Kitsap County Department of Community Development

Staff Report for the Hearing Examiner

Report Date: January 19, 2017
Hearing Date: January 26, 2017

Application Submittal Date: October 17, 2016
Application Complete Date: October 17, 2016

Project: Port of Brownsville SSDP Boat Ramp, Small Craft Launch and Pier Replacement Project

This staff report was prepared by Steve Heacock based on information available up until the time the report was prepared. New information relevant to review of this application may become available prior to the hearing or at the hearing. Staff may wish to change their analysis based upon that new information, and reserves the right to do so.

Project Description: The Port of Brownsville property consists of commercial buildings, marina office, parking areas, existing boat ramp, small craft launch, and pier ramp and float which accesses the existing Port of Brownsville marina. The project area is located in the unincorporated area of Brownsville, generally within the existing operating area of the Port of Brownsville, at 9790 Ogle Road NE, Bremerton, WA.

The proposal under review is to re-construct the existing two-lane boat ramp with a new 5,220 square foot concrete ramp, and re-align the ramp perpendicular to the shoreline to allow for better trailer use and to afford better boat maneuvering into and through the marina waterway. The ramp project includes relocation of the boat launch floating dock, with a grated 6 foot by 154-foot floating dock and associated 12-inch steel pile. A complete replacement of the existing small craft launch facility is also proposed, which entails replacement of the facility with a 182 square foot launch, aluminum gangway and landing. There will be five new 12-inch diameter concrete piles installed. The deck and ramp area is all aluminum construction and will incorporate grated decking. Other improvements include the replacement of the fixed pier including the removal of thirty-eight creosote-treated wood pilings and replacement with sixteen, 12-inch diameter steel piles. The associated fixed pier concrete decking will also be replaced with a 1,147 square foot grated deck to allow better light penetration. The pier will be replaced with a prefabricated all aluminum structure including a pre-fabricated viewing platform and 6-foot by 60-foot prefabricated and grated gangway. The existing float will not change The proposal also includes nearshore habitat restoration of portions of the shoreline by removing 259 square feet of hard armoring rip-rap fill and re-establishing 987 square feet of intertidal habitat with a beach-mix of marine sediments, per the habitat mitigation plan by Sealaska Environmental.

To ensure that there is no net loss in ecosystem functions resulting from this project, all efforts have been taken to avoid and minimize any potential impacts. Measures to mitigate for unavoidable impacts have been recommended in the Biological Evaluation (BE) and Essential Fish Habitat Evaluation (EFHE) conducted by Sealaska Environmental Services, LLC. In addition to mitigation measures delineated in the report, the submitted JARPA, and project provided narrative, the U.S. Army Corps of Engineers may require further conditions in an associated Letter of Permission General Conditions Nationwide Permit approval and associated consultation with the NMFS and USFWS which is currently in progress. Additionally, the Washington State Department of Fish and Wildlife may provide further conditions of approval through the Hydraulic

Project Approval review process. Given the conditions provided in the associated BE and EFHE, the proposed functional grating and pilings placements, the proposed removal of creosote piles, concrete pier removal, and restoration of no net loss of ecosystem function is expected to occur as a result of this proposed project.

Application Number: 16 04687 Shoreline Substantial Development Permit (SSDP)

Type of Application:
Shoreline Substantial Development Permit.

Project Request: The Port of Brownsville is requesting approval of a Shoreline Substantial Development Permit under the Shoreline Management Master Program, Title 22 of the Kitsap County Code (KCC) for new replacement of the described two-lane boat ramp, reconstruction of the small craft launch facility, and reconstruction of the existing pier, viewing platform and ramp, with associated light-penetrating grating throughout, and restoration of 987 square feet of marine environment by removing armoring on site and replacing using clean beach mix sediments.

Assessor's Account Number: The property use includes that of a commercial marina on parcel 132501-3-047-2000.

Project Location: The proposed project is located at 9790 Ogle Road NE, WA 98311, Kitsap County, Commissioner District 3, (Section 13, Township 25N, Range 01E in the shoreline draining to Port Orchard Bay. This project and properties in the surrounding area are zoned Rural Commercial. Under the Kitsap County Shoreline Management Master Program, the shoreline environment designation is Shoreline Residential. Eelgrass is not present in the shoreline environment.

Owner of Record: Port of Brownsville

Applicant:
Jerry Rowland, Port of Brownsville Representative

Project Representative:
John Piccone, Sealaska Environmental Services, LLC

State Environmental Policy Act Status:
The SEPA Comment period previously occurred concurrent with the Notice of Application dated November 21, 2016. No comments were received. After the comment period ended, the Responsible SEPA Official issued a Mitigated Determination of Non-Significance (MDNS) on December 8, 2016 (Exhibit 16). There were no appeals of the SEPA determination.

Physical Characteristics:
The Port of Brownsville is located within Port Orchard Bay (Puget Sound), which is classified as a saltwater habitat (Washington Department of Fish and Wildlife, 2014) with several creeks that drain into the bay. The major creek system draining into Port Orchard Bay is Steele Creek, located to the south of the project area and is located within Water Resource Inventory Area (WRIA) 15, East Kitsap Basin.

A Biological Evaluation, Essential Fish Habitat Evaluation and FEMA Floodplain Biological Assessment and Mitigation Plan was provided and dated September and October of 2016, respectively. Results of the survey indicate there are no eelgrass beds within the confines of the proposed project area. Details of the findings can be found in the Biological Evaluation (Exhibit 13). In general, the shoreline is a heavily used commercial marina area with existing armored shoreline, parking areas, commercial uses, and water dependent structures. The majority of the site is hard-armored surfaces and contains native trees on and above the bluff to the north.

Surrounding Land Use:
Adjacent parcels are developed with single-family residences and are zoned Rural Residential.

Shoreline Environment Designation:
Under the Kitsap County Shoreline Management Master Program (SMP), the affected shoreline designation is Rural Conservancy. Moderate slopes above the shoreline are a common attribute in this area.

Public Utilities and Public Services:
Water: North Perry Water District
Power: Puget Sound Energy
Sewer: Kitsap County
Police: Kitsap County Sherriff's Office
Fire: Central Kitsap Fire and Rescue District 1
School District: Central Kitsap School District #401

Documents Consulted in the Analysis:
A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits 1-18.

Submittals for the Shoreline Substantial Development Permit

Document	Exhibit #	Date Received
Project Application	1	October 17, 2016
Project Narrative	2	October 17, 2016
Site Plan overview	3	October 17, 2016
Port of Brownsville Property Map	4	October 17, 2016
Critical Areas Map	5	October 17, 2016
Site photos	6	October 17, 2016
Use Statement	7	October 17, 2016
Reduced Site Plan	8	October 17, 2016
Site Plans	9	October 17, 2016
Construction Plans	10	October 17, 2016
SEPA checklist	11	October 17, 2016
JARPA	12	October 17, 2016
Biological Evaluation Report and Survey	13	October 17, 2016
FEMA Flood Plain Biological Evaluation	14	October 17, 2016
Notice of Application	15	November 21, 2016
SEPA MDNS	16	December 06, 2016
Certification of Public Notice	17	January 11, 2017
Staff Report	18	January 19, 2017

Public and Agency Notification and Comments: The Notice of Application was sent to the applicant and their representative, property owners within an 800 foot radius, as well as the Suquamish Tribe, Point-No-Point Treaty Council, the Department of Ecology, the Department of Fish and Wildlife, Department of Natural Resources, Department of Transportation, Naval Base Kitsap, Kitsap County Public Works, Kitsap Public Health District, Kitsap Transit, Central Kitsap Fire District, Central Kitsap School District, Water Purveyor, and Kitsap Parks and Recreation.

No comments were received.

Communication: On December 6, 2016 the Mitigated Determination of Non-Significance was mailed to multiple parties. *No comments were received.*

Policies and Regulations Applicable to the Subject Proposal:
The Growth Management Act of the State of Washington, chapter 36.70A RCW, requires that the County adopt a Comprehensive Plan and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan
Adopted December 11, 2006 (Amended December 2012)

The following Comprehensive Plan goals and policies are most relevant to this application (vested from the date of application, October 17, 2016)

Natural Systems
Policy NS-42
Encourage developers to protect continuous corridors of native vegetation wherever possible, to disturb as little natural vegetation as feasible, and to enhance or restore wildlife habitat by transplanting or planting native vegetation in the developed landscape.

Rural and Resource Lands
Policy RL-4
Limit development only to that which serves rural residential or resource needs and not draw people from UGAs.

Policy RL-39
Require that land use activities within or adjacent to resource lands are sited and designed to minimize conflicts with and impacts on resource lands. Minimization of impacts may be accomplished through the use of setbacks, buffers and other requirements.

Policy RL-42
Encourage the use of Best Management Practices (BMPs) for all resource activities.

22.300, Shorelines, General Goals and Policies
Policy SH-1

Shoreline characteristics such as scenic vistas, estuarine areas, biological wetlands, beaches, and other unique biological functions, valuable natural systems and aesthetic features should be preserved and restored.

Policy SH-2
Encourage and support shoreline diversity through planned and coordinated development, which gives preference to water-dependent uses, traditional and historic use patterns, resource values, and environmental protection.

Policy SH-4 Kitsap County shall safeguard shoreline resources by only allowing development that is compatible with sensitive shoreline areas.

Applicable Kitsap County Code (KCC)
Title 17, Zoning
Title 19, Critical Areas Ordinance
Title 21, Chapter 21.04 - Land Use and Development Procedures
Title 22, Kitsap County Shoreline Management Master Program

ANALYSIS APPLICABLE TO TITLE 22 REGULATIONS
KCC 22.400.105(B) Standards for Work Waterward of OHWM:
1. Water-dependent in-water structures, activities, and uses are not subject to the shoreline buffers established in this program.

Staff Comment: *Shoreline buffers and setbacks are not a part of this proposal.*

2. Projects involving in-water work must obtain all applicable state and federal permits or approvals, including those from the U.S. Army Corps of Engineers, Ecology, Washington Department of Fish and Wildlife (WDFW), and/or Washington Department of Natural Resources.

Staff Comment: *In the JARPA application (Exhibit 12), the applicant has listed all local, state and federal permits that they will need to obtain for approval of the SDP; thus, the applicant is aware of these requirements.*

3. Projects involving in-water work must comply with timing restrictions as set forth by state and federal project approvals.

Staff Comment: *As Endangered Species Act (ESA) listed species are found within the proposed project's action area, installation should only take place during work windows when these species are not migrating or spawning near the action area. The approved work windows are generally known, as follows: July 16th to August 31st due to salmonid and serf smelt presence.*

4. Protection of waters in the Bay during restoration of the shoreline area.
a. Alteration or disturbance of the bank and bank vegetation must be limited to that necessary to perform the mitigation work.
b. All disturbed areas must be restored and protected from erosion using vegetation or other means.
5. If, at any time, water quality problems develop as a result of in-water work, immediate notification must be made to any appropriate state or federal agency, e.g., Ecology, WDFW, National Marine Fisheries Service, U.S. Fish and Wildlife Service, etc. Affected tribes shall also be notified.

Staff Comment: *No bank alteration or impact to vegetation will occur. Protection of the waters in the Bay are critical during the associated shoreline restoration work. If there are water quality problems as a result of in-water work, immediate notification shall be made to any appropriate state and federal agency. Per KCC 22.400.110 C, Mitigation compliance shall be required and has been made a condition of approval for the project.*

KCC Title 22.400.110 Mitigation

A. Mitigation Sequencing.

1. Permitted uses and developments shall be designed and conducted in a manner that protects the current ecological condition, and prevents or mitigates adverse impacts. Mitigation measures shall be applied in the following sequence of steps, listed in order of priority:

a. Avoid the impact altogether by not taking a certain action or parts of an action;

b. Minimize 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;

c. Rectify the impact by repairing, rehabilitating or restoring the affected environment;

d. Reduce or eliminate the impact over time by preservation and maintenance operations;

e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments, including utilization of the in-lieu fee process where appropriate; and

f. Monitor the impact and the mitigation projects, and take appropriate corrective measures.

2. Application of the mitigation sequence shall achieve no net loss of ecological functions for each new development and shall 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 functions fostered by the policy of the Act or this program.

Staff Comment: *The applicant has submitted a comprehensive Biological Evaluation and Essential Fish Habitat Evaluation for the project. Protection of the waters in the Bay are critical during the project replacement work and associated shoreline restoration work. Staff has analyzed the proposed restoration and compensatory mitigation and find the proposal acceptable, per the SMP and recommend that all proposed mitigation actions be implemented. Note: Additional mitigation may be required by other review agencies.*

KCC 22.300.145 Shorelines of Statewide Significance.

Designation. The Act designated certain shoreline areas as shorelines of statewide significance. Shorelines thus designated are important to the entire state. Because these shorelines are major resources from which all people of the state derive benefit, the statewide interest should be recognized and protected over the local interest.

Those areas that have been designated as shorelines of statewide significance (RCW 90.58.030) in Kitsap County are:

1. Puget Sound: those areas lying seaward from the line of extreme low tide.

2. Hood Canal: from Kitsap-Mason line to Foulweather Bluff, from the line of extreme low tide to the OHWM, and associated Shorelands.

Goal: To ensure that the statewide interest is recognized and protected over the local interest in shorelines of statewide significance, the county shall review all development proposals within shorelines of statewide significance for consistency with RCW 90.58.020 and the following policies (in order of preference):

B. Countywide Policies.

1. Policy SH-47. Recognize and protect the statewide interest over local interest.
a. The Washington Departments of Fish and Wildlife (WDFW) and Ecology (DOE), affected tribes, other resources agencies, and interest groups should be consulted for development proposals that could affect anadromous fisheries or other priority species or habitats.
b. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations.

Staff Comment: *The Notice of Application and SEPA determination were mailed to all listed parties and no comments were received. Staff contacted WDFW, DOE, Department of Natural Resources, and Kitsap Public Health to gather views of the proposal. No one expressed concerns about the proposal.*

2. Policy SH-48. Preserve the natural character of the shoreline.
a. Administer shoreline environments and regulations to minimize damage to the unique character and ecology of shorelines of statewide significance.
b. Where natural resources of statewide importance are being diminished over time by human activities, restoration of those resources should be facilitated.
c. In order to reduce adverse impacts to the environment while accommodating future growth, new intensive development activities should upgrade and redevelop those areas where intensive development already occurs, rather than allowing high intensity uses to extend into low intensity use or underdeveloped areas.

3. Policy SH-49. Result in the long-term over short-term benefit.

a. Preserve sufficient Shorelands and submerged lands to accommodate current and projected demand for economic resources, such as shellfish beds and navigable harbors.
b. Actions that would convert resources into irreversible uses or detrimentally alter natural conditions that are characteristic of shorelines of statewide significance should be severely limited.
c. Evaluate the short-term economic gain or convenience of developments in relationship to long-term and potentially costly impairments to the natural environment.
d. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or for the general enhancement of shoreline areas.

4. Policy SH-50. Protect the resources and ecology of the shoreline.
a. Projects shall be required to consider incremental and cumulative impacts while ensuring no net loss of shoreline ecosystem processes and functions.
b. In order to ensure the long-term protection of ecological resources of statewide importance, activities impacting anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds and other unique environments should be severely limited.
c. Limit public access where improvements would result in a loss of shoreline ecological functions, such as in priority or sensitive habitats.

Staff Comments for Items 2, 3 and 4: *The status of each of the listed species in the action area is currently in consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service through joint consultation with the US Army Corps of Engineers (USACOE). A determination by those agencies in the Regional General Permit-6 and the NMFS is expected and will be made a condition of project approval. Typically, the USACOE provides a concurrent Nationwide Permit review from these agencies, describing that the project is expected to "may affect, not likely to adversely affect". The proposed project has been described and the action area defined. A habitat survey was provided. When reviewing all the data, the scientists who study this proposal identify the potential direct and indirect effects of the proposed action on the listed species and their critical habitat.*

Direct Effects: *When considering the direct effects of the proposed project on the listed species and habitats one must determine if the proposed project will immediately reduce or destroy the listed species and/or their habitat. The potential, direct impacts caused by the proposed project include: (1) increased turbidity from installation, (2) increased noise during installation.*

Turbidity: Increased turbidity caused by installation has adverse effects on salmonid species. The impact level depends on duration of exposure, concentration of turbidity, the life stage during the increased exposure and the options available for the fish to avoid the plumes. The effects can be discussed in terms of lethal, sub-lethal, or

behavioral. For this project, turbidity effects are expected to be localized and brief during installation activities.
Noise: All components on the proposed project will either be pre-manufactured or assembled out of the water; therefore, noise impacts should only result from the installation of the proposed pilings and connection activities. The increase in noise as a result of installation is expected to be minimal and short lived. No species in the action area are expected to be impacted due to increased noise during installation.

Indirect Effects: *Indirect effects are effects of the project that occur later in time. Potential indirect effects of the proposed project are: 1) Migratory pathway alteration, 2) Increased predation, 3) Increase noise from operation.*

Migratory pathway alteration: It is generally accepted that overwater/floating structures can alter migration behavior of juvenile salmon (though the effects may vary depending on the design and orientation of the structure, degree of shading, and presence of artificial light), and reduce salmon prey resources and refugia by shading aquatic plant life; however, the significance of these effects is not clear. The applicant representative found no studies that described empirical evidence supporting or refuting that modification of juvenile salmon behavior in shoreline habitats was reflected in changes in survival. Presently, although it is understood that under some conditions small juvenile salmon will delay or otherwise alter their shoreline movements when encountering an overwater/floating structure, the conditions under which this behavioral modification is significant to the fishes' fitness and survival is relatively unknown.

There is no question that underwater structures may alter migration patterns – that is not in dispute. As seen in studies, there is evidence that indicate that salmon migration is not affected by the presence of overwater/floating structures. Of course, there are other studies indicating migration patterns are altered by overwater/floating structures.

This issue is that no one has shown that these migration changes lead to increased mortality or decreased fitness. None of the studies that report changes in salmonid migration patterns caused by overwater/floating structures have reported that these changes have a negative impact on salmonids.

Nevertheless, the Services (National Marine Fisheries and US Fish and Wildlife Service) have chosen to accept the hypothesis that overwater/floating structures will have negative impacts on salmonids, even though there is no current scientific research proving that this hypothesis is true. Impact minimization recommendations are based on this assumption. With that said, all floating structures in this project are proposed to be located in deeper waters where none of the above impacts are expected to occur.

KCC 22.200.125 Rural Conservancy

A. Purpose. To protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities.

B. Designation Criteria. Shorelines outside the UGA or LAMIRD that have any of the following characteristics:

1. Currently support lesser intensity resource-based uses, such as agriculture, aquaculture, forestry, or recreational uses, or are designated agriculture or forest lands;

2. Currently accommodate residential uses but are subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or floodplains or other flood-prone areas;

3. Have high recreational value or have unique historic or cultural resources; or

4. Have low-intensity water-dependent uses.

Staff comment: The proposed replacement boat ramp, small craft launch, and reconstructed pier and ramp, meets the criteria as projects which provide recreational uses and have a high recreational value, including public beach access. The proposed use is considered a public facility.

Land designated urban conservancy and from which a UGA boundary is retracted may be designated as rural conservancy, if any of the above characteristics are present.

C. Management Policies.

1. Uses should be limited to those which sustain the shoreline area's physical and biological resources, and those of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Developments or uses that would substantially degrade or permanently deplete the physical and biological resources of the area should not be allowed.

2. New development should be designed and located to preclude the need for shoreline stabilization. New shoreline stabilization or flood control measures should only be allowed where there is a documented need to protect an existing structure or ecological functions and mitigation is applied.

3. Residential development standards shall ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline consistent with the purpose of the "rural conservancy" environment.

4. Low-intensity, water-oriented commercial uses may be permitted in the limited instances where those uses have been located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.

5. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline area are mitigated.

Staff comment: (designation criteria, 2, 3, 4 and 5): the application meets these criteria. The proposed project is the installation of a replacement boat ramp, small craft boat launch pier, replacement pier and associated float and ramp. The water dependent use is approved in the Rural Conservancy jurisdiction. All dock components will be premanufactured or assembled out of the water. The pilings and float attachments will be constructed in the water, and timing of installation will be guided by best management practices. Adverse impacts to the aquatic environment will be minimized by specified work windows and siltation management. Work will only be conducted between July 16th and August 31st of any given year to avoid migrating salmonids and serf smelt species. A number of impact minimization measures will be implemented including working within the work windows stated above, implementing marine construction and operation management guidelines, providing siltation management (Washington Department of Ecology Stormwater Best Management Practices).

KCC 22.200.135 Aquatic

A. Purpose. To protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.

B. Designation Criteria. Lands waterward of the OHWM, which include tidelands, bedlands, and lands beneath freshwater shorelines of the state.

C. Management Policies.

1. New over-water structures and development on navigable waters and their beds should be allowed only for water-dependent uses, public access or ecological restoration, and when:

a. They do not preclude attainment of ecological restoration; and

Staff Comment: *The proposed project is the installation of replacement commercial facilities including the two-bay boat ramp, small craft boat launch, and replacement pier pilings and floats. The water dependent use is approved in the Rural Conservancy jurisdiction. All dock components will be premanufactured or assembled out of the water. The pilings and pier attachments will be constructed in the water, and timing of installation will be guided by best management practices. Adverse impacts to the aquatic environment will be minimized by specified work windows and siltation management. Work will only be conducted between July 16th and August 31st of any given year to avoid migrating salmonids and serf smelt species. A number of impact minimization measures will be implemented including working within the work windows stated above, implementing marine construction and operation management guidelines, providing siltation management (Washington Department of Ecology Stormwater Best Management Practices).*

b. The size of the new over-water structure is limited to the minimum necessary to support the structure's intended use; and

Staff Comment: *The proposed replacement project, boat ramp, pilings and pier components are the minimum size necessary to support the use.*

c. Multiple use of the over-water facility has been encouraged; and

Staff Comment: *The proposed replaced project is a Public Use facility.*

d. The structure or use is located and designed to minimize interference with surface navigation, to consider impacts to public views, to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration, and to ensure that the project does not conflict with existing water-dependent uses; and

Staff Comment: *Work will be conducted between July 15th and August 31st of any given year to avoid potential construction impacts to migrating salmonids and spawning forage fish species. The location of the structure does not prevent the common use of the bay for recreation.*

e. The use or modification is designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

Staff Comment: *The project is not anticipated to alter natural hydrographic conditions.*

2. When new over-water structures are proposed for residential development of two or more dwellings, joint use or community dock facilities should be utilized rather than single-use facilities.

Staff Comment: *The proposal is a replacement of an existing marina facility and is an existing Commercial facility.*

3. Development should be compatible with the adjoining upland designation.

Staff Comment: *The upland land designation is rural Commercial. The closest shoreline jurisdiction is Shoreline Residential. Adjoining parcels are developed and also zoned rural residential with shoreline designations of Rural Conservancy.*

The purpose of the Rural Conservancy designation is to accommodate residential development and appurtenant structures that are consistent with this program, and to provide appropriate public access and recreational uses.The project meets these requirements, as appropriate.

4. Existing over-water residences may continue through normal maintenance and repair, but should not be enlarged or expanded. New over-water residences should be prohibited.

Staff Comment: *No residences are proposed.*

5. Applicants for any use or modification should schedule a staff consult to review the site conditions, and potential habitats and species. This consult should result in a general understanding of applicable development standards for the proposal.

Staff Comment: *A one-hour intake meeting was held in July of 2016 to learn about the project and to inform the applicants of the permit requirements for their project.*

6. Development over or in critical freshwater or saltwater habitats should be limited to those which mitigate impacts according to mitigation sequencing, and development standards for that development activity.

Staff Comment: *The following are mitigation and management measures to minimize or avoid impacts.*

A. Work Windows: *As ESA listed species are found within the proposed project's action area, installation should only take place during work windows when these species are not migrating or spawning near the action area. The approved work windows are as follows: July 15 to August 312 for serf smelt and salmonids.*

B. Marine Construction and Operation Management: *Although the proposed dock structures for this project will all be pre-manufactured and assembled out of the water, the guidelines below are required to prevent and minimize any potential environmental impacts as a result of the installation of these structures.*

1. *Timing of the in-water work will be as specified in the JARPA, HPA, Corps of Engineers or other authorized regulatory agencies.*

2. *Where forage fish spawning is documented or reported, additional testing may be requested of WDFW to vary work windows. Site inspection, notification and scheduling will be per WDFW procedures.*

3. *Work on projects will be accomplished per the submitted and approved drawings and specifications.*

4. *All man made debris involved in the construction process will be removed from the site and disposed in approved upland site.*

5. *All required in-water construction will be conducted within the permitted work window.*

6. *Over-water construction may need to be completed after the in-water work window due to the very limited time frame of the in-water work window. This work may include installation of the floating structures. Over-water work will be conducted under the following procedures:*

    a. *All materials will be moved by hand equipment or small barges that will bring materials to the site but will not be allowed to ground or in any way be detrimental to the site.*

    b. *The floating structures may be constructed at an upland off-site location and installed as modular units.*

    c. *All over-water remaining construction completed with hand tools and small relatively quiet power tools, i.e. skill saw, ½" electric drill, etc.*

    d. *Due to the size and complexity of the projects, this is a multi-year project.*

7. *All possible precautionary measure will be taken to contain material, material wastes or any other foreign material on project site.*

8. *Over-water structures and/or equipment, and any items stored upon such structures such as materials, garbage, tools, or apparatus, shall be designed and maintained to minimize visual impacts. The maximum height for items stored upon such structures shall be limited to three feet, as measured from the surface of the raft or the dock, unless shoreline conditions serve to minimize visual impacts (for example: high bank environments, shorelines without residential development), but in no case shall the height exceed six feet. Height limitations do not apply to materials and apparatus removed from the site on a daily basis. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the OHWM.*

9. *Lastly, the **Best Management Practices for Marinas** produced by the U.S. Environmental Protection Agency (U.S. EPA, 2012) as well as the **Marina Best Management Practice (BMPs)** by Clean Marina Washington (Clean Marina Washington, 2015) are required for in-water work and operation of the proposed floating structures.*

C. Siltation Management: *Several methods are suggested to prevent siltation during installation of pilings. Washington State Department of Ecology's* ***STORM WATER MANAGEMENT MANUAL FOR THE PUGET SOUND BASIN*** *often termed "the Technical Manual". (WSDE 2012) provides the following precautions for siltation prevention during installation processes are suggested in Volume II "Construction Stormwater Pollution Prevention" in the Stormwater Management Manual for Western Washington. These Best Management Practices (BMPs) are as follows:*

BMP C101: Preserving Natural Vegetation
BMP C102: Buffer Zones
BMP C103: High Visibility Fence
BMP C105: Stabilized Construction Entrance / Exit
BMP C106: Wheel Wash
BMP C107: Construction Road/Parking Area Stabilization
BMP C120: Temporary and Permanent Seeding
BMP C121: Mulching
BMP C122: Nets and Blankets
BMP C123: Plastic Covering
BMP C124: Sodding
BMP C125: Topsoiling / Composting
BMP C126: Polyacrylamide (PAM) for Soil Erosion Protection
BMP C130: Surface Roughening
BMP C140: Dust Control
BMP C150: Materials on Hand
BMP C152: Sawcutting and Surfacing Pollution Prevention
BMP C153: Material Delivery, Storage and Containment
BMP C160: Certified Erosion and Sediment Control Lead

Please refer to Volume II "Construction Stormwater Pollution Prevention" in the Stormwater Management Manual for Western Washington for BMP details.

D. Eelgrass Management: *No impacts to Zostera marina is anticipated for the project.*

22.600.130 Commercial Development

C. Redevelopment

1. When commercial redevelopment involves relocating or expanding the existing structure, shoreline restoration or mitigation shall be a condition of approval (see Chapter 22.800, Appendix B). Restoration may include, but is not limited to:

   a. Moving the structure away from the shoreline;

   b. Removing any shoreline armoring or replacing hard with soft armoring;

   c. Riparian vegetation restoration, including removing invasive and planting natives;

d. Stormwater retrofits to implement low impact development.

Staff Comment: *The proposed commercial development replaces existing facilities and the project is an existing Public Use facility and will be compliant with the redevelopment criteria. Replacement structures provide mitigation per 22.800 Appendix B, as detailed in the submitted BE and EFHE.*

22.600.160 Mooring Structures and Activities C. Development Standards, 1-6

Staff Comment: *The projects are a replacement of existing mooring structures and related activities and will be fully compliant for the associated work, including 1. General Development Standards- a. through u.; 2. Critical Saltwater Habitats Standards- a. through e.; 3. Pilings- a. through d.; 4. Piers- a. through f.; 5. Floats- a. through h.; and 6. Boat Launching Ramps Railways and Lifts- a. through g.*

Staff Evaluation of Decision Criteria for SSDP:

1. The Hearing Examiner has review authority for this Shoreline Substantial Development Permit application under KCC 21.04.030 and KCC 22.500.105(E) (1 and 2).

Recommendations

Based on above analysis and findings, the Department of Community Development recommends **APPROVAL** of the Port of Brownsville Replacement Boat Ramp, Small Craft Launch and replacement Pier Shoreline Substantial Development Permit subject to the following 19 conditions:

GENERAL

1. Alteration or disturbance of the bank and bank vegetation must be limited to that necessary to perform the in-water work.
2. All disturbed areas must be restored and protected from erosion using vegetation or other means.
3. If, at any time, water quality problems develop as a result of in-water work, immediate notification must be made to any appropriate state or federal agency, e.g., Ecology, WDFW, National Marine Fisheries Service, U.S. Fish and Wildlife Service, etc. Affected tribes shall also be notified.
4. Upon final SSDP issuance, all construction within the shoreline jurisdiction must commence within two years and be complete within five years. A one-time one year extension is available but only if requested on or before ninety days of original permit expiration. No exceptions are allowed unless provided for by law.
5. The project shall comply with all state and federal requirements, where applicable.
6. Permit approval subject to conditions in the Hearing's Examiner Decision.

PLANNING/ZONING

7. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
8. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the Kitsap County Code (KCC). Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other use of the subject properties.
9. The decision set forth herein is based upon representations made and exhibits contained in the project application for the Shoreline Substantial Development Permit (SSDP) 16 04687. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
10. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.
11. Any violation of the conditions of approval shall be grounds to initiate revocation of this Shoreline Substantial Development Permit.
12. All proposed structures shall comply with the required 5-foot side yard setbacks from both the north and south property lines.

ENVIRONMENTAL

13. Timing of the in-water work shall be as specified in the JARPA, Biological Evaluation, HPA, Corps of Engineers or other authorized regulatory agencies.
14. Where forage fish spawning is documented or reported, additional testing may be requested of WDFW to vary work windows. Site inspection, notification and scheduling shall be per WDFW procedures.
15. Work on projects shall be accomplished per the submitted and approved drawings and specifications.
16. All man made debris involved in the construction process shall be removed from the site and disposed in approved upland site.
17. All required in-water construction shall be conducted within the permitted work window.

16. Over-water construction may need to be completed after the in-water work window due to the very limited time frame of the in-water work window. This work may include installation of floating structures. Over-water work shall be conducted under the following procedures:

a. All materials shall be moved by hand equipment or small barges that shall bring materials to the site but shall not be allowed to ground or in any way be detrimental to the site.

b. The floating structures shall be constructed at an upland off-site location and installed as modular units.

c. All over-water remaining construction completed with hand tools and small relatively quiet power tools, i.e. skill saw, ½" electric drill, etc.

17. All possible precautionary measure will be taken to contain material, material wastes or any other foreign material on project site.

18. Over-water structures and/or equipment, and any items stored upon such structures such as materials, garbage, tools, or apparatus, shall be designed and maintained to minimize visual impacts. The maximum height for items stored upon such structures shall be limited to three feet, as measured from the surface of the float or the dock, unless shoreline conditions serve to minimize visual impacts (for example: high bank environments, shorelines without residential development), but in no case shall the height exceed six feet. Height limitations do not apply to materials and apparatus removed from the site on a daily basis. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the OHWM.

19. Lastly, the **Best Management Practices for Marinas** produced by the U.S. Environmental Protection Agency (U.S. EPA, 2012) as well as the **Marina Best Management Practice (BMPs)** by Clean Marina Washington (Clean Marina Washington, 2015) are required for in-water work and operation of the proposed floating structures.

Steve Heacock, Staff Planner — Date: 1-19-17

Scott Diener, Development Services and Engineering Manager — Date: 1.19.17

DISTRIBUTION LIST
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DCD DSE Supervisor/Manager: Shawn Alire and Scott Diener

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