



Notice of Hearing Examiner Decision

09/08/2020

To: Interested Parties and Parties of Record

RE: Project Name: Port of Indianola Dock Improvements
 Applicant: Connie Reckord
 20800 Miller Bay Road NE
 Poulsbo, WA 98370
 Application: Shoreline Substantial Development Permit (SSDP)
 Permit Number: 19-05283

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #19-05283: Port of Indianola Dock Improvements, Shoreline Substantial Development Permit (SSDP)**, subject to the conditions outlined in this Notice and included Decision.

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS TIMELY APPEALED, AS PROVIDED UNDER WASHINGTON LAW.

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

<https://spf.kitsapgov.com/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>

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: Applicant: Connie Reckord, connier@macleodreckord.com
Owner: Port of Indianola, Jeff Henderson, jhenderson@portofindianola.com
Engineer: Aspect Consulting, aholmson@aspectconsulting.com
Health District
Public Works
Parks
Navy
DSE

Kitsap Transit
North Kitsap Fire District
North Kitsap School District
Puget Sound Energy
Water Purveyor
Sewer Purveyor
Point No Point Treaty Council
Suquamish Tribe
Port Gamble S'Klallam Tribe
Squaxin Island Tribe
Puyallup Tribe
WA Dept of Fish & Wildlife
WA Dept of Transportation/Aviation
WA State Dept of Ecology-SEPA
WA State Dept of Ecology-Wetland Review
WA State Dept of Transportation
Interested Parties: None

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

**Shoreline Substantial Development Permit
Port of Indianola Dock Improvements
Permit File No. 19-05283**

September 3, 2020

1. FINDINGS OF FACT

1.1 Proposal. Port of Indianola requests a Shoreline Substantial Development Permit to construct a new 320 square foot viewpoint at the head of the Port of Indianola Dock, including a 10' x 20' landscape planter, an approximately 6' x 20' wooden deck supported by micropiles, and a concrete walkway.¹ The proposal includes demolition of the existing planter and saw cutting existing street paving to provide a clean area for installing four micropiles and foundation for the deck and planter. The equipment for the work (backhoe, dump truck, and track mounted drilling rig) would access the site from the adjacent right of way, away from the shoreline.

Applicant/Property Owner: Port of Indianola, P.O. Box 496, Indianola, WA 98342-0496.

Location: 19809 Indianola Road NE, Indianola, WA 98342. Assessor Parcel No. 4360-001-032-0006.

1.2 Hearing. An open record public hearing was held August 13, 2020. Due to COVID-19 restrictions, the hearing was conducted remotely, with the Examiner, Kitsap County Department of Community Development (“DCD”), and Applicant calling in. Access information was provided to the public to allow citizens to join via either a video link or telephone call-in. There were no reported technical difficulties during the call or afterwards. However, in case any citizens who wished to comment had difficulty calling in, the record was kept open through August 20.² No comment was received following the hearing. At the hearing, DCD, through Ms. Santos, described the project. DCD found it consistent with requirements, and recommended approval with conditions. The Applicant, through Ms. Reckord, confirmed there were no concerns with DCD's proposed conditions. No member of the public indicated a wish to speak.

1.3 Administrative Record. The Examiner admitted Exhibits 1-35, which included the Staff Report, application materials, documentation of agency consultation, public notice documents, and a DCD Power Point presentation.

1.4 Notice. Hearing and application notice was provided consistent with KCC requirements.³

¹ Exhibit 31.

² Temporary Emergency Rule to Address COVID-19 Situation (April 1, 2020).

³ Exhibits 19, 21, 29, 30, 32 and 33; KCC 21.04.080, .210.

1.5 SEPA. DCD issued an unappealed Determination of Non-Significance.⁴

1.6 Agency Comment. The proposal was circulated within the County. As long as requirements are met, there were no agency objections to approval.

1.7 Comprehensive Plan and Zoning Designations. The Comprehensive Plan and zoning designations are Rural Residential (RR).⁵ Surrounding properties are zoned RR, and are developed with single family homes to the east and west, and Indianola Road NE to the north. To the south is Port Madison Bay. The shoreline designation is Shoreline Residential.⁶

1.8 Site Characteristics and Use. The irregularly shaped parcel is on Port Madison's northern shore, at Indianola Road NE's southern terminus. The northern 165 feet is 40 feet wide and aligns with Indianola Road NE. The southern portion widens to 120 feet. The site slopes generally downward from north to south. There is a relatively flat portion at the end of Indianola Road NE at the head of the existing dock; and a steep south-facing shoreline slope that separates the uplands from the shoreline. A 900-foot existing pier extends south, with steel and timber piles. Wooden beach stairs provide pedestrian access.

1.9 Vehicle Access and Parking. Indianola Road NE, a County maintained right-of-way, provides access. Vehicle access is limited to the narrow upland area, which is 40 feet in width and should remain open to emergency/fire access and vehicle turnaround. No additional parking is proposed or required. The proposal does not impact parking or increase traffic.

1.10 Shoreline Substantial Development Permit. The development is within the 200-foot shoreline jurisdiction so development is guided by the Kitsap County Shoreline Master Program (KCC Title 22). This project requires a substantial development permit.

1.11 Recreation and Public Access. As the Staff Report further details, this recreation and public access use is consistent with KCC 22.600.165(C). The Applicant has documented there will be no net loss of shoreline ecological functions (Exhibits 6 and 7). As the project is outside the 85-foot shoreline buffer, with the proposed work area about 100 feet from the ordinary high-water mark (Exhibit 31, p. 2), mitigation is not required. The existing dock use, which the project supports, is water-oriented, and the project improves recreational shoreline access and aesthetics.

1.12 Commercial. As the Staff Report further details, the use is consistent with KCC 22.600.130(C). The project will have no net loss of shoreline ecological functions, and the existing dock is a water-dependent use and is the highest preferred use. Development standards are met, project design and scale are compatible with the shoreline environment (primarily wood; with the planter constructed with pretreated timbers). The deck's fir decking is designed to match the existing dock. No inconsistency was identified.

⁴ Exhibit 22; Exhibit 34 (Staff Report), p. 2.

⁵ Exhibit 28; Exhibit 34 (Staff Report), p. 3.

⁶ Exhibits 25 and 27; KCC 22.600.165(A)(2)(SSDP required).

1.13 Environmental. The property is in a High Erosion Hazard Area and a Moderate Landslide Area, requiring a geologic assessment per Ch. 19.400 KCC. Aspect Consulting prepared a geological report based on field reconnaissance. The existing dock structure, bulkhead, and pavement at the terminus of Indianola Road NE appeared in good condition without any obvious signs of distress related to slope instability. There were no observable signs of landslide activity. Given site slope conditions and improvement location, “it is our opinion that the Project can be completed without adversely affecting the slope stability or erosion potential at and near the Site, provided the recommendations ... are followed.”⁷ A condition has been added to follow report recommendations, to be verified at building permit review (Condition 14).

Parametrix prepared a no-net-loss report, concluding the project will result in no net loss of shoreline ecological function.⁸ The project improves and repairs existing structures, is fully mitigated, and will not impair ecological functioning.

1.14 Lighting. No lighting has been proposed and none is allowed without further review and approval by County staff.

1.15 Signage. The proposal includes a new ADA sign, which is exempt from permits per KCC 17.510.050. Any sign design and location shall be consistent with code requirements and approved by DCD before installation.

1.16 Landscaping. The proposal will improve and increase existing landscaping. There is no change in use and no additional impacts are anticipated which would require an additional landscape buffer. There is existing perimeter landscaping that acts as a partial separation buffer and a condition has been added that requires the existing landscaping and vegetation outside the “limit of work” to be retained (Condition 4).

1.17 Frontage Improvements. No frontage improvements are required.

1.18 Development Engineering/Stormwater. Development Engineering Staff reviewed the application for compliance and approved the project with two conditions (Conditions 7 and 8).

1.19 Fire Safety. The Kitsap County Fire Marshal reviewed and approved the proposal with no conditions.

1.20 Staff Report. The Staff Report findings are factually supported, and it is incorporated. The conditions ensure KCC consistency and address impacts, and should be applied to the project without substantive revision.

⁷ Exhibit 12 (Aspect Consulting Geological Report), p. 4; Exhibit 34 (Staff Report), pp. 15-16.

⁸ Exhibit 6; Exhibit 34 (Staff Report), p. 16.

2. CONCLUSIONS OF LAW

2.1 The Hearing Examiner reviews SSDP applications.⁹ An SSDP is "granted only when the applicant can demonstrate that the proposed development is consistent with the policies and procedures of the Act and this program, as well as criteria in WAC 173-27-150."¹⁰

2.2 As the findings above address, the project is consistent with Ch. 22 KCC, the County's shoreline regulations, and the criteria in WAC 173-27-150. The project improves public shoreline enjoyment, and promotes accessibility, with no net loss of shoreline ecological functions, and is code compliant.

2.3 The Hearing Examiner concludes that the proposal is consistent with the County's shoreline regulations and policies, with WAC 173-27-150, and with the Shoreline Management Act, Ch. 90.58 RCW. The SSDP should be approved.

DECISION

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

Planning/Zoning

1. Any and all signage design and location (including exempt signs) shall comply with KCC 17.510¹¹ and be reviewed and approved by DCD prior to installation. Signage may require a separate permit.

2. No lighting has been proposed and none is allowed without further review and approval by county staff.

3. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.

4. Existing landscaping and vegetation shall be retained on the site except for areas to be cleared for the construction of new structures, as depicted on the Site Plan (Exhibit 31) as "Limit of Work."

5. The decision set forth herein is based upon representations made and exhibits contained in the project application (19-05283). 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.

⁹ KCC 21.04.080, and .100; KCC 22.500.100(B)(2); KCC 22.500.105(E).

¹⁰ KCC 22.500.100(B)(3).

¹¹ The Staff Report referenced KCC 17.445. Reference should be to KCC 17.510.

6. 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 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.

Development Engineering

7. New and/or replaced hard surfaces do not exceed the 2,000 square foot threshold; nor does the project exceed 7,000 square feet of disturbed area. While a formal plan is not required, the Applicant must consider all elements required of a stormwater pollution prevention plan and make allowances for managing erosion and sediment discharge on site. Per KCC Title 12, if the project exceeds either of the thresholds noted above, then additional review for stormwater management will be required.

8. Erosion and sedimentation control measures shall be installed and shall remain in place throughout the construction period.

Environmental

9. An 85-foot native vegetation buffer must be maintained landward of Ordinary High Water, as depicted on the approved site plan. In addition, a building or impervious surface setback line of 15 feet is required from the edge of the buffer.

10. There shall be no clearing of vegetation or grading in the buffer area, as is depicted on the approved site plan. Prior to any clearing or development, please contact Development Services and Engineering Environmental staff at (360) 337-5777 to confirm buffer boundaries.

11. Permit approval is subject to Chapter 19.300.315 of KCC, which states that buffers or setbacks shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Refuse shall not be placed in buffers.

12. Landscaping shall be installed and maintained in conformance with the requirements of Chapter 17.385 of KCC. Landscaping shall be installed and inspected prior to occupancy or guaranteed by means of an assignment of funds in the amount of 150 percent of the cost of installation.

13. All applications for shoreline substantial development permits or permit revisions shall be submitted to the Department of Ecology upon a final decision by local government pursuant to WAC 173-27-130. "Final decision by local government" shall mean the order of ruling, whether it be an approval or denial, that is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed.

14. The project is subject to the recommendations in the geologic report drafted by Aspect Consulting, dated August 2, 2019.

Absent a timely appeal or grant of reconsideration, this Decision is final.¹² As set forth in WAC 173-27-190, construction is not authorized until 21 days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until review proceedings initiated within 21 days of the filing date have terminated.

DECISION entered September 3, 2020.



Kitsap County Hearing Examiner
Susan Elizabeth Drummond

¹² Ch. 90.58 RCW, RCW 90.58.180 (appeal within 21 days of filing); HE Rule 2.12.1.