

# **TOWN OF HAMILTON**

**WITH SKAGIT COUNTY AS CO-LEAD AGENCY**

## **FINAL ENVIRONMENTAL IMPACT STATEMENT**

**TO EVALUATE SUB AREA PLAN FOR**

**EXPANSION OF THE URBAN GROWTH AREA**

**TO ACCOMMODATE RELOCATION OF HAMILTON RESIDENTS**

**OUT OF THE FLOODWAY,**

**TRANSFER AND PURCHASE OF FLOODWAY DEVELOPMENT RIGHTS IN THE**

**AREA, RESTORATION OF THE SKAGIT RIVER FLOODWAY**

**AND**

**DEVELOPMENT OF VACANT INDUSTRIAL LAND**

**TOWN OF HAMILTON, WASHINGTON AND SKAGIT COUNTY**

Prepared for review by Citizens and Government Agencies in Compliance with the State Environmental Policy Act of 1971 (Chapter 43.21C Revised Code of Washington) as revised; the State Environmental Policy Act Rules, as revised (Chapter 197-11 Washington Administrative Code); and City of Burlington Municipal Code Chapter 15. 12 Environmental Policy; and the National Environmental Policy Act Pub. L 91-19, 42 U.S.C.4321-4347 as amended.

**DATE OF ISSUE: JUNE 6, 2007**

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## FACT SHEET

**PROJECT TITLE: Evaluate expansion of the Urban Growth Area for long term future growth of the Town of Hamilton, including relocation of existing Hamilton residents out of the floodway, purchase and transfer of floodway development rights from identified surrounding areas, restoration of the Skagit River floodway, and development of vacant industrial land.**

Additions are planned to the Town of Hamilton Urban Growth Area to implement the 2007 Town of Hamilton Comprehensive Subarea Plan and the Hamilton-Skagit Flood Hazard Mitigation and Town Relocation Program, so as to provide for future growth and economic development of the town that is consistent with the Growth Management Act and Countywide Planning Policies. This process is intended to provide Skagit County with adequate information to take positive action on the planned Urban Growth Area, and to afford an opportunity for consideration of alternatives. The planned expansion of the Urban Growth Area is included in the adopted 2005 Town of Hamilton Comprehensive Plan. The 2007 Town of Hamilton Comprehensive Subarea Plan provides a more detailed look at this same plan.

A range of land use alternatives is presented in order to maximize flexibility in the decision-making process, and to ensure an adequate analysis of the impacts of each alternative. Alternative designs for public infrastructure to meet long term needs include water, storm and sanitary sewer, streets and other utilities. Alternatives that meet the project objectives and/or mitigate environmental impacts include phased Urban Growth Area adoption, evaluation of other sites, and no action.

Proposed sites for Urban Growth Area expansion include:

- A. 59-acre portion of the former Crown Pacific Log Yard recently purchased by Janicki Industries Incorporated; located south of State Route 20, north of the old Lyman/Hamilton Highway, extending west to Cabin Creek Road, and
- B. 202 acres located north of State Route 20 between Hamilton Cemetery Road and the Centennial Annexation Gravel Mine, and north to the town Well site.

### **PROPOSED ACTION AND ALTERNATIVES**

1. Proposed Action: Expand the Urban Growth Area by 261 acres in a 20-year plan to accommodate residential, commercial and industrial development, including transfer of existing residential development rights from the Skagit River floodway between Sedro-Woolley and Concrete, restoration of floodway properties to natural river functions and buffer conditions, and development of a relocated Town consistent with adopted Comprehensive Plan and Zoning.
2. Alternatives that may accomplish the goals, but are managed to address lack of government funding.

3. Add only the remaining 59 acres of the old Crown Pacific site, the Janicki property, to the Urban Growth Area so that it can be properly zoned for broad industrial use. Provide Town water to the site.
4. Add the remaining 59 acres of the old Crown Pacific site, the Janicki property, to the Urban Growth Area so that it can be properly zoned for broad industrial use and a small Urban Growth Area of about 50 acres to accommodate the existing population of the Town only. This will of necessity be a permanently subsidized community because of the need for a larger land base to be self-sufficient. A sub – alternative would be to place the remaining land in an Urban Reserve designation for future consideration.
5. Add a different site than the planned Urban Growth Area location, such as Punkin Center or land to the north and east of Hamilton Cemetery Road. If annexed, additional opportunities for subdivision would be permitted.

**PROPONENT**

Hamilton Public Development Authority partner agencies including:  
 Town of Hamilton, Skagit County, Skagit River System Cooperative, The Nature Conservancy, Whatcom Skagit Housing, and Skagit County Community Action Agency.

**TENTATIVE DATE FOR IMPLEMENTATION**

2008-2028

**CO-LEAD AGENCIES**

Town of Hamilton and Skagit County

**RESPONSIBLE OFFICIALS AND CONTACT PERSON**

Margaret Fleek, Town Planner 901 E. Fairhaven Avenue Burlington, Washington 98233 360-755-9717	Brandon Black, Senior Planner Skagit County Planning & Development Services 1800 Continental Place Mount Vernon, WA 98273
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**PHONE NUMBER AND STREET ADDRESS FOR WALK IN INQUIRIES**

360-755-9717  
 901 East Fairhaven Avenue, Burlington WA

**LICENSES, PERMITS AND APPROVALS**

Town of Hamilton adoption of Sub Area Plan  
 Skagit County Board of Commissioners adoption of Sub Area Plan Amendment to Urban Growth Area  
 Annexation of Urban Growth Area into Town limits; permits to construct infrastructure

Addendum or Supplemental Environmental Review to comply with specific funding requirements including National Environmental Policy Act

**AUTHORS AND PRINCIPAL CONTRIBUTORS**

Margaret Fleek, Town Planner  
Brandon Black and Kirk Johnson, Senior Planners for Skagit County  
Lauren Freitas, Hamilton Public Development Authority Coordinator  
Patrick Hayden, Town Attorney  
Curt Miller, Landscape Architect  
Aqua-Terr Systems Inc.  
Archeological background information prepared for Hamilton Sand & Gravel Mine

**DATE OF ISSUE OF FINAL ENVIRONMENTAL IMPACT STATEMENT**

June 6, 2007

**DATE FINAL ACTION IS PLANNED**

June 12, 2007 by Town Council; submit to Skagit County July 2007

**TYPE AND TIMING OF SUBSEQUENT ENVIRONMENTAL REVIEW**

Supplemental environmental review may be required to meet Federal funding guidelines or if new development is identified for areas not proposed for development at this time.

**LOCATION OF BACKGROUND MATERIAL**

Background material and supporting documents may be found at the offices of the Hamilton Planning Department located at 901 E. Fairhaven Avenue, Burlington, WA.

**COST OF FINAL ENVIRONMENTAL IMPACT STATEMENT: \$2.00**

## **SUMMARY**

### **OBJECTIVES OF THE PROPOSAL**

The objectives of the proposal are as follows:

- Provide land outside of the floodway for construction of housing opportunities, businesses and commercial and industrial uses, school site and public services, open space, parks, infrastructure and utilities.
- Establish an overlay zone for the existing floodway area in the Town limits to plan and implement restoration of stream and wetland buffers, habitat conservation areas, removal of structures and site cleanup, public access and open space, and extinguishing of development rights.
- Design and implement a floodway hazard mitigation strategy that includes creating sending zones for the transfer of development rights from the existing floodway portion of the Town and the river reach between Sedro-Woolley and Concrete, and a receiving zone at the new Urban Growth Area located outside the floodplain.
- Site design shall include low-impact, sustainable and green development features integrated into the plans and codes.
- Preservation of the rural character of the area and minimizing the impact of new development on the existing homes in the area.

### **MAJOR CONCLUSIONS AND SIGNIFICANT AREAS OF CONTROVERSY AND UNCERTAINTY**

Compliance with State Growth Management Act restrictions forms the central issues of controversy and uncertainty. Key questions and concerns that have arisen include the following.

1. Not allowing an increase in the development density of surrounding Rural Areas, and not allowing for general industrial development on the portion of the former Crown Pacific site located outside of Town limits, and currently zoned Natural Resource Industrial.

The question of people living in unincorporated Skagit County being able to subdivide land into relatively small lots (one acre or less) has been debated at length in the years following implementation of the Washington State Growth Management Act program. Rural Lands and Resource Lands are treated very carefully in the Skagit County Comprehensive Plan and Development Code. The highest density zoning north of Highway 20 in the Punkin Center area is RI, Rural Intermediate, with a minimum lot size of 2.5 acres unless it is part of a CaRD, which is a cluster subdivision provision that provides for smaller lots (such as one acre) in exchange for a large open space reserve area. The rationale for lower density in rural areas is to preserve the rural character of the area, ensure that public health and the environment is protected, minimize public infrastructure costs, and reduce conflicts with adjacent natural resource uses. There is a clear requirement in the State Growth Management Act that high residential densities and general industrial uses are ONLY allowed in Urban Growth Areas, incorporated or unincorporated.

Working within this Growth Management Act framework, the Town of Hamilton is asking for additional land, located outside of the 100-year floodplain, to be added as Urban Growth Area in order to accommodate the need to relocate the current Town population out of floodway critical areas, and also respond to 2025 Town population projections. This expansion would enable higher density residential development in the range of at least four units per acre.

Under the Growth Management Act, industrial uses in rural areas are strictly limited to Natural Resource Industrial uses. This restriction requires that the portion of the former Crown Pacific site that is currently located outside of Town limits be located in an Urban Growth Area or Town limits, in order to facilitate economic development through the productive use of this site. As such, the Town of Hamilton is asking to expand the Urban Growth Area to include this area, consolidating the zoning of this existing single-owner industrial site. This expansion is essential in order for new site owners, Janicki Industries Incorporated, to proceed with site development.

The overall scope of the proposal for the total site both in the existing City Limits and the proposed addition to the Urban Growth is to construct up to one million square feet of industrial space in 1-4 buildings, phased over time, with associated parking and fenced storage. There is the potential for additional permitted uses. There will be a substantial amount of fill and grade required over the site, precise amounts to be determined. Transportation improvements shall be identified based on a traffic study prepared in consultation with the Washington State Department of Transportation prior to issuance of construction permits.

2. An additional area of concern is whether people will be forced to relocate, and whether adequate compensation will be paid.

In short, local implementation of the State Floodplain Management Code, as required by law, will require people to relocate over time – whether to an expanded Hamilton UGA or elsewhere. A key goal of the UGA expansion and Town relocation is to generate additional revenues to assist floodway residents in making that move.

State Floodplain Management Code (WAC Chapter 173-158) does not permit repair or reconstruction of structures identified by local building officials as substantially damaged. The criteria for determining substantial damage is the ratio of the full cost to repair a building to its before-damage condition, to the building market value of the structure prior to the damage (not including outside improvements or land value). The formula requires use of the full cost to repair the structure, not the cost of repairs, and is determined regardless of the actual cost estimated by the owner (even if the owner elects to do less). FEMA has developed a software program to help local officials make substantial damage determinations, which is available from the local FEMA Regional Office. Likewise, State Floodplain Management Code does not permit substantial improvements to be made on residential structures located within the floodway. Substantial improvement is defined as “any reconstruction, rehabilitation, addition or other improvement to a structure, the total cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. Additional information on substantial damage and substantial improvement is available in FEMA publication 480, *Floodplain Management Requirements: A Study Guide and Desk Reference for Local Officials*, and FEMA publication 213, *Answers to Questions About Substantially Damaged*

*Buildings.* **Appendix E - Repetitive Loss Mitigation Strategy** includes WAC Chapter 173-158 and the above referenced FEMA publications.

Local building officials are responsible for making substantial damage and substantial improvement determinations, and should estimate the full cost to repair using an objective third-party or un-debatable source, such as:

- 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 market values that FEMA supports include:

- Assessed building value,
- Building replacement cost, depreciated to estimate the building actual cash value,
- Building actual cash value reported with National Flood Insurance Program adjustment papers (excluding contents damage), or
- Comparable sale for like buildings, located in the same flood zone, as determined by a State-licensed or State-certified real estate appraiser.

In order for Skagit County and the Cities and Towns in the Skagit River corridor to effectively enforce State Floodplain Management Code requires a long-term approach to mitigating repetitive flood damages through consistent local regulation, and resource sharing. In many cases, local jurisdictions lack the human and financial resources to actively pursue making substantial damage determinations. Also, political will to enforce floodway regulations is hindered because of insufficient affordable housing stocks to offer residents who would not qualify for repair, and the lack of secure funding for timely purchase of flood-damaged residences (there is no guarantee that buyout funds will be available, and it takes many months to find out either way).

If jurisdictions are to enforce State Floodplain Management Code, owners of structures that suffer repetitive flood damage or have substantial damage will be required to relocate, and these buildings will be permanently removed. Enforcement becomes more politically and practically likely by having the receiving zone at the new Urban Growth Area located outside the floodplain. The receiving zone provides property owners with alternative, affordable housing opportunities and financial assistance that significantly increase their ability to reestablish themselves in a manner that leaves them financially whole. Currently no such relocation housing opportunity exists, and so owners of substantially flood-damaged homes rely only on what flood insurance payments and FEMA acquisition programs offer, which is frequently well below their mortgage debt.

It will be a matter of moving people out of harm's way over a period of many years either to the relocated Town site, or to provide the people with enough relocation assistance that they can move elsewhere.



## **NEXT STEPS**

The Town Council will make a decision on the future Urban Growth Area for the Town of Hamilton and forward that recommendation to the Board of County Commissioners of Skagit County for final action.

Skagit County will have the option of reviewing the proposed Sub Area Plan independently, or to take it up in conjunction with other county wide requests for amendments to Urban Growth Areas. Once final action is taken by Skagit County, their action is subject to appeal to the state Growth Management Hearings Board. Following the end of the appeal period, or resolution of any appeals, the Urban Growth Area boundaries will be finalized for the Town of Hamilton.

With that action completed, the Town will proceed with the next level of detailed planning for the annexation and development of land in the Urban Growth Area, and planning for restoration of the existing Town area in the floodway, as outlined in the Hamilton Comprehensive Plan.

### **Additional Community Needs:**

The Proposed Action will promote population growth and industrial development for the Town of Hamilton, and there will be significant adverse impacts that must be mitigated, including the need for additional public services and amenities to be made available. Among these is the need for additional fire fighting equipment. At the time of new industrial development, impact mitigation will be required including the need to acquire a “Jaws of Life” piece of equipment, and a small 300 gallon tank truck such as is used in wildfire fighting. The permit applicants will be required to address the issue of providing fire flow without adversely impacting the town water system.

Other related impacts of growth include impacts on parks and recreation facilities, street and traffic impacts and improvements and other infrastructure including storm water quality and sewage, and mitigation will be required.

## **ALTERNATIVES FOR TOWN COUNCIL DELIBERATION AND ACTION ALTERNATIVES INCLUDING THE PROPOSED ACTION**

**The purpose of including a discussion of alternatives is to inform decision-makers and the public of reasonable alternatives, including mitigation measures that would avoid or minimize adverse impacts or enhance environmental quality.**

### **Introduction:**

#### **1. Proposed Action –**

Description: Urban Growth Area is expanded by 261 acres to accomplish the following objectives:

- a. To accommodate the twenty year population forecast for Hamilton, including moving the existing population that is located in the Floodway and adding population according to the 20-year forecast adopted in the Countywide Planning Policies.
- b. To provide for transfer of development rights from floodway properties in the floodway portion of Hamilton and the floodway area between Sedro-Woolley and Concrete, including restoration of the sending site to a natural condition.
- c. To design and implement restoration plan for existing town site in the floodway.
- d. To consolidate existing industrial site into one jurisdiction and develop the site including utilities and improvements to the Town water system for fire flow (new water tank), and phased industrial development with supporting uses as appropriate.
- e. To do the work in an environmentally sound manner, use good urban design principles, low impact and sustainable development techniques.
- f. Acquire funding so that the relocation site north of State Route 20 may be purchased by the Hamilton Public Development Authority, and any revenue generated by the project will be reinvested in regional and local flood hazard mitigation, including floodway buyouts, relocation financing assistance, and site cleanup.
- g. Coordinate flood damage assessment and standards for building repair and elevation countywide to ensure fair, equitable and consistent treatment of every floodway property.
- h. Provide housing opportunities to meet needs of Hamilton residents ranging from very low income, moderate, affordable, transitional housing types to market rate housing.

***Discussion:*** *The criteria established by the Growth Management Act Steering Committee for expansion of Urban Growth Areas are met by the plans of the Town of Hamilton. The critical path to the future of the area rests with expansion of the Urban Growth Area, which means that the 59-acre portion of the old Crown Pacific Log Yard must be re-designated from Natural Resource Industrial zoning to general Industrial in the Urban Growth Area. It also means that the proposed 202-acre addition to the Urban Growth Area located north of State Route 20 must be re-designated from Rural Resource-Natural Resource to Residential, Open Space, and Business.*

**2. Alternatives that may accomplish the goals, but are managed to address lack of government funding.**

Description:

- a. Complete UGA and long range Town plan and submit to Skagit County for review and UGA adoption.
- b. Skagit County adopts UGA and adopts Hamilton Urban Reserve Zoning to prevent subdivision prior to annexation. Town and County work together if action is appealed to state Growth Management Hearings Board to defend the decision.
- c. Town phases annexation of land into Town limits as funding for land acquisition and development becomes available.
- d. Town and Hamilton Public Development Authority seek funding partnerships with other entities.
- e. Codes and design standards are in place to manage development consistent with vision for future, but development is based on the market conditions and opportunities for subsidized housing and infrastructure as they may arise.

***Discussion:** With the unpredictable nature of requesting funding for flood hazard mitigation and town relocation through the state and federal legislative process, other approaches are needed and there are several excellent models that demonstrate creative approaches to project financing and management. Reaction at the time of a major flood event does not lead to funding necessary to meet the needs of affected residents or effectively implement flood mitigation strategies.*

**3. Add only the remaining 59 acres of the old Crown Pacific site, the Janicki property, to the Urban Growth Area so that it can be properly zoned for broad industrial use. Provide Town water to the site.**

***Discussion:** This results in a Town with no ability to construct a single new home. Industry without housing is not a good fit for the area; there should be housing opportunities to achieve a reasonable jobs/housing balance. The problems of repetitive flood loss properties continue to be exacerbated with each flood event. The two choices are to 1). continue to accept many residents living in substandard, repetitively flooded homes and recreational vehicles, or 2). strictly enforce State prohibition on the repair or rebuilding of substantially damaged home, which would effectively eliminate the town.*

**4. Add the remaining 59 acres of the old Crown Pacific site, the Janicki property, to the Urban Growth Area so that it can be properly zoned for broad industrial use and a small Urban Growth Area of about 50 acres to accommodate the existing population of the Town only. A sub – alternative would be to place the remaining land in an Urban Reserve designation for future consideration.**

***Discussion:** As a first phase for the future, this would be a good step. However, this is NOT a twenty-year plan for the expansion of the Urban Growth Area and should not be viewed as the long-term solution for the Town. This course will of necessity result in a permanently subsidized community because a larger land base is required in order for the Town to be self-sufficient. The*

*sub-alternative of placing the remaining land in an Urban Reserve designation provides long term flexibility for future consideration.*

**5. Add a different site than the planned Urban Growth Area location, such as Punkin Center or land to the north and east of Hamilton Cemetery Road.**

*Discussion: If annexed, additional opportunities for subdivision would be permitted. The difficulty with annexing partially developed rural land is that this leads to piecemeal development and problems with expanding infrastructure to provide adequate essential public services. Based on experience in other jurisdictions, UGA areas already developed at suburban densities (roughly 1-acre to 5-acre lots) are difficult or possibly impossible to annex under existing state annexations laws due to the imposition of higher densities and the perception of higher municipal taxes. If annexation occurs at all it is often piecemeal in nature, resulting in inefficient utilization of land and failure to achieve desired infill densities. Although such land may be set aside for future urban growth, it may never actually develop at urban densities, and therefore not provide an area for actual relocation of floodway residents. The related consideration is that the long-term Town limits should be contiguous, with the goal of connecting with the existing Centennial Annexation Gravel Mine site and the Town Well site.*

**6. No Action –**

Description: Urban Growth Area is not expanded.

The Town continues to slowly decline until disincorporation becomes inevitable and repetitive flooding continues.

It has also been proposed that floodway development rights be transferred to other cities rather than relocate the Town out of the floodway. This would require the creation of specific Floodway Transfer of Development Rights ordinances for cities interested in becoming receiving zones, and a program developed to address the housing need, which includes a sizable very low-income component.

*Discussion: The opportunity is LOST to support public health and welfare, upriver economic development, and restoration projects along the Wild and Scenic Skagit River. Key implications of non-action include:*

- *Repetitive loss homes will continue to be inadequately repaired after flood events, and resold or rented,*
- *Recreational vehicles and elevated trailers will remain a predominant permanent housing norm, and some residences will be elevated rather than being permanently removed,*
- *Local, state, and federal agencies, and the National Flood Insurance Program will continue to incur millions of dollars annually in otherwise avoidable costs for flood response, recovery, and reconstruction,*
- *Janicki Industries will not be able to develop on the Natural Resource Industrial site, and their property that is located within Town can not be developed at present until reclamation from petroleum contaminants takes place,*

- *The riparian corridor and buffers will not be restored, and each flood will contribute non-point pollution from the flushing of hundreds of septic tanks, and tons of hazardous debris into this Wild and Scenic River system, and*
- *Skagit County and Cities and Towns in the floodway corridor will likely persist in taking no decisive or coordinated action or responsibility for addressing the direct and indirect social, environmental, and economic impacts of repetitive flooding.*

**Comparison Summary of Alternatives:**

<b>Comparative Impacts of Alternatives</b>	Alternative #1 – Expand UGA by 261 Acres	Alternative #2 – Meet goals without gov’t funds to buy land	Alternative #3 – Add 59 acre site for Industrial use only to UGA	Alternative #4- Add 59 acre site + small area for existing pop. –sub option for urban reserve	Alternative #5- Add a different site for housing	Alternative #6 –No Action
Does it meet applicant’s objectives?	Yes	Potentially – if adequate regulations are possible	No – new residences cannot be constructed	Yes Short Term - No Long Term – Sub option +	No	No
Mitigate flood hazard	Yes	Yes	No	Town only; not river corridor; sub option is positive	No	No
Viable Future Community	Yes	Yes	No	No without sub option	No	No
Enhance Wild and Scenic River	Yes	Yes	No	Town area only until sub option on line in future	No	No

## COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT AND RESPONSES

**Comment** – Several comments express concern about impacts on Punkin Center in particular, and on the rural character of the area in general. Two letters stated that they have recently experienced problems with wells dropping in the summer. Concern was also made about the availability of adequate potable water supplies and quality. Traffic impacts of increased development activity are identified as a concern, with the effects increased by poor planning for horse camps in the vicinity. Pollution and septic runoff was cited in one letter with effects on salmon. Dredging the river was identified as a better solution by two letters. Three letters specifically oppose moving cars and old trailers and cite potential crime, drugs, alcohol and speeding as how rural life may be destroyed. Hamilton should become unincorporated is one suggestion, due to drain from local law enforcement for drug activities and crime. The general concern is that existing problems will not be corrected, and the infrastructure is extremely expensive. Building new businesses was cited by one letter as creating traffic and an eyesore. The new town is cited as a bad plan, the area should remain rural, creating a new town is beyond the needs of the town. A further concern is that the new town will not have the sales tax revenue to provide needed services and will require subsidy; federal grants are taxpayers money and should be used where it will make the biggest impact for the most people.

**Response** – Great care will be taken to mitigate the impacts on the rural character of the area, by protecting open space and buffers along wetland corridors, requiring design review, integrating low impact design techniques and green infrastructure principles. A mixture of housing types is planned, along with a small commercial district, no different than any other small town. There will be a clean, well-designed community with very specific restrictions on maintenance and upkeep. The key difference compared with other Urban Growth Area expansion proposals is the enormous mitigation package that includes restoration of river and buffer functions and processes and off-channel rearing habitat for significant species of fish, as well as general habitat improvements. A basic framework for capital facilities and infrastructure is identified in the comprehensive plan and that program will be expanded in great detail when the Urban Growth Area is approved. Also, this is as a twenty-year plan, detailed in the Hamilton Comprehensive Plan, and that Urban Growth Area development will occur in phases during this timeframe.

Extensive studies and on-going monitoring of the ground water aquifers is in place for the town's water system and it is documented that the water aquifer that supplies the town is a very deep aquifer that is not connected to surface streams in the vicinity. The Town is working with a consulting infrastructure engineer and the Washington State Department of Ecology to assess what the increase in water requirements will be, and to lay the necessary groundwork for requesting additional water rights to meet the growing need once existing are at capacity. Town has a Class 2 water system that is monitored and maintained in accordance with Washington State Department of Health requirements so as to assure that water system users receive high quality water. There is a mitigation water right for protecting a salmon stream in the vicinity. The issue of dredging the river is not on the table, since this area has been designated as a Wild and Scenic River for many years. A key component for the Urban Growth Area will be to

participate with the State Department of Fish and Wildlife in protecting priority habitat and species in the design of the site.

**Comment** – Comments were made that FEMA should cut off flood victim funding and offer buyouts, quit wasting taxpayer money to rebuild an imminent flood hazard. There is inadequate documentation that people will move and an impression that the majority does not want to move and others cannot afford to move. A study is needed of how many people would actually relocate to the town site versus elsewhere. There is concern with the ability of the Hamilton town government to manage the plan and protect the interest of all stakeholders. Comments regarding the Transfer of Development Rights (TDR) program include 1) a TDR program is not currently provided for in County Code, its validity is questionable, and County property owners should be given the opportunity to study any TDR proposal, and 2) a TDR program is needed in the County and in other communities to provide flexibility, and minimize the need for an Urban Growth Area. A study is needed to determine if new land is required to meet needs of existing homes and businesses consistent with the state and county population forecast. Infrastructure costs, financial support, Urban Growth Area zoning, loss of industrial forest lands, and the differences between incorporated city versus Urban Growth Area must all be more clearly understood. The boundary of the existing town should be reduced as development occurs at a new town site. Should not expand the Urban Growth Area for the Janicki's site because the proposed pellet mill use is consistent with current County zoning for natural resource lands. The population evaluation is inconsistent and too much land is proposed to be added. The Centennial Annexation site should have their permit for a gravel mine revoked and that area should be used as the new town site. There are significant impacts on wildlife, archeological sites, and storm water, sewer, water, traffic. Eminent domain is bad and there are already examples of Hamilton taking advantage of fire and mutual aid protection that affects District 8 with no ability to charge for services. Unimin Corporation alarms are an example.

**Response** – Hamilton is caught in a unique situation, where almost all of the existing developed community exists within regulatory floodway, has been repetitively flooded, and has no hope for rebuilding at the present location. Conditions have continued to deteriorate in the town because of repetitive flooding, most recently in 1990, 1995, 2003 and 2006. This is a floodway area and existing federal buyout programs have NOT been successful in providing realistic relocation alternatives. Additional land is needed and is clearly justified based on current planning and standards under the Growth Management Act. The population evaluation sets up a minimum standard for Urban Growth Area expansion, and good planning and design may be able to make more efficient use of less land. At the same time, adequate land is needed to ensure a viable economic future for the Town. The plan clearly justifies the Urban Growth Area expansion, without a boundary reduction (de-annexation) of existing floodway town areas adjacent to the river, however, de-annexation of floodway areas remains an option, especially if another agency is more capable of providing for long-term management of floodway critical area open space.

Implementation of the plan will be carefully administered in a joint effort of the Hamilton Public Development Authority, the Town of Hamilton and Skagit County, to protect the public interest. This is a twenty-year plan, and it is detailed in the Hamilton Comprehensive Plan as updated. The joint management structure of the Hamilton Public Development Authority provides checks and balances that significantly increase assurance that relocation site development will be

managed in a manner consistent with existing laws, and that the interests of stakeholders will be respected.

People whose homes are identified as substantially damaged will be required to relocate and the option of rebuilding will not exist. Further surveys of residents are planned to identify barriers to voluntary participation in a relocation program, and funding for this activity is being pursued. Skagit County Planning and Development Services is working with the Hamilton Public Development Authority to jointly develop a TDR program that will promote voluntary participation in the relocation program by complementing what traditional FEMA-funded buy-out programs may offer. Strictly speaking, floodway properties do not have development rights because State Floodplain Management Code does not permit construction or substantial improvements to be made on floodway residential structures. The TDR concept is that property owners in a sending zone (the floodway) are compensated financially for their existing “development right” by property owners at the new town site (receiving zone) who seek to develop. This is meant to give the town (and public funding agencies) assurance that floodway development will be eliminated as the town relocation site is being developed. Without this caveat, this would be a traditional Urban Growth Area development, and there would be no relief for property owners subject to repetitive flooding, and no mitigation of floodway critical areas.

One of the comment letters incorrectly identifies the County designation of the proposed 202 acre relocation site as Industrial Forest-NRL when it is actually Rural Resource-NRL. Another comment letter incorrectly suggests that the Natural Resource Industrial designation of the Janicki Industries site is also a “Natural Resource Land” designation under the County Comprehensive Plan. It is not; it is a Rural industrial designation.

Further detail on relocation site infrastructure costs, financial support, Urban Growth Area zoning, loss of Rural Resource-Natural Resource Lands, and related planning components will be provided during the relocation site and pre-construction planning phases of development, at which point supplemental environmental assessments will be prepared as applicable focused on individual elements of the overall plan.

As noted in the Draft EIS, the redesignation from Rural Resource-NRL to Urban Growth Area is allowed under the Growth Management Act and the Skagit County Comprehensive Plan under circumstances – specifically where there is a change in circumstances pertaining to the Comprehensive Plan or public policy or a change in circumstances beyond the control of the landowner pertaining to the subject property. (Skagit County Code 14.08.020(5)(d)(i) and (ii)) The change of circumstances pertaining to the Comprehensive Plan or public policy is the overriding importance of relocating the residential portion of the Town of Hamilton out of the Skagit River floodway to prevent loss of life and property and the continued expenditure of millions of dollars of public and private funds to repair flood damage.

Establishment of a pellet mill is only one of the industrial uses proposed by Janicki Industries. Other proposed uses require the industrial zoning available only within the town or Urban Growth Area. Also, from both a private business and public agency perspective, it is preferable to have single-owner industrial property located within one jurisdiction only. Likewise, the Town does not have the authority to revoke the Gravel Mine permit and take that site. The issuance of



a conditional use permit constitutes a legally binding agreement, and their private property rights must be respected. Instead, the town has written agreement that the owner/developers of that site will contribute a portion of their revenue toward infrastructure development costs that will serve both Urban Growth Area development and the Centennial Annexation. Also, as part of the Gravel Mine permitting process, post-mining site mitigation includes the provision that a portion of the site will be available to the town for residential development following site restoration.

If successful in getting an Urban Growth Area and developing a sustainable community, the issues with inadequate responses to emergencies and not paying for mutual aid can be resolved.

**Comment** – The concern was raised that there is an unwilling seller of one of the proposed portions of the relocation site and there is an existing power line that limits use. No site is recommended except for the Janicki Urban Growth Area Expansion of 59 acres (Punkin Center LLC). A smaller site with only one property is recommended (45-acre Lawson property). Expanding the Urban Growth Area to include Punkin Center for one-acre flood safe home sites is suggested, for short commute to new industrial development. Janicki is okay in town, but should not expand to SR 20 and Cabin Creek, it is an eyesore but they are used to the existing site, was another comment.

**Response** – Including land in an Urban Growth Area does not force an unwilling property owner to sell or to develop their land. Instead, it provides property owners with development options that were not previously available to them, and increases the market value of their property. Implementation of the plan will be incremental, as land within the Urban Growth Area becomes available for development and as floodway property owners seek relocation. Urban Growth Area expansion only of the Janicki property is proposed as alternative three so that it can be properly zoned for broad industrial use and town water may be provided to the site. This alternative results in a Town with no ability to construct a single new home. Industry without housing is not a good fit for the area; there should be housing opportunities to achieve a reasonable jobs/housing balance. The problems of repetitive flood loss properties continue to be exacerbated with each flood event. The two choices are to 1). continue to accept many residents living in substandard, repetitively flooded homes and recreational vehicles, or 2). strictly enforce State prohibition on the repair or rebuilding of substantially damaged home, which would effectively eliminate the town if relocation is not pursued at the same time. Expanding the Urban Growth Area to include Punkin Center is proposed as alternative five. If annexed, additional opportunities for subdivision would be permitted. The difficulty with annexing partially developed rural land is that this leads to piecemeal development and problems with expanding infrastructure to provide adequate essential public services. The related consideration is that the long-term Town limits should be contiguous, with the goal of connecting with the existing Centennial Annexation Gravel Mine site and the Town Well site. Concerns around visual (and other) impacts of the Janicki industrial development will be addressed through the permitting process, during which time environmental impacts, such as visual issues, noise, lighting, pollution, and traffic will be clearly identified and thoroughly studied, and appropriate mitigation measures will be required by the town. Additional information on the Janicki projects is included in their attached comments.

**Comment** – Two letters in particular asked about the effects of town relocation on fish and wildlife species in general, and on elk and salmon in particular. Support was expressed by both for the Urban Growth Area expansion and town relocation concept, citing that the plan’s application of compact rural village design and environmentally friendly, low-impact infrastructure as having the potential for providing better fish and wildlife habitat conditions over the long term (than are currently being provided). The Nooksack elk herd is identified by the Washington State Department of Fish and Wildlife as declining due to human development. Washington State Department of Fish and Wildlife has put forward strategies to mitigate impacts of the relocation plan on this elk population. Examples include encouraging elk to remain north of SR 20 by creating habitat incentives that draw elk away from developed areas, requiring fencing in order to divert migration paths away from development, apply zoning that discourages elk-human interactions, and requesting that Skagit County and the Town of Hamilton declare the entire Nooksack elk subbasin a high-risk area for elk. Habitat fragmentation due to population growth is identified as having the most significant impact on wildlife habitat. Mitigation measures include establishing and maintaining corridors of intact habitat with dense, protective vegetation linking remnant habitat areas. The Washington State Department of Fish and Wildlife is pleased with the proposed open space corridor within the new town limits, but recommends that the town consult with their District Biologist to ensure strategic location of open spaces. Also, with at least one animal species that is listed as a Priority Habitat & Species, a thorough habitat assessment is recommended, pursuant to the Washington State Department of Community, Trade, and Economic Development publication, *Critical Areas Assistance Handbook*. Washington State Department of Fish and Wildlife also provides framing questions for the town in considering wildlife habitat designations.

In addition to elk needs, a letter from the Upper Skagit Indian Tribe has expressed great concern about additional historical and archeological sites that are likely located on eastern portion of the proposed Urban Growth Area based on the recent excavation completed for the Gravel Mine access road, Janicki industrial site development plans for Muddy Creek, use/restoration of riparian areas (existing town site), and fisheries resource and access protection (other issues raised have been addressed previously).

**Response** – The Washington State Department of Fish and Wildlife letter goes beyond raising issues of concern to provide many valuable insights into areas for further study, mitigation recommendations, resources and tools available for local use, and provides contact information for accessing state staff assistance with critical area, relocation site, and habitat management planning work. Each of the issues raised by the Washington State Department of Fish and Wildlife will be addressed during the site and pre-construction planning phases of development, at which point more detailed supplemental environmental assessments will be prepared which focus on individual elements of the overall plan. Potential for the restoration of Muddy Creek to a more natural channel will be considered through normal local and state permitting processes. Areas of archeological and cultural significance are valued by the town and are protected by state law. Assessment for and mitigation of archeologically significant areas will be undertaken as part of the normal local and state permit process, as is currently underway with the Centennial Annexation gravel mine development. Regarding restoration of existing town riparian areas, the plan promotes a net increase in natural resource benefits, as is recommended by the comment letter. Removing development from floodway critical areas while applying low-impact

development standards at the relocation site are expected to provide a net gain for habitats and wildlife. Assurance of this occurring comes from several fronts. The plan will be implemented by the Hamilton Public Development Authority which includes on its Board of Directors representation from The Nature Conservancy and the Skagit River System Cooperative. Also, the Hamilton Public Development Authority has established a subcommittee to undertake open space planning work for the existing floodway town area, and for floodway areas between Sedro-Woolley and Concrete. This subcommittee includes representation from The Nature Conservancy, Skagit River System Cooperative, Skagit Land Trust, U.S. Forest Service (charged with managing this Wild and Scenic River), Town of Hamilton, Skagit County Planning and Development Services, and Skagit County Public Works. This committee also extends an open invitation to other wildlife conservation interests to participate in the planning for acquisition, restoration, and long-term management of these critical areas. A stated goal of the plan, and Chartered Activity of the Hamilton Public Development Authority is restoration of floodway critical areas for long-term natural habitat, fish and wildlife conservation, and conservation-minded recreation purposes. The purpose of the Hamilton Public Development Authority's Open Space Planning Committee is to identify and prioritize restoration needs and to facilitate restoration activities. A top priority is restoration and preservation of salmon spawning and rearing habitats. In tandem with this is the preservation and enhancement of river access areas for public use.

## **Appendix A**

### **Comment Letters**

## **Appendix B**

### **MAPS**