

# **Repetitive Flood Mitigation Strategy Report**

**Update – April 2007**

Prepared by the Hamilton Public Development Authority  
Funded by the WA State Department of Ecology

The Hamilton Public Development Authority (PDA) mission is to develop and implement a permanent flood mitigation solution that restores the Town of Hamilton as a viable and desirable municipality in and around which to live and work, reduces repetitive losses from flood-prone areas of Skagit County, and enhances riparian natural resources. This undertaking, while very complex, is entirely realistic and the comprehensive approach proposed is both cost effective and practical. This is a community/economic development and critical area restoration project that depends on the creative use of existing public programs, and the cooperation of private lending institutions.

Background information is available with the June 2005 Repetitive Loss Mitigation Strategy Report. This report builds focuses on program recommendations that are key to successful implementation of this mitigation strategy.

## **Economics of Successful Mitigation**

### **Relocation Site Purchase and Preparation**

The Hamilton PDA seeks to purchase 200 acres of land outside of the floodplain to develop up to 400 residential units. The land will be developed using public and private money into a new town center and residential lots. Residential development at this new site is directly linked with the removal of up to 400 residential units from the Skagit River floodway. It is anticipated that 300 units will come from unincorporated Skagit County, and 100 units from Hamilton. Some residential lots will be reserved for permanent low-income housing, some for entry level low-income housing (e.g. under land trust management), and some will go immediately to market rate. All income from the sale of lots at the new development will be applied to the flood mitigation program, such as to purchase floodway residences and/or development rights. Extending the mitigation program beyond town limits to include unincorporated Skagit County creates the economy of scale needed for public investment to remain cost effective. Relocation site purchase is estimated to cost between \$3.5 – 4.2 million. In response to the November 2006 flood, Washington State Governor Christine Gregoire included \$1 million in the Governor's 2007 Capital Budget proposal to be applied toward relocation site purchase. These funds are contingent upon State legislative approval, and the procurement of \$3 million in non-state matching funds. The federal delegation was applied to for this match. In December 2006 the PDA was notified that no federal funds will be available for this purpose during 2007, nor are these likely during the 2008 fiscal year. At present, the State Capital Budget proposal is also not likely to be funded at or close to the requested \$1 million amount. As such, the PDA is now pursuing private investment and loans in order to proceed with relocation site purchase.

### **Public vs. Private Development**

Expanding this development to include private investors has significant risk that the PDA is working to minimize. Pre-Growth Management Act attempts to relocate the town though private development of real estate failed. Developers understandably did not have an interest in subsidizing the relocation of town residents from the floodway.

Instead, in one case, interests were sold to non-residents. In another case, the planned development became embroiled in a lawsuit with the town, and residential development plans were eventually abandoned. In addition, a 1998 Growth Management Hearings Board decision reduced the Hamilton Urban Growth Area to present town limits, citing that the Town had sufficient development potential within its existing boundaries. The Hearings Board failed to consider that this area is entirely located within regulatory floodway, and thus prohibited from being developed.

These past failures led the town to develop a relocation plan that does not rely on the benevolence of private interests. Two tools were selected for this purpose, 1). the Public Development Authority management structure, and 2). a Purchase/Transfer of Development Rights (P/TDR) program. The PDA provides an administrative framework for relocation site property development and floodway acquisition and open space restoration. The P/TDR program integrates the PDA program with planning legislation, including the Growth Management Act. Detail on the economic model for the PDA and the P/TDR program is provided in the September 2006 report, “Economic Model for Hamilton PDA and Transfer of Development Rights Program” (**Attachment 1**).

The economic value in preserving the Town of Hamilton is in leveraging the higher urban density development potential available to incorporated towns and cities to address the repetitive flood loss problem experienced both in the town and surrounding areas of Skagit County. Without this higher development density, relocation of the same 400 residential units would require ten times the land area. Under the Growth Management Act, the accepted minimum urban residential density is typically four residential dwelling units per acre. Alternately, unincorporated areas typically may only develop a maximum of one unit per five acres. As a result, 2,000 acres would be required to relocate the same number of floodway dwelling units, were the project to occur in an unincorporated area rather on the 200-acre site proposed for Hamilton.

In order to retain public control of the relocation program while partnering with private funding sources, Hamilton will not enlarge the Urban Growth Area until the relocation site land is under PDA control, or until agreements are in place to preserve PDA mitigation program goals. This may be achieved through imposition of strict development guidelines, for example, with the P/TDR program to assure the removal of floodway structures, and with the private provision of a share of low-income and affordable housing at the relocation site.

### **Maximum Benefits for Mitigation Money**

Revenue generated from the sale of lots at the new town site will be combined with other funds in the P/TDR program and will be used for the purchase and removal of floodway homes and development rights. The PDA model originally assumed that the purchase of the relocation site property would be publicly funded, and infrastructure construction would be financed primarily through grants, non-PDA payments such as future sewer utility rates, and private matching investment. Under this model, the PDA would realize the maximum revenue from the sale of development-ready lots. In

this manner, funding agencies benefit from their grant investment by having a guarantee that the sale of some lots would support (a) low-income housing on other lots, and (b) the purchase of floodway property and development rights.

It is conservatively estimated that \$20 million may be generated from relocation site lot sales. This revenue is essential to subsidize the purchase of the 400 floodway residences, which is estimated to cost between \$43.9 million and \$67.5 million<sup>1</sup>. The balance of funds needed to purchase and remove floodway homes will come from a combination of other mitigation program sources, such as FEMA acquisition programs, National Flood Insurance Program benefits, and state and local matching sources. PDA program revenue is critical to achieving the successful purchase of flood-affected homes because traditional publicly funded buyout programs cannot offer property owners what is often required to pay off liens and relocate, are incredibly difficult to procure, and are not available in a timely fashion following a flood disaster. In addition to these different revenue sources, private lending institutions will be required, in specific circumstances, to reduce the amount of the Promissory Note and release the Title for a reduced amount. This is necessary when liens are found to far exceed what public programs may cost-effectively offer.

Under a revised financing model for relocation site acquisition, funds borrowed and invested from private sources reduces the net revenue available for flood mitigation purposes. This loss of revenue likely will mean an increase in the public funds needed for floodway buyouts, increased reliance on private lending institution cooperation, and a reduction in the scope of flood mitigation. The PDA considers private investment as better suited to contribute matching funds for infrastructure development, and for private sector job creation necessary for the long-term sustainability of this region. Regardless, staff is working to devise creative options that will secure the funding needed, while not compromising PDA goals and with sacrificing the minimum revenue potential for flood mitigation.

## **Un-Fair Market Value**

The risk of significant flooding for residences in Hamilton and surrounding floodway areas is nearly 100% over the lifetime of a mortgage<sup>2</sup>. This risk is well documented with FEMA flood maps and with National Flood Insurance damage claims. Local, state, and federal flood plain management regulations have also codified the need for land use restrictions in communities with designated floodways<sup>3</sup>.

Despite this public awareness, the repair of flood-damaged homes continues, and at increasing public cost. A significant reason for this costly cycle is that the inherent risk of occupying floodway locations is not adequately considered on the open real estate market. Independent appraisals, upon which property values are based, do not

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<sup>1</sup> Benefit Cost Analysis for the Hamilton-Skagit Flood Mitigation & Town Relocation Project, December 2005, Appendix 3.

<sup>2</sup> Army Corps of Engineers Economic Flood Damage Assessment Without Project Conditions, Skagit River WA Flood Damage Reduction Feasibility Study – June 2005, Table 56.

<sup>3</sup> Chapter 173-158 WAC

isolate this flood risk, thereby masking the risk to structures of having a floodway location.

**Table 1** illustrates examples of this for several floodway properties located in Hamilton<sup>4</sup>. Column 4 demonstrates the large percent difference between Assessed Market Value, derived for tax purposes, and the “Open Market Value” derived by independent appraisals for purposes of resale or refinancing. These properties are identified by the National Flood Insurance Program (NFIP) as a top priority for mitigation because of their age (preFIRM) and the insurance claims paid for repetitive flood repairs. Despite their documented risk, these properties continue to appreciate in value, sometimes by more than 100% of their Assessed Market Value.

Column 6 and 7 demonstrate a fundamental problem in that publicly funded buyout projects cannot justify paying these much higher “Fair Market Values”. Assessed Market Value is often used by FEMA as the baseline for estimating the fair market value that FEMA may cost effectively offer property owners. The claim paid-to-Assessed Value figures shown in Column 6 gives a thumbnail test for a buyout’s cost effectiveness, and these properties all qualify. Unfortunately, low interest rates and appreciating property values have made refinancing an attractive means for property owners to access home equity monies. With this lure of cheap cash, mortgage debts frequently approach the Open Market Values seen here. This creates a trap whereby public programs cannot afford to offer appreciating Open Market Values that indebt property owners, and owners who wish to be bought out cannot clear their liens with the lower offer that meets FEMA benefit cost analysis requirements.

**Table 1**

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Residence Description	2007 Assessed Market Value	2006 Open Market Value	% Value Difference	Flood Insurance Claims Paid	Claim Paid to 2007 Assessed Market Value	Claim Paid to 2006 Open Market Value
1,800 sf 3BR/2BA	\$ 134,100	\$ 280,000	109%	\$ 119,550	89 %	42%
1,676 sf 2BR/1BA	\$ 141,000	\$ 224,719	59%	\$ 85,848	61%	38%
1,272 sf 3BR/2BA	\$ 68,200	\$ 184,328	170%	\$ 108,528	159 %	59%
1,148 sf 4BR2BA	\$ 67,800	\$ 117,100	73%	\$ 81,872	121 %	70%
1,624 sf 3BR/1BA	\$ 217,400	\$ 300,000	38%	\$ 111,713	51%	37%
1,248 sf 2BR/1BA	\$ 91,500	\$ 249,719	173%	\$ 61,614	67%	25%

<sup>4</sup> Excerpts form Excel files HQ.RLdata.Hamilton

**Attachment 2** provides comparisons of Assessed Value, Open Market Value, and National Flood Insurance Program claims for 184 properties in Hamilton and Skagit County inspected by County building officials following the November 2006 flood. This gives an overview of the real estate market challenge that the Hamilton PDA faces in pursuing the floodway buyouts central to the relocation program. With these ‘un-fair’ market values, it is nearly impossible for homes to qualify for acquisition and removal using public funds, under any circumstance, regardless of the repetitive damage incurred. Even with cost effective criteria lifted for those properties that are a top mitigation priority, it is entirely unreasonable for public programs to be expected to underwrite the profits anticipated by lenders extending mortgages on properties with such well-documented excessive risk.

This situation highlights a significant conflict between the open real estate market, and public floodplain management policies and overall public good. This also represents the greatest threat to successful mitigation of repetitive flood loss properties.

## **Breaking The Costly Cycle of Repair**

Intervention is necessary on several fronts in order to halt the costly cycle of publicly subsidized flood repair and appreciating value of flood-damaged, floodway homes. A three-part strategy is proposed to promote permanent mitigation of properties identified as having repetitive flood damage, and for buildings constructed before the threat of flooding was documented by FEMA Flood Insurance Rate Maps (preFIRM).

Both repetitive flood-damaged and preFIRM homes have been identified by FEMA as top mitigation priorities because of the excessive drain they present to the National Flood Insurance Program.

The first strategy involves tightening independent appraisal reporting requirements so that buyers and lenders more fully understand the risk that they assume when investing in the purchase of a floodway home. The second strategy calls for local jurisdictions to apply the strictest interpretation of existing local, state, and federal floodplain management regulations, and recommends clarification to code language that will help deter the recurring repair of damaged floodway properties. The third strategy addresses general awareness of flood threat, and financial barriers that often prevent floodway residents from voluntarily participating in public buyout programs.

### **Strategy #1: Appraisal Eye Opener**

An appraisal report serves as a lender’s eyes with respect to individual properties. For this reason, it is imperative that these reports open lender’s eyes to the true flood risk that a property may expect during the lifetime of a loan. Appraisers must be required to go beyond the passing reference to the property being located in a general “flood zone”. Every property is in a flood zone, and the FEMA designation of Zone A, B, C, D, X, etcetera are meaningless to consumers, and of little consequence to a lender seeking a sales quota and the quick close to a sale. Appraisal reports must be required to specify the threat of flooding that the particular flood zone presents.

In addition, it is essential to identify if a property lies within a floodway, the areas of

the floodplain where the flood risk is greatest and floodwaters flow the fastest and deepest. This requirement would not create much additional work for appraisers, already accustomed to referencing FEMA Flood Insurance Rate Maps (FIRM) for the flood zone determination. Some available tools include FEMA-produced Flood Boundary and Floodway Maps (FBFM), and Flood Hazard Boundary Map (FHBM). FEMA cites the FIRMs as the most common map and available to most communities. At a minimum, flood maps show flood risk zones and their boundaries, and may also show floodways and Base Flood Elevations (BFEs). The FBFM is a version of a flood map that shows only the floodway and flood boundaries. While the FBFM is no longer produced, these are readily available for viewing at local government planning departments, and may be ordered from FEMA. The FEMA website also indicates that current FIRMs include all of this information<sup>5</sup>. The FHBM is an older version of a flood map, is based on approximate data, and is not recommended for this purpose. FEMA is currently involved with a five-year, map modernization project that is digitizing the FIRMs, and adding layers for floodway, floodplain, and other relevant detail. When these are complete, communities will have the most current mapping information available in an easily accessible, online format.

In the mean time, other sources may compliment the paper FEMA maps. Locally, the Skagit County Geographic Information Services Department (GIS) Map Gallery includes a Flood warning Map for the Skagit River Valley<sup>6</sup>. This provides a cursory idea of high flood risk locations that may supplement, but should not supersede, FEMA map information. In addition, the Hamilton PDA in collaboration with GIS has produced a Map Viewer tool that layers county parcel information with FEMA 100-year Floodplain and Skagit River floodway demarcations<sup>7</sup>. This digital map tool contains a subset of information derived from the print FIRMs. At present, this is for internal Hamilton PDA use only and is not publicly accessible. It is recommended that this information be made available through the GIS Map Gallery, as a bridge data source until FEMA map modernization becomes locally available. This publication would require consent from FEMA and Skagit County, and a disclaimer of any warranty of accuracy, expressed or implied, regarding the accuracy, currency, completeness, or quality of the data depicted, such that Skagit County is held harmless from any damages, loss, or liability arising from the use of the maps.

For properties identified as intersecting the floodway, appraisers must clearly and fully disclose this information to both the lender and the prospective buyer. The best-case scenario would require the parcel map (already included with the appraisal report) to include an estimate of the floodplain and floodway boundaries (hand drawn should suffice) and an estimate of the residential structure location. For residences identified as within the floodway, an elevation certificate should be required as part of the sale agreement. This information offers much greater assurance for both lenders and buyers of the flood risk they are assuming.

At a minimum, the appraisal report addendum should be required to include the

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<sup>5</sup> <http://www.fema.gov/NFIPKeywords/description.jsp?varKeywordID=92>

<sup>6</sup> <http://www.skagitcounty.net/Common/Asp/Default.asp?d=GIS&c=General&p=Gallery/main.htm#flood>

<sup>7</sup> FEMA Q3 Flood Data

following excerpt from Washington State Administrative Code (WAC) Chapter 173-158-070. This provides at least some notification of the risk associated with floodway location, and the building restrictions that property owners are accepting. This is important when, following a flood event, local jurisdictions seek to strictly enforce floodplain management codes.

## **Strategy #2: Enforcing Floodplain Management Restrictions**

The second strategy calls for local jurisdictions to strictly enforce existing local, state and federal floodplain management regulations so as to deter the recurring repair of damaged floodway properties. **Attachment 3** includes excerpts from these codes federal floodplain management regulations, and **Attachment 4** has two FEMA publications with additional information on floodplain management requirements.

Under State WAC 173-158-076, “Any substantially damaged residential structure located in the regulatory floodway in a high risk zone based on the flood characteristics will not be recommended (by the WA Department of Ecology) to be repaired or replaced”.

**Substantial damage** is defined by National Flood Insurance Program regulation 59.1 as “damage of any origin is sustained by a structure whereby the cost of restoring the building to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.” Note that the cost of repair must include all costs (at market rate) necessary to fully repair the structure to its before damage condition, regardless of the amount of repair work being considered by the property owner. In this manner, local building officials must first estimate the actual cost to restore the building to its former condition, independent of the permit repair request. For floodway structures, this process enables local permit officials to determine if the building is eligible to receive a permit for any repair work. For structures located in the floodplain but outside of the floodway, this process also enables local permit officials to determine if the structure being repaired must also be brought into compliance with minimum floodplain requirements for flood-proofing, such as elevation to at least one foot above the FEMA-designated base flood elevation.

In making substantial damage determinations, local officials should use an objective third party or un-debatable source to estimate the full cost to repair. Suggested sources for full repair cost estimation include the following:

- A licensed general contractor,
- A professional construction estimator,
- National Flood Insurance Program adjustment papers (excluding contents damage),
- Damage assessment field surveys conducted by FEMA, building inspectors, emergency management, or
- Tax assessment agency estimates after a disaster.

**Building valuation** methods needed for making substantial damage determinations (and other purposes) can be highly subjective, which makes it easy for property



owners to appeal a substantial damage determination made by local jurisdictions. For example, independent appraisals that are adjusted for pre-flood damage building value, often reduce the damage-to-value ratio below the 50% threshold because they apply a Comparable Sales approach when estimating building market value. This method compares several recently sold properties of similar size, improvements, and location with the property being appraised. Unfortunately, this methodology is highly subjective and heavily influenced by local market conditions. Concerns with accepting this valuation method for floodway properties are discussed previously under Strategy #1.

Like many northwest regions, Skagit County has a quickly appreciating market with properties often doubling in sale value over half a dozen years. In this bull market, property valuations are not appropriately reflecting the imminent flood threat of structures located in the floodway. This is evidenced by the dramatic difference between 2007 Assessed Market Values and Open Market Values derived from examining Comparable Sales (**Table 1**, column 4, and **Attachment 2**, column 8). While these market values include building and land value, the principal remains that Open Market Building Values are also significantly higher than their Assessed Building Value counterpart.

For properties in high-risk areas, such as the floodway, market conditions must be removed from the valuation equation. Building market value methods that FEMA supports, and are acceptable to the PDA include:

- Assessed building value,
- Building replacement cost, depreciated to estimate the building actual cash value, or
- Building actual cash value reported with National Flood Insurance Program adjustment papers (excluding contents damage)

It is encouraged that the lowest of these values be applied by permitting officials and floodplain managers. Building replacement cost (also known as Depreciated Replacement Value) can be provided by independent appraisal reports or estimated by local officials. This approach is important because it estimates the cost to construct a like size replacement residence, without consideration of other, more subjective market conditions. The estimate is simply based on building size (square feet) and a “per square foot” construction cost that is taken from independent sources such as the Building Construction Manual and the Marshall & Swift Residential Cost Handbook. The baseline estimate is then depreciated to account for structure age and condition, and more closely reflects the true building value. This has also been found to be more consistent with the structure value that flood insurance adjusters use for FEMA Proof of Loss documentation, and that FEMA Home Inspection Reports provide\*. Finally, this approach offers a neutral and consistent means for local building officials and mitigation program staff to make judgments about substantial damage.

**\* NOTE:** It is highly recommended that FEMA provide local jurisdictions with easy access to FEMA Proof of Loss documentation, and FEMA Home Inspection Reports in order to facilitate post-disaster recovery planning that promotes structure purchase and

removal. It is recognized that this information is protected under the federal Privacy Act, however, the lack of easy access to this valuable information by approved local officials hinders mitigation work.

Federal National Flood Insurance Program regulation also requires that all structures determined to be substantially damaged are automatically considered to be substantial improvements, regardless of the actual repair work considered by the property owner, and so must meet local, state, and federal building restrictions and flood-proofing standards<sup>8</sup>.

**Substantial improvement** is defined by National Flood Insurance Program regulation 59.1, 44 Code of Federal Regulations, as “any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the ‘start of construction’ of the improvement. This term includes structures which have incurred ‘substantial damage’, regardless of the value of or actual cost of repair work performed.”

Local jurisdiction responsibility for making substantial damage determinations, coupled with automatically qualifying substantially damaged buildings as substantial improvements, enhances the authority of officials to prohibit the permitted repair of more structures than previously understood by Hamilton and County officials. To date, local officials have not made it a practice to regularly make substantial damage determinations following a flood. Instead, repair permits of flood-damaged properties have been issued based on comparison of the cost of proposed repair work and building pre-damage market value. Property owners have been known to skirt the ‘substantial improvement’ restriction by seeking permits in phases, over subsequent years, in order to maintain an improvement-to-building value of less than fifty percent.

Following a flood event, local building officials conduct a rapid damage assessment of buildings in affected areas for the purpose of determining structural soundness, rather than to make substantial damage determinations in accordance with National Flood Insurance Program definition. Notices are posted that the building has been inspected and is either 1). safe to occupy, 2). has restricted use until corrective action is taken, or 3). is found to be unsafe to enter or occupy until corrective action is taken. See **Attachment 5** for samples of the damage assessment form and notices. No other communication is made with property owners unless and until a repair permit is sought. During permit review, building officials might compare the cost of requested repairs with County Assessed Building Value. When this ratio exceeds 50% and a permit request is denied, property owners typically refute the Assessed Building Value figure by providing an independent appraisal of the structure, adjusted to reflect pre-damage building value. The rapidly appreciating real estate market in Skagit County is reflected by appraisals found to regularly to be 48% to more than 100% higher than building values estimated by the County Assessor’s Office. This situation makes it difficult for local officials to deny repair permits when relying solely on ‘substantial improvement’ restrictions.

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<sup>8</sup> FEMA publication 213 - Answers to Questions About Substantially Damaged Buildings, p. 6., question # 14.

FEMA has also identified the mitigation of repetitive flood loss properties as a top National Flood Insurance Program priority since structures that flood frequently put a strain on the flood insurance fund. Such mitigation is also important to communities because the lives of residents are disrupted and property is threatened by the recurring flooding.

**Repetitive loss** properties are defined by FEMA as properties which:

- The National Flood Insurance Program has paid two or more flood claims of \$1,000 or more in any given 10-year period since 1978, or
- Experienced flood damage on two or more occasions over a 10-year period ending on the date when a second claim is made, in which the cost to repair the flood damage, on average, equals or exceeds 25% of the market-value of the structure at the time of each flood loss event.

It is estimated that approximately 25 residences in Hamilton and approximately 14 residences in Skagit County meet this National Flood Insurance Program definition of repetitive loss. These estimates, however, are extremely conservative because only losses from properties insured under the National Flood Insurance Program are tracked. **Attachment 2**, column 14 illustrates that of the 184 properties only 25% are positively identified as having flood insurance coverage information available. Of those identified as insured, more than three quarters (36 properties) have received flood insurance payments that exceed 50% of the Assessed Building Value, and 85% of which have received flood insurance payments that exceed 25% of the Assessed Building Value. Extrapolating this information to the overall population of flood-affected structures provides a strong indication of the severity of repetitive flood losses that exist, but remains untracked.

### **Recommendations**

Ideally, owners of structures that suffer repetitive flood damage (whether insured or uninsured) or qualify as substantially damaged, would be prohibited from repairing, and these buildings would have access to public purchase and permanent removal. Achieving this mitigation goal requires more effective enforcement of federal, state, and local floodplain management restrictions and application of a long-term approach to mitigating flood damage through consistent local regulation and resource sharing.

It is often the case that local jurisdictions lack the human and financial resources to 1). fully understand the subtleties of floodplain management regulation, 2). actively pursue making substantial damage determinations, or 3). press for the political will necessary to strictly enforce regulations that are perceived by many property owners as an infringement on their personal rights. Enforcement in Hamilton is further hindered by the following:

1. Lack of non-floodplain area available in town for new development, which is slowly eroding the town property tax base,
2. Insufficient affordable housing stocks to offer residents, and the unwillingness to ban residents from their homes (substandard and damaged as these homes may be), and

3. Lack of secure funding for timely purchase of flood-damaged homes, and funds to help residents re-establish themselves elsewhere.

The PDA program is designed to address these barriers and promote successful mitigation by:

1. Consolidating the management of regional residential floodway and floodplain mitigation work, and
2. Generating revenue through the sale of lots at the town relocation site to subsidize floodway acquisition and offer residential relocation assistance.

It is human nature (and a law of nature) to pursue the path of least resistance. Because the mitigation of flood-prone structures is so difficult (politically, managerially, and financially) local jurisdictions are more apt to focus resources on other priorities. Consolidating the management of residential floodway and floodplain mitigation countywide can increase the political will needed for stricter code enforcement within individual communities; especially if enforcement is overseen by a detached third-party (such as the PDA) not subject to the political pressures that necessarily influence elected governments. Consolidation can also focus human and financial resources on mitigation activities only, rather than allowing these activities to be superseded by other pressing management needs. Such consolidation is starting to take place. For example, following the November flood, damage inspections for all jurisdictions were conducted by a multi-jurisdictional team under the direction of Skagit County. In addition, post flood acquisition grant proposals are being coordinated that include damaged properties in Hamilton, Sedro-Woolley, Mount Vernon, and unincorporated Skagit County. The value in this collaborative approach is in being able to provide property owners (who are in crisis) with support in order to communicate effectively with NFIP insurance providers, FEMA, SBA, local building departments, and most importantly with lenders in order to stave off foreclosure during the many months before grant funds become available to purchase homes and relocate residents. The complexity of qualifying properties for public purchase necessitates having staff with time to apply to this arduous task, ability to communicate with families in crisis, an understanding of different assistance programs, floodplain management and local building codes, and the creatively leverage the strengths of individual programs in order to achieve the desired mitigation objective.

To further promote successful mitigation, local jurisdictions should consider consolidating the management of National Flood Insurance Program Community Rating System activities, floodway damage determination and permit review, outreach to flood-affected residents, and management of floodway and floodplain acquisition projects.

As introduced on Pages 2 and 3, 'Maximum Benefits for Mitigation Money', having a town relocation site will enable the provision of low-income housing, and will generate significant revenue to subsidize the purchase of floodway property and development rights. Having housing and financial solutions to offer residents, especially following a disaster, makes it much more palatable for local jurisdictions to enforce floodway repair restrictions. These solutions will also enable residents to reestablish themselves, either at the town relocation site, or elsewhere, while

remaining financially whole.

### **Strategy #3: Addressing Public Awareness and Financial Barriers**

The third strategy addresses persistent awareness issues and financial barriers that often prevent floodway residents from voluntarily participating in public buyout programs.

#### **Public Awareness**

It is frequently asked, ‘why do people choose to live in the floodway?’ This simple question is not simple to answer. In communicating with floodway residents, two main responses to this question have come to light. The first is a lack of understanding of the extreme flood risk or having inaccurate information about the risk, and the second is having insufficient affordable housing available elsewhere. Contributing to the lack of understanding of flood risk comes from:

1. Inaccuracies with appraisal reporting discussed earlier in this report,
2. No public record of historic flood losses incurred by a property that is available to prospective buyers and lenders,
3. Past personal experience with repetitive flooding and repairs are allowed (either through the permitting process or from a lack of code enforcement), and
4. Complacency associated with having access to federally backed, comparatively inexpensive, flood insurance.

Factor number one and number two above are areas where modest adjustments can have valuable outcomes.

- #1 Appraisal reporting standards can be tightened, expectations for floodplain value adjustments can be increased, and appraisers can be held increasingly liable for gross errors. Successful implementation of these actions would benefit from advocacy at the state and federal levels.
- #2 Several ways exist to increase the awareness of prospective property buyers and lenders of flood risk without infringing on federal Privacy Act restrictions. First, as a condition of purchasing or renewing a National Flood Insurance Program policy, require that a ‘Notice Of Flood Insurance Benefits Received’ be attached to the property Title. This general notification would alert appraisers, buyers, and lenders that there is flood risk, regardless of what sellers choose to disclose in closing documents. Second, FEMA presently mails new National Flood Insurance Program participants a summary of benefits that have been paid to the property. Receipt of this information is too late for unsuspecting purchasers and lenders evaluating a sale agreement, and often leaves new owners feeling duped not only by the seller, but by the National Flood Insurance Program, as well. Access to either specific or general claim information before a sale closes is an important disclosure, and one that may help adjust real estate values to more appropriately reflect the risk in Special Flood Hazard Areas.

Factor number three requires the strict permitting processes and code enforcement

discussed previously. Factor number four would benefit from ongoing public education working to dispel misconceptions about the National Flood Insurance Program. One common misconception is that the National Flood Insurance Program will fund the full cost of replacement of property and contents. Benefits actually paid have been found to be far less than replacement cost, and this unrealistic expectation is believed to cause a great deal of disillusionment among flood victims, and distrust of this valuable program.

While increasing public awareness is an essential mitigation measure, addressing the financial barriers that prevent residents from relocating before and after a flood is the most crucial element to effective mitigation.

### **Financial Barriers**

As discussed in the section, 'Un-fair Market Value' on pages 3-5, the variance between what public programs may cost effectively pay for homes and the high debt encumbering many homes, poses a significant threat to mitigation. Assessed Market Value is frequently used by FEMA as the baseline for estimating the 'fair market value' that FEMA is cost effectively able to offer property owners. Unfortunately, low interest rates and appreciating property values make refinancing an attractive way for property owners to access home equity money. This lure of cheap cash is one thing driving mortgage debts closer to the open market values that properties are selling for.

**Attachment 2** column 8, compares the difference between open market value (from recent independent appraisals or from comparable sales information prepared for the PDA by Land Title Company). These value figures have been entered into FEMA Benefit Cost Analysis software for 34 properties in order to identify a threshold of cost effectiveness for publicly funded purchases, and compare this with what owners may cost effectively be able to accept in order to clear their liens.

Some resulting observations of this exercise include:

- Assessed Building Value was found to be highly cost effective for FEMA to offer in the large majority of scenarios (32 of 33 scenarios run = 97% of cases).
- Assessed Market Value (building plus land) was demonstrated to be cost effective for FEMA in 24 of 34 scenarios run = 71% of cases.
- Building Replacement Value applied \$100/sf replacement cost estimate times the residential area and was found to be a cost effective amount for FEMA to offer in only 38% of cases (13 of 34 scenarios run).
- Open Market Value estimated from recent independent appraisals or from comparable sales information prepared for the PDA by Land Title Company reflect what similar properties in similar condition and in locations are selling for, and represent an approximation of the mortgage debt carried by many property owners. These values were found to be cost effective for FEMA to offer in only 21% of cases (7 of 34 scenarios).

What is clear from this, and from local experience with buyout projects is that publicly funded buyout programs simply cannot afford to offer the higher values that owners need in order to clear their liens. Further, it is very difficult to get lenders to accept

the lower offers that are cost effective for the public buyout program to offer because it is in the best interest of their investors to foreclose, repair, and resell on the open market. This financial conundrum leaves many property owners feeling trapped between high water and high debt. Strict enforcement of floodplain management codes provides property owners and local mitigation program staff with significant leverage to promote lender cooperation. Disallowing any repair permit effectively reduces the value of damaged structures to nil, and encourages lenders to forego anticipated future profits by accepting what public programs can offer. Hopefully, having to accept financial losses will also create a disincentive for lenders to invest in such high-risk areas. It is important that, even when lenders require owners to carry flood insurance, that they too accept responsibility for investment decisions, and the losses associated with those decisions.

The complexity of successfully negotiating public buyouts of flood-affected structures necessitates the following:

- A single organization (e.g. the PDA) overseeing acquisition programs and being able to provide property owners and lenders with assistance in negotiating public purchases, and
- Strict enforcement of repair restrictions on repetitive loss and substantially damaged structures in order to provide property owners with the leverage needed to engage lender participation in accepting what public agencies may cost effectively offer. The final barrier identified involves the poorest segment of the floodway community. Without affordable housing and relocation assistance available, low-income residents have few or no viable housing alternative to their present situation. In Hamilton, mortgage payments for low-to-moderate income homeowners averages \$304 per month, and rent averages 55% less than elsewhere in Skagit County<sup>9</sup>.

## **Conclusion**

The Hamilton PDA program offers the management structure and program design needed to address barriers to successful mitigation of floodway residences. No other organization or jurisdiction (local, state, or federal) offers the comprehensive and cost effective approach put forth by the Hamilton PDA. Non-action is an alternative that will continue to accrue millions of dollars annually in public and flood insurance program costs for flood response, recovery, and reconstruction without providing the benefits of community and economic development, and riparian habitat restoration that are available through the PDA program. Non-action will lead to the eventual disincorporation of the historic community of Hamilton, and forfeiture of the opportunity to leverage the urban density development potential available to Hamilton to address regional issues of repetitive flood loss, poverty, and environmental degradation, and forfeiture of the opportunity to generate above \$20 million for this mitigation and restoration work.

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<sup>9</sup> Skagit County Low Income Needs Assessment 2005.