

**CITY OF OLYMPIA HEARING EXAMINER  
STAFF REPORT  
May 1, 2026**

**Project Name/File No.:** West Bay Yards, 21-2854

**Applicant:** West Bay Development LLC

**Authorized Representative:** Ron Thomas of Thomas Architecture Studio

**Requested Action:** Shoreline Substantial Development Permit and Shoreline Conditional Use Permit: Applicant proposes a Shoreline Substantial Development Permit to construct five buildings above a public plaza and structured parking. Each of the five buildings will include five stories. The project includes 478 residential units, approximately 22,000 square feet (SF) of commercial use such as restaurant/café, an expanded waterfront trail and various public amenities.

The Shoreline Substantial Development Permit Application includes shoreline restoration to provide placement of granular fill over the existing hard armored shoreline to create a naturally functioning intertidal beach. The project will replace the existing degraded nearshore with native vegetation, convert approximately 0.5 acres of aquatic land to upland through placement of approximately 27,000 cubic yards (CY) of fill and includes intertidal restoration extending approximately 150 feet (FT) beyond the existing Ordinary High Water Mark.

Applicant proposes a Shoreline Conditional Use Permit to place a mix of uses (Residential and Commercial) within 100 ft of the Ordinary High Water Mark.

**Project Location:** 1210 West Bay Drive NW

**Water Body:** Budd Inlet, Puget Sound

**Shoreline Designation:** Urban Intensity (Budd 3A)

**Zoning District:** Urban Waterfront (UW)

**Comprehensive Plan Designation:** Urban Waterfront (UW)

**SEPA Determination:** **Determination of Non-significance (DNS)** issued on January 23, 2026. Comment period expired on February 10, 2026, with an appeal period of February 17, 2026. A timely appeal was filed. The appeal will be heard through a combined appeal/public hearing process.

**Public Notification:** Public notification of this hearing was issued on May 22, 2026. Notice was mailed to property owners within 300 feet of the subject property, parties of record, and recognized neighborhood associations; posted onsite; and published in *The Olympian* newspaper on May 24, 2026, in conformance with Olympia Municipal Code (OMC) 18.78.020.

**Staff Recommendation:** Approve, subject to conditions.

**Staff Contact:** Nicole Floyd, AICP, Director of Planning  
360.570.3768, [nfloyd@ci.olympia.wa.us](mailto:nfloyd@ci.olympia.wa.us)

## I. BACKGROUND INFORMATION

### A. Location and Context

The project is located on West Bay Drive in a previously industrial area. Much study and consideration have been completed throughout the years surrounding this part of the City. After the Hardel Lumber fire of 1997, the community embarked on a journey to determine how the area should best be redeveloped. In 2001, the community adopted updates to the Comprehensive Plan and Zoning Code that envisioned significant urban scale growth to this area. The subject property was designated Urban Waterfront, which is intended to provide a mix of commercial, light industrial, and multifamily residential uses. The Comprehensive Plan envisions buildings of 3 – 7 stories and a minimum of 15 units per acre. This update was followed by the 2005 West Bay Drive Corridor Study, which was primarily a roadway capacity study that included goals for multi-modal improvement plans. The cumulative result of these efforts created unique and specific development regulations for West Bay Drive including height limits, view corridors, design standards, pedestrian trail plans, and even specific roadway design standards.



Since then, very little of the anticipated development has occurred. The community has remained highly interested in this portion of the City and the City has retained the vision initially adopted in the 2001 Comprehensive Plan within the several Comprehensive Plan Updates since. After the 2008 recession, efforts to study the area shifted away from the upland development pattern towards the shoreline restoration and the study of Budd Inlet. The 2016 West Bay Restoration Assessment was prepared in collaboration with the Port of Olympia, Squaxin Island Tribe and City of Olympia to provide a science-based assessment of environmental restoration opportunities for the West Bay shoreline. The 2016 assessment has been used as a backbone of the restoration project proposed for this project site. The assessment envisions a more modern methodology for restoration where retention of existing upland areas is contemplated rather than traditional methods which would typically require removal of past development, such as shoreline fill.

In 2021, the City and the West Bay Development Group entered into a Development Agreement which sets parameters for the project that includes phasing construction over 15 years, vesting to the 2021 shoreline regulations and zoning codes, and commitments to install restoration consistent with the 2016 Restoration Assessment. The design of the restoration project has caused significant delays in the permit timeline. The scale of the project coupled with the restoration approach has resulted in a significant amount of community interest. The public comment period has been open for the entirety of the project process. The City has received hundreds of letters from community members.

The site underwent a Boundary Line Adjustment in 2022. This adjustment relocated five underlying property lines into linear lines that will divide the five buildings that sit on top of the parking garage structure. The parking garage structure will extend across all properties. The project anticipates cross property easements that will allow shared use of the amenities such as the parking garage, solid waste enclosure, pedestrian amenities, and Conservation Area. The project should be conditioned to include conditions to ensure easements and maintenance agreements are in place before building occupancy.

## **B. Project Description**

Upland development includes construction of five buildings above a public plaza and structured parking. Each of the five buildings will include five stories. The project includes 478 residential units, approximately 22,000 SF of commercial use such as restaurant/café, an expanded waterfront trail and various public amenities.

Shoreline restoration includes placement of granular fill over the existing hard armored shoreline to create a naturally functioning intertidal beach. The project will replace the existing degraded nearshore with native vegetation, convert approximately 0.5 acres of aquatic land to upland through placement of approximately 27,000 CY of fill, and includes intertidal restoration extending approximately 150 FT beyond the existing Ordinary High Water Mark.

## **C. City Review Process**

### **Development Agreement**

On March 30, 2021, the City and the West Bay Development Group entered into a Development Agreement (Resolution M-2206), which sets parameters for the project. The City agreed to a longer than usual construction timeline (15 years) in exchange for commitments by the applicant to complete a robust restoration project consistent with the 2016 restoration assessment and a \$250,000 contribution into the City's home fund which supports low income housing. Given the length of time the project has spent in the land use review process, the agreement will need to be amended to update the construction timeline and to update images so that they are consistent with current project plans. A condition of approval has been provided to require a minor update to the agreement.

### **Application Submittal**

The Shoreline Substantial Development Permit (SSDP) and Land Use Review application was deemed complete on June 10, 2021. A Shoreline Conditional Use Permit (SCUP) was subsequently submitted for the mix of commercial and residential use within 100' of the Ordinary High Water Mark. The SCUP was incorporated into the permit review in the 4<sup>th</sup> Round of review submitted on December 16, 2024.

### **Notice of Application**

The City issued the Notice of Land Use Application on June 29, 2021, with a first comment deadline on July 27, 2021. (Attachment 17 – NOA Notice of Land Use Application).

### **Project Information Meeting**

The City and the applicant co-hosted a project information meeting on July 7, 2021. The purpose of this meeting was to foster early coordination and information sharing between the applicant, City staff, interested parties and community members. The City provided information about the permit process and how to best get involved, submit comments, and stay aware of updates. The applicant team provided an overview of the proposal, and both staff and applicant team responded to questions related to the project scope and permit process. The meeting was held remotely (Zoom) and was well attended. Topics of interest included:

- Concerns about traffic and project scope seeming too big for the area.
- Desire for increased view protection.
- Desire for reduced building height, especially as a height bonus is requested.
- Concerns about the restoration approach proposed, particularly related to the initial plans showing the creation of 0.76 acres of new upland area.
- Questions about the application process and accessing application materials.
- Timing of application review and timeframes for submitting comments.

### **Staff Review**

The Site Plan Review Committee (SPRC) reviewed the project for compliance with applicable codes, standards, and ordinances. This project has undergone multiple rounds of review by the SPRC and outside agencies. The following provides a summary of the major milestones and timelines associated with each round of review:

**Round 1:** Following submittal of the project application, SPRC reviewed the project for code compliance. SPRC found that additional information was needed:

- **Plan Clarity:** Project plans were not detailed enough to be able to determine code compliance related to a variety of issues, particularly surrounding project phasing, property line modifications, impacts to views, building height, project scope, stormwater, and traffic;
- **Environmental Documents:** Analysis was missing related to mitigation, restoration, no net loss, important habitats, minimum necessary fill, and slope stability;
- **Relocation of the Shoreline Ordinary High Water Mark (OHWM) and measurements from OHWM to determine the upland project scope and size.**

The SPRC review letter included responses from seven outside agencies and was sent to the applicant in September of 2021. Approximately 50 public comments were submitted to the City and are provided in Attachment 20.A – 2021 Public Comment Letters. The applicant responded with revised project plans seven months later.

**Round 2:** Much of the previously requested revisions were omitted from revised plans. The review team responded with a letter further emphasizing the necessity of code compliance. The SPRC review letter was sent in July 2022. The applicant's response was subsequently submitted one year later in July 2023.

**Round 3:** Revisions did not adequately address major site design issues raised by the SPRC. Review comments again requested more information about alternative designs, particularly related to the restoration project. Technical review of the upland project design was postponed because the total site area available for development needed to be determined before detailed review of the proposal could occur. Review comments were based on six outside agency comment letters and the SPRC. The review letter was sent in November of 2023 and the project was placed on hold for over a year pending the applicant's response.

In the months of February through April of 2024, the City and applicant team coordinated to resolve the issues related to the Development Agreement commitments for restoration design supported by the 2016 Restoration Assessment. The applicant agreed to provide responses to review comments that had been requested in the first three rounds of review.

**Round 4:** The revised plans, documents and supplemental reports included most of the information requested in the first three rounds of review, including a new application for a Shoreline Conditional Use Permit (SCUP), for the mix of uses within 100' of the existing OHWM. The revised documents provided most of the necessary level of detail needed. Significant clarity was provided regarding the preferred restoration option. Technical review was performed, including design review. More detailed technical issues were identified by SPRC. The review letter was sent in April 2025 and a response from the applicant was submitted just three months later.

**Round 5:** Revisions adequately addressed the review comments. While SPRC was finalizing this round of review, it was determined that additional information was needed about the 15 year phasing plan outlined in the Development Agreement. The SPRC review letter was sent in November of 2025 and a response was submitted in December.

**Round 6:** Final documents related to the phasing plan were submitted on December 15, 2025. SPRC subsequently completed its review of the project.

A SEPA DNS was issued on January 27, 2026, with an appeal deadline of February 17, 2026 (Attachment 22 – SEPA DNA Modified). An appeal was filed on February 17, 2026 (Attachment 22.C – OlyEcosystems Notice of Appeal).

### **Design Review Board**

The Design Review Board (DRB) held a meeting on February 27, 2025, to consider the conceptual design of the project. The DRB is responsible for reviewing projects for compliance with the applicable design criteria of the OMC. SPRC evaluated the conditions recommended by the DRB (Attachment 18.A – DRB Minutes & Recommendation) and has included them as recommended conditions of project approval.

### **Public Comment**

Public comments were received throughout the application review process (Attachment 20.A-D - Comments). Public comments were distributed to SPRC, outside agencies, and the applicant with each round of review. The project has approximately 275 Parties of Record that represents community members that have either submitted questions, comments or otherwise requested to stay informed about this project. The depth of analysis within this staff report has been prepared to address the public comments. Areas of high public interest have been expanded to provide clarity on SPRC's analysis on specific topics. Questions and comments address:

- **Project Scale:** General sense that this development is too big for this area. Too many units, too tall, and too much traffic will be generated and the proposal is out of scale with the surrounding area.
- **Traffic:** The project will increase congestion on West Bay Drive and the nearby roadway network. Emergency vehicles will be impeded by an increase in traffic. Pedestrian and bike routes from this site to downtown are underdeveloped and unsafe.
- **Environmental Protection:** The project will cause environmental harm.
  - The amount of fill is excessive and will eliminate the existing habitat communities that currently occupy the site.
  - Protections for local and migratory birds is needed.
  - Conversion from a muddy substrate to gravel/rocks will change/ diminish habitat functions.
  - Restoration approach should consider the Capitol Lake dam removal / estuary project, adjacent streams, and the West Bay Woods park.
- **View Preservation:** Project will block views from upland properties.
  - Visual access to the shore will be reduced from upland properties and viewpoints
- **Public Access:** Public access to the shoreline will be reduced.

All comments received over the course of the project have been cataloged and included (Attachment 20.A-D). Correspondence between City staff and community members is not provided in this staff report but can be made available upon request.

## **II. APPLICABLE REGULATIONS & ANALYSIS**

This section identifies specific regulations in the OMC and Revised Code of Washington (RCW) that apply to the proposed project. City development standards in effect in March 2021, apply to the project in accordance with the Development Agreement between the City and applicant.

### **A. OMC 18.82 Hearing Examiner Authority**

- B. City of Olympia Comprehensive Plan
- C. OMC Title 14 Environmental Policy
- D. OMC Title 16 Buildings and Construction
- E. OMC 17.30 Boundary Line Adjustments
- F. OMC Title 18 Unified Development Code (including the Shoreline Master Program)
- G. RCW 90.58 and WAC 173-27 related to shorelines
- H. OMC Chapters 10, 12, and 13 related to engineering standards
- I. Engineering Design and Development Standards (EDDS)/Drainage Design and Erosion Control Manual
- J. Agency Comments

**A. Hearing Examiner Authority, OMC 18.82.120**

According to OMC 18.20.210, Shoreline Substantial Development Permits, the City has approval authority unless an appeal is filed with the State Shorelines Hearings Board. The OMC 18.82.120.B specifically lists Shoreline Development Permits as within the Examiner’s Authority.

Shoreline Conditional Use Permit: OMC 18.82.120 does not explicitly list Shoreline Conditional Use Permits as a permit type within the Examiners authority, however, OMC 18.20.280 Shoreline Permit Procedures, gives the Examiner authority to make decisions on shoreline Conditional Use Permits. Further, this section indicates that, consistent with RCW 90.58.140, the City may issue an initial decision, however Department of Ecology holds the final authority to approve or deny Shoreline Conditional Use Permits. The OMC 18.20.230 indicates the City or Department of Ecology may add special conditions to the permit to control any undesirable effects of the proposed use and to assure consistency with the Shoreline Management Act and Olympia’s Shoreline Master Program.

Appeal of the SEPA Determinations: OMC 18.82 specifically identifies administrative appeals.

Engineering, Design and Development Standards (EDDS) Deviations: The Examiner has the authority to review appeals of EDDS Deviations as these are administrative appeals. The Deviation is approved by the City Engineer, but the appeal period is consolidated with the notice of hearing. Should an appeal be submitted, it would need to be heard by the Examiner in a consolidated hearing format.

**B. Comprehensive Plan (Use the online version revised 11/2021)**

This section provides an overview of the project in context of the Comprehensive Plan. Due to the technical nature of the project, some specific goals and policies of various sections within the Comprehensive Plan will also be provided where appropriate related to specific topics in this staff report.

**Comprehensive Plan Overview:**

The subject site is located on West Bay Drive within the *Urban Waterfront* designation on the Future Land Use Map of the Comprehensive Plan. This area is unique due to the extensive amount of community interest and future planning that has occurred for the area over the last several decades. The Comprehensive Plan envisions “a compatible mix of commercial, light industrial, limited heavy industrial, and multifamily residential uses along the waterfront.” The Future Land Use Designation Table indicates the area should develop at a minimum of 15 units per acre and include development with building heights ranging in 3 to 7 stories. West Bay Drive is discussed specifically and is contemplated as an area of transition from waterborne commerce towards a mix of urban uses and habitat improvements. The plan states:

“The resultant mix of uses should form the foundation for a vibrant mix of light-industrial, office, restaurant, commercial, recreational, and residential uses that also provides improved habitat for fish and wildlife.

Future development and street improvements in this corridor will be consistent with the West Bay Drive Corridor.”

In order to achieve the intended transition from industrial to high-density mixed-use development, consideration of West Bay Drive was conducted in the West Bay Drive Corridor study of 2005. This document is referenced within the Comprehensive Plan because it resulted in a community developed preferred alternative to the existing street standards for the West Bay Drive corridor that was the basis for the modified street design requirements found in the EDDS. The study provides a foundation for road conditions, capacity, and a community-based emphasis on safety, environmental, scenic, aesthetic, and community impacts of future street enhancements. The study established baseline traffic volumes and estimates vehicular street capacity of 17,600 vehicles per day.

### Transportation:

The City's has been focused on a multi-modal transportation system for over 20 years. Street standards were updated in 2006 to align with “complete Street” principles. In 2009, the City adopted the Olympia Transportation Mobility Strategy, which has been updated since and is now called the Transportation Master Plan, last updated in 2021. Similarly, the City adopted the Bicycle Master Plan in 2009. These documents along with the Comprehensive Plan focus on making strategic improvements to ensure people can not only drive, but also walk, bike, or ride transit to their destinations safely. This is best seen in the following Goals/Policies:

- GT4: The street network is a well-connected system of small blocks, allowing short, direct trips for pedestrians, bicyclists, transit users, motorists, and service vehicles.
- PT4.3 Build new street and pathway connections so that people walking, biking or accessing bus stops have direct route option, making these modes more inviting.
- PT9.2. Require new development to construct improvements or contribute funds towards measures that will improve the function and safety of the streets, such as installing bike and pedestrian improvements, turn pockets or special lanes for buses, or roundabouts, or modifying traffic signals.

The City's growth strategy places higher density development closer to corridors. It focuses improvements on more than traffic volumes and expands into ensuring alternative modes of transportation are available. The city has focused on enhancements to bike corridors, trail networks and pedestrian crossings and uses Multi-Modal Level of Service to ensure adequate connections are provided.

Growth on West Bay Drive has been contemplated in all of these documents as an area with limited ability for additional width of ROW. For this reason, emphasis has been placed on enhancements to the pedestrian and bicycle routes within the near vicinity. West Bay Drive is identified on the Bicycle Network Map as a planned network expansion and enhancements to the West Bay Trail are anticipated. This connection is envisioned to be a shoreline pedestrian and bicycle trail beginning at Deschutes Parkway and ending at Frank's Landing. The opportunity for a public trail along the waterfront helps to allow for multi-modal transportation between the site and Downtown and affects the roadway design requirements within this area.



### Shoreline:

The site is located within the Shoreline jurisdiction and is therefore guided by the State Shoreline Management Act and by the locally and State adopted regulations contained within the Shoreline Master Program (SMP). The adopted goals and policies of the SMP located within the Comprehensive Plan. The site is located within the Urban Intensity Environment Designation of the SMP, which is characterized by a wide variety of “urban” uses and activities, including commercial, industrial, marine, residential, and recreational uses. Together, these uses and activities create a vibrant shoreline that is a key component of Olympia's character and quality of life. Shorelines in this Shoreline Environment Designation (SED) are highly altered, and restoration opportunities are limited. Some of

the general policy guidance found for this Shoreline Environmental Designation that is relevant to the project includes:

- PN 12.11.F. Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- PN 12.11.I. Innovative approaches to restoration and mitigation should be encouraged, including incentive and alternative mitigation programs such as Advance Mitigation and Fee In-lieu.
- PN 12.11.J: Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.

The project proposal includes a significant restoration project that includes toxic clean up and a proposal to replace the existing hard armored shore form with innovative restoration approaches.

#### **Parks:**

The Public Parks, Arts and Recreation Chapter of the Comprehensive Plan provides various goals related to the City's commitment to robust access to public recreation amenities, most relevant to this project is the goal (GR4) for an urban trail system throughout the City. The Plan references the Thurston Regional Trails Plan, which identifies this site as being adjacent to the West Bay Trail connecting West Bay Drive to Downtown. This is also identified in the Parks, Arts and Recreation Plan (2016 version). To ensure development projects adequately provide trail improvements and connections, the Comprehensive Plan includes the following policy guidance:

- PR4.5: When located in areas where future trails are shown on the adopted map, ensure that new development provides appropriate pieces of the trail system using impact fees, the SEPA process, trail Right-of-Way dedication, or other means.
- GR5: A lively public waterfront contributes to a vibrant Olympia.
- PR5.2 Encourage creation of a public shoreline trail as property north of West Bay Park is developed.
- PR5.4 Designate waterfront trails and important waterfront destinations as the "Olympia Waterfront Route" as outlined in the Thurston Regional Trails Plan.

Similarly, the shoreline master plan section of the Comprehensive Plan includes recreation policies that compliment these policies as follows:

- PN12.26.D. Plan, design, and implement shoreline recreational development consistent with the growth projections, level-of-service standards, and goals established in Olympia's Comprehensive Plan and Parks, Arts and Recreation Plan.
- PN12.26.E. Hiking paths, sidewalks, and bicycle paths in proximity to or providing access to the shoreline are encouraged.
- PN12.26.F. Recreation facilities should be integrated and linked with linear systems, such as hiking paths, sidewalks, bicycle paths, easements, and/or scenic drives.

The project includes a publicly dedicated trail wrapping the site and widens to a promenade (20' wide) along the shoreline frontage of the site. Frontage improvements along West Bay Drive also include connectivity to the trail.

#### **Land Use and Density:**

Several goals and policies encourage development to be designed to support an urban density within the City as is expected by the Growth Management Act. These generally include:

- GL1: Land use patterns, densities, and site designs are sustainable and support decreasing automobile reliance.

- PL1.2. Focus development in locations that will enhance the community and have capacity and efficient supporting services, and where adverse environmental impacts can be avoided or minimized.
- PL1.5. Require new development to meet appropriate minimum standards, such as landscaping and design guidelines, stormwater and other engineering standards, and building codes, and address risks, such as geologically hazardous areas; and require existing development to be gradually improved to such standards.

The project is consistent with the City's long-standing vision for this area in terms of the type of development, scale, and overall design. It is the precise type of development anticipated by the Comprehensive Plan, accompanied by the scale of public amenities envisioned. The project includes toxic cleanup and a significant restoration project as encouraged by the plan. What remains to be evaluated, and will be further discussed in this report, is the extent to which the project achieves code compliance. The following sections intend to review for specific development regulation compliance. For example, heavy emphasis within code is placed on terms like minimum necessary but this term is not defined. Where additional policy guidance is necessary, key goals and policies from the Comprehensive Plan will be provided to supplement the analysis.

### **C. Environmental Policy, OMC Title 14**

The project is subject to the State Environmental Policy Act (SEPA) because the development includes more than nine (9) residential units, greater than 8,000 SF of commercial use, and more than 30 vehicular parking stalls (OMC 14.04.065).

#### Staff Finding

*After review of applicable environmental documents and agency and public comments, the City issued a DNS pursuant to RCW 43.21C, WAC 197-11, and OMC 14.04 (Attachment 22 – SEPA DNA Modified) on January 23, 2026.P. Olympia Ecosystems subsequently filed an appeal of the DNS. The appeal is provided in Attachment 22.C – OlyEcosystems Notice of Appeal.*

### **D. Buildings and Construction, OMC Title 16**

#### **Tree, Soil, and Native Vegetation Protection and Replacement, OMC 16.60**

The project is subject to standards in OMC 16.60 regarding tree density and tree protection during construction. According to OMC 16.60.080.A, the site is required to provide a minimum of 30 tree units per acre of buildable area. Tree units are distinctly different from trees, in that a "unit" is weighted to encourage preservation of existing larger trees. In addition to total tree units, multi-family projects of more than five (5) units are required to place a minimum of 50% of these trees in a "Soil and Vegetation Protection Area," as outlined in OMC 16.60.070.d.4. Vegetation Protection Area(s) are required to be held in common ownership by the homeowner's association, or comparable entity in perpetuity. Per the definition in OMC 16.60.020.DD, a tree is required to mature to a height of 7 or more with a definite crown.

#### Staff Finding:

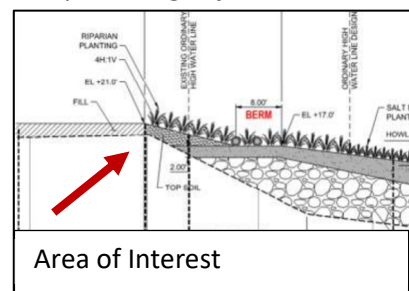
*The City's Urban Forester has reviewed and conceptually approved the Level V Soil and Vegetation Report (Attachment 5.C) prepared by Sound Urban Forestry, dated May 30,2025. The report concludes that there are 19.48 acres of land, however only 7.24 acres are developable. Only the developable land is required to be used, thus 217 units are to be retained or planted onsite. While the site currently contains 284.5 tree units, no trees will be retained due to the extensive amount of site disturbance anticipated. Replanting will be required. The Vegetation Conservation Area will serve as the Soil and Vegetation Protection Area, where at least 50% of the required trees are required to be placed. Plans do not show an adequate number of trees in the SVPA and will need to be revised to show a minimum of 109 qualifying trees in the SVPA. The remaining 108 trees could be planted in the SVPA/VCA, elsewhere onsite or off-site if qualifying criteria are met. The plans indicate the SVPA will be provided in two distinct planting areas within the VCA. Trees will be clustered*

to avoid impacts to upland views through view corridors within the site, but will eventually block views from the proposed structures themselves.

Plans indicate the remainder of the required trees (108) will be planted on the upland areas throughout the site. Due to the site-wide stabilization anticipated for soil stability, there will be limitations on where trees can be sustained given the lack of soil depth anticipated. Most of the upland trees are shown in containers / tree pits on the roof of the parking garage structure and labeled as “columnar deciduous, evergreen accent or spreading accent.” These species do not meet the definition of a tree per the OMC because they lack one main stem or trunk with a definite crown and/or are too small. As shown in plans, the project falls short of meeting tree density requirements. Conditions of approval are provided to require revision at the point of the engineering permit application to ensure trees proposed meet the City’s definition of a tree and the SVPA includes the requisite 109 tree units.

Requests for additional information regarding the anticipated soil volume available within the Vegetation Conservation Area / Soil and Vegetation Conservation Area as it relates to the upland edge of the restoration area have been requested, but a response has not been provided. The

existing rip-rap seawall will likely create a barrier to significant soil depth. This is further complicated by the potential for a capping method for soil contamination, which typically does not allow for planting of large trees because of risks associated with roots penetrating the cap. The limited area for soil, possibly further limited by contamination capping methods are concerning as they could result in an unworkable site plan that relies on this area for tree planting, not only for the



required tree density, but also for the SMP required vegetation conservation area. This area is also limited by the proximity to sea level, which could result in saltwater intrusion into the critical root zone which would impact tree survivability, especially for large native, shade producing trees in this location. While adequate space appears available, further detail is needed with future construction level plans to determine how much useable soil will be provided in these compressed locations. Conditions of approval have been added to ensure adequate soil volume for mature conifer and canopy trees in the VCA/SVPA. Should the final soil contamination cleanup plan restrict planting of trees in this area, the site design will likely need major re-design of the development proposal because the SVPA and VCA require tree planting. While there are options for tree relocation and fee in lieu established in OMC 16.60, this would not apply to the SVPA. Where soils are poor (unstable, disturbed, compacted, etc.) mitigation will be required, and must be addressed on plans. The restoration plan provides a conceptual outline for the restoration approach, but will need to be enhanced to provide additional detail regarding soil volume for specific species, specific tree planting locations. The project plans and restoration approach must provide all necessary requirements for mitigation for Soil and Vegetation as outlined in OMC 16.60.070.E. As conditioned, the project will comply with OMC 16.60.

### **Flood Damage Prevention, OMC 16.70**

The project is located nearly entirely within an AE flood zone, which is considered a “special flood hazard area.” The site is also partially located in a VE zone, which according to OMC 16.70.050 is an area of coastal high hazard because it is associated with high velocity waters from tidal surges. All habitable or occupiable structures are required to be elevated at least one foot above base flood elevation.

#### **Staff finding:**

The First Floor Elevation Recommendations (Attachment 15) provides maps and detailed information regarding the Base Flood Elevation in both the AE and VE zones and how this was determined for this project. For the beachfront and existing riprap revetment, the BFE is at 17’ NAVD88 and the remainder of the site the BFE is 15’ NAVD88. The first floor (ground level) of the building is a parking structure, which is non-habitable space. The habitable portion of the project will sit at about 10’ above base flood elevation or at 26’ NAVD88.

*Additional, detailed information will need to be provided with the building permit application related to specific design details. The project as conditioned will comply with OMC 16.70.*

**Sea Level Rise Flood Damage Prevention, OMC 16.80**

The subject property is located in a sea level rise (SLR) flood damage area. There are a variety of options to address SLR such as elevating the lowest floor elevation, dry flood proofing, or protecting structures with other flood proofing methods. The applicant has submitted a Flood Zone Recommendations Memo (Attachment 15) that addresses how the project will meet requirements. OMC 16.80 requires sea level rise resiliency measures up to 16’ NAVD88.

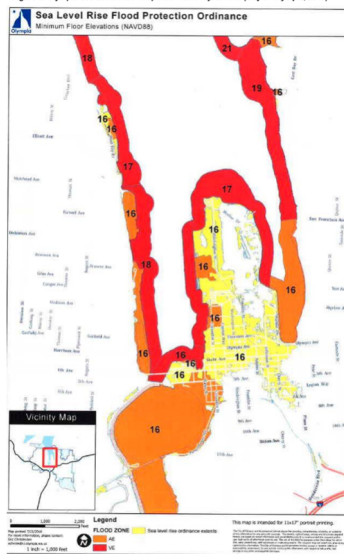
**Staff Finding**

*The applicant submitted materials (Attachment 15 - First Floor Elevation Recommendation 2019) that indicate the site is not required to comply with these requirements. There are two distinctly different sea level related programs. While the project is just outside the Sea Level Response Plan boundaries, it is within the parameters of Sea Level Rise Flood Damage Prevention Requirements area and is mapped as such.*

*The applicant intends to comply through a compilation of methods. The finished floor elevation is proposed to be 26’ (NAVD88), which far exceeds requirements. The first habitable floor is designed to be located at the grade level of West Bay Drive. The lower floor is a parking garage, which is non-habitable space and therefore exempt from the requirements. Plans show this level of the site to be elevated nevertheless. There is approximately two feet of sitewide lift anticipated. Additionally, the restoration project intends to enhance SLR response by creating a more natural beachfront where wave action will roll up the longer slope, which will reduce wave related damage should episodic storm events occur. Similarly, a backshore berm has been added to accommodate storm surges. Detailed plans will be submitted at the time of building permit application.*



Figure 3. Olympia Sea Level Rise Response Plan Project Area (City of Olympia, 2019)



**E. Unified Development Code, OMC Title 18**

**Commercial Districts, OMC 18.06**

This development proposal is subject to the provision in OMC 18.06 as the site is located within the Urban Waterfront zone. According to OMC 18.06.020, the district is intended to integrate multiple land uses in the waterfront area of downtown. The zone intends to encourage high-amenity recreation, tourist-oriented, and commercial development which will enhance public access and use of the shoreline. There is an emphasis on view preservation of views and openness on the waterfront and to provide shoreline access to significant numbers of the population. According to Table 6.01 “Permitted and Conditional Uses” apartments, drinking establishments, offices, health and fitness centers, retail uses etc. are permitted.

**Staff Finding:**

*The project is consistent with the intent of the zone as it is a mixed use project comprised of permitted uses, with a significant emphasis on physical and visual access to the shoreline.*

The project must comply with development standards established in Table 6.02. Staff has reviewed the project for compliance and has summarized as follows:

Setbacks: This zone has no setbacks, thus the project can be located as close to any property line as desired.

Staff Finding:

The proposed buildings comply.

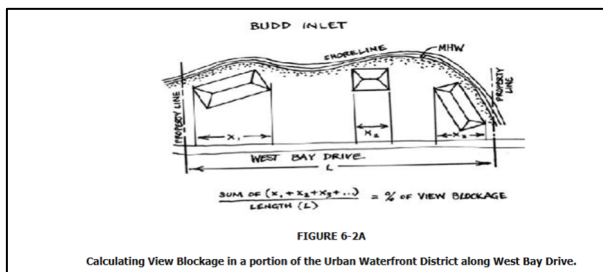
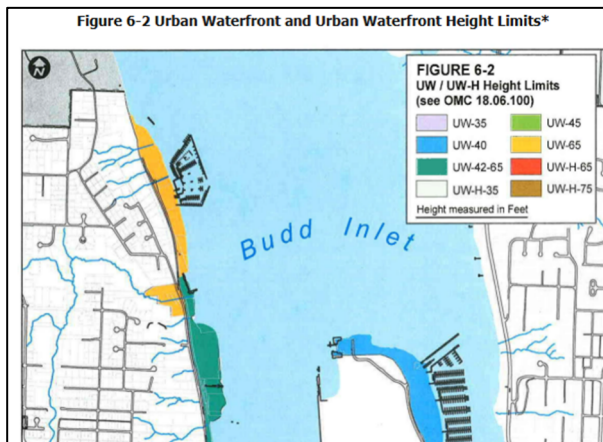
Coverage Limits: The zone allows 100% impervious surface coverage, but limits building coverage to 60% for properties between the shoreline and the nearest street.

Staff finding:

Impervious and hard surface coverages are allowed to fully cover the upland portion of the site, therefore the project complies. Portions of the site covered by water are not included in coverage calculations. The Architectural Site Plan (Attachment 2, sheet A 6.1) shows that the buildings will cover 57.2% of the site, which is below the 60% threshold. Sheet 6.3 specifically addresses site coverage and provides a detailed analysis of how building coverage was calculated. The analysis carves out landscaping and vegetated roof areas on top of the parking garage to achieve compliance. The City is supportive of this approach because the rooftop of the parking garage also serves as a pedestrian plaza. If that plaza was at grade, it would be permitted to be covered but the fact that it is elevated and serves as the roof of the parking garage makes it a building and therefore limited by the more restrictive building coverage limit. Staff recognize the unique design of this building. The pedestrian promenade / parking garage roof will likely be experienced as open space, especially with the extensive vegetation proposed. A condition of approval has been added to ensure all areas intended to be counted towards a vegetated roof has at least 4" of soil and is planted with appropriate vegetation. Synthetic turf will not be included as vegetated area.



Height: The base height limit for this project is 42', however the site is eligible for a height increase up to 65' provided specific criteria are met (see figure 6-2 blur/green area). To obtain the height bonus, criteria in 18.06.100.A.2.c must be met. The site and surrounding area allow increased height because the majority of homes are on top of hillside behind or west of the project. The code allows for the bonus which emphasizes enhancements to the experience from the Right-of-Way (ROW and public spaces along the West Bay Drive. For this code section, view preservation is primarily evaluated from public spaces such as the ROW and includes definitions of how to calculate view corridors from the ROW. Height, views, and public amenities are intrinsically linked. Regardless of the project's proposed height, view corridors are required. With increased public access to the shoreline, increased height and reduced view corridor widths can be achieved:



- A) View corridors: To ensure visual access to the shoreline from the street, the code requires buildings to be broken up at specific intervals. This limits the potential for a solid building wall to disconnect the streetscape from the shoreline. The required width of view corridor varies and is established in OMC 18.06.100.A.2.c.v. The percentage of allowed view

blockages ranges from 45% to 70% depending on alternative access opportunities of the site. View blockage standards must be applied to the entire project wide and cannot be for each parcel.

B) Public Amenities: For increased height and/or decreased limitations on view blockage, a project can propose additional amenities including a waterfront trail, waterfront park, or expanded trail corridor. When two of the three items are provided, the code allows up to 65’ heights and allows view blockage of 70% of the site (or a 30% required view corridor). To obtain the modified height and view blockage limits the City must approve the proposed amenities. Specific criteria must be met, such as building the facility to City standards and dedicating it to the City to ensure public access in perpetuity. The applicant has requested approval of the waterfront trail and expanded waterfront trail corridor facility as follows:

a. Waterfront Trail: The Parks Master Plan specifically references the trails within the Thurston Regional Trails Plan. The “West Bay Trail Corridor” is identified as the trail directly adjacent to this project (See image of 2022 Regional Trail Plan page 166). The trail is intended to be extended from downtown Olympia, along the shoreline and extending up Schneider Hill. New development is required to provide their portion of the trail with project development. The Comprehensive Plan (PR 4.5) gives options on how this is accomplished including payment of impact fees, SEPA Mitigation, and trail Right of Way Dedication. OMC 18.06.100. A.2.c.iv.a requires the trail to be dedicated when being used as a component of a height bonus.



b. All projects adjacent to this trail corridor are required to install their portion of the trail. As seen in the snip of the trail map, the trail wraps around this site, extending not only along the shoreline but connecting back to West Bay Drive on the North and South of the site. It is defined as a Regional Commuter Trail. The Engineering Design and Development Standards (EDDS) provide the required dimensional standards for a Commuter Multi-Use Trail. The trail is required to provide no less than 12’ of pavement with 2’ of shoulder. Typically, additional area is required for ease of maintenance which expands the total corridor to 22’. In this case, the easement width can be reduced because maintenance will be borne by the property owner rather than City. In order to meet the standards for a Waterfront Trail, the publicly usable space of the trail cannot be reduced below 12’, which is shown on plans.

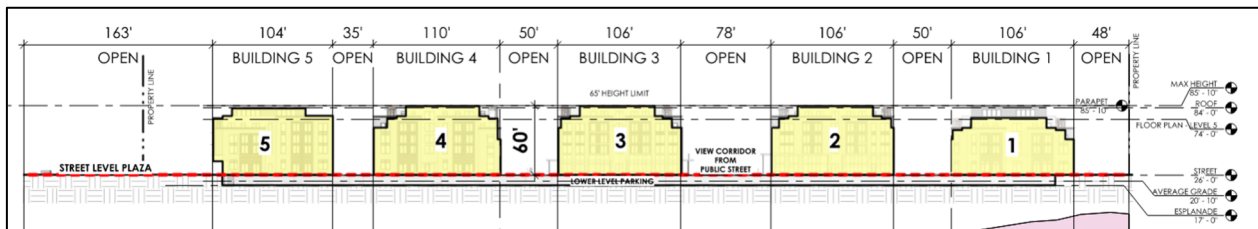
c. Expanded Waterfront Trail Corridor: The only place this term is referenced within the code is in OMC 18.06.100. A.2.c.iv.b, West Bay Drive building height and view blockage limits – Expanded Waterfront Trail corridor. The criteria for both the Waterfront Trail and Expanded Waterfront Trail Corridor are nearly identical. The expanded trail corridor section requires additional submittal requirements to ensure the facility is suitable for the needs of the community and Parks Department. The code recommends the trail include elements such as additional width, landscaping, habitat enhancement, benches, parking, restrooms, and various park amenities. In order to achieve compliance with this requirement, the applicant must demonstrate that the trail is superior to the standard waterfront trail.

C) Residential: The code requires any development over 42’ to dedicate a minimum of 20% of the useable building area towards residential use.

Staff Finding:

*The proposal requests the maximum height of 65’ and nearly the minimum width of view corridors of 70% blockage or 30% corridor. Careful evaluation of the proposed public amenities has been conducted. Topics of relevance include:*

A) *View Corridors/View Blockage: Architectural Plans sheet A 15 is a “View Blockage and Height Analysis” and is included in the View Narrative (Attachment 4.E or as seen in Attachment 2 Architectural Plans). The image below is a snip from sheet A 15. This plan sheet provides detailed analysis as to how the project has satisfied code and City staff concur the analysis is accurate. While the code requires a minimum of 30% open area, the plans show 43% open space between buildings. The location of the corridors is designed to maximize views from existing upland street end at Woodard Avenue, where a public pedestrian trail connects to West Bay Drive. Additional view analysis is provided in both the Design Review section and Shoreline Regulations section of the report. The View Study Narrative provides additional detail about views from the ROW, upland properties, and added access to the shoreline. Staff*



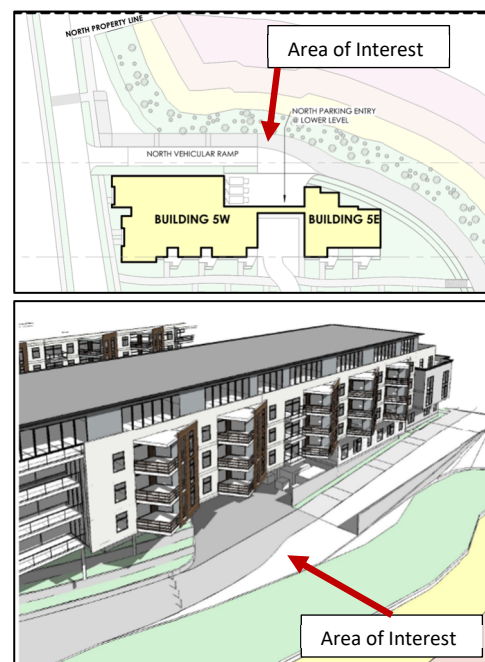
*find the code is met.*

B) *Public Amenities: In order to offset the impacts from the increased height and reduced view corridors, the applicant proposes to provide the waterfront trail, and expanded waterfront trail corridor. The applicant has provided an “Analysis of Recreational Needs” to address code requirements (Attachment 4.F). This document primarily duplicates information provided in other submittals, but explains how the expanded trail corridor differs from the standard trail. As acceptance of these two features significantly shapes the project design, increased analysis in this staff report is provided.*

*Waterfront Trail: The portion of the trail along the North and South of the project are the standard width (12’ paved with one foot of shoulder on each side) waterfront trail. The trail that extends along the waterfront (East) is the expanded trail corridor. The waterfront trail connects to West Bay Drive and has been placed on the most exterior portions of the site possible. This reduces the likelihood of pedestrians needing to cross the vehicular drive aisle that parallels the trail on both sides of the project. The trail design meets accessibility standards, which is particularly relevant along the North and South sides where the natural site grade does not easily accommodate an accessible route.*

*An area of interest is the intersection on the North trail where it connects to the expanded waterfront trail corridor. In this location there are several uses that occupy the same location. The vehicular exit location of the parking garage, the solid waste compactors, the pedestrian/bike trail, and the fire truck access point all use this same location, which makes it a high use area. SPRC has been particularly focused on this location to ensure it is designed to function for all relevant components and is safe for pedestrians and cyclists. Conceptual project plans for each component are available, but there is not one image that shows how they all overlap in detail. The snip above is from A 10 of the Architectural plan set (Attachment 2), called “Building Phasing Plan.” This location will be addressed in other sections of this report. Conditions of approval have been added to ensure construction plans provide the necessary features for safety and compatibility of the various uses.*

*Expanded Waterfront Trail Corridor: The trail along the Eastern side of the project expands to 20’ in width (with one foot of*



shoulder on each side), which is significantly wider than City requirements. The Recreational Amenities Analysis provides the requisite information about the anticipated amenities for the community. These include a kayak launch, shoreline access pathway, and pedestrian resting areas with seating walls and benches placed along the trails extending from the expanded trail into the buffer and to the shoreline edge.

The proposed width of the expanded trail is due to the applicant's request to use the trail to serve as a fire apparatus access road. This will require the trail to be designed to meet International Fire code Chapter 5, including section 503 and OMC 16.32.050 which will require the trail to be designed as a drive aisle for fire apparatus vehicles. It will need to be designed for emergency operations including adequate structure capacity, surfacing, and clearance. Pedestrians and Bicycle use will be permitted as well as use by solid waste vehicles for a turnaround. Vehicular traffic, parking, and other uses that would impede fire operations will not be permitted in the fire apparatus access road.



IMAGE: WATERFRONT TRAIL CORRIDOR ALONG SHORELINE

The City's Parks, Arts and Recreation Department has reviewed the proposal and supports the design, but is concerned about long-term maintenance of the facilities especially given the need for the trail to be designed for heavy truck use such as refuse and fire trucks. Parks has indicated acceptance of the proposal only if maintenance of the pathway and facilities is the responsibility of the applicant. In response, the applicant has agreed to maintain the trail facility in perpetuity. A maintenance acknowledgement memo (Attachment 4.C) has been submitted. The project has been conditioned to include conditions of approval that require such agreements to be in place prior to building construction. Should the applicant default on these commitments, the height bonus would not be supported by the City.

While the code section requires the trail to be designed, constructed and dedicated to the City, the City and applicant are both supportive of a maintenance agreement to be recorded prior to engineering construction permit issuance. Said agreement must maintain that the trail will be designed, constructed, and maintained by the applicant, or their successors, in perpetuity.

C) Residential use: The building is primarily a residential apartment building and will easily achieve the requirement of including 20% of the floor area towards residential uses.

Based on this analysis, the City recommends approval of the height limit increase to 65' and the view blockage limit of 70% because a waterfront trail and expanded waterfront trail have been provided in a way that meets the requirements for the bonus.

### Measuring Height:

To measure the building height and determine if it meets the 65' height limit, one must know where the bottom point to measure from is located which requires review of the definition (OMC 18.02.180) of "grade," "grade plane." To determine what is included in the building, such as the parking garage, one must look at the definition of "building". To determine what can be excluded from the measurement of height, one must evaluate OMC 18.06.100.A.1., which allows structures such as elevators and parapet walls to be excluded, for up to 18'.

The calculation of building height is slightly different in the Shoreline Master Program, which establishes a more narrow carve out for those features that can be excluded from height at the top of a building. OMC 18.20.120 provides that height is the difference between average grade level and the highest point of a structure; provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height except where such appurtenances obstruct the view of the shoreline from a substantial number of residences on areas adjoining such shorelines. Architectural plans provide extensive detail on height measurement. For a detailed analysis on

height measurement see sheets A 3 and 4 – Context Elevations, A6.2 – Average Grade, A8 - Building Phasing, A 14.1 – A 14.2 Street Sections.

Staff Finding

*City staff find that the proposed plans comply with the 65' maximum height limit. The site is sloped towards the shoreline and the five towers are to be placed on top of a parking garage that will appear below grade at West Bay Drive. The parking garage is included in height measurement as it is not considered an underground parking garage. While the parking garage will be below grade at West Bay Drive, it will appear above grade when viewed from the shoreline (East) and on approximately half of both the North and South sides of the site. The average grade point is approximately halfway between the upper and lower elevations of the parking garage. Architectural Plan Sheet A.6.2 provides detailed analysis.*

*Plans show some minor parapet walls extending approximately one foot above the maximum height limit. Other common features such as elevators or mechanical equipment are not shown on plans and are therefore assumed to be incorporated within the height limit. Should more detailed plans be provided at the point of building permit that show increased height for elevator shafts or other rooftop features, they would need to be reviewed for compliance against height limits for not only zoning, but shoreline height requirements. Such features would need to be placed in locations where they would not block a substantial number of views. Similarly, rooftop amenity features are popular, but would need to adhere to the 65' height limit. To obtain covered, outdoor space on the roof, these spaces would need to comply with the height limit. A condition of approval is provided to ensure the increased allowed height of the structures are not exceeded.*

**Historic Preservation/Cultural Resources, OMC 18.12**

In order to protect cultural resources, Tribal consultation and coordination with the State Department of Archaeology and Historic Preservation (DAHP) is required as outlined in OMC 18.12.140. Any recommendations and/or requests by Consulting Tribes and/or DAHP on cultural resource protection will be given substantial weight in decisions on land use approval and subsequent permit issuance to ensure resources are protected from damage during construction and all other development activities.

Staff Finding

*Early and ongoing consultation between affected Tribes (Nisqually and Squaxin) has occurred as well as coordination with DAHP. Meetings with the City, both tribes and DAHP were held to coordinate on jurisdictional roles and responsibilities and appropriate requirements related to the cultural resources onsite. Comments from the Squaxin Tribe and DAHP were provided to the applicant regarding modifications needed to the reports submitted as well as recommended conditions of approval to ensure cultural resources and historic preservation has been adequately addressed. According to RCW 42.56.300, Cultural Resource reports are considered confidential and not for public disclosure, therefore they are not provided within this report. A DAHP Excavation permit is required for this site prior to any upland site disturbing activities, and a Department of Army permit, issued by the United States Army Corp of Engineers is required for the shoreline restoration work. As part of these permit review processes, additional historic preservation and cultural resource review and consultation will take place to comply with Executive Order 21-02 and Section 106 of the National Historic Preservation Act. Updates to reports and coordination with the Tribe and DAHP will be continued by external agencies through the aforementioned external permit applications and reviews. Conditions of approval have been provided to ensure compliance.*

**Shoreline Master Program Regulations, OMC 18.20**

All proposed uses and development occurring within Olympia's shoreline jurisdiction shall comply with Olympia's Shoreline Master Program (SMP) and RCW 90.58, Shoreline Management Act (Act). As provided for in RCW 90.58.900, the Act is exempt from the rule of strict construction. The Act and all aspects of the SMP shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and SMP were enacted and adopted.

**Permits Required:**

Hazardous Waste Clean Up- Model Toxics Control Act (MTCA) Exception: According to WAC 173-27-044.1 any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

**Staff Finding:**

While the initial permit application included a voluntary clean up plan, the Department of Ecology entered into an Agreed Order with the applicant on June 23, 2025 (Order DE 21726). The agreed order pertains to the toxic clean up of pre-existing site contamination from the long-standing industrial use of the site as a lumber/plywood factory. The City recognizes that the clean-up approach for the site is exempt from review of this permit application. To supplement the Shoreline Substantial Development Permit application the applicant has submitted several documents pertaining to the MTCA cleanup including a Phase I Environmental Assessment, Phase II Environmental Assessment and a Due Diligence Investigation Status Update Memorandum (Attachment 13. A-C). These documents are relevant to the applicant's preferred approach to restoration and site design.

**Shoreline Conditional Use Permit:**

**Use:** According to Table 6.1 of the SMP, the Urban Intensity Shoreline Environmental Designation permits residential and commercial uses that are either water-related or water enjoyment. The project provides for these uses. However, the table also states that "mixed-use" is C/P.

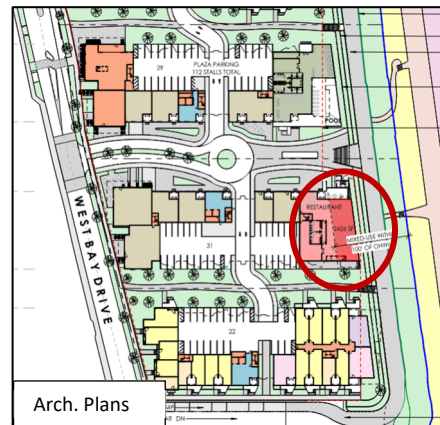
"C/P means a Shoreline Conditional Use Permit (SCUP) is required if wholly or partially located within 100 feet of the OHWM; uses and activities located more than 100 feet from the OHWM are permitted."

This section of the SMP has been updated and now reads:

"C/P = A SCUP or Shoreline Substantial Development Permit is required. A (SCUP) is required if any portion of the use or development activity is wholly or partially located within 100 feet of the OHWM; when all uses and activities are located more than 100 feet from the OHWM a Shoreline Substantial Development Permit is required."

"If all of the proposed uses are permitted, the mix of said permitted uses is also permitted. However, if one or more of the proposed uses is conditionally permitted, then the proposed mix would trigger a Shoreline Conditional Use Permit."

The project is vested to the language of the SMP prior to the SMP update per the Development Agreement, but the updated language is relevant as it helps identify intent.

**Staff Finding:**

A SCUP is required for the proposed mix of uses within 100' of the OHWM. The SCUP applicability does not extend to the building siting nor other permitted elements of the project.

**SCUP Approval Criteria:**

In authorizing a SCUP, special conditions may be attached by the City or the Department of Ecology to control any undesirable effects of the proposed use and to assure consistency with the Shoreline Management Act and Olympia's Shoreline Program. Uses which are classified in this Chapter as conditional uses may be authorized provided that the applicant can satisfy the criteria set forth in WAC 173-27-160:

1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the Shoreline Program; which give preference to uses in the following order of preference, (1) Recognize and protect the statewide interest

over local interest; (2) Preserve the natural character of the shoreline; (3) Result in long term over short term benefit; (4) Protect the resources and ecology of the shoreline; (5) Increase public access to publicly owned areas of the shorelines; (6) Increase recreational opportunities for the public in the shoreline; (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

2. That the proposed use will not interfere with the normal public use of public shorelines;
3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Program;
4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
5. That the public interest suffers no substantial detrimental effect.
6. In the granting of all SCUP, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if SCUPS were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

*Staff Finding: The applicant has provided detailed analysis on how they comply with these requirements as seen in the Shoreline Narrative (attachment 4.B, page 7). The City generally supports the applicants conclusions. The proposed uses will not interfere with normal use of the public shoreline, rather the project will enhance public use. Mixed use is a preferred approach in this location as outlined in the Comprehensive Polan and Shoreline Master Program. The mix of uses does not cause detrimental or substantial impacts to the public interest.*

#### **Shoreline Substantial Development Permit (SSDP):**

The upland project and shoreline restoration work requires a SSDP. The decision maker shall find that the proposal is consistent with RCW 90.58 and WAC 173-27-150, as well as all criteria within the SMP.

*Staff Finding:*

*The Shoreline Master Program was adopted in accordance with RCW 90.58 and WAC 173-27-150 and all applicable criteria within the SMP.*

#### **Urban Intensity Shoreline Environment Designation:**

The purpose of the Urban Intensity environment is to provide for high-intensity water-oriented commercial, transportation, industrial, recreation, and residential uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded, and to provide public access and recreational uses oriented toward the waterfront.

Aquatic SED – The purpose of the Aquatic environment is to protect, restore and manage the unique characteristics and resources of the areas water-ward of the Ordinary High Water Mark.

*Staff Finding:*

*The project above the OHWM is consistent with the Urban Intensity SED, and the portion waterward of the OHWM is consistent with the Aquatic SED.*

#### **No Net Loss and Mitigation, OMC 18.20.410**

All shoreline uses and developments are required to be located, designed, constructed, and maintained in a manner that maintains shoreline ecological functions and processes. Applicants must demonstrate that all reasonable efforts have been taken to avoid adverse environmental impacts. Mitigation shall occur in the following order of priority: avoid, minimize, rectify, reduce, compensate. To meet No Net Loss criteria, mitigation sequencing

is required to be addressed. In determining appropriate mitigation measures, lower priority measures shall be applied only when higher priority measures are determined to be infeasible or inapplicable.

Mitigation plans must be informed by pertinent scientific and technical studies such as the shoreline Inventory, Characterization report, Olympia Shoreline Restoration Plan, etc. Quality and quantity of replaced or enhanced vegetation must be addressed as well as contingency plans and maintenance plans. Onsite restoration is preferred. OMC 18.20.410.I.3 focuses specifically on the Urban Intensity environment and encourages innovative approaches that would be voluntary, enable concentration of mitigation into larger habitat sites and show long term management and protections as outlined in adopted shoreline restoration plans are encouraged.

The code places No Net Loss and Mitigation into the same subsection, but there are differences related to applicability. Mitigation in the more formal sense is required when compensating (the last item in the order of preference). The project in total must be able to achieve No Net Loss of ecological functions. Only portions of the project are required to address mitigation sequencing, and only if a loss of function is identified would compensatory mitigation be triggered. Applicability of required restoration is as follows:

- Upland Project: The portion of the site landward 30 feet or more from the existing OHWM. This area is permitted to be fully developed; however restoration of the Vegetation Conservation Area (VCA) is required due to OMC 18.20.690, residential developments because the existing VCA is severely degraded and must be brought back to a natural condition.
- Restoration Project: The portion of the site waterward of the existing OHWM (in the Aquatic SED) is highly degraded in function but is not required to be modified or restored. The upland project does not require any modification to the aquatic environment. All work proposed in this area is voluntary, however this voluntary restoration project includes an unavoidable loss of 0.42 acre of aquatic land. This conversion of aquatic to terrestrial area triggers mitigation requirements.

The applicant has provided several documents addressing No Net Loss and mitigation including:

- Shoreline Master Program Consistency Narrative 2025 (Attachment 4.B, pages 9, 12-16). Starting on page 9, the applicant addresses specific code requirements and outlines how mitigation sequencing criteria was considered. Emphasis is placed on the highly modified and degraded conditions leading to a lack of existing habitat features as the baseline condition.
- Shoreline Restoration Design 2025 Report – Alternatives Analysis (Attachment 14.A). Four alternative designs were evaluated related to their impact. The project design is based on “Alternative 3” which results in 0.42 acre loss of aquatic habitat and shift of the existing OHWM waterward by approximately 18’.
- Restoration and Mitigation Plan 2025 (Attachment 14.B). Provides a conceptual report of how the restoration would be installed and function.

Staff Finding:

*The applicant’s analysis concludes that even in a no-action / avoidance approach there would result in a net loss of ecological function because the existing shoreline armoring would require maintenance and the effects of the existing debris, such as creosote pilings, along the shore would likely continue to cause harm.*

*Alternatives that reduce the amount of loss of aquatic land are evaluated but are ruled out due to geotechnical safety constraints associated with cutting into the existing riprap seawall and legacy fill onsite. The result is a preferred approach that includes a recognized impact to aquatic habitat, which requires compensatory mitigation requirements. Project plans / documents conclude that “Alternative 3” represents a minimization approach related to mitigation sequencing and that the results are a significant uplift in habitat function. This uplift in ecological function is achieved by:*

- *Creating a VCA totaling 37,100 sf (or 0.85 acres) where currently no VCA exists.*

- 12 riparian corridors totaling 18,496 sf (or 0.42 acre)
- Restoring the shoreline by creating a gently sloped beach 8:1. Creation of 3.79 acres of high quality sand and gravel beach with native saltmarsh, transitional and riparian vegetation.
- Removing 200 creosote- treated timber piles and removing 10,890 sf of concrete debris along the shore.



Image from Restoration Design Report

The mitigation proposed is located in an area identified by the 2012 Restoration Plan (Attachment 23.E SMP Restoration Plan 2012 and Attachment A of the SMP), and relies on supplemental scientific studies such as the Shoreline Inventory, Characterization report and the 2016 West Bay Environmental Restoration Assessment (Attachment 23.D - 2016 West Bay Restoration Assessment) which envisions an innovative approach to restoration that assumes essentially maintaining the existing location of upland areas so that a net loss of land is not intrinsically assumed and therefore less appealing as a voluntary approach. The 2021 Development Agreement (Attachment 23.A) commits both parties to furthering this type of approach to restoration. The applicant provided a detailed analysis of the projects anticipated environmental effects including study of sediment transport, littoral drift, habitats and species, etc. The 0.42 acre habitat conversion will lead to a substantial improvement to the nearshore habitat, resulting in a substrate with higher primary productivity of benthic organisms, improved migration and foraging habitat.

The project will result in a net gain in ecological function and therefore meets criteria to avoid a net loss of ecological function. The project evaluated mitigation sequencing criteria and the City concludes "Alternative 3" will represent the best alternative in terms of mitigation sequencing criteria. As conditioned, the project will comply with the SMP.

#### **Public Access, OMC 18.20.450 - 460**

The project is required to provide public access to the shoreline as it is a residential development of more than nine units and includes commercial development. Public access is required to be available to the public at time of occupancy of the project and available from dawn until dusk. According to OMC 18.20.450.D a covenant running with the land must be recorded via legal instrument such as an easement ensuring the access is open to the public in perpetuity. Signage and maintenance are required in perpetuity by the owner or successor. The design of public access should achieve physical access to the water's edge, and include amenities for accessible access, benches, and picnic tables..

#### Staff finding:

Public access has been provided through the Waterfront Trail and Expanded Waterfront Trail Corridor. Additional access is proposed with three accessible trails leading from the Expanded Waterfront Trail Corridor to the shoreline's edge. Detail regarding specific code compliance is provided in the Shoreline Master Program Compliance Narrative (Attachment 4.B, pages 19-22). Three, 6' wide pathways through the VCA will require specific legal agreements to ensure they remain open to the public in perpetuity as they are not included in the already addressed agreements related to the Waterfront Trail and Expanded Waterfront Trail Corridor. Additionally, the applicant indicates benches and picnic tables will be provided. These will need to be carefully sited and located outside of the Expanded Waterfront Trail location so as not to block fire truck access. Conditions of approval are included to ensure these items are addressed prior to engineering permit submittal.

**Vegetation Conservation Areas, OMC 18.20.490 -18.20.496:**

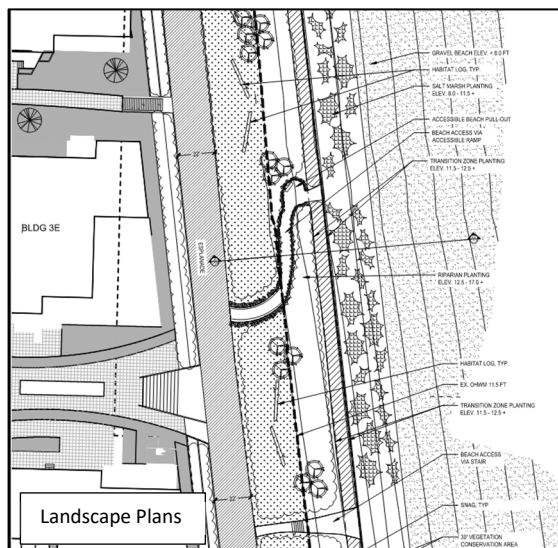
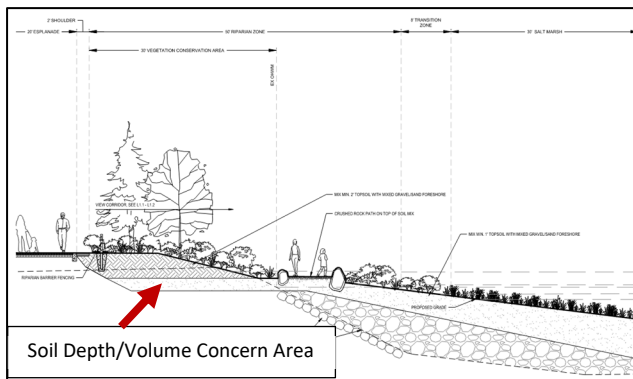
A densely vegetated conservation area is required along the nearest 30' to the OHWM upland of the shoreline as is required for all new residential and or commercial developments. According to OMC 18.20.492.D mitigation in the form of restoration or creation of vegetation conservation areas may be required as a condition of development and must meet mitigation sequencing priorities. The VCA must be composed of native vegetation comparable in species density and diversity to an ecologically similar undisturbed area. The Mitigation Plan (Attachment 14.B – Restoration Mitigation Plan 2025), addresses the revegetation approach for this site. The VCA is required to be identified on plans and protected by execution of an easement dedication to a conservation organization or land trust or similarly protected through a permanent mechanism.

According to OMC 18.20.493.10 minor intrusions such as trails, picnic shelters, and benches are limitedly permitted within the VCA. The OMC 18.20.495.C establishes that the VCA must be composed of native vegetation comparable in species and diversity to a similar undisturbed area.

Staff Finding:

The existing VCA is devoid of native planting and will need to be replanted in its entirety. The conceptual planting plans indicate the area will be planted with a dense native vegetation, however the plans do not indicate how much of the existing soil is suitable for planting. Existing site conditions such as the unknown makeup of the fill, soil contamination, location of riprap seawall, and the potential for saltwater intrusion combine to indicate more information about the amount of soil volume available for planting large native trees and other native vegetation in this area is needed. Plans indicate a minimum of two feet of imported soil will be provided across the entire site, but it is unclear if this soil is intended to be hardened through ground improvements and therefore unable to be planted on or if this area is intended to be amended with nutrient rich and deep soil that will allow for native vegetation. Soil depth, irrigation, and total soil volume remain at issue. Further, the MTCA clean-up approach identified in plans indicates a “cap” is likely which would need to be specifically designed to allow for adequate soil depth for a dense forested condition similar to what is found across the bay at Squaxin Park. It is likely that contamination removal under the VCA is necessary to achieve adequate soil depth for soil volumes necessary to accommodate large tree species. This will need to be included in the MTCA cleanup plan design. The project should be conditioned to ensure engineering plans provide adequate details for how the VCA will achieve a dense native plant community including large trees. Updates are warranted in the mitigation, restoration, and landscaping plans submitted with the engineering permit. Should the MTCA Clean-up preferred alternative result in a limited area for planting, the project will likely need to be redesigned to ensure code compliance. This could result in a larger buffer and modifications to the upland development size, shape, or location.

The OHWM is being relocated waterward by 12' to 18'. This will essentially expand the 30' VCA to 42' to 48' VCA once the project is complete. Plans will need to clearly demonstrate the location and width of the VCA as well as which areas are to be considered the SVPA within the VCA. Notices to title will be required to ensure these areas are required to remain in a native vegetated state in perpetuity.



Engineering permit plans will need to more clearly identify where amenities such as picnic tables, benches, and other public amenities are proposed as they will not be permitted within the Expanded Waterfront Trail Corridor. Images from the preliminary landscaping plans (Attachment 5) show the VCA and trails. A few intrusions into the VCA are proposed including the three 6' wide pathways to the shoreline edge, and the Waterfront Trail location on the northern portion of the property (identified as an area of interest). Here there are several competing uses and the trail needs to push into the VCA to ensure pedestrian safety. These intrusions are permitted in code and are compensated by the increased width of the VCA as well as a few other areas being used to compensate the loss of VCA area. Condition of approval will be added to ensure the additional 12' to 18' in VCA width is titled as such on supplemental project plans.

#### **View Protection, OMC 18.20.500-507**

Shoreline permits over 35' in height are required to provide a Visual Impact Assessment to ensure the project does not obstruct views of a substantial number of residences on areas adjoining the site. The SMP requires that:

- OMC 18.110.060, view preservation within the Design Standards are met. This code section focuses on protecting public views from the ROW and emphasizes views of Budd Inlet, the Olympic Mountains, Mount Rainer and the Capitol Dome.
- Public shoreline views are protected through measures such as maintaining open space between buildings, view corridors, height limits and development coverage standards.
- Rooftop equipment should be limited.

#### Staff Finding:

The project will affect views, but not for a substantial number of residences adjoining the site. Public amenities proposed will mitigate impacts by providing an overall increase in visual and physical access to the shoreline beyond what is currently available. The applicant has prepared a View Narrative (Attachment 4.E) that serves as the Visual Impact Assessment which addresses the three individual code sections applicable to views (Height / view corridor bonuses, Shoreline requirements and Design Review Criteria). Their analysis indicates that their primary approach to avoiding view impacts is by providing direct access to the shoreline via the Waterfront Trail which will be open to the public in perpetuity. Visual access from West Bay Drive will be retained through carefully placed view corridors. There are seven homes on the hillside behind the project that are likely affected. Of these, four would have views blocked equally by a 35' building (permitted without a view analysis) as would be blocked by the increased height of a 65' building. The remaining three residences are directly impacted by the increased height of the building. While there is clearly an impact, it does not result in view impacts to a substantial number of residences adjoining the site. Detailed imagery and analysis are provided within the View Narrative.



#### **General Use and Development Standards, OMC 18.20.610**

Table 6.1 establishes the allowed uses within the zone. Both residential uses and water oriented / water enjoyment commercial developments are permitted. As discussed above, the mix of the two uses within close proximity to the waters edge (100' or less) requires a SCUP. The commercial use outside this boundary is outrightly permitted provided it is a water related or water enjoyment use. According to OMC 18.20.610.A, non-water oriented uses can be included within the development provided there is a mix of water oriented and nonwatery oriented uses and the Administrator finds that the proposed development avoids impacts to shoreline ecological functions, provides public access, and otherwise enhances the public's ability to enjoy the shoreline.

The terms Water related and water enjoyment are defined in WAC 173-26-020 as follows:

(42) "Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

(43) "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

Staff Finding:

*The project includes two restaurants, both of which would easily be classified as water-enjoyment. Other, undefined, commercial spaces are likely to meet the definition due to their placement onsite and proximity to the water, but since the future tenants have not been selected it cannot be assumed that all tenant spaces will be water-enjoyment uses in perpetuity. The City finds the project's design meets the intent of this requirement by avoiding impacts to the shoreline, providing public access, and enhancing the public's ability to enjoy the shoreline.*

**Commercial use and Development, OMC 18.20.658 / Residential Use and Development OMC 18.20.690**

Both the residential and commercial sections require public access to be provided and for a Vegetation Conservation Area, as required per Table 6.3 to be provided and planted pursuant to the provisions of OMC 18.20.492.

Staff Finding:

*The applicant's SMP Consistency Narrative (Attachment 4.B - Shoreline Master Program Consistency Narrative 2025) provides an item by item analysis of code requirement and compliance (p. 23). The SPRC generally agrees with the applicants assessment of code applicability and code compliance with the following exceptions:*

- *The applicant describes the 12' to 18' of additional riparian area as distinctly separate from the VCA. The City views this area as additional space within the VCA as is shown on plans. Nevertheless, the project plans show the requisite required elements such as public access and a Vegetation Conservation Area.*

*Analysis related to residential development does not directly relate to the code criteria, but the analysis provided in the commercial section addresses the residential requirements.*

*Conditions of approval have been provided to ensure the VCA is adequately planted to achieve a native plant community consistent with a mix of native trees, shrubs and ground cover with large woody debris, perch poles and other appropriate features.*

**Lighting, OMC 18.20.680**

The project includes a recreational component, which is placed directly adjacent to the shoreline where impacts from lighting are most likely to be impactful. As such, the recreation requirements associated with lighting in OMC 18.20.680 are applicable and require appropriate mitigation to minimize light and noise impacts. Illumination levels must be the minimum needed and must be shielded to avoid light and glare on the water.

Staff Finding:

Plans provided do not offer adequate detail to determine compliance, however the applicant's SMP Consistency Narrative (p. 25) indicates a commitment to design project lighting for "dark sky" compliance with a carve out for public safety concerns where lighting would be brighter. SPRC recommends adding conditions of approval that ensure such "dark sky" features are identified on construction plans. Stronger emphasis on light limitation should be provided where the project is providing lighting closest to the shore. Lighting in the VCA should be limited to bollards and screened with thicker vegetation where lighting would spill over into the shoreline environment.

**Shoreline Modification OMC 18.20.810**

Table 7.1 identifies the type of shoreline modifications permitted, based on the upland Shoreline Environmental Designation (SED). The project includes a combination of proposed modifications, all of which are listed as permitted including: Fill, ecological restoration and enhancement and shoreline stabilization Soft Armoring. Each is required to meet specific criteria as outlined below.

**Fill: OMC 18.20.830**

Fill is the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area. The project includes three distinct “fill” components:

- Upland fill, on shorelands above the OHWM, where approximately 2’-3’ of increased site elevation is proposed across the entirety of nearly 8 acres and,
- In-water water fill where directly adjacent to the existing OHWM is located. Here the applicant will convert 0.43 acres of aquatic land to upland area, and
- In-water fill that will sit below the proposed new OHWM serving as the new aquatic seafloor.

Fill has specific Comprehensive Plan goals that are relevant including:

## PN12.32:

- A. Fill should be located, designed, and constructed to protect shoreline ecological functions and system-wide processes. The quantity and extent of fill should be the minimum necessary to accommodate a permitted shoreline use or development.
- B. Fill landward of the Ordinary High Water Mark should be permitted when necessary to support permitted uses, and when significant impacts can be avoided or mitigated.
- D. Fill for the maintenance, restoration, or enhancement of beaches or mitigation projects should be permitted.
- F. Fill for the purpose of creating new uplands should be prohibited unless it is part of an authorized restoration activity.

**Fill, OMC 18.20.833**

This code section establishes a specific list of criteria that must be met regarding the design and location of fill. In sum, fill must be:

- The minimum necessary to accommodate the proposed use;
- Cannot result in significant damage to the environment.
- Cannot be used as a means to increase the allowable building height by increasing the natural or finished grade, except as authorized to meet the flood elevation requirements or as a response to sea level rise.
- Cannot be for the sole purpose of creating land area.
- Must be designed to eliminate the potential for erosion.
- Cannot be located where shoreline stabilization will be necessary to protect materials placed or removed.

**Fill Water-ward of Ordinary High Water Mark, OMC 18.20.837**

Fill water-ward of the Ordinary High Water Mark is only permitted for a small list of uses, of relevance this includes:

- Ecological restoration or enhancement such as beach nourishment, habitat creation, or mitigation when consistent with an approved restoration or mitigation plan;

- Cleanup of contaminated sites.

When associated with such a use, fill is required to be the minimum necessary for the intended use or activity.

Staff Finding:

*The applicant's SMP Consistency Narrative provides extensive detail on how the proposal meets code (Attachment 4.B, pgs. 28-35). The Shoreline Restoration Design (Attachment 14.A - Shoreline Restoration Design 2025), Preliminary Engineering Design Report (Attachment 14.C - Preliminary Engineering Design Report 2022), Geotechnical Hazards Assessment and Memos (Attachment 8 A-C), and various other narratives, responses, and documents are provided to support the applicant's proposal. The City and applicable outside agencies have reviewed the project and found that alternative 3 represents the minimum fill necessary to achieve the requirements of the SMP and is consistent with the parameters of the Development Agreement. The Development Agreement ties the project to a restoration approach outlined in the 2016 West Bay Restoration Assessment, which assumes upland areas will be essentially maintained. Compliance through the Development Agreement to the 2016 Restoration Assessment locks the project into an approach to restoration, but not a specific design. The preferred restoration approach has been significantly shaped by the geotechnical engineers concerns about the undocumented fill beneath the project site and in particular related to the area surrounding the riprap seawall. According to the project design team, full removal of the riprap wall would represent a significant and unacceptable safety risk factor during construction for all alternatives that significantly cut into the legacy fill or fully removed the riprap seawall. Alternative 3 includes a partial cutback to the riprap seawall, essentially maintains the existing upland shorelands, and accomplishes the restoration objectives of the SMP. It represents the minimum fill necessary to accomplish the restoration project.*

**Shoreline Restoration and Enhancement, OMC 18.20.850,**

Restoration is the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to original or pre-European settlement conditions. Enhancement includes actions performed within an existing degraded shoreline to intentionally increase or augment one or more functions or values of the existing area. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing non-indigenous plant or animal species.

**Shoreline Restoration and Enhancement - General Provisions, OMC 18.20.855**

Restoration must be accompanied by a restoration/enhancement plan that is consistent with the policies and regulations of Olympia's Shoreline Program. The Administrator must find that the project provides an ecological benefit and is consistent with Olympia's Shoreline Program. Criteria specifically relevant to this project include:

- The City shall coordinate with other local, state, and federal regulatory agencies, tribes, and non-government organizations to ensure that mitigation actions are likely to be successful and achieve beneficial ecological outcomes.
- Shoreline restoration and enhancement may be permitted if the applicant demonstrates that no significant change to sediment transport will result and that the restoration or enhancement will not adversely affect shoreline ecological processes, water quality, properties, or habitat.
- Restoration and enhancement projects shall be designed, constructed, and maintained to avoid the use of shoreline stabilization measures. Where such measures cannot be avoided, bioengineering shall be used rather than bulkheads or other stabilization measures, unless it can be demonstrated that there are no feasible options to achieve the intended result.
- Restoration and enhancement projects shall not extend water-ward more than the minimum necessary to achieve the intended result and shall not result in the creation of additional upland area.

Staff Finding:

The Restoration Plan provided by the applicant relies on several other supplemental documents including the Shoreline Landscaping Plans, Preliminary Engineering Design Report, Restoration Mitigation Plan, Important Habitats and Species Management Plan, and Shoreline Restoration Design Report. Combined, These documents represent the conceptual restoration plan for the site. The conceptual approach is consistent with the SMP and that address the various requirements related to environmental protection such as water quality (Attachment 10.B - Shoreline Master Program Consistency Narrative 2025 p. 18). The applicant's SMP Consistency Narrative (Attachment 4.B, pgs. 35 -38) provides detailed analysis regarding each specific code criteria and the project's compliance. Supplemental analysis is as follows:

- Significant coordination with outside agencies has occurred regarding the review of this projects design. Plans have been provided to Squaxin and Nisqually Tribes, United States Army Corp of Engineers, Washington State Department of Fish and Wildlife, Washington State Department of Ecology (shorelines, SEPA, and Toxics divisions) etc. Their review comments have been provided in Attachment 19.A-E. Agency support for the project has been provided either in letter or through no response.
- The location of this site is unique as it is at the bottom of Puget Sound where little to no littoral drift occurs, the project plans show a distinct uplift in shoreline processes and habitat function.
- Shoreline stabilization includes non-structural elements such as large woody debris and bioengineering approaches. The project does include these features and (as outlined below) is consistent with code regarding their suitability.
- The design of the restoration results in the minimum necessary amount of waterward extension, but the second part of the sentence that states "shall not result in the creation of additional upland area" has been carefully considered. The City's Shoreline Administrator has determined the word "additional" is applied to work that would be in addition to the minimum necessary for the restoration project. The project includes 0.43 acres of new upland area therefore careful consideration of this requirement is warranted. It is likely best articulated in the Comprehensive Plan in PN12.32.F, which states "Fill for the purpose of creating new uplands should be prohibited unless it is part of an authorized restoration activity." This policy direction from the Comprehensive Plan provides the clarity needed to determine that the creation of uplands is intended to be permitted when it is the minimum necessary to achieve the restoration project objectives.

**Shoreline Stabilization – Intent OMC 18.20.860**

Shoreline stabilization includes actions taken to address erosion impacts to property, dwellings, businesses, or structures caused by natural processes such as current, flood, tides, wind, or wave action. Structural methods include 'hard' and 'soft' measures, defined as:

- A. Hard structural shoreline stabilization (also referred to as 'hard' armoring) means erosion control measures using hardened structures that armor and stabilize the shoreline from further erosion. Examples of hard armoring include concrete, boulders, dimensional lumber or other materials to construct linear, sometimes vertical, faces. These include bulkhead, rip-rap, groins, revetments, and similar structures.
- B. Soft structural shoreline stabilization (also referred to as 'soft' armoring) means erosion control practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Examples of soft armoring include a mix of gravel, cobbles, boulders, logs and native vegetation placed to provide stability in a non-linear, sloping arrangement.

According to OMC 18.20.864, new or enlarged structural stabilization measures are prohibited except where necessary to protect or support legally existing primary structures or shoreline uses, in support of water dependent uses, for human safety, for restoration or enhancement activities, or remediation of contaminated sites. Where structural shoreline stabilization measures are necessary, the size of the stabilization structure shall be the minimum necessary. Shoreline stabilization measures that incorporate ecological restoration or

enhancement through the placement of rocks, sand or gravel, and native shoreline vegetation are strongly encouraged. Soft shoreline stabilization that restores ecological functions may be permitted water-ward of the Ordinary High Water Mark.

Staff Finding:

*The upland project would be prohibited from installing a “structural method” of armoring as there is currently no legally established use onsite and the new mixed use project is not one of the few uses listed that would be permitted to include new or expanded structural stabilization. While the site contains an existing rip-rap seawall that was legally established, its enlargement, expansion, or major modification would not be permitted to support the proposed mixed use project. The geotechnical report indicates the site’s legacy fill and existing conditions are not suitable for upland development without significant structural modification, which would likely include the necessity of structural armoring along the shoreline that would not be permitted for the upland use alone. The restoration project is permitted to include structural shoreline stabilization and is encouraged to place soft stabilization components waterward of the OHWM. The restoration approach includes components that include soft shoreline stabilization elements, which are a structural method of shoreline armoring that ultimately serve both the restoration project and the upland mixed use development. Staff has paid careful attention to the intended purpose of the stabilization elements proposed to ensure they function as the minimum necessary for the restoration project rather than the upland mixed use development. The project design complies with soft shore stabilization criteria and represents the minimum necessary amount of soft shore stabilization warranted for the restoration component of the project. Conditions of approval have been added to ensure non-structural stabilization methods are used.*

**Critical Areas, OMC 18.32**

The project is required to comply with Critical Area Regulations as outlined in OMC 18.32 as follows:

**Important Habitats and Species**, regulated by OMC 18.32.305 through OMC 18.32.330 when existing buffers do not provide adequate protection to the specific species. The site is within 1,000’ of estuarine and marine habitats including a wide variety of important species such as: salmon, trout, resident killer whale, humpback whale, various birds species, including the purple martin, etc. An Important Habitats and Species Management Plan was submitted that addresses specific species and management approaches proposed (*Attachment 10.B - - Important Habitats and Species Report 2022*).

Staff Finding

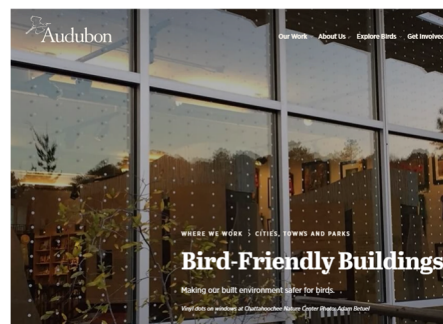
*The Important Habitats and Species Management Plan provides species specific management recommendations to ensure both construction and post-construction conditions are appropriate for various species (p. 22). The report does a thorough job addressing the project as it relates to the VCA and in-water work. Temporary impacts are expected when sand and gravel are added to the aquatic environment as well as when debris is removed/pilings are pulled out. Existing epibenthic communities below the riprap revetment will be smothered and otherwise impacted, resulting in a temporary reduction in primary productivity. Effects on species, including salmon, are expected to be temporary. The plan adequately demonstrates that in the long term, effects will significantly improve shoreline habitat. It should be noted that the report is from 2022 and therefore does not reflect the modified project design. Remnant elements such as a larger total quantity of fill, more significant waterward shift for the OHWM, and the discussion of a drift sill, are no longer proposed. Regardless, the habitat impacts remain consistent therefore an updated report was not required. Permits from WDFW as well as the USACOE are required for the shoreline restoration work and will limit construction to specific fish “windows”, these and other best management practices are outlined in the report (p. 23).*

*The report asserts that upland habitat is generally non-existent in its current form due to historic industrial use of the site. The report recognizes the site’s proximity to a variety of priority bird species, but omits discussion of the upland project likely impact on habitats, instead focusing on the significant uplift planned for the VCA. The report (and other design plans) indicate an increase in habitat function and species use of the restoration area including the VCA. The conclusion is that the restoration will enhance habitat function and will likely be a draw*

for existing species. The report does not address how the large scale mixed use project will / will not affect the species that are to be drawn in to use the site. Of particular interest are impacts to bird species. The West Bay Corridor has a high number of waterbirds near the site. As of 2002, a total of 39 species of waterbirds and six (6) species of raptors were recorded just south of the project. This is documented in the West Bay Waterbird Habitat Assessment, which is summarized in the West Bay Corridor Study 2005 (Attachment 23.F) and directly referenced in the 2016 West Bay Restoration Assessment (Attachment 23.D). The 2002 study recognized a dramatic and continuing decline in bird populations and suggest steps are taken to minimize impacts on waterbirds with future land use development. It is safe to assume there are less birds now than in the past, but protection of these species is highlighted in the 2016 West Bay Redevelopment Assessment, which the project is required to adhere to.

The South Sound Bird Alliance has recommended the project install “bird glass” on the North and South sides of the building to help ensure birds are able to see the glass and avoid accidental deaths as well as suggesting perch poles are installed throughout the site (Attachment 20 A-D). The applicant provided a response indicating they are generally opposed to either recommendation and instead suggested a monitor and wait approach which would allow a more targeted response to bird fatalities (Bird Strike Memo, Attachment 10.C). The memo includes several references including the US Fish and Wildlife Services recommendations regarding methods to reduce bird collisions (Attachment 23.B). The guidance documents indicate bird strikes are a significant concern and encourage building design to include specific types of glass that is more visible to birds. Only when retrofitting existing buildings do the guidance documents suggest use of a monitoring plan. This project is not a retrofit; therefore the retrofit recommendations are not appropriate at this point in project design.

The applicant’s hesitancy to design the buildings to help mitigate potential conflicts between the upland buildings and directly adjacent restoration work that is intended to attract birds seems to be in direct conflict with the 2016 Restoration Assessment and intent of the restoration project. Neither the Important Habitat and Species Report, nor the Bird Strike Memo address the potential impacts of the new mixed use building on bird populations or habitat preferences. The USFWS Guidance document indicates bird collisions with windows is serious hazard for birds causing more than one billion bird kills a year nationwide. Guidance materials indicate that specialized glass that is visible to birds can significantly reduce risks. While the South Sound Bird Alliance only asks for glass on the North and South sides of the building, the USFWS guidance does not limit application of bird viewable glass in this way. Instead, they reference the American Bird Conservancy website which indicates fatalities occurring at all levels of the building and on all faces. Interestingly, their website indicates 44% of bird fatalities occur at the lower levels (floors 1-3), with higher risks of fatalities at higher levels because the fall distance associated with a strike.



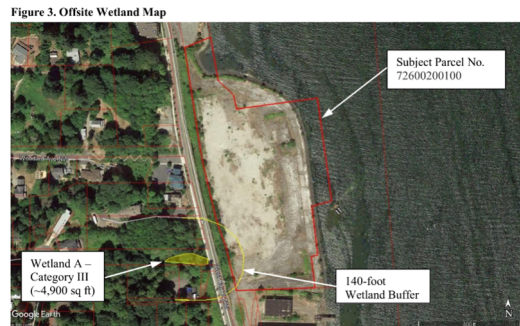
While the applicant accurately assesses the Municipal Code does not specifically require bird friendly building materials, a condition of approval to provide such features is appropriate given the applicant’s commitment through the Development Agreement to achieve the vision of the 2016 Restoration Assessment and the direct impact potential for the known populations of migratory birds in the near vicinity of the site. Given that this building is in the design phase, the best approach is to design the building with bird safety in mind from the start. In addition to bird glass, modified balcony and railings materials should be used that are more visible as discussed by the project architect at the Design Review Board Meeting. These modifications must be shown with the building permit plan set to ensure the project is designed to minimize impacts to important bird species.

**Streams:** Schneider Creek is approximately 300’ from the site. Streams are regulated by OMC 18.32.400. The fish bearing stream requires a 250’ buffer, which does not extend to the site.

Staff Finding

The project is exempt from stream requirements associated with Schneider Creek.

**Wetlands:** Off-site wetland, regulated by OMC 18.32.500. The 0.11 acre category III wetland is across West Bay Drive from the project site and would typically require a 140’ buffer, which would extend onto the project site. The project site is in a highly developed / unnatural condition as was permitted through historic industrial use. Additionally, the wetland is disconnected from this site by West Bay Drive, which adds further functional disconnection. According to OMC 18.37.070, the project is exempt from buffer requirements associated with the wetland.

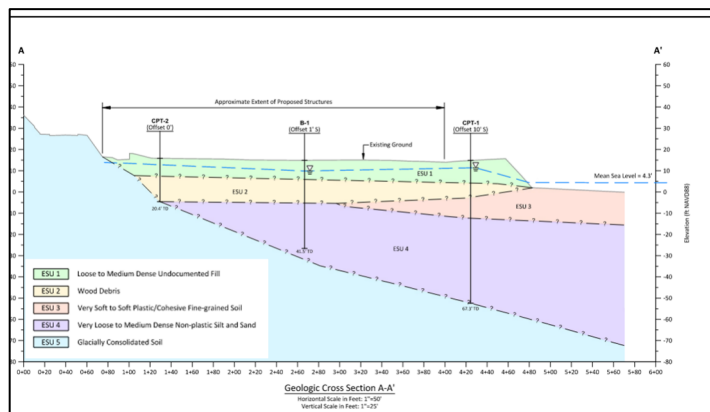


Staff Finding

The project is exempt from buffer requirements associated with the off-site wetland.

**Geologically hazardous areas,** regulated by OMC 18.32.600.

The project site is generally unstable due legacy fill activities as outlined in the various geotechnical memos (Attachment 8.A). According to the Preliminary Geotechnical Engineering Recommendations Memo – 2020 the site is underlain by liquifiable soils, soft soils, and wood debris indicating seismically induced soil liquefaction could cause 5 to 10 feet of lateral spreading, requiring more than deep foundations alone. According to OMC 18.32.665.B when a site is identified as a seismic hazard area, alterations must include mitigation that either eliminates or minimizes the risk of damage, death or injury resulting from the seismically induced settlement or soil liquefaction.



Staff Finding:

The applicant proposes a strategy to install sitewide ground improvements, which is a comprehensive modification to the soil characteristics across the entire site which will transform the weak soil to a stiffened more uniform composite capable of supporting structures. Often, this approach transforms the soil matrix into essentially, reinforced rock. Pilings are also identified as likely needed which would reduce load on the soil. These approaches have been found to be conceptually acceptable because they are best management practices for this type of soil condition. At the conceptual level, this is a workable approach that will alleviate the seismic and liquefaction hazards in to the extent practicable. Considerations for detailed design plans including a robust geotechnical report must be provided with the engineering and building permits for this project, conditions of approval have been provided.

**Landscaping, OMC 18.36**

The landscaping chapter applies to this project and conceptual landscaping plans have been provided (Attachment 5). The site is unique in that in areas outside of the shoreline restoration / vegetation conservation area, nearly all the landscaping is to be planted on top of the parking garage or on areas made of almost entirely rock like conditions directly above the site-wide ground improvements required for soil safety. In both conditions, soil volume is a concern. Where planting is required (not in a rooftop garden), a minimum of 24” of soil amendment is required, and must be planted to achieve 80% coverage within three years (OMC 18.36.060). Perimeter landscaping / buffering is not required, but is shown in some locations along the east property line. Parking lot planting is not required in or on buildings.

Staff Finding

*The Landscaping Plan (Attachment 5.B, sheet LS-06) shows the rooftop planting on the pedestrian plaza above the parking garage with soil volume of four inches. This will likely support only drought resistant ground cover, but not larger plant species. Planting in this location is primarily intended for development coverage limit compliance. Ground cover is acceptable. Some areas within the green roof show larger vegetation such as shrubs and small trees in containers, which are not required for landscaping code compliance, rather they are intended to account for some of the required trees needed for tree density (OMC 16.60). It is likely that additional soil volume will be required to accommodate larger tree species. Additional details regarding tree species, soil volume, and irrigation will be needed with the construction plans, as shown in conditions.*

*Planting for the Vegetation Conservation Area is primarily addressed through the mitigation plan, but specific requirements for soil volume are applicable. A minimum of 24" of compost is required for all planting areas. In locations where underlying soil will include a sediment cap and engineered rock, additional information regarding the plant species and survivability in such conditions will be required with engineering plans as required by OMC 18.36.060.E.*

**Vehicular and Bicycle Parking Standards, OMC 18.38**

Required Vehicular and Bicycle Parking. The code establishes a minimum number of bicycle parking spaces required for this project as set forth in Table 38-01. Both vehicular and bicycle parking are required based on use type; of relevance are those for studio, multi-family, restaurant, and retail. Parking requirements have significantly changed since the projects vesting date (2021) and residential parking requirements have been significantly reduced. For the residential component of the project, a total of 676 parking spaces are required under the 2021 code, but if current code were used only 239 parking spaces would be required. Bicycle parking requirements have not changed and are applicable for both the commercial and residential spaces. As the parking is being placed entirely in/on the building, the parking is held to the parking garage sizes and is exempt from providing landscaping islands.

Staff Finding

*Parking for each building will be evaluated at the building permit application stage. Sheet A 22 -A 26 of the Architectural Plan Set provides a detailed breakdown of requirements for both vehicular and bicycle parking for the site in total, as well as for each building phase. These calculations are accurate, a total of 823 vehicular parking stalls are proposed as well as bicycle parking for each residence and commercial space. Adequate parking has been provided.*

**Design Review, OMC 18.100**

This project is subject to the design requirements of OMC 18.110 - Basic Commercial and OMC 18.155 West Bay Drive District. Combined, there are 24 specific design criteria applicable to this project that must be met. Review for compliance is outlined in Attachment 18. The result of this review was recommendation of conditional approval by the Design Review Board. A few topics are worth noting:

- OMC 18.110.060 requires view preservation of existing outstanding scenic views which significant numbers of the general public have from public rights of way. This requirement pairs with other view preservation requirements applicable to the project such as the height bonus requested and the shoreline regulations. These criteria are addressed in the View Narrative submitted by the applicant (Attachment 4.E)
- OMC 18.155 is a specific set of criteria for West Bay Drive calling for district specific architectural character of the buildings and ensuring a pedestrian scale.

Staff Finding

*The Board found that views from the Right of Way were preserved through view corridors and the public trail surrounding the project site. Conditions of approval recommended focus on enhancing the pedestrian scale and specific architectural aesthetic for West Bay Drive. The Site Plan Review Committee supports the conditions of*

*approval recommended by the Design Review Board, which are included as recommended conditions of approval.*

#### **F. Engineering Design and Development Standards (EDDS) and Drainage Design and Erosion Control Manual (DDECM)**

The Preliminary Upland Civil Plan Set (Attachment 3.A), Refuse Truck Exhibit (Attachment 3.B), EDDS Deviation Requests (Attachment 3.C), Traffic Analysis (Attachment 9), Stormwater Plans (Attachment 11) were all reviewed for compliance with the EDDS, OMC, DDECM, and applicable State regulations for compliance with sewer, water, solid waste, streets, street trees, Transportation, and stormwater.

#### **Transportation:**

The project is required to comply with the Growth management Act (GMA) concurrency needs through the City of Olympia Concurrency Program as well as EDDS, Appendix 7 Traffic Impact Analysis (TIA) Guidelines for New Developments.

#### Staff Analysis:

*The project will comply with GMA concurrency needs through the City of Olympia Concurrency Program. The Olympia's city-wide capacity assessment is based on the supply and demand of person trips, or "mobility units." The system requires the implementation of new multimodal transportation infrastructure (mobility unit supply) to keep pace with land use development, which generates person trips (e.g., mobility unit demand). The project will mitigate any new transportation impacts through the payment of the City's Transportation Impact Fees that will contribute to the implementation of new city-wide multimodal transportation infrastructure.*

*According to the EDDS, the TIA must examine the vehicle level of service (LOS) at identified intersections to help indicate areas that may need improvement. The TIA identified that all study intersections operate at an acceptable LOS in 2027 with The West Bay Yards project. The Traffic Impact Analysis 2022 (Attachment 9.A), concludes that in 2027, with project condition the project will increase vehicular traffic by 250 new trips in the p.m. peak hour on West Bay Drive. For reference, in 2005 the City completed the West Bay Corridor Study. In the vicinity of the intersection of Brawne Avenue it was estimated that by 2025 there would be approximately 9,700 vehicles per day using West Bay Drive or 970 vehicles in the p.m. peak hour. It is estimated from the West Bay Yards TIA that in 2027 in the p.m. peak hour there will be approximately 815 total vehicles at this location. This is about a 16% decrease in what was previously anticipated in the 2005 West Bay Corridor Study.*

*Other facts that are implied in the TIA:*

- *West Bay Yards p.m. peak hour traffic volumes are estimated from the Institute of Transportation Engineer's Trip Generation Manual that surveyed 60 different mid-rise apartment projects and developed a national standard average trip rate. Within the p.m. peak hour there are trip generating characteristics that occupants of the 478 apartments, restaurants, office and commercial uses will desire:*
  - *Work outside the typical 8 a.m. to 5 p.m. commute time*
  - *Do work an 8-5 job but will run errands after work and end up returning home outside the PM peak hour.*
  - *Use other modes of travel for work or errands/activities, be it walk/bike/transit, including those who may work or visit the on-site commercial.*
  - *Work from home*
  - *Not work*

- *Twenty-seven (27) percent of the trips are existing and already passing by the project or choosing not to leave the site to use internal restaurant, office and commercial uses that do not generate new trips.*
- *Apartment buildings almost never experience 100% occupancy*

*These facts remain true to represent how 478 apartments with other associate building uses will generate only 250 new trips in the p.m. peak hour on West Bay Drive.*

- *Roundabout - Harrison Avenue/West Bay Drive/Olympic Way. The TIA has documented that the roundabout operation in both the a.m. and p.m. peak will be LOS "A." This is based on the average on the highest two-hours in those periods (standard regionally adopted analysis period). It is anticipated that there will be periods with the two-hour average that there will be congestion with associated back-up vehicle queues on West Bay Drive.*
- *Emergency Vehicles – With full project build-out and West Bay Drive at approximate 55% of its capacity, it is anticipated that there will be adequate gaps in oncoming traffic and alternative travel routes at Brawne Avenue, Garfield Avenue or Schneider Hill Road if needed for effective emergency response times.*
- *Pedestrian Safety – With required street frontage improvements with a bike lane planter strip and 6-foot wide sidewalk, a pedestrian crossing island for the Woodard Trail and all three entrances with have raised intersections for traffic calming (similar effect as speed cushions). This will reduce the speeds on West Bay Drive from 30 to 25 mph or slightly lower along the project frontage and will add to people walking and biking safety.*
- *The West Bayview Landing project directly to the north will be providing full frontage improvements and there are significant portions on West Bay Drive that have either a bike lane or widened shoulder. As new development occurs beyond these two projects the required major collector for West Bay drive will be required.*

### **Frontage Improvements**

Specific frontage improvements are required for the West Bay Drive Corridor as outlined in EDDS 2.040. These requirements are a direct result of the West Bay Corridor Study and provide area specific designs for each block. Civil plans provide the proposed frontage improvements anticipated for the project (Attachment 3.A – Upland Civil Set 2025). EDDS 4.E establishes the commuter trail is required to vary between 14-22 feet that extends on the north, east, and south of the project.

A deviation request was submitted to allow for installation of three traffic calming raised intersections (Table Tops) instead of installation of a center turn lane per Standard Drawing 4-2G5. Chapter 1, Section 1.050 states that situations will arise where alternatives to these Standards may better accommodate existing conditions, overcome adverse topography, or allow for more cost-effective solutions without adversely affecting safety, operations, maintenance, or aesthetics. Accordingly, requests for deviations from these Standards, or from requirements of those sections of Title 17 of the OMC listed in section 17.52.020 of the OMC, will be considered by the City Engineer.

### **Staff Finding**

*The frontage improvements shown are consistent with EDDS 2.040 and Chapter 4. Deviation submitted is supported by the City Engineer and will be approved with the notice of Public Hearing to allow for an appeal period associated with its approval. As conditioned the trail and ROW along West Bay Drive will be consistent with code.*

### **Solid Waste**

EDDS Chapter 8 establishes requirements for solid waste. This projects large scale will require three compactors as well as room for truck turn around areas.

**Staff Finding**

*The location and space available for solid waste has been an area of concern due to the tight space and overlap between the parking garage exit, pedestrian trail, and sloped nature of the site. The most recent conceptual plan has been reviewed and conceptually accepted by the City. A few key topics include:*

- *Solid waste often includes liquids that spill out from the truck during pick-up. Due to the grade of the drive aisle and that truck turnaround will occur on the pedestrian trail, the City anticipates that portions of the pedestrian trail will need to be cleaned following solid waste pickup. The trail is to be dedicated as Right of Way, but maintenance including regular cleaning will fall to the applicant as conditioned.*
- *Pick up will need to occur multiple times a week for the multiple waste streams. During this time, vehicular access out of the parking garage will be limited. Plans indicate the parking garage will be exit only on the Northern side where solid waste pickup is to occur. Plans should clarify how vehicular entry/exit is anticipated during solid waste pickup.*
- *The 15 year phasing plan indicates the solid waste area will be inaccessible for 5+ years during construction of phase 2. An alternative location has been identified. Plans indicate the location will be for temporary trash compactor, however this is unlikely feasible. Alternatively, dumpsters are probably a more realistic approach. Adequate space appears available for a temporary solid waste approach.*

*As conditioned, the project will comply with solid waste requirements.*

**Sewer**

The project must install sewer facilities in accordance with the provisions of Chapter 7 of the EDDS.

**Staff Finding**

*The City has capacity for this development's anticipated sanitary sewage discharge. This project will be required to connect to the existing sewer system in West Bay Drive. The plans show conceptual compliance. Detailed plans are required with the engineering permit applications.*

**Water**

The project is required to install water facilities in accordance with the provisions of Chapter 6 of the EDDS.

**Staff Finding**

*The City has capacity for this development's domestic water and fire suppression requirements. The project will be required to connect to the existing water system in West Bay Drive. Additionally, a new water main will be installed under the pedestrian trail wrapping the site. The Right of Way vacation/modification for the trail must be completed prior to installation so that the line is located within Right of Way. A condition of approval has been provided.*

**Storm Drainage**

The project is required to provide for the treatment, storage and disposal of surface drainage through a storm drainage system designed to the current Drainage Design and Erosion Control Manual for Olympia (Manual) and Chapter 5 of the EDDS. General 5.010 - The standards established by this chapter are intended to represent the minimum standards for the design and construction of storm drainage facilities. The latest adopted edition of the City of Olympia Drainage Design and Erosion Control Manual (Drainage Manual, or DDECM) is considered a part of this chapter of the EDDS. This Drainage Manual sets forth the minimum drainage and erosion control requirements as supplemented herein. The site is required to treat all stormwater, but is in a flow control exempt area.

Staff Finding

*The proposed stormwater system described in the Preliminary Drainage Report (Attachment 11.A), complies with the provisions of the 2022 Drainage Design and Erosion Control Manual (DDECM). As stormwater does not vest, future construction permits will be required to comply with the applicable version of the DDECM in effect with construction permits are applied for. As conditioned, the project will comply.*

**G. ROW Vacation - OMC 12.16**

According to OMC 12.16.110, related to Right of Way Vacation of streets abutting water bodies, all criteria of RCW 35.79.035 is required to be met prior to approval. The provisions of the RCW essentially limit the ability of a jurisdiction to vacate shoreline ROW unless it is to enable enhanced public access to the site.

Staff Finding:

*The project will be conditioned to ensure a ROW vacation process is completed prior to construction. A cursory review of the requirements for the vacation indicates the project is likely eligible because of the extensive increase in public access to the shoreline. Due to the large amount of ROW dedication required by this project the total amount of ROW available to the public is likely to increase rather than decrease. The vacation process has not begun and will be required prior to commencement of the construction of this project.*

**H. Fire Access – OMC 16.05, OMC 16.32 – OMC 16.46**

The project is required to comply with the International Fire Code as well as specific requirements unique to Olympia established in OMC 16.32. Plans provided are required to show fire access surrounding the buildings.

Staff Finding:

*Architectural plan sheet A 13 shows how the applicant will provide the requisite onsite access. The Extended Waterfront Trail Corridor width is primarily driven by the need to provide adequate fire access. as required by OMC 16.32.050. As conditioned the code is satisfied.*

**I. Agency Comments**

Project plans and documents were routed to a variety of public agencies at the onset of the project. Continued coordination occurred with those agencies who indicated interest in the project. Attachment 19 provides all agency comments submitted through the project review. In sum, the following agencies provided comments on the following:

- a. Washington Department of Fish and Wildlife: Identified a Hydraulic Permit Approval (HPA) is required, made several design recommendations, and requested specific additional scientific information be provided. In 2025, WDFW indicated support of project and provides examples of other similar projects such as Oakland Bay and Commencement Bay.
- b. Washington State Department of Transportation: Provided review comments and indicated the traffic volumes are not concerning to the State system.
- c. Department of Ecology – Shorelands: Provided extensive technical review of the proposal related to a wide variety of topics including; relocation of the OHWM, restoration project, code analysis etc. Requested conditions of approval regarding use of Ecology’s Sediment Cleanup Users Manual.
- d. Department of Ecology – Toxics Cleanup Program: Provided status updates on the cleanup plan for the site as it moved from a voluntary action to a MTCA action. Provided extensive technical review and indicated conditions of project approval rather than SEPA Mitigation were appropriate.
- e. Squaxin Island Tribe – Cultural Resources: Provided technical review of cultural resource documents, requested additional information and has requested conditions of approval to ensure updated reports and permitting processes with engineering permits.
- f. Squaxin Island Tribe – Environmental Program: General support of the restoration project approach.

- g. Department of Archaeology and Historic Preservation: Provided technical review of project documents, assisted in establishing the preferred permitting process and requested conditions of approval to ensure compliance.

Staff Finding

*City staff reviewed the agency comments received and finds the conditions or requests acceptable. As conditioned, the project will comply.*

### III. CONCLUSION & RECOMMENDATION

Pursuant to OMC 18.72.100, the Site Plan Review Committee recommends approval of the SSDP and SCUP to the Hearing Examiner, as conditioned because the project meets all applicable codes and standards. Conditions:

- 1) **Site Plan.** The project shall be substantially in conformance with the Architectural Site Plan in Attachment 2, and as modified by the conditions of approval herein. The site plan must be modified with the engineering Phase 1 submittal as follows:
  - a) Show all public amenities such as picnic tables, benches, kayak launch etc. Demark the fire access lane to prohibit such features from being placed in the lane.
  - b) Show additional VCA width provided with completion of shoreline restoration resulting from waterward shift of the OHWM (expected to be 12' to 18').
  - c) Add note indicating the expanded waterfront trail is a fire access lane and must remain free and clear of obstructions.
  
- 2) **Development Agreement:**
  - a) The project must adhere to the 2021 Development Agreement. In particular, the project must be designed to achieve the restoration objectives of the 2016 West Bay Restoration Assessment.
  - b) The Applicant must propose a modification as provided for in Section 8 of the 2021 Development Agreement prior to construction permit application to conform with the approved permits as follows:
    - i) Show all of shoreline restoration work occurring in Engineering Phase I.
    - ii) Show construction of the entire waterfront trail, meeting EDDS standards as a component of Engineering Phase I.
    - iii) Update the construction timeline and term to account for the length of permit review associated with the shoreline permits.
    - iv) Modify conceptual images within the agreement to reflect the updated designs associated with the shoreline permits.
  
- 3) **Maintenance Agreements:** All applicable maintenance agreements and easements must be submitted with the applicable construction permit, including:
  - a) Shared Use: All shared use areas must be documented as accessible and maintained by the owners of the five individual properties. This includes, but is not limited to the parking garage, solid waste area, pedestrian plazas, vegetation conservation area etc. Agreements must be recorded prior to issuance of engineering phase I permit approval.
  - b) The waterfront pedestrian trail / expanded waterfront pedestrian trail shall be dedicated as ROW and must be designed, constructed, and maintained by the applicant, or their successors, in perpetuity A maintenance agreement must be approved and recorded prior to phase 1 engineering permit approval.

- c) The VCA must be placed in a conservation easement, dedicated to a conservation organization or land trust, or similarly protected through a permanent mechanism acceptable to the City as provided for in OMC 18.20.495(H). This document must be submitted with the phase 1 engineering permit application.
- 4) **ROW Vacation:** Prior to issuance of any construction permits, the ROW Vacation / of the existing approximately 17,052 SF of unopened Farwell Road ROW must be approved by City Council. Approval of this ROW Vacation is expected to be conditioned on the dedication of replacement property comprising the approximately 21,470 SF of improved waterfront trail for the project. Approval of the vacation must be submitted with the Phase I engineering permit application.
- 5) **Fire:** Engineering and Building permit plans must be revised to adhere to OMC 16.05.060 Fire fighting access as follows:
- a) All Fire Department Connection (FDC) locations shall be shown on the civil plans and are subject to approval by the Fire Marshal's Office. Fire hydrants shall be located within 40 feet of all FDCs.
  - b) At the northeast and southeast corners, where bollards have been replaced with WSDOT Standard Plan 1515.08 features, the design shall provide unobstructed and functional access to the West Bay Trail emergency access route. These areas shall be designed to accommodate Olympia Fire Department apparatus and shall meet or exceed minimum turning requirements of 14 feet 3 inches inside radius, 28 feet 3 inches curb-to-curb, and 31 feet 10 inches wall-to-wall, and be approved by the Fire Marshal's Office.
  - c) The applicant shall provide turning movement (CAD) exhibits demonstrating apparatus access, turning capability, and operational functionality for review and approval.
  - d) While an approved NFPA 13 fire sprinkler system is being utilized in lieu of full fire apparatus access in certain areas, access shall still be provided for medic and BLS transport units to all plaza turnaround locations (east, west, north, and south). The central drive aisle shall be designed to support the weight of an engine and ladder truck and must extend midway to the sites turnaround. It shall be clearly marked for fire department use and will serve as a central parking area for emergency calls for buildings two and three.
- 6) **Engineering Permit Application.** An engineering permit application shall be submitted for review and approval prior to construction for each of the two engineering phases. The permit submittal shall comply with the 2021 Engineering Design and Development Standards (EDDS) and the current Drainage Design and Erosion Control Manual (DDECM) in effect at the time of permit submittal. The following must be shown on engineering permit plans submitted for review:
- a) Sewer mains located onsite shall be noted on the engineering plan set as private. A maintenance agreement shall be recorded by the property owner and a copy provided to the city prior to occupancy/final inspection of any structure.
  - b) Northern Pedestrian Crossing shall be shifted south, and incorporated with the raised Table Top section on West Bay Drive and in alignment with the shared use path. A receiving ramp shall also be installed on the west side of West Bay Drive.
  - c) The Waterfront Trail shall meet Engineering Design and Development Standards 4E and WSDOT Design Manual 1515, Shared-Use Path Design. The shared-use pathway shall maintain a minimum of 14 feet (12' paved with one-foot shoulders on each side) in width along the north and the south portions of the site.
  - d) Portions of the Waterfront Trail and Expanded Waterfront Trail Corridor intended to serve as a fire access lane shall be no less than 22 feet in width (20 feet paved with 1 ft shoulder on each side) to incorporate the needs of emergency services.

- e) The corresponding dedication of the West Bay Trail/Shared use path shall be completed with the project close out documents of the Phase 1 engineering permit, if not established prior to that time.
  - f) All maintenance and upkeep of the Waterfront Trail / Expanded Waterfront Trail Corridor shall be the property owners' responsibility. This requirement shall be incorporated in the dedication document or alternatively by a separate document that has been approved and recorded. A separate agreement shall be referenced on the right of way dedication.
  - g) Sheets 1-3 of the Refuse Truck Exhibit (Attachment 3.B) shall be incorporated into the civil engineering permit submittal. In addition to this exhibit, a 3 foot clear separation shall be required and maintained between the back wall of the enclosure and the compactors.
  - h) If for any reason, the phased construction creates conflict with the solid waste collection, an alternative temporary location will be required and will need to include:
    - i) A temporary site will be required to support the estimated amounts for each type of waste stream as well as access requirements as regulated by the EDDS.
    - ii) Compactors cannot be physically relocated. If a temporary site is needed, it will have to facilitate the appropriate number of dumpsters/carts on concrete pads.
  - i) A signed Inadvertent Discovery Plan (IDP) which outlines how the project proponent and site crew will respond in the event that archaeological resources are uncovered during the course of project work shall be submitted by the applicant at the time of Engineering plan submittal (OMC 18.12.140).
  - j) Revise plans to show construction of the entire Waterfront Trail and Expanded Waterfront Trail Corridor to the EDDS standard as part of Phase I engineering permit. Gravel will not be permitted.
  - k) Revise plans to ensure the access point to the Waterfront Trail and Expanded Waterfront Trail Corridor has an inside corner greater than a 30' radius or prove with auto-turn that a 62' tillered aerial and a 34' Pierce fire engine can navigate onto and off of the drive lane.
  - l) A final landscape plan prepared in compliance with OMC 18.36 shall be submitted in conjunction with the engineering permit application. The landscaping plan must include:
    - i) Upland planting areas above the sitewide stabilization or on the rooftop garden will require additional species-specific information to ensure the species is provided proper conditions to thrive. Plans must show tree species, preferred soil type, soil volume and irrigation.
    - ii) The method and duration of irrigation, for all planting areas as well as planting details such as proper depth, rootball, prep, staking mulch etc. Specifications will be consistent with ISA recommended planting schematics.
    - iii) Green roof area calculations must be shown on the landscaping plan to include only those areas covered by living plants that have at least 4" of soil.
- 7) **Urban Forestry:** Plans must show a minimum tree density of 217 trees of which 109 must be onsite within the SVPA/VCA. Trees proposed must meet the definition of a tree and cannot be columnar nor achieve a height of less than 6 feet. Prior to acceptance of tree species and location, demonstration that adequate soil volume for all tree species and proposed locations will be required. Replacement tree locations shall otherwise meet the requirements of OMC 16.60.080(C).
- 8) **Bird Strikes:** Building permit plans must show use bird-friendly glass or window treatments for all exterior facing windows. Specific glass or window treatments selected must follow the recommendations of the United States Fish and Wildlife Services Migratory Bird Program for new construction. Balconies and railing made of glass or see through material must also meet this design standard.

- 9) **Shoreline Stabilization.** The restoration project is allowed to use non-structural (soft) shoreline stabilization methods as shown in plans. Structural stabilization, such as new bulkheads, seawalls, groins and other hard armoring is not permitted with this permit application.
- 10) **SVPA / VCA:** Project approval is contingent upon the adequacy of the soil volume available to achieve a native plant community consisting of a mix of native trees, shrubs and ground cover. Vegetation within the VCA/SVPA must be similar in species density and diversity to the native conditions found on the shoreline of Squaxin Park. Adequate soil volume to support the needs of this vegetated buffer and tree preservation area is required. Supplemental documentation supporting the soil depth is required. A minimum of 108 trees must be planted in the SVPA / VCA. The soil contamination cleanup plan and sitewide stabilization methods must be designed to allow for adequate soil depth to accommodate the requisite buffer and vegetation protection area.
- 11) **Restoration Plan.** Approval is based on the conceptual restoration approach outlined in “alternative 3” within the Shoreline Restoration Design Report and supported by the Mitigation Plan. A final design report and construction plans must be submitted with the Phase I engineering permit. The final design must include a final mitigation and restoration plan and an update to the important habitat and species report (or addendum). Specifically, the Shoreline Restoration Plans and supporting documents must include:
- a) A planting plan for the VCA that achieves a native plant community consisting of a mix of native trees, shrubs and ground cover with large woody debris, perch poles and other similar habitat enhancements.
  - b) Provide plans that show the 30’ VCA as measured from the existing OHWM plus the additional land from the waterward relocation anticipated of the OHWM. The VCA is likely to be approximately 48’ in width.
  - c) Plan must address the proposed location of tree planting in the VCA / SVPA areas. Provide written documentation from a qualified professional supporting the SVPA / VCA will provide and sustain the soil volume necessary to support large native trees including information about soil volume, root depth, saltwater intrusion etc. Such documentation should include discussion of previous successful projects either designed by applicants or others with shoreline mitigation plantings in the Pacific Northwest region.
  - d) Planting plan for the VCA and restoration area must comply with OMC 18.36 and must show a minimum of 24” of soil amendment in the VCA and plant spacing that achieves 80% coverage within three (3) years.
  - e) Plans must provide additional detail regarding “dark sky” features intended to be used where lighting is visible from the shoreline. VCA lighting is limited to bollards and other similar features. Plans must demonstrate how lighting will be limited, particularly where is closest to the shoreline. The planting plan must show screening with thicker vegetation where lighting might otherwise spill over into the shoreline environment.
  - f) Address impacts to birds from the upland project. Species such as the Purple Martin must be addressed. Modifications such as adding perch poles and nesting boxes within the restoration area must be evaluated.
  - g) Project design must be consistent with Ecology’s sediment clean up user’s manual.
- 12) **Outside Agency Permits:** Prior to any onsite construction, permits from the following agencies are required:
- a) WDFW: A Hydraulic Permit Approval is required. The approval must be submitted with the phase I engineering permit application. Compliance with requisite fish work windows must be adhered to and identified on plans.
  - b) The Washington State Department of Ecology (Ecology) has issued Model Toxics Control Act (MTCA) Administrative Order (Agreed Order) DE 21726 to West Bay Development Group, LLC (WBDG). This Agreed Order requires WBDG to complete a supplemental remedial investigation, feasibility study, and preliminary draft Cleanup Action Plan. The applicant must complete the required Agreed Order tasks and implementation of the MTCA Cleanup Action Plan before any in-water work, site alteration or development is performed, unless the work is included as part of an Ecology-approved Interim Action Work Plan.

- c) A Department of Army (DA) permit, pursuant to Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act, is required for the shoreline restoration work and a DAHP Excavation Permit is required per RCW 27.44 and 27.53 for the upland work that falls outside the scope of the USACE permit review. Issued DA and DAHP permits for the project must be submitted to the City as a submittal requirement for the engineering permit application.

13) **Building Codes.** At Building permit application, the project will be reviewed under the current version of the International Building Code (IBC), International Residential Code (IRC), International Mechanical Code (IMC), International Fuel Gas Code (IFGC), Uniform Plumbing Code (UPC) ICC A117.1, and Washington State Energy Code (WSEC) as amended by Washington State. All structural plans and calculations must be designed, stamped, and signed by a Washington State licensed Structural Engineer. The building permit application must include:

- a) Due to the project developing in a Special Flood Hazard Area (SFHA), AE15 and a VE17 zone, an elevation certificate from a recognized Washington State licensed surveyor will need to be submitted with the building permit application. Construction documents must show the method of controlling the impacts of damage associated to sea level rise. Prior to Building Permit Approval, applicant must secure applicable permits and approvals from US Army Corp of Engineers, Washington Department of Fish and Wildlife, US Fish and Wildlife Service and State of Washington Department of Ecology.
- b) A FEMA Region X - Puget Sound BiOp Floodplain Habitat Assessment Worksheet and any supportive documentation must be submitted with the building permit application for developing in a SFHA .
- c) A geotechnical report must be submitted addressing building on unstable soils. The Geotechnical Engineer of record must approve the footing design done by the Structural Engineer.
- d) Building permit plans for each building must show compliance with vehicular and bicycle parking requirements. Signage for short term bicycle parking shall be identified on construction permit plans. Signage shall be provided in all locations where the customer entry is more than 50' from the required bicycle parking space or when the required bicycle parking space cannot be seen from the customer entry.
- e) Plans for each building must show compliance with the 65' height limit. Minor rooftop features such as the 1' extension of parapet wall and limited mechanical equipment are permitted on the rooftop in excess of the bonus height of 65'. Elevator penthouses or covered outdoor space are not permitted on the roof as these features would significantly increase height and were not shown on plans associated with the height bonus being approved. Such features have not been reviewed for view related impacts and would need such review prior to approval. All rooftop features exceeding the 65' height limit must be specifically called out on building permit plans to ensure they are consistent with the limitations of the 65' height allowed for this project.

14) **Public Access.** The following conditions apply to public access areas including the Waterfront Trail, Expanded Waterfront Trail Corridor, Vegetation Conservation Area and restoration area where public trails or access are identified on plans:

- a) Outside of dedicated ROWs, public access provisions shall run with the land and be recorded via a legal instrument such as an easement prior to certificate of occupancy;
- b) Public access areas shall be constructed and available for public use at the time of occupancy;
- c) Signage shall be installed in conspicuous locations indicating the public's right of access and hours of access; and
- d) Public access shall be available to the public from 7:00 a.m., or dawn, whichever first occurs, and 6:00 p.m. or dusk, whichever later occurs.

- 15) **Vegetation Maintenance Bond.** A vegetation maintenance bond (or other assurance) shall be provided following city acceptance of the landscape and restoration planting installation. The bond amount shall be 125% of the cost estimate submitted with the final landscape and mitigation plan and approved by the City.
- 16) **Design Review.** Detail design review will occur with the building permit. The design packet submitted with the building permit must address the following:
- a) Add material changes, or other similar features to locations where pedestrians will cross drive aisles on the plaza level.
  - b) Add landscaping, artwork, and other features to break up large expanses of concrete wall at the parking garage level along the north and south sides of the parking garage.
  - d) Provide specifics on the other nearby buildings used as examples for the waterfront heritage evoked by this buildings design. Consider looking at
  - e) Reliable Steel and other past industrial sites.
  - f) Differentiate the primary public plaza building facades of buildings 2 and 3 to create a more prominent core to the site so that it is clearly special from both the street façade and waterfront. Consider using scaling, color, building materials, canopies etc.
- 17) **Addressing.** Each of the five proposed buildings will receive a separate address. All suites and units will be assigned numbers as well. This must be coordinated before building permits are submitted as the address is a required component of the application.
- 18) **Hours of Operation/Construction Noise.** Pursuant to OMC 18.40.080.C.7, construction activity detectable beyond the site boundaries shall be restricted to the hours between 7:00 a.m. and 6:00 p.m.
- 13) **Impact Fees.** In accordance with OMC Title 15, City of Olympia impact fees for transportation, parks, and schools shall follow the Development Agreement section 11.4 which vests impact fees to each building phase. All impact fees must be paid at time of building permit issuance unless deferred as provided for in OMC 15.04.040.J through an Impact Fee Deferral Agreement.
- 14) **Ecology Review.** Construction pursuant to the shoreline substantial development and conditional use permits shall not begin prior to 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 from the date of such filing have terminated.
- 15) **Expiration.** The provisions of Section 11 of the Development Agreement shall control permit expiration as authorized by WAC 197-27-090(1).

**Submitted by:** Nicole Floyd, AICP, Planning Director and Shoreline Administrator  
Community Planning & Economic Development  
360.570.3768, [nfloyd@ci.olympia.wa.us](mailto:nfloyd@ci.olympia.wa.us)

**Attachments:**

1. Staff Report for Hearing
2. Architectural Plan Set - 2025
3. Engineering Plan Submittals:

- a. Upland Civil Plan Set - 2025
  - b. Refuse Truck Exhibit - 2025
  - c. Upland Civil Plan Set SCJ Markup - 2025
  - d. Engineering Design and Development Standards Deviation Request - 2022
4. Application / Narratives / Letters:
- a. Joint Aquatic Resource Permit Application - 2025
  - b. Shoreline Master Program Consistency Narrative - 2025
  - c. Trail maintenance Acknowledgement Memo - 2025
  - d. Round 5 Applicant Response - 2026
  - e. View Narrative - 2024
  - f. Recreational Needs / View Analysis - 2024
  - g. Applicants Legal Response to 3<sup>rd</sup> Round Comments - (Feb. 15, 2024 & Mar. 3, 2024)
  - h. City Response to Applicants legal Response to 3<sup>rd</sup> Round comments - (Apr. 2024)
  - i. Technical Memo – Mitigation Sequencing and No Net Loss – 2024
  - j. Applicant’s Legal Response to View, Height and Restoration – 2022
  - k. 2<sup>nd</sup> Round Applicant Response to City Review Table – 2022
  - l. 3<sup>rd</sup> Round Applicant Response to City Review Table -2023
  - m. 4<sup>th</sup> Round Applicant Response to Review Table – 2024
5. Landscaping Plans:
- a. Shoreline Landscape Plan Set - 2025
  - b. Upland Landscape Plan Set - 2025
  - c. Soil and Vegetation Report - 2025
6. Phasing Plans Submittals:
- a. Site Phasing Plan - 2026
  - b. Building Phasing Plan - 2026
  - c. Phasing Diagram 1st Phase - 2025
7. SEPA Checklist - 2025
8. Geotechnical Analysis:
- a. Landau Preliminary Geotechnical Engineering Memorandum - 2020
  - b. Landau Geotechnical Hazards Assessment - 2021
  - c. Sage Geotechnical Response - 2025
9. Traffic Analysis Submittals:
- a. Traffic Impact Analysis - 2022
  - b. Applicant Response to Traffic Comments
  - c. Trip Generation Counts - 2022
10. Critical Area Report Submittals:

- a. Critical Area Report - 2022
  - b. Important Habitats and Species Report - 2022
  - c. Bird Strikes Memo - 2025
11. Stormwater Plan Submittals:
- a. Preliminary Drainage Design Report - 2024
  - b. Site Management Plan - 2021
  - c. Construction Stormwater Pollution Prevention Plan - 2021
12. Cultural Resources (*Documents Not Available for Public Review*):
- a. Cultural Resource Desktop Review Report - 2021
  - b. Cultural Resources Assessment - 2023
13. Site Contamination Submittals:
- a. Phase I Environmental Site Assessment - 2020
  - b. Phase II Environmental Site Assessment - 2020
  - c. Due Diligence Investigation Status Update Memorandum – 2020
  - d. Voluntary Cleanup Plan Application and Remedial Investigation Data Gap Report - 2021
  - e. Hardel Methane Summary Memorandum - 2022
  - f. Agreed Order DE 21726 - 2025
14. Restoration Plan Submittals:
- a. Shoreline Restoration Design - 2025
  - b. Restoration and Mitigation Plan - 2025
  - c. Preliminary Engineering Design Report - 2022
  - d. Shellfish and SAV Report - 2022
  - e. Portadam Feasibility Assessment - 2025
15. Flood Zone - First Floor Elevation Recommendations – 2019
16. Property Line Modifications:
- a. Recorded Boundary Line Adjustment 2022
  - b. Proposed Road Vacation Location 2024
17. Notice of Application with:
- a. Distribution List
  - b. Affidavit of Posting
18. Concept Design Review:
- a. Design Review Board Minutes / Recommendations
  - b. Design Review Packet (Staff report, checklist, public comments)
  - c. Notice of Design Review Board Meeting
19. Agency Comments:
- a. 2021 Agency Comments

- b. 2022 Agency Comments
  - c. Jan – March 2025 Agency Comments
  - d. October 2025 Agency Comments
  - e. 2026 Agency Comments – SEPA Determination
20. Public Comments:
- a. 2021 Public Comment Letters
  - b. 2022 Public Comment Letters
  - c. 2025 Comment Letters
  - d. 2026 Comment Letters – SEPA Determination
21. Interested Party Email Notification:
- a. 5.22.2022 Round 2 Review
  - b. 9.18.2023 Round 3 Review
  - c. 10.18.2023 DRB Postponement
  - d. 2.7.2025 DRB Meeting Date
  - e. 1.18.2026 SEPA Determination
  - f. 1.23.2026 SEPA Update
  - g. 5.22.2026 Hearing Notice
22. SEPA Determination of Non-Significance with:
- a. Distribution List
  - b. Affidavit of Site Posting
  - c. SEPA Appeal Submittal by Olympia Ecosystems
23. Supplemental Documents:
- a. 2021 Development Agreement
  - b. 2020 USFWS Methods to Reduce Bird Collisions with Glass
  - c. 2023 Regional Trails Plan
  - d. 2016 West Bay Restoration Assessment
  - e. 2012 Shoreline Master Program Restoration Plan
  - f. 2005 West Bay Corridor Study
24. Notice of Hearing:
- a. Hearing Notice
  - b. Affidavit of posting / publishing
  - c. Distribution List