfare.**

In framing the SMA, the State Legislature found that *"...unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest... while, at the same time, recognizing and protecting private property rights consistent with the public interest associated with shorelines of the state... There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort... to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines..."* (RCW 90.58.020). The Whatcom County Comprehensive Plan further states that "each person in Whatcom County has a fundamental right to a healthful and safe environment in which to live and grow" and "with this right comes a responsibility to contribute to the protection and enhancement of our natural environment" (WCCP, p. 11-1).

The proposed SMP update and associated amendments are intended, among other things, to:

- safeguard and minimize potential impacts to water resources, including drinking water;
- preserve and protect important fish and wildlife habitat areas;
- reduce risks and exposure associated with known geologic and flood hazard areas;
- clarify and coordinate shoreline permit review procedures to avoid duplication or delays;
- integrate shoreline, critical area, and other environmental policies and regulations;
- assure no net loss of shoreline ecological functions and processes;

- preserve the public's opportunity to enjoy the physical and aesthetic qualities of the shorelines;
- protect private property rights; and
- maintain compliance with the provisions of the State Shoreline Guidelines.

Each of these overall objectives are considered to be within the scope of preserving the public health, safety, and welfare of the citizens of Whatcom County.

### **III. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION**

1. The Washington State Legislature passed the Washington State Shoreline Management Act (RCW 90.58 [SMA]) in June 1971 and it was passed by public initiative in 1972. Under the SMA, each county and city is required to adopt and administer a local shoreline management program to carry out the provisions of the Act.
2. The Shoreline Management Program Guidelines (WAC 173-26) are the standards and guidance that have been adopted by the Department of Ecology that local governments must follow in drafting their local shoreline management programs.
3. The Whatcom County Shoreline Management Program (WCC, Title 23 [SMP]) was originally adopted on May 27, 1976 and approved by the Department of Ecology on August 27, 1976. The Shoreline Program has been revised several times since its initial adoption, including updates in 1986, 1993 and 1998.
4. Pursuant to the SMA, at RCW 90.58.050, Whatcom County and the State Department of Ecology share joint authority and responsibility for the administration of the Whatcom County SMP. Because the Whatcom County Shoreline Management Program is approved and adopted by the Department of Ecology, it has the authority of state law.
5. In 1995, the State Legislature amended the Growth Management Act (RCW 36.70A [GMA]) and the SMA to partially integrate the provisions of the two statutes. The amendments collectively added the goals and policies of the SMA as a 14<sup>th</sup> planning goal under the GMA and clarified that the goals and policies of an approved SMP shall constitute a shoreline element of the county's Comprehensive Plan (RCW 36.70A.480). The Legislature also directed Ecology to update the State Shoreline Guidelines to ensure consistency with the SMA and GMA.
6. Pursuant to RCW 36.70A.480 and Comprehensive Plan Policy 11B-8, the goals and policies of the Whatcom County Shoreline Management Program shall be recognized as constituting a shoreline element of the Comprehensive Plan.
7. Legislation passed in 2003 (ESHB 1933) clarified that critical areas within shorelines are to be "designated" under the GMA, but "protected" by the SMP at a level that is "at least equal to" the County's adopted critical areas ordinance.
8. In December 2003, the Department of Ecology adopted new, revised Shoreline Guidelines (WAC 173-26).

9. Pursuant to RCW 90.58.080, Whatcom County is required to review and update its existing 1998 Shoreline Management Program to ensure conformance with the required elements of the 2003 Shoreline Guidelines.
10. Comprehensive Plan Policy 2D-6 states that Whatcom County must “review and update the Whatcom County Shoreline Management Program once the State issues new guidelines. The update should improve the integration of the Shoreline Program with Growth Management in order to provide predictability and consistency in regulation, and eliminate regulatory redundancy”.
11. In 2004, Whatcom County initiated the update of the Whatcom County Critical Areas Ordinance (WCC, Chapter 16.16 [CAO]) as an integrated critical areas component of the SMP update.
12. In September 2005, the Whatcom County Council adopted an updated CAO, which will regulate critical areas within shoreline jurisdiction in accordance with ESHB 1933.
13. Pursuant to WAC 173-26-201(2)(a), when updating its SMP, Whatcom County is required to identify and assemble the most current, accurate, and complete scientific and technical information applicable to the shoreline issues of concern in Whatcom County. Additionally, pursuant to GMA best available science (BAS) requirements associated with the CAO update. Whatcom County prepared a review and analysis of BAS pertinent to Whatcom County, which is presented in the Whatcom County Shoreline Management Program Update Background Information: Volume 2 – *Scientific Literature Review*.
14. The Shoreline Guidelines, at WAC 173-26-201(3)(c) and (3)(d) require Whatcom County to document existing shoreline conditions and present a baseline inventory and characterization of ecosystem-wide processes and shoreline ecological functions within Whatcom County. A Shoreline Inventory and Characterization has been developed in association with the SMP update and is a companion background document to the SMP (Volume 1 – *Inventory and Characterization Report*).
15. The Whatcom County Shoreline Inventory and Characterization Report and the Scientific Literature Review were prepared in consultation with a Technical Advisory Committee and a Citizens Advisory Committee appointed by the County Executive. The information and analyses presented in these documents provide a scientific basis for the proposed SMP update, SMP map amendments and the 2005 CAO.
16. An official Technical Advisory Committee (TAC) consisting of government and agency representatives was formed for the specific purpose of assisting Whatcom County PDS in the review and update of the Whatcom County CAO and SMP. The purpose of the TAC has been to help focus technical discussions, identify and verify sources of best available science, and identify key technical and policy issues that are important to the many agencies and governments in Whatcom County.
17. The TAC conducted thirty-four open public meetings between July 2004 and May 2006 to review and comment on the draft SMP code and map amendments, as well as the information presented in the draft SMP Update Background Information: Volume 1 – *Shoreline Inventory and Characterization Report*, Volume 2 – *Scientific Literature Review*, Volume 3 – *Restoration Plan*, and Volume 4 – *Cumulative Effects Analysis*. The TAC also contributed to the integrated review of the 2005 CAO update and associated

Best Available Science (BAS) reports, which represent the critical areas component of the SMP update.

18. A Citizens Advisory Committee (CAC) has been officially formed for the specific purpose of assisting Whatcom County Planning & Development Services (PDS) in reviewing and updating the *Whatcom County Critical Areas Ordinance (CAO)* and the *Whatcom County Shoreline Management Program (SMP)*. The purpose of the CAC has been to help focus discussions and identify key technical and policy issues that are important to the many diverse interests and perspectives of stakeholder groups in the county.
19. The CAC conducted forty-three open public meetings between July 2004 and September 2006 to review and comment on the existing 1998 SMP, all of the draft SMP code amendments, the draft Shoreline Area Designation map amendments, as well as draft SMP background documentation. The CAC also contributed to the review and update of the 2005 CAO.
20. Whatcom County PDS hosted CAO/SMP public workshops and expert panel discussions on September 30 and October 6, 2004 to inform interested citizens of the intent, scope, and status of the CAO/SMP update processes, as well as obtain preliminary public comments and questions.
21. A Draft Shoreline Management Program was released for public review and comment on June 30, 2006 and the public was invited to submit comments and/or recommend changes within an official 60-day comment period. The official public comment period closed on August 30, 2006.
22. Public workshops were held on July 12, 2006 in the City of Bellingham and on July 13, 2006 in the City of Lynden to introduce and discuss important changes and additions presented in the June 30, 2006 draft Shoreline Management Program. Additional public open houses were held on August 15 and 16, 2006 in Birch Bay and Lake Whatcom respectively. Public comments, questions and concerns received at these events were recorded and addressed in the subsequent draft SMP as appropriate.
23. Additional public education and involvement opportunities included the 2004 Birch Bay and Bellingham Marine Shoreline Stewardship Workshops, the 2005 Nooksack Recovery Team Annual Salmon Summit, the 2005 and 2006 Whatcom County Home & Garden Show, and the 2005 and 2006 Drayton Harbor Shellfish District Open House.
24. Whatcom County staff held meetings with and/or gave presentations to several stakeholder groups throughout the SMP/CAO update processes, including the Washington Dairy Federation, Washington Farm Bureau, Building Industry Association of Whatcom County, Nooksack Recovery Team (NRT), Whatcom County Association of Realtors, Marine Resources Committee (MRC), Whatcom County Agriculture Advisory Committee, and the Environmental Community.
25. The Whatcom County SEPA Official issued a determination of non-significance under the State Environmental Policy Act on the proposed Whatcom County Shoreline Management Program update on August 25, 2006.
26. Pursuant to RCW 36.70.590, legal notice for a Planning Commission public hearing was published in the Bellingham Herald on Thursday, September 14, 2006.

27. The Whatcom County Planning Commission held a public hearing on September 28, 2006 and all testimony was considered.

#### **IV. PROPOSED CONCLUSIONS**

1. The Whatcom County Comprehensive Plan projects an increase of approximately 70,000 people, or 41% growth, in Whatcom County by the year 2022. As Whatcom County's population increases, associated development activities will continue to create greater challenges for the preservation and protection of Whatcom County's shoreline resources. Without appropriate planning and management, land use activities can create potential impacts that may threaten both shoreline resources and the public welfare.
2. The proposed amendments to WCC Title 23 – *Shoreline Management Program*, attached as Exhibit 1, are generally consistent with and implement the goals, policies, and requirements of the Washington State Shoreline Management Act, Washington State Growth Management Act, Washington State Shoreline Guidelines, Whatcom County Comprehensive Plan, and County-wide Planning Policies.
3. The proposed amendments to WCC, Title Chapter 16.16 and WCC, Title 20, attached as Exhibit 2, are necessary to maintain regulatory consistency and integration with the SMP.
4. The proposed amendments to the Official Shoreline Map, attached as Exhibit 3, have been applied to the shoreline following review and consideration of multiple factors, including information presented in the Shoreline Management Program Inventory and Characterization, degree of alteration, existing and planned development patterns, policies of the SMA, public ownership, etc., and are generally consistent with the State Shoreline Guidelines, the official Whatcom County Zoning map, and the Whatcom County Comprehensive Plan Map.
5. The proposed goals, objectives, shoreline area designations, policies, regulations, and procedures set forth in this Shoreline Management Program are essential to the protection of the public health, safety and general welfare of the people of Whatcom County.

#### **V. RECOMMENDATION**

Based upon the above findings of fact and conclusions, Whatcom County Planning & Development Services recommends approval of the proposed Whatcom County Code amendments, attached as Exhibits 1 and 2, and the proposed amendments to the Official Whatcom County Shoreline Management Program Map attached as Exhibit 3.

#### **VI. EXHIBITS**

**EXHIBIT 1:** Proposed Whatcom County Shoreline Management Program

- EXHIBIT 2:** Proposed amendments to WCC, Title 16, Chapter 16.16 – Critical Areas; and WCC, Title 20 - Zoning
- EXHIBIT 3\*:** Proposed Whatcom County Shoreline Management Program Map

## **VII. APPENDICES**

- APPENDIX A:** Whatcom County Comprehensive Plan goals, policies and action items related to the proposed amendments
- APPENDIX B:** June 30, 2006 Public Review Draft Shoreline Management Program – Comment Matrix
- APPENDIX C\*:** Whatcom County Shoreline Management Program Update Background Information:
- Volume 1 – Inventory and Characterization Report
  - Volume 2 – Scientific Literature Report
  - Volume 3 – Restoration Plan
  - Volume 4 – Cumulative Effects Analysis

**\*Note:** Exhibit 3 and Appendices C are provided on CD and may also be accessed on the Work Products page of the Whatcom County Natural Resource Management website: [http://www.co.whatcom.wa.us/pds/shorelines\\_critical\\_areas/workproducts.jsp](http://www.co.whatcom.wa.us/pds/shorelines_critical_areas/workproducts.jsp)

## **2005 Whatcom County Comprehensive Plan Goals, Policies and Action Items**

The following is a non-exhaustive list of 2005 *Whatcom County Comprehensive Plan* goals, policies and action items that are directly and/or indirectly related to the proposed Whatcom County Shoreline Management Program (SMP) update:

### **Chapter 2 – Land Use**

*Goal 2D:* Refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.

*Policy 2D-1:* Eliminate unnecessary regulations.

*Policy 2D-2:* Eliminate regulations that could be more effectively achieved through incentive or education programs.

*Policy 2D-3:* Streamline development regulations to eliminate unnecessary time delays.

*Policy 2D-4:* Coordinate permitting requirements among jurisdictions to minimize duplication and delays.

*Policy 2D-6:* Review and update the Whatcom County Shoreline Management Program once the State issues new Guidelines. The update should improve the integration of the Shoreline Program with Growth Management in order to provide predictability and consistency in regulation, and eliminate regulatory redundancy.

*Policy 2F-1:* Develop a set of incentives, including economic, which encourages property owners to achieve land use goals.

*Policy 2F-2:* Base incentive programs on suggestions from citizens, government officials, and experts in the field.

*Policy 2F-3:* Revise regulations to include incentive programs.

*Goal 2G:* Encourage citizen participation in the decision-making process.

*Goal 2H:* Preserve private property rights while recognizing the importance of the rights of the community, including protecting the natural environment and conserving resources.

*Policy 2H-1:* Review and retain regulations that serve to protect the public welfare, health, and safety.

*Policy 2K-2:* Use the Comprehensive Flood Hazard Management Plan as a basis to balance land use and flooding.

*Policy 2K-5:* Development in flood prone areas must comply with adopted regulations to mitigate identified flood hazards.

*Goal 2M:* Protect and encourage restoration of habitat for fish and wildlife populations.

*Policy 2M-1:* Ensure that new land uses do not degrade habitat of threatened and endangered species.

*Policy 2M-2:* Ensure that existing land uses do not cause further degradation of habitat for threatened and endangered species.

*Policy 2M-3:* Develop educational tools and incentives to encourage existing land uses to restore degraded habitat to properly functioning conditions, especially for threatened and endangered species.

*Policy 2M-5:* Require subdivisions and short plats to be designed in a manner to protect fish habitat and water quality when a fish bearing stream or river passes through the site.

*Policy 2BB-10:* It is the policy of Whatcom County to limit the number of piers at Cherry Point by establishing a development moratorium. Notwithstanding the above, this moratorium shall not affect, no[r] otherwise apply to, any proposed pier that Whatcom County approved under its Shoreline Management Program prior to adoption of the moratorium.

*Policy 2DD-9:* Conserve open space, park land, and green links for recreational use, as well as to protect essential habitat such as riparian areas and wetlands.

*Goal 2SS:* Conserve or enhance important natural, cultural, and scenic resources.

*Policy 2SS-1:* Protect and encourage voluntary restoration of streams, stream corridors, wetlands, natural shorelines, fish habitat and aquifers through education and incentive programs. For willing landowners, purchase property or acquire easements for riparian and channel migration zone areas to protect habitat for threatened and endangered species.

*Policy 2SS-3:* Protect unique or critical wildlife and native plant habitat.

*Policy 2SS-6:* Enhance recreation opportunities.

*Policy 2SS-7:* Preserve scenic vistas, historic, and archaeological sites.

*Policy 2TT-1:* Identify marine, riverine, and other riparian corridors as essential elements of open space corridors.

*Policy 2TT-3:* Identify tidelands and floodplains as essential elements of open space corridors.

*Policy 2TT-4:* Identify estuaries, lakes, and rivers as naturally occurring open space corridors.

*Policy 2VV-6:* Improve public access to shorelines and other lands using such mechanisms as purchase or transfer of development rights, density bonuses within UGAs, and open space tax status.

*Policy 2VV-9:* Support the conservation of unique environmental features through the creative use of cluster subdivisions.

*Policy 2VV-10:* Support the incorporation of stream greenbelts into subdivision design as common open space.

## **Chapter 6 – Transportation**

*Policy 6E-1:* Promote designs to preserve mature trees, unique wildlife habitats, water quality and other elements of the natural environment, including environmentally sensitive areas and shorelines, during the design and construction of road improvement projects.

*Policy 6E-3:* Minimize the amount of impervious surface whenever practicable by using natural engineering design methods such as the use of open, shallow, grassed street swales instead of curbs and gutters and, where feasible, encouraging alternate surfacing options.

*Policy 6E-4:* Engineer, construct, and maintain road improvements to control pollutants affecting water quality and reduce run-off entering surface or groundwater consistent with water quality standards.

*Policy 6T-5:* Avoid or mitigate future impacts to feeder bluffs, accretion shoreforms, driftways, eelgrass, kelp beds and other elements of marine shoreline habitat when constructing or maintaining transportation systems.

## **Chapter 7 – Economics**

*Goal 7D:* Consistent with other goals of the county, strive for balanced, clear, and predictable overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay or create costly hurdles restricting effective and desirable economic development.

*Policy 7D-1:* Work with state and federal agencies to coordinate and streamline environmental review.

*Policy 7D-4:* Integrate and simplify regulations to make them more understandable and user-friendly.

*Goal 7G:* Coordinate economic development with environmental, resource, and other comprehensive land use and open space policies and measures to enhance the community's overall quality of life.

*Policy 7G-1:* Recognize the natural environment as a major asset and manage environmental resources accordingly.

*Policy 7H-2:* Work with other agencies and groups to improve the condition of the fishery resource, including habitat maintenance and enhancement, especially for habitats utilized by threatened and endangered fish species.

*Action Item 11:* Continue to improve the permit and development review process so that greater communication and efficiency will result to better expedite the application process and provide better communication when information is needed.

## **Chapter 8 – Resource Lands**

*Policy 8A-7:* Establish flexibility in land use plans and regulations to encourage maintenance of the productive agricultural land base.

*Policy 8B-5:* Support improving the efficiency and flexibility of state and local environmental regulations affecting the agricultural products industry.

*Policy 8B-6:* Develop a range of non-regulatory programs, options, and incentives which agricultural landowners can employ to meet or exceed county environmental goals.

*Goal 8E:* Encourage agricultural land uses to voluntarily protect and restore habitat of threatened and endangered species through education and incentive programs.

*Policies 8E-1 & 8I-1:* Ensure that adequate riparian buffers are maintained along rivers and streams.

*Policy 8E-2:* Encourage fencing along rivers and streams to prevent livestock from degrading riparian and instream habitat.

*Policy 8E-4:* Encourage proper storage and application of manure.

*Policy 8E-5:* Encourage voluntary restoration to properly functioning habitat conditions for those riparian areas and stream reaches that do not currently provide such habitat conditions.

*Policy 8E-6:* Encourage the maintenance and operation of drainage systems such that the habitat impacts from such systems are minimized and agricultural uses remain viable.

*Goal 8I:* Ensure that forest practices avoid adverse impacts to the habitat of threatened and endangered fish and wildlife species and to marine waters that support shellfish resources.

*Policy 8I-2:* Minimize sedimentation to rivers and streams.

*Policy 8I-3:* Ensure that riparian and stream functions are protected when forestlands are converted to non-forestry uses.

*Goal 8O:* Support the extraction of gravel from river bars and stream channels in Whatcom County for flood control purposes and market demands where adverse hydrologic and other environmental effects are avoided or minimized.

*Policy 8O-7:* Support the use of gravel from tributary streams for flood hazard control, provided environmental impacts are fully addressed.

*Goal 8Q:* Ensure that mining avoids adverse impacts to the habitat of threatened and endangered fish and wildlife species.

*Policy 8Q-1:* Ensure that adequate riparian buffers are maintained along rivers and streams.

*Policy 8Q-7:* Work with state and federal agencies to develop policies and regulations regarding in-stream gravel extraction to ensure that spawning or critical habitat is not adversely impacted and that flooding or erosion in surrounding areas is not increased.

*Action Item 18:* Make it advantageous to land developers and landowners to dedicate land for public use.

## **Chapter 9 – Recreation**

*Policy 9C-11:* Where public funds are used to construct or maintain dikes, levees or revetments, public access should be encouraged for trail purposes, where appropriate.

*Goal 9E:* Recognize the shoreline as one of Whatcom County's unique assets and provide adequate physical and visual access for present and future generations.

*Policy 9E-3:* Provide pedestrian, interpretative and small boat access sites for a diversity of public shoreline.

## **Chapter 10 – Design**

*Goal 10E:* Recognize Whatcom County's historical and archeological attributes and identify and encourage the preservation of lands, sites, and structures that have historic or archeological significance.

*Policy 10E-6:* The county shall meet its cultural resource management obligation under federal, state, and local regulations in an efficient and effective manner.

*Policy 10E-7:* Consistent with its resources, the county shall provide technical assistance on cultural resource matters.

*Policy 10E-8:* The county shall promote preservation of identified archeological, historic, and cultural resources.

*Policy 10E-9:* On projects under its authority, the county shall consistently seek to mitigate negative impacts to cultural resources.

*Policy 10E-10:* The county shall undertake through a public/ private partnership a coordinated long-range planning in conjunction with representatives of arts, heritage, and tourism organizations, to develop strategies for preserving and enhancing cultural resources.

*Goal 10H:* Encourage limiting impacts from resource uses on the natural environment.

*Goal 10L:* Protect and enhance special places and focal points which define character and provide the diversity that is Whatcom County.

*Action Item 3:* Establish procedures to ensure county compliance with applicable cultural resources legislation.

## **Chapter 11 - Environment**

*Policy 11A-2:* Protect the environment through a comprehensive program that includes voluntary activity, education, incentives, regulation, enforcement, restoration, monitoring, acquisition, mitigation, and intergovernmental coordination.

*Policy 11A-3:* Continue to identify and designate Environmentally Critical Areas and other important environmental features.

*Policy 11A-7:* Support efforts to educate and inform the public as to the benefits of healthy and viable environment, their ecologically fragile areas, and their economic and social value.

*Policy 11A-9:* Cooperate with state and federal agencies and neighboring jurisdictions to identify and protect threatened and endangered fish and wildlife species and their habitats.

*Policy 11A-12:* Broadly inform the citizens of the county of the locations of potential development constraints associated with natural conditions. Information should include known natural hazards, and an assessment of the potential danger to both the property owner and the public.

*Goal 11B:* Ease the burden of excessive and confusing regulations, in instances when they are clearly identified, relating to the identification, delineation, and protection of environmental features.

*Policy 11B-1:* Develop, as a primary component of a comprehensive environmental management program, non-regulatory measures that include voluntary activity, education, incentives, restoration, acquisition, mitigation, and intergovernmental coordination.

*Policy 11B-4:* Promote cooperation and coordination among involved government agencies when multiple agencies have jurisdiction over aspects of a single project.

*Policy 11B-6:* Provide clear, timely, appropriate and understandable direction to citizens, developers, and property owners.

*Policy 11B-7:* Simplify regulations and establish effective inspection, compliance and enforcement measures.

*Policy 11B-8:* Recognize the policies of the Whatcom County Shoreline Management Program as constituting a "Shoreline Element" of this plan. The shoreline program regulations and policies shall be considered to be consistent with this plan until such time as any necessary amendments are made.

*Goal 11C:* In implementing Whatcom County environmental policies, provide for protection of private property rights, economic opportunities and plan appropriately for growth.

*Policy 11C-1:* Actively pursue voluntary and cooperative efforts that advance Whatcom County's goals in a mutually beneficial matter.

*Policy 11C-2:* Review current comprehensive environmental protection programs to ensure that they consider multiple economic parameters including development objectives and

impacts and the economic benefits of the natural environment as both a resource and an amenity.

*Policy 11C-3:* Emphasize an approach to environmental protection by encouraging the use of conservation easements, open space taxation, land acquisition, purchase/transfer of development rights and other mechanisms to assist affected property owners in the event that the regulations implementing these Environmental Goals and Policies prohibit or significantly restrict the use of property as otherwise permitted by law.

*Policy 11D-2:* Utilize the Best Available Science to research and investigate the nature and extent of known natural hazards in the county and make this information available to the general public and policy makers in an accessible and understandable form.

*Goal 11E:* Protect and enhance water quality and promote sustainable and efficient use of water resources.

*Policy 11E-1:* Actively promote and participate in education, research and information opportunities which better our understanding of the county's complex water resource systems. New information should be considered in the development and evaluation of management actions.

*Policy 11E-8:* Work cooperatively with Federal, State, and local jurisdictions, Tribal governments, municipal corporations and the public to implement the goals, policies, and action items contained in this chapter.

*Policy 11E-10:* Promote awareness and participation in management and protection efforts by individual citizens and community as a whole.

*Goal 11F:* Protect and enhance Whatcom County's surface water and groundwater quality and quantity for current and future generations.

*Policy 11F-1:* Manage surface water systems, where appropriate, on a watershed basis.

*Policy 11F-3:* In conjunction with the public and appropriate local, State, Tribal, and Federal jurisdictions, develop management strategies for those areas requiring special protection. Management efforts should consider both water quality and quantity. Water quality efforts should help reduce the likelihood that potential contaminant sources will pollute water supplies. Water quantity efforts should include consideration and protection of recharge areas as appropriate and potential effects on stream flow.

*Policy 11F-6:* In conjunction with all jurisdictions develop and adopt programs to protect water quality and quantity within watersheds, aquifers and marine water bodies which cross jurisdictional boundaries.

*Policy 11G-8:* Encourage the use of Low Impact Development Strategies. Minimize the amount of impervious surface whenever practicable by using natural engineering design methods such as the use of open, grassed street swales instead of curbs and gutters. Encourage alternate surfacing options and other techniques associated with low impact development (see Glossary).

*Policy 11G-5:* Evaluate the role of watersheds in the maintenance of water quality and quantity and determine what cumulative impacts development activity may have on watershed hydrology.

*Policy 11G-10:* Develop and administer regulations and incentives such that there is no net loss of ecological functions and values of wetlands and fish and wildlife habitats.

*Goal 11H:* Protect and enhance natural systems which provide economic, ecological, aesthetic, and cultural benefit.

*Policy 11H-1:* Define and identify habitats and habitat features important to fish and wildlife.

*Policy 11H-2:* Develop and adopt programs which protect habitats that are essential to the conservation of species that have been identified as endangered, threatened or sensitive by the state or federal government. Specifically, these programs should maintain and encourage restoration of habitat conditions for threatened species.

*Policy 11H-7:* Promote voluntary fish and wildlife habitat enhancement projects through educational and incentive programs. These projects, which can be done by individuals, organizations, and businesses, should buffer and expand fish and wildlife habitat.

*Policy 11H-9:* Protect, retain and enhance the beneficial uses and functions of streams and rivers. Define and identify the beneficial uses and functions of streams and rivers which include wildlife and fisheries habitat, water quality, open space, aesthetics, and recreation.

*Policy 11H-11:* Regulate the operation of river gravel extraction activities in such a manner so as to provide long-term protection of fish and wildlife habitat and water quality.

*Policy 11H-13:* Evaluate the full value of the fishery, including its cultural and economic value, in land use decisions that may impact that fishery. Unavoidable impacts to an individual habitat or fishery should be mitigated.

*Goal 11J:* Protect and enhance natural systems that support native fish and wildlife populations and habitat.

*Policy 11J-2:* Support the protection and enhancement of significant fish spawning and rearing habitat, food resources, refugia (shelter), and travel passages.

*Policy 11J-4:* Support protection and enhancement of fish and wildlife habitat through site design in new development.

*Policy 11J-5:* Native vegetation and soils on stream banks and shorelines should be disturbed as little as possible. In situations where re-vegetation is necessary to restore stream bank or shoreline stability and provide shading, site-specific native plans should be used. Retention of vegetated riparian areas on all lake and marine shorelines should also be encouraged.

*Policy 11J-6:* Encourage natural or bio-engineering solutions such as planting native vegetation, engineered log jams/LWD, and beach nourishment along eroding banks to address stream bank erosion problems. Riparian buffers should be replanted with suitable native vegetation as a part of all bank stabilization projects.

*Policy 11J-7:* Encourage native vegetation and soils retention and plantings, which provide or maintain the beneficial uses and functions of streams, rivers, lakes and marine shorelines.

*Policy 11J-8:* Maintain and encourage restoration of habitat functions for threatened and endangered fish species.

*Policy 11K-2:* Develop and adopt criteria to identify and evaluate wetland functions that meet the Best Available Science standard and that are consistent with state and federal guidelines.

*Policy 11K-4:* Encourage land development that avoids, minimizes, or mitigates wetland impacts. Impacts to important wetlands should be contingent upon full mitigation

measures that equitably compensate for wetlands impacts, on a case by case basis. Strongly discourage alteration of land that results in the degradation of significant wetlands.

*Policy 11K-6:* Recognize beneficial wetland uses, functions, and values. Support protection of fish and wildlife habitat, water quality, plant diversity, flood attenuation and low flow contribution, and water storage through planning, acquisition, incentive programs and mitigation.

*Goal 11L:* Protect and enhance marine resources in Whatcom County.

*Policy 11L-1:* Support the Whatcom County Marine Resources Committee in their pursuit of the Northwest Straits Commission benchmarks as follows:

- Broad county participation in MRC's.
- A net gain in high-value habitat and ecosystem functions.
- A net reduction in shellfish bed closures.
- Measurable increases in factors supporting bottomfish recovery.
- Population increases in other key indicator species.
- Coordination of scientific data.
- Successful public education and outreach efforts.
- The establishment of a regional system of Marine Protected Areas (MPA's).

*Goal 11M:* Protect and enhance shellfish habitat in commercial and recreational areas in order to ensure a productive resource base for long-term use.

*Policy 11M-2:* Restore degraded waters within the drainage basins of shellfish growing areas to a level that allows/supports shellfish harvesting.

*Policy 11M-3:* Protect shellfish resources by means of prevention. This should include surface and ground water monitoring for early detection of pollution which will minimize the damage and cost of resource restoration.

*Policy 11M-4:* Improve knowledge of the importance of protecting, preserving, and improving the quality of shellfish habitat within the County. Seek out valuable partnerships that will raise awareness, provide education, and enhance shellfish habitat.

*Policy 11M-5:* Develop Low Impact Development standards in shellfish habitat areas.

*Policy 11M-8:* Identify and restore functions of key wetland areas, which are selected through best available landscape-based science.

*Action Item 1:* Work with the community to develop and implement a comprehensive environmental management strategy. The result of these efforts should be a Comprehensive Environmental Management Program that identifies both regulatory and non-regulatory elements. These elements should be organized, developed and implemented consistent with the three sections of the Environmental chapter. They include Water Resources, Natural Systems, and Natural Hazards.

*Action Item 3:* Ensure that local regulations are not in conflict with one another, are in compliance with the new comprehensive plan, meet the minimum GMA requirements and are capable of being administered in an efficient and fair manner. Successful integration of Whatcom County environmental regulations must include the following:

- Title 16 Whatcom County Critical Areas Ordinance, Whatcom County SEPA Ordinance, Agriculture Nutrient Management Plan
- Title 17 Whatcom County Flood Hazard Management
- Title 20 Whatcom County Water Resource Protection Overlay Districts, Whatcom County Stormwater Special Districts, Whatcom County Water Resource Special Management Areas,
- Whatcom County Clearing Regulations
- Title 21 [Whatcom County Land Division Regulations]
- Title 23 Whatcom County Shoreline Management Program
- Whatcom County Comprehensive Plan (agriculture, forestry, mining)
- Whatcom County Coordinated Water System Plan
- Other Local Environmental Regulations or Standards
- Whatcom County Road Standards
- Uniform Building Code

*Action Item 6:* Develop a comprehensive and streamlined system of permitting and approval of building and land development projects which incorporates environmental protection. All effort should be made to make the permitting process accessible and understandable to the public. To this end, the application and permitting process should be housed in one accessible location. Additionally, a uniform, step-by-step procedure should be developed for the permitting process. This procedure should be available as a printed handout to prospective applicants and other interested parties.

*Action Item 11:* Improve existing administrative procedures as follows:

- Enforcement: Establish strong education, inspection, compliance and enforcement measures for each of the three programs (Natural Hazards, Water Resources, and Natural Systems). An analysis of existing enforcement effectiveness should establish the requirements for additional enforcement needs.
- Staffing: Provide adequate staffing to administer and enforce the programs outlined above. The county should analyze staffing needs and provide staffing to meet these needs.
- Permits: Develop a streamlined permit process so that the applicant can readily understand what is required (in simple, straightforward language); can fill out the application without expending large amounts of time and money; and does not have to wait unacceptable periods of time. In meeting this objective, the county should pursue the following:
  - one stop service
  - clear permit information and instructions
  - well thought out and reasonable permit requirements
  - acceptable permit processing time
  - code flexibility when necessary to provide for a reasonable use of property and when no other reasonable or economically feasible design alternative exists

- review by pre-approved, private sector professional, where appropriate, to provide choice of reviewing options for applicants.
- Information Service: Continue to develop a strategy of mapping and analysis of environmental features that affect land use activity. These efforts should supplement and refine existing knowledge and coordinate with other information gathering activities. To achieve this objective the county should:
  - consult with private sector to review the methods and procedures for the above mapping and analysis;
  - identify the specific type of land feature, the known location of the feature, and specific risk (probability of damage) of the particular feature or of human developments;
  - broadly publish the results of the mapping and analysis, including maps, public information brochures, summaries, and complete documents.
  - define relevant environmental terms such as "Environmentally Critical Areas."
- Accountability: Review and modify existing policies, regulations, and administrative processes to insure efficiency, effective service to the community and implementation of the environmental goals of the Comprehensive Plan. Provide a time-table for the environmental review portion of permits to ensure predictable and expeditious processing of permits.

*Action Item 12:* Develop a working relationship with development organizations, as well as environmental protection and property rights organizations. In doing so, Whatcom County should seek assistance from, and strive to assist, these organizations in the resolution of ongoing conflicts between development, environmental protection, public resources, and property rights interests.

*Action Item 34:* Amend subdivision, zoning, and other land use regulations and design standards to require that land use activity minimize the amount of impervious surface whenever practical. Alternate surfacing options should be encouraged wherever possible.

*Action Item 42:* Formulate and implement a comprehensive watershed-based environmental management program to protect fish and wildlife. The program will include the remaining action items.

*Action Item 43:* Formulate an administrative approach to the review of development and planning proposals which consider natural system policies.

*Action Item 44:* Investigate and develop programs for acquisition and restoration of important fish and wildlife habitat areas.

*Action Item 45:* Develop and enter into cooperative agreements with State and Federal agencies and neighboring jurisdictions for the purpose of identifying and protecting natural systems.

*Action Item 46:* Identify and map important habitat corridors throughout the county.

*Action Item 50:* Support the development of educational programs to reduce adverse cumulative impacts to fish and wildlife from incremental riparian vegetation removal on marine and freshwater shorelines, especially in areas of high density development.

- Action Item 54:* Identify existing and historically important fish habitats. Include a component that seeks to protect and restore these habitats and to mitigate future impacts to fish habitats.
- Action Item 55:* Determine appropriate stream and river buffer widths, based upon best available science that will optimize fish and wildlife habitat and water quality.
- Action Item 56:* Coordinate the various jurisdictional interests and the responsibilities of Whatcom County.
- Action Item 57:* Amend the Whatcom County Shoreline Management Program to protect threatened and endangered species, consistent with RCW 90.58 and Department of Ecology rules (WAC 173-26).
- Action Item 63:* Develop a system of classifying wetlands, assigning buffers, and addressing riparian wetlands and habitat for listed species that follows state guidelines.
- Action Item 66:* Describe, inventory and categorize wetland systems in Whatcom County. Assess the functions and values of these systems as they relate to fish, wildlife, water quality, and water quantity.
- Action Item 71:* Work with local, state, tribal and federal agencies to address problems that affect marine waters and shellfish habitat. Utilize appropriate response mechanisms to insure timely and correct response to problems as they arise.
- Action Item 73:* Identify areas within the county that are important to shellfish habitat preservation i.e. wetlands, nearshore areas, etc. Utilize this data when making land use management and preservation decisions.
- Action Item 75:* Work with other County committees, programs, or processes, such as MRC, SRFBoard and WRIA Watershed Management Planning to address issues associated with shellfish and shellfish habitat.