

CITY OF



# PORT ANGELES

WASHINGTON, U. S. A.

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DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

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**DATE:** July 21, 2017

**TO:** Lauren Erickson, *Hearing Examiner*, City of Port Angeles

**FROM:** Allyson Brekke, AICP, *Planning Manager*, Community and Economic Development

**RE:** Port of Port Angeles Terminal 7 Stormwater Conveyance Improvement - Shoreline Substantial Development Permit Application No. 17-32

**APPLICANT/OWNER:** Port of Port Angeles, 338 West 1<sup>st</sup> Street, Port Angeles WA 98362

**LOCATION:** 1433 Marine Drive, Port Angeles, WA 98363

**REQUEST:** Installation of Phase 1 of a stormwater treatment system at the Port Terminal 7 Log Yard (Site), to improve water quality and to meet the permit benchmarks values established under the Port's Industrial Stormwater General Permit (ISGP) administered by the Washington Department of Ecology (ECY).

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## STAFF REPORT

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### RECOMMENDATION

Having reviewed and considered the application materials, public comment, and all the information presented, the City Planning Division recommends the Hearing Examiner adopt the findings included within the Staff Report for application No. 17-32 and move to approve the Shoreline Substantial Development Permit with recommended conditions and subject to all applicable Port Angeles Municipal Code provisions.

### EXECUTIVE SUMMARY

An application for a Shoreline Substantial Development Permit (SMA) was originally submitted by the Port of Port Angeles to the Department of Community and Economic Development on March 9, 2017. The application request was for Phase 1 of installation for stormwater treatment

facilities at Port Terminal 7 Log Yard on Port of Port Angeles property addressed as 1433 Marine Drive. Phase 1 for the implementation of a stormwater treatment system is the construction of an improved stormwater conveyance system to direct runoff to a single outfall and a future proposed system. The intent of the project is to allow the Port of Port Angeles to comply with permit benchmark values established under their Industrial Stormwater General Permit administered by the Washington Department of Ecology (ECY). Specific project elements described in the original Phase 1 project included: 1) abandonment of existing catch basins and outfalls, 2) regrade the site so that overland flow conveys stormwater runoff to proposed lift stations, and 3) construction of new lift stations and approximately 3,000 feet of pressure main to convey stormwater to Treatment Area 2 (treatment area to be designed and constructed later in Phase 2).

A SMA application is required for work being done on sensitive shoreline areas within the City of Port Angeles jurisdictional boundaries as set forth in Washington’s Shoreline Management Act (Revised Code of Washington [RCW]) Chapter 90.58) and the City of Port Angeles Shoreline Master Program (Port Angeles Municipal Code [PAMC] Chapter 15.08). In Port Angeles, regulated shorelines include marine waters of the Port Angeles Harbor, the Strait of Juan de Fuca (north to the international boundary) and tidally influenced portions of Valley, Tumwater, Peabody and Ennis Creeks. This includes water areas and their associated "shorelands", which is generally the area within 200 feet landward of the ordinary high water mark (OHWM) and associated wetlands and river deltas.

The Port’s original SMA application was determined to be complete on March 16, 2017 and a notice of the application was posted on the property and published within the Peninsula Daily News newspaper within 14 working days from determination of completeness. The SMA was routed to other City Divisions for collection of their comments on the proposed work. Subject to the August 14, 2006 Settlement Agreement between the State of Washington, Lower Elwha Klallam Tribe, Port of Port Angeles and City of Port Angeles, the Tribe was notified by Planning Staff of the application because the proposed project includes “ground-disturbing activities” within or near City identified potential culturally sensitive areas. (Note: the Washington Department of Archeology & Historic Preservation [DAHP] and ECY are automatically notified as a part of the SEPA review performed by the Port).

Per PAMC Section 2.08.065, the Director of Community and Economic Development is the final review authority for all shoreline applications that (1) include a permitted use and (2) receives a SEPA threshold Determination of Nonsignificance. The Port’s SMA application includes work that is considered a permitted use (not a conditional use or variance request) and included the Port’s issued Determination of Nonsignificance (as they are a lead agency and are responsible for processing their own review for the State Environmental Policy Act [SEPA]).

Following the notice of application, Planning Staff conducted an investigation of the facts and circumstances relevant to the application. This involved a Staff review of all relevant criteria from the RCW, Washington Annotated Code (WAC), PAMC and the Port Angeles Comprehensive Plan and consideration of all comment received on the application, which included a letter from the Lower Elwha Klallam Tribe and a forwarded letter from the DAHP. This Staff investigation identified significant concerns with the application specific to protection of archaeological and historical resources and the development proposed. On June 28, 2017, the City verbally informed the applicant that the Director's anticipated action on the SMA would be a denial at the conclusion of the City's 120-day review period. The City provided options to the Port on alternative ways to move forward. One of the options was a revision to the project scope and supporting application materials to better address the archeological and historical resources. On July 3, 2017, the Port submitted a letter requesting a delay in the City's final decision to allow for revision of their application materials, including a revision to its SEPA threshold determination from a Determination of Nonsignificance to a Mitigated Determination of Nonsignificance. The public comment period for the Port's revised threshold determination is scheduled to conclude on July 21, 2017.

On July 6, 2017, the Port submitted a revised SMA application to the Department of Community and Economic Development. The application was still requesting approval of the Phase 1 for the implementation of a stormwater treatment system on the subject property. However, some of the specific project elements were modified from the original application and now included the following: 1) abandonment of existing catch basins, 2) regrade of the site so that overland flow conveys stormwater runoff to the proposed lift station, and 3) construction of the new lift station, settling vault and approximately 1,100 feet of pressure main to convey stormwater. The revised materials were determined to be complete on July 7, 2017 and a revised notice of the application was posted on the property and published within the Peninsula Daily News newspaper within 14 working days from determination of completeness.

The Port's revisions did not change the fact that the type of work proposed was for a permitted use (not a conditional use or variance request). However, with the Port's revision to a Mitigated Determination of Nonsignificance, per PAMC Section 2.18.060, the City Hearing Examiner would be the final review authority of the application. A public hearing with the Hearing Examiner was set on July 26, 2017 and was included in the revised notice of application.

## **FACTS RELEVANT TO THE APPLICATION**

### **Existing Conditions**

The project is located at the Port Log Yard, addressed as 1433 Marine Drive, Port Angeles, WA 98363 in Township 30 N, Range 6 West, Sections 2 and 3 of Clallam County. The property is comprised of several irregularly shaped lots adjacent to the culturally significant Tse-whit-zen Village archeological district (which is listed on the National Register of Historic Places). The site is located within the City's Ediz Hook neighborhood and is zoned as Industrial, Heavy (IH). According to the City's Shoreline Management Program (PAMC Section 15.08.040), the subject

property is located in Segment “I” of the Shoreline Master Program. Segment “I” is designated a High-Intensity Industrial Environment, whose purpose is to provide for the continued use and development of high-intensity water-oriented heavy and larger scale industrial port uses, with the potential to allow supporting uses. Currently, the site is owned and administered by the Port of Port Angeles as a log yard where logs are sorted, banded, stored, debarked, rafted, and round boomed. An individual drainage system onsite collects runoff via a network of catch basins and storm drains, conveying stormwater to five outfalls that discharge directly into the Port Angeles Harbor.

### **Proposed Development**

The application proposes to install a stormwater treatment system at the Port Terminal 7 Log Yard (Site). The goal of proposed treatment system is to improve the water quality and to meet the permit benchmarks values established under the Port’s Industrial Stormwater General Permit administered by the ECY. Phase 1 for the implementation of a treatment system is the construction of an improved stormwater conveyance system to direct runoff to a single outfall and the proposed future system. Specific project elements included under Phase 1 are: 1) abandonment of existing catch basins, 2) regrade of the site so that the overland flow conveys stormwater runoff to the proposed lift station, and 3) construction of a new lift station, settling vault and approximately 1,100 feet of pressure main to convey stormwater. See Sheets G3, C2 and C3 of the revised application materials for relevant site and grading plans for the proposed development (included with this Staff Report as Appendix B.

### **PROCEDURE**

On March 9, 2017, the applicant originally submitted the Substantial Shoreline Development Permit (SMA) application, which was determined complete on March 16, 2017. A final decision by the Director of Community and Economic Development was scheduled to occur no later than July 14, 2017 (120 days from the date of determination of completeness). Notice of the application was provided on the following dates and in the following manner:

1. 03/17/17: Subject property, posted sign
2. 03/17/17: City Hall, public notice board
3. 03/17/17: Property owners within 300’ of subject property, postal service mailing
4. 03/22/17: Peninsula Daily News, published in classifieds

The original public comment period was 30 days, closing on April 21, 2017 at 5:00 p.m. No public comment was received within that time period.

On July 6, 2017, the applicant submitted the revised SMA application, which was determined complete on July 7, 2017. A public Hearing conducted by the City’s Hearing Examiner was scheduled for Wednesday, July 26, 2017 at 1:00 p.m. in the Council Chambers room in City

Hall, 321 E. 5<sup>th</sup> Street, Port Angeles. Notice of the application and public hearing was provided on the following dates and in the following manner:

1. 07/10/17: Subject property, posted sign
2. 07/07/17: City Hall, public notice board
3. 07/07/17: Property owners within 300' of subject property, postal service mailing
4. 07/09/17: Peninsula Daily News, published in classifieds

The public comment period is 16 days, closing with the scheduled public hearing on July 26, 2017 at 1:00 p.m. No public comment has yet to be received.

The City's Hearing Examiner will conduct a public hearing on July 26, 2017 at 1:00 pm in City Council Chambers at 321 E. 5<sup>th</sup> Street, Port Angeles, WA 98362. Per Port Angeles Municipal Code, the duty to determine whether the Shoreline Substantial Development Permit should or should not be granted is vested in the City's Hearing Examiner. Verbal testimony and comments will be taken during the noticed public hearing.

## **COMMENTS**

### **Department/Division Comments and Findings**

City Departments were circulated on the original proposal. The City Engineering Division was the only City Division that responded to the original routing. At that time, they indicated that they will include any relevant conditions on the Clearing and Grading Permit for the proposed activity on site, which was concurrently being reviewed at the same time as the SMA. The revised proposal was routed directly to the City Engineering Division by the applicant. Findings and recommended conditions related to the utility aspect of the project (namely stormwater) were supplied by the City Engineering Division and are incorporated within the "Staff Analysis and Findings" section of this Staff Report and "[Conditions and Conclusions](#)" section in Appendix A.

### **Agency Comments**

Agency comments were received from the Lower Elwha Klallam Tribe and Washington State Department of Archaeology and Historic Preservation. Details are incorporated in the cultural resources analysis of the staff report.

### **Public Comment**

The public comment period for the original application was for 30 days. The public comment period for the revised application is for 16 days and closes with the scheduled public hearing on July 26, 2017 at 1:00 p.m. No public comment has yet to be received on this application.

## **STAFF ANALYSIS AND FINDINGS**

### **Findings of Fact**

Analysis and findings of fact from Staff are based on the entirety of the application materials, municipal codes, standards, plans, public comment, and all other materials available during the review period. Collectively the information contained in the Staff Report is the record of the review. The analysis and findings in this report is a summary of the City Staff completed review.

### **Port Angeles Comprehensive Plan**

All Shoreline Substantial Development Permit applications must abide by the Port Angeles Comprehensive Plan. The following Port Angeles Comprehensive Plan policies are identified by Planning Staff to support the [recommended conditions](#) for application No. 17-32:

#### **Chapter 7: Conservation**

##### **Conservation Goals & Policies**

**Goal G-7A** To create and maintain a community with a high quality of life where the land is used in a manner that is compatible with the area's unique physical features, its natural, historical, archaeological, and cultural amenities, and the overall environment.

##### **G-7A Policies**

**P-7A.01** The City should require all development, including the location and design of all structures and open space areas, to be compatible with the unique physical features and natural amenities of the land and complement the environment in which it is placed, while recognizing the rights of private ownership.

**P-7A.03** The City should adopt development criteria, which promote the use of innovative design techniques to provide for the use of the land in a manner compatible with any unique physical features or valuable natural, historical, and/or cultural amenities.

**Goal G-7B** To protect and enhance the area's unique physical features, its natural, historical, archaeological, and cultural amenities, and the overall environment.

##### **G-7B Policies**

**P-7B-01** The City should further the public interest by protecting and enhancing the area's unique physical features, valuable natural historical, archaeological, and cultural amenities, and the overall environment, while recognizing the rights of private ownership.

**P-7B.12** The City should develop and implement a plan to improve water quality, which includes measures to reduce and minimize stormwater pollutants and combined sewer overflow pollutant discharges.

**P-7B.18** The City should encourage identification, preservation, and restoration of sites and structures that have historical or cultural significance.

- P-7B.23** The City should avoid adverse impacts to archeological sites by following and requiring best management practices for archaeological preservation.
- P-7B.30** The City should implement site-specific requirements for individual development proposals to mitigate any negative impacts create by the development, particularly to an area identified as an environmentally sensitive area.
- Goal G-7D** To preserve and enhance the City’s shoreline, its natural landscape, and flora and fauna and to minimize conflicts with present and planned uses in a manner consistent with the State Shoreline Management Act and the City’s Shoreline Master Program.

### **Port Angeles Municipal Code (PAMC)**

The following Port Angeles Municipal Code provisions are seen as relevant to this application. Planning Staff provides comments under each provision as demonstration of the analysis that has occurred with the application review process and the findings of fact relevant to the application.

#### **PAMC 2.18.060 – Functions, issues and jurisdiction of the Hearing Examiner**

**A. Review authority.** The Hearing Examiner is hereby authorized and directed to hear and decide the following matters:

**4. Shoreline applications:**

**a. Substantial development permits - All applications except those deemed administrative actions pursuant to subsection 2.18.065(5).**

*This is an application for a Shoreline Substantial Development Permit that includes development requiring a SEPA threshold determination of a Mitigated Determination of Nonsignificance.*

**B. Appeal procedure.** As to all of the foregoing issues and matters, the decision of the Hearing Examiner shall be the final decision of the City. The decision of the Hearing Examiner in these cases may be appealed to Superior Court. Appeals must be filed within 15 days of the notice of decision.

*The notice of decision must occur 10 business days from the Hearing Examiner’s public hearing.*

#### **PAMC 15.08.040 – Shoreline Management Program**

The following sections of the City Shoreline Management Program specify the applicable regulations pertinent to development proposed within Segment I of the High-Intensity Industrial (HI-I) area of the City’s shoreline.

### **Chapter 2: Environment Designation Provisions and Regulations**

**B. Environment Descriptions and Specific Development Standards.**

**1. High-Intensity Industrial (HI-I) Environment (Segments C, H and I).**

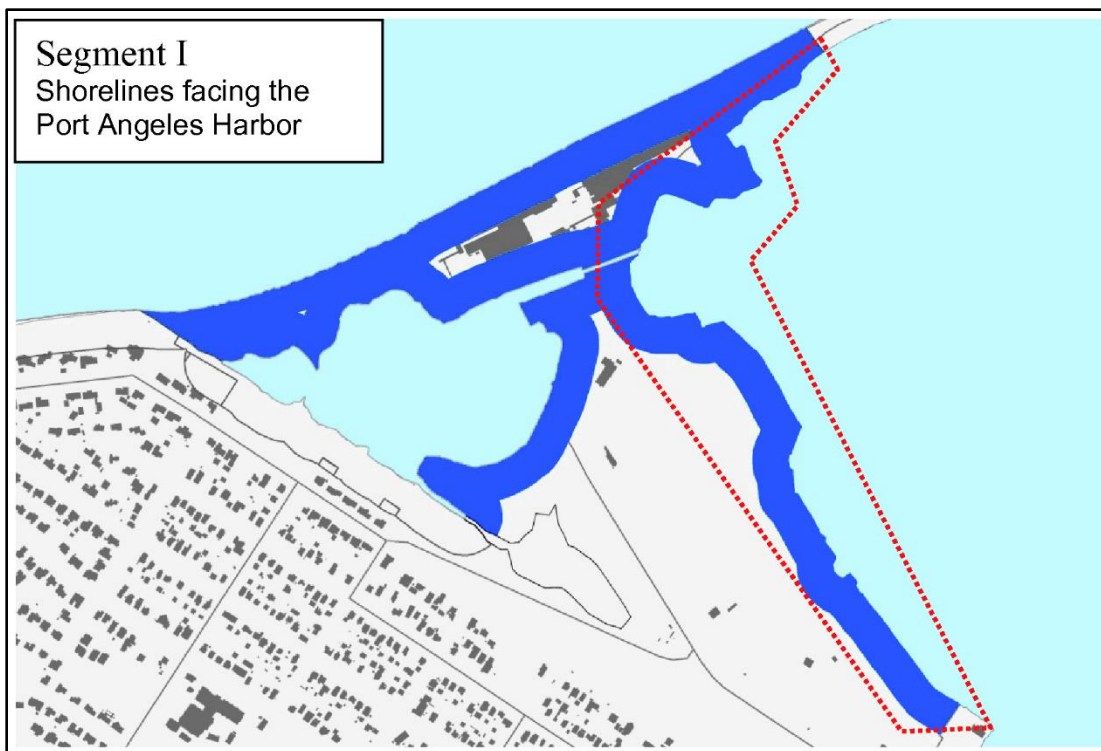


Figure 1: Segment I of the Port Angeles Shoreline

**d. Environment-Specific Development Regulations.**

	Vegetation Conservation Area	Structure Setbacks (from the OHWM)	Maximum Structure Height
Segment C	N/A	50 feet	75 feet
Segment H	50 feet	50 feet	45 feet
Segment I	N/A	50 feet	45 feet

Table 1: Environment-Specific Development Dimensional Regulations

The proposed utility development is predominately underground. All above ground structures, including the lift station and vaults, are less than 45 feet in height and more than 50 feet from the shoreline’s high water mark.

**Chapter 3: General Policies and Regulations**

**1. Generally Applicable Policies and Regulations.**

General policies and regulations are applicable to all uses in all shoreline environments that may occur along the City's shorelines. The "policies" listed in this SMP will provide broad guidance and direction and will be used by the City in applying the "regulations." The provisions of this SMP shall be administered consistent with constitutional and legal limitations.



### **c. Regulations**

**1. Except when specifically exempted by statute, all proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act, Chapter 90.58 RCW, and to the policies and regulations of this SMP.**

*The proposed utility (accessory) use, and the development affiliated with its installation, does trigger a City of Port Angeles Shoreline Substantial Development Permit. With the recommended conditions of approval in Appendix A, the proposed utility development will conform to the Shoreline Management Act and regulations of the Port Angeles Shoreline Management Program and Port Angeles Municipal Code.*

**2. All proposed shoreline uses and development, including those that do not require a shoreline permit may be allowed only when consistent with the underlying City zoning, PAMC Title 17.**

*The proposed utility development is accessory in nature and is consistent with all City zoning districts, including the Industrial, Heavy (IH) zone where this property is located.*

**3. All new shoreline modifications must be in support of an allowable shoreline use that conforms to the provisions of this SMP.**

*Log storage is an allowable use in the Heavy Intensity Industrial Environment, as are the accessory utilities associated with this Shoreline Substantial Development Permit Application.*

**4. Shoreline uses and modifications listed as "prohibited" shall not be authorized as a shoreline variance or shoreline conditional use permit.**

*The proposed accessory utility is not listed as "prohibited" and is therefore an authorized and permitted use.*

**5. Permit applicants shall submit management plans detailing application of pesticides, fertilizers and other chemicals as part of the permit application. Plans shall indicate the pesticide to be used and assurance that use of the chemical is approved for the intended use and that the chemicals are applied per department of Agriculture or Department of Ecology regulations. The Shoreline Administrator will require the use of best management practices for fertilizer application in order to protect water quality. The public must be notified through announcements and on-site signage when chemicals are applied.**

*Not applicable. There is no pesticide use proposed or associated with this permit application.*

**6. All shoreline uses and developments shall analyze the environmental impacts of the proposal and include measures to mitigate environmental impacts not otherwise**

**avoided or mitigated by compliance with the Master Program and other applicable regulations. Where required, the City will apply mitigation measures in the following sequence of steps listed in order of priority, with a. being top priority:**

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;**
- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;**
- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;**
- d. Reducing or eliminating the impact over time by preservation and maintenance operations;**
- e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and**
- f. Monitoring the impact and the compensation projects (from subsection e. above) and taking appropriate corrective measures.**

*The proposal is part of an administrative order by the Washington State Department of Ecology (Ecology) issued to the Port of Port Angeles (Port) requiring the Port to comply with Chapter 90.48 RCW – Pollution Control, Chapter 173-226 WAC – Waste Discharge General Permit; and Industrial Stormwater General Permit number WAR000314. In response to the administrative order by Ecology, the Port is proposing a stormwater conveyance system that will accomplish the abandonment of existing upland stormwater catch basins and outfalls. The purpose of the new stormwater conveyance system is the reduction and minimization of impacts of the associated use. With the recommended conditions of approval as included in Appendix A, the potential impacts of the stormwater conveyance Phase 1 development is appropriately mitigated.*

**7. The City may allow fee payment in lieu of physical compensatory mitigation measures provided:**

- a. There is an established program to restore ecological functions using those funds;**
- b. The funds are sufficient to provide mitigation so that there is no net loss of ecological function; and**
- c. There is a direct and demonstrated correlation between the impacted ecological functions and the restored functions that the fee will fund.**

*Not applicable. This project is not proposing in-lieu fee payment.*

**8. All shoreline development, uses and activities shall be located, designed, constructed and managed in a manner which:**

- a. Minimizes adverse impacts to surrounding land and water uses and is aesthetically compatible with other existing or planned uses in the affected area;**
- b. Avoids disturbance of and minimizes adverse impacts to fish and wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes;**
- c. Minimizes interference with natural shoreline processes such as water circulation and sediment transport and accretion;**
- d. Avoids adverse impacts to public health and safety;**
- e. Minimizes the need for shoreline defense and stabilization measures and flood protection works, such as bulkheads, fill, levees, dikes, groins or substantial site regrades; and**
- f. Utilizes effective erosion control methods during both project construction and operation.**

*Staff finds the revised application to better minimize the potential adverse impacts to surrounding land uses. Specifically, by 1) decreasing the linear footage of underground piping to be installed, 2) insuring the piping does not go deeper than 4 feet below ground, and 3) avoiding ground disturbing activities that are directly north of the historic and culturally significant Tse-whit-zen Village site.*

*As proposed the project will temporarily discharge approximately 10.5 acres of stormwater runoff through the existing City H Street Outfall. The proposed discharge point from this project is located near Marine Drive. At this proposed location the H Street Outfall pipe has a size of approximately 18” compared to the pipe size of approximately 24’ at the Port’s existing connections to the North. To minimize adverse impacts to surrounding land a downstream analysis shall be performed to ensure the existing H Street Outfall pipe has adequate capacity to convey flow from this project in addition to conveying existing contributing flows from offsite. The city can provide contributing offsite flow data.*

*As recommended in the [conditions of approval](#), the applicant shall produce a downstream analysis to determine outfall capacity and address any deficiencies identified to prevent flooding.*

*The proposed project provides little protection to water quality in Port Angeles Harbor between the completion of Phase 1 and the future Phase 2 of the project. The proposed plans do include a pre-treatment settling vault. To minimize impacts to fish and wildlife resources, Staff is recommending a basic treatment device shall be installed to temporarily treat flows to the H Street Outfall until which time phase 2 installs a permanent treatment system. This is reflected in the recommended [conditions of approval](#).*

## **2. Archaeological and Historical Resources and Sites.**

Please see the “[Cultural Resources](#)” Section in this Staff Report for examination of these regulations pertaining to archeological and historical resources and sites.

## **11. Utilities**

### **c. Regulations**

**1. Accessory utilities shall be placed outside of shoreline jurisdiction when feasible. When accessory utilities must be placed within shoreline jurisdiction, they shall be placed underground, when feasible. Such utilities shall utilize existing rights-of-way, corridors, and/or bridge crossings whenever possible. Proposals for new corridors in shoreline areas involving water crossings must fully substantiate the infeasibility of existing routes.**

*Accessory utilities currently exist within the subject property and it was determined by the applicant that the best option would be to maintain the location. The City did communicate to the applicant that the City right-of-way is available for location of some of the proposed stormwater conveyance.*

**2. Accessory utility development shall, through coordination with government agencies, provide for compatible multiple uses of sites and rights-of-way, when feasible. Such uses include shoreline access points, trails and other forms of recreation and transportation systems, providing such uses will not unduly interfere with utility operations or endanger public health and safety.**

*The proposed utilities are primarily underground and are not seen to conflict with forms of recreation and transportation systems.*

**3. Sites disturbed for accessory utility installation shall be stabilized during and following construction to avoid adverse impacts from erosion and, where feasible, restored to pre-project configuration and replanted with native vegetation.**

*Stabilization and erosion control will be examined with the City required Clearing and Grading permit, which is a recommended [condition of approval](#).*

**4. Utilities that need water crossings shall be placed deep enough to avoid the need for bank stabilization during construction and in the future due to flooding and bank erosion that may occur over time. Boring is preferred over open trenching as a method of utility water crossing.**

*Not applicable.*

### **Washington Administrative Code (WAC)**

Per WAC Section 197-11-926, “Lead agency for governmental proposals,” the Port of Port Angeles initiated the proposal included in this shoreline application and therefore is the lead agency for that proposal.

### **Environmental Review**

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

Per WAC Section 197-11-050, “Lead agency,” the Port of Port Angeles is the lead agency of this shoreline application and is the agency with main responsibility for complying with SEPA’s procedural requirements and shall be the only agency responsible for the threshold determination.

### **Cultural Resources**

#### **PAMC Section 15.08.040 – Shoreline Management Program**

#### **Chapter 3: General Policies and Regulations**

##### **2. Archaeological and Historical Resources and Sites.**

##### **c. Regulations**

- 1. City Planning Staff shall review the information provided by the project applicant and consult in-house archaeological and historical reference materials, including but not limited to:**
  - a. City of Port Angeles' Archaeological Predictive Model;**
  - b. Washington State’s online database of archaeological and historical resources (WISAARD).**

*Staff conducted this review and confirmed the proposed development’s close proximity to the identified location of the Tse-whit-zen archeological district.*

*On August 14, 2006, the Port of Port Angeles entered a Settlement Agreement with the State of Washington, Lower Elwha Klallam Tribe, and City of Port Angeles (Settlement Agreement between the State of Washington, Lower Elwha Klallam Tribe, City of Port Angeles and Port of Port Angeles). Section 8 of the agreement stipulates that an analysis resulting in a predictive model would be developed to determine high, medium, and low probability areas for cultural resources. The model identifies this area as one having high probability for cultural resources. The agreement stipulates that the City and Port will prepare and implement permitting and planning procedures consistent with the agreement. In conjunction with this agreement the City has established standard [conditions](#) for ground disturbing activities in high probability areas.*

- 2. Planning staff shall consult with the Lower Elwha Klallam Tribe on all shoreline projects with ground disturbing components.**

*Staff has maintained a communication line with the Lower Elwha Klallam Tribe throughout the review of this application. Recommended conditions of approval as included in [Appendix A](#) require continued consultation with the Tribe.*

*The State Department of Archaeology and Historic Preservation (DAHP) also provided comments (dated March 30, 2017) on the State Environmental Policy Act review indicating that the project area is adjacent to archaeological site 45CA523 Tse-whit-zen and that archaeological resources associated with the site may extend into the*

*project area. The agency has requested that Monitoring and Inadvertent Discovery Plan (MIDP) be prepared by a professional archaeologist. The plan must be submitted to DAHP and interested Tribes prior to ground disturbance.*

*As noted above the Lower Elwha Klallam Tribe was notified in accordance with the settlement agreement and has indicated concern over the Port of Port Angeles' environmental assessment regarding cultural resources.*

- 3. Based upon the results of consultation with the Tribe, City planning staff or the authorized approval body may add conditions to the project permit in order to require the identification and protection of historical and archaeological resources that might otherwise be adversely affected by the project. These conditions will adhere to standard and accepted professional cultural resources practices.**

*The recommended conditions of approval are a result of consultation with the Tribe and the comments delivered to the applicant by the DAHP.*

*The subject property has not been previously inventoried, evaluated, and reviewed to the satisfaction of the City of Port Angeles Department of Community and Economic Development (DCED). Therefore, Staff is recommending a [condition of approval](#) that prior to excavation of the vault and lift station areas, the project proponent shall hire a consulting archaeologist, who meets the Washington State guidelines for a Professional Archaeologist, to provide an archaeological site assessment report for this segment of the project. The report shall be submitted to the DCED, and in consultation with the Lower Elwha Klallam Tribe and Department of Archaeology and Historic Preservation, shall then determine the extent of additional archaeological studies for the project during a review process.*

- 4. In addition to any other conditions that may be imposed on a project, all shoreline permits shall contain provisions requiring developers and property owners to immediately cease work and notify the City Planning Department, Department of Archaeology and Historic Preservation and affected Indian Tribes if any items of possible archaeological interest are uncovered during excavations. In such cases, the developer or property owner shall be required to allow a site inspection and evaluation by an archaeologist meeting the federal secretary of the interior's standards for a professional archaeologist. The professional archaeologist shall ensure that any inadvertent archaeological discoveries are properly recorded, reported, and mitigated prior to the resumption of the project.**

*This provision is included as a recommended conditional of approval.*

- 5. The City may require that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.**

*See Staff findings under no. 3 above.*

- 6. The City may deny a permit based upon archaeological conditions when the City determines that a site has significant archaeological, natural, scientific or historical value. No shoreline permit shall be issued which would pose a threat to a significant archaeological site.**

*This permit is being recommended with [conditions of approval](#).*

- 7. In the event that unforeseen factors constituting an emergency as defined in WAC 173-27-040 (2)(d) necessitate rapid action to retrieve or preserve artifacts or data, the project may be exempted from the requirement to obtain a substantial development permit. The City shall notify the State Department of Ecology, the State Attorney General's Office, the State Historic Preservation Office, and the Lower Elwha Klallam Tribe of the exemption in a timely manner.**

*Not applicable.*

- 8. Historical or archaeological resources shall be considered in park, open space, public access and site planning, with access to such areas designed and managed so as to give maximum protection to the resource and surrounding environment.**

*Not applicable as no archeological resources have been identified on the subject property.*

- 9. Interpretation of historical and archaeological features (e.g., informational or interpretive panels along trails) shall be provided as part of public projects when the Shoreline Administrator, in consultation with the Lower Elwha Klallam Tribe, determines that it is appropriate based on the sensitivity of the features, interpretive opportunities, and other relevant circumstances.**

*The City will continue to consult with the Tribe and consider all of their recommendations as the City receives the applicant's responses to the recommended conditions.*

Appendices: A – Conditions and Conclusions  
B – Applicant Materials  
C – Agency Comments

## **APPENDIX A**

### **CONDITIONS AND CONCLUSIONS**

#### **Consistency**

In preparation and submission of a shoreline substantial development permit application, the applicant has demonstrated that all standards will be met in accordance with PAMC. Conditions placed on the permit will ensure those standards will be maintained for the life of the permit.

#### **Conditions of Approval**

Based on the findings within the Staff Report, the following conditions of approval are recommended with this application:

1. Approval of a City of Port Angeles Clearing and Grading Permit is required prior to any ground disturbance occurring.
2. Unless exempt, a City of Port Angeles Building Permit will be required for the development of any structures associated with the proposed development.
3. All mitigating measures of the Port of Port Angeles Mitigated Determination of Non-Significance shall be completed.
4. The subject site has not been previously inventoried, evaluated, and reviewed to the satisfaction of the City of Port Angeles Department of Community and Economic Development (DCED). Prior to excavation of the vault and lift station areas, the project proponent shall hire a consulting archaeologist, who meets the Washington State guidelines for a Professional Archaeologist, that provides an archaeological site assessment report for this segment of the project. The DCED, in consultation with the Lower Elwha Klallam Tribe and Department of Archaeology and Historic Preservation shall then determine the extent of additional archaeological studies for the project during a review process.
5. An Archaeological Monitoring and Inadvertent Discovery Plan (MIDP) shall be prepared and submitted to the City, Washington Department of Archaeology and Historic Preservation and the Lower Elwha Klallam Tribe for review prior to ground disturbance.
6. The applicant shall hire an archaeologist approved by the DCED to be present on site during all ground disturbances. The Archaeologist must be in contact with the DCED prior to and during the permitted project. A professional report with comprehensive details on logged activity must be issued to the DCED upon completion of the ground disturbing actions.
7. Regardless of the presence of an archaeological monitor; if during ground disturbances any phenomena of possible archaeological interest are uncovered the developer shall immediately stop such work and notify the DCED. The DCED will work to ensure that



all possible archaeological resources are handled in accordance with applicable law. In the event archaeological artifacts, features or human remains are discovered, the DCED will immediately notify the Lower Elwha Klallam Tribal Chair and specified Tribal staff by both letter and telephone. The City will also notify the State Department of Archaeology and Historic Preservation, as required in RCW 27.44 and 27.53. Work may not resume in the area of the find until the DCED is satisfied that archaeological resources have been properly protected.

8. Prior to final approval of the Clearing and Grading Permit the applicant shall produce a downstream analysis to determine outfall capacity and address any deficiencies identified to prevent flooding.
9. Prior to final approval of the Clearing and Grading Permit the applicant shall provide basic water quality treatment in addition to the proposed pretreatment system prior to discharging stormwater to the H Street outfall.

### **Conclusions**

1. Analysis and findings of fact from Staff are based on the entirety of the application materials, municipal code, standards, plans, public comment, and all other materials available during the review period. Collectively the information contained in the Staff Report is the record of the review. The analysis and findings in this report is a summary of the City Staff completed review.
2. Having reviewed and considered the application materials, public comment, and all the information presented, the City Planning Division recommends the Hearing Examiner adopt the findings included within the Staff Report for application No. 17-32 and move to approve the Shoreline Substantial Development Permit with recommended conditions and subject to all applicable Port Angeles Municipal Code provisions.
3. In accordance with Section 2.18.065 PAMC, the decision of the Hearing Examiner shall be the final decision of the City. The decision of the Hearing Examiner in these cases may be appealed to Superior Court. Appeals must be filed within 15 days of the notice of decision.