



Kitsap County Department of Community Development

Notice of Hearing Examiner Decision

2/8/2017

To: Interested Parties and Parties of Record

RE: Project Name: PORT OF BROWNSVILLE Boat Ramp, Small Craft
Launch and Pier Replacement Project
Applicant: PORT OF BROWNSVILLE
9790 OGLE RD NE
BREMERTON, WA 98311-9807
Application: SHORELINE SUBSTANTIAL DEVELOPMENT
PERMIT (SSDP)
Permit Number: 16 04687

Enclosed is the Decision issued by the Kitsap County Hearing Examiner for the
aforementioned project.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner
Rules of Procedure found at:

http://www.kitsapgov.com/dcd/lu_env/he/HE%20Rules%20for%20Kitsap%20County%20-%2006-23-09.pdf

The Decision of the Hearing Examiner is final, unless appealed, as provided under
Washington law.

Please note affected property owners may request a change in valuation for property
tax purposes, notwithstanding any program of revaluation. Please contact the
Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable
due to the issued Decision.

The complete case file is available for review at the Department of Community
Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to
1:00 PM, except holidays. If you wish to view the case file or have other questions,
please contact Help@Kitsap1.com or (360) 337-5777.

CC: Port of Brownsville, Jerry Rowland jerry@portofbrownsville.org
Sealaska Environmental, John Piccone john.piccone@sealaska.com
Point No Point Treaty Council, Cynthia Rossi crossi@pnptc.org
Suquamish Tribe, Allison O'Sullivan aosullivan@suquamish.nsn.us
WA State Dept. of Ecology sepaunit@ecy.wa.gov
WA State Dept. of Ecology, Misty Blair mbla461@ecy.wa.gov
WA State Dept. of Natural Resources, Jeff Schreck jeff.schreck@dnr.wa.gov
WA State Dept. of Natural Resources, Sean Carlson sean.carlson@dnr.wa.gov
WA State Dept. of Fish & Wildlife, Michael Blanton michael.blanton@dfw.wa.gov
Interested Parties:

Stephen & Sheila Trunkey strunkey.sail@comcast.net

**KITSAP COUNTY HEARING EXAMINER
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**In the Matter of Request for
Shoreline Substantial Development Permit, File No. 16 04687**

February 2, 2017

THIS MATTER came before the Kitsap County Hearing Examiner on January 26, 2017. The Hearing Examiner makes the following Findings of Fact, Conclusions of Law, and Decision:

1. FINDINGS OF FACT

1.1 Proposal. The Port of Brownsville requests a Shoreline Substantial Development Permit ("SSDP") under the Shoreline Management Master Program, Title 22 of the Kitsap County Code ("KCC"), to replace and improve existing dock facilities and complete associated marine environment restoration work, at Port Orchard Bay. The work includes:

- Replace a two-lane boat ramp;
- Reconstruct a small craft launch facility;
- Reconstruct an existing pier, viewing platform and ramp, with associated light-penetrating grating throughout; and,
- Restore 987 square feet of marine environment by removing armoring on site and replacing it with clean beach mix sediments, per a habitat mitigation plan.

The Applicant/property owner, project representatives, site location, and assessor's number are as follows:

Applicant and Property Owner: Port of Brownsville.

Project Representatives: Jerry Rowland, Port Manager; John Piccone, Sealaska Environmental Services, LLC.

Site Location: The site is located at 9790 Ogle Road NE, Bremerton, WA 98311, Kitsap County, Commissioner District 3, Section 13, Township 25N, Range 01E in the shoreline draining to Port Orchard Bay.

Assessor's Number: 132501-3-047-2000.

1.2 Administrative Record. The Hearing Examiner reviewed Exhibits 1-19 before the hearing, which included the Staff Report. At the hearing, the Department of Community Development ("DCD") proposed adding a public comment on small craft access, agency comment, documentation of pre-application conference, and power point to the administrative record as Exhibits 20-23. The Examiner admitted all Exhibits (1-23).

1.3 Notice of Application. The Notice of Application was sent to the Applicant and its representative, property owners within an 800 foot radius, as well as the Suquamish Tribe, Point-No-Point Treaty Council, Department of Ecology, 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.

1.4 SEPA. The SEPA comment period occurred concurrent with the Notice of Application dated November 21, 2016.¹ No public comments were received. After the comment period ended, the Responsible SEPA Official issued a Mitigated Determination of Non-Significance (MDNS).² The MDNS included the following comments:

The SEPA comment period previously occurred concurrent with the Notice of Application dated 11/21/2016. There were no public comments received. 1. A letter was received from the Washington State Department of Ecology related to demarcation of the Ordinary High Water Line for this proposal. The consultant will address this for the shoreline staff report.³

The MDNS, which was not appealed, included the following conditions and mitigation measures:

The proposal will be conditioned for Stormwater control per KCC Title 12. This SEPA determination is conditioned to follow the Shoreline Rural Conservancy guidance under Kitsap County Code, Title 22. The project is also conditioned to follow the guidelines under KCC Title 19, and KCC Title 17, addressing general landscaping requirements.⁴

1. Construction activity shall be subject to Washington Department of Fish and Wildlife requirements to limit habitat impacts, as established through the Hydraulic Project Approval process.
2. Shoreline construction activity shall be conducted in a manner such that private properties adjacent to the project area are not impacted.
3. Mitigation of the shoreline is required to enhance and restore portions of the project area, as outlined in the Habitat Mitigation Plan and No Net Loss Analysis by Sealaska Environmental.⁵

1.5 Hearing. The Hearing Examiner considered the requested approval at an open record public hearing on January 26, 2017. DCD, through Mr. Heacock, provided a proposal

¹ Exhibit 15.

² Exhibit 16.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

summary. The presentation identified relevant code requirements and how the proposal met them. As DCD found the proposal consistent with applicable requirements, it recommended SSDP approval. The Applicant's representative, Mr. Piccone, provided sworn testimony elaborating on the proposal. At the hearing, no oral public comment was submitted.

1.6 Notice and Agency Comment. The notice of hearing was published, posted and mailed, following mailing and publishing of the notice of application.⁶ In addition, the proposal was circulated within the County, to several state agencies, utility providers, and tribal entities.⁷ No concerns on notice were raised by any party.

1.7 Site Use and Characteristics. The Port of Brownsville is located within Port Orchard Bay in Puget Sound. This saltwater habitat is fed by several creeks that drain into the Bay. The major creek system draining into the Bay is Steele Creek, located to the south of the project area and within Water Resource Inventory Area 15, East Kitsap Basin.

The Port of Brownsville property itself 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.

A (1) Biological Evaluation and Essential Fish Habitat Evaluation; and (2) FEMA Floodplain Biological Assessment and Mitigation Plan were prepared in 2016.⁸ There are no eelgrass beds within the confines of the proposed project area. Details of the findings can be found in the Biological Evaluation.⁹ The majority of the site consists of hard-armored surfaces. The shoreline is, in general, a heavily used marina area with existing armored shoreline, parking areas, commercial uses, and water dependent structures.

1.8 Details on Project. The proposal involves reconstructing an existing two-lane boat ramp with a new 5,220 square foot concrete ramp, and re-aligning 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 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. A public comment requested an expansion of the small craft launch, but the Applicant elected to keep proposal sizing as is, as the larger crafts (meaning those needing a slightly larger launching ramp) are better launched at another location, as further discussed at the hearing. 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

⁶ Exhibit 17.

⁷ See e.g., Exhibit 15.

⁸ Exhibits 13 and 14.

⁹ Exhibit 13.

penetration. The pier will be replaced with a prefabricated all aluminum 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 prepared by Sealaska Environmental Services, LLC. Mitigation measures are identified in the Sealaska Biological Evaluation and Essential Fish Habitat Evaluation. Given the shoreline conditions, nature of the project, and mitigation, DCD determined that no net loss of ecosystem functions and values is expected.

1.9 Construction Mitigation. The Staff Report and attachments provide details on construction timing and mitigation for in water work. Dock components will be pre-manufactured or assembled out of the water. The pilings and float attachments will be constructed in the water, with timing of installation guided by best management practices. Adverse impacts to the aquatic environment will be minimized by specified work windows and siltation management. Work will be timed to avoid migrating salmonids and serf smelt species. Other impact minimization measures will be implemented, including implementing marine construction and operation management guidelines, and providing siltation management consistent with Washington Dept. of Ecology Stormwater Best Management Practices.

1.10 Shoreline Environment Designation and Surrounding Land Use. The Kitsap County Shoreline Management Master Program shoreline designation is Rural Conservancy. Waterward of the Ordinary High Water Mark, the designation is Aquatic. The project site is zoned Rural Commercial, and adjacent parcels are developed with single family residences on Rural Residential zoned lands.

1.11 Utility and Public Services.

- **Water:** North Perry Utility District
- **Power:** Puget Sound Energy
- **Sewer:** Kitsap County
- **Police:** Kitsap County Sheriff
- **Fire:** Central Kitsap Fire and Rescue District No. 1
- **Schools:** Central Kitsap School District No. 401

1.12 Shoreline Substantial Development Permit. DCD found that the County's SMP provides for water dependent uses, such as a dock redevelopment project, at this location, if consistent with applicable regulations and shoreline policies, and an SSDP is issued. DCD also found that the proposal is consistent with SSDP requirements and applicable SMP policies and development requirements. These provisions are specifically addressed below, but in general, they encourage access to the water with no net loss of ecological functions, which the proposal achieves.

2. CONCLUSIONS OF LAW

2.1 The Hearing Examiner reviews SSDP applications.¹⁰ With this review, an assessment of consistency with applicable shoreline policies and regulations is required. For the reasons set forth below, the Hearing Examiner concludes that the proposal is consistent with the County's shoreline regulations and policies, and with the Shoreline Management Act, Ch. 90.58 RCW ("SMA"). As such, the SSDP should be approved.

2.2 Rural Conservancy Designation, KCC 22.200.125. In the Rural Conservancy Designation, "[w]ater dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities ... are preferred uses, provided significant impacts to the shoreline area are mitigated."¹¹ The proposal replaces existing water access facilities. Necessary repairs and improvements are being made to an existing dock facility at a heavily armored shoreline location, in which wildlife habitat functions and values are limited or, with respect to, for example, eel grass, non-existent. At the same time, a preferred use is being repaired and improved upon so it may continue to provide a public benefit. With the environmental restoration work included in the proposal, which would reduce armoring, coupled with the mitigation for construction impacts, impacts to the shoreline area are not expected to be significant. In fact, once the project is completed, ecological functions are expected to be improved over existing conditions. Thus, the proposal is consistent with the Rural Conservancy Designation and its implementing policies.

2.3 Aquatic Policies, KCC 22.200.135. The proposal is consistent with the SMP Aquatic policies, and in fact goes further than achieving mere consistency. The project furthers the core objectives behind these policies, which are to support the public's use of the water in an ecologically sound manner.

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
- b. The size of the new over-water structure is limited to the minimum necessary to support the structure's intended use; and
- c. Multiple use of the over-water facility has been encouraged; and
- 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
- e. The use or modification is designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.¹²

¹⁰ See e.g., KCC 21.04.080, .100 and KCC 22.500.105(E).

¹¹ KCC 22.200.125(C)(5).

¹² KCC 22.200.135(C)(1)(a-e).

Although the repairs/improvements to the existing facility do not constitute a "new" overwater structure, the project is nevertheless consistent with these policies. The proposed dock project is water-dependent, and provides both public access and ecological restoration. Further, as addressed in the Staff Report and outlined in application materials, the repair/replacement project, as designed, is the minimum necessary to continue the use. Multiple use of the facility is designed into the project as it is a public use facility. With respect to environmental/aesthetic concerns, mitigation is incorporated to minimize view impacts, the use supports surface navigation, and improves fish/wildlife habitat and passage (removal of creosote pilings; reduced over-water shading from the existing dock; etc.). Mitigation is designed so migration/spawning windows are avoided and best management practices are followed. Once complete, the proposal is expected to improve water quality and conditions, along with supporting water dependent use of the waterfront.

2.4 Standards for Work Waterward of the Ordinary High Water Mark, KCC 22.400.105(B). Work waterward of the ordinary high water mark is subject to several requirements. In-water work must obtain all applicable state and federal permits, including from the U.S. Army Corps of Engineers, Ecology, WDFW, and DNR. With the JARPA application, the Applicant has identified the required permits. In-water work must comply with applicable timing restrictions on construction. As ESA listed species migrate through the area, installation will only take place during work windows when these species are not migrating or spawning near the action area. Bank vegetation disturbance must be limited to that necessary, and disturbed area must be restored. Here, no bank alteration or impacts to vegetation will occur. With respect to notification requirements, if water quality problems result from in-water work, immediate notification will be made to the appropriate state and/or federal agencies. Per KCC 22.400.110(C), mitigation compliance is required and has been made a condition of project approval.

2.5 Mooring Structures and Activities, 22.600.160. The project is consistent with SMP mooring policies. The application and consultation requirements were met.¹³ The development standards are also met. The dock improvements are a water dependent use and improve public access; all state and federal requirements are being met; the improvements are designed to repair an existing structure and are the minimum necessary to provide for continued public access; the structure will be lighted as necessary for night-time visibility and will be sufficiently discernible; in-water structures will not utilize prohibited components/compounds (*i.e.*, creosote, chromate copper arsenate, pentachlorophenol treated wood, or other comparable toxic compounds); existing treated woods will be replaced with alternative materials; tires are not part of the project; and armoring is being reduced. In short, the use will comply with applicable development standards.

The existing structure is needed for public access to navigational waters, and the proposed repairs and improvements are necessary in order to maintain the facility for continued use. The repairs are consistent with public trust protections outlined in RCW 90.58.020, as the project provides improved public access and environmental functioning. Extensive evaluation and survey work to document existing environmental conditions has been completed and

¹³ See *e.g.*, Exhibits 1, 17, 19, 22.

measures outlined to improve ecological functions and values at a location which is heavily armored and lacks significant habitat attributes. The piling and pier requirements the SMP outlines will be met with respect to both materials and spacing, and the environmental compatibility of the existing structure will be improved upon.

2.6 Shorelines of Statewide Significance, KCC 22.300.145. Areas in Kitsap County and in Puget Sound which lie "seaward from the line of extreme low tide," are designated as shorelines of statewide significance.¹⁴ To recognize and protect statewide interests over the local, development proposals with this designation are reviewed "for consistency with RCW 90.58.020" and a series of shoreline policies. The policies are extensive, but the primary considerations are summarized below.

- **Recognize and protect state over local interests.** These policies provide for consulting with WDFW, Ecology, affected tribes and other agencies/interest groups on proposals that could affect anadromous fisheries or other priority species or habitats; and, considering state agencies' relevant policies and recommendations. DCD conducted outreach for this proposal. Comments were quite limited. Nevertheless, the project incorporates current agency approaches to shoreline mitigation, ecological restoration, and access, thus protecting both state and local interests in encouraging responsible shoreline access.
- **Preserve shoreline natural character.** These policies provide for administering regulations to minimize damage to shoreline ecology, facilitate restoration where natural resources are being diminished, and new intensive development "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." The project is upgrading and repairing an existing facility and restoring ecological functions to a degraded shoreline area. These policies are met.
- **Protect long-term over short-term benefit.** These policies provide for preserving sufficient areas to accommodate "current and projected demand for economic resources, such as shellfish beds and navigable harbors;" strictly limit actions that would convert resources into irreversible uses or detrimentally alter natural conditions; evaluate short term economic gain/convenience over long term and costly environmental impairment; and promote aesthetic considerations. The project is to repair an existing dock. No evidence was presented suggesting the project would impair other economic resources, such as shellfish beds. To the contrary, both economic and environmental benefits are provided with the proposal, as access to navigable waters is being improved upon.
- **Protect the resources and ecology of the shoreline.** These policies provide for considering "incremental and cumulative impacts while ensuring no net loss of shoreline ecosystem processes and functions"; ensuring "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;" and

¹⁴ KCC 22.300.145(A)(1).

limiting "public access where improvements would result in a loss of shoreline ecological functions, such as in priority or sensitive habitats." The project has no significant adverse impacts. It improves public access to the shoreline and improves shoreline ecology.

- **Increase public access to publicly owned areas of the shorelines.** These policies provide for preserving/encouraging public access to areas with scenic or cultural qualities; giving priority to paths, trails, and linear shoreline access; and, locating development inland to enhance access. The project itself improves public access to navigable waters, consistent with the state's public trust doctrine.
- **Increase recreational opportunities for the public in the shoreline.** These policies provide for accounting for state agencies/citizen interests in visiting public shorelines with regard to public access/recreation requirements; and encouraging "development of facilities for recreational use of the shorelines," while reserving upland areas for lodging, with provisions for nonmotorized shoreline access. The project accomplishes all of these objectives. Improving existing docking facilities improves public access and recreational shoreline use.

As explained above, the proposal is not only consistent with these policies, but also furthers their underlying objectives to enhance public use of the shoreline in a way that also preserves and improves its ecological functions.

2.7 Commercial Development, 22.600.130. The proposed dock improvements improve shoreline access at the Port of Brownsville's recreational boat launch and marina. "The project is primarily maintenance in nature and is not a capacity expansion."¹⁵ For purposes of this SSDP, the repair/restoration project would not be a commercial use, which is defined as involving "wholesale or retail trade, or the provision of services."¹⁶ The dock repairs/improvements defined in the application protect existing shoreline access and repair an existing dock facility rather than providing commercial services. Nevertheless, the Hearing Examiner reviewed these policies, and found the project consistent with them.

With the proposal, there is "no net loss of shoreline ecological functions," or significant adverse impacts on "shoreline uses, resources and values provided for in RCW 90.58.020, such as navigation, recreation and public access."¹⁷ To the contrary, the restoration work improves ecological functions along with improving navigation, recreation, and enhancing public access. The proposal is a "preferred use" as it is water-dependent. It has no adverse view impacts, and as addressed throughout the decision, the redevelopment is designed to be compatible with the shoreline environment.

The building materials, site coverage, height, lighting/signage/landscaping, public access, and visual attributes are consistent with the structure which is already in place there, and in general, provide improvements within these areas. This includes improving public access, using

¹⁵ Exhibit 11.

¹⁶ KCC 22.150.205.

¹⁷ KCC 22.600.130(B).

materials which improve ecological conditions, and repairing an existing facility rather than constructing a new one. Public access and ecological restoration are both provided as part of this proposal. Details on the restoration work are provided throughout this decision, but involve reducing dock shading, removing armoring, and restoration of ecological functions. These measures are feasible and appropriate and consistent with SMP commercial policies, although not applicable to this SSDP.

2.8 Mitigation Sequencing, SMC 22.400.110. The proposal is consistent with mitigation sequencing guidelines. Instead of new construction at a more pristine location being developed, existing facilities are being repaired and improved, with environmental restoration included in the proposal, and no net loss of shoreline ecological functions.

2.9 Summary. The dock replacement and improvement project is a preferred use of the shoreline at this location. The proposal is consistent with the applicable shoreline policies and regulations. The proposal will not cause a net loss to shoreline functioning and is unlikely to have significant environmental impacts on the shoreline. To the contrary, following construction, shoreline environmental conditions are expected to be improved upon. As such, the proposal is consistent with the policies and procedures of the SMA, Ch. 90.58, and the County's SMP, and should be approved consistent with WAC 173-27-150.

DECISION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested Shoreline Substantial Development Permit, provided the following 21 conditions are adhered to.

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 is subject to conditions in the Hearing Examiner's Decision.
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 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 be, 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.

18. 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 be in any way 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 shall be completed with hand tools and small relatively quiet power tools, i.e. skill saw, ½" electric drill, etc.

19. All possible precautionary measures shall be taken to contain material, material wastes, or any other foreign material on the project site.

20. 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 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.

21. 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 Practices (BMPs) by Clean Marina Washington (Clean Marina Washington, 2015) are required for in-water work and operation of the proposed floating structures.

THIS DECISION is entered this 2nd day of February, 2017.



Kitsap County Hearing Examiner
Susan Elizabeth Drummond