



SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT AND FLOODPLAIN DEVELOPMENT PERMIT APPROVAL

Community Development Department ♦ 501 Delta Avenue ♦ Marysville, WA 98270
Office Hours: Mon - Fri 8:00 AM - 4:30 PM ♦ Phone: (360) 363-8000

PROJECT INFORMATION									
Project Title	Riverwalk			Date of Report	April 24, 2024				
File Number	PA23031			Application Materials	Riverwalk Exhibits				
Administrative Recommendation	Approve the Shoreline Substantial Development and Floodplain Development Permit in order to clear and fill the existing City of Marysville Public Works Operations site for a future mixed-use development, which would be approved under separate development permits.								
BACKGROUND SUMMARY									
Applicant	City of Marysville								
Request	Approval of a Shoreline Substantial Development and Floodplain Development Permit in order to clear and fill the existing City of Marysville Public Works Operations site for a future mixed-use development, which would be approved under separate development permits. The immediate goal is to fill the site above the base flood elevation, environmental restoration and enhancement of the Ebey Slough Shoreline. This work includes partial fill of a Category III wetland and placing a Type F stream in an appropriately sized pipe.								
SEPA Status	SEPA MDNS issued concurrently on April 24, 2024.								
Site Address	60 State Avenue 80 Columbia Avenue			APN(s)	See Exhibit 003				
Legal Description	See Title Report (Exhibit 004)			Section	33	Township	30N	Range	05E
Comprehensive Plan	Downtown Core	Zoning	DC	Shoreline Environment			High-Intensity		
Water Supply	Current	Proposed		Sewer Supply	Current		Proposed		
	N/A	N/A			N/A	N/A			
Present Use of Property	Public Works Operations Facility								
REVIEWING AGENCIES									
Marysville	Local Agencies & Districts		State & Federal		County		Other		
<input checked="" type="checkbox"/> Building <input type="checkbox"/> Fire District <input checked="" type="checkbox"/> Eng. Services <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Planning <input checked="" type="checkbox"/> Public Works	<input type="checkbox"/> Arlington (city) <input type="checkbox"/> Everett (city) <input type="checkbox"/> Lake Stevens (city)		<input checked="" type="checkbox"/> US Corps of Eng. <input type="checkbox"/> BNSF <input checked="" type="checkbox"/> DAHP <input checked="" type="checkbox"/> DOE <input checked="" type="checkbox"/> WDFW <input type="checkbox"/> WUTC		<input checked="" type="checkbox"/> Health District <input type="checkbox"/> Planning <input type="checkbox"/> Public Works - Land Development <input type="checkbox"/> Public Works		<input checked="" type="checkbox"/> Port of Everett <input checked="" type="checkbox"/> Stillaguamish Tribe <input checked="" type="checkbox"/> Tulalip Tribes		
ACTION									
<input checked="" type="checkbox"/> Administrative	<input type="checkbox"/> City Council	<input type="checkbox"/> Quasi-Judicial	<input type="checkbox"/> Planning Commission						
Date of Action	April 24, 2024		<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Continued				
STAFF									
Name Chris Holland	Title Planning Manager	Phone 360.363.8207	E-mail cholland@marysvillewa.gov						

SURROUNDING USES

	Comprehensive Plan	Zoning	Land Use
Site	Downtown Core	DC	Public Works Operations
North	Main Street	MS	Single-family Residences
East	General Industrial	GI	Brashler Industrial Park
South	N/A	N/A	Ebey Slough
West	Downtown Core	DC	Ebey Waterfront Park & Marina

Vicinity Map



1.0 FINDINGS AND CONCLUSIONS

1. Description of Proposal

The City of Marysville, applicant, has requested Shoreline Substantial Development Permit and Floodplain Development Permit Approval in order to clear and fill the existing City of Marysville Public Works Operations site for a future mixed-use development, which would be approved under separate development permits. The immediate goals are to fill the site above the base flood elevation, environmental restoration and enhancement of the Ebey Slough Shoreline.

The project is located within the High Intensity shoreline designation, which includes all shorelands landward of the Ordinary High Water Mark (OHWM) on the north side of Ebey Slough between the western city limits and eastern boundary of the Marysville Wastewater Treatment Plant.

To prepare the site for future development, it will need to be cleared and filled with enough material to bring the elevations of the lowest floor of the future buildings to above the base flood elevation (currently 13 feet). The City’s fill plan shows an estimated quantity of 182,500 cubic yard (cy) of fill to be added to the site.

As a result, critical areas impacts will occur as described in detail in Section 5 below.

The proposed grading will also include Shoreline Enhancement measures to improve and protect shoreline ecological functions and values on-site. Such measures include:

- . Enhancing a 50 foot minimum strip of shoreline within the 70 foot shoreline setback of Ebey Slough and retaining a 20 foot public access easement.

The Shoreline Enhancement plan calls for 29,400 SF of area within the 70 foot shoreline setback to be enhanced with a diversity of native species. Vegetation enhancement includes the removal of invasive vegetation (i.e., Himalayan blackberry) and various low-maintenance native species.

Enhancement measures will improve erosion control and maintain the bank integrity between the slough and the waterfront trail. It will also improve habitat functions for wildlife, including birds, fish, amphibians and insects. Enhancement plantings can also function to trap excess nutrients and pollutants and thereby improve water quality filtration.

2. Project History

An application was filed on December 12, 2023 and was determined to be complete on this date. Notice was provided in accordance with [MMC 22G.010.090](#), *Notice of development application*. No comments were received from the public, and all agency comments are described in Section 9 below.

3. Site Location

The subject property is located at 60 State Avenue and 80 Columbia Avenue, which is generally south of First Street and east of State Avenue. The site contains fourteen (14) parcels which can be viewed in [Exhibit 003](#).

4. Site Description

The project site covers approximately 31.6 acres adjacent to State Avenue and First Street in downtown Marysville. The site is mostly cleared of native vegetation and occupied with light industrial activities including the City of Marysville Public Works

Operations. Gravel and asphalt cover more than 50% of the site. This site is relatively level, with soils comprising of Puget silty clay loam and Ragnar fine sandy loam.

Notable surface water features include Ebey Slough, associated fringe wetlands and other wetlands bordering the site to the east, and a piped/ditched stream. Ebey Slough is part of an extensive estuary system in the Snohomish River delta.

5. **Critical Areas**

According to the *Critical Areas Report and Conceptual Mitigation Plan*, prepared by Pertee, dated December 15, 2023 and updated on January 26, 2024 (Exhibit 026), there are three wetlands located on site, Ebey Slough borders the southern boundary of the site and there is one Stream located on Site. Wetlands WL1 & WL2 are Category III wetlands, Wetland WL3 is a Category II wetland, Ebey Slough is a Type S Shoreline of Statewide Significance and the on-site stream (Stream 1) is designated as a Type F stream.

A portion of the Category III wetland (WL2) will be filled, and a Type F stream (Stream 1) will be placed in an appropriately sized pipe. Impacts include:

- Wetland Impact: Fill approximately 2,000 SF of Category III wetland and 16,400 SF of buffer located in the southeastern corner of the site.
- Stream Impact: Place approximately 500 lineal feet of the ditched stream channel into a pipe where it flows through the southeastern quadrant of the site.

To mitigate the permanent impacts on 2,000 SF of Category III wetland, 16,400 SF of wetland buffer, and 6,800 SF of stream buffer, the City plans to utilize available mitigation bank credits in the nearby Qwuloolt Estuary mitigation bank to mitigate the loss of stream habitat. Ecology's "Bank Use Plan" guidance, updated in 2022, indicates that banks can compensate for "unavoidable impacts to wetland and other aquatic resources, including buffers. Aquatic resources include but are not limited to wetlands, streams, rivers, other waters and associated buffers."

The proposed grading will also include Shoreline Enhancement measures to improve and protect shoreline ecological functions and values on-site.

6. **SEPA**

A State Environmental Policy Act (SEPA) Mitigated Determination of Non-Significance (MDNS) was issued concurrently with the issuance of the Shoreline Substantial Development Permit and Floodplain Development Permit on April 24, 2024. The appeal periods run concurrently and must be filed on, or before, May 8, 2024.

7. **Floodplain Permit**

The applicant is proposing fill within the 100-year floodplain; therefore, the project is subject to the floodplain development standards set forth in [MMC Chapter 22E.020, Floodplain Management](#).

The applicant submitted a Hydrologic Analysis Report (Exhibit 024), prepared by Northwest Watersheds, LLC, dated February 11, 2024, to assess the potential floodplain impacts resulting from the proposed fill. The hydraulic analysis used a calibrated US Army Corps Hydrologic Engineering Center – River Analysis System (HEC-RAS) 2D Model of the Snohomish River to assess the potential impacts to the estimated water surface elevation. The model included future conditions predictions for the late century climate change scenario as predicted by the University of Washington Climate Impacts Group.

The Riverwalk site is hydraulically separated from Ebey Slough by an uncertified levee system. The elevation data used in the hydraulic modeling (WSE 2021) shows the elevation of the top of the levee at 12.8 feet along the Riverwalk site. For the condition modeling, the Riverwalk site would be elevated to 16 feet. This elevation allows for the Riverwalk site to be above the base flood elevation so the potential impact of the Riverwalk project on the hydraulics of the adjacent floodplain can be assessed.

Based on the HEC-RAS modeling effort, the rise in elevation of the Riverwalk site potentially blocks flows and removes flood storage, resulting in an estimated 0.03 foot water surface elevation increase within the adjacent wetland east of the Riverwalk site, a modeled 0.04 foot decrease in water surface elevation within the existing industrial areas on 47th Street NE, and no increase of water surface elevation in the Qwuloot Wetland restoration area.

Without the planned drainage infrastructure improvements, the estimated increase in water surface elevations is minimal, only 0.03 feet, and localized to the adjacent wetlands. The terrain near the Riverwalk site limits the expansion of the floodplain extent due to the minimal increase of water surface elevation, so potential adverse impacts to residential structures are not anticipated. The industrial areas on 47th Street NE is within the flood inundation area under existing conditions with a modeled decrease of 0.04 feet in the peak water surface elevation.

8. Shoreline Substantial Development Permit

The proposed Riverwalk grading is located within 200 feet of Ebey Slough; therefore, the proposed improvements are subject to the City of Marysville – *Shoreline Master Program* (SMP).

As noted in Section 1 above, the proposed grading is located within the High Intensity shoreline designation. Grading is permitted within the High Intensity shoreline designation. The purpose of the High-Intensity Environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological function in those areas that have been previously degraded.

Below are the *SMP* goals and policies that pertain to the subject proposal:

Chapter 3.c. – Management Policies

- In regulating uses in the High-Intensity Environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Non-water-oriented uses should be discouraged except as part of mixed-use developments or existing developed areas supporting water-dependent uses and/or shoreline restoration. Non-water-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline if shoreline restoration is included as part of the development.

Applicant's Response: On this site, the waterfront trail is not water-dependent in the strictest sense. However, it complies with the second priority of water-related use and enjoyment.

- New development should protect and, where feasible, restore shoreline ecological functions, with particular emphasis on habitat for priority species. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with state and federal requirements.

Applicant's Response: Commercial and multi-family uses require a 70 foot setback. Within that setback, a 50 foot minimum strip will be restored and enhanced

with native vegetation plantings, while the remaining 20 feet will be designated as a public access easement parallel to the shoreline.

- Visual and physical public access should be required as provided for in SMP Section 4.B.7, except as noted in that section.

Applicant's Response: The 20 foot public access easement parallel with the shoreline qualifies as public access.

- Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers. These objectives may be implemented either through this master program or other City ordinances.

Applicant's Response: These elements will be incorporated into the final design. Maintenance of the enhanced buffer will be implemented upon approval of the installed planting plan.

- Development in the High-Intensity Environment should be managed so that it enhances and maintains the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, water-enjoyment uses and public access.

Applicant's Response: The Marysville Riverwalk development is consistent with the city's urban master plan vision, which promotes water-related and water-enjoyment uses of the 20 foot public access easement.

- In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas should be encouraged.

Applicant's Response: The nature of this project meets this policy by converting degraded industrial lands to revitalized urban mixed-use with enhanced shoreline vegetation and water-oriented public access.

Chapter 4, Section B.1 – Universally Applicable Policies and Regulations

- **Regulation c.2:** All new shoreline modifications must be in support of an allowable shoreline use that conforms to the provisions of this master program. Except as otherwise noted, all shoreline modifications not associated with a legally existing or an approved shoreline use are prohibited.

Applicant's Response: The Shoreline Environment designation for the site is High-Intensity. Fill is a permitted use in this designation, provided it does not cause a significant ecological impact. No ecological impacts are anticipated with the proposed fill activity.

Chapter 4, Section B.3 – Critical Areas

- **Regulation:** The Marysville Critical Areas Regulations, as codified in [MMC Chapter 22E.010](#) (dated May 2, 2005, Ordinance No. 2571 and amending Ordinance 3073, dated December 11, 2017), are herein incorporated into this master program except as noted.

Applicant's Response: The City's critical areas regulations ([MMC Chapter 22E.010](#)) are incorporated into the SMP by reference. Project compliance with the City's critical areas regulations is documented in the project's Critical Areas Report (Exhibit 026). The project complies with the policies, regulations of the City's SMP Chapter 4.B.3.

Chapter 4, Section B.4 – Environmental Impacts

- **Policy b.2:** All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible.

- **Regulation c.1:** All project proposals, including those for which a shoreline permit is not required, shall comply with Chapter 43.21C RCW, the Washington State Environmental Policy Act.
- **Regulation c.4:** When applying mitigation to avoid or minimize significant adverse effects and significant ecological impacts, the City will apply the following sequence of steps in order of priority.
- **Regulation c.5:** All shoreline development shall be located and constructed to avoid significant adverse impacts to human health and safety.

Applicant Response: An Environmental Checklist was completed for the proposed project to meet the requirements of the State Environmental Policy Act and the City issued a Determination of Non-Significance concurrently with the issuance of the Shoreline Substantial Development Permit and Floodplain Management Permit, on April 24, 2024 (Exhibit 38).

The project is not anticipated to result in significant adverse ecological impacts or significant adverse impacts to human health and safety. The project complies with the policies, regulations of the City’s SMP Chapter 4.B.4.

Chapter 4, Section B.5 – Flood Hazard Reduction and River Corridor Management

- **Policy b.1:** Implement a comprehensive program to manage the City’s riparian corridors that integrates City ordinances and activities (*see SMP for comprehensive list of applicable provisions*).
- **Policy b.2:** In regulating development on shorelines within SMA jurisdiction, endeavor to achieve the health, ecological, and other objectives cited in this policy (*see SMP for comprehensive list of health, ecological, and other objectives*).

Applicant’s Response: The proposed project will comply with [MMC Chapter 22E.020 Floodplain Management](#), the applicable provisions of RCW 86.16, and the FEMA flood insurance study. The project includes the placement of fill to support approval of a conditional letter of map revision (CLOMR-F) from FEMA. The fill will elevate the grade of the site to be above the base flood elevation, allowing future development to be reasonably protected from flooding. Before approval of the final CLOMR, all activities proposed on the site will be reviewed for compliance with the approved CLOMR-F and/or [MMC Chapter 22E.020 Floodplain Management](#). Before placing fill on the site, the project proponent will demonstrate that the hydrologic characteristics and flood storage capacity will not be altered to increase flood hazard or other damage to life or property.

Chapter 4, Section B.7 – Public Access

- **Policy b.4:** Opportunities for public access should be identified on publicly owned shorelines. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and enhanced.
- **Policy b.8:** The Ebey Waterfront Trail and, where applicable, the City’s Parks and Recreation Plan should be implemented to provide a continuous waterfront multi-purpose trail from the City’s Waterfront Park to the east and north (*abridged*).

Applicant’s Response: The proposed project has been developed and designed in coordination with the existing Ebey Waterfront Trail and will continue to provide public access to the shoreline, including access to additional areas of the shoreline which are presently unavailable for public use. The project complies with the policies, regulations of the City’s SMP Chapter 4.B.7.

Chapter 4, Section B.8 – Shorelines of State-Wide Significance

- **Policy b.1:** Recognize and protect the state-wide interest over local interest.
- **Policy b.2:** Preserve the natural character of the shoreline.
- **Policy b.3:** Result in long-term over short-term benefit.
- **Policy b.4:** Protect the resources and ecology of the shoreline.
- **Policy b.5:** Increase public access to publicly owned areas of the shoreline.

Applicant's Response: Within the City, Ebey Slough is designated as a Shoreline of State-Wide Significance. This designation means the City gives preference to uses which favor long-range goals and support the overall public interest. As specified in the SMP, these goals include protecting the state-wide interest over local interest, preserving the natural character of the shoreline, prioritizing long-term over short-term benefit, protecting shoreline ecology, and increasing public access to public shorelines. Overall, the project will improve the water quality of stormwater runoff to Ebey Slough, while also enhancing public access to a public shoreline. The project complies with the policies, regulations of the City's SMP Chapter 4.B.8.

Chapter 5, Section B.4 – Fill

- **Policy b.1:** Fills waterward of OHWM should be allowed only when necessary to facilitate water-dependent and/or public access uses, cleanup and disposal of contaminated sediments, and other water-dependent uses that are consistent with this master program.

Applicant's Response: No fill is proposed waterward of the OHWM.

- **Policy b.2:** Shoreline fill should be designed and located so there will be no significant ecological impacts and no alteration of local currents, surface water drainage, or flood waters which would result in a hazard to adjacent life, property, and natural resource systems.

Applicant's Response: The proposed fill will start landward of the 70 foot setback. It is not expected to alter local currents, surface water drains, or floodwaters.

- **Regulations c.1:** Application for fill permit shall include the following (*see SMP for comprehensive list of applicable provisions*).

Applicant's Response: Preliminary fill plans have calculated approximately 182,500 cubic yards of fill starting landward from the 70 foot shoreline setback line. The fill material's source, physical, chemical and biological characteristics have yet to be determined. The fill will be imported to the site via dump trucks and distributed to meet the final grade using heavy construction equipment. The location of the fill will be contained entirely on-site outside of the wetlands or any natural drainage ways. Construction Best Management Practices (BMP) will be implemented.

- **Regulations c.2:** Fill waterward of OHWM may be permitted only when (*see SMP for comprehensive list of applicable provisions*).

Applicant's Response: No fill is proposed waterward of the OHWM.

- **Regulation c.4:** Fills are prohibited in floodplains except where it can be clearly demonstrated that the hydrologic characteristics and flood storage capacity will not be altered to increase flood hazard or other damage to life or property.

Applicant's Response: Before approval of the final grading plans, all activities proposed on the site will be reviewed, and the project proponent will demonstrate that fills in the floodplain will not alter the hydrologic characteristics and flood storage capacity, resulting in increased flood hazard or other damage to life or property. No fill is proposed within the floodway.

- **Regulation c.5:** Fill shall be permitted only where it is demonstrated that the proposed action will not:
 - a. Result in significant ecological damage to water quality, fish, shellfish, and/or wildlife habitat; or
 - b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities.

Applicant's Response: No fill will be placed waterward of the OHWM, and no significant vegetation or habitats will be removed since the site is currently comprised of degraded industrial lands. Enhancement opportunities will be implemented along the shoreline buffer, and 1,000 linear feet of stream habitat will be rerouted and restored to an open channel with vegetated riparian buffers. Ecological damage to water quality, fish, shellfish, or wildlife is not anticipated with this project.

Since no fill will be placed within the OHWM or the floodway, it is not anticipated that there will be any adverse impacts to natural drainage or circulation patterns, current, river, and tidal flows or significantly reduced flood water capacities.

9. **Agency Comments:** A *Request for Review* for the proposed remediation project was sent to Local, County, State, and Federal Agencies and Districts. Comments were received from the Washington State Department of Ecology, Washington State Department of Archaeology & Historic Preservation, The Tulalip Tribes, and the Port of Everett:

- a. **Department of Ecology Northwest Regional Office (DOE):** Doug Gresham, in an email dated December 27, 2023, provided the following comments:

I have concerns with the wetland permitting process and mitigation bank purchase.

The wetlands delineated on this property would be waters of the state subject to the applicable requirements of state law (see RCW 90.48 and WAC 173.201A) and Section 401 of the Clean Water Act (33 USC §1341) and 40 CFR Section 121.2. Because direct impacts are proposed in Wetland 2, the applicant shall obtain all necessary state and federal authorizations prior to beginning any ground-disturbing activities or vegetation removal. To obtain state and federal authorization, you should provide:

- A jurisdictional determination from the U.S. Army Corps of Engineers stating which delineated wetlands on the property are under federal jurisdiction.
- A JARPA form for impacts to jurisdictional wetlands submitted to Ecology at ecyrefedpermits@ecy.wa.gov.
- For any non-federally regulated wetlands that the U.S. Army Corps of Engineers does not take jurisdiction for, submit a JARPA to Ecology at ecyrefedpermits@ecy.wa.gov so we can issue an Administrative Order.
- A mitigation plan for unavoidable wetland impacts following the standards in Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Ecology Publication # 21-06-003).

Although there are two mitigation banks (Skykomish Habitat and Snohomish Basin) within the Snohomish River drainage basin, it appears that this project site is outside of their service area. I recommend contacting the Interagency Review Team to verify these mitigation banks are eligible for use.

Applicant's Response: We understand and assume that on-site wetlands that are part of the on-site ditch are Waters of the State and Waters of the United States. A complete JARPA submittal package was sent to the US Army Corps of Engineers on January 29, 2024, including a Mitigation Bank Site Use Plan for existing Qwuloolt wetland credits. The Corps reference number is (NWS-2024-119). Proposed

mitigation measures are consistent with Ecology Publication #21-06-003 and the Interagency Review Team is reviewing the proposal for the use of Qwuloolt wetland credits. A 401-water quality certification meeting request was submitted on February 6, 2024 and a meeting was held on February 16, 2024 with Doug Gresham (Ecology), Austin Schmalz (Ecology), Thomas Boydell (City of Marysville) and Andrea Bachman (Periteet) to discuss the project and required submittal materials for a 401 water quality certification request.

- b. **Washington State Department of Archaeology & Historic Preservation:** A letter was received from Stephanie Jolivette, Local Governments Archaeologist, dated December 19, 2023, recommending a professional archaeological survey of the project area be conducted prior to ground disturbing activities, including demolition, filling, and other site prep activities.

Applicant's Response: A cultural resources report has been submitted to the Corps as part of the Section 404 submittal and for the Shoreline Substantial Development Permit. DAHP and Tribes will consult through the Corps.

- c. **The Tulalip Tribes:** In an email dated December 21, 2023, Todd Gray, Environmental Protection Ecologist with the Tulalip Tribes Natural Resources Department, asked:

- . Is the base flood elevation of 13ft taking future sea level rise into account? These considerations seem to be somewhat slow to make their way into regulations. The City of Everett, for example, is just now proposing to raise the planned elevation of one of their projects from 17ft +MLLW to 21ft +MLLW to account for potential sea level rise.

Applicant's Response: Yes, the base flood elevation analysis was based on late century (2070-2099) flood models that considered future sea level rise through the floodplain.

- . Which mitigation bank will be utilized for impacts to Wetland 2?

Applicant's Response: The Qwuloolt mitigation bank will be utilized for impacts to Wetland 2.

- . Since contaminant hot spots are proposed to be capped, has the potential for lateral movement of contaminants under the cap been assessed?

Applicant's Response: The soil hot spots will be removed by the city as part of the fill program. Groundwater contamination is area-wide throughout the lower Snohomish River delta and site groundwater will be monitored by the City during and following development. Any hazardous materials extracted during development will be monitored and properly treated and/or disposed of.

- . How much opportunity might there be to enhance buffer, riparian, and setback areas, or provide landscaped areas that incorporate historic marshland species and conditions?

Applicant's Response: The 70 foot shoreline setback is being enhanced with diverse native species suitable for the upland and marshland areas. The conceptual planting plan is provided in the Shoreline Narrative, dated December 15, 2024.

- . Has it been determined whether there is a potential threat of contaminants entering the new stream channel through hydrologic connection with the sewage lagoon? Will ongoing monitoring for contaminants in the new stream channel be a condition of the permit?

Applicant's Response: The stream channel alternative was deemed technically impractical because of the existing WWTP infrastructure, as addressed in the Stream Mitigation Proposal Technical Memorandum, prepared by Perteet on January 25, 2024 (Exhibit 029). Separating the Wetland 1 flow from the stormwater will significantly improve and preserve water quality discharge to Wetland 2.

- In the interest of maximizing water quantity in the new stream channel, it might make sense for treated stormwater from the site to be routed into wetland 1 to the greatest extent possible. Will this and other opportunities to maximize hydrologic input to the stream channel be explored?

Applicant's Response: The stream channel alternative was deemed technically impractical because of the existing WWTP infrastructure, as addressed in the Stream Mitigation Proposal Technical Memorandum, prepared by Perteet on January 25, 2024. Separating the Wetland 1 flow from the stormwater will significantly improve and preserve water quality discharge to Wetland 2.

- I'm not really seeing a thorough explanation of why that stream channel between the development and the sewage lagoon is infeasible. The hydraulic Analysis only really talks about grading out of the floodplain. Could this be explained to me?

Applicant's Response: See the Stream Mitigation Proposal Technical Memorandum prepared by Perteet on January 25, 2024 (Exhibit 029).

- Speaking of which, will a flood hazard permit be required? There would be a substantial loss in floodplain by grading the entire site up. How will that be mitigated in order to comply with no-rise requirements?

Applicant's Response: A no-rise analysis was conducted and determined to have no impact to the surroundings (Exhibit 024). A LOMR-F application has been submitted to FEMA to fill the floodplain. Areas above the base flood elevation are out of FEMA jurisdiction.

- Am I seeing that 46,950 cy of fill is to be stockpiled within the 70 foot Slough setback? Isn't that area full of existing native vegetation?

Applicant's Response: The stockpile plan will be checked and revised to ensure no soil encroachment into the 70 foot setback. A revised preliminary grading plan has been submitted (E036).

- d. **Port of Everett:** A letter was received from Laura M. Gurley, Director of Planning, on January 18, 2024. The letter asks that any projected impacts to freight routes and key transportation arterials are considered and/or mitigated to ensure efficient movement of goods and people.

Applicant's Response: A Traffic Impact Analysis has been completed by Transpo and has been submitted for review. The filling of the site will not produce new occupancy or traffic beyond haul trucks bringing fill material to the site. The City recognizes the Port's concerns for traffic impacts and will provide these comments to future development partners that will be responsible for building housing and commercial projects.

10. **Application Review:** [MMC 22G.010.140\(3\)](#) requires the city to determine whether or not the project is consistent with the following items described in the applicable plans and regulations:

- a. Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned residential development and conditional uses, if the criteria for their approval have been satisfied.

Staff Comment: The site is zoned Downtown Core (DC). Clearing and grading activities in order to prepare the site for future commercial development is permitted in the DC zone. Anticipated future uses include a regional athletic facility, hotel, multi-family and restaurants, which are all permitted outright in the DC zone.

- b. Density of residential development in urban growth areas.

Staff Comment: The minimum density for multi-family development in the DC zone is twenty (20) units per acre with no maximum density.

- c. Availability and adequacy of public facilities identified in the Comprehensive Plan.

Staff Comment: The Comprehensive Plan designation for the subject property is Downtown Core. The proposed development and subsequent use of the property will be consistent with the pertinent development policies outlined in the Marysville Comprehensive Plan as conditioned herein.

- d. Development Standards.

Staff Comment: As noted above, clearing and grading activities in order to prepare the site for future commercial development are permitted in the DC zone. No specific development standards apply to this proposal, however, environmental restoration and enhancement of the Ebey Slough Shoreline will be required. Additionally, compliance with [MMC Chapter 14.15 Controlling Stormwater Runoff from New Development, Redevelopment, and Construction Sites](#), will be required, prior to issuing a grading permit.

The proposed development, as conditioned herein, makes appropriate provisions for the public use and interest, health, safety and general welfare.

2.0 DECISION

Based on the foregoing findings and conclusions, review of the environmental documents submitted by the applicant, and the City's regulatory authority to implement the policies, standards, and regulations of the Comprehensive Plan, Marysville Municipal Code, and Shoreline Master Program, the Community Development Director hereby grants **Administrative Shoreline Substantial Development Permit and Floodplain Development Permit Approval** for the Riverwalk clearing and grading improvements subject to the following conditions:

1. The applicant must complete all proposed improvements within five (5) years following the date of this approval after which time this Shoreline Substantial Development Permit expires.
2. The project is subject to the ten (10) conditions of the State Environmental Policy Act (SEPA) Mitigated Determination of Significance (MDNS) issued concurrently on April 24, 2024 (Exhibit 038), as follows:

MM1. Prior to grading plan approval, the applicant shall be required to submit a FINAL Geotechnical Assessment, prepared by a Professional Engineer registered in the State of Washington. Additionally, the applicant/contractor shall be required to adhere to the recommendations of the FINAL Geotechnical Assessment.

Prior to closing out the grading permit, the applicant shall provide a letter from the project engineer to verify that final grading has been completed consistent with the approved grading plans; that all recommendations outlined in the


geotechnical assessment and subsequent amendments have been followed; and that all fill has been properly placed.

- MM2. If at any time during construction archaeological resources are observed in the project area, work shall be temporarily suspended at that location and a professional archaeologist shall document and assess the discovery. The Department of Archaeology and Historic Preservation (DAHP) and all concerned tribes shall be contacted for any issues involving Native American sites. If project activities expose human remains, either in the form of burials or isolated bones or teeth, or other mortuary items, work in that area shall be stopped immediately. Local law enforcement, DAHP, and affected tribes shall be immediately contacted. No additional excavation shall be undertaken until a process has been agreed upon by these parties, and no exposed human remains should be left unattended.
- MM3. Prior to commencement of grading activity, the applicant shall provide certification that the fill material is clean and suitable for site development.
- MM4. Prior to issuing any ground disturbing activity permits, the applicant will be required to submit a cultural resources survey to DAHP for review, and follow any recommendation issued by DAHP, or affected Tribes.
- MM5. Prior to issuing any ground disturbing activity permits, the applicant shall be required to submit a FINAL Shoreline Enhancement Plan, designed in accordance with the provisions outlined in the City of Marysville Shoreline Management Master Program, for approval by the Community Development Department.
- MM6. Pursuant to [MMC 22E.010.100](#)(3), a FINAL Critical Areas Enhancement, Monitoring and Maintenance Plan, designed in accordance with [MMC 22E.010.160](#), shall be submitted and approved by the Community Development Department, prior to civil construction plan approval and grading permit issuance.
- MM7. Prior to any ground disturbing activities or vegetation removal, the applicant shall obtain all necessary State and Federal authorizations for the proposed direct permanent and temporary critical areas impacts.
- MM8. Prior to civil construction plan approval and grading permit issuance, the applicant shall be required to have the proposed wetland mitigation credits certified by the US Corps of Engineers for the permanent and temporary critical areas impacts, in accordance with the Advance Wetland Mitigation Agreement.
- MM9. Prior to close-out of the grading permit, the applicant shall obtain final approval of the Conditional Letter of Map Revision (CLOMR) from US Department of Home Land Security – FEMA Division.
- MM10. If deep ground disturbance with the potential to extend into historical fill and underlying native sediments cannot be avoided by future development, an archaeological survey with subsurface testing using methods capable of accessing deeply buried deposits (e.g. sonicoring) shall be required, prior to issuing building permits.

Prepared by: *Chris*

Reviewed by: *Angela*

This **Shoreline Substantial Development Permit and Floodplain Development Permit** are issued pursuant to [MMC 22G.010.160](#)(1)(e). Administrative decisions may be appealed to the Hearing Examiner in accordance with [MMC Chapter 22G.010, Article VIII, Appeals](#), and [MMC Chapter 22G.060, Hearing Examiner](#). Appeals must be filed within twenty-one (21) calendar days of the date of the *Administrative Shoreline Substantial Development Permit Approval*.

Signature:  **Date:** April 24, 2024
Haylie Miller, CD Director

The above decision, including conditions of approval, are subject to change if the proposed phasing parameters, land uses or any other information provided by the applicant or their authorized representatives proves inaccurate.