



## Hearing Examiner Staff Report and Recommendation

**Report Date:** 03/18/2021  
**Hearing Date:** 03/25/2021

**Application Submittal Date:** 07/27/2020  
**Application Complete Date:** 08/17/2020

**Project Name:** Minor Marine Rail Project  
**Type of Application:** Shoreline Substantial Development Permit  
**Permit Number:** 20-03299

### Project Location

The project is located at 1167 Colchester Drive SE within the SW ¼ of section 27, Township 24 North, Range 2 East, WM, in the Port Orchard vicinity of Kitsap County, Washington, Commissioner District 2.  
Site Address: 1167 Colchester Drive SE, Port Orchard, WA

**Assessor's Account #**  
4516-002-013-0000

**Applicant/Owner of Record**  
Cathy and Roger Minor  
1167 Colchester Drive SE  
Port Orchard, WA

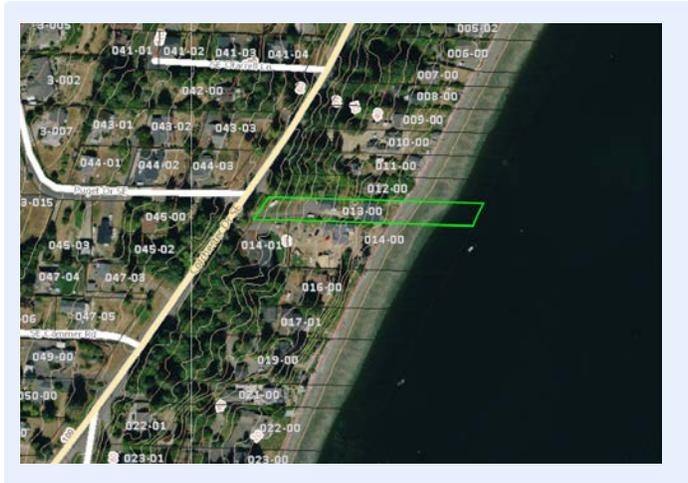
### Recommendation Summary

Approved subject to conditions listed under section 13 of this report.

#### 1. Background

Cathy and Roger Minor seek to replace a derelict marine railway with a modernized elevated marine railway for residential uses. The previous railway system was originally constructed in the 1960's. The rail system was used up until the 1990's, and due to tidal sediment transport, was no longer functional. The previous rail system was a two rail system with a standard 4 foot 9 inch rail width. The rail system extended approximately 150 feet from the shoreline and was primarily constructed on the beach substrate. Due to drift sediment action, the rails were buried and excluded operation. The applicant is currently using a dingy to access the boat located on a marine float offshore and is seeking a replacement to the marine rail. Substrate transport will be accommodated by elevating the rail system.

### VICINITY MAP



## **2. Project Request**

The proposed project is to build an elevated rail launch for a recreational boat owned by the property owners. The old existing rail launch has been buried by sediment transport along the beach over time. The new launch has been designed to minimize sediment transport disruption by elevating the structure above the beach surface to the extent possible. This reduced and minimized the actual footprint of the structure and largely avoids impacts to the beach flora, epifauna, and infauna. Public moorage was considered when planning the proposed project. There are several moorages availing in downtown Port Orchard. To use one of these facilities, the applicant would increase travel time with both land and marine vehicles to access the same general location they use and visit on a daily basis. The project removes the need to carry or drag the dingy across the beach to access the buoy moorage, reduces greenhouse gas emissions, reduces marine wake waves and marine noise, reduces beach substrate impacts, and reduces fossil fuel consumption.

## **3. SEPA (State Environmental Policy Act)**

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of “major” environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated November 06, 2020 (Exhibit 12). A Determination of Nonsignificance (DNS) was issued on March 4, 2021. (Exhibit 13). SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under conditions at the end of this report:

### **COMMENTS:**

The SEPA comment period previously occurred concurrent with the Notice of Application dated November 06, 2020. The subject property was visited by staff from the Washington State Department of Fish and Wildlife (WDFW) and the Suquamish Tribe. The project proposes restoration of the beach by removing piling remnants of an old marine float system on the property. The landowner has voluntarily been removing floating debris from the beach area and plans on removing the previous rail and foundations, where feasible.

CONDITIONS:

1. As the project requires in-water work, a Hydraulic Project Approval (HPA) is required from the Washington Department of Fish and Wildlife.
2. The proposal will be conditioned for marine debris removal from a previous beach float foundation.

The SEPA appeal period expires March 18, 2021. Kitsap County Department of Community Development (DCD) has received no SEPA comments or appeals at the time of this writing. We will provide an update to the record at the hearing regarding any comments received after the staff report date. At this time, a Hydraulic Project Approval is required for project implementation, per communication and consultations with Brittany Gordon, South Kitsap Area Habitat Biologist. Construction activity shall be subject to HPA requirements for installation timing and to limit habitat impacts.

**4. Physical Characteristics**

The topography of the project area is on stable shoreline beach sediments and substrate. The site is bordered to the north and south by single-family residential properties and Yukon Harbor (Puget Sound) to the east.

The upland portion of the project where the boat will be located will be on the upper beach above the Ordinary High Water line, on a gently sloping marine shoreline. The boat cradle system will rest on top of the rails. The rail system will be elevated and located above the mean-lower low water line. The tidal sediments consist of sand, gravel, cobble and shell debris. Red and green macroalgae were present at deeper extents. There was no eelgrass (*Z. Marina*) identified in the marine study.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Limited Area of More Intense Rural Development Zone: Manchester Village Low Residential (MVLR)	Standard	Proposed
Minimum Density	N/A	NA
Maximum Density	2 units per acre	
Minimum Lot Size	21,780 SF	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	60 feet	NA
Minimum Lot Depth	60 feet	NA
Maximum Height	35 feet	NA

Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Applicable footnotes:  
None.

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front	20 feet	NA
Side	5 feet	5 feet
Side	5 feet	NA
Rear	5 feet	NA

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	MVLR, development on urban sized lots in the general vicinity	MVLR
South	MVLR, development on urban sized lots in the general vicinity	MVLR
East	NA	NA
West	MVLR, development on urban sized lots in the general vicinity	MVLR

**Table 4 - Public Utilities and Services**

	Provider
Water	Manchester Water District
Power	Puget Sound Energy
Sewer	Kitsap County Public Works
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District

**5. Access**

Access to the project is from Colchester Avenue SE to the property driveway. The driveway is paved with a residential turn-around near the residence. Access to the marine rail is via footpath on the north of the residence.

**6. Site Design**

Not applicable. A site plan (Exhibit 5) is provided.

**7. Policies and Regulations Applicable to the Subject Proposal**

The Growth Management Act of the State of Washington, RCW 36.70A, 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 June 30, 2016

The following Comprehensive Plan goals and policies are most relevant to this application:

*Shorelines*

*Policy SH-1*

*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-3*

*Uses and activities along shorelines and in the waters of Kitsap County should not have a significant adverse effect on water quality.*

*Policy SH-8*

*Land use activities shall be sited and designed to minimize conflicts with and impacts on the shoreline environment.*

*Utility Goals and Policies*

*Policy UT-2*

*Encourage the designation and development of utility corridors and facilities in a manner consistent with the needs and resources of Kitsap County.*

The County's development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

*Kitsap County Code (KCC) Title 17 Zoning*

*KCC Title 18, Chapter 18.04 State Environmental Policy Act (SEPA)*

*KCC Title 19 Critical Areas Ordinance  
KCC Title 21, Chapter 21.04 Land Use and Development Procedures  
KCC Title 22, Chapter 22.600.105 and 22.600.185(B).*

**Shoreline Environment Designation:** Shoreline Residential.

**Flood zone Designation:** AE (13-foot elevation under NAVD 88 survey methods)

The County’s development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 15	Flood Zone
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 21.04	Land Use and Development Procedures
Title 22	Shoreline Master Program

**8. 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 1-16.

Exhibit #	Document	Dated	Date Received
1	Authorization Form		07/28/2020
2	Joint Aquatic Resources Permit Application (JARPA)		07/28/2020
3	KC Incomplete Notice Response Letter		07/28/2020
4	Minor Shoreline Mitigation Calculator		11/24/2020
5	Plans and locations		07/28/2020
6	Permit questionnaire		07/28/2020
7	SEPA Checklist		07/28/2020
8	Shoreline Habitat Assessment Report		07/06/2020
9	Notice of Complete Application		08/17/2020
10	Stormwater review note		10/06/2020
12	Notice of Application		11/06/2021
13	SEPA Determination of Nonsignificance (DNS)	01/26/2021	
14	Notice of Public Hearing	03/11/2021	
15	Certification of Public Notice	03/11/2021	
16	Staff Report	03/18/2021	

17	Staff Presentation		
----	--------------------	--	--

**9. Public Outreach and Comments**

We received no public comments related to the permit submittal on this proposal. A site visit was conducted by Washington State Department of Fish and Wildlife and with County staff and the Suquamish Tribal Biologist. Mitigation in the form of the removal of metal and wooden piling from an older residential marine float is proposed and will be a condition of approval. The applicant representative has consulted with the U. S. Army Corps of Engineers and Federal project review is pending.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
NA		NA

Issue Ref. No.	Issue	Staff Response
NA		NA

**10. Analysis**

**a. Planning/Zoning**

The proposed marine rail is subject to side yard setback requirements. The proposal requires a 5-foot side yard setback.

*The proposed marine rail conforms to the required 5-foot side yard setback.*

**b. Lighting**

Not applicable to this proposal.

**c. Off-Street Parking**

Not applicable to this proposal.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
NA	NA	NA	NA
Total	NA	NA	NA

**d. Signage**

Not applicable to this proposal.

**e. Landscaping**

Not applicable to this proposal.

**Table 6 - Landscaping Table**

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	NA	NA
Required Buffer(s)		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

**f. Frontage Improvements**

Not applicable to this proposal.

**g. Design Districts/Requirements**

Not applicable to this proposal.

**h. Development Engineering/Stormwater**

Not applicable to this proposal. The proposal has no stormwater impacts.

**i. Environmental**

Policies: See the previous Policies section for general policy analysis. Regulations:

**KCC 22.300.125 Shoreline use and site planning**

Goal: Preserve and develop shorelines in a manner that allows for an orderly balance of uses by considering the public and private use, along with the development of shorelines and adjacent land areas with respect to the general distribution, location and extent of such uses and development.

A. Policy SH-20. For shoreline use and development activities, including plats and subdivisions at full build-out, employ innovative development features to achieve no net loss of ecological functions, such as sustainable and low impact development practices where appropriate.

*Staff analysis and comments: the proposed railway is an appurtenance to a vested residential development activity and meets the criteria.*

B. Policy SH-21. Give preference to water-dependent uses and single-family residential uses that are consistent with preservation of shoreline ecological functions and processes. Secondary preference should be given to water-related and water-enjoyment uses. Non-water-oriented uses should be limited to those locations where the above-described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Act. For use preference within shorelines of statewide significance, see Section [22.300.145\(B\)](#).

*Staff analysis and comments: the proposed marine rail is a water dependent use. The railway is an appurtenance to a vested residential development activity and meets the criteria.*

C. Policy SH-22. Designate and maintain appropriate areas for protecting and restoring shoreline ecological functions and processes to control pollution and prevent damage to the shoreline environment and/or public health.

*Staff analysis and comments: the proposed railway is an appurtenance to a vested residential development activity. The elevated railway will reduce ecological damage, provide for tidal deposition and transmittal of marine sediments, eliminates shading from the current marine float, and reduces impacts from the daily dingy launch. The facility meets the criteria.*

D. Policy SH-23. Through appropriate site planning and use of the most current, accurate and complete scientific and technical information available, shoreline use and development should be located and designed to avoid the need for shoreline stabilization or actions that would result in a net loss of shoreline ecological functions.

*Staff analysis and comments: the proposed railway is an appurtenance to a vested residential development activity. There is no armoring required for the project and it meets the criteria.*

### **KCC 22.300.145 Shorelines of Statewide Significance**

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of statewide significance. Shorelines, thus designated, are important to the entire state. The project work area is located outside of the designation and therefore requires no further analysis under this classification.

### **KCC 22.400 General Regulations**

The summary below provides description of project consistency with the general regulations provided in KCC 22.400. The applicable general regulations include mitigation; vegetation conservation buffers; water quality and quantity; historic, archaeological, cultural, scientific and educational resources; view blockage; bulk and dimension standards; public access, and flood hazard reduction measures.

Discussion of mitigation and vegetation conservation buffers are presented as part of the Habitat Assessment Report provided in detail below, dated 07/2/21 (Exhibit 8).

*Staff has reviewed the summary analysis and find the proposal is consistent with the required provisions in KCC 22.400.125 Water Quality and Quantity; KCC 22.400.130 Historic, Archeological, Cultural, Scientific and Educational Resources; KCC 22.400.135 View Blockage; KCC 400.140 Bulk Dimension Standards; KCC 22.400.145 Public Access; KCC 22.400.150 Flood Hazard Reductions; KCC 22.400.(110,115, and 120) No Net Loss Analysis, which includes Mitigation Sequencing, Avoidance, Minimization, Restoration, Compensatory Mitigation and Assessment of No Net Loss.*

#### **22.600.160 Mooring structures and activities**

As detailed in KCC 22.600.160, marine railways are permitted uses in the Shoreline Residential zone under mooring structures and activities, section C 6.

A. Environment Designations Permit Requirements. When mooring structures are proposed in the aquatic designation and are adjacent to the following upland designations, the identified permit requirements shall apply:

1. Natural: a. Prohibited for single use. *Comment: NA*
- b. Prohibited for joint or public use, unless the adjoining upland is a public park, then up to two mooring buoys may be permitted with a Substantial Development Permit (SDP).  
*Comment: NA*
2. Rural conservancy, urban conservancy, shoreline residential, and high intensity: SDP.  
*Comment: the application meets the criteria; the zone is shoreline residential.*

B. Application Requirements. In addition to the general permit requirements, proposals for mooring structures shall include the following:

1. A staff consultation meeting with the department, state and federal agencies (where applicable), and tribes affected by proposals within their usual and accustomed grounds and stations shall be required prior to application for new piers and docks, pursuant to Chapter [22.500](#) (Permit Provisions, Review and Enforcement); *Comment: a staff consult was performed. The proposal is not for a dock or pier.*

2. Description of the proposed structure, including size, location, design, and any other modification required by the project; *Comment: these items are included in the analysis*
  3. Ownership of tidelands, shorelands, and/or bedlands; *Comment: provided in the JARPA*
  4. Proposed location of mooring structures relative to property lines and OHWM; *Comment: NA, the proposal is not a mooring structure.*
  5. Location, width, height, and length of mooring structures on adjacent properties; *Comment: NA, the proposal is not a mooring structure.*
  6. If for residential moorage, demonstration that existing facilities, including public moorage within ten driving miles of the applicant's parcel, are not adequate or feasible to accommodate the proposed moorage; *Comment: NA, the proposal is not a mooring structure.*
  7. Demonstration that alternative types of moorage, including buoys, are not adequate or feasible; *Comment: NA, the proposal is not a mooring structure.*
  8. For residential docks, written confirmation from each adjoining landowner indicating whether or not a joint-use mooring structure agreement will be entered into; *Comment: the proposal is not a residential dock.*
  9. Habitat surveys as described in Section [22.700.145](#) shall be required for mooring structures, with the exception of buoys, and shall be conducted according to WDFW, Washington Department of Natural Resources, and the U.S. Army Corps of Engineers parameters, where applicable. *Comment: a marine survey and habitat assessment was performed.*
- C. Development Standards.
1. General Development Standards
    - a. New mooring structures shall be allowed only for water-dependent uses or public access. As used here, a dock associated with a single-family residence is a water-dependent use and may be permitted; provided, that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of the Act and this program. *Comment: the proposal is a water-dependent use.*
    - b. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated. *Comment: NA*

- c. Mooring structures shall follow all applicable state and federal requirements for building standards, materials, installation timing, and surveys. *Comment: NA*
- d. Mooring structures shall only be allowed in critical saltwater and freshwater habitats when the standards provided in this section for such habitats are met. *Comment: NA*
- e. Over-water structures shall be constructed to the minimum size necessary to meet the needs of the proposed water-dependent use, including single-family residences, provided the additional development standards of this chapter are met. *Comment: NA*
- f. Buoys shall be preferred over piers, docks or floats. Applicants shall demonstrate that a buoy is not a feasible option prior to proposing a less preferred option. *Comment: NA. The proposal is for a marine railway.*
- g. Single-use mooring structures, with the exception of buoys, shall be prohibited except where it can be demonstrated that a joint use facility is not feasible. *Comment: NA*
- h. Proposed moorage structures for new residential development of two or more dwellings shall be limited to a single, joint-use community facility except where demonstrated to be infeasible, with no more than one moorage space per dwelling unit or lot. If shared moorage is provided, the applicant/proponent shall file a legally enforceable joint use agreement or other legal instrument at the time of plat recordation. *Comment: NA*
- i. Except when accessory to single-family residences, any new pier or dock construction may only be permitted if the applicant has demonstrated that a specific need exists to support the intended water-dependent use. This may include justification through port or county comprehensive plans. *Comment: NA*
- j. Mooring structures shall be readily discernible under normal daylight conditions to the unaided eye at a minimum distance of one hundred yards and must be marked for night-time visibility. *Comment: NA, the proposal will be submerged near navigable waters.*
- k. No creosote, chromate copper arsenate, or pentachlorophenol treated wood, or other comparably toxic compounds, shall be used as part of the decking, pilings, or other components of any in-water structures such as docks, piers, and floats. These types of treated wood shall only be used for above-water structural framing. *Comment: NA*
- l. During maintenance, existing deteriorated treated wood shall be replaced with alternative materials such as untreated wood, steel, concrete, or recycled plastic, or encased in a manner that prevents metals, hydrocarbons and other toxins from leaching out. If maintenance activities exceed fifty percent repair or replacement of the existing structure, then the application requirements in subsection (B) of this section shall apply. *Comment: NA*

- m. Tires are prohibited as part of above- and below-water structures or where tires could potentially come in contact with the water. *Comment: NA*
- n. During maintenance or repair of a pier, dock or ramp, existing tires used for flotation shall be replaced with inert or encapsulated materials such as plastic or encased foam. Likewise, any unencapsulated foam material must be removed or replaced. *Comment: NA*
- o. To prevent scouring of the substrate, power-assisted pressure washing or cleaning of equipment, machinery, or structures in water less than seven feet deep shall be prohibited. In addition, equipment that contains or is covered with petroleum based products should not be pressure washed in or over the water. *Comment: this will be made a condition of approval.*
- p. New covered moorage, over-water boat houses, side walls or barrier curtains associated with single-family residential moorage are prohibited. When covered moorage and covered watercraft lifts are replaced, the replacement structures should use transparent roofing materials that are rated by the manufacturer as having ninety percent or better light transmittance. *Comment: NA*
- q. New structures shall be designed and located so no new bulkheading or armoring of the shoreline is necessary. *Comment: this will be made a condition of approval.*
- r. Functional grating resulting in a total open area of a minimum of twenty-four percent must be installed on piers which are new or replacement greater than fifty percent. This can be achieved by installing grating with sixty percent open area on at least forty percent of the pier or by grating a larger percentage of the pier with grating with openings of less than sixty percent. Exceptions to these standards may be permitted where need is demonstrated and when approved by the U.S. Army Corps of Engineers. *Comment: NA*
- s. Grating must not be covered, on the surface or underneath, with any stored items and must be kept clean of algae, mud or other debris that may impede light transmission. *Comment: NA*
- t. All mooring facilities shall be designed and constructed to avoid, or where avoidance is not feasible, to minimize and mitigate impacts to achieve no net loss of ecological functions, including functions associated with critical saltwater habitats and species, such as eelgrass beds, and fish habitats and processes such as currents and littoral drift. *Comment: this will be made a condition of approval.*
- u. Proposed moorage facilities should be evaluated to ensure that the project does not conflict with existing water dependent uses. *Comment: the project meets the criteria.*

## 2. Critical Saltwater Habitats Standards.

a. Except for private, noncommercial mooring facilities for individual or community use, all mooring structures may only be permitted if the applicant can clearly demonstrate the public's need for the structure, the structure is consistent with the public trust protections in RCW [90.58.020](#), and the structure is consistent with the state's interest in resource protection and species recovery. *Comment: The proposal is an individual use and is not located in a critical saltwater habitat. Items a-e are not applicable to the proposal.*

3. Pilings.

a. New or replacement pilings may be made of steel, concrete, plastic, untreated wood or treated wood where approved for the marine or freshwater environment, except creosote and similar products. *Comment: the proposal will use steel piles.*

b. New pilings must be spaced twenty feet apart lengthwise. If the structure is less than twenty feet in length, pilings may be allowed at the ends of the structure only. In areas with forage fish spawning or rearing and submerged aquatic vegetation, when allowed, pilings must be spaced forty feet apart lengthwise. *Comment: NA*

c. A maximum of two moorage pilings beyond or parallel to a mooring structure may be allowed to accommodate moorage of boats exceeding the length of the mooring structure or to provide supplementary tie-down locations for boats that require additional stabilization. *Comment: NA*

d. New or replacement pilings shall be driven only during construction windows approved by WDFW. These include protection for spawning periods and periods of presence of juvenile salmonids, forage fish and groundfish. *Comment: the HPA will guide the project.*

4. Piers.

*Comment: Analysis for piers in sections a through f are not applicable to the proposal.*

5. Floats.

*Comment: Analysis for floats in sections a through h are not applicable to the proposal.*

6. Boat Launching Ramps, Railways and Lifts.

a. Private boat launches shall not extend below ordinary high water, unless they:

i. Are elevated; and

ii. Will result in no net loss of shoreline ecological functions; and

- iii. Minimize aesthetic impacts.

*Comment: the proposed marine railway meets the criteria.*

- b. Commercial or community boat launching ramps shall provide a wash-down drainage crypt which incorporates oil-water separators for the treatment and disposal of wastewater associated with the boat launching ramp. *Comment: NA*
- c. Private marine rail systems are preferred over private boat launch ramps. Applicants shall demonstrate that the preferred option is infeasible before selecting the less preferred option. *Comment: the facility is a private marine rail system.*
- d. Marine rail systems shall be maintained in operating condition or must be removed. *Comment: the proposal will be maintained in operating condition.*
- e. Marine rail systems shall be designed, to the greatest extent feasible, so they are not barriers to littoral drift. *Comment: the proposal has been designed to comply with the requirement.*
- f. Floating watercraft lifts shall be located greater than nine feet waterward from the OHWM. *Comment: NA*
- g. The area of floating boat lifts to be installed on the over-water structure must be included in the float grating calculations. *Comment: NA*

7. Buoys and Anchors.

*Comment: Analysis for buoys and anchors in sections a through g are not applicable to the proposal.*

8. Lakes, Rivers and Streams.

- a. Mooring structures shall be prohibited on rivers and streams.
- b. No mooring structures shall be constructed within one hundred feet of the mouth of a river, stream or creek.

*Comment: Analysis for lakes, rivers and streams is not applicable to the proposal.*

**j. Access, Traffic and Roads**

Not applicable to this proposal.

- k. Fire Safety**  
Not applicable to this proposal.
  
- l. Solid Waste**  
Not applicable to this proposal.
  
- m. Water/Sewer**  
Not applicable to this proposal.
  
- n. Kitsap Public Health District**  
Not applicable to this proposal.

### **11. Review Authority**

The Hearing Examiner has review authority for this Shoreline Substantial Development Permit application under KCC Sections 17.550.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, remand, or deny a Shoreline Substantial Development Permit. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make a proper decision. The powers of the Hearing Examiner are at KCC Chapter 2.10. Once the Hearing Examiner Decision is made, the proposal is forwarded to the Washington Department of Ecology pursuant to WAC 173-27-020.

### **12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
  
2. The proposal complies or will comply with requirements of KCC Title 22 and complies with or will comply with all of the other applicable provisions of Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.
  
3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
  
4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

### **13. Recommendation**

Based upon the analysis above and the decision criteria found in KCC 22.500.100.B and 21.04, the Department of Community Development recommends that the Shoreline Substantial Development Permit request for the Minor Elevated Marine Rail Project be **approved**, subject to the following 10 conditions:

**a. Planning/Zoning**

1. The proposal must meet the 5-foot side yard zoning setback.

**b. Development Engineering**

2. Per Stormwater Development review, the associated project is exempt from stormwater requirements. Should over water impervious surfaces be incorporated in the future, a site plan review is required.

**c. Environmental**

3. A Hydraulic Project Approval permit is required from the Washington Department of Fish and Wildlife.
4. Project work shall be subject to the conditions of the Washington Department of Fish and Wildlife Hydraulics Project Approval (HPA).
5. Shoreline construction activities shall be conducted in a manner such that private properties adjacent to the project area are not impacted.
6. All recommendations of the April 2020 Habitat Management plan and Site Assessment Report by Wayne Wright, Stantec Consulting shall be followed (Exhibit 8)
7. To prevent scouring of the substrate, power-assisted pressure washing or cleaning of equipment, machinery, or structures in water less than seven feet deep shall be prohibited. In addition, equipment that contains or is covered with petroleum based products should not be pressure washed in or over the water.
8. All mooring facilities shall be designed and constructed to avoid, or where avoidance is not feasible, to minimize and mitigate impacts to achieve no net loss of ecological functions, including functions associated with critical saltwater habitats and species, such as eelgrass beds, and fish habitats and processes such as currents and littoral drift.
9. Upon final permit issuance, all construction for the project 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.
10. Mitigation shall conform to the requirements of the Hydraulic Project Approval, and per the HMP by Stantec.

**d. Traffic and Roads**

None

**e. Fire Safety**

None.

**f. Solid Waste**

None.

**g. Kitsap Public Health District**

None.

**Report prepared by:**



---

Steve Heacock, Staff Planner / Project Lead

03/18/2021

Date

**Report approved by:**



---

Scott Diener, Manager

03/18/2021

Date

**Attachments:**

None

CC: Applicants: Cathy and Roger Minor  
Applicant's Representative: Wayne Wright, Stantec Consultants  
Washington Department of Ecology, Shorelines: Maria Sandercock,  
[maria.sandercock@ecy.wa.gov](mailto:maria.sandercock@ecy.wa.gov)  
Washington Department of Fish and Wildlife: Brittany Gordon,  
[brittany.gordon@dfw.wa.gov](mailto:brittany.gordon@dfw.wa.gov)  
Suquamish Tribe, Alison O'Sullivan, [aosullivan@suquamish.nsn.us](mailto:aosullivan@suquamish.nsn.us)  
DSE  
Fire Marshal  
Kitsap County Health District  
Interested parties of record: None

