

Master Land Use Application



City of La Center, Planning Services

305 NW Pacific Highway

La Center, WA 98629

www.ci.lacenter.wa.us

Ph. 360.263.7665 Fax: 360.263.7666

www.ci.lacenter.wa.us

Property Information

Site Address No situs, no tax lot number, public right-of-way

Legal Description Record of Survey Clark County Book 45, Page 197, N 1/2 of Section 3, T4N R1E, WM

Assessor's Serial Number No situs, no tax lot number

Lot Size (square feet) n/a

Zoning/Comprehensive Plan Designation UP, Urban Public, Public right-of-way

Existing Use of Site Pedestrian and Vehicular Bridge

Contact Information

APPLICANT:

Contact Name Tony Cooper, City Engineer

Company City of La Center

Phone 360-263-7665 Email tcooper@ci.lacenter.wa.us

Complete Address 305 NW Pacific Highway, La Center, WA 98629

Signature *Tony Cooper*

(Original Signature Required)

APPLICANT'S REPRESENTATIVE:

Contact Name Same

Company _____

Phone _____ Email _____

Complete Address _____

Signature _____

(Original Signature Required)

PROPERTY OWNER:

Contact Name Tony Cooper, City Engineer

Company City of La Center

Phone 360-263-7665 Email tcooper@ci.lacenter.wa.us

Complete Address 305 NW Pacific Highway, La Center, WA 98629

Signature *Tony Cooper*

(Original Signature Required)

Development Proposal

Project Name

Type(s) of Application La Center Bridge: Shoreline Management Act Substantial Development Permit, Conditional Use Permit and Critical Area Review

Previous Project Name and File Number(s), if known 2016-023-SEPA

Pre-Application Conference Date and File Number n/a

Description of Proposal

The proposal is subject to review under La Center Shoreline Master Program (SMP).

The city of La Center owns and operates a municipal sewer utility and roadway network. Consistent with the La Center 2016-2036 Comprehensive Plan, the city must provide sanitary sewer service to lands within in its corporate limits which extend upland from both side of the East Fork of the Lewis River (River). The entire project consists of extending a sanitary sewer collection system along La Center Road from the publicly operated treatment works to the westerly city boundary at the eastern edge of the I-5 right-of-way. The work consists of constructing two parallel sewer pipes in La Center Road to serve development and connections along La Center Road. The city will construct a 12-inch diameter gravity sewer from the western city limits a new lift station on the south side of La Center Road in the right-of-way above McCormick Creek. One 6-inch diameter and one 8-inch diameter force main will be constructed from the new pump station to an existing manhole adjacent to the Waste Water Treatment Plan just east of the La Center Bridge. The project will take place within prior-disturbed City right-of-way.

Office Use Only

File # 2017-003-SMP

Planner Eric Eisemann

Received By Eric Eisemann

Fees: \$ n/a

Date Received: 2/2/2017

Date Paid: n/a

Procedure: Type I
 Type II
 Type III
 Type IV

Receipt # n/a

Notes Type II review

I. APPLICABILITY, SHORELINE PERMITS & EXEMPTIONS

To be authorized, all uses and *development* activities in *shorelines* shall be planned and carried out in a manner consistent with this *program* and the policies of the Act as required by RCW 90.50.140(1), regardless of whether a *shoreline permit*, statement of *exemption*, *shoreline variance*, or *shoreline conditional use* is required.

A. Applicability

1. This *program* shall apply to all of the shorelands and waters within the La Center city and Urban Growth Area (UGA) limits that fall under the jurisdiction of RCW 90.58. Such shorelands shall include:
 - a. Those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the *ordinary high water mark (OHWM)*,
 - b. *Floodways* and contiguous *floodplain* areas landward, two hundred (200) feet from such *floodways*, and all *wetlands* and river deltas associated with the streams, *lakes* and tidal waters that are subject to the provisions of this *program*, as may be amended; the same to be designated as to location by WDOE, as defined by RCW 90.58. A copy of the Official *Shoreline* Designation Map for the City and its UGA is shown in Appendix A.
 - c. The City is predesignating *shorelines* within its adopted Urban Growth Area. Until annexation, *development* in these areas shall be regulated by the Clark County *Shoreline Master Program*.
2. In addition to lands identified in Section II.A.1 above, shorelands shall include land necessary for buffers for critical areas that occur within *shorelines of the state*.
3. Maps indicating the extent of *shoreline jurisdiction* and *shoreline designations* are for guidance only. They are to be used in conjunction with best available science, field investigations and on-site surveys to accurately establish the location and extent of *shoreline jurisdiction* when a project is proposed. All areas meeting the definition of a *shoreline of the state* or a *shoreline of statewide significance*, whether mapped or not, are subject to the provisions of this *program*.
4. This *program* shall apply to every *person*, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity that develops, owns, leases, or administers lands, *wetlands*, or waters that fall under the jurisdiction of the Act; and within the external boundaries of federally owned lands (including but not limited to, private in-holdings in national wildlife refuges).
5. Non-federal agency actions undertaken on federal lands must comply with this *program* and the Act.
6. Native American Tribe actions on tribal lands and federal agency actions on federal lands are not required, but are encouraged, to comply with the provisions of this *program* and the Act. Nothing in this chapter shall affect any rights established by treaty to which the United States is a party.
7. *Shoreline development* occurring in or over navigable waters may require a *shoreline permit* in addition to other approvals required from state and federal agencies.
8. This *program* shall apply whether the proposed *development* or activity is *exempt* from a *shoreline permit* or not.

Table 2-1. List of Shorelines

Shorelines of Statewide Significance (SSWS) East Fork Lewis River [WAC 173-18-100(18)]
Other shorelines None

Review of the project under the La Center Shoreline Master Program (SMP) is required as the proposed development activity is located wholly or in part within the shoreline area for the East Fork Lewis River, a Shoreline of Statewide Significance. The proposed development activity includes the following:

- Installation of an 8-inch sanitary sewer force main to the underside of the La Center Bridge and its connection at either end to a previously installed 8-inch sanitary sewer force main.**
- Underground installation of a 2-inch PVC conduit from an existing junction box approximately 375' south of the south side of the La Center Bridge, its aboveground connection/mounting to the east side of the bridge, and underground installation on the north side of the bridge to an existing junction box. The conduit will be for future fiber optic use.**

The sanitary sewer line will be connected to the underside of the La Center Bridge deck slab by hangers with rollers (allowing the pipe to be rolled and threaded through from one section of the bridge to the other from one end to the other) at approximately six (6) feet on center. Vehicular access exists to both the north and south sides of the bridge. For the portion of the bridge not over the river, a "cherry picker" will be used to install both the sewer pipe and hangers. For the portion of the bridge over the river, the hangers and sewer pipe will be installed using a movable frame supported on the lower "I" beam flanges of the horizontal girder. The frame will include a cover to catch any debris that should fall during installation of the hangers and sewer pipe. Blockouts to allow the sewer line to penetrate the concrete pier caps and cross girders of the bridge were previously installed with the bridge construction to allow the sanitary sewer line to be extended. This will visually screen and protect the sewer line to the greatest extent practical. Impact to the existing vehicular areas on both sides of the river to accommodate the "cherry picker" and other associated equipment is expected to be negligible, as will be dust from connecting the hangers to the underside of the bridge, with any construction generated waste being collected in the "cherry picker" and movable frame.

The fiber optic line conduit will be extended from the existing junction box south of the bridge in a ditch dug with a "ditch witch" up to the bridge abutment. It will then be daylighted and connected to the bridge abutment on the south side via conduit mounts. The conduit will then run along the bottom exterior wing ("I" beam flange) of the easternmost longitudinal girder by hanger mounts installed into the concrete at approximately six (6) feet on center from a vehicle located on the bridge. Placing the conduit on top of the bottom exterior wing ("I" beam flange) of the external longitudinal girder will visually screen the conduit to the greatest extent practical. On the south side of the bridge, the conduit will be connected to the bridge abutment and extended underground where it will be installed into a trench up to a junction box located outside of the shoreline area. Construction generated debris from connecting the conduit to the longitudinal girder will be collected via a collection device (sling, tarp, etc.) located under each work area.

Refer to the pictures attached for additional information.

B. Shoreline Substantial Development Permit Required

- 1. Substantial development as defined by this program and RCW 90.58.030 shall not be undertaken by any person on the shorelines of the state without first obtaining a substantial development permit from the Shoreline Administrator, unless the use or development is specifically identified as exempt from a substantial development permit, in which case a letter of exemption is required.**

2. The *Shoreline Administrator* may grant a *substantial development permit* only when the *development* proposed is consistent with the policies and procedures of RCW 90.58, the provisions of WAC 173-27, and this *program*.
3. Within an urban growth area, a *shoreline substantial development permit* is not required on land that is brought under *shoreline jurisdiction* due to a *shoreline restoration project* creating a landward shift in the OHWM.

A Shoreline Substantial Development Permit is required for this project as indicated in Table 6-1 and elsewhere in this narrative.

C. Exemptions from a Shoreline Substantial Development Permit

1. General Requirements

- a. Except when specifically *exempted* by statute, all proposed uses and *development* occurring within the *shoreline jurisdiction* must conform to RCW 90.58 (*Shoreline Management Act*) and this *program*.
- b. A use or *development* that is listed as a *conditional use* pursuant to this *program* or is an unclassified use or *development* must obtain a *conditional use permit* even if the *development* or use does not require a *substantial development permit*.
- c. When a *development* or use is proposed that does not meet the bulk, dimensional, and/or performance standards of this *program*, such *development* or use shall only be authorized by approval of a *shoreline variance* even if the *development* or use does not require a *substantial development permit*.
- d. If any part of a proposed *development* is not eligible for an *exemption* as defined in RCW 90.58.030(3)(e), WAC 173-27-040 and this section, then a *substantial development permit* is required for the entire proposed *development* project.
- e. *Exemptions* shall be construed narrowly. Only those *developments* that meet the precise terms of one or more of the listed *exemptions* may be granted *exemptions* from the *substantial development permit* process. *Exemptions* to LCMC 18.300 do not relieve the applicant of compliance with this *program*.
- f. The burden of proof that a *development* or use is *exempt* is on the applicant or proponent of the *development* action.

2. List of Exemptions.

The following activities shall be considered *exempt* from the requirement to obtain a *shoreline substantial development permit*, but shall obtain a statement of *exemption*, as provided for in Section II.C.3.

- a. Any *development* of which the total cost or fair market value does not exceed five thousand, seven hundred, eighteen dollars (\$5,718.00) or as adjusted by the state Office of Financial Management, if such *development* does not materially interfere with the normal public use of the water or *shorelines of the state*. For purposes of determining whether or not a *permit* is required, the total cost or fair market value shall be based on the value of *development* that is occurring on *shorelines of the state* as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the *development* shall include the fair market value of any donated, contributed, or found labor, equipment or materials.
- b. Normal maintenance or normal repair of existing legally-established structures or *developments*, including damage by accident, fire, or elements. No *exemption* will be allowed, however, where repair or replacement causes substantial adverse effects to shoreline resources or environment. Replacement of a structure or *development* may be authorized as repair where such replacement is the common method of repair for the type of structure or *development* and the replacement structure or *development* is comparable to the original structure or *development* including but not limited to its size, shape, configuration, location, and external appearance.
- c. Construction of a normal protective *bulkhead* common to single-family residences. A normal protective *bulkhead* is not *exempt* if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of *fill* per one foot of wall may be used as backfill. When an existing *bulkhead* is

being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing *bulkhead* than is necessary for construction of new footings. When a *bulkhead* has deteriorated such that an *ordinary high water mark* has been established by the presence and action of water landward of the *bulkhead* then the replacement *bulkhead* must be located at or near the actual *ordinary high water mark*. Beach nourishment and bioengineered erosion control projects may be considered a *normal protective bulkhead* when any structural elements are consistent with the above requirements and when the project has been approved by WDFW.

- d. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include *development* of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to RCW 90.58, these regulations, or this program, shall be obtained. All emergency construction shall be consistent with the policies and requirements of this RCW 90.58 and this program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.
- e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or *filling* other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities.
- f. Construction or modification of navigational aids such as channel markers and anchor buoys.
- g. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence or *appurtenance* for their own use or for the use of their family, which residence does not exceed a *height* of thirty-five (35) feet above *average grade level*, and which meets all requirements of the State and City, other than requirements imposed pursuant to RCW 90.58. Local circumstances may dictate additional interpretations of *normal appurtenances* that shall be set forth and regulated within this program. Construction authorized under this *exemption* shall be located landward of the *ordinary high water mark*.
- h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract purchaser of a single-family or multiple-family residence. This exception applies in fresh waters when the fair market value of the dock does not exceed ten thousand dollars (\$10,000.00), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500.00) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial *development* for the purpose of this chapter.
- i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands.
- j. Operation and maintenance of any system of *dikes*, ditches, drains, or other facilities existing on September 8, 1975, that were created, developed or utilized primarily as a part of an agricultural drainage or diking system.
- k. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
- l. Any project with a certification from the governor pursuant to RCW 80.50 (certification from the State Energy Facility Site Evaluation Council).
- m. Site exploration and investigation activities that are prerequisite to preparation of an application for *development* if:

- i. The activity does not interfere with the normal public use of *surface waters*;
- ii. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, *water quality*, and aesthetic values;
- iii. The activity does not involve the installation of any *structure*, and upon completion of the activity the vegetation and land configuration of the site are *restored* to conditions existing before the activity; and
- iv. A private entity seeking *development* authorization under this section must first post a performance bond or provide other evidence of financial responsibility to the local jurisdiction to assure that the site is *restored* to pre-existing conditions.
- v. The activity is not subject to the *permit* requirements of RCW 90.58.550.
- n. The process of removing or controlling aquatic *noxious weeds*, as defined in RCW 17.26.020, by herbicide or other treatment methods applicable to weed control published by the Departments of Agriculture or WDOE jointly with other state agencies under RCW 43.21C.
- o. Watershed *restoration* projects as defined in RCW 89.08.460.
- p. A public or private project that is designed to improve fish or wildlife habitat or fish passage when all of the following apply:
 - i. The project has been approved by WDFW;
 - ii. The project has received hydraulic project approval by WDFW pursuant to RCW 77.55;
 - iii. The City has determined that the project is substantially consistent with this *program*. In this event, The City shall make such determination in a timely manner and confirm it in writing by letter to the project proponent.
 - iv. Fish habitat *enhancement* projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local *shoreline master programs*. At least one of the following criteria must be met:
 - (a) Elimination of human-made fish passage barriers, including culvert repair and replacement; or
 - (b) Restoration of an eroded or unstable streambank employing the principle of *bioengineering*, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
 - (c) Placement of woody debris or other instream *structures* that benefit naturally reproducing fish stocks.
- q. The procedural requirements of this chapter shall not apply to any *person* conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to WDOE when it conducts a remedial action under RCW 70.105D. WDOE shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to RCW 70.105D, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090.

3. Statements of Exemption

- a. Any *person* claiming *exemption* from the *substantial development permit* requirements shall make an application to the *Shoreline Administrator* for such an *exemption* in the manner prescribed by the *Shoreline Administrator*, except that no written statement of *exemption* is required for emergency *development* pursuant to WAC 173-27-040(2)(d).
- b. A denial of an *exemption* shall be in writing and shall identify the reason(s) for the denial. In accordance with Chapter VII, the *Shoreline Administrator's* decision on a statement of *exemption* may be reconsidered or appealed.
- c. The *Shoreline Administrator* is authorized to grant or deny requests for statements of *exemption* from the *shoreline substantial development permit* requirement for uses and *developments* within *shorelines* that are specifically listed in this section. The statement shall be in writing and shall indicate the specific *exemption* of this *program* that is being applied to the *development*. It shall also provide the *Shoreline Administrator's* analysis of the

consistency of the project with this *program* and the Act. The statement of *exemption* may contain conditions and/or *mitigating* measures for approval to achieve consistency and compliance with the provisions of this *program* and Act. The letter shall be sent to the applicant and maintained on file in the offices of the *Shoreline Administrator*. *Exempt* activities related to any of the following shall not be conducted until a statement of *exemption* has been obtained from the *Shoreline Administrator*:

- i. *dredging*,
 - ii. flood control and in-water *structures*,
 - iii. archaeological or historic site alteration,
 - iv. clearing and ground disturbing activities such as *filling* and excavation, docks, shore stabilization,
 - v. free-standing signs.
- d. A copy of written *exemptions* shall be forwarded to WDOE if federal *permits* are also required for the project (e.g., *wetland fills*, *dredging* and overwater/in water *structures* would all require federal *permits*).

The project is not exempt from a Shoreline Substantial Development Permit.

D. Prohibited Uses

1. The following modifications and uses are prohibited in all *shoreline designations* and are not eligible for review as a *shoreline conditional use* or *shoreline variance*:
 - a. Uses not otherwise allowed in the underlying zoning district;
 - b. Parking as a primary use;
 - i. Discharge of solid wastes, liquid wastes, untreated effluents, other *potentially harmful materials*;
 - c. Solid or hazardous waste landfills;
 - d. Speculative *fill* meaning the placement of *fill* material without an associated *development*; and
 - e. *Dredging* or *dredge material* disposal to construct land canals or small basins for *boat moorage* or launching, water ski landings, swimming holes or other recreational activities.
 - f. *Aquaculture*, forestry, industrial, log storage, *marinas*, and mining uses.

The project is not a prohibited use.

E. Non-conforming Uses and Development

1. *Non-conforming uses* and *non-conforming development* (including *non-conforming structures*) that were lawfully constructed, established or commenced prior to the effective date of this *program* and the Act, and which are no longer consistent or conform with the now applicable *shoreline* provisions.
2. Existing Uses and Development. Existing uses, structures and lots legally established prior to the effective date of this *program* are allowed to continue. To the extent that they could not be established under the terms of this *program*, they are deemed *non-conforming* and are subject to the provisions of this section, unless specific exceptions are provided for in Chapter II.
3. Nonconforming Uses
 - a. Additional *development* of any property on which a *non-conforming use* exists shall require that all new uses conform to this *program* and the Act.
 - b. Change of ownership, tenancy, or management of a *non-conforming use* shall not affect its non-conforming status, provided that the use does not change or intensify.
 - c. If a *non-conforming use* is converted to a conforming use, a *non-conforming use* may not be resumed.
 - d. When the *operation* of a *non-conforming use* is vacated or abandoned for a period of twelve

(12) consecutive months, the *non-conforming use* rights shall be deemed extinguished and the future use of such property shall be in accordance with the permitted and *conditional use* regulations of this *program*.

- e. If a conforming building housing a *non-conforming use* is damaged by fire, flood, explosion, or other natural disaster the following provisions related to reconstruction apply:
 - i. If the damage is sixty percent or more of the replacement cost of the *structure* or *development*, reconstruction is not allowed.
 - ii. If the damage is less than sixty percent (60%) of the replacement cost of the *structure* or *development*, such use may be resumed at the time the building is repaired; provided, such *restoration* shall be undertaken within twelve (12) months following said damage.
- f. *Normal maintenance* and *normal repair* of a *structure* housing a *non-conforming use* may be permitted provided all work is consistent with the provisions of this *program*.

4. Non-conforming Structures

- a. A non-conforming building or structure may be maintained or repaired, provided such improvements do not extend or expand the non-conformity of such building or *structure* and are consistent with the provisions of this *program*, unless required by other law or ordinance.
- b. If a *non-conforming structure* or *development* is damaged by fire, flood, explosion, or other natural disaster the following provisions relative to reconstruction apply:
 - i. If the damage is sixty percent or more of the replacement cost of the *structure* or *development*, reconstruction is not allowed.
 - ii. If the damage is less than sixty percent (60%) of the replacement cost of the *structure* or *development*, it may be *restored* or reconstructed to those configurations existing at the time of such damage, provided:
 - (a) The reconstructed or *restored structure* will not cause additional adverse effects to adjacent properties or to the *shoreline* environment;
 - (b) The rebuilt *structure* or portion of *structure* shall not expand the original footprint or *height* of the damaged *structure*;
 - (c) No degree of relocation shall occur, except to increase conformity or to increase *ecological function*, in which case the *structure* shall be located in the least environmentally damaging location possible;
 - (d) The submittal of applications for *permits* necessary to *restore* the *development* is initiated within twelve (12) months of the damage. The *Shoreline Administrator* may waive this requirement in situations with extenuating circumstances;
 - (e) The reconstruction is commenced within one (1) year of the issuance of *permit*;
 - (f) The *Shoreline Administrator* may allow a one (1) year extension provided consistent and substantial progress is being made.

- 5. Non-conforming Lots. Legally established, nonconforming, undeveloped lots located landward of the *ordinary high water mark* are buildable, provided that all new *structures* or additions to *structures* on any non-conforming lot must meet all setback, *height* and other construction requirements of the *program* and the Act.

The project is not an existing non-conforming use.

F. Shoreline Variance

- 1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this *program* where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this *program* would impose unnecessary hardships on the applicant/proponent or thwart the policies set forth in the Act and this *program*.
- 2. When a *shoreline* variance is requested, the City shall issue a final decision that is then filed with WDOE. However, *shoreline* variances must have approval from WDOE, which shall have final approval authority. *Shoreline* variance *permits* should be granted in circumstances where denial of the *permit* would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the *public interest* shall suffer no

substantial detrimental effect.

3. Variance permits for *development* and/or uses that will be located landward of the *ordinary high water mark* (OHWM) and/or landward of any *wetland* may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in this *program* precludes, or significantly interferes with, reasonable use of the property;
 - b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and causes external to the *program* including the applicant's own actions;
 - c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this *program* and will not cause adverse impacts to the *shoreline* environment;
 - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e. That the variance requested is the minimum necessary to afford relief; and
 - f. That the *public interest* will suffer no substantial detrimental effect.
4. Variance *permits* for *development* and/or uses that will be located waterward of the *ordinary high water mark* (OHWM), or within any *wetland*, may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in this *program* precludes all reasonable use of the property;
 - b. That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section; and
 - c. That the public rights of navigation and use of the *shorelines* will not be adversely affected.
5. The burden of proving that a proposed *shoreline* variance meets the criteria of this *program* shall be on the applicant. Absence of such proof shall be grounds for denial of the application.
6. In the granting of all *shoreline* variances, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area.
7. Before making a recommendation to grant a *shoreline* variance, the City shall consider issues related to the conservation of valuable natural resources, and the protection of views from nearby public roads, surrounding properties and public areas.
8. *Shoreline* variances should not result in a net loss of environmental function.
9. A variance from City *development* code requirements shall not be construed to mean a *shoreline* variance from use regulations in this *program*, and vice versa.
10. *Shoreline* variances may not be used to *permit* a use or *development* that is specifically prohibited in a *shoreline* designation.

The project does not require a Shoreline Variance.

G. Shoreline Conditional Use Permit

1. The purpose of the *conditional use permit* is to provide greater flexibility in varying the application of the use regulations of this *program* in a manner that will be consistent with the policies of the Act and this *program*.
2. When a *conditional use* is requested, the *Shoreline Administrator* shall be the approval authority for the City. However, *shoreline conditional uses* must have approval from WDOE, which shall have final approval authority under WAC 173-27-200.
3. *Conditional use permits* shall be authorized only when they are consistent with the following criteria:
 - a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this *program*;

- b. The use will not interfere with normal public use of public *shorelines*;
 - c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this *program*;
 - d. That the proposed use will cause no significant adverse effects to the *shoreline* environment in which it is to be located; and
 - e. The *public interest* will suffer no substantial detrimental effect;
 - f. Consideration has been given to cumulative impact of additional requests for like actions in the area.
4. Other uses not specifically identified in this *program* are considered unclassified uses and may be authorized through a *conditional use permit* if the applicant can demonstrate that the proposed use is consistent with the purpose of the *shoreline designation* and compatible with existing *shoreline* improvements or that extraordinary circumstances preclude reasonable use of the property.
 5. Uses specifically prohibited by this *program* may not be authorized.
 6. The burden of proving that a proposed *shoreline conditional use* meets the criteria of this *program* and WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.
 7. The City is authorized to impose conditions and standards to enable a proposed *shoreline conditional use* to satisfy the *conditional use* criteria.

The project will require a Shoreline Conditional Use Permit (CUP). There is a conflict in the Shoreline Master Program related to an above ground utility crossing such as what is being proposed here. Section IV.C.12.Utility Uses states,

- a. **Subsection 'a' states, in part, "Utility facilities shall be located outside shoreline jurisdiction whenever feasible. Where distribution and transmission lines (except electrical transmission lines) must be located in the shoreline jurisdiction they shall be located underground."**
- b. **Subsection 'c' states, in part, "Transmission, distribution, and conveyance facilities shall be located in existing rights-of-way and corridors, or shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage."**

As the sewer line and conduit for future fiber optic use is considered a "Utility Use," the "shortest, most direct route feasible" must be employed, which would mean connection to the bridge for both the sewer line and fiber optic conduit would be required. Additionally, forcing both utilities to be installed underground would have the potential to cause unnecessary significant environmental damage. It should also be noted that installation of both the conduit and sanitary sewer line will take place wholly within the right-of-way of La Center Road.

The City of La Center's Shoreline Authority has contacted ECY regarding this matter. Their response is as follows:

"Because the SMP requires transmission lines to be underground AND in ROW's AND cross shoreline jurisdiction in the shortest path possible AND do the least amount of environmental damage, it stands to reason that hanging utilities from bridges to cross shoreline jurisdiction meets the intent of these criteria."

II. SHORELINE MASTER PROGRAM GOALS

& POLICIES

This chapter describes overall *program* goals and policies. The general regulations in Chapter V and the specific use regulations in Chapter VI are the means by which these goals and policies are implemented.

A. General Shoreline Goals

The general goals of this *program* are to:

1. Use the full potential of *shorelines* in accordance with the opportunities presented by their relationship to the surrounding area, their natural resource values, and their unique aesthetic qualities offered by water, topography, and views; and
2. Develop a physical environment that is both ordered and diversified and which integrates water and *shoreline* uses while achieving a net gain of *ecological function*.

The full potential of the shoreline will be maintained in its current state as impacts associated with the installation of the sanitary sewer line and conduit to the bridge, as well as the trenching for installation of the conduit on the north and south ends of the bridge and connection of the conduit to the bridge, will not be perceptible to the general public once the trenches have been restored. This will maintain the existing natural resource values, and their unique aesthetic qualities offered by water, topography and views. The project will not result in any loss of existing ecological function.

B. Shorelines of Statewide Significance (SSWS)

Designated *shorelines of statewide significance* (SSWS) are of value to the entire state as are other water bodies meeting the definition of *shorelines of the state*. The East Fork of the Lewis River, along with its associated shorelands is designated as a *shoreline of statewide significance*. Its location along the southwest boundary of the current city limits and other *shorelines of the state* requires the preparation of this master *program*. In accordance with RCW 90.58.020, SSWS will be managed as follows:

1. Preference shall be given to the uses that are consistent with the statewide interest in such *shorelines*. These are uses that:
 - a. Recognize and protect the statewide interest over local interest;
 - b. Preserve the natural character of the *shoreline*;
 - c. Result in long term over short term benefit;
 - d. Protect the resources and *ecological function* of the *shoreline*;
 - e. Increase *public access* to publicly-owned areas of the *shorelines*;
 - f. Increase recreational opportunities for the public in the *shoreline*; and
 - g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.
2. Uses that are not consistent with these policies should not be permitted on SSWS.
3. Those limited *shorelines* containing unique, scarce and/or sensitive resources should be protected.
4. *Development* should be focused in already developed *shoreline* areas to reduce adverse environmental impacts and to preserve undeveloped *shoreline* areas. In general, SSWS should be preserved for future generations by:
 - a. Restricting or prohibiting *development* that would irretrievably damage *shoreline* resources, and
 - b. Evaluating the short-term economic gain or convenience of *developments* relative to the long-term and potentially costly impairments to the natural *shoreline*.

The East Fork Lewis River is a Shoreline of Statewide Significance. The project will provide for the following:

- **Preserve the natural character of the shoreline by returning any direct physical impacts back to its current natural character, such as trench restoration.**
- **Result in a long term over short term benefit by providing utilities vital to current and future development.**
- **Protect the resources and ecological function of the shoreline by not affecting existing vegetation (except where trenching takes place), grades or having any other permanent physical impact on the shoreline.**

Additionally, the project is taking place within the right-of-way (r.o.w.) of La Center Road and the La Center Bridge, meeting the goal of Section VI.C.12.c

C. Archaeological, Historic, and Cultural Resources

1. Goal. The goal for archaeological, historic, and cultural resources is to preserve and prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value. Such sites include those identified by affected Indian tribes, the Department of Archaeology and Historic Preservation, Clark County Historic Preservation Commission, and other appropriate authorities.
2. Policies
 - a. As part of every new *development* project, expansion of existing *developments* or *development* of a new use, every effort should be made to identify, protect, preserve, and *restore* important archaeological, historic, and cultural sites located in shorelands of the state for educational, scientific, and enjoyment purposes.
 - b. Where appropriate, make access to such sites available to parties of interest, provided that access to such sites be designed and managed in a manner that protects the resource.
 - c. Encourage the acquisition of historical, cultural and archaeological sites by public or private entities in order to assure their protection and preservation.
 - d. Encourage projects and programs that foster a greater appreciation of *shoreline* management, local history, maritime activities, environmental conservation, and maritime history.
 - e. Continue to contribute to the state and local inventory of archaeological sites enhancing knowledge of local history and understanding of human activities.

There are no archaeological, historic or cultural impacts associated with the installation of the sanitary sewer line and conduit to the La Center Bridge. South of the bridge the conduit will be trenched along the east side of La Center Road just east of the guardrail and along the bridge abutment. North of the bridge the conduit will be trenched alongside the abutments for the bridge and through an existing parking lot located northeast of the bridge. These areas contains fill from the construction of La Center Road and the La Center Bridge and previous ground disturbance from previous construction activities. No native soils will be impacted with the trenching for the installation of the conduit. Therefore, there will be no impact to archaeological, historic or cultural impacts associated with the trenching for the conduit.

D. Conservation

1. Goal. The goal of conservation is to protect *shoreline* resources, vegetation, important *shoreline* features, *shoreline ecological functions* and the processes that sustain them to the maximum extent practicable.
2. Policies
 - a. *Shorelines* that support high value habitat or high quality associated *wetlands* should be considered for the highest level of protection to remain in an unaltered condition.
 - b. Impacts to critical areas should first be avoided, and where unavoidable, minimized and *mitigated* to result in no net loss of watershed processes and *shorelines* functions.
 - c. Management practices for natural resources in *shoreline* areas should be developed and implemented to ensure the preservation of non-renewable resources, including unique, scenic and ecologically sensitive features, *wetlands*, and wildlife habitat.

- d. Every effort should be made to provide administrative and regulatory assistance to those proposals to create, *restore* or enhance habitat for *priority species*.
- e. Regulatory, non-regulatory, and incentive programs should all be used for the protection and conservation of wildlife habitat areas, and should emphasize policies and standards to protect and conserve critical areas as larger blocks, corridors or interconnected areas rather than in isolated parcels.
- f. The retention of existing vegetation along *shorelines* should be encouraged, and where removal is unavoidable for physical or visual access to the *shoreline*, alteration should be limited in such a manner that habitat connectivity is maintained, degraded areas are *restored*, and the health of remaining vegetation is not compromised.

The proposed project will not have any impact to the existing shoreline resources, vegetation, important shoreline features, shoreline ecological functions and the processes that sustain them. The existing vegetation consists only of non-native grasses. The trenches required for underground installation of the conduit will be a temporary impact. They will be fully restored to their pre-construction condition and seeded with native grass seed (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat value of the area.

E. Economic Development

1. Goal. The goal for economic *development* is to create and maintain an economic environment that is balanced with the natural and human environment.
2. Policies
 - a. Continue to support current economic activity that is consistent with the policies of this SMP should continue to be supported.
 - b. Encourage healthy, orderly economic growth by allowing economic activities that will be an asset to the community while maintaining the highest standards to prevent ecological loss or damage.
 - c. Encourage new water-oriented industrial, commercial, and resource-based activities that will not harm the quality of the site's environment, adjacent shorelands, or *water quality* are encouraged along the *shoreline*.
 - d. As an economic asset, the recreation industry should be encouraged along *shorelines* in a manner that will enhance the public enjoyment of *shorelines*, consistent with protection of critical areas and cultural resources.
 - e. Existing non-water-oriented commercial, industrial, and resource-based activities located in the *shoreline jurisdiction* are encouraged to protect watershed processes and *shoreline* functions.

Installation of the sanitary sewer line and fiber optic conduit will encourage and support current and future commercial, industrial and residential development within the immediate area.

F. Flood Prevention and Flood Damage Minimization

1. Goal. The goal of flood prevention and flood damage minimization is to prevent public and private losses from occurring, and where this proves to be impossible, to minimize them to the extent possible, and; to maintain and *restore* natural flow regimes.
2. Policies
 - a. All *shoreline development* should be located, designed, and constructed to prevent flood damage.
 - b. Flood management works should be located, designed, constructed and maintained to protect against the following:
 - i. Loss of life, injury or loss of property;
 - ii. Loss to the physical integrity of the *shoreline*;
 - iii. Loss of *water quality* and natural ground water movement;

- iv. Loss to fish and other life forms and their habitat and damage to vegetation;
- v. Damage to recreational resources and aesthetic values and features including *point* and channel bars, islands, and other shore features and scenery.
- c. Non-structural flood hazard reduction measures are preferred to structural measures. Flood hazard reduction measures should be accomplished in a manner that ensures no net loss of *ecological functions* and ecosystem-wide processes.
- d. Flood protection measures that result in channelization and/or reduction in *shoreline function* should be avoided.
- e. An evaluation of alternate flood control measures should consider the removal or relocation of *structures* in flood-prone areas.
- f. New *development* or new uses in *shoreline jurisdiction*, including the subdivision of land, should not be allowed when it would be reasonably foreseeable that the *development* or use would require structural flood hazard reduction.

Installation of the sanitary sewer line and fiber optic conduit will not affect any existing or future flood prevention or flood hazard reduction measures.

G. Public Access and Recreation

1. Goal. The goal of *public access* and recreation is to increase the ability of the general public to enjoy the water's edge, travel on the waters of the state, and to view the water and the *shoreline* from adjacent locations.
2. Policies
 - a. Where feasible and consistent with public safety all private and public *developments* should provide, protect, and enhance a *public access* system that is both physical and visual; utilizes both private and public lands; increases the amount and diversity of *public access* to the State's *shorelines* and adjacent areas; and is consistent with the *shoreline* character and shoreline functions, and private rights.
 - b. The acquisition and expansion of appropriate *shoreline* areas is encouraged. The acquired properties could be used as recreational facilities or for other uses benefitting the public at large.
 - c. Whenever practicable, *public access* and recreational facilities should be located in a manner that encourages variety of uses, accessibility, and connectivity in a manner that will preserve natural characteristics and *shoreline functions*.
 - d. Encourage *public access* as part of each *development* project by a public entity, and for all private *development* (except *residential development* of less than four parcels), unless such access is shown to be incompatible due to reasons of safety, security, or impact to the *shoreline* environment.
 - e. Discourage *shoreline* uses that curtail or reduce *public access* unless such restriction is in the interest of the environment, public health, and safety, or is necessary to a proposed beneficial use.

Installation of the sanitary sewer line and fiber optic conduit will not affect any existing or future public access or recreation features.

H. Restoration

1. Goal. The goal of *restoration* is to re-establish, rehabilitate and/or otherwise improve impaired *shoreline ecological functions and/or processes* through voluntary and incentive-based public and private programs and actions that are consistent with the *SMP*, the Clark Coalition *Restoration Plan* and other approved *restoration* plans.
2. Policies
 - a. *Shorelines* that are biologically degraded should be reclaimed and *restored* to the greatest extent feasible.
 - b. Restoration strategies should be developed and implemented such that ecosystem processes are sustainable in the long-term.

- c. Restoration of *shoreline functions* should be encouraged during redevelopment.
- d. Restoration efforts should consider the feasibility of retrofitting existing *stormwater* control facilities to improve *water quality*.
- e. *Restoration* efforts should consider a focus on *floodplain* and *channel migration zone* reconnection where rivers are confined by levees.
- f. *Restoration* efforts should include surveying and monitoring *invasive species*, *noxious weeds*, and non-native species with the intention of initiating eradication programs as needed.
- g. Planting of vegetation that enhances *shoreline function* should be encouraged.
- h. Education programs should be developed to:
 - i. Educate property owners about proper vegetation/landscape maintenance and the impacts of shore armoring and *over-water structures*; and
 - ii. Educate boaters about proper waste disposal methods, anchoring techniques, and other best boating practices.
- i. Cooperative *restoration* actions involving local, state, and federal agencies, Native American tribes, non-government organizations, and landowners are encouraged.

While the project will require trenching within the shoreline and Riparian Habitat Conservation areas, the trenches required for underground installation of the conduit will be a temporary impact. They will be fully restored to their pre-construction condition and seeded with native grass seed (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat value of the area.

I. Shoreline Modification and Stabilization

1. Goal. The goal for *shoreline modification* and stabilization is to avoid or minimize it to the maximum extent feasible. When *shoreline modification* is unavoidable, the methods used should be those that are least destructive to the *shoreline* environment, including associated waters.
2. Policies
 - a. New or expanded structural shore stabilization, including *bulkheads*, is allowed only where it is demonstrated to be necessary to protect an existing primary *structure* that is in danger of loss or substantial damage, and where such *structures* and structural stabilization would not cause a net loss of *shoreline ecological functions* and processes.
 - b. Proponents of new *shoreline* uses and *development*, including preferred uses and uses *exempt* from *permits*, should plan, design, locate, construct and maintain the use/*development* to avoid the need for structural *shoreline* armoring works using all methods available.
 - c. When necessary, natural, non-structural *shoreline stabilization* measures are preferred over structural stabilization measures. Alternatives for *shoreline stabilization* should be based on the following hierarchy of preference:
 - i. No action;
 - ii. Flexible stabilization works constructed of natural materials, including soft shore protection, *bioengineering*, beach nourishment, protective *berms*, or vegetative stabilization;
 - iii. Rigid works constructed of structural materials such as *riprap* or concrete.
 - d. *Shoreline stabilization* should be located and designed to accommodate the physical character and hydraulic energy potential of a specific *shoreline* reach, which may differ substantially from adjacent reaches.
 - e. Provisions for multiple use, restoration, and/or public shore access should be incorporated into the location, design and maintenance of shore stabilization for public or quasi-public *development* whenever safely compatible with the primary purpose. *Shoreline stabilization* on publicly owned *shorelines* should not be allowed to decrease long-term public use of the *shoreline*.
 - f. *Shoreline stabilization* projects should be developed through coordination with affected

property owners and public agencies.

- g. Larger works such as jetties, breakwaters, *weirs*, or *groin* systems should be permitted only for *water-dependent uses* and where *mitigated* to provide no net loss of *shoreline ecological functions* and processes.
- h. Lower impact *structures*, including floating, portable or submerged breakwater *structures*, or several smaller discontinuous *structures*, are preferred over higher impact *structures*.
- i. Encourage and facilitate levee setback (including but not limited to, pulling back an existing levee to allow for a larger *floodplain* area contiguous to a water body), levee removal, and other *shoreline enhancement* projects.
- j. *Development* and *shoreline modifications* that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of *ecological functions* with the rivers and streams should be avoided.

The trenches required for underground installation of the conduit will be a temporary shoreline modification. Trenching will be minimized to the greatest extent possible with the trench being only as wide and deep as necessary. The trenches will be fully restored to their pre-construction condition and seeded with native grass seed (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat value of the area.

Shoreline Use and Development

- 3. Goal. The goal for *shoreline* use and *development* is to balance the preservation and *development* of *shorelines* in a manner that allows for mutually compatible uses. Resulting land use patterns will be compatible with *shoreline designations* and sensitive to, and compatible with, ecological systems and other *shoreline* resources. To help with this balance, *shoreline* and water areas with unique attributes for specific long term uses such as commercial, residential, industrial, water, wildlife, fisheries, recreational and open space shall be identified and/or reserved.
- 4. Policies
 - a. Uses in *shorelines* and water areas in priority order are (1) *water-dependent*, (2) *water-related*, and (3) *water-enjoyment*.
 - b. Uses, activities, and facilities should be located on *shorelines* in such a manner as to:
 - i. Retain or improve the quality of *shoreline function*;
 - ii. Respect the property rights of others;
 - iii. Ensure that proposed *shoreline* uses do not create risk or harm to neighboring or downstream properties; and
 - iv. Preserve and/or *restore*, to the maximum reasonable extent, the *shoreline's* natural features and functions in conjunction with any redevelopment or revitalization project.
 - c. The following are encouraged in *shoreline* areas:
 - i. Uses that enhance their specific areas or employ innovative features for purposes consistent with this *program*;
 - ii. The redevelopment of any area not suitable for preservation of natural features, based on its *shoreline* designation, with an emphasis on *public access*;
 - iii. Master planning for large sites or projects;
 - iv. Shared uses and joint use facilities in *shoreline developments*; and
 - v. Uses that allow for or incorporate *restoration* of *shoreline* areas that are degraded as a result of past activities or events.
 - d. Uses proposed on lands adjacent to but outside of immediate *shoreline jurisdiction* should be consistent with the intent of this *program* and should not adversely impact *shoreline ecological functions*.

Installation of the sanitary sewer line and fiber optic conduit will not affect any existing or future shoreline use or development. Use of the shoreline area for installation of the

sanitary sewer line and conduit for future fiber optic use is required as the sanitary sewer line installation will connect the ends of previously installed sewer lines within La Center Road which were stubbed on the north and south ends of the La Center Bridge. The conduit will be to extend fiber optic service from a junction box located within the r.o.w. of La Center Road south of the bridge to extend to another junction box northwest of the bridge.

J. Transportation, Utilities, and Essential Public Facilities

1. Goal. The goal for transportation, utilities, and essential public facilities is to provide for these facilities in *shoreline* areas without adverse effects on existing *shoreline* use and *development* or *shoreline ecological functions* and/or processes.
2. Policies
 - a. Transportation, utilities, and essential public facilities should be located outside the *shoreline jurisdiction* to the maximum extent possible to reduce interference with natural *shoreline functions* and appropriate *shoreline* uses.
 - b. Circulation systems should be safe, reasonable and adequate, and should be designed so that the routes will have the least possible adverse effect on *shoreline function* and existing ecological systems, while still contributing to the visual *enhancement* of the *shoreline*.
 - c. Areas of *shoreline* transportation corridors that are unique, have historic significance or contribute significantly to the aesthetic quality of the *shoreline* should be protected, managed and *enhanced*.
 - d. Government bodies should devote roads within the *shoreline jurisdiction* to low volume local access routes and where practical, provide multiple use corridors as a part of *shoreline* transportation *development*.
 - e. Local utility and transportation corridors should be located to avoid creating barriers between adjacent uplands and the *shoreline* and to harmonize with the topography and other natural characteristics of the *shoreline*.
 - f. When new utility and transportation facilities are developed in the *shoreline jurisdiction*, there should be a combined effort by public and private interests to protect, *enhance*, and encourage *development* of physical and visual *shoreline public access*.
 - g. Where feasible, public and private entities (as applicable) should take steps to relocate existing utility and transportation facilities, such as transmission lines, rail lines, or freeways that limit public *shoreline* access or other *shoreline* uses and convert such rights-of-way to new *public access* routes.
 - h. Utilities and transportation facilities should be installed and facilities designed and located in a coordinated manner that protects the shorelands and water from contamination and degradation.
 - i. The siting of essential public facilities in the *shoreline jurisdiction* should be discouraged unless no practical alternatives exist.

Installation of the sanitary sewer line and fiber optic conduit will forward this goal by providing utilities for current and future industrial, commercial and residential development without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes.

Installation of the trenches will also take place along the east side of La Center Road south of the La Center Bridge and directly adjacent to the bridge abutment on the north side of the bridge within the r.o.w. of La Center Road (which contains other existing utilities).

Trenching required for installation of the conduit will be a temporary impact. The trenches will be fully restored to their pre-construction grade and seeded with a native seed mix (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat function of the area.

K. Views and Aesthetics

1. Goal. The goal for views and aesthetics is to assure that the public will be able to continue

enjoying the physical and aesthetic qualities of the *shorelines*, and that this ability will be increased whenever possible.

2. Policies

- a. Public entities should identify *shoreline* areas having scenic vistas and high aesthetic value, and act and encourage others to act to preserve and improve upon these values whenever possible.
- b. Encourage *development* within the *shoreline* area that provides visual and physical linkage to the *shoreline*, and enhances the waterfront.
- c. Encourage *shoreline development* that designs and builds *structures* in a manner that avoids obstructing the views of others to the maximum extent feasible.

Installation of the sanitary sewer line and fiber optic conduit will forward this goal. By placing the conduit underground and on top of the exterior bottom wing ("I" beam flange) of the exterior longitudinal girder on the bridge, and by attaching the sanitary sewer line to the underside of the bridge, protects the physical and aesthetic qualities of the shoreline area and does not obstruct any views.

L. **Water Quality and Quantity**

1. Goal. The goal for *water quality* and quantity is to protect and enhance the quality and quantity of the region's water resources to ensure there is safe, clean water for the public's needs and enjoyment, and; to maintain and *restore* natural flow regimes.

2. Policies

- a. Encourage the location, construction, *operation*, and maintenance of *shoreline* uses, *developments*, and activities to be focused on maintaining or improving the quality and quantity of surface and ground water over the long term.
- b. Strive to minimize the inadvertent release of chemicals, activities that cause erosion, *stormwater* runoff, and faulty on-site sewage through education, site planning, and best management practices.
- c. Encourage the use, maintenance and *restoration* of appropriate vegetative buffers along *surface waters* to improve water temperature and reduce the adverse effects of erosion and runoff.
- d. Strive to maintain and *restore* natural flows.

Erosion control measures, as required by local, state and federal regulations, will be installed prior to, during and following ground disturbing activities. Once these measures are employed, water quality and quantity will be protected from construction activities. Trench restoration and the use of native seed mix will protect the disturbed area from future erosion.

III. SHORELINE DESIGNATIONS

A. Introduction

The intent of assigning *shoreline designations* to specific geographies is to encourage *development* that will enhance the present or desired character of the *shoreline*. To accomplish this, segments of *shoreline* are given a *shoreline* designation based on existing *development* patterns, natural capabilities and limitations, and the vision of the City. The *shoreline designations* are intended to work in conjunction with the comprehensive plan and zoning.

Management policies are an integral part of the *shoreline designations* and are used for determining

uses and activities that can be permitted in each *shoreline designation*. *Development* regulations specify how and where permitted *development* can take place within each *shoreline designation* and govern *height* and setback.

B. Authority

Local governments are required under the State Shoreline Management Act of 1971 (RCW 90.58) and the Shoreline Master Program Guidelines (WAC 173-26) to develop and assign a land use categorization system known as *shoreline* environment designations for *shoreline* areas as a basis for effective *shoreline master programs*. For purposes of this *program shoreline* designation is used in place of the term *shoreline* environment designation referred to in WAC 173-26.

The method for local government to account for different *shoreline* conditions is to assign a *shoreline designation* to each distinct *shoreline* section in its jurisdiction. The *shoreline designation* assignments provide the framework for implementing *shoreline* policies and regulatory measures for environmental protection, use provisions, and other regulatory measures specific to each *shoreline designation*.

C. Shoreline Designations

The City classification system consists of *shoreline designations* that are consistent with and implement the Act (RCW 90.58), the Shoreline Master Program Guidelines (WAC 173-26) and the City's comprehensive plan. These *designations* have been assigned along with the corresponding criteria provided for each *shoreline designation* that applies in the City. The rationale for the City's *shoreline designations* is provided in Appendix B. In delineating *shoreline designations*, the City aims to ensure that existing *shoreline ecological functions* are protected, and recognize the pattern and intensity of *development* are consistent with the policies for restoration of degraded *shorelines*.

1. Listing of Shoreline Designations

- a. Aquatic;
- b. Urban Conservancy; and
- c. Medium Intensity.

2. Location of Areas Designated in the City of La Center. Areas to which a *shoreline* designation applies are shown on a copy of the Official *Shoreline* Map in Appendix A.

3. Aquatic Shoreline Designation

- a. Purpose. The purpose of the Aquatic *shoreline* designation is to protect, *restore*, and manage the unique characteristics and resources of the areas waterward of the *OHWM*.
- b. Designation Criteria. An Aquatic *shoreline* designation is assigned to lands and waters waterward of the ordinary high-water mark.
- c. Management Policies. In addition to the other applicable policies and regulations of this *program* the following management policies shall apply:
 - i. Uses that preserve the natural characteristics of the *shoreline* or *restore* those characteristics are preferred.
 - ii. New *over-water structures* should be allowed only for *water-dependent uses*, *public access*, recreation, or ecological *restoration*.
 - iii. *Shoreline* uses and modifications *should* be designed and managed to prevent degradation of *water quality* and natural hydrographic conditions.
 - iv. *Shoreline* uses and modifications should be designed and managed to preserve or improve *water quality* and natural hydrographic conditions. Natural hydrologic conditions may be necessary to achieve overall goal of no net loss of function.
 - v. *Public access* for in-water and *shoreline* uses should be allowed provided impacts can be *mitigated* to ensure no net loss of *ecological functions*.
 - vi. Uses and *developments* on navigable waters or their beds should be located and designed to minimize interference with surface navigation, consider impacts to public views; and to allow for the safe passage of fish and wildlife.
 - vii. Multiple or shared use of over-water and water access facilities should be encouraged to

reduce the impacts of *shoreline development* and increase effective use of water resources.

- viii. *Structures* and activities permitted should be related in size, form, design, and intensity of use to those permitted in the immediately adjacent upland area. The size of new *over-water structures* should be limited to the minimum necessary to support the *structure's* intended use.
- ix. The size of new *over-water structures* should be limited to cause the least disruption possible to the *shoreline* environment.
- x. Natural light should be allowed to penetrate to the extent necessary to discourage salmonid predation and to support nearshore habitat unless other illumination is required by state or federal agencies.
- xi. When shoreline uses, development, activities, and modifications in the Aquatic shoreline designation require uses of adjacent landward property, that landward property should be in a shoreline designation that allows that use, development, activity or modification.

4. Urban Conservancy Shoreline Designation

- a. Purpose. The purpose of the Urban Conservancy *shoreline designation* is to protect and *restore ecological functions* of open space, *floodplains*, and other sensitive lands, where they exist alongside urban and developed settings, while allowing a variety of compatible uses.
- b. Designation Criteria. The following criteria are used to consider an Urban Conservancy *shoreline designation*:
 - i. The *shoreline* is located within incorporated municipalities and designated urban growth areas;
 - ii. The *shoreline* has a reasonably high *ecological function* and there is a good opportunity for restoration;
 - iii. The *shoreline* has open space or critical areas that should be preserved from more intensive *development*;
 - iv. The *shoreline* presents opportunities for recreational use as a park or otherwise, as a Master Planned Resort, or can be maintained as open space.
- c. Management Policies. In addition to the other applicable policies and regulations of this *program* the following management policies shall apply:
 - i. Uses that preserve the natural character of the area or promote preservation of open space or critical areas are favored providing they are compatible with the Urban Conservancy setting,
 - ii. Single family *residential development* shall ensure no net loss of *shoreline ecological functions* and preserve the existing character of the *shoreline*,
 - iii. In order to preserve the natural character of the areas as mentioned above, thinning or removal of vegetation should be limited to that necessary to remove noxious vegetation and *invasive* species; provide physical or visual access to the *shoreline*; and to maintain or enhance an existing use,.
 - iv. Low intensity water-oriented commercial uses may be permitted if compatible with surrounding uses, and
 - v. *Public access* and public recreation objectives should be implemented whenever feasible and when significant ecological impacts can be *mitigated*.

Installation of the sanitary sewer line and fiber optic conduit meet the management policies of the Urban Conservancy Shoreline Designation by providing utilities for current and future industrial, commercial and residential development without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes. The utility uses also preserve the natural character of the area by restoring any disturbed area to its original condition and by placing the utilities underground and attaching them to the La Center Bridge to preserve aesthetic views.

5. Medium Intensity Shoreline Designation

- a. Purpose. The purpose of the Medium Intensity *shoreline designation* is to accommodate primarily *residential development* and appurtenant *structures*, but to also allow other types of *development* that are consistent with this chapter. An additional purpose is to provide appropriate *public access* and recreational uses.
- b. Designation Criteria. A Medium Intensity *shoreline designation* is assigned to *shoreline areas* inside incorporated municipalities and urban growth areas if any of the following characteristics apply:
 - i. The *shoreline* has low to moderate *ecological function* with low to moderate opportunity for *restoration*;
 - ii. The *shoreline* contains mostly *residential development* at urban densities and does not contain resource industries;
 - iii. The *shoreline* is planned or platted for residential uses in the comprehensive plan;
 - iv. The *shoreline* has low to moderate potential for public passive or active water-oriented recreation where *ecological functions* can be *restored*; or
 - v. The *shoreline* has low scientific or educational value.
- c. Management Policies. In addition to the other applicable policies and regulations of this *program* the following management policies shall apply:
 - i. The scale and density of new uses and *development* should be compatible with sustaining *shoreline ecological functions* and processes, and the existing residential character of the area;
 - ii. *Public access* and joint use (rather than individual) recreational facilities *should* be provided;
 - iii. Access, utilities, and public services to serve proposed *development* within *shorelines* *should* be constructed outside *shorelines* to the extent feasible, and be the minimum necessary to adequately serve existing needs and planned future *development*, subject to *stormwater* regulations where applicable;
 - iv. Public or private outdoor recreation facilities *should* be provided with proposals for subdivision *development* and encouraged with all *shoreline development* if compatible with the character of the area. Priority *should* be given first to *water-dependent* and then to *water-enjoyment* recreation facilities.
 - v. Commercial *development* *should* be limited to *water-oriented uses*. Non-water-oriented commercial uses should only be allowed as part of mixed-use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this *program* such as providing *public access* or restoring degraded *shorelines*.

D. Official Shoreline Map

1. Map Established.
 - a. The location and extent of areas under the jurisdiction of this *program*, and the boundaries of various *shoreline designations* affecting the lands and water of the City shall be as shown on the map entitled, Official Shoreline Map, City of La Center, Washington. The Official Shoreline Map and all the notations, references, amendments, and other information shown on the map are hereby made a part of this *program*, as if such information set forth on the map were fully described herein.
 - b. In the event that new *shoreline areas* are discovered (including but not limited to, associated *wetlands*) that are not mapped and/or designated on the Official Shoreline Map, these areas are automatically assigned an Urban Conservancy designation for lands within incorporated and urban growth areas until the *shoreline* can be re-designated through a City *Shoreline Master Program* amendment.
2. File Copies. The Official Shoreline Map shall be kept on file in the office of the City Planner and the Washington State Department of Ecology. Unofficial copies of the map may be prepared for administrative purposes. To facilitate use of this *program*, an unofficial copy has been attached as Appendix A.

3. **Map Amendments.** The Official Shoreline Map is an integral part of this *program* and may not be amended except upon approval by the City and WDOE, as provided under the Act.
4. Until annexation, *development* in these areas will continue to be regulated by the Clark County Shoreline Master Program. The City's *SMP* will apply concurrent with annexation and no additional procedures are required by WDOE at the time of annexation unless a redesignation is occurring per Section VI.D.5 and Table 4-1.
 - a. If disagreement develops as to the exact location of a *shoreline designation* boundary line shown on the Official Shoreline Map, the following rules shall apply:
 - i. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed;
 - ii. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow their centerlines;
 - iii. Boundaries indicated as approximately parallel to or extensions of features indicated in (1) or (2) above shall be so construed.
 - iv. Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the *Shoreline Administrator* shall interpret the boundaries with deference to actual conditions. Appeals of such interpretation may be filed according to the applicable appeal procedures described in Chapter VII, Administration and Enforcement.
5. **Mapping Errors.** In the event of a mapping error, the jurisdiction will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and WAC 173-22 pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map
6. **Shoreline Designation Changes and Urban Growth Boundary Revisions.** When a portion of *shoreline jurisdiction* is brought into or removed from an urban growth area, a new *shoreline designation* may need to be assigned. *Shoreline designations* shall be assigned in accordance with Table 4-1 below. Where more than one *designation* could be appropriate according to Table 4-1, the *shoreline designation* indicated shall be applied and the best-fitting *shoreline designation* assigned. *Shoreline designation* assignments shall occur concurrently with the annexation or other legislative action to remove a portion of *shoreline jurisdiction* from a city or urban area and to amend the *shoreline* map and shall be effective upon approval by WDOE (see Section IV.D.3).

Table 4-1. Shoreline Designations for Urban¹/Rural² Boundary Revisions

SENDING Designation	From/To	RECEIVING Designation
Aquatic	Rural/Urban	Aquatic
Natural	Rural/Urban	Urban Conservancy
Rural Conservancy – Residential	Rural/Urban	Urban Conservancy
Rural Conservancy – Resource	Rural/Urban	Urban Conservancy

¹Within urban growth areas

²Outside urban growth areas

IV. GENERAL SHORELINE USE & DEVELOPMENT REGULATIONS

addition to the applicable use-specific regulations in Chapter VI.

A. General Shoreline Use and Development Regulations

1. *Shoreline uses and developments that are water-dependent shall be given priority.*
2. *WAC 173-26-201 (Process to Prepare or Amend "Shoreline Master Programs") requires that the SEPA "Mitigation" Sequence be incorporated into "shoreline master programs" as follows:*
 - a. *"To assure no net loss of shoreline ecological functions, master programs shall include provisions that require proposed individual uses and developments to analyze environmental impacts of the proposal and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the master program and other applicable regulations. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is applicable, the analysis of such environmental impacts shall be conducted consistent with the rules implementing SEPA, which also address environmental impact mitigation in WAC 197-11-660 and define mitigation in WAC 197-11-768. Master programs shall indicate that, where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority, with" (i) "of this subsection being top priority."*
 - i. *"Avoiding the impact altogether by not taking a certain action or parts of an action;"*
 - ii. *"Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;"*
 - iii. *"Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;"*
 - iv. *"Reducing or eliminating the impact over time by preservation and maintenance "operations";"*
 - v. *"Compensating for the impact by replacing, enhancing, or providing substitute resources or environments"; and*
 - vi. *"Monitoring the impact and the compensation projects and taking appropriate corrective measures."*
 - b. *"In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable. Consistent with WAC 173-26-186 (5) and (8), master programs shall also provide direction with regard to mitigation for the impact of the development so that:"*
 - i. *"Application of the mitigation sequence achieves no net loss of ecological functions for each new development and does not result in required mitigation in excess of that necessary to assure that development will result in no net loss of shoreline ecological functions and not have a significant adverse impact on other shoreline functions fostered by the policy of the act."*
 - ii. *"When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions."*
3. *Shoreline uses and developments shall not cause impacts that require remedial action or loss of shoreline functions on other properties.*
4. *Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and would not be reasonably anticipated as being necessary in the future, unless it can be demonstrated that stabilization is the only alternative to protecting public safety and existing primary structures.*

5. Land shall not be cleared, graded, *filled*, excavated or otherwise altered prior to issuance of the necessary *permits* and approvals for a proposed *shoreline* use or *development* to determine if environmental impacts have been avoided, minimized and *mitigated* to result in no net loss of *ecological functions*.
6. *Non-water-oriented uses* shall not adversely impact or displace *water-oriented shoreline uses*.
7. Single-family residential uses shall be located, designed and used in accordance with applicable policies and regulations of this *program*. They are prohibited in the Aquatic *shoreline designation*, and may have a lower priority in some other designations.
8. All uses and *developments* on or alongside navigable waters should be located and designed to minimize interference with surface navigation; consider impacts to public views and allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.
9. Hazardous materials shall be disposed of in a manner which is in accordance with all applicable federal, state, and local statutes, codes and ordinances, and the *Shoreline Master Program* itself. The handling and disposal of hazardous material will be accomplished in a way that protects the ecological integrity of the *shoreline* area.
10. In-water work shall be scheduled to protect biological productivity, including fish runs and spawning, and in-water work shall not occur in areas used for *commercial fishing* during a fishing season.
11. Previous approvals of master plans for projects in *shoreline jurisdiction* shall be accepted. New phases of projects for which no master plan has yet been approved, or for which major changes are being proposed, or new projects for which master plans are being submitted should be subject to the policies and regulations of this *program*.
12. Within urban growth areas, WDOE may grant relief from use and *development* regulations of this *program* when:
 - a. A *shoreline restoration project* identified in the *Clark Coalition SMP Restoration Plan* causes or would cause a landward shift in the OHWM creating a hardship meeting specific criteria in RCW 90.58.580;
 - b. The proposed relief meets specific criteria in RCW 90.58.580; and
 - c. The application for relief is submitted to WDOE in writing requesting approval or disapproval as part of a normal review of a *shoreline substantial development permit, conditional use WAC 173-26-201*, or variance. If the proposal is not connected to a *shoreline permit* review, the City may provide a copy of a complete application to WDOE along with the applicant's request for relief.

Trenching for installation of the fiber optic conduit will be fully restored to its preconstruction condition and the disturbed area seeded with native grass seed (except where trenched through the existing gravel pedestrian path). This will result in no net loss of ecological functions. As native grass seed will be used, this will result in a net increase in habitat and ecological functions as existing vegetation consists of a mix of native and non-native grasses.

Trenching south of the La Center Bridge will be located immediately east of the existing guardrail along the east side of La Center Road. This will minimize the impact to the overall shoreline area adjacent to La Center Road. Minimal trenching will then be required along the fill slope at the base of the bridge north of the bridge then through an existing gravel road to an existing junction box.

B. Archeological, Cultural and Historic Resources

3. When a *shoreline* use or *development* is in an area known or likely to contain archaeological artifacts and data based on Clark County's predictive model, the applicant shall provide for a site inspection and evaluation by a professional archaeologist prior to issuance or as a condition of any *shoreline permit* or approval as determined by the City. Work may not begin until the inspection and evaluation have been completed and the City has issued its *permit* or approval.
4. If any item of possible archaeological interest (including human skeletal remains) is discovered on site, all work shall immediately stop, and the City, State Department of Archaeology and Historic Preservation (DAHP), and affected Native American Tribes shall be notified of such

finding. A stop-work order will be issued. The *shoreline permit* will be temporarily suspended. All applicable state and federal *permits* shall be secured prior to commencement of the activities they regulate and as a condition for resumption of *development* activities. *Development* activities may resume only upon receipt of City approval.

5. If the discovery includes human skeletal remains, the find must be secured and protected from further disturbance; the Clark County Medical Examiner and local law enforcement shall be notified in the most expeditious manner possible. The County Medical Examiner will assume jurisdiction over the site and the human skeletal remains, and will make a determination of whether they are crime-related. If they are not, DAHP will take jurisdiction over the remains and report them to the appropriate parties. The State Physical Anthropologist will make a determination of whether the remains are Native American and report that finding to the affected parties. DAHP will handle all consultation with the affected parties as to the preservation, excavation, and disposition of the remains.
6. See LCMC 18.360 (Archaeological Resource Protection) for additional requirements.

There are no archaeological, historic or cultural impacts associated with the installation of the sanitary sewer line and conduit to the La Center Bridge. South of the bridge the conduit will be trenched along the east side of La Center Road just east of the guardrail. North of the bridge the conduit will be trenched alongside the abutments for the bridge and through an existing parking lot located northeast of the bridge. These areas contains fill from the construction of La Center Road and the La Center Bridge and previous ground disturbance from previous construction activities. No native soils will be impacted with the trenching for the installation of the conduit. Therefore, there will be no impact to archaeological, historic or cultural impacts associated with the trenching for the conduit.

C. Critical Areas Protection

1. General Provisions.

- a. Critical areas defined in Appendix C (LCMC 18.300) which are located within the *shoreline jurisdiction* are protected under this section.
- b. Any allowed use, *development*, or activity proposed on a parcel with a critical area located in the *shoreline jurisdiction* shall be regulated under the provisions of this *program*.
- c. Any allowed use, *development*, or activity meeting the definition of a *development exempt* from the *shoreline substantial development permit* process outlined in WAC 173-27-040 and Section II.C of this *program* shall be consistent with the policies and provisions of this *program* for critical areas protection.
- d. Provisions of the critical areas regulations that are not consistent with the Act and supporting WAC chapters shall not apply in *shoreline jurisdiction*.
- e. Habitat that cannot be replaced or *restored* within twenty (20) years shall be preserved.
- f. Where construction of a *single-family residence* is proposed, this activity is considered *exempt* from obtaining a *shoreline substantial development permit* when the construction is located landward of the *ordinary high water mark* and does not include placement of *fill* in *wetlands*. Construction of *single-family residences* requiring *fill* in *wetlands* must obtain a *shoreline Substantial Development Permit* in addition to other *shoreline* approvals as applicable.
- g. Unless otherwise stated, no *development* shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with this *program* and LCMC Title 18.
- h. Reasonable use exceptions under LCMC 18.300.080 determination shall not apply in the *shoreline jurisdiction*.
- i. Unless otherwise stated, critical area buffers within the *shoreline jurisdiction* shall be protected and/or enhanced in accordance with this *program* and LCMC Title 18.
- j. *Shoreline* uses and *developments* and their associated *structures* and equipment shall be located, designed and operated using best management practices to protect critical areas.

- k. The applicant shall demonstrate all reasonable efforts have been taken to avoid, and where unavoidable, minimize and *mitigate* impacts such that no net loss of critical area and *shoreline ecological function* is achieved. *Mitigation* shall occur in the following order of priority:
 - i. Avoiding the impact altogether by not taking a certain action or parts of an action.
 - ii. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts.
 - iii. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - iv. Reducing or eliminating the impact over time by preservation and maintenance *operations*;
 - v. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - vi. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
 - l. In addition to compensatory *mitigation*, unavoidable adverse impacts may be addressed through restoration efforts.
2. Applicable Critical Areas. For purposes of this *program*, the following critical areas will be protected under this program:
- a. Critical Aquifer Recharge Areas, defined in LCMC 18.300.090(1) as adopted by Ordinance 2007-02, dated March 28, 2007;
 - b. Fish and Wildlife Habitat Conservation Areas, defined in LCMC 18.300.090(2) as adopted by Ordinance 2007-02, dated March 28, 2007;
 - c. Frequently Flooded Areas, defined in LCMC 18.300.090(3) as adopted by Ordinance 2007-02, dated March 28, 2007;
 - d. Geologically Hazardous Areas, defined in LCMC 18.300.090(4) as adopted by Ordinance 2007-02, dated March 28, 2007;
 - e. Slopes with Gradients of 25 Percent or Greater, defined in LCMC 18.300.090(5) as adopted by Ordinance 2007-02, dated March 28, 2007;
 - f. *Wetlands*, defined LCMC 18.300.090(6) as adopted by Ordinance 2007-02, dated March 28, 2007;
3. Fish and Wildlife Habitat Conservation Areas
- a. General Provisions
 - i. Designated habitat areas are those defined in LCMC 18.300.090(2) and those described below:
 - (a) Waterbodies defined as waters of the state (RCW 90.40.020), including waters, bed, and bank;
 - (b) WDNR Classification System Type S, F, Np, and Ns waterbodies as defined and mapped based on WAC 222-16-030 (*Forest Practices Rules*);
 - (c) Riparian Priority Habitat Areas – areas extending landward on each side of the stream or waterbody from the *ordinary high water mark* to the edge of the one hundred (100) year *floodplain*, or the following distances, if greater:
 - (i) WDNR Type S waters, two hundred, fifty (250) feet;
 - (ii) WDNR Type F waters, two hundred (200) feet;
 - (iii) WDNR Type Np waters, one hundred (100) feet; and
 - (iv) WDNR Type Ns waters, seventy-five (75) feet.
 - (d) Other Priority Habitats and Species (PHS) Areas - areas identified by and consistent with WDFW priority habitats and species criteria, including areas within one thousand

(1,000) feet of individual species point sites. The city shall defer to WDFW in regards to classification, mapping and interpretation of priority habitat species.

- ii. The above habitat areas are mapped in the adopted "Fish and Wildlife Habitat Conservation Areas Map." Maps are on file with the City Planner.
 - iii. In the event of inconsistencies, official habitat area definitions shall prevail over the maps in determining applicability of this section. The city shall follow the recommendations of WDFW in the interpretation of site-specific conditions as they relate to the definition of priority habitat and species.
 - iv. The portion of the riparian priority habitat area nearest to the OHWM shall be set aside for *vegetation conservation* and protection of the waterbody within the *shoreline jurisdiction*.
 - v. Where *development* proposals require a Species and Habitat Assessment Report under LCMC 18.300.090(B)(4), the review will be part of the approvals required under this *program*.
- b. Regulated Activities
- i. All construction, *development*, earth movement, clearing, or other site disturbance proposals within a habitat area which require a *permit*, approval, or other authorization from the city shall be reviewed pursuant to LCMC 18.300.090(2) and shall comply with the requirements of this section.
 - ii. Proposed new single-family *residential development* occurring immediately outside but within three hundred (300) feet of designated *priority species* habitat polygons or within one hundred (100) feet of designated non-riparian priority habitat polygons shall require consultation with WDFW prior to issuance of a *development permit*. In such cases, further review under this section is not required unless WDFW finds that there are potential adverse impacts.
 - iii. *Agricultural activities* within designated riparian habitat areas are subject to the provisions of this section and LCMC 18.300.090(2).
 - iv. Class IV G *forest practices* (conversions).
- c. Standards
- i. Any alterations within designated habitat areas in the *shoreline jurisdiction* require a review and approval prior to clearing or *development* and prior to issuance of any city *permit* or statement of *exemption*.
 - ii. Alterations within the designated habitat areas shall:
 - (a) Avoid impacts to the habitat conservation areas during project planning and *development* to the extent possible;
 - (b) Substantially maintain the level of habitat functions and values as characterized and documented using best available science;
 - (c) Minimize habitat disruption or alteration beyond the extent required to undertake the proposal; and
 - (d) Compensate for impacts to the habitat conservation areas to meet the standard of no net loss of *shoreline ecological functions*. *Mitigation* measures and proposals must demonstrate use of best available science.
 - iii. In the event that impacts to habitat areas cannot be avoided, *development* and approval of a *mitigation* plan in accordance with the provisions of LCMC 18.300.090(2)(i) is required.

4. Frequently Flooded Areas

- a. General Provisions. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Clark County" (effective August 2, 1982, and revised July 19, 2000) and accompanying maps are hereby adopted by reference and declared to be a part of this *program*. The Flood Insurance Study is on file with the City Planner. In addition, Map 27 Potential *Channel Migration Zone* (CMZ) Areas (*Inventory and Characterization Report*, Vol.

1, Lewis and Salmon-Washougal Watersheds and Rural Areas) is hereby incorporated by reference.

- i. This section shall apply to all frequently flooded areas within the *shoreline jurisdiction* as defined in LCMC 18.300.090(3), including *channel migration zones*. All applications for *development* on lands containing frequently flooded areas, including *conditional uses*, short plats, subdivisions, site plans, rezones, *grading*, and final construction shall be subject to these provisions.
- ii. Where *development* proposals require a *Floodplain Permit* under LCMC 18.300.090(3), the review will be part of the approvals required under this *program*.
- iii. The degree of flood protection required by this section is considered reasonable for regulatory purposes, and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood *heights* may be increased by manmade or natural causes. This chapter does not imply that land outside flood hazard areas, or uses permitted within such areas, will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

b. Regulated Activities

- i. The following activities are allowed outright in the *floodway* in accordance with RCW 86.16:
 - (a) Park, recreational, agricultural and other similar open space uses allowed in the underlying zoning district, and not involving *structures*, *fill*, or storage of equipment;
 - (b) Repairs, reconstruction, or improvements of residential *structures* which do not increase the ground floor area;
 - (c) Repairs, reconstruction, or improvements to a *structure*, the cost of which does not exceed sixty percent (60%) of the market value of the *structure*, either:
 - (i) Before the repair or reconstruction or improvement is started, or
 - (ii) If the *structure* has been damaged, and is being *restored*, before the damage occurred; provided, that any project for improvement of a *structure* to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by a code enforcement official or designee and are the minimum necessary to assure safe living conditions or to *structures* identified as historic places shall not be included in the sixty percent (60%) determination; and
- ii. Construction or reconstruction of residential *structures* is prohibited in the *floodway*.
- iii. Any use other than those permitted outright in a frequently flooded area require a *Floodplain Permit* as specified in LCMC 18.300.090(3) as part of the approvals required under this *program*. All other uses permitted in the zoning district and the *shoreline designation* are allowed in the *floodway* and *floodway* fringe.

c. Standards

- i. Construction in frequently flooded areas is subject to the standards specified in LCMC 18.300.090(3).
- ii. Structural flood hazard reduction measures are allowed only when necessary to protect existing *development*.
- iii. When necessary, *in-stream structures* shall be located, designed, and maintained in such a manner that minimizes flood potential and the damage affected by flooding.
- iv. *Fills* are prohibited in *floodplains* except where the applicant clearly demonstrates that the geohydraulic characteristics will not be altered in a way that increases flood velocity or risk of damage to life or property, and flood storage capacity will not be reduced (see also Sections V.G.2.i and VI.D.2).
- v. *Fill* shall be avoided in critical areas or buffers where possible. Pile or *pier* supports or

other support methods shall be utilized instead of *fills* whenever feasible, particularly for permitted *development* in *floodways* or *wetlands*.

- vi. *Dikes* and levees shall not be placed in the *floodway* except for current deflectors necessary for protection of bridges and roads.
- vii. Removal of beaver dams to control or limit flooding shall be avoided where feasible and allowed only in coordination with WDFW and receipt of all applicable state *permits*.

5. Geologically Hazardous Areas

a. General Provisions

- i. Geologically hazardous areas include: erosion hazard areas, landslide hazard areas, seismic hazard areas, and steep slope hazard areas as defined in LCMC 18.300.090(4) and (5).
- ii. Approximate locations of geologically hazardous areas are identified on adopted maps that are on file with the City Planner. Where the maps and definitions of geologic hazard areas conflict, the definitions shall prevail.
- iii. Where *development* proposals require a geologically hazardous area review under LCMC 18.300.090(4)(d), the review will be part of the approvals required under this *program*.

b. Regulated Activities

- i. All construction, *development*, earth movement, clearing, or other site disturbance which requires a *permit*, approval or other authorization from the County in or within one hundred (100) feet of a geologic hazard area that is not specifically identified as *exempt* in Section II.C shall comply with the requirements of this section.
- ii. Class IV G *forest practices* (conversions).

c. Standards

- i. Required buffers and setbacks for *development* activities in geologic hazard areas are specified in the *International Building Code* (2009).
- ii. The *Shoreline Administrator*, in consultation with the Building Official, may approve buffers and setbacks which differ from those required by the *International Building Code* (2009) if the applicant submits a geologic hazard area study described in LCMC 18.300.090(4)(d), which technically demonstrates and illustrates that the alternative buffer provides protection which is greater than or equal to that provided by the buffer required in the *International Building Code* (2009).
- iii. The *Shoreline Administrator*, in consultation with the Building Official, may increase buffers or setbacks where necessary to meet requirements of the *International Building Code* (2009).

6. Wetlands

a. General Provisions

- i. A wetland *permit* is required for any *development* activity that is within *wetlands* and wetland buffers subject to this *program*, unless specifically authorized by a statement of *exemption*. Requirements for wetland *permit* applications are provided in LCMC 18.300.090(6).
- ii. This section shall not apply to *wetlands* created from non-wetland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, *stormwater* facilities, farm ponds, landscape amenities and unintentionally created *wetlands* created as a result of the construction of a public or private road, street, or highway after July 1, 1990; provided, that *wetlands* created as *mitigation* shall not be *exempt*.
- iii. A wetland determination is required in conjunction with the submittal of a *development permit* application. The *Shoreline Administrator* shall determine the probable existence of a wetland on the parcel involved in the *development permit* application. If *wetlands* or wetland buffers are found to exist on a parcel, wetland delineation is required.

- iv. The location of a wetland and its boundary shall be determined through the performance of a field investigation utilizing the methodology contained in the *Corps of Engineers Wetland Delineation Manual* (1987), applicable regional supplements and as specified in LCMC 18.300.090(F). If a wetland is located off-site and is inaccessible, the best available information shall be used to determine the wetland boundary and category. Methodology is specified in LCMC 18.300.090(6).
 - v. All buffers shall be measured horizontally outward from the delineated wetland boundary.
 - vi. Wetland buffer widths shall be determined by the *Shoreline Administrator* in accordance with the standards in LCMC 18.300.090(6).
 - vii. All wetland *permits* require approval of a preliminary and a final *enhancement/mitigation* plan in accordance with the provisions of LCMC 18.300.090(6)(l) and (m).
 - viii. Wetland *permit* application, processing, preliminary approval, and final approval procedures are set out in LCMC 18.300.090(6)(n) and (o) and will be part of the approvals required under this *program*.
- b. Regulated Activities. No *development* or activity in *wetlands* or wetland buffers subject to this *program* shall be allowed unless it is demonstrated that:
- i. The proposed *development* or activity will not result in a net loss of wetland functions to the point of net loss of *ecological function*; and
 - ii. The proposed *development* or activity complies with all state, local and federal laws, including those related to sediment control, pollution control, *floodplain* restrictions, *stormwater* management, *wetlands* protection, and on-site wastewater disposal.
- c. Standards
- i. *Stormwater* facilities are prohibited within *wetlands* and wetland buffers.
 - ii. Road and utility crossings into and through *wetlands* and wetland buffers are allowed provided all the following conditions are met:
 - (a) Buffer functions, as they pertain to protection of the adjacent wetland and its functions, are replaced;
 - (b) Impacts to the buffer and wetland are first avoided and minimized; and
 - (c) The activity does not result in a decrease in wetland acreage or classification.
 - iii. Regulated activities not involving *stormwater* management, road and utility crossings, or a buffer reduction via *enhancement* are allowed in the buffer if all the following conditions are met:
 - (a) The activity is temporary and will cease or be completed within three (3) months of the date the activity begins;
 - (b) The activity will not result in a permanent *structure* in the buffer;
 - (c) The activity will not result in a reduction of buffer acreage or *ecological function*; and
 - (d) The activity will not result in a reduction of wetland acreage or *ecological function*.
 - iv. Wetland *mitigation* for unavoidable impacts shall be required using the following prioritization:
 - (a) On-site. Locate *mitigation* according to the following priority:
 - (i) Within or adjacent to the same wetland as the impact;
 - (ii) Within or adjacent to a different wetland on the same site;
 - (b) Off-site. *Mitigation* shall be located within the same watershed, or use an established wetland *mitigation* bank; the service area determined by the *mitigation* bank review team and identified in the executed *mitigation* bank instrument;
 - (c) In-kind. Locate or create *wetlands* with similar landscape position and the same hydro-geomorphic (HGM) classification based on a reference to a naturally occurring wetland system; and
 - (d) Out-of-kind. *Mitigate* in a different landscape position and/or HGM classification

based on a reference to a naturally occurring wetland system.

- v. The various types of wetland *mitigation* allowed are listed below in the general order of preference.
 - (a) Re-establishment, which is the manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing *fill* material, plugging ditches, or breaking drain tiles.
 - (b) Rehabilitation, which is the manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a degraded wetland. Re-establishment results in a gain in wetland function, but does not result in a gain in wetland acres. Activities could involve breaching a *dike* to reconnect *wetlands* to a *floodplain* or return tidal influence to a wetland.
 - (c) Creation (Establishment). The manipulation of the physical, chemical, or biological characteristics of a site with the goal of developing a wetland on an upland or deepwater site where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydro period, create hydric soils, and support the growth of hydrophytic plant species.
 - (d) *Enhancement*. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve the specific functions(s) or to change the growth stage or composition of the vegetation present. *Enhancement* is undertaken for specified purposes such as *water quality* improvement, flood water retention, or wildlife habitat. *Enhancement* results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consisting of planting vegetation, controlling non-native or *invasive* species, modifying site elevations or the proportion of open water to influence hydro-periods, or some combination of these activities.
- vi. The *mitigation* ratios for each of the *mitigation* types described in Section VI.C.6.c.v above are specified in Appendix 8-C of *Wetlands in Washington State Vol. 2: Guidance for Protecting and Managing Wetlands* (2005), as amended.
- vii. The *Shoreline Administrator* has the authority to approve preservation of existing *wetlands* as wetland *mitigation* under the following conditions:
 - (a) The wetland area being preserved is a Category I or II wetland or is within a WDFW priority habitat or species area;
 - (b) The preservation area is at least one (1) acre in size;
 - (c) The preservation area is protected in perpetuity by a covenant or easement that gives the city clear regulatory and enforcement authority to protect existing wetland and wetland buffer functions with standards that exceed the protection standards of this chapter; and
 - (d) The preservation area is not an existing or proposed wetland *mitigation* site.
- viii. Wetland *mitigation* shall be required in accordance with the wetland *mitigation* standards in this section for the following indirect wetland impacts:
 - (a) Buffer loss resulting from wetland *fills* permitted under this section;
 - (b) Reduction of wetland buffers beyond the maximum reduction allowed under Appendix C (LCMC 18.300.090(6)(i)); provided, that such reductions are limited as follows:
 - (i) Road and utility crossings in the wetland buffer approved in accordance with Appendix C (LCMC 18.300.090(6)(h)(iii)); and
 - (ii) The total indirect wetland impact from buffer reductions is less than one-quarter (1/4) acre; and
 - (c) Unavoidable loss of wetland function due to *stormwater* discharges that do not meet

the wetland protections standards in Appendix C (LCMC 18.300.090(6)(j)).

- ix. Wetland *mitigation* shall be protected by the *water quality* function wetland buffers required in Appendix C (LCMC 18.300.090(6)(h)).
 - (a) Reductions to the required buffers may be applied in accordance with Appendix C (LCMC 18.300.090(6)(i)).
 - (b) All wetland buffers shall be included within the *mitigation* site and subject to the conservation covenant required under Appendix C (LCMC 18.300.090(6)(l) and (m)).
- x. Alternate wetland *mitigation* is provided in Appendix C (LCMC 18.300.120) and includes wetland *mitigation* banking.
- xi. Applicants may seek buffer reductions, or buffer averaging, but not both.
- xii. Monitoring of wetland *mitigation* is required for a minimum of ten years. Additional monitoring may be required for projects which propose a forested component.

Trenching for installation of the fiber optic conduit will be fully restored to its preconstruction condition and the disturbed area seeded with native grass seed (except where trenched through the existing gravel pedestrian path). This will result in no net loss of ecological functions. As native grass seed will be used, this will result in a net increase in habitat and ecological functions as existing vegetation consists of a mix of native and non-native grasses.

D. Flood Prevention and Flood Damage Minimization

3. *Development* in *floodplains* shall not significantly or cumulatively increase flood hazard or be inconsistent with an adopted comprehensive flood hazard management plan.
4. New *development* or new uses in the *shoreline jurisdiction*, including subdivision of land, should not be established when it would be reasonably foreseeable that the *development* or use would require structural flood hazard reduction measures within the *channel migration zone* or *floodway*. The actual location of the *channel migration zone* on site must be delineated by a *qualified professional*.
5. New structural flood hazard reduction measures in the *shoreline jurisdiction* will be allowed only when it can be demonstrated by scientific and engineering analysis that they are necessary to protect existing *development*, that non-structural measures are not feasible, and that impacts to *ecological function* and *priority species* and habitats can be successfully *mitigated* so as to assure no net loss of *shoreline ecological function*.
6. *In-stream structures* shall be located, designed, and maintained in such a manner that minimizes flood potential and the damage affected by flooding.
7. *Fills* are prohibited in *floodplains* unless the applicant clearly demonstrates that the geohydraulic characteristics will not be altered in a way that increases flood velocity or risk of damage to life or property; and flood storage capacity will not be reduced. See also Section V.G.2.
8. *Fill* shall be avoided in critical areas or buffers where possible. Pile or *pier* supports or other support methods shall be utilized instead of *fills* whenever feasible, particularly for permitted *development* in *floodways* or *wetlands*. See also Section V.G.2.
9. *Dikes* and levees shall not be placed in the *floodway* except for current deflectors necessary for protection of bridges and roads.
10. Removal of gravel for flood management purposes shall be consistent with the adopted flood hazard reduction plan, and the provisions of this *program*. This removal will only be allowed after a biological and geomorphological study determines that extraction has a long-term flood hazard reduction benefit and does not result in net loss of *ecological functions*.
11. Removal of beaver dams to control or limit flooding shall be avoided where feasible, and allowed only in coordination with WDFW and receipt of all applicable state *permits*.
12. Non-structural flood hazard reduction measures are preferred to structural measures. Flood hazard reduction measures *should* be accomplished in a manner that ensures no net loss of *ecological functions* and ecosystem-wide processes.

13. Flood protection measures that result in channelization and/or reduction in *shoreline function* should be avoided.

Installation of the sanitary sewer line and fiber optic conduit will not affect any existing or future flood prevention or flood hazard reduction measures.

E. Public Access

3. Provisions for adequate *public access* shall be incorporated into all *shoreline development* proposals that involve public funding unless the proponent demonstrates *public access* is not feasible due to one or more of the reasons stated in Section V.E.3 below.
4. Provisions for adequate *public access* shall be incorporated into all land divisions and other *shoreline development* proposals (except *residential development* of less than four (4) parcels).
5. *Public access* will not be required where the proponent demonstrates one or more of the following:
 - a. Unavoidable health or safety hazards to the public exist that cannot be practically prevented;
 - b. Necessary security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
 - c. There must be a logical nexus between the negative impact of the *development* and the need for dedication of property. Dedication of property as a condition of approval must also be roughly proportional to the impact of a proposed *development*. See also *Nollan v. California Coastal Commission*, 483 US 825 (1987) and *Dolan v. City of Tigard*, 512 US 374 (1994);
 - d. If, as a pre-condition of approval, a dedication of property is required to enhance *public access* steps must be taken in the approval process to make certain that the requirements have a logical connection with negative aspects of the *development*, and that the requirement is roughly proportional to the negative aspects being addressed or offset.
 - e. Significant environmental impacts that cannot be *mitigated* will result from the *public access*; or
 - f. Significant undue and unavoidable conflict between *public access* requirements for the proposed use and adjacent uses would occur. The applicant must first demonstrate to the City's satisfaction that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:
 - i. Regulating access by such means as maintaining a gate and/or limiting hours of use;
 - ii. Designing separation of uses and activities using fences, terracing, use of one-way glazing, hedges, landscaping or other suitable means; and
 - iii. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
 - g. *Public access* shall include the use of barrier free routes of travel and shall include facilities based on criteria within the Americans with Disabilities Act Accessibility Guidelines.
 - h. *Public access* strategies shall include provisions for protecting adjacent properties from trespass and other possible adverse impacts to neighboring properties.
 - i. Signs indicating the public's right of access to *shoreline* areas shall be installed and maintained in conspicuous locations.
 - j. When required, *public access* shall be fully developed and available for public use at the time of occupancy of the use or activity.
 - k. *Public access* shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, *pier*, *boat* launching ramp, dock or *pier* area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays.
 - l. *Public access* easements and *permit* conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of *permit* approval.

- m. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the *public access* provided.
- n. Maintenance of the *public access* facility is the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal agreement approved by the *Shoreline Administrator* and recorded with the County Auditor's Office.

Installation of the sanitary sewer line and fiber optic conduit will not affect any existing or future public access or recreation features.

F. Restoration

- 3. *Restoration of ecological functions* and processes shall be encouraged and allowed on all *shorelines* and shall be located, designed and implemented in accordance with applicable policies and regulations of this *program* and consistent with other City programs. See also Section VI.D.5.
- 4. Impacts to *shoreline functions* shall be fully *mitigated*. Such *mitigation* may include elements from the *Restoration Plan*.
- 5. Elements of the Clark Coalition *Shoreline Restoration Plan* may also be implemented in any *shoreline designation* to improve *shoreline function*.
- 6. *Restoration* efforts shall be developed by a *qualified professional*, shall be based on federal, state, and local guidance and shall consider the following:
 - a. Riparian soil conditions;
 - b. In-stream fish habitats; and
 - c. Healthy aquatic and terrestrial food webs.

While the project will require trenching within the shoreline and Riparian Habitat Conservation areas, the trenches required for underground installation of the conduit will be a temporary impact. They will be fully restored to their pre-construction condition and seeded with native grass seed (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat value of the area.

G. Site Planning and Development

- 3. General
 - a. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, *grading*, alteration of topography and natural features, and designed to accommodate wildlife movement.
 - b. Parking, storage, and non-water dependent *accessory structures* and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principle use.
 - c. Trails and uses near the *shoreline* shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.
 - d. Elevated walkways shall be utilized, as appropriate, to cross sensitive areas such as *wetlands*.
 - e. Fencing, walls, hedges, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement.
 - f. Exterior lighting shall be designed, shielded and operated to avoid illuminating nearby properties or public areas, prevent glare on adjacent properties, public areas or roadways, prevent land and water traffic hazards and to reduce night sky effects to avoid impacts to fish and wildlife.
- 4. Clearing, Grading, Fill and Excavation
 - a. Land disturbing activities such as clearing, *grading*, *fill* and excavation shall be conducted in such a way as to minimize impacts to soils and native vegetation, and shall at a minimum meet the requirements of the *International Building Code* (IBC) as adopted under LCMC

15.05.030.

- b. Clearing, *grading*, *fill* and excavation shall be scheduled to minimize adverse impacts, including but not limited to, damage to *water quality* and aquatic life.
- c. Clearing, *grading fill* and excavation shall not result in substantial changes to *surface water drainage patterns* off the project site and onto adjacent properties.
- d. *Developments* shall include provisions to control erosion during construction and to ensure preservation of native vegetation for bank stability.
- e. Clearing, *filling*, or excavation shall not be conducted where *shoreline stabilization* will be necessary to protect materials placed or removed. Disturbed areas shall be stabilized immediately and revegetated with native vegetation.
- f. *Fills* shall be permitted only in conjunction with a permitted use, and shall be of the minimum size necessary to support that use. Speculative *fills* are prohibited.
- g. Any placement of materials from off-site (other than permitted deposition of clean *dredge spoils*) shall be considered *fill* and shall comply with the *fill* provisions in the *International Building Code* (IBC) as adopted under LCMC 15.05.030. *Fill* shall consist of only clean materials.
- h. Soil, gravel or other substrate transported to the site for *fill* shall be screened and documented that it is uncontaminated. Use of any contaminated materials as *fill* is prohibited.
- i. *Fills* shall be located, designed, and constructed to protect *shoreline ecological functions* and ecosystem-wide processes, including channel migration.
- j. *Fills* waterward of the *ordinary high-water mark* shall be allowed only when necessary to support:
 - i. *water-dependent use*, "or *public access*,
 - ii. cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan,
 - iii. disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of WDNR,
 - iv. expansion or alteration of transportation facilities of statewide significance currently located on the *shoreline* and then only upon a demonstration that alternatives to *fill* are not feasible,
 - v. *mitigation*, environmental *restoration*, beach nourishment or *enhancement* projects.
- k. *Fills* waterward of the ordinary high-water mark for any use except ecological *restoration* should require a *conditional use permit*.
- l. Excavation below the OHWM is considered *dredging* and subject to provisions under that section in Section VI.D.
- m. For the purposes of this *program*, preparatory work associated with the conversion of land to non-forestry uses and/or *developments* shall not be considered a *forest practice* and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this *program*, and shall be limited to the minimum necessary to accommodate an approved use.

5. Building Design

- a. *Structures* shall be designed to conform to natural contours.
- b. Non-single family *structures* shall incorporate architectural features that provide compatibility with adjacent properties, enhance views of the landscape from the water, and reduce scale to the extent possible.
- c. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.
- d. Interior and exterior *structure* lighting shall be designed, shielded and operated to avoid illuminating nearby properties or public areas, prevent glare on adjacent properties, public areas or roadways, prevent land and water traffic hazards, and reduce night sky effects to

avoid impacts to fish and wildlife.

Erosion control measures, as required by local, state and federal regulations, will be installed prior to, during and following ground disturbing activities. Once these measures are employed, water quality and quantity will be protected from construction activities. Trench restoration and the use of native seed mix will protect the disturbed area from future erosion.

H. Vegetation Conservation

1. Existing native vegetation within the *shoreline jurisdiction* shall be retained, and removal of such vegetation avoided. Where removal of native vegetation cannot be avoided, it shall be minimized to protect *ecological functions*.
2. Lost functions may be replaced by enhancing other functions if no net loss in overall functions is demonstrated and habitat connectivity is maintained. *Mitigation* shall be provided consistent with an approved *mitigation plan*.
3. Clearing of *invasive* or non-native *shoreline* vegetation or plants listed on the State Noxious Weed List using hand-held equipment is permitted in *shoreline* locations if native vegetation is promptly re-established in the disturbed area. In circumstances where the use of hand-held equipment is impractical or unreliable, the *Shoreline Administrator* may approve other methods of removal, such as the use of certain herbicides, providing such approval is obtained prior to the commencement of removal.
4. If non-native vegetation is to be removed, then it shall be replaced with native vegetation within the *shoreline jurisdiction*.
5. Thinning of trees is limited as follows:
 - a. Removal of no more than twenty-five percent (25%) of the canopy of any tree or group of trees (calculated based on the area of the crown, or upper portion(s) comprised of branches and leaves or as determined by a certified arborist) in any given five-year period;
 - b. Pruning of trees that does not affect *shoreline ecological functions*. No more than twenty percent (20%) of the limbs on any single tree may be removed and no more than twenty percent (20%) of the canopy cover in any single stand of trees may be removed in a given five- (5-) year period. Pruning shall comply with the National Arborist Association pruning standards, unless the tree is a hazard tree as defined in LCMC 18.350.070. New *structures* or *development* within a *shoreline* area *should* be sited to avoid the creation of future hazard trees.
6. *Mitigation* requirements for removal of vegetation shall be determined after review of a habitat management plan prepared by a *qualified professional* that assesses the cumulative impacts associated with removing riparian vegetation.
7. Topping trees is prohibited.
8. Natural features such as snags, stumps, logs or uprooted trees, which do not intrude on the *navigational channel* or threaten public safety, and existing *structures* and facilities, shall be left undisturbed.
9. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing *shoreline function* or are a threat to public safety.
10. Aquatic weed control shall only occur to protect native plant communities and associated habitats or where an existing *water-dependent use* is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards and shall be done by a *qualified professional*.
11. Unless otherwise stated, the *vegetation conservation* regulations of this *program* do not apply to commercial *forest practices* as defined by this *program* when such activities are covered under the Washington State *Forest Practices Act* (RCW 76.09), except where:
 - a. such activities are associated with a conversion to other uses or other *forest practice*

- activities over which local governments have authority; or to
- b. flood control levees required to be kept free of vegetation that damages their structural integrity.
12. The conversion of forest lands to non-forestry uses shall not be considered a *forest practice*. Such conversions will be reviewed under the regulations for the new use, this *program*, and shall be limited to the minimum necessary to accommodate an approved use. For the purposes of the *program*, preparatory work associated with the conversion of land to non-forestry uses and/or *developments* shall not be considered a *forest practice* and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this *program*, and shall be limited to the minimum necessary to accommodate an approved use.

While the project will require trenching within the shoreline and Riparian Habitat Conservation areas, the trenches required for underground installation of the conduit will be a temporary impact. They will be fully restored to their pre-construction condition and seeded with native grass seed (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat value of the area.

I. Views and Aesthetics

1. Visual access shall be maintained, enhanced, and preserved on *shoreline* street-ends, public utility rights-of-way above and below the *ordinary high water mark* and *view corridors* whenever appropriate.
2. *Development* on or over the water shall be constructed to avoid interference with views from surrounding properties to the adjoining *shoreline* and adjoining waters to the extent practical.
3. Any new or expanded building or *structure* over thirty-five (35) feet in *height* above *average grade level* that obstructs the *shoreline* view of a substantial number of residents shall not be allowed. The *Shoreline Administrator* may require a view analysis including *view corridor* view profiles, and vertical profiles from various locations to determine if *shoreline* views will be obstructed.

Installation of the sanitary sewer line and fiber optic conduit will forward this goal. By placing the conduit underground and on the side of the bridge, and by attaching the sanitary sewer line to the underside of the bridge protects the physical and aesthetic qualities of the shoreline area and does not obstruct any views.

J. Water Quality and Quantity

1. The location, design, construction, and management of all *shoreline* uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site.
2. All *shoreline development* shall comply with the applicable requirements of LCMC 18.320 (*Stormwater* and *Erosion Control*).
3. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all *shoreline development*.
4. *Potentially harmful materials*, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or to be discharged onto the land except in accordance with LCMC 18.320. *Potentially harmful materials* shall be maintained in a safe and leak-proof condition.
5. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a *waterbody*, except by a *qualified professional* in accordance with state and federal laws. Further, pesticides subject to the final ruling in *Washington Toxics Coalition, et al., v. EPA* shall not be applied within sixty (60) feet for ground applications or within three hundred (300) feet for aerial applications of the subject water bodies and shall be applied by a *qualified professional* in accordance with state and federal law.
6. Any *structure* or feature in the *Aquatic shoreline designation* shall be constructed and/or maintained with materials that will not adversely affect *water quality* or aquatic plants or animals.

Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants.

7. Conveyance of any substance not composed entirely of surface and *stormwater* directly to water resources shall be in accordance with LCMC 18.320.
8. Septic systems should be located as far landward of the *shoreline* and *floodway* as possible. Where permitted, new on-site septic systems shall be located, designed, operated, and maintained to meet all applicable *water quality*, utility, and health standards.

Erosion control measures, as required by local, state and federal regulations, will be installed prior to, during and following ground disturbing activities. Once these measures are employed, water quality and quantity will be protected from construction activities. Trench restoration and the use of native seed mix will protect the disturbed area from future erosion.

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V. SPECIFIC SHORELINE USE REGULATIONS

1. General Provisions

The purpose of this section is to establish the general provisions that apply to all shoreline use regulations.

The following provisions shall apply to all shoreline use regulations unless otherwise specified.

2. Shoreline Use Regulations in a Boundary Jurisdiction

Shoreline use regulations in a boundary jurisdiction shall be subject to the following provisions:

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3. General Use Regulations

General

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V. SPECIFIC SHORELINE USE REGULATIONS

A. General Provisions

1. This chapter contains the regulations that apply to specific uses, *developments*, and activities in the *shoreline jurisdiction*.
2. These regulations are intended to work in concert with all sections of this *program* and in particular the Goals and Policies (Chapter III) and General Use and *Development* Regulations (Chapter V).

B. Shoreline Use, Modification, and Standards Table

1. Each *shoreline designation* shall be managed in accordance with its designated purpose as described in this *program*. Table 6-1 identifies those uses that are prohibited, may be permitted or permitted with a *conditional use* approval in each *shoreline designation*. In the event conflicts exist between the Table 6-1 and the text in this chapter, the text shall apply.
2. Table 6-1 also summarizes general setbacks and building *heights* for uses within each *shoreline designation*. No *permit* for any new or expanded building or *structure* of more than thirty-five feet above *average grade level* on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master *program* does not prohibit the same and then only when overriding considerations of the *public interest* will be served. These setbacks apply in conjunction with the requirements of the critical areas requirements established in Chapter V. In the event a conflict exists between Table 6-1 and the requirements of Chapter V, the most protective of *shoreline functions* shall apply.
3. In Table 6-1, setbacks are measured landward from the *ordinary high water mark* (OHWM). For transportation facilities and utilities, the setback from OHWM pertains to the right of way and not the *structure* or pipeline. In the Aquatic *shoreline designation*, the setback is waterward of the OHWM. Building *heights* are calculated according to LCMC 18.40.010, and WAC 173-27-030(9) as applicable.

C. Use Specific *Development* Regulations

1. Agriculture
 - a. Agricultural practices shall prevent erosion of soils and bank materials within *shoreline* areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and *wetlands*.
 - b. Stream banks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:
 - i. Suitable bridges, culverts or ramps for stock crossing;
 - ii. Ample supplies of clean water in tanks on dry land for stock watering; and
 - iii. Fencing or other grazing controls to prevent damage to riparian vegetation, bank compaction or bank erosion.
 - c. New confinement lots, feeding *operations*, lot wastes, stockpiles of manure solids, manure lagoons, and storage of noxious chemicals are prohibited.
 - d. The disposal of farm wastes, chemicals, fertilizers and associated containers and equipment within *shoreline jurisdiction* is prohibited. However, composted organic wastes may be used for fertilization or soil improvement.

- e. New uses proposed as part of a conversion of *agricultural lands* shall comply with the provisions of LCMC Title 18 and this *program*.
- f. *Development* on *agricultural land* that does not meet the definition of *agricultural activities* and the conversion of *agricultural land* to nonagricultural uses, shall be consistent with the environmental designation.

2. Boating Uses

- a. All boating uses, *development* and facilities shall protect the rights of navigation.
- b. Boating facilities shall be sited and designed to ensure no net loss of *shoreline ecological functions*, and shall meet WDNR requirements and other state guidance if located in or over state-owned aquatic lands.
- c. Boating facilities shall locate on stable *shorelines* in areas where:
 - i. There is adequate water mixing and flushing;
 - ii. Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;
 - iii. Water depths are adequate to minimize spoil disposal, *filling*, beach degradation and other channel maintenance activities; and
 - iv. Water depths are adequate to prevent the *structure* from grounding out at the lowest low water.
- d. Boating facilities shall not be located:
 - i. Along braided or meandering river channels where the channel is subject to change in alignment;
 - ii. On *point* bars or other accretion beaches; or
 - iii. Where new or *maintenance dredging* will be required;
 - iv. In areas with important bank margin habitat for all life stages of aquatic species; or
 - v. Where wave action caused by boating use would increase bank erosion rates.
- e. Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public *shoreline* access is not unnecessarily blocked, obstructed nor made dangerous.
- f. Boating uses and facilities shall be located far enough from public swimming beaches, fishing, and *aquaculture* harvest areas, and waterways used for commercial navigation to alleviate any adverse impacts, safety concerns and potential use conflicts.
- g. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and bottom productivity). In-water work shall not occur in areas used for *commercial fishing* during a fishing season unless specifically addressed and *mitigated* for in the *permit*.
- h. *Accessory uses* at boating facilities shall be:
 - i. Limited to *water-oriented uses*, including uses that provide physical or visual *shoreline* access for substantial numbers of the general public; and
 - ii. Located as far landward as possible while still serving their intended purposes.
 - iii. Parking and storage areas shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas.
- i. All utilities shall be placed at or below the dock surface, or below ground, as appropriate.
- j. All signage shall adhere to the standards for signs in this chapter and the City sign code,
- k. Where appropriate, docks shall install public safety signs, to include the locations of fueling facilities, pump-out facilities, and locations for proper waste disposal.

- l. Boating facilities shall be constructed as follows:
 - i. They will be built using materials that will not adversely affect water quality or aquatic plants and animals.
 - ii. Materials used for submerged portions, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff.
 - iii. Wood treated with creosote, copper chromium, arsenic, pentachlorophenol or other similarly toxic materials is prohibited.
 - iv. Where in waters providing a public drinking water supply the facilities shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete, or steel.
 - m. Vessels shall be restricted from extended *mooring* on waters of the state except as allowed by state regulations and provided that lease or permission is obtained from the state and impacts to navigation and *public access* are *mitigated*.
3. Boat Launch Facilities
- a. Launch facilities, haul-out facilities and minor accessory buildings, shall be designed and constructed in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, *water quality*, navigation and neighboring uses.
 - b. *Boat* launch facilities shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available.
 - c. A private *boat* launch shall be allowed on a parcel or lot only when public *boat* launches are unavailable within ½-mile upstream or downstream of any property line.
 - d. No more than one (1) private *boat* launch facility or *structure* shall be permitted on a single residential parcel or lot.
 - e. *Boat* launch and haul-out facilities, such as ramps, marine travel lifts and marine railways, and minor accessory buildings shall be designed and constructed in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, *water quality*, navigation and neighboring uses.
 - f. *Boat* launch facilities shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available.
 - g. All *boat* launch facilities shall provide restrooms/hand-sanitizing facilities for boaters' use that are designed, constructed and maintained to be clean, well-lighted, safe and convenient for public use.
 - h. Installation of *boat* waste disposal facilities such as pump-outs and portable dump stations shall be provided at public *boat* launches when feasible. The locations of such facilities shall be considered on an individual basis in consultation with WDOE, WDNR, WDFW as well as the Washington Departments of Health, and Parks, as necessary.
4. Moorage & Recreational Floats
- a. *Mooring Buoys*
 - i. *Mooring buoys* for residential use on a river shall be securely anchored to allow for changes in river level, and shall be designed to withstand the one hundred- (100-) year flood or be seasonably removable.
 - ii. *Mooring buoys* shall be placed as specified by WDFW, WDNR, and the U.S. Coast Guard to balance the goals of protecting nearshore habitat and minimizing obstruction to navigation. Anchors and other design features shall meet WDFW standards.
 - iii. *Mooring buoys* shall be discernible from a distance of at least one hundred (100) yards.

One (1) *mooring buoy* for each waterfront lot shall be permitted unless greater need is demonstrated by the applicant and documented by the City. In cases such as those of a community park with recreational users or a *residential development* with lot owners both on and away from the *shoreline* needing *moorage*, community *moorage* facilities shall be used instead of *mooring buoys*.

b. Docks & Piers

- i. Existing, legally-established, private recreational docks, *piers*, and *floats* for individual lots are considered conforming uses and *structures*. If any such *float*, *dock* or *pier* is abandoned, becomes hazardous, or is removed for any reason, it may be replaced by a new *float*, *dock* or *pier* built to current standards. These standards may, among other things, require that new *docks* or *piers* be floating rather than fixed. All required *permits* and approvals shall be obtained prior to commencing construction.
- ii. All *moorage* facilities shall be constructed and maintained in a safe and sound condition. Those that are abandoned or unsafe shall be removed or repaired promptly by the owner or lessee.
- iii. Fixed *moorage* facilities shall not be permitted for residential use on rivers. Floating docks shall be required in rivers and streams unless it can be demonstrated that fixed docks will result in substantially less impact on geo-hydraulic processes and flood hazards can be minimized or *mitigated*. A *pier*, landward of a floating dock, which connects to the shore at one end and to the floating dock by a gangway at the other is allowed. Docks for residential use on a river shall be securely anchored to pilings to allow for changes in river level, and shall be designed to withstand the one-hundred year (100-year) flood or be seasonably removable.
- iv. Hotels, motels and new residential land divisions having *shoreline* frontage and involving more than four (4) residential dwellings that desire to have docks shall provide for a community dock if feasible. Proposed docks and *piers* shall include no more than one (1) *mooring* space per dwelling unit up to a maximum of nine (9), and there can be only one such *moorage* facility. All conditions of approval related to required access easements and dedications shall be identified on the face of the plat. In addition, the community dock easement shall be recorded with the County Auditor.
- v. Applicants for community or *joint-use* residential docks and *piers* shall demonstrate and document that adequate maintenance of the structure, activities, and associated landward area will be provided by identified responsible parties. The applicant shall file a legally enforceable joint use agreement or other legal instrument prior to the issuance of any building *permits*. The documents shall at minimum address the following:
 - (a) Apportionment of construction and maintenance expenses;
 - (b) Easements and liability agreements; and
 - (c) Use restrictions.
- vi. *Joint-Use Mooring Facilities*
 - (a) Joint use moorage facilities shall be limited to no more than nine (9) berths. *Moorage* facilities of more than nine (9) berths are prohibited.
 - (b) Only one joint use mooring facility (*boat launch*, *float*, *dock*, *pier*, *dock/pier* combination, or *mooring buoy*) is allowed on a parcel or lot when a public facility is unavailable within ½-mile upstream or downstream of any property line and all applicable requirements are met.
 - (c) Joint use boating facilities may be permitted if the applicant demonstrates the need to support the intended water-dependent use and no marina or public boat launch is located within ½ mile upstream or downstream of any property line and all applicable requirements of this program are met. WAC 173-26-231(3)(b) and (c).
- vii. ovisions for waste discharge shall be made in all proposals for public *moorage* facilities, and shall include oil containment barriers when required by the U.S. Coast

Guard under provisions of the Clean Water Act.

- viii. Bulk storage (non-portable storage in fixed tanks) for gasoline, oil and other petroleum products for any use or purpose is prohibited on docks and *piers*
- ix. If a *bulkhead-like* base is proposed for a *pier* or dock where there is net positive *littoral drift*, the base shall be built landward of the OHWM or protective *berms*. When plastics or other non-biodegradable materials are used in *float*, *pier*, or dock construction, precautions shall be taken to ensure their containment.
- x. The maximum dimensions of a residential dock or *pier*, shall be no greater than necessary, and shall meet the *development* standards listed below. These dimensions may be adjusted by the *Shoreline Administrator* on a case by-case basis to protect sensitive *shoreline* resources:
 - (a) *Piers/anchors* and/or ramps shall extend waterward, perpendicular from the *ordinary high water mark* (OHWM), to a point where the water depth is sufficient to prevent damage to shallow-water habitat.
 - (b) The *moorage* facility may extend into the waterbody the minimum distance necessary to allow for *moorage* of the *boats* anticipated but in no instance more than 300' beyond the OHWM.
 - (c) The bottom of either the *pier* or landward edge of the ramp shall be elevated at least 2 feet above the plane of OHWM.
 - (d) *Piers* and ramps shall be no more than eight (8) feet in width. Floating docks and associated finger *piers* shall be no more than eight (8) feet wide and twenty (20) feet long. *Piers*, ramps and docks shall be constructed to allow a minimum of 60% light penetration over 60% of each *structure*.
 - (e) Skirting shall not be placed on *piers*, ramps, floating docks, or *floats*. Protective bumper material will be allowed along the outside edge of the *float* or floating dock as long as the material does not extend below the bottom edge of the *float* frame or impede light penetration.
 - (f) *Shoreline* concrete anchors must be placed at least ten (10) feet landward from the OHWM, and shall be sized no larger than four (4-) feet wide by four- (4-) feet long, unless otherwise approved by National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries), the US Army Corps of Engineers (Corps), and Washington Department of Fish and Wildlife (WDFW).
 - (g) *Overwater structures* shall be located in water sufficiently deep to prevent the *structure* from grounding out at the lowest low water.
 - (h) All docks and *floats* shall include stops that serve to keep the *floats* off the *lake* bottom or river bed at low water levels. If a *bulkhead-like* base is proposed for a *pier* or dock where there is net positive *littoral drift*, the base shall be built landward of the OHWM or protective *berms*. When plastics or other non-biodegradable materials are used in *float*, *pier*, or dock construction, precautions shall be taken to ensure their containment.
 - (i) Pilings must be structurally sound and cured prior to placement in the water. Pilings employed for docks, *piers*, or any other *structure* shall have a minimum vertical clearance of one foot above extreme high water. Pile spacing shall be the maximum feasible to minimize shading and avoid a "wall" effect that would block or baffle wave patterns, currents, *littoral drift*, or movement of aquatic life forms, or result in *structure* damage from driftwood impact or entrapment.
 - (j) Docks used for motor *boats* should be located where the water will be deeper than seven (7) feet at the lowest low water to avoid prop scour.
 - (k) The portions of *piers*, elevated docks, and gangways that are over the nearshore/littoral area shall have unobstructed grating over the entire surface area. Floating docks and *piers* shall have unobstructed grating over at least sixty percent

(60%) of the surface area.

- xi. Commercial *covered moorage* facilities may be permitted only where *boat* construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water, including a demonstration that adequate landside sites are not feasible. When permitted, commercial *covered moorage* facilities must be constructed to allow 60% light penetration over 60% of the *structure*, whether enclosed or not.
- xii. *Covered moorage* facilities associated with any *residential development* shall be prohibited.
- xiii. Docks and *piers* shall be set back a minimum of ten (10) feet from side property lines, except that *joint-use* facilities may be located closer to or upon a side property line when agreed to by contract or covenant with the owners of the affected properties. A copy of such agreement shall be recorded with the County Auditor and filed with the *shoreline permit* application.
- xiv. Recreational *floats* are subject to the following standards:
 - (a) They shall be located as close to the shore as possible, and no farther waterward than any existing *floats* and established swimming areas.
 - (b) They shall be constructed so that the deck surface is a minimum of one (1) foot above the water surface and with reflectors for night-time visibility incorporated into their design.
 - (c) *Floats* serving the public, a subdivision, a multi-family *development*, a hotel, motel, or multiple property owners shall not exceed one hundred sixty (160) square feet and shall be constructed to allow a minimum of 60% light penetration over 60% of the *structure*.

5. Commercial Uses

- a. Water-oriented commercial uses are preferred over *non-water-oriented* commercial uses.
- b. New commercial uses and *development* shall demonstrate that there will not be a net loss of *ecological function* or significant adverse impacts to other *shoreline* resources or other *shoreline* uses.
- c. *Non-water-oriented commercial uses* are allowed as a *conditional use* only as part of a mixed-use *development* that includes *water-related* and *water-enjoyment uses* and provides a significant public benefit such as *public access* and/or *ecological restoration*.
- d. Loading, service areas, and other *accessory uses* shall be located landward of a commercial *structure* or underground whenever possible, but shall in no case be waterward of the *structure*.
- e. Where commercial uses are allowed as a *conditional use*, the following must be demonstrated:
 - i. A *water dependent use* is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, or physical features due to the site's separation from the water;
 - ii. The proposed use does not displace a current *water-oriented use* and will not interfere with adjacent *water-oriented uses*; and
 - iii. The proposed use will be of substantial public benefit such as by increasing the public use, enjoyment, *ecological function*, and/or access to the *shoreline*.

6. Institutional Uses

- a. Water-oriented *institutional uses* and developments are preferred.
- b. Non-water-oriented *institutional uses* may be permitted provided that a significant public benefit such as public access and/or ecological restoration are provided.

- c. Loading, service areas, and other accessory uses shall be located landward of a primary structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.
- d. Where *institutional uses* are allowed as a *conditional use*, the following must be demonstrated:
 - i. A *water dependent use* is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features, or due to the site's separation from the water;
 - ii. The proposed use does not displace a current *water-oriented use* and will not interfere with adjacent *water-oriented uses*; and
 - iii. The proposed use will be of substantial public benefit by increasing the public use, enjoyment, or access to the *shoreline*.

7. Parking as a Primary Use

- a. Parking as a primary use is prohibited in all *shoreline* areas.

8. Recreational Development

- a. *Recreational developments* should not result in net loss of environmental functions.
- b. *Recreational developments* shall provide facilities for non-motorized access to the *shoreline* such as pedestrian and bicycle paths.
- c. Trails within the *shoreline jurisdiction* shall comply with the dimensional standards for a Type 6 Water Trail found in the *La Center Urban Area Capital Facilities Plan (2008)*, Appendix C, Figure 14. If the *Shoreline Administrator* determines this would cause undue hardship, or it is impractical or environmentally unsound, the easement width may be reduced by the minimum extent necessary to meet *public access* standards.
- d. Recreation areas or facilities on the *shoreline* shall provide physical or visual *public access*.
- e. All permanent, substantial recreational *structures* and facilities shall be located outside officially mapped *floodways*. The *Shoreline Administrator* may grant administrative exceptions for non-intensive minor *accessory uses* such as picnic tables, playground equipment and similar items.
- f. Recreational sites with active uses shall be provided with restrooms and hand washing facilities in accordance with public health standards and without adversely altering the natural features attractive for recreational uses.
- g. Recreational facilities shall protect the value and enjoyment of adjacent or nearby private properties and natural areas from trespass, overflow and other possible adverse impacts using buffer strips, screening, fences, signs and similar methods.
- h. Golf course *structures* (clubhouses and maintenance buildings) shall be located no closer than one hundred (100) feet from the OHWM of any *shorelines of the state*.
- i. Tees, greens, fairways, golf cart routes, and other site *development* features shall be located no closer than one hundred (100) feet from the OHWM of any *shorelines of the state*. If the *Shoreline Administrator* determines this would cause undue hardship, is impractical or environmentally unsound, the distance may be reduced by the minimum extent necessary to meet *public access* standards.
- j. The setback for *water-related* and *water-enjoyment recreational development* in the Urban Conservancy, and Medium Intensity *shoreline designations* is fifty (50) feet, with the exception that trails shall be subject to Section VI.C.9.b above. The intention of this is to respond to natural topographical features, provide for visual and physical *public access*, and to create interesting experiences for trail users.

9. Residential Development

- a. *Residential developments* shall include provisions to ensure preservation of native

vegetation, control erosion during construction and limit runoff from impervious surfaces.

- b. New residential construction shall be located so as not to require *shoreline stabilization* measures.
- c. New *residential development* shall be prohibited in, over, or floating on the water.
- d. New *residential development* shall be located and designed to a density that minimizes view obstructions to and from the *shoreline*. Where appropriate, clustering of residential units shall be allowed to minimize physical and visual impacts on *shorelines*.
- e. In those areas where offsite sewage systems are not feasible, density shall be limited to that which can demonstrably accommodate protection of surface and groundwater quality.
- f. *Residential development* and associated sewage disposal systems, shall be prohibited in *floodways* and *channel migration zones*.
- g. *Appurtenances, accessory uses*, and facilities serving a residential *structure* shall be located outside setbacks and critical areas and buffers unless otherwise allowed under this *program* to promote community access and recreational opportunities.
- h. Residential lots created through land division in the *shoreline* shall only be permitted when the following standards are met:
 - i. When lots are sized and configured to ensure impacts to environmental functions are avoided; and
 - ii. Structural flood hazard reduction measures are not required and will not be necessary during the life of the *development* or use, and
 - iii. *Shoreline stabilization* measures are not required, and
 - iv. Where a new *moorage* facility is proposed within a residential waterfront *development* of more than four (4) units, only one *joint-use facility* shall be allowed. This condition of approval with required access easements and dedications shall be identified on the face of the plat. In addition, the *joint-use* dock easement shall be recorded with the County Auditor.
- i. Multifamily and multi-lot residential and *recreational developments* should provide *public access* and joint use for community recreational facilities.
- j. Legally established *residential development* located landward of the OHWM, including *normal appurtenances*, existing on the effective date of this *program* that do not meet the standards of this *program* are considered to be conforming and may be maintained, repaired, replaced, or expanded provided that any future *development*:
 - i. Does not exceed *height* limitations;
 - ii. Does not encroach further waterward than the existing primary *structure*;
 - iii. Does not encroach further into critical areas or buffers; and
 - iv. Will result in no net loss of *shoreline ecological functions*.

10. Signs

- a. Signage is regulated under LCMC 18.275 (Sign Regulations).
- b. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access corridors to the *shoreline*.
- c. Overwater signs or signs on *floats* or pilings shall be prohibited, except when related to navigation or a *water-dependent use*.
- d. Illuminated signs shall be limited to informational, directional, navigational or safety purposes and shall be shielded to eliminate glare when viewed from surrounding properties or watercourses.

11. Transportation Uses

- a. All transportation facilities in *shoreline* areas shall be constructed and operated on a basis that causes the least possible adverse impact to the environment, and shall respect the natural character of the *shoreline*, making every effort to preserve wildlife, aquatic life and their habitats.
 - b. New or expanded surface transportation facilities not related to and necessary for the support of *shoreline* activities shall be located outside the *shoreline jurisdiction* wherever possible. If this is not possible, they should be set back from the *ordinary high water mark* far enough to make *shoreline stabilization*, such as *riprap*, *bulkheads* or *jetties*, unnecessary.
 - c. All roads shall be adequately set back from water bodies and shall provide *buffer areas* of compatible, self-sustaining native vegetation. *Shoreline* scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open views of the water.
 - d. Transportation facilities that are allowed to cross over water bodies and associated *wetlands* shall utilize elevated, open pile or *pier structures* whenever feasible. All bridges shall be built high enough to allow the passage of debris and anticipated high water flows.
 - e. Transportation and utility facilities shall be required to make joint use of rights-of-way and to consolidate crossing of water bodies where feasible.
12. **Utilities Uses.** These provisions apply to services and facilities that produce, convey, store, or process power, gas, wastewater, communications, and similar services and functions. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence or other approved use are accessory utilities and shall be considered a part of the primary use.
- a. Utility facilities shall be located outside *shoreline jurisdiction* whenever feasible. Where distribution and transmission lines (except electrical transmission lines) must be located in the *shoreline jurisdiction* they shall be located underground. Where overhead electrical transmission lines must parallel the *shoreline*, they shall be outside of the two hundred (200) foot *shoreline* environment unless topography or safety factors would make it unfeasible.
 - b. Utilities shall be designed, located and installed in such a way as to minimize impacts to scenic views, and minimize conflicts with present and planned land and *shoreline* uses.
 - c. Transmission, distribution, and conveyance facilities shall be located in existing rights-of-way and corridors, or shall cross *shoreline jurisdictional* areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage.
 - d. Utility production and processing facilities, such as power plants and wastewater treatment facilities, or parts of those facilities that are *non-water-oriented* shall not be allowed in the *shoreline jurisdiction* unless it can be demonstrated conclusively that no other feasible option is available.

The proposed development activity includes the following:

- **Installation of an 8-inch sanitary sewer force main to the underside of the La Center Bridge and its connection at either end to a previously installed 8-inch sanitary sewer force main.**
- **Underground installation of a 2-inch PVC conduit from an existing junction box approximately 375' south of the south side of the La Center Bridge, its aboveground connection/mounting to the east side of the bridge, and underground installation on the north side of the bridge to an existing junction box. The conduit will be for future fiber optic use.**

The project will require a Shoreline Conditional Use Permit (CUP). There is a conflict in the Shoreline Master Program related to an above ground utility crossing such as what is being proposed here. Section IV.C.12.Utility Uses states,

- c. **Subsection 'a' above states, in part, "Utility facilities shall be located outside shoreline jurisdiction whenever feasible. Where distribution and transmission lines (except electrical transmission lines) must be located in the shoreline jurisdiction they shall be located underground."**

d. Subsection 'c' above states, in part, "Transmission, distribution, and conveyance facilities shall be located in existing rights-of-way and corridors, or shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage."

As the sewer line and conduit for future fiber optic use is considered a "Utility Use," the "shortest, most direct route feasible" must be employed, which would mean connection to the bridge for both the sewer line and fiber optic conduit would be required. Additionally, forcing both utilities to be installed underground would have the potential to cause unnecessary significant environmental damage. It should also be noted that installation of both the conduit and sanitary sewer line will take place wholly within the right-of-way of La Center Road.

The City of La Center's Shoreline Authority has contact ECY regarding this matter. Their response is as follows:

"Because the SMP requires transmission lines to be underground AND in ROW's AND cross shoreline jurisdiction in the shortest path possible AND do the least amount of environmental damage, it stands to reason that hanging utilities from bridges to cross shoreline jurisdiction meets the intent of these criteria."

13. Stormwater control facilities are limited to detention / retention / treatment ponds, media filtration facilities, and lagoons or infiltration basins.
 - a. Within the *shoreline jurisdiction* they shall only be permitted under the following circumstances:
 - i. The *stormwater* facilities are designed to mimic and resemble natural *wetlands* and meet applicable City or State *stormwater* management standards;
 - ii. Discharge water meets state *water quality* standards: and
 - iii. Low impact *development* approaches have been considered and implemented to the maximum extent feasible.
 - b. Outfalls shall be designed and constructed to avoid impacts to existing native aquatic vegetation attached to or rooted in the substrate. In river and stream *shorelines*, *stormwaters* outfall *structures* may require permanent bank hardening to prevent failure of the outfall *structure* or erosion of the *shoreline*. Diffusers or discharge points must be located offshore at a distance beyond the nearshore area to avoid impacts to those habitats.
 - c. Water reclamation discharge facilities such as injection wells or activities such as land application are prohibited in the *shoreline jurisdiction* unless the discharge meets WDOE Class A reclaimed water standards. Proponents for discharge of Class A reclaimed water in the *shoreline jurisdiction* must demonstrate habitat benefits of such discharge.
 - d. Construction of underwater utilities or those within the *wetland* perimeter shall be scheduled to avoid major fish migratory runs or use construction methods that do not cause disturbance to the habitat or migration.
 - e. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially detrimental to *water quality* shall provide automatic shut off valves.
 - f. Upon completion of utility installation/maintenance projects on *shorelines*, banks shall, at a minimum, be *restored* to pre-project configuration, replanted and provided with maintenance care until the newly planted vegetation is fully established. Plantings shall be native species and/or be similar to vegetation in the surrounding area.

D. Shoreline Modification Regulations

1. General Requirements

- a. *Shoreline Modifications* shall only be allowed where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or *structure*, or are necessary for reconfiguration of the *shoreline* or bedlands to provide for an allowed *water-dependent use*, *shoreline mitigation* or *enhancement* purposes.
- b. Modifications shall only be allowed when impacts are avoided, minimized, and *mitigated* to assure no net loss of *shoreline ecological functions*.
- c. In-water work shall be scheduled to protect biological productivity including fish runs and spawning. In-water work shall not occur in areas used for *commercial fishing* during a fishing season unless specifically addressed and *mitigated* for in the *permit*.

2. *Dredging and Dredge Material Disposal*

a. *Dredging*

- i. *Non-maintenance dredging* shall be avoided where possible. New *dredging*, meaning *dredging* in a location that has not been previously dredged, requires a demonstration that the proposed uses will not result in significant or ongoing adverse impacts to *water quality*, fish and wildlife habitat conservation areas, other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime *agricultural land*, and *public access* to *shorelines*. When such impacts are unavoidable, they shall be minimized and *mitigated* such that they result in no net loss of functions.
- ii. *Maintenance dredging* of established navigation channels and basins shall be restricted to the widths and depths accomplished by the original *dredging*.
- iii. *Dredging* and dredge disposal shall be prohibited on or in archaeological sites that are listed on the National Register of Historic Places, the Washington Heritage Register, and/or the Clark County Historic Register until such time that they have been reviewed and approved by the appropriate agency.
- iv. New *dredging* activity is prohibited in areas that are particularly subject to environmental damage or to areas that are habitats identified as critical to the life cycle of fish, shellfish, or wildlife.
- v. *Dredging* techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only the amount of dredging necessary shall be permitted.
- vi. *Dredging* waterward of the *OHWM* shall be permitted only:
 - (a) For navigation or navigational access;
 - (b) In conjunction with a *water-dependent use* of water bodies or adjacent shorelands;
 - (c) As part of an approved habitat improvement project;
 - (d) To improve water flow or *water quality*, provided that all dredged material shall be contained and managed so as to prevent it from reentering the water; and
 - (e) In conjunction with a bridge, navigational *structure* or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist.
- vii. *Dredging* for *fill* is prohibited unless the material is necessary for the *restoration* of *ecological functions*.

b. *Dredge Material Disposal*

- i. *Dredge material disposal* shall be avoided where possible. Dredge disposal shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas, and other critical areas, flood holding capacity, natural drainage and water circulations patterns, significant plant communities, prime *agricultural land*, and *public access* to *shorelines*.

- ii. When such impacts are unavoidable, they shall be *minimized* and *mitigated* such that they result in no net loss of functions.
- iii. Dredged material shall be disposed of on land only, at sites reviewed and approved by the USACOE and the *Shoreline Administrator*. Applicants shall demonstrate that the proposed site will ultimately be suitable for a use permitted by this *program*;
 - (a) Disposal shall be managed so that the smallest possible land area is affected, unless dispersed disposal is authorized as a condition of *permit* approval for soil *enhancement* or other purposes;
 - (b) Steps will be taken to assure *shoreline ecological functions* and processes will be preserved, including protection of surface and ground water, and that erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to *shoreline ecological functions* and processes, or property; and
 - (c) Sites will be adequately screened from view of local residents or passersby on public right-of-ways to the maximum extent practicable.
- iv. The following conditions shall apply to land disposal sites:
 - (a) Springs and aquifers shall be identified and protected.
 - (b) Containment *dikes* and adequate settling basins shall be built and maintained so that the water discharged from the site carries a minimum of suspended sediment. Required basins shall be designed to maintain at least one foot of standing water at all times to encourage proper settling.
 - (c) Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, *wetlands*, and drainage ways.
 - (d) There shall be a single point of ingress and egress for removal of the de-watered material.
 - (e) Runoff shall be directed through grassy swale, meaning a vegetated drainage channel that is designed to remove various pollutants from *stormwater* runoff through biofiltration, or other treatment features that assures protection of *water quality* and a location that maximizes circulation and fishing.
 - (f) Sites shall be revegetated with appropriate native species as soon as possible to retard erosion and *restore* wildlife habitat and other critical areas functions;
 - (g) Vegetation shall be maintained by the property owner; and
 - (h) *Dredge materials* deposited upland and not part of a permitted *dike* or levee shall constitute *fill*, and when deposited within the jurisdiction of this *program*, shall comply with the *fill* regulations.
- v. Within the *shoreline jurisdiction*, dredged material shall be disposed of in water only at sites approved by the USACOE and the *Shoreline Administrator*. Disposal techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only if:
 - (a) Land disposal is infeasible, less consistent with this *program*, or prohibited by law;
 - (b) Nearshore disposal as part of a program to *restore* or enhance *shoreline ecological functions* and processes is not feasible;
 - (c) Offshore habitat will be protected, *restored*, or enhanced;
 - (d) Adverse effects on *water quality* or biologic resources from contaminated materials will be *mitigated*;
 - (e) Shifting and dispersal of spoil will be minimal; and
 - (f) *Water quality* will not be adversely affected.
- vi. The disposal of dredged materials in water or *wetlands* within *shoreline jurisdiction* shall

be permitted only:

- (a) To improve wildlife habitat;
- (b) To correct material distribution problems adversely affecting fish habitat;
- (c) To create, expand, rehabilitate, or *enhance* a beach when permitted under this *program* and any required state or federal *permit*;
- (d) When land disposal is demonstrated to be more detrimental to *shoreline* resources than water deposition; or
- (e) In approved, open-water disposal sites.

3. Flood Control Works

a. General

- i. *Dikes* and levees shall only be authorized by *conditional use permit*.
- ii. *Dikes* and levees shall be designed to protect the natural processes and resource values associated with streams including but not limited to wildlife habitat.
- iii. Springs and aquifers shall be identified and protected.
- iv. *Public access* shall be provided in accordance with *public access* policies and regulations of the property owner and this *program*.
- v. *Dikes* and levees shall be limited in size to the minimum *height* required to protect adjacent lands from the projected flood stage as identified in the applicable comprehensive flood control management plan or as required by FEMA for *dike* recertification.
- vi. *Dikes* and levees shall not be constructed with material dredged from the adjacent wetland or stream area unless part of a comprehensive flood and habitat *enhancement* plan, and only by *conditional use*.
- vii. New public structural flood hazard reduction measures, such as *dikes* and levees, should dedicate and improve *public access* per WAC 173-26-221(3)(C)(iv).

b. Design

- i. *Dikes* and levees shall be designed, constructed, and maintained in accordance with Hydraulic Project Approval and other required *permits*, and in consideration of resource agency requirements and recommendations.
- ii. *Dikes* and levees shall be set back at convex (inside) bends to allow streams to maintain *point* bars and associated aquatic habitat through normal accretion. Where bank *dikes* have already cut off *point* bars from the edge of the *floodway*, consideration should be given to their relocation in order to lower flood stages and current velocities.
- iii. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, *wetlands*, and drainages.
- iv. Structural flood hazard reduction measures shall be placed landward of associated *wetlands* and *vegetation conservation* areas unless this is no other feasible alternative to reduce flood hazard to existing *development*.
- v. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with this chapter and allowed only after a biological and geomorphological study shows that extraction has a long term benefit to flood hazard reduction, does not result in a net loss of *ecological functions*, and is part of a comprehensive flood management solution.

4. In-stream Structures

a. General

- i. *In-stream structures* shall be constructed and maintained in a manner that does not

degrade the quality of affected waters. The City may condition the *permit* to achieve this objective.

- ii. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing *shoreline function* or are a threat to public safety.
 - iii. *In-stream structures* shall provide for adequate upstream or downstream migration of anadromous fish, where applicable. These fish migrate up rivers and streams from the ocean to breed in fresh water.
 - iv. *In-stream structures* shall preserve valuable recreation resources and aesthetic values such as *point* and channel bars, islands and braided banks.
- b. Design & Placement
- i. *In-stream structures* and their support facilities shall be located and designed to avoid the necessity for *shoreline defense structures*. Those defense *structures* that are necessary shall be minimized and any impacts *mitigated*.
 - ii. Materials adequate to immediately correct emergency erosion situations shall be maintained on-site.
 - iii. All debris, overburden and other waste materials from construction shall be disposed of in such a manner as to prevent their entry into a water body, including a *wetland*, by erosion, from drainage, high water, or other vectoring mechanisms.
 - iv. All heavy construction equipment, and fuel storage, repair, and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to *shoreline functions*. Powerhouses, but not raceways, shall be located farther than one hundred (100) feet from the OHWM unless there is no feasible alternative and any unavoidable impacts are minimized and *mitigated*. Penstocks shall be located, designed, and constructed so as to present as low a profile as possible. Powerhouses and penstocks shall be located and designed to return flow to the stream in as short a distance as possible.
 - v. A *mitigation* plan shall be prepared by the applicant, and be subject to approval by the appropriate authority.
 - vi. Structural flood hazard reduction measures shall be placed landward of associated *wetlands* and *vegetation conservation* areas unless there is no other feasible alternative to reduce flood hazard to existing *development*. The need for, and analysis of feasible alternatives to structural improvements shall be documented through a *geotechnical analysis*.

5. Shoreline Restoration and Enhancement

- a. *Shoreline restoration* and *enhancement* activities designed to *restore shoreline ecological functions* and processes as well as *shoreline* features *should* be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species shall be given priority. See also Section V.F.
- b. *Shoreline restoration, enhancement, and mitigation* activities designed to create dynamic and sustainable ecosystems to assist the City achieve no net loss of *shoreline ecological functions* are preferred.
- c. *Restoration* activities shall be carried out in accordance with an approved *shoreline restoration* plan, and in accordance with the provisions of this *program*.
- d. To the extent possible, *restoration, enhancement, and mitigation* activities shall be integrated and coordinated with other parallel natural resource management efforts, such as those identified in the Clark Coalition *Shoreline Restoration Plan*.
- e. Habitat and beach creation, expansion, *restoration, and enhancement* projects may be permitted subject to required state or federal *permits* when the applicant has demonstrated that:

- i. The project will not be carried out within spawning, nesting, or breeding fish and wildlife habitat conservation areas;
 - ii. Upstream or downstream properties or fish and wildlife habitat conservation areas will not be adversely affected;
 - iii. *Water quality* will not be degraded;
 - iv. Flood storage capacity will not be degraded;
 - v. Impacts to critical areas and buffers will be avoided and where unavoidable, minimized and *mitigated*; and
 - vi. The project will not interfere with the normal public use of the navigable waters of the state.
 - vii. Natural hydrologic flows will be maintained.
- f. The City shall review the projects for consistency with this *program* in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for *exemption* from the applicant.

6. Shoreline Stabilization

a. General

- i. New structural *shoreline* armoring may be permitted and existing structural *shoreline* armoring may be expanded only when one or more of the following apply:
 - (a) When non-structural measures, vegetation planting, or on-site drainage improvements would be insufficient to achieve *enhancement, restoration* or remediation objectives to *restore ecological function*.
 - (b) When non-structural measures, vegetation planting, or on-site drainage improvements would be insufficient to remediate hazardous substances.
 - (c) When a geomorphic/*geotechnical analysis* has established that *shoreline* armoring is necessary to protect public transportation infrastructure or essential public facilities and other options are *infeasible*.
 - (d) When a geomorphic/*geotechnical analysis* has established that an existing, lawfully established primary *structure* is in imminent danger of loss or substantial damage from erosion caused by tidal action currents, or waves."
- ii. New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:
 - (a) To protect existing primary *structures*:
 - (i) New or enlarged structural *shoreline stabilization* measures for an existing primary *structure*, including residences, *should* not be allowed unless there is conclusive evidence, documented by a *geotechnical analysis*, that the *structure* is in danger from *shoreline* erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or *shoreline* erosion itself, without a scientific or *geotechnical analysis*, is not demonstration of need. The *geotechnical analysis* should evaluate on-site drainage issues and address drainage problems away from the *shoreline* edge before considering structural *shoreline stabilization*.
 - (ii) The erosion control *structure* will not result in a net loss of *shoreline ecological functions*.
 - (b) In support of new *non-water-dependent development*, including *single-family residences*, when all of the conditions below apply:
 - (i) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

- (ii) Nonstructural measures, such as placing the *development* further from the *shoreline*, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - (iii) The need to protect primary *structures* from damage due to erosion is demonstrated through a *geotechnical report*. The damage must be caused by natural processes, such as tidal action, currents, and waves.
 - (iv) The erosion control *structure* will not result in a net loss of *shoreline ecological functions*.
- (c) In support of water-dependent *development* when all of the conditions below apply:
- (i) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - (ii) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - (iii) The need to protect primary *structures* from damage due to erosion is demonstrated through a *geotechnical report*.
 - (iv) The erosion control *structure* will not result in a net loss of *shoreline ecological functions*.
- (d) To protect projects for the *restoration of ecological functions* or hazardous substance remediation projects pursuant to RCW 70.105D when all of the conditions below apply:
- (i) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - (ii) The erosion control *structure* will not result in a net loss of *shoreline ecological functions*.
- iii. Proposed designs for new or expanded shore stabilization shall be designed in accordance with applicable WDOE and WDFW guidelines, use best available science, document that alternative solutions are not feasible or do not provide sufficient protection, demonstrate that future stabilization measures would not be required on the project site or adjacent properties, and be certified by a *qualified professional*.
 - iv. Land subdivisions or lot line adjustments shall be designed to assure that future *development* of the newly-created lots will not require structural stabilization for subsequent *development* to occur.
 - v. New or expanded structural *shoreline stabilization* for existing primary *structures*, including roads, railroads, public facilities, etc., is prohibited unless there is conclusive evidence documented by a *geotechnical analysis* that there is a significant possibility that the *structure* will be damaged within three (3) years as a result of *shoreline* erosion caused by stream processor waves, and only when significant adverse impacts are *mitigated* to ensure no net loss of *shoreline ecological functions* and/or processes.
 - vi. Where a *geotechnical analysis* confirms a need to prevent potential damage to a primary *structure*, but the need is not imminent, the analysis may still be used to justify more immediate authorization for *shoreline stabilization* using *bioengineering* approaches.
 - vii. Replacement of an existing *shoreline stabilization structure* with a similar *structure* is permitted if there is a demonstrated need to protect existing primary uses, *structures*, or public facilities including roads, bridges, railways, and utility systems from erosion caused by stream undercutting or wave action; provided that the existing *shoreline stabilization structure* is removed from the *shoreline* as part of the replacement activity. Replacement walls or *bulkheads* shall not encroach waterward of the *ordinary high-water mark* or existing *structure* unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement

structure shall abut the existing *shoreline stabilization structure*, and shall be designed to minimize harm to environmental functions.

- viii. *Shoreline stabilization* projects that are part of a fish habitat *enhancement* project meeting the criteria of RCW 77.55.181 are *exempt* and will be regulated under the state process. Stabilization projects that are not part of such a fish *enhancement* project will be regulated by this *program*.
- ix. Small-scale or uncomplicated *shoreline stabilization* projects (for example, tree planting projects) shall be reviewed by a *qualified professional* to ensure that the project has been designed using best available science.
- x. Large-scale or more complex *shoreline stabilization* projects (for example, projects requiring *fill* or excavation, placing objects in the water, or hardening the bank) shall be designed by a *qualified professional* using best available science. The applicant may be required to have a *qualified professional* oversee construction or construct the project.
- xi. Standards for new stabilization *structures* when found to be necessary include limiting the size to minimum, using measures to assure no net loss of *shoreline ecological functions*, using soft approaches, and *mitigating* for impacts.
- xii. When any structural *shoreline stabilization* measures are demonstrated to be necessary pursuant to above provisions, the applicant shall:
 - (a) Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of *shoreline ecological functions*. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary *structures*, dwellings, and businesses.
 - (b) Ensure that publicly financed or subsidized *shoreline* erosion control measures do not restrict appropriate *public access* to the *shoreline* except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to *ecological functions*. Where feasible, incorporate ecological *restoration* and *public access* improvements into the project.
 - (c) *Mitigate* new erosion control measures, including replacement *structures*, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems.
 - (d) Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate *shoreline* management efforts. If beach erosion is threatening existing *development*, local governments should adopt master *program* provisions for a beach management district or other institutional mechanism to provide comprehensive *mitigation* for the adverse impacts of erosion control measures.

b. Bioengineered Stabilization

- i. All bioengineered projects shall be designed in accordance with best available science and use a diverse variety of native plant materials including but not limited to trees, shrubs, herbaceous non-woody plants, and grasses, unless demonstrated infeasible for the particular site.
- ii. All cleared areas shall be replanted following construction and irrigated (if necessary) to ensure that within three years' time all vegetation is fully re-established. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable.
- iii. Bank protection in the form of a *buffer zone* shall be provided for a minimum of three (3) years. The *buffer zone* shall exclude livestock, vehicles, and/or other activities that could disturb the site.
- iv. All bioengineered projects shall be monitored and maintained. Areas damaged by pests and/or the elements shall be promptly repaired.

- v. All construction and planting activities shall be scheduled to minimize impacts to *water quality* and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.
- c. Structural Stabilization
- i. Naturally regenerating systems for the prevention and control of *shoreline* erosion shall be used instead of structural solutions where the length and configuration of *shoreline* will accommodate such systems; such protection is a reasonable solution to the needs of the specific site; and the project will:
 - (a) Recreate or enhance natural *shoreline* conditions;
 - (b) Create or enhance natural habitat;
 - (c) Reverse erosional conditions; or
 - (d) Enhance access to the *shoreline*, especially to public *shorelines*.
 - ii. Bulkheads
 - (a) General
 - (i) All *bulkheads* and *revetments* must be in support of an allowable *shoreline* use that is in conformance with the provisions of this *program*, unless it can be demonstrated that such activities are necessary for the maintenance of *shoreline* environmental resources, and are in the *public interest*.
 - (ii) *Bulkheads* and *revetments* are subject to approval of the *Shoreline Administrator* including design, location, and necessity, and shall be allowed only when evidence is presented that conclusively demonstrates that one of the following conditions exists:
 1. Serious wave erosion threatens an established primary use or existing primary building(s) on upland property;
 2. *Bulkheads* and *revetments* are necessary to the operation and location of water-dependent and water-related activities consistent with this *program*, provided that all alternatives have proven infeasible (i.e., use relocation, use design, nonstructural shore stabilization options), and that such *bulkheads* meet other policies and regulations of this chapter; or
 3. Proposals for *bulkheads* or *revetments* have first demonstrated that use of natural materials and processes and nonstructural solutions to bank stabilization are unworkable in protecting existing *development*.
 - (iii) Natural materials and processes such as protective *berms*, drift logs, brush, beach feeding, or vegetative stabilization shall be utilized to the maximum extent possible.
 - (iv) *Bulkheads* and *revetments* are prohibited for any purpose if they will cause significant erosion or beach starvation.
 - (v) Design of *revetments* shall include and provide improved access to public *shorelines* whenever possible and appropriate. All forms of *revetments* shall be constructed and maintained in a manner that does not reduce *water quality* and/or fisheries habitat.
 - (vi) Use of a *bulkhead* to protect a platted lot where no *structure* presently exists is prohibited.
 - (b) Location
 - (i) *Bulkheads* shall not be located on shores where valuable geohydraulic-hydraulic or biological processes are sensitive to interference and critical to *shoreline* conservation, such as feeder bluffs, marches, *wetlands*, or accretion shore forms such as spits, hooks, bars, or barrier beaches.

- (ii) *Bulkheads* are to be permitted only where local physical conditions such as foundation bearing material, surface, and subsurface drainage are suitable.
- (iii) On all *shorelines*, *bulkheads* shall be located landward of the OHWM, landward of protective *berms* (artificial or natural), and generally parallel to the natural *shoreline*. In addition:
 1. On bluff or bank *shorelines* where no other *bulkheads* are adjacent, the construction of a *bulkhead* shall be as close to the bank as possible, and in no case shall it be more than three (3) feet waterward from the toe of the natural bank.
 2. *Bulkheads* may tie in flush with existing *bulkheads* on adjoining properties, provided that (1) the adjoining *bulkheads* were built at or near the OHWM, and (2) the new *bulkhead* does not extend more than three feet waterward of OHWM at any point. If there is an existing *bulkhead* on only one of the adjacent properties, the proposed *bulkhead* may tie in flush with the adjacent *bulkhead* at or landward of the OHWM, and shall be contoured to minimize the land area landward of the required setback, that shall be met on the side not abutting an existing *bulkhead*.
- (iv) Replacement *bulkheads* may be located immediately in front of and abutting (sharing a common surface) an existing *bulkhead*, provided that replacement *bulkheads* shall not be authorized abutting an abandoned or neglected *bulkhead*, or a *bulkhead* in serious disrepair that is located more than three (3) feet waterward of OHWM. Replacement of such *bulkheads* shall be located at OHWM.

(c) Design

- (i) *Bulkhead* design and *development* shall conform to all other applicable state agency policies and regulations, including the WDFW criteria governing the design of *bulkheads*.
- (ii) When a *bulkhead* is required at a *public access* site, provision for safe access to the water shall be incorporated into *bulkhead* design.
- (iii) *Bulkheads* shall be designed with the minimum dimensions necessary to adequately protect the *development* for the expected life of the *development*.
- (iv) *Bulkheads* shall be designed to permit the passage of surface or ground water without causing ponding or saturation of retained soil/materials.
- (v) Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure *bulkhead* stability without relying on additional *riprap*.
- (vi) Stairs or other permitted *structures* may be built into a *bulkhead*, but shall not extend waterward of it.
- (vii) Materials used in *bulkhead* construction shall meet the following standards:
 1. *Bulkheads* shall utilize stable, non-erosional, homogeneous materials such as concrete, wood, rock *riprap*, or other suitable materials that will accomplish the desired end with the maximum preservation of natural *shoreline* characteristics.
 2. Beach materials shall not be used for *fill* behind *bulkheads* unless it is specifically authorized by the *permit*, and then only when it is demonstrated that leaving the material on the beach would be detrimental to *shoreline* resources.
- (viii) Gabions (wire mesh filled with concrete or rocks) shall not be used in *bulkhead* construction where alternatives more consistent with this *program* are feasible, because of their limited durability and the potential hazard to shore users and

the *shoreline* environment.

- (ix) *Fill* behind *bulkheads* shall be considered landfill, and shall be subject to the provisions for landfill, and the requirement for obtaining a *shoreline substantial development permit*.

iii. Revetments

(a) General

- (i) *Revetments* must be in support of an allowable *shoreline* use that is in conformance with the provisions of this *program*, unless it can be demonstrated that such activities are necessary and in the *public interest* for the maintenance of *shoreline* environmental resources.
- (ii) Design of *revetments* shall include and provide improved access to public *shorelines* whenever possible and appropriate. All forms of *revetments* shall be constructed and maintained in a manner that does not reduce *water quality* and/or fisheries habitat.
- (iii) Design of the proposed *revetment* shall incorporate proper consideration of
 1. Data on local geophysical conditions;
 2. Data on stream flow, velocity, and/or flood capacity; and
 3. Effects on adjacent properties.
- (iv) Bank *revetments*, where permitted, shall be placed at the extreme edge or bank of the *shoreline*.
- (v) *Revetments* shall only be used when habitat-friendly alternatives are not feasible.

(b) Design

- (i) When permitted, the siting and design of *revetments* shall be performed using appropriate engineering principles, including guidelines of the Natural Resources Conservation Service and USACOE.
- (ii) *Revetment* shall be constructed using techniques and materials that will enhance natural *shoreline* values and functions, including fish and wildlife habitat, *water quality*, vegetation and aesthetics. The following techniques and materials shall be used:
 1. *Riprap* material shall consist of clean quarried rock, free of loose dirt and any pollutants, and shall be of sufficient size and weight to prevent movement by wave or current action. Tires, automobile bodies, scrap metal paper products and other inappropriate solid waste materials shall not be used for *riprap*.
 2. Use of downed logs, snags, or rock-work to enhance habitat and to provide a more natural appearance to the *shoreline* shall be incorporated into the design where appropriate.
 3. Where on-site environmental conditions allow, vegetation shall be integrated into the *riprap* design to reduce erosion, provide cover, shade and habitat, and improve the natural appearance of the, consistent with the applicable vegetation management provisions of this *program*.
- (iii) If an armored *revetment* is employed, the following design criteria shall be met.
 1. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;
 2. Filter cloth must be used to aid drainage and help prevent settling; and
 3. The toe reinforcement or protection must be adequate to prevent a collapse of the system from river scouring or wave action for the anticipated life of the

project.

- (iv) The area shall be *restored* as nearly as possible to pre-project condition, including replanting with native species and maintenance care until the newly planted vegetation is established.

iv. Breakwaters, Jetties, Rock Weirs, and Groins

(a) General

- (i) Breakwaters, jetties, *rock weirs*, and *groins* are allowed only by *conditional use* and where necessary to support *water-dependent uses*, *public access*, *shoreline stabilization*, or other specific public purposes such as protection from strong wave action. Applicants proposing *groins*, jetties, and solid breakwaters shall notify all *shoreline* landowners within the same drift sector. If it is not possible to make a reasonable determination of the drift sector, all *shoreline* land owners within one (1) mile of the project proposal shall be notified.
- (ii) The effect of proposed breakwaters, jetties, *rock weirs*, and *groins* on sand movement shall be evaluated during *permit* review. The beneficiaries and/or owners of large-scale defense works that substantially alter, reduce, or block *littoral drift*, and cause new erosion of downdrift shores shall be required to establish and maintain an adequate long term beach feeding *program* either by artificially transporting sand to the downdrift side of an inlet with jetties or by artificial beach feeding in the case of *groins*, breakwaters and *rock weirs*.
- (iii) The effect of proposed breakwaters, jetties, *rock weirs*, and *groins* on bank margin habitat, channel migration, and *floodplain* processes *should* be evaluated during *permit* review.

(b) Location

- (i) Breakwaters shall be prohibited in *lakes*.
- (ii) Jetty, *rock weir*, or *groin development* that would result in a net adverse impact on adjacent and nearby properties and *shorelines* is prohibited.

(c) Design

- (i) Proposed designs for new or expanded breakwaters, jetties, *rock weirs*, and *groins* shall be designed and certified by a registered civil engineer.
- (ii) The design of breakwaters, jetties, *rock weirs*, and *groins* shall conform to all applicable requirements established by WDFW and the USACOE. Breakwaters, jetties, *rock weirs*, and *groins* shall be designed and constructed in a manner that will prevent detrimental impacts on water circulation, sand movement, and aquatic life. The design shall also minimize impediments to navigation and to visual access from the *shoreline*.
- (iii) The design of new breakwaters, *groins*, and jetties shall incorporate provisions for *public access* such as sightseeing and public fishing if it is determined such access is *feasible* and desirable. Open-pile or floating breakwaters shall be the only type allowed unless it can be shown that solid breakwaters will have no significant adverse effect on the aquatic biology and shore processes, or that such adverse effects can be adequately *mitigated*.
- (iv) Materials used for the construction of breakwaters, jetties, *rock weirs*, and *groins* shall exhibit the qualities of long-term durability, ease of maintenance, and compatibility with local shore features, processes, and aesthetics. The use of solid waste, junk, or abandoned automobiles, asphalt, or any building demolition debris is prohibited.
- (v) Floating breakwaters shall be used in place of solid, rubble mound types wherever they can withstand anticipated wave action in order to maintain sand movement and protect fish and aquatic habitat.

Table 6-1. Shoreline Use, Modification and Development Standards

P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.

	AQ	UC	MI
SHORELINE DESIGNATION	Aquatic	Urban Conservancy	Medium Intensity
SHORELINE USES			
Agriculture			
Agriculture	X	C	X
Setback	N/A	100'	N/A
Maximum Height	N/A	35'	N/A
Aquaculture	X	X	X
Boating Uses			
Motorized Boat Launches	P	C	C
Non-motorized Boat Launches	P	P	P
Docks, Piers, Mooring Buoys	P ¹	P	P ¹
Setback	0'	0'	0'
Commercial Uses			
Water-dependent	C	X	P
Setback	0'	N/A	0'
Maximum Height			
0'-100' from OHWM	15'	N/A	35'
>100' from OHWM	15'	N/A	45' ²
Water-related, Water-enjoyment	X	X	P
Setback	N/A	N/A	25'

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	AQ	UC	MI
SHORELINE DESIGNATION	Aquatic	Urban Conservancy	Medium Intensity
Maximum Height			
0'-100' from OHWM	N/A	N/A	35'
>100' from OHWM	N/A	N/A	45' ²
Non-water-oriented	X	X	C ³
Setback	N/A	N/A	100'
Maximum Height	N/A	N/A	35'
Forestry	X	X	X
Industrial	X	X	X
Institutional Uses			
Water-dependent	C	C	P
Setback	N/A	0'	0'
Maximum Height			
0'-100' from OHWM	N/A	25'	35'
>100' from OHWM	N/A	35'	45' ²
Water-related,	X	X	P
Setback	N/A	N/A	25'
Maximum Height			
0'-100' from OHWM	N/A	N/A	35'
>100' from OHWM	N/A	N/A	45' ²
Non-water-oriented	X	X	C ³
Setback	N/A	N/A	100'
Maximum Height	N/A	N/A	35'
Log Storage	X	X	X
Mining	X	X	X
Parking			
Primary Use	X	X	X
Setback	N/A	N/A	N/A
Accessory Use	X	P	P

Setback	N/A	100'	100'
Maximum Height	N/A	35'	35'
Recreational Uses			
Water-dependent	P	P	P
Setback	0'	0'	0'
Maximum Height	15'	15'	35'
Water-related/enjoyment (trails, accessory buildings)	X	P	P
Setback	N/A	50'	50'
Maximum Height	N/A	15'	35'
Non-water-oriented (golf courses, sports fields)	X	C	C
Setback	N/A	100'	100'
Maximum Height	N/A	25'	25'
Residential Uses			
Single-family ⁵	X	P	P
Setback	N/A	100'	50'
Maximum Height	N/A	35'	35'
Floating homes (new)	X	N/A	N/A
Maximum Height	N/A	N/A	N/A
Multifamily	X	X	P
Setback	N/A	N/A	50'
Maximum Height	N/A	N/A	35'

Table 6-1. Shoreline Use, Modification and Development Standards

P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.

	AQ	UC	MI
SHORELINE DESIGNATION	Aquatic	Urban Conservancy	Medium Intensity
Transportation Uses			
Highways, Arterials, Railroads (parallel to OHWM)	X	P	P
Setback	N/A	200'	100'
Secondary/Public Access Roads (parallel to OHWM)	X	P	P
Setback	NA	100'	50'
Bridges (perpendicular to shoreline) ⁶	C	C	P
Setback	0'	0'	0'
Utility Uses			
Above-ground Utilities (parallel to shoreline)	C	P	P
Setback	0'	100'	50'
Maximum Height	15'	35'	35'
Distribution Pole Height ⁷	0'	45' ²	45' ²
Electrical Transmission Lines	C	C	C
Tower Height	UNL	UNL	UNL
Underground Utilities (parallel to shoreline)	C	P	P
Setback	0'	100'	50'
Underground Utilities (perpendicular to shore)	C	C	C
Setback	0'	0'	0'
Unclassified Uses			
Unclassified Uses	C	C	C
Setback	0'	100'	100'
Maximum Height	15'	35'	35'
Shoreline Modifications			
Dredging and Dredge Material Disposal			
Non-maintenance Dredging	C	N/A	N/A
Maintenance Dredging	P	N/A	N/A
Dredge Material Disposal	C	X	C

<i>Dredging & Disposal as part of Ecological Restoration/ Enhancement</i>	P	P	P
Flood Control Works, In-stream Structures			
Dams, Dikes, & Levees	C	C	C
Instream structures	C	N/A	N/A
Fills			
Waterward of OHWM	C	N/A	N/A
Landward of OHWM	N/A	P ⁸	P ⁸
Shoreline Restoration			
<i>Ecological Restoration/ Enhancement/ Mitigation</i>	P	P	P
Shoreline Stabilization			
Bioengineered	P	P	P
Structural	C	C	C

² A view study may be required per VI.B.2 ³ As part of mixed-use *development* only. ⁴ Low intensity only. ⁵ See also VI.D.10.j. ⁶ Bridges shall be located or designed to minimize shading of wetlands. ⁷ May be increased to support telecommunications. ⁸ *Fills* may not be placed in critical areas or buffers. Note: Setbacks are landward from the OHWM in the UC & MI shoreline designations, and waterward of the OHWM in the AQ Shoreline Designation.

Activity		Start Date	End Date	Duration	Resources	Notes
1	Project Initiation	2012-01-01	2012-01-15	14 days	Project Manager, Sponsor	Define project scope and objectives.
2	Project Planning	2012-01-15	2012-02-15	31 days	Project Manager, Team Lead	Develop project plan and schedule.
3	Project Execution	2012-02-15	2012-04-15	61 days	Project Manager, Team Lead, Team Members	Execute project plan and manage resources.
4	Project Monitoring & Control	2012-02-15	2012-04-15	61 days	Project Manager, Team Lead	Monitor project progress and control risks.
5	Project Closure	2012-04-15	2012-04-30	15 days	Project Manager, Team Lead	Finalize project and close out activities.



Notice of Decision

La Center Sewer Line:

East Fork of the Lewis River Bridge # 2017-003 (SMP)

Substantial Development Permit, Conditional Use and Administrative Interpretation

Fact Sheet

- PROPOSAL:** Install an 8-inch sanitary sewer force main to the underside of the La Center Bridge and connect at either end to a previously installed 8-inch sanitary sewer force main. Install a 2-inch PVC conduit for fiber optic use alongside of the La Center Bridge.
- LOCATION:** No situs, no tax lot number, public right-of-way, Record of Survey Clark County Book 45, Page 197, N ½ of Section 3, T4N R1E, WM.
- PROPONENT:** City of La Center, Public Works Department, 305 N Pacific Highway, La Center, WA 98649; Contact: Anthony Cooper, (360) 263-7665
- REVIEW REQUIRED:** Shoreline Master Program: Substantial Development Permit, Conditional Use and Critical Area Review
- PUBLIC NOTICE:** Published in the Newspaper of Record, mailed and posted in the usual and customary manner on February 16, 2017. Public Comment period ended on March 16, 2017.
- SEPA:** DNS issued October 26, 2016, SEPA # 201605816; WDOE comment November 9, 2016
- ADMINISTRATOR:** Eric Eisemann, La Center Planning Consultant; c/o E² Land Use Planning Services, LLC 215 W 4th St. #201, Vancouver, WA 98660; 360.750.0038, e.eisemann@e2landuse.com
- DECISION:** **Approved**
- DATE:** March 29, 2017
- APPEAL:** 21 days from date of filing.

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1. Proposal

1.1. Project Description


When proposed development activity is located wholly or in part within the shoreline area for the East Fork Lewis River, a Shoreline of Statewide Significance, the proposal is subject to review under La Center Shoreline Master Program (SMP).

The city of La Center owns and operates a municipal sewer utility and roadway network. Consistent with the La Center 2016-2036 Comprehensive Plan, the city must provide sanitary sewer service to lands within in its corporate limits which extend upland from both side of the East Fork of the Lewis River (River). The entire project consists of extending a sanitary sewer collection system along La Center Road from the publicly operated treatment works to the westerly city boundary at the eastern edge of the I-5 right-of-way. The work consists of constructing two parallel sewer pipes in La Center Road to serve development and connections along La Center Road. The city will construct a 12-inch diameter gravity sewer from the western city limits a new lift station on the south side of La Center Road in the right-of-way above McCormick Creek. One 6-inch diameter and one 8-inch diameter force main will be constructed from the new pump station to an existing manhole adjacent to the Waste Water Treatment Plan just east of the La Center Bridge. The project will take place within prior-disturbed City right-of-way.

1.2. Shoreline Jurisdiction

The East Fork of the Lewis River is a shoreline of statewide significance. The project site lies within shoreline jurisdiction, defined as all shorelands 200 feet landward of the river’s ordinary high water mark (OHWM), and floodways and contiguous floodplains associated with the river.

Within the project area the shoreline zones are described in Table 1 and portrayed in Figure 1:

	Project Area	Pacific Highway right-of-way	La Center Bridge
	Aquatic Zone (AQ) - Blue	-	X
	Urban Conservancy (UC) - Brown	X	-
<u>FIGURE 1</u>	<u>TABLE 1</u>		

The sanitary sewer line will be located underground within the SMP Urban Conservancy (UC) zone on either side of the La Center Bridge and will be suspended under the La Center Bridge over the East Fork of the Lewis River, an SMP Aquatic (AC) zone. The project will disturb paved public right-of-way within the UC zone and will not disturb the Aquatic zone. The fiber optic cable will be installed in the right-of-way, alongside of the bridge abutments through the UC zone, and attached to the bridge over the AQ zone.

Section V(C) of the city's SMP provides that critical areas located within shoreline jurisdiction are regulated by the city's SMP. Critical areas on the site within shoreline jurisdiction include fish and wildlife habitat conservation areas regulated and frequently flooded areas. (LCMC 18.300S.090.) These critical areas are discussed below. Wetlands are not present in the project area.

1.3. Project Details

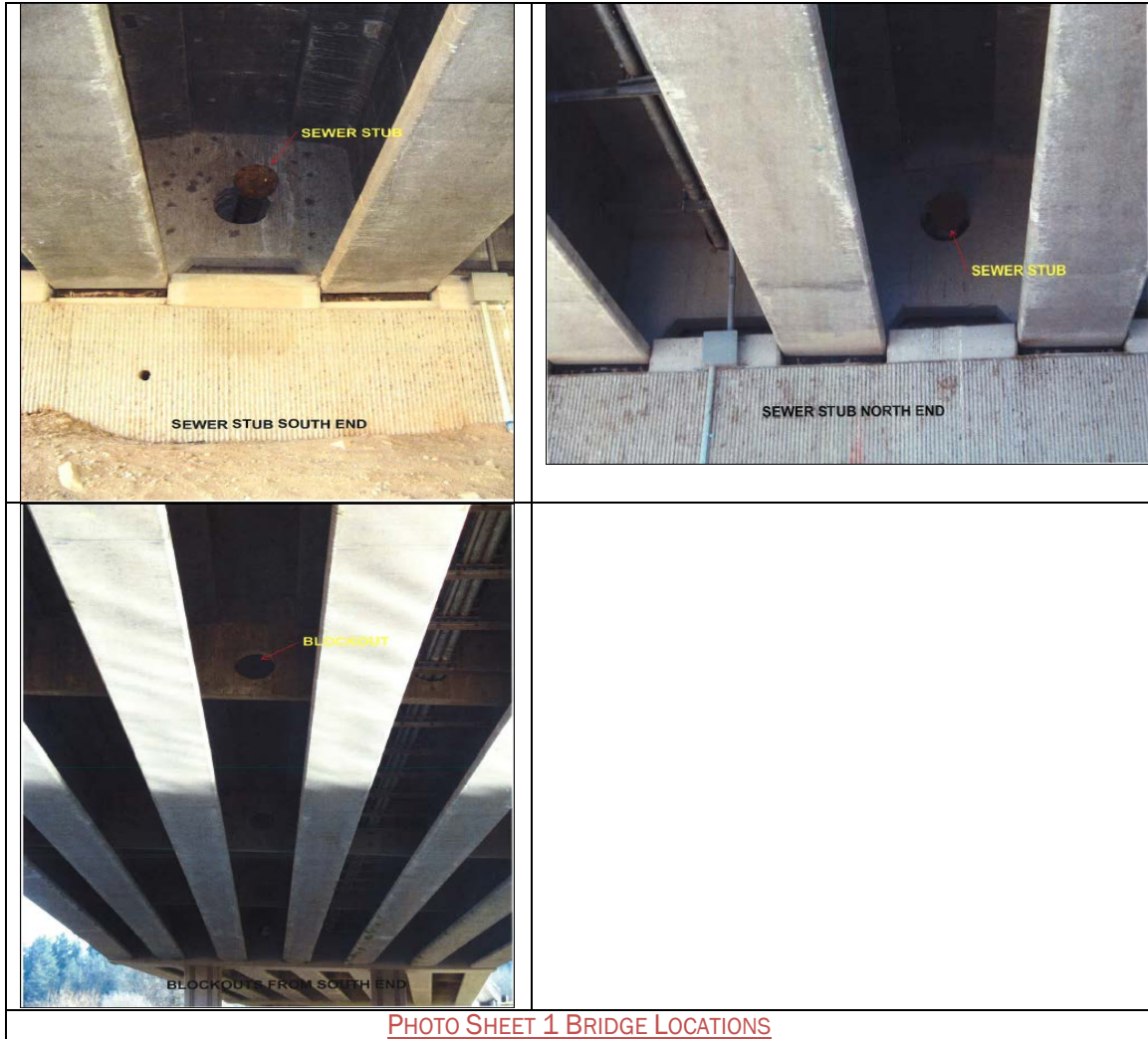
In brief, the proposed development activity includes:

- Installation of an 8-inch sanitary sewer force main to the underside of the La Center Bridge and its connection at either end to a previously installed 8-inch sanitary sewer force main.
- Underground installation of a 2-inch PVC conduit from an existing junction box approximately 375' south of the south side of the La Center Bridge, its aboveground connection/mounting to the east side of the bridge, and underground installation on the north side of the bridge to an existing junction box. The conduit will be for future fiber optic use.

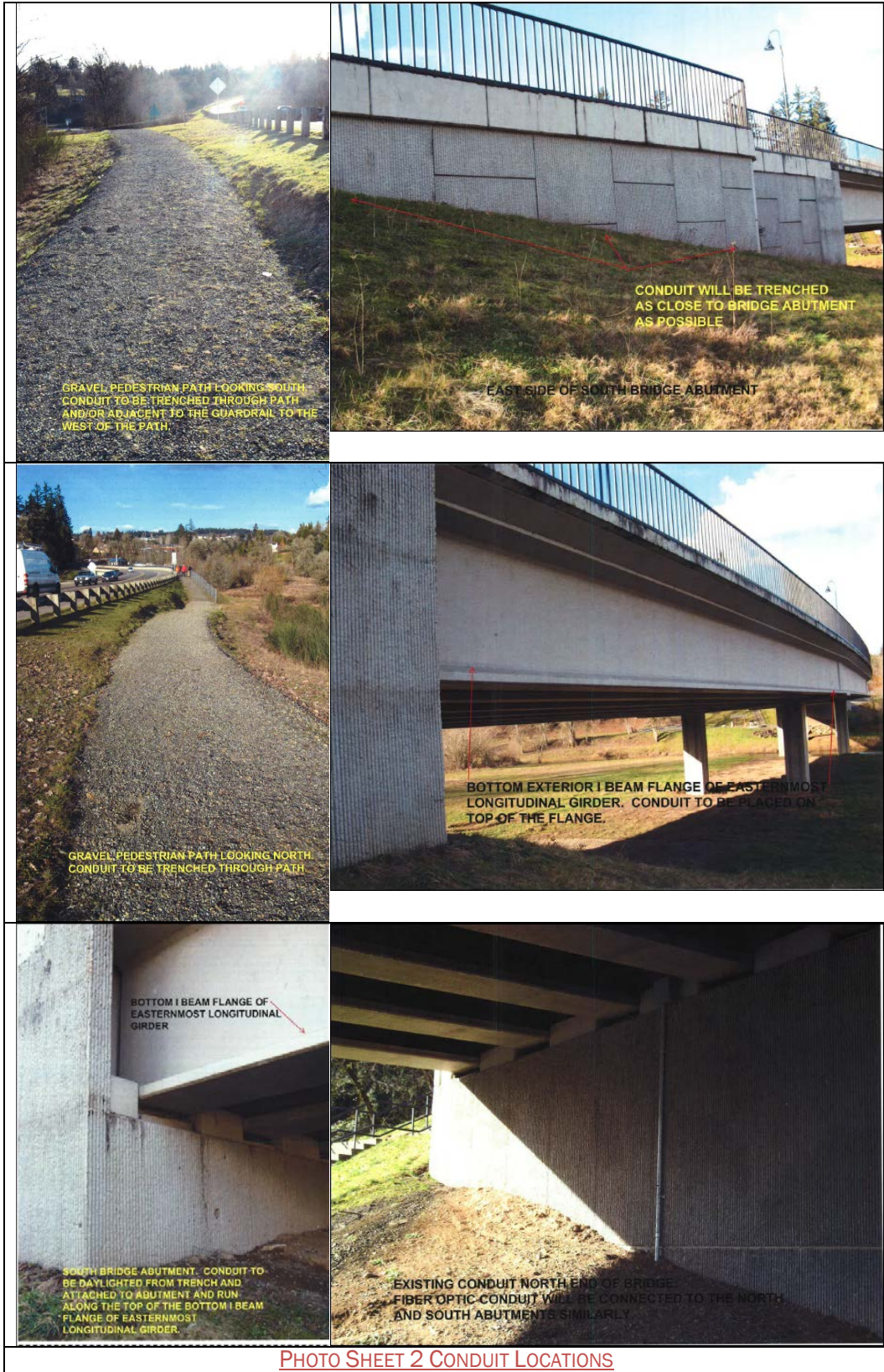
The sanitary sewer line will be connected to the underside of the La Center Bridge deck slab by hangers with rollers (allowing the pipe to be rolled and threaded through from one section of the bridge to the other from one end to the other) at approximately six (6) feet on center. (See Photo Sheet 1, Bridge Locations.) Vehicular access exists to both the north and south sides of the bridge.

For the portion of the bridge not over the River, a "cherry picker" will be used to install both the sewer pipe and hangers.

For the portion of the bridge over the River, the hangers and sewer pipe will be installed using a movable frame supported on the lower "I" beam flanges of the horizontal girder. The frame will include a cover to catch any debris that should fall during installation of the hangers and sewer pipe. Blockouts to allow the sewer line to penetrate the concrete pier caps and cross girders of the bridge were previously installed with the bridge construction to allow the sanitary sewer line to be extended. This will visually screen and protect the sewer line to the greatest extent practical. Impacts to the existing vehicular areas on both sides of the River to accommodate the "cherry picker" and other associated equipment is expected to be negligible. Dust or minor debris resulting from connecting the hangers to the underside of the bridge will be collected in the "cherry picker" and movable frame.



The fiber optic line conduit will be extended from the existing junction box south of the bridge in a ditch dug with a “ditch witch” up to the bridge abutment. The conduit will be day-lighted and connected to the bridge abutment on the south side via conduit mounts. The conduit will run along the bottom exterior wing (“I” beam flange) of the easternmost longitudinal girder by hanger mounts installed into the concrete at approximately six (6) feet on center from a vehicle located on the bridge. Placing the conduit on top of the bottom exterior wing (“I” beam flange) of the external longitudinal girder will visually screen the conduit to the greatest extent practical. On the south side of the bridge, the conduit will be connected to the bridge abutment and extended underground where it will be installed into a trench up to a junction box located outside of the shoreline area. Construction generated debris from connecting the conduit to the longitudinal girder will be collected via a collection device (sling, tarp, etc.) located under each work area. (See, Photo Sheet 2 Conduit Locations)



1.4 Permits Required

1.4.1. Administrative Authority and Responsibility

Shoreline Administrator. The Shoreline Administrator shall have the authority to act upon the following matters:

- a. Interpretation, enforcement, and administration of the City’s Shoreline Master Program as prescribed in this title;*
- b. Applications for Shoreline Management Substantial Development Permits;*
- c. Applications for Shoreline Conditional Use Permits;....*

Discussion

The Shoreline Administrator has reviewed the proposed development activity within the shorelands and prepared this Notice of Decision (NOD).

1.4.2. Conditional Use

The proposed sanitary sewer trunk line and fiber optic line are utility uses. Both utility uses will be installed perpendicular to the shore of the East Fork of the Lewis River; it is the only way to cross a river. SMP Table 6-1 describes whether utilities are permitted or conditional uses in the UC and AQ shoreline zones.

Table 6-1. Shoreline Use, Modification and Development Standards			
P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.			
	AQ	UC	MI
SHORELINE DESIGNATION	Aquatic	Urban Conservancy	Medium Intensity
Utility Uses			
Above-ground Utilities (parallel to shoreline)	C	P	P
Setback	0'	100'	50'
Maximum Height	15'	35'	35'
Distribution Pole Height ¹	0'	45' ²	45' ²
Electrical Transmission Lines	C	C	C
Tower Height	UNL	UNL	UNL
Underground Utilities (parallel to shoreline)	C	P	P
Setback	0'	100'	50'
Underground Utilities (perpendicular to shore)	C	C	C
Setback	0'	0'	0'

Underground utilities perpendicular to the shoreline are conditional uses in the UC zone. Therefore, the sanitary sewer line and fiber optic cable buried under the Pacific Highway which runs perpendicular to the shoreline are conditional uses in the UC zone.

Crossing the East Fork, an AC zone, presents a challenge under Table 6-1. In the AC zone above-ground parallel to the shore and underground utilities perpendicular to the shore are conditional uses. In the AC zone the sanitary sewer line and fiber optic cable will be attached to and suspended over the river. If the sewer line and fiber optic cable were to cross the river underground they would be classified as conditional uses. Both utilities will be suspended over the river consistent with the 2001 design, approval and construction of the bridge.

Both utilities will cross over the East Fork of the Lewis River, a riparian area. Therefore, critical area approval is also required as well as a shoreline Substantial Development Permit (SDDP).

The city, exercising its authority under the SMP has made an administrative interpretation and determined that the utilities perpendicular to the river and suspended from the bridge are conditional uses. (See, Section 2, Administrative Interpretation.)

2. Administrative Interpretation

2.1 Background

As discussed in Section 1, the sanitary sewer line will be located underground within the SMP Urban Conservancy (UC) zone on either side of the La Center Bridge and will be suspended under the La Center Bridge over the East Fork of the Lewis River, an SMP Aquatic (AC) zone. The project will disturb public right-of-way within the UC zone will not disturb the Aquatic zone.

The proposed sanitary sewer trunk line and fiber optic line are utility uses. Both utility uses will be installed perpendicular to the shore of the East Fork of the Lewis River consistent with the 2001 design, approval and construction of the bridge.

Crossing the River, an AC zone, presents a challenge under Table 6-1. In the AC zone above-ground parallel to the shore and underground utilities perpendicular to the shore are conditional uses. In the AC zone the sanitary sewer line and fiber optic cable will be attached to and suspended over the East Fork. If the sewer line and fiber optic cable were to cross the river underground they would be classified as conditional uses.

2.2 Authority

The SMP Administrator has the authority to interpret the SMP. (SMP VII.B.1.a.) Therefore, the SMP Administrator has the authority to determine whether the proposed use *“is consistent with the purpose of the shoreline designation and compatible with existing shoreline improvements or that extraordinary circumstances preclude reasonable use of the property.”* However, as part of the interpretation process, *“Administrative interpretations shall be made in consultation with WDOE to insure that any formal written interpretations are consistent with the purpose and intent of RCW 90.58 and the applicable guidelines.”* (SMP VII.B.1.) The La Center SMP and RECW 98.50 do not define the term consultation and do not prescribe a specific consultation process.

La Center’s designated SMP Administrator from December 2012 through the present is their consulting land use planner, Eric Eisemann, J.D., E² Land Use Planning Services, LLC. Mr. Eisemann initiated consultation with the Department of Ecology relating to these two unclassified uses in December 2016. The consultation process included multiple emails and a site visit by Rebecca Rothwell on January 31, 2017. WDOE provided written comments in an email to the SMP Administrator on March 29, 2017.¹ This report and decision reflects the result of the required consultation.

2.3 Analysis

The La Center SMP, Section K identifies a goal and policies applicable to utilities. The goal and policies applicable to this project include:

¹ Emails between Eric Eisemann Rebecca Rothwell and Kim Van Zwalenburg (Washington Department of Ecology), dated December 10, 2016, December 12, 2016, March 3, 2017, March 15, 2017 and March 29, 2017.

1. *Goal. The goal for transportation, utilities, and essential public facilities is to provide for these facilities in shoreline areas without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes.*

Discussion

The proposed utility project will be located underground within a paved right-of-way on either side of the bridge. The utility will be suspended under the existing La Center Bridge, which was designed, permitted and built with the intent of suspending a future sewer line under the bridge. Consequently, there will be no adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes.

2. *Policies*

a. *Transportation, utilities, and essential public facilities should be located outside the shoreline jurisdiction to the maximum extent possible to reduce interference with natural shoreline functions and appropriate shoreline uses.*

e. *Local utility and transportation corridors should be located to avoid creating barriers between adjacent uplands and the shoreline and to harmonize with the topography and other natural characteristics of the shoreline.*

h. *Utilities and transportation facilities should be installed and facilities designed and located in a coordinated manner that protects the shorelands and water from contamination and degradation.*

i. *The siting of essential public facilities in the shoreline jurisdiction should be discouraged unless no practical alternatives exist.*

Discussion

The city of La Center is located on both sides of the East Fork of the Lewis River. The wastewater treatment plant (WTP) is located on the north side of the river. No practical alternative exists for the city of La Center to extend sewer service to the south side of the river without crossing the river. The sewer line and fiber optic cable will be buried under the paved right-of-way and suspended over the River on an existing bridge thereby harmonize topography and shoreline characteristics. In addition, the location of the lines underground and over the River will protect the shorelands and water from contamination.

The La Center SMP, Section I, Views and Aesthetics, identifies a goal and policies applicable to utilities. The goal and policies applicable to this project include:

1. *Visual access shall be maintained, enhanced, and preserved on shoreline street-ends, public utility rights-of-way above and below the ordinary high water mark and view corridors whenever appropriate.*

Discussion

Locating the utilities underground and under the existing bridge will help maintain visual access of the shorelands.

Chapter VI, Specific Use Regulations, provides guidance and requirements which may relate to utilities. Applicable standards include:

11.e. *Transportation and utility facilities shall be required to make joint use of rights-of-way and to consolidate crossing of water bodies where feasible.*

Discussion

The utilities will be located within an existing right-of-way thereby consolidating crossing of the river.

12. *Utilities Uses. These provisions apply to services and facilities that produce, convey, store, or process power, gas, wastewater, communications, and similar services and functions. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence or other approved use are accessory utilities and shall be considered a part of the primary use.*

a. Utility facilities shall be located outside shoreline jurisdiction whenever feasible. Where distribution and transmission lines (except electrical transmission lines) must be located in the shoreline jurisdiction they shall be located underground. Where overhead electrical transmission lines must parallel the shoreline, they shall be outside of the two hundred (200) foot shoreline environment unless topography or safety factors would make it unfeasible.

b. Utilities shall be designed, located and installed in such a way as to minimize impacts to scenic views, and minimize conflicts with present and planned land and shoreline uses.

c. Transmission, distribution, and conveyance facilities shall be located in existing rights-of-way and corridors, or shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

d. Utility production and processing facilities....

Discussion

The sanitary sewer line and fiber optic cable are utilities. The East Fork of the Lewis River divides the city of La Center. No practical alternative exists for La Center to provide sanitary sewer service to land within the city's jurisdiction south of the river without crossing the river. Options for crossing include boring under the river bed or crossing over the river. In 2001 the La Center Bridge was designed, permitted and constructed over the East Fork, replacing an earlier bridge. The new bridge was constructed not only as a transportation facility but also as a structure to convey a sanitary sewer line across the River.

The proposed sanitary sewer line and fiber optic cable will be buried under the existing Pacific Highway right-of-way and pavement and will be suspended under the bridge thereby minimizing impacts to scenic views. Using the pre-existing bridge to convey the utilities is a shorter more direct way to cross shorelands than is boring under the river bed.

Conclusion

The La Center SMP requires transmission lines to:

- Be within in rights-of-way,
- Cross shoreline jurisdiction in the shortest path possible, and
- Do the least amount of environmental damage.

Therefore, hanging utilities from a pre-existing bridge over the AC shoreline zone will have fewer environmental impacts than boring under the river bed. Consequently, the SMP Administrator finds the proposal satisfies the language and intent of the La Center SMP and may be reviewed as a conditional use.

3. Shoreline Substantial Development Permit

3.1 Request

A shoreline substantial development permit (SSDP) is required for all non-exempt development within the shoreline jurisdiction. The project does not qualify as exempt under WAC 173-27-040 or Section II.C of the SMP. No Prohibited Uses are proposed. The project is not requesting a variance from the SMP

3.2. SMP Goals and Policies

SMP II.B. Shorelines of Statewide Significance

Designated *shorelines of statewide significance (SSWS)* are of value to the entire state as are other water bodies meeting the definition of *shorelines of the state*. The East Fork of the Lewis River, along with its associated shorelands is designated as a *shoreline of statewide significance*. Its location along the southwest boundary of the current city limits and other *shorelines of the state* requires the preparation of this master *program*. In accordance with RCW 90.58.020, SSWS will be managed as follows:

1. *Goal. Preference shall be given to the uses that are consistent with the statewide interest in such shorelines. These are uses that:*
 - a. *Recognize and protect the statewide interest over local interest;*
 - b. *Preserve the natural character of the shoreline;*
 - c. *Result in long term over short term benefit;*
 - d. *Protect the resources and ecological function of the shoreline;*
 - e. *Increase public access to publicly-owned areas of the shorelines;*
 - f. *Increase recreational opportunities for the public in the shoreline; and*
 - g. *Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.*

Discussion

The East Fork Lewis River is a Shoreline of Statewide Significance. The project will occur within the right-of-way of La Center Road and the La Center Bridge. Consequently, the proposal will:

- Preserve the natural character of the shoreline by returning any direct physical impacts back to its current natural character, such as trench restoration.
- Result in a long term over short term benefit by providing utilities vital to current and future development.
- Protect the resources and ecological function of the shoreline by not impacting existing vegetation (except where trenching takes place adjacent to the bridge abutment), grades or having any other permanent physical impact on the shoreline.

SMP II.C. Archaeological, Historic, and Cultural Resources

1. *Goal. The goal for archaeological, historic, and cultural resources is to preserve and prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value. Such sites include those identified by affected Indian tribes, the Department of Archaeology and Historic Preservation, Clark County Historic Preservation Commission, and other appropriate authorities.*

Discussion

South of the bridge the conduit will be trenched along the east side of La Center Road immediately east of the guardrail and along the bridge abutment. North of the bridge the conduit will be trenched alongside the abutments for the bridge and through an existing parking lot located northeast of the bridge. These areas contain fill from the construction of La Center Road and the La Center Bridge and

ground disturbance from prior construction activities. No native soils will be impacted with the trenching for the installation of the conduit. Therefore, there will be no archaeological, historic or cultural impacts associated with the installation of the sanitary sewer line and conduit in the right-of-way or under the bridge.

SMP II.D. Conservation

1. *Goal.* The goal of conservation is to protect shoreline resources, vegetation, important shoreline features, shoreline ecological functions and the processes that sustain them to the maximum extent practicable.

Discussion

The trenches required for underground installation of the conduit are a temporary impact. The existing vegetation consists only of non-native grasses. The trench grades will be fully restored to their pre-construction condition and seeded with native grass seed (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat value of the area. Therefore, the proposed project will not have any impact to the existing shoreline resources, vegetation, important shoreline features, shoreline ecological functions and the processes that sustain them.

SMP II.E. Economic Development

1. *Goal.* The goal for economic development is to create and maintain an economic environment that is balanced with the natural and human environment.

Discussion

Installation of the sanitary sewer line and fiber optic conduit will encourage and support current and future commercial, industrial and residential development within the La Center corporate limits and urban growth boundary.

SMP II.F Flood Prevention and Flood Damage Minimization

1. *Goal.* The goal of flood prevention and flood damage minimization is to prevent public and private losses from occurring, and where this proves to be impossible, to minimize them to the extent possible, and; to maintain and restore natural flow regimes.

Discussion

Installation of the sanitary sewer line and fiber optic conduit will not affect any existing or future flood prevention or flood hazard reduction measures.

SMP II.G. Public Access and Recreation

1. *Goal.* The goal of public access and recreation is to increase the ability of the general public to enjoy the water's edge, travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

Discussion

Installation of the sanitary sewer line and fiber optic conduit will not affect any existing or future public access or recreation features.

SMP II.H. Restoration

1. *Goal.* The goal of restoration is to re-establish, rehabilitate and/or otherwise improve impaired

shoreline ecological functions and/or processes through voluntary and incentive-based public and private programs and actions that are consistent with the SMP, the Clark Coalition Restoration Plan and other approved restoration plans.

Discussion

The project will require trenching within the shoreline and Riparian Habitat Conservation areas. The trenches required for underground installation of the conduit will be a temporary impact. The construction trenches will be fully restored to their pre-construction condition and seeded with native grass seed (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat value of the area.

SMP II.I. Shoreline Modification and Stabilization

1. Goal. *The goal for shoreline modification and stabilization is to avoid or minimize it to the maximum extent feasible. When shoreline modification is unavoidable, the methods used should be those that are least destructive to the shoreline environment, including associated waters.*

Discussion

The trenches required for underground installation of the conduit will be a temporary shoreline modification. Trenching will be minimized to the greatest extent possible with the trench being only as wide and deep as necessary. The trenches will be fully restored to their pre-construction condition and seeded with native grass seed (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat value of the area.

SMP II.J. Shoreline Use and Development

1. Goal. *The goal for shoreline use and development is to balance the preservation and development of shorelines in a manner that allows for mutually compatible uses. Resulting land use patterns will be compatible with shoreline designations and sensitive to, and compatible with, ecological systems and other shoreline resources. To help with this balance, shoreline and water areas with unique attributes for specific long term uses such as commercial, residential, industrial, water, wildlife, fisheries, recreational and open space shall be identified and/or reserved.*

Discussion

Installation of the sanitary sewer line and fiber optic conduit will not affect any existing or future shoreline use or development. Use of the shoreline area for installation of the sanitary sewer line and conduit for future fiber optic use is required as the sanitary sewer line installation will connect the ends of previously installed sewer lines within La Center Road which were stubbed on the north and south ends of the La Center Bridge. The conduit and sewer line will share the right-of-way minimizing impacts to shorelands.

SMP II.K. Transportation, Utilities, and Essential Public Facilities

1. Goal. *The goal for transportation, utilities, and essential public facilities is to provide for these facilities in shoreline areas without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes.*

2. Policies

a. *Transportation, utilities, and essential public facilities should be located outside the shoreline jurisdiction to the maximum extent possible to reduce interference with natural shoreline functions and appropriate shoreline uses.*

e. When new utility and transportation facilities are developed in the shoreline jurisdiction, there should be a combined effort by public and private interests to protect, enhance, and encourage development of physical and visual shoreline public access.

i. Utilities and transportation facilities should be installed and facilities designed and located in a coordinated manner that protects the shorelands and water from contamination and degradation.

h. The siting of essential public facilities in the shoreline jurisdiction should be discouraged unless no practical alternatives exist.

Discussion

Installation of the sanitary sewer line and fiber optic conduit will provide utilities for current and future industrial, commercial and residential development without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes. Installation of the trenches will occur along the east side of La Center Road south of the La Center Bridge and directly adjacent to the bridge abutment on the north side of the bridge within the right-of-way of La Center Road (which contains other existing utilities). The sanitary sewer line is an essential public utility. Because the city limits are on both side of the River there is no other practical alternative for providing sanitary sewer service consistent with the city's comprehensive plan. Therefore, the proposal minimizes impacts and maximizes efficiency of transportation and utility services.

SMP II.L. Views and Aesthetics

1. Goal. The goal for views and aesthetics is to assure that the public will be able to continue enjoying the physical and aesthetic qualities of the shorelines, and that this ability will be increased whenever possible.

Discussion

By placing the conduit underground and on top of the exterior bottom wing ("I" beam flange) of the exterior longitudinal girder on the bridge, and by attaching the sanitary sewer line to the underside of the bridge, protects the physical and aesthetic qualities of the shoreline area and does not obstruct any views.

SMP II.M. Water Quality and Quantity

1. Goal. The goal for water quality and quantity is to protect and enhance the quality and quantity of the region's water resources to ensure there is safe, clean water for the public's needs and enjoyment, and; to maintain and restore natural flow regimes.

Discussion

Erosion control measures, as required by local, state and federal regulations, will be installed prior to, during and following ground disturbing activities. Once these measures are employed, water quality and quantity will be protected from construction activities. Trench restoration and the use of native seed mix will protect the disturbed area from future erosion. The project will not generate any surface run-off and will not impair water quality.

Discussion

Therefore, for the reasons provided above the proposal is consistent with the goals and polices of the city's SMP.

4. General Shoreline Use and Development Regulations

A. General Shoreline Use and Development Regulations

1. *Shoreline uses and developments that are water-dependent shall be given priority.*
2. *WAC 173-26-201 (Process to Prepare or Amend “Shoreline Master Programs”) requires that the SEPA “Mitigation” Sequence be incorporated into “shoreline master programs” as follows:*
 - a. *“To assure no net loss of shoreline ecological functions....,*
3. *Shoreline uses and developments shall not cause impacts that require remedial action or loss of shoreline functions on other properties.*
4. *Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and would not be reasonably anticipated as being necessary in the future, unless it can be demonstrated that stabilization is the only alternative to protecting public safety and existing primary structures.*
5. *Land shall not be cleared, graded, filled, excavated or otherwise altered prior to issuance of the necessary permits and approvals for a proposed shoreline use or development to determine if environmental impacts have been avoided, minimized and mitigated to result in no net loss of ecological functions.*
6. *Non-water-oriented uses shall not adversely impact or displace water-oriented shoreline uses.*
7. *Single-family residential uses*
8. *All uses and developments on or alongside navigable waters should be located and designed to minimize interference with surface navigation; consider impacts to public views and allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.*
9. *Hazardous materials shall be disposed of in a manner which is in accordance with all applicable federal, state, and local statutes, codes and ordinances, and the Shoreline Master Program itself. The handling and disposal of hazardous material will be accomplished in a way that protects the ecological integrity of the shoreline area.*
10. *In-water work*
11. *Previous approvals of master plans*
12. *Within urban growth areas, WDOE may grant relief from use and development regulations of this program when....*

Discussion

Locating the project improvements within existing right-of way and under the bridge will prevent disturbance of shoreline areas in a more natural state and assure no net loss of ecological functions. The primary impact to shoreline functions is trenching for installation of the fiber optic conduit. Those disturbances are temporary construction impacts. Trenching south of the La Center Bridge will be located immediately east of the existing guardrail along the east side of La Center Road. This will minimize the impact to the overall shoreline area adjacent to La Center Road. Minimal trenching will then be required along the fill slope at the base of the bridge north of the bridge then through an existing gravel road to an existing junction box. All trenches will be fully restored to its preconstruction condition and the disturbed area seeded with native grass seed (except where trenched through the existing gravel pedestrian path). This will result in no net loss of ecological functions. Because native

grass seed will be used, the result will be a net increase in habitat and ecological functions as existing vegetation consists of a mix of native and non-native grasses.

No in water work is proposed. Installing the pipeline in the pre-made bridge casing will have no effect on navigable water because the pipeline will be above the lowest level of the bridge deck.

B. Archeological, Cultural and Historic Resources

Discussion

There are no archaeological, historic or cultural impacts associated with the installation of the sanitary sewer line and conduit to the La Center Bridge. South of the bridge the conduit will be trenched along the east side of La Center Road immediately east of the guardrail. North of the bridge the conduit will be trenched alongside the abutments for the bridge and through an existing parking lot located northeast of the bridge. These areas contain fill from the construction of La Center Road and the La Center Bridge and ground disturbance from prior construction activities. Trenching will not impact native soils. Therefore, there will be no impact to archaeological, historic or cultural impacts associated with the trenching for the conduit.

C. Critical Areas Protection

1. General Provisions.

- a. Critical areas defined in Appendix C (LCMC 18.300) which are located within the shoreline jurisdiction are protected under this section.*
- b. Any allowed use, development, or activity proposed on a parcel with a critical area located in the shoreline jurisdiction shall be regulated under the provisions of this program.*
- c. Any allowed use, development, or activity meeting the definition of a development exempt from the shoreline substantial development permit process outlined in WAC 173-27-040 and Section II.C of this program shall be consistent with the policies and provisions of this program for critical areas protection.*
- d. Provisions of the critical areas regulations that are not consistent with the Act and supporting WAC chapters shall not apply in shoreline jurisdiction.*
- e. Habitat that cannot be replaced or restored within twenty (20) years shall be preserved.*
- f. Where construction of a single-family residence is proposed....*
- g. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with this program and LCMC Title 18.*
- h. Reasonable use exceptions under LCMC 18.300.080 determination shall not apply in the shoreline jurisdiction.*
- i. Unless otherwise stated, critical area buffers within the shoreline jurisdiction shall be protected and/or enhanced in accordance with this program and LCMC Title 18.*
- j. Shoreline uses and developments and their associated structures and equipment shall be located, designed and operated using best management practices to protect critical areas.*
- k. The applicant shall demonstrate all reasonable efforts have been taken to avoid, and where unavoidable, minimize and mitigate impacts such that no net loss of critical area and shoreline ecological function is achieved. Mitigation shall occur in the following order of priority:*
 - i. Avoiding the impact altogether by not taking a certain action or parts of an action.*

- ii. *Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts.*
 - iii. *Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;*
 - iv. *Reducing or eliminating the impact over time by preservation and maintenance operations;*
 - v. *Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and*
 - vi. *Monitoring the impact and the compensation projects and taking appropriate corrective measures.*
- i. *In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through restoration efforts.*

Discussion

All development activity will occur within an existing right-of-way or under the bridge. The project activity will trench within disturbed right-of-way or bridge abutments and span the river itself. Consequently, the project minimizes potential effects on critical areas to the maximum extent practicable.

2. *Applicable Critical Areas.* *For purposes of this program, the following critical areas will be protected under this program:*

- a. *Critical Aquifer Recharge Areas, defined in LCMC 18.300.090(1) as adopted by Ordinance 2007-02, dated March 28, 2007;*
- b. *Fish and Wildlife Habitat Conservation Areas, defined in LCMC 18.300.090(2) as adopted by Ordinance 2007-02, dated March 28, 2007;*
- c. *Frequently Flooded Areas, defined in LCMC 18.300.090(3) as adopted by Ordinance 2007-02, dated March 28, 2007;*
- d. *Geologically Hazardous Areas, defined in LCMC 18.300.090(4) as adopted by Ordinance 2007-02, dated March 28, 2007;*
- e. *Slopes with Gradients of 25 Percent or Greater, defined in LCMC 18.300.090(5) as adopted by Ordinance 2007-02, dated March 28, 2007;*
- f. *Wetlands, defined LCMC 18.300.090(6) as adopted by Ordinance 2007-02, dated March 28, 2007;*

Discussion

Critical areas within the project site are Fish and Wildlife Habitat areas and Frequently Flooded areas.

3. *Fish and Wildlife Habitat Conservation Areas*

a. *General Provisions*

i. *Designated habitat areas are those defined in LCMC 18.300.090(2) and those described below:*

(a) *Waterbodies defined as waters of the state (RCW 90.40.020), including waters, bed, and bank;*

(b) *WDNR Classification System Type S, F, Np, and Ns waterbodies as defined and mapped based on WAC 222-16-030 (Forest Practices Rules);*

(c) *Riparian Priority Habitat Areas – areas extending landward on each side of the stream or waterbody from the ordinary high water mark to the edge of the one hundred (100) year floodplain, or the following distances, if greater:*

- i. WDNR Type S waters, two hundred, fifty (250) feet;*
- ii. WDNR Type F waters, two hundred (200) feet;*
- iii. WDNR Type Np waters, one hundred (100) feet; and*
- iv. WDNR Type Ns waters, seventy-five (75) feet.*

(d) Other Priority Habitats and Species (PHS) Areas - areas identified by and consistent with WDFW priority habitats and species criteria, including areas within one thousand (1,000) feet of individual species point sites. The city shall defer to WDFW in regards to classification, mapping and interpretation of priority habitat species.

- i. The above habitat areas are mapped in the adopted "Fish and Wildlife Habitat Conservation Areas Map." Maps are on file with the City Planner.*
- ii. In the event of inconsistencies, official habitat area definitions shall prevail over the maps in determining applicability of this section. The city shall follow the recommendations of WDFW in the interpretation of site-specific conditions as they relate to the definition of priority habitat and species.*
- iii. The portion of the riparian priority habitat area nearest to the OHWM shall be set aside for vegetation conservation and protection of the waterbody within the shoreline jurisdiction.*
- iv. Where development proposals require a Species and Habitat Assessment Report under LCMC 18.300.090(B)(4), the review will be part of the approvals required under this program.*

Discussion

The East fork of the Lewis River is a Type S water and the critical area jurisdiction extends 250 feet landward from the edge of the 100-year floodplain. The habitat associated with this area is riparian. The habitat value of the existing and developed right-of-way is minimal. The trenching area associated with the fiber optic cable is within the previously disturbed bridge abutment area.

b. Regulated Activities

- i. All construction, development, earth movement, clearing, or other site disturbance proposals within a habitat area which require a permit, approval, or other authorization from the city shall be reviewed pursuant to LCMC 18.300.090(2) and shall comply with the requirements of this section.*
- ii. Proposed new single-family residential development....*
- iii. Agricultural activities within designated riparian habitat areas are subject to the provisions of this section and LCMC 18.300.090(2).*
- v. Class IV G forest practices (conversions).*

Discussion

There are no agricultural activities or forest practices within the project site. No single family development is proposed within the project site. All development associated with this project is being reviewed pursuant to and shall comply with LCMC 18.300.090(2).

c. Standards

- i. Any alterations within designated habitat areas in the shoreline jurisdiction require a review and approval prior to clearing or development and prior to issuance of any city permit or statement of exemption.*
- ii. Alterations within the designated habitat areas shall:*

- a. *Avoid impacts to the habitat conservation areas during project planning and development to the extent possible;*
- b. *Substantially maintain the level of habitat functions and values as characterized and documented using best available science;*
- c. *Minimize habitat disruption or alteration beyond the extent required to undertake the proposal; and*
- d. *Compensate for impacts to the habitat conservation areas to meet the standard of no net loss of shoreline ecological functions. Mitigation measures and proposals must demonstrate use of best available science.*
- e. *In the event that impacts to habitat areas cannot be avoided, development and approval of a mitigation plan in accordance with the provisions of LCMC 18.300.090(2)(i) is required.*

Discussion

The proposal to trench a previously disturbed area within the riparian area for a small fiber optic area is subject to review. The habitat value of the area is low because it abuts the bridge abutment or is located within an existing gravel path. After construction the trench area will be replanted with a mixture of native grasses ensuring no net loss of shoreline ecological function..

3. *Frequently Flooded Areas*

Discussion

All construction activity will occur above the regulated flood management area.

4. *Geologically Hazardous Areas*

Discussion

There are no geological hazards within the project area that may be adversely effected by temporary construction or permanent uses associated with this project.

5. *Wetlands*

Discussion

There are no wetlands within the project area that may be adversely effected by temporary construction or permanent uses associated with this project.

D. Flood Prevention and Flood Damage Minimization

1. *Development in floodplains shall not significantly or cumulatively increase flood hazard or be inconsistent with an adopted comprehensive flood hazard management plan.*
2. *New development or new uses in the shoreline jurisdiction, including subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway. The actual location of the channel migration zone on site must be delineated by a qualified professional.*
3. *New structural flood hazard reduction measures*
4. *In-stream structures*
5. *Fills are prohibited in floodplains*
6. *Fill shall be avoided*
7. *Dikes and levees*

8. *Removal of gravel for flood management purposes*
9. *Removal of beaver dams*
10. *Non-structural flood hazard reduction measures are preferred*
11. *Flood protection measures that result in channelization*

Discussion

Installation of the sanitary sewer line and fiber optic conduit will be located outside of or above the flood hazard area and, therefore, will not affect any existing or future flood prevention or flood hazard reduction measures.

E. Public Access

1. *Provisions for adequate public access shall be incorporated into all shoreline development proposals that involve public funding unless the proponent demonstrates public access is not feasible due to one or more of the reasons stated in Section V.E.3 below.*

3.c. *There must be a logical nexus between the negative impact of the development and the need for dedication of property. Dedication of property as a condition of approval must also be roughly proportional to the impact of a proposed development. See also Nollan v. California Coastal Commission, 483 US 825 (1987) and Dolan v. City of Tigard, 512 US 374 (1994);*

Discussion

The below ground installation of a fiber optic cable and sewer line and the installation of the same under an existing bridge do not create a logical nexus between the negative impact of the development and the need for dedication of property or provision of public access. In addition, the right-of-way includes a gravel path accessible to the public on both ends of the bridge and a sidewalk across the bridge. Therefore, this section is not applicable.

F. Restoration

1. *Restoration of ecological functions and processes shall be encouraged and allowed on all shorelines and shall be located, designed and implemented in accordance with applicable policies and regulations of this program and consistent with other City programs. See also Section VI.D.5.*

2. *Impacts to shoreline functions shall be fully mitigated....*

3. *Elements of the Clark Coalition Shoreline Restoration Plan*

4. *Restoration efforts shall be developed by a qualified professional, shall be based on federal, state, and local guidance and shall consider the following:*

- a. *Riparian soil conditions;*
- b. *In-stream fish habitats; and*
- c. *Healthy aquatic and terrestrial food webs.*

Discussion

The project will require trenching within the shoreline and low value riparian habitat conservation areas. The trenches required for underground installation of the conduit are a temporary impact. The trenched areas will be fully restored to their pre-construction condition and seeded with native grass seed (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat value of the area.

G. Site Planning and Development

1. General

- a. *Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, alteration of topography and natural features, and designed to accommodate wildlife movement.*
- b. *Parking, storage, and non-water dependent accessory structures and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principle use.*
- c. *Trails and uses near the shoreline shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.*
- d. *Elevated walkways shall be utilized, as appropriate, to cross sensitive areas such as wetlands.*
- e. *Fencing, walls, hedges, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement.*
- f. *Exterior lighting*

Discussion

The project will not generate any additional lighting, fences, hedges, parking or storage. The project will use the existing gravel pedestrian paths and bridge. The project will not change existing vehicle circulation.

2. Clearing, Grading, Fill and Excavation

- a. *Land disturbing activities such as clearing, grading, fill and excavation shall be conducted in such a way as to minimize impacts to soils and native vegetation, and shall at a minimum meet the requirements of the International Building Code (IBC) as adopted under LCMC 15.05.030.*
- b. *Clearing, grading, fill and excavation shall be scheduled to minimize adverse impacts, including but not limited to, damage to water quality and aquatic life.*
- c. *Clearing, grading fill and excavation shall not result in substantial changes to surface water drainage patterns off the project site and onto adjacent properties.*
- d. *Developments shall include provisions to control erosion during construction and to ensure preservation of native vegetation for bank stability.*
- e. *Clearing, filling, or excavation shall not be conducted where shoreline stabilization will be necessary to protect materials placed or removed. Disturbed areas shall be stabilized immediately and revegetated with native vegetation.*
- f. *Fills shall be permitted only in conjunction with a permitted use, and shall be of the minimum size necessary to support that use. Speculative fills are prohibited.*
- g. *Any placement of materials from off-site (other than permitted deposition of clean dredge spoils) shall be considered fill and shall comply with the fill provisions in the International Building Code (IBC) as adopted under LCMC 15.05.030. Fill shall consist of only clean materials.*
- h. *Soil, gravel or other substrate transported to the site for fill shall be screened and documented that it is uncontaminated. Use of any contaminated materials as fill is prohibited.*
- i. *Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.*

- j. Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support:
 - i. water-dependent use, "or public access,*
 - ii. cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan,*
 - iii. disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of WDNR,*
 - iv. expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible,*
 - v. mitigation, environmental restoration, beach nourishment or enhancement projects.**
- k. Fills waterward of the ordinary high-water mark for any use except ecological restoration should require a conditional use permit.*
- l. Excavation below the OHWM is considered dredging and subject to provisions under that section in Section VI.D.*
- m. For the purposes of this program, preparatory work associated with the conversion of land to non-forestry uses*

Discussion

Disturbances to the land are limited to trenching for the fiber optic cable within the exiting disturbed right-of-way and will not alter the area drainage system. Shoreline stabilization is not required. The project shall adhere to adopted city standards for erosion control management. Fill materials will not be placed outside of the existing disturbed right-of-way including the gravel walkway and area alongside the bridge abutments. Excavation will not occur below or waterward of the OHWM. Consequently, no fill activity will be detrimental to the shoreline ecological functions and ecosystem-wide processes

3. Building Design

- a. Structures shall be designed to conform to natural contours.*
- b. Non-single family structures shall incorporate architectural features that provide compatibility with adjacent properties, enhance views of the landscape from the water, and reduce scale to the extent possible.*
- c. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.*
- d. Interior and exterior structure lighting*

Discussion

No new structures are proposed other than a cable box. The sewer line and fiber optic cable will be below ground or will adhere to the existing bridge.

H. Vegetation Conservation

- 1. Existing native vegetation within the shoreline jurisdiction shall be retained and removal of such vegetation avoided. Where removal of native vegetation cannot be avoided, it shall be minimized to protect ecological functions.*
- 2. Lost functions may be replaced by enhancing other functions if no net loss in overall functions is demonstrated and habitat connectivity is maintained. Mitigation shall be provided consistent with*

an approved mitigation plan.

3. *Clearing of invasive or non-native shoreline vegetation or plants*
4. *If non-native vegetation is to be removed, then it shall be replaced with native vegetation within the shoreline jurisdiction.*
5. *Thinning of trees is limited as follows:*
6. *Topping trees is prohibited.*
7. *Natural features such as snags, stumps, logs or uprooted trees, which do not intrude on the navigational channel or threaten public safety, and existing structures and facilities, shall be left undisturbed.*
8. *Natural in-stream features*
9. *Aquatic weed control*
10. *Unless otherwise stated, the vegetation conservation regulations of this program do not apply to commercial forest practices*
11. *The conversion of forest lands to non-forestry uses*

Discussion

The existing vegetation is limited to grasses alongside the bridge abutment. No trees will be removed or trimmed and no in-water work is proposed. The trenches required for underground installation of the conduit will be a temporary impact. They will be fully restored to their pre-construction condition and seeded with native grass seed (except where trenched through the existing gravel pedestrian path), thereby increasing the habitat value of the area.

I. Views and Aesthetics

1. *Visual access shall be maintained, enhanced, and preserved on shoreline street-ends, public utility rights-of-way above and below the ordinary high water mark and view corridors whenever appropriate.*
2. *Development on or over the water shall be constructed to avoid interference with views from surrounding properties to the adjoining shoreline and adjoining waters to the extent practical.*
3. *Any new or expanded building or structure over thirty-five (35) feet in height*

Discussion

Placing the conduit underground and on the side of the bridge, and by attaching the sanitary sewer line to the underside of the bridge protects the physical and aesthetic qualities of the shoreline area and does not obstruct any views.

J. Water Quality and Quantity

1. *The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site.*
2. *All shoreline development shall comply with the applicable requirements of LCMC 18.320 (Stormwater and Erosion Control).*
3. *Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all shoreline development.*

4. *Potentially harmful materials, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or to be discharged onto the land except in accordance with LCMC 18.320. Potentially harmful materials shall be maintained in a safe and leak-proof condition.*

5. *Herbicides, fungicides, fertilizers, and pesticides*

6. *Any structure or feature in the Aquatic shoreline designation shall be constructed and/or maintained with materials that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants.*

7. *Conveyance of any substance not composed entirely of surface and stormwater directly to water resources shall be in accordance with LCMC 18.320.*

8. *Septic systems*

Discussion

No septic systems or application of herbicides, fungicides, fertilizers, and pesticides are proposed.

Erosion control measures, as required by local, state and federal regulations, will be installed prior to, during and following ground disturbing activities. For the portion of the bridge over the River, the hangers and sewer pipe will be installed using a movable frame supported on the lower “I” beam flanges of the horizontal girder. The frame will include a cover to catch any debris, dust or pollutants that might fall during installation of the hangers and sewer pipe.

The pipe material used for the sewer force main hanging on the bridge will be Class 51 Ductile Iron TR FLEX Pipe and Fittings. This pipe is a 0.25-inch thick ductile iron pipe that will be connected with flexible restrained push-on joints. TR FLEX Pipe and Fitting joints retain their flexibility even after installation. The joint remains secure even when the earth settles or the pipeline moves.

Once installed and connected, the pipe has a working pressure rating of 350 psi. The city engineering standards require that low pressure air testing in accordance with WSDOT standard specifications for pipe testing. This is an air test to sustain pressure in pipe a specified duration. When the pipe is accepted by the city and the force main is in use, the working pressure in the pipe will be between 10 psi to 60 psi. Because the pressure rating of the pipe is 350 psi, the actual pressure in the pipe will be significantly less than the pressure rating of the pipe. Consequently, these materials and protocols will help ensure that inadvertent pipe leakage will not release pollutants into the river.

Construction activity shall comply with city BMPs for erosion control.

5.0 Specific Shoreline Use Regulations

5.1. SMP V. Use Specific Development Regulations

12. *Utilities Uses. These provisions apply to services and facilities that produce, convey, store, or process power, gas, wastewater, communications, and similar services and functions. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence or other approved use are accessory utilities and shall be considered a part of the primary use.*

a. *Utility facilities shall be located outside shoreline jurisdiction whenever feasible. Where distribution and transmission lines (except electrical transmission lines) must be located in the shoreline jurisdiction they shall be located underground. Where overhead electrical transmission*

lines

b. Utilities shall be designed, located and installed in such a way as to minimize impacts to scenic views, and minimize conflicts with present and planned land and shoreline uses.

c. Transmission, distribution, and conveyance facilities shall be located in existing rights-of-way and corridors, or shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

d. Utility production and processing facilities, such as power plants and wastewater treatment facilities....

Discussion

The sanitary sewer line and fiber optic cable are wastewater and communication utility lines. The conduit will be for future fiber optic use. The proposed development activity includes:

- Installation of an 8-inch sanitary sewer force main to the underside of the La Center Bridge and its connection at either end to a previously installed 8-inch sanitary sewer force main.
- Underground installation of a 2-inch PVC conduit from an existing junction box approximately 375' south of the south side of the La Center Bridge, its aboveground connection/mounting to the east side of the bridge, and underground installation on the north side of the bridge to an existing junction box.

The sewer line and fiber optic cable will be located underground to the maximum extent practicable. When both utilities cross the River they will be suspended under the bridge above the River and will not be underground. The alternative is to bore under the River. However, the city has determined that the course of action which will have the least possible effect on the shoreline natural resources is the proposed method of construction. It will minimize visual impacts by being underground and below the bridge deck. It makes use of existing developed rights-of-way and is the most direct route feasible.

Because the SMP requires transmission lines to be underground, in rights-of-ways, cross shoreline jurisdiction in the shortest path possible, and do the least amount of environmental damage, it stands to reason that hanging utilities from bridges to cross shoreline jurisdiction meets the intent of these criteria.

6.0 Conditional Use

6.1. SMP II.G. Shoreline Conditional Use Permit

- 1. The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of this program in a manner that will be consistent with the policies of the Act and this program.*
- 2. When a conditional use is requested, the Shoreline Administrator shall be the approval authority for the City. However, shoreline conditional uses must have approval from WDOE, which shall have final approval authority under WAC 173-27-200.*

Discussion

The La Center Shoreline Administrator has reviewed the project proposal and is responsible for issuing this decision. After review and issuance of a decision the Administrator shall forward the decision to the WDOE for review and final approval.

- 3. Conditional use permits shall be authorized only when they are consistent with the following criteria:*

- a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this program;*
- b. The use will not interfere with normal public use of public shorelines;*
- c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this program;*
- d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and*
- e. The public interest will suffer no substantial detrimental effect;*
- f. Consideration has been given to cumulative impact of additional requests for like actions in the area.*

Discussion

Wastewater and communication utility lines are not identified as prohibited uses in the La Center SMP or in RCW 90.58.020, WAC 173-27-160. The permanent project elements will either be buried underground or suspended under the bridge and will not interfere with public access to or visual access of the shorelands. Pedestrian access along the gravel paths and along the bridge sidewalks will not be permanently impaired. The construction of the sewer line across the East Fork of the Lewis River is consistent with the city's adopted Comprehensive Plan and public interest because it will allow the city to provide sanitary sewer service to lands within the city limits south of the River.

Within the riparian area the proposal will only temporarily impact the gravel paths and areas along the bridge abutment where the fiber optic trench will be located. Disturbed areas, other than the gravel paths, will be resurfaced and planted in native grasses. During construction the city will employ BMPs to control erosion and to catch dust, debris and other pollutants. Therefore, there will be not permanent adverse effects upon shorelands. There are no other proposed utility crossings envisioned in the city's Comprehensive Plan, therefore, the city does not anticipate any similar impacts to the shorelands in its jurisdiction.

For these reasons, the city finds the applicant has met its burden of proof and the installation of the two utility lines is consistent with the goals and policies of the La Center SMP and RCW 90.58.020, WAC 173-27-160.

- 4. Other uses not specifically identified in this program are considered unclassified uses and may be authorized through a conditional use permit if the applicant can demonstrate that the proposed use is consistent with the purpose of the shoreline designation and compatible with existing shoreline improvements or that extraordinary circumstances preclude reasonable use of the property.*
- 5. Uses specifically prohibited by this program may not be authorized.*
- 6. The burden of proving that a proposed shoreline conditional use meets the criteria of this program and WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.*
- 7. The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.*

Discussion

Utility lines perpendicular to the shore and underground are classified as conditional uses. The SMP prohibits above-ground utilities perpendicular to the River except for electrical utilities. The city SMP Administrator has issued an administrative interpretation of the SMP and the WDOE, after consultation, concurs with the interpretation. The city finds that the applicant has met the required burden of proof.

7.0 Findings

The city finds that the applicant has met the required burden of proof relating to the Shoreline Substantial Development Permit, Critical Areas Permit, Conditional Use Permit and Administrative Interpretation. The installation of the two utility lines is consistent with the goals and policies of the La center SMP and RCW 90.58.020, and WAC 173-27-160, WAC 173-27-170 and WAC 173-27-210.

8.0 WDOE Final Authority

8.1 SMP VII.C. WDOE Review

1. *WDOE shall be notified of any Substantial Development, Conditional Use or Variance Permit decisions made by the Shoreline Administrator (or Hearing Examiner when required), whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit, Conditional Use or Variance Permit is required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with WDOE and the Attorney General:*

- a. A copy of the complete application per WAC 173-27-180;*
- b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);*
- c. The final decision of the City;*
- d. The permit data sheet per WAC 173-27-990;*
- e. Affidavit of public notice; and*
- f. Where applicable, the Shoreline Administrator shall also file the applicable documents required by the State Environmental Policy Act (RCW 43.21C).*

2. *When the project has been modified in the course of the local review process, plans or text shall be provided to WDOE that clearly indicates the final approved plan.*

3. *If WDOE determines that the submittal does not contain all of the documents and information required by this section, WDOE shall identify the deficiencies and notify the City and the applicant in writing. WDOE will not act on Conditional Use or Variance Permit submittals until the material requested in writing is submitted to them.*

4. *WDOE shall convey to the City and applicant its final decision approving, approving with conditions, or disapproving the permit within thirty (30) days of the date of submittal by the City. The Shoreline Administrator will notify those interested persons having requested notification of such decision.*

5. *WDOE shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA, WAC 173-27-160, WAC 173-27-170 and WAC 173-27-210, and the criteria listed in this program.*

6. *Appeals of WDOE decisions on conditional use and variances requests shall be made to the Shorelines Hearing Board as specified in Section VII.E.3.*

Discussion

The Shoreline Administrator shall notify WDOE and the Washington State Attorney General consistent with SMP VII.C.

8.2. SMP VII. F. Commencement of Development Activity and Permit Validity

1. *No construction pursuant to a Substantial Development Permit, shoreline variance or shoreline conditional use authorized by this program shall begin or be authorized and no building, grading or other construction permits shall be issued by the City until twenty-one (21) days from the date of filing.*

2. Construction may be commenced no sooner than thirty (30) days after the date of filing unless construction is prohibited until all Superior Court review proceedings are final after judicial hearing as provided in RCW 90.58.140. Any applicant who wishes to begin construction pursuant to this section prior to termination of all review proceedings does so at the applicant's own risk.

3. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a Substantial Development Permit. The Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of proposed extension is given to parties of record on the Substantial Development Permit and to the department.

4. Authorization to conduct construction activities shall terminate five (5) years after the effective date of a substantial development permit. The Shoreline Administrator may authorize a single extension if it has been filed before the expiration date and notice of the proposed extension is given to parties of record and WDOE.

Discussion

The city shall not authorize construction for any element of the proposed project sooner than 30 days after the filing date.

8.3 SMP VI.E. Appeals

Appeals from decisions or rulings of the *Shoreline Administrator* shall be made within twenty one (21) calendar days of the *date of filing* of the *permit* decision. If the last day for filing an appeal falls on a weekend day or a holiday, the last day for filing shall be the next working day. (SMP VII.E.1.)