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West Bay Yards Mixed Use / File: 21-2854 PROJECT ADDRESS: 1210 West Bay Drive 3rd Round Review Comments – November 8, 2023			
Note: Please type your responses into the column titled *Applicant Response*, and include as much information needed to clearly respond to each comment.			
ITEM	**COMMENT OR REQUESTED REVISION**	**DETAILS**	**APPLICANT RESPONSE**
PLANNING			
1) Building Height	Revision	Revise plans to show average grade plane as follows: a. Show how north and south sides of the building were determined to have a 9' average grade at finished ground level. i. Identify points being used for calculating average. 1. 26' at West is clear. No issue. 2. 17' at east seems clear, but not represented on plans. 3. Unknown points taken at north/south sides of building. Plans can use multiple points for average. More than half the structure appears closer to 17' than 26'. An average of the two would give 21.5', but this number (nor any similar) are shown along the north/south property lines, nor where grade plane along the edge of consolidated building pad is being calculated. a. Presumably points would be taken along the drive ramp. Any attached structure over 30" would be included in the building rather than being excluded from the calculation. ii. Average grade should be somewhere between the lowest point 17' and the highest point 26'. A simple average is 21.5', but this does not take into account how much of the building is above or below this halfway point. Please clarify. b. Clarify why buildings 1 and 5 are being treated differently /uniquely than the complete structure. c. Revise building height calculations to show measurement to the highest point of the structure. Building height in the shoreline jurisdiction is calculated slightly differently than other locations within the city. By comparing the two definitions of height from shoreline and zoning you can see that the number of appurtenances that are excluded is significantly less in the shoreline jurisdiction where height preservation is of a higher focus. Since the parapet wraps the building nearly entirely, it would not be excluded from calculation of height. i. Height (of Structure): The difference between the average grade level and the highest point of a structure (not including temporary construction equipment); 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.	1)a. See Sheet A6.2 showing how Average Grade Plane for the consolidated building pad is calculated using the average of East, West finish elevation and North-South drive ramps, from which building height is measured. 1)b: With revisions, all five buildings are now treated the same with respect to number of floors and building height. Floor 6 has been removed from buildings 2, 3 & 4 for recalculated Building Height compliance. Units redistributed to floors below maintaining 478-unit count. See building plans on Sheet A30 to A32. 1)c.i: Building elevations show Building height measured from revised average grade plane, includes parapet height. See Sheets A3, A4, A6.2, A8 and elevations A33 to A42.
2) Building Coverage	Revision	Address definition of building coverage in response to how building coverage has been calculated. Coverage, Building. The portion of a lot covered by the principal and accessory building floor area including all areas covered by a weather-tight roof, excluding two feet of eaves. a. Parking structures are defined as a building and this one includes a weather-tight roof, therefore it must comply with coverage requirements. Please clarify.	Coverage calculations updated to include lower-level parking and exclude landscape areas (vegetated roof) on top located on Plaza. See Area calculation tables and graphics on Sheet A6.3. Vegetation is inches thick – is this viable?
3) View Corridors	Revision	Revise sheets showing view corridor compliance by including balconies and other components of the buildings that block views into the area of unimpeded view access. Project appears to remain compliant, but calculations provided are somewhat misleading as to the accurate view blockage anticipated.	View blockage calculations updated to include balconies above. See Sheet A15. Balconies / eaves are INSIDE the view corridors as are trees/ and view blocking vegetation. Calc's show 424 open and 532 blocked, but its probably askew due to balconies etc.

4) Height Bonus / access trail / fire department access width	Revision	Revise plans to show the waterfront trail and the expanded waterfront trail corridor facility. Only when both have been provided is a height of 65' permitted. Pursuant to the Parks Master Plan, the Thurston regional trail plan should be used to identify the location of potential trail corridor projects. The Big W is identified as such a trail and shown in the Thurston Regional Trail Plan as surrounding this parcel on the north, east, and south sides (For reference pg. 3-44). Additionally, the trail will eventually extend on the waterfront to the south past the reliable steel site. EDDS provide the required dimensional requirements for a Commuter Multi-Use Trail which corelates to the parks plans corridor trail and accordingly into the height bonus. Modifications are necessary as follows: i. ROW Dedication of 22' is required surrounding the property where the trail is identified, however this width can be reduced through an EDDS Deviation request provided that there is at least 1' of additional width on each side of the paved trail. In no case can the width of the trail drop below 12' paved. ii. 12' of pavement is the minimum width of the paved portion of the trail according to the EDDS. Areas shown on the north and south of the site adjacent to the drive aisle appear to be reduced and must be increased to account for the 12' pavement plus 2' buffer. Total ROW width in this location would be 14'. Note – south portion adjacent to Hardel site could be relocated to adjoin the property line. If this was done half of the trail could be shifted to the responsibility of the adjacent property at time of development. iii. Sheet A21 indicates ROW dedication will end at southern property line. Revision is needed to show ROW around southern property line to West Bay Drive as shown in the Parks Master Plan. iv. Relocate connection to reliable steel site so that the trail can pick up where it is outside the VCA. 1. Trail must extend all the way to the property line same as a Street End would. Sign indicating future trail connection is warranted. v. Where the trail corridor is proposed to double as a fire truck access route, the width of the fire lane would need to comply with OMC 16.32.050.C. which generally cannot be less than 20' in width. Reduction to 16' along portions of the trail is possible provided compliance with OMC 16.05.060.A.3 can be demonstrated to be achievable. This code section requires that 50% of all living units that have windows are accessible by a ladder from approved set points. Plans provided show such set points on the trail which could work, however additional modification to plans is warranted as follows: 1. The entire width of the fire lane must be paved. Currently plans show only 12' of pavement in areas. (IFC 503.2.3 Surface) 2. Set-up points must be shown at 70' min in length. Fire apparatus access roads shall have and unobstructed width of not less than 20' exclusive of shoulders. (IFC 503.2.1) 3. Setup points are needed to be shown on plans for standpipe access locations. This appears to require fire truck access between all buildings on proposed parking structure. Identify location for truck to park in these locations to achieve 150' hose distance. 4. All setup locations need to be shown to be able to provide structural capacity for the weight requirements of fire truck. Concern is two fold: a. Trail is to be placed on loose undocumented fill. It is unclear if the 2-3' of structural fill will be placed over the fill and if said fill is on its own structurally sound to support the fire truck, please clarify. b. The structural load capacity of the PT deck needs to be shown adequate for fire trucks etc. In particular the area where trucks will drive, park and turn around.	4)i: The 22' wide Expanded "waterfront" trail corridor is maintained as required along waterfront side of the property on East per OMC 18.06.100.A.2.C.iv.b. See Sheets A11 & A21. Disagreement on where the "trail" is required. Is it only along the waterfront or does it wrap around the buildings? 4)ii&iii: Publicly accessible connection of trail to West Bay Drive per OMC 18.06.100.A.2.c.iv.b.(4) at North ramp and extension of 13A West Bay Trail Corridor to West Bay Drive per Thurston Regional Trails Plan at the South ramp maintain EDDS minimum 12' width with 2' grass shoulder along pedestrian ramps adjacent to building and are dedicated for public use. See Sheet A11 and A21. Vehicular ramp is located after pedestrian ramp on North and South to provide greater turning radii into lower-level parking and height clearances for large vehicles. Dedicated for public use? Or dedicated as public land? 4.iv: See updated future trail path extending to north & south property line on Sheets A11 & A21 with note about future connection to West Bay Trail with reduced width per Thurston Regional Trails Plan which requires (only) 10' width for 13A West Bay Trail Corridor per Table 2.3 Features (Page 49 & 166). See Shoreline Landscape sheets. Yup. Good. 4)iv.1: Future trail extends to property line & signage provided. See Sheet A11, A19 and A21. Yup. Good. 4)v.1: 20' paved width is provided. See Sheet A13 and Trail section on A29. Yup. Good. 4v.2: Set up points & size are shown on Sheet A13. Yup. Good. 4v.3: Set up points along West Bay Drive and trail path meet requirements of ladder reach to more than 50% of units per OMC 16.05.060.A.3. Approved fire protection systems in lieu of fire truck access on Plaza to be provided per OMC 16.32.050.C. for portions

			of building outside of 150' radius, which is less than 15% as shown in graphics. See Sheet A13. 4v.4.a&b: Trail and associated fill to meet structural weight requirements for fire truck. No Fire truck access required for PT deck as stated above. See Sheet A13. Yup. Good. But what about depth/soil volume for tree wells on PT Deck?
Location of Ordinary High Water Mark / Phasing	Revision / Additional info	Previous revision request was to demonstrate compliance with RCW 90.58.030 related to the determination of the OHWM and how it is reflected on plans. Plans have been revised to show existing and anticipated OHWM. Please confirm that the project scope / phasing of development will respect the existing OHWM until Ecology confirms the new OHWM location. This relates to the issues identified above related to phasing. Per the applicant's response related from round one related legal issues it appears the applicant and City agree that the relocated OHWM must be in place, identifiable, and approved prior to construction permit approval for or any work within 30' of the existing OHWM. This seems potentially problematic for timeline/phasing of the project. Previous request was for a detailed phasing plan to show the anticipated approach so that compliance with the existing OHWM/VCA can be maintained. Clarification regarding the timeline remains. Staff would like confirmation, that the restoration work will be completed, then the new OHWM would be identified, and then construction permits for work near the shoreline would be requested. At the applicants request, the list of considerations warranted includes items such as: a) 2'-3' of upland fill is proposed across the site, some of which will occur within the existing VCA. Is up to 3' of fill proposed within 30' of existing OHWM? Is this fill considered restoration work, or is it a component of the upland construction project? What is the timing of this fill? Is this work anticipated within the existing VCA before the OHWM has been relocated or after? If during, please outline the code path for approval. b) Identify the anticipated timing of utility work shown within 30' of the existing OHWM. Proposed waterline is shown within 30' of existing OHWM. This is problematic because without the OHWM relocating, the proposal would be to install work within the existing VCA/buffer and there does not appear to be a clear code path for approval. Relocation of OHWM would seem to need to occur first. c) Retaining walls, paved pathways, stairways etc. should not be constructed until after the new OHWM is established. Plans should clarify this intent or explain what is proposed and how it meets provisions for work within the VCA. d) The parking area on the northern side of the property is within the existing VCA as it is proposed within 30' of the existing OHWM. Parking is not permitted within the VCA. This work cannot be constructed until/unless OHWM is relocated. e) Northern pedestrian pathway and the vehicular drive aisle appear to be within the existing VCA as measured from existing OHWM. This work is not permitted within the VCA and therefore relies on relocation of OHWM prior to construction. f) The pedestrian path in general is located on top of or within 30' of existing OHWM. While Pedestrian paths can occur in the VCA, analysis provided does not address the existing OHWM nor this impact into the existing OHWM, rather all analysis assumes the OHWM is relocated. If work is to occur before new OHWM is established, analysis should focus on existing OHWM and requirements as they apply to it. g) Please include an anticipated timeline related to how long the restoration work will reasonable be expected to take. This would help inform the anticipated time delay between restoration work completion and construction permit application within phase I. (note, work taking place more than 30' from existing OHWM could be permitted at simultaneously with restoration work unless said work relies on the new OHWM location for code compliance. PT deck, retaining walls, and other major works appear to rely on relocation therefore further clarification is needed as to timing of these elements of the project). i) Previous comments from various agencies asked for an expected timeline for new OHWM establishment, but was not provided. Please clarify how long the restoration work is anticipated to take and then how long after work is completed would an ordinary high water line be likely to be established. Such an estimate would be helpful in establishing a reasonable timeframe for construction sequencing following establishment of the new OHWM by the Department of Ecology.	The project has been revised to use the existing OHWM for design/land use approval, as opposed to the anticipated OHWM following restoration. With that revision, items (a)-(h) in this review comment are no longer relevant and no response is provided. Yup. Good.

		ii) Similarly, an expectation on anticipated drift of OHWM seems warranted. How likely is it that the new OHWM will shift slightly from the anticipated location? Plans provided show no room for error in ultimate location. The City recommends the applicant build into plans a margin of error of at least a few feet should the new OHWM fall inches of feet outside the conceptual plans expectations. (1) If much of the upland construction work is anticipated to occur (PT Deck, fill, utilities, retaining walls etc.) is similarly timed, what is the contingency plan should the new OHWM be an inch/foot closer to the buildings than planned? h) Address how is OHWM on eastern property line is being estimated. Plans say the groin drift sill has been removed but it is unclear what replaces it and how that replacement structure will/will not affect the OHWM relocation. Will work be postponed until permitting for the groin/stabilization structure is completed? Where in the permitting/phasing timeline does this work fit? i) Address other agency permitting and how their application processes have been/will be addressed in the overall phasing plan. For example: It is assumed that a USACE permit is required for restoration work, but it is unclear how / when it fits into the City permitting process. USACE permits can take considerable time and will need to be issued before construction of the restoration work begins. Questions related to this permits timing include: i) Is upland fill (more than 30' from existing OHWM) anticipated to begin before or after issuance USACE permits? ii) Similarly, what is the anticipated timeline for other permits related to timing of upland work? Such as: DAHP, Ecology /MTCA, HPA etc. j) Identify when the street vacation / relocation process is anticipated in association with the various permit processes.	(i) The Applicant completed a pre-application process with the Corps regarding the proposed restoration project and based upon agency feedback anticipates applying for an individual Corps permit following this City land use resubmittal. Upland fill outside of the VCA area may occur prior to issuance of USACE permits if otherwise authorized by City approvals. Will need DAHP approval first. Regarding MTCA, the Applicant is in the process of negotiating an Agreed Order with Ecology. With required public process, that Agreed Order is expected to be final by the end of Q1 2025. The terms of the Agreed Order allow the Applicant to propose completion of a sediment Interim Action which would be associated with the proposed shoreline restoration project. Any Interim Action will be subject to Ecology approval. The Agreed Order requires the Applicant to complete a Supplemental Remedial Investigation/Feasibility Study and draft Cleanup Action Plan for the uplands and sediments. All remediation will be completed pursuant to the approved Cleanup Action Plan. Regarding DAHP, the Applicant's consulting expert has determined that a DAHP excavation permit will be required for the upland portions of the proposed project. That application will be submitted following land use approval. Corps permitting will also require Tribal consultation, which will occur as part of that permit process. The Applicant anticipates seeking vacation of the upland portion of unopened Farwell Avenue (17,052 SF) with public access to be replaced with the dedicated shoreline access trail (21,470 SF) as part of a future amendment to the Development Agreement for the project. See SCJ Alliance, Vacated

			Road & Waterfront Trail Dedication Exhibit, October 2024.
5) Shoreline Mitigation Sequencing	Revision / Additional info	Mitigation sequencing analysis should focus on each project component and its why it is triggering the evaluation under mitigation sequencing. The project includes a variety of uses all of which must be addressed: 1) Residential Development: OMC 18.20.690 requires residential developments with lacking VCA vegetation to restore the vegetation in the VCA. Such restoration has been identified, but is shown on land currently underwater. Without the approval of the relocation of the OHWM, the code would require restoration of the nearest 30' to the existing OHWM. Restoration of the VCA would be required regardless of the OHWM location. How this VCA is restored is more relevant, and is what triggers mitigation sequencing criteria to be evaluated. OMC 18.20.690.C limits the amount of waterfront deck/patio and pathway permitted and requires such intrusions be the minimum necessary to achieve the requirement. In this case, that is the 30' of undisturbed native vegetation. Plans provided show numerous intrusions in the VCA, some of which exceed the allowed amounts. Analysis is needed to establish why the project cannot pull the pathway, decks, patios etc. further out of the VCA to ensure the full 30' of natural area is provided. Reduced project scope, reduced project size, and reduced amenities such as parking, pools, total size of pathways, number of decks etc. should be included as considerations evaluated. i) Note, if intrusions into the VCA are intended to be installed before new OHWM location is established, existing OHWM location should be used for analysis. 2) Trail Location (18.20.700): Trails are to be located as landward as feasible. E of this section specifically speaks to trails and shared use pathways and indicates analysis on how they are designed to meet mitigation sequencing is required. The proposed location of the trail is within the VCA in several locations. Mitigation sequencing should discuss what alternatives were evaluated and why they are unworkable. Options such as reducing the scope/scale of the upland development should be included. Expanded trail width is encouraged, but not at the expense of the VCA width. i) Note: If trail location is intended to be installed before new OHWM is established, the proposed location of the trail as it relates to the existing OHWM would need to be provided. 3) Utilities (18.20.710) are required to be landward as far as possible, but no closer than 30' from the OHWM. The proposed location of some utilities such as the looped waterline is more than 30' from the newly proposed OHWM, but not from the existing. If this work is intended to be installed before the OHWM is relocated, analysis of why it cannot be placed further from the OHWM would be warranted. Relocation outside the existing OHWM would be warranted. 4) Shoreline Modifications/Soft Armoring (18.20.800): The groin has been removed, but it is unclear what soft armoring is proposed to replace it. Once the alternative is established, demonstration of how that proposal meets the mitigation sequencing criteria is needed. Mitigation sequencing related to the intended result of the stabilization would be the important element to focus on. Impacts to the upland residential development would be irrelevant as the upland development is not causing the need for the armoring, the shoreline restoration is. The cause of the stabilization needs to be addressed / evaluated for mitigation sequencing. Is the stabilization proposed the minimum necessary to achieve the restoration goals of the SMP? 5) Fill (OMC 18.20.837: fill waterward of the OHWM is only permitted when associated with a handful of project types including ecological restoration and cleanup of contaminated sites. The fill must be minimum necessary for the stated purpose of the project. In this case, the purpose appears to primarily be for restoration, but contamination clean-up is associated element. Plans /reports need to more clearly articulate the specific allowed use for which fill is being proposed and then focus discussion of minimum necessary/mitigation sequencing around it. The mitigation sequencing analysis needs to demonstrate that the restoration project itself is the alternative with the least fill to achieve the restoration goals. Plans submitted indicate alternatives with less fill are potentially viable, but not preferred. Clarification is warranted. The No Net Loss and Mitigation Sequencing Analysis by Grette appears to indicate that: i) Unknown amounts of contamination under the existing rip-rap would prohibit cut into rip-rap. • This would seem to indicate further study of the area is warranted to determine if contamination is extensive at the crest of the rip-rap and to what extent removal / disposal is possible. ii) 2021 Geotechnical Assessment indicates removal of rip-rap could destabilize the legacy fill. • While the assessment concludes that removal of the rip-rap and no beach replacement could be unsafe the document does not seem to provide any information about what safety factor would occur with some removal of legacy rip-rap and the beach fill/restoration. Such information is necessary to rule out the potential for this alternative being the minimum amount of fill necessary to achieve restoration goals. iii) Sediment cap is the preferred clean up alternative that is likely to be proposed to the Department of Ecology for review and approval.	5)1):N/A, see revised layout using Existing Ordinary High Water Mark (OHWM) and complete Vegetation Conservation Area (VCA). 5)1)i): VCA intrusions cited have been removed except for shoreline access pathways for "pedestrian access from upland areas to shoreline" allowable without variance by OMC 18.20.493. Yup, except gravel shoulder of trail and possible trail modifications on the north. Since public access is required per 18.20.450.A.2, the shoreline access pathways pass through the VCA to access the shoreline. Total VCA encroachment by authorized use is 540SF. Equivalent area provided as expanded VCA for 'VCA averaging' per 18.20.495.B&C ensuring no net loss of shoreline function. See Sheet A28. yup 5)2): Waterfront Trail has been revised to be outside of the VCA. See Sheet A28. yup 5)3): Utilities are provided outside of VCA. See Civil drawings. yup 5)4): The groin/drift sill has been removed. The intended function of the drift sill was to minimize maintenance by containing shoreline sediments that could be mobilized/transported southward along project shoreline during an extreme storm from north. The owner has agreed to implement a monitoring/maintenance program now that the rock sill has been removed. The stabilization proposed is the minimum necessary to achieve the restoration goals of the SMP, for details please see West Bay Yards, Shoreline Restoration Design Report (rev. November 2024) and letters addressing City's questions specifically on this topic appended to that report. good. 5)5): See West Bay Yards, Shoreline Restoration Design Report (rev. November 2024) and Sage Geotechnical Response to Comments dated November 22, 2024. Yup – mostly good…but Nope – need a better response. It's the preferred altearnative by the applicant and Ecology would likely accept it, but

		• Further analysis is needed to determine if this preferred alternative also represents the minimum amount of fill necessary. Similarly, if fill is intended to be used to cap the contamination in-water, how is the quantity of fill known? Please clarify how minimum fill necessary has been factored into the discussion of preferred alternatives for clean-up. iv) Any cut into the existing fill/riprap would unacceptably threaten the integrity of the remedial action previously installed/approved: • Further information is needed. Plans show several cuts into the riprap to achieve the proposed project design. It is unclear what the difference is. Plans appear to indicate significant modification to the existing/proposed cap including addition of 2-3' of fill to the entire site. It is unclear how cutting the top off the riprap on the shoreline is an unacceptable risk to the remedial action when such a significant amount of fill / site change is proposed. Please clarify. 6) Shoreline Restoration (OMC 18.20.855) Restoration projects shall be the minimum necessary to achieve the intended restorative intent. Minimum necessary for the restoration intent should be the emphasis. Does the proposal shown include the least amount of fill possible to achieve meaningful restoration? In order to recommend approval, the applicant needs to demonstrate that the proposed alternative is the least fill possible. As currently proposed there are gaps in the data and alternatives that show lesser fill that would appear nearly equal in terms of restorative effect. 7) Cutting into the existing fill has been dismissed by the applicant primarily because of safety concerns outlined in the geotechnical report from 2021 that concludes the safest approach is to retain the existing rip-rap wall and to add fill waterward. While safety is a factor, the mitigation sequencing analysis should analysis all alternatives evaluated and address their safety factors. The geotechnical assessments provided seem to focus on preferred alternatives from a safety and financial perspective but do not seem to address the project from a code compliance perspective. The geotechnical engineer would need to conclude that no less fill / waterward movement would be achievable at a reasonable safety factor. It has not been demonstrated that any amount of cut into the existing undocumented fill is unworkable.	there are others that are unreasonably expensive that would not include as much fill. 5)6): See West Bay Yards, Shoreline Restoration Design Report (rev. November 2024). Just let it go. 5)7): See West Bay Yards, Shoreline Restoration Design Report (rev. November 2024) and Sage Geotechnical Response to Comments dated November 22, 2024. Fine.
8) Shoreline – Modification OMC 18.20.833	Revision / Additional info	1) Drift sill has been removed, but not replaced on plans. Please identify the proposed alternative. Clarification is warranted because it is unclear if the new structure will continue to meet the definition of hard armoring/shoreline stabilization. Plans need to show how this will be bioengineering or natural to avoid a SCUP. Additionally, it needs to be adequately demonstrated that the fill will not unduly spill onto adjacent properties or impact areas beyond the project site. Without conceptual plans, this cannot be determined. 2) Clarify if repair/replacement of any portion of the existing Rip-Rap Sea wall is proposed. If proposed OMC 18.20.855.h requires shoreline restoration projects to us bioengineering rather than bulkheads or other stabilization methods unless it can be demonstrated no other feasible option is available. Rather than replacement/repair of the rip-rap revetment, bioengineering should be evaluated if repair is anticipated.	1) Yes, the drift sill has been removed from the plans and it has not been replaced with another structure. To prevent significant loss of material transported to adjacent properties, bioengineering strategies such as use of large woody debris as implemented at Samish Indian Nation and described in WDFW's Design of Marine Shoreline Guidelines (see photo below) may be developed at later phases of design, if needed. At the current phase, use of medium to coarse pebbles intended to remain hidden under the beach surface has been implemented/shown on the drawings.  c) North Beach, Orcas Island; western drift sill at end of 510-ft-long project, eastern sill at opposite end (Appendix A). d) Weaverling Spit, Samish Indian Reservation; 1 of 4 large log drift sills within a 500-ft-long project in a highly degraded net shore-drift cell. **Figure 7.1-9.** Examples of drift sill installation at beach nourishment sites. Samish Island is summarized in Zelo et al. (2000) and Gerstel and Brown (2006). North Orcas is in Appendix A. 2) Repair/replacement of the riprap is not anticipated/not being proposed given the existing riprap will be buried under the proposed fill.
Shoreline – Misc.	Revision / Additional Info	Public Access (OMC 18.20.450): a. Address maintenance plans for VCA once ROW dedication occurs and site is bifurcated. b. Suggest revising language around the 100' "setback" from OHWM as this is not accurate. The setback is 30'. The line is relevant for when a SCUP is required. Plans will continue to need to show that the mix of uses is outside the 100' line. In terms of phasing and the anticipated location of the new OHWM, consider building in some level of flexibility should the new OHWM end up inches/feet from the anticipated location. The city assumes (but clarification would be appreciated) that building permit applications will not be submitted until after ecology has identified the new location of OHWM.	a. The cited provision (OMC 18.30.450) only addresses public access, not the VCA. It is unclear why bifurcation of the site by the trail is assumed to impact maintenance of the VCA. OMC 18.20.495(G) requires vegetation to be maintained over the life of the development. It

			is expected ongoing maintenance of the VCA will be a condition of project approval. b. Plans have been revised and all buildings are outside of 30' VCA setback from Existing OHWM. See Sheet A30. However, the restaurant area (mixed-use) in Building 2 falls within 100 feet from existing OHWM and requires a Shoreline Conditional Use Permit, which has been included with the JARPA.
9) Vegetation Conservation Areas 10) OMC 18.20.492-18.20.496	Revision / Additional info	VCA pathway: OMC 18.20.495 allows up to 25% of the VCA to be used as pathway, however encroachments require an equivalent area elsewhere onsite to be set aside as VCA. The code does not assume approval of projections into the VCA, it also asks for mitigation sequencing to be addressed (see above). Relocation of the pathway out of the VCA is encouraged. Sheet A28 indicates the vegetation on the upland side of the pedestrian pathway is to be included in the VCA to balance the reduction being requested. If so please address the following: a. The line indicating a 30' VCA should be relocated to show the expanded VCA on various plan sheets. b. Further analysis on why the trail cannot be pulled back (upland) is needed. i. New VCA areas appear to be terraced and disconnected from the VCA. Can the site design be modified to allow the full VCA to be at one level? If not, address why. If terracing in VCA is proposed, it will need to be further addressed. c. Grass shoulder of ROW/trail cannot be used as VCA, grass is prohibited in VCA. Revise accordingly. d. There is overlap between requirements of pathways in VCA and deck/patio structures within a VCA. Analysis should demonstrate why the proposed approach (all encroachments) is the min. necessary (see above/mitigation sequencing). e. Provide analysis demonstrating equal function will occur with VCA as proposed as would be provided if VCA were to be intact and planted as typically required.	All project amenities have been removed from the VCA except for shoreline access pathways for "pedestrian access from upland areas to shoreline" allowable without variance by OMC 18.20.493.A.2. Clear 30'width for VCA provided along existing OHWM. Expanded VCA near South property line for VCA averaging shown on Sheet A28. Terraced landscaping at edge of Plaza or other disconnected upland landscape is not part of VCA. With those revisions, responses to these comments are not required. Shoulder of trail remains in vca.
11) Shoreline – Accessory Structures OMC 18.20.620.c	Revision / Additional info	Please confirm compliance with the residential VCA requirements. Plans (A21) states compliance, but does not provide necessary details and inaccurately cites code sections as to how compliance was confirmed as follows: a. OMC 18.20.493 identifies 11 uses / activities allowed in a VCA without a variance and includes (item 2) public access view points, pedestrian access to shoreline, viewing platforms and similar) and (item 3) public trails identified in adopted plans. Item 10 outlines that picnic, shelters and pads cannot exceed 400sf and must be associated with a water related recreation area. All other features are not permitted. Viewing platforms etc. will need to be revised/removed to comply. Additionally, the sizes shown are too large. Revise accordingly. b. For permitted structures, all that are within 25' of the OHWM must be compensated for at a 3/1 ratio. Each, 1sf of waterfront deck, must be compensated by 3sf of additional VCA area in addition to the total amount of VCA required. VCA locations need to be demonstrated to relate/connect to the rest of the VCA and shoreline environment. Please show compliance with calculations and demonstrate rationale for location. This is of particular importance where VCA appears to trespass up the terracing of the building and does not intrinsically tie into the VCA. Suggest pulling terraced walls back rather than proposing a disjointed VCA. c. OMC 18.20.495 indicates VCA averaging can be used to allow up to 50% reduced widths in some areas but this requires the VCA to be increased in width equally in others (VCA Aveargring). Approval is subject to site limitations, No Net Loss etc. Approval is not guaranteed. This site appears to be shifting the VCA waterward significantly, but such shift is said to be for restoration purposes only and is not for the purpose of creating upland development. If true, there would seem to be ample space to accommodate the full width of the VCA without need for use of averaging. Limited reductions are possible. Clarify where plans show equal amounts of VCA widths and how those will provide equal or better VCA functionality as would be provided by keeping the pathway out of the VCA. Provide the following clarifications: ii. Show calculations that demonstrate no more than 25% of the VCA is planned to be impervious and that an equivalent area elsewhere set aside as VCA. iii. Address how Not Net Loss is achieved through this VCA adjustment. As opposed to fully restoring VCA as would be required given lack of existing vegetation. iv. Identify the anticipated location of the VCA Tract. All VCA areas must be set aside in a separate tract. VCA areas along the terraced landscaping upland of the trail do not appear to be included in the VCA on all plans. These areas seem disconnected from the VCA consider relocating. If retained, show areas in separate tract.	All project amenities have been removed from the VCA except for shoreline access pathways for "pedestrian access from upland areas to shoreline" allowable without variance by OMC 18.20.493. 11)c.ii) Total VCA area is 36,500 SF approx. Area of encroachment by authorized use of public access pathway is 540SF, not more than 25%. yup iii.) Equivalent area is provided as expanded VCA for 'VCA averaging' per 18.20.495.B&C and within immediate vicinity per 18.20.410.H ensuring no net loss of shoreline function. See Sheet A28. yup iv.) Location of VCA identified on Sheet A28. Terraced landscaping at edge of Plaza or other disconnected upland landscape is not part of VCA. yup v) Percentages of VCA coverage for each parcel shown on Sheet A21. yup vi) expanded VCA area shown on Sheet A28. yup

		v. Provide percentages of VCA coverage for each parcel. vi. Identify location of compensating VCA areas. d. Plans provided appear to have confused VCA and Setback areas. In this situation they are one in the same and both regulations apply. The general section on VCAs OMC 18.20.493 states that no pic-nick shelter/pad can be more than 400sf in total size (regardless of parcel line location) which will require reduced size to all viewing platforms/picknick areas. The viewing platform is not an identified permitted use, but could be modified to function as a picknick area which is permitted if reduced in size etc. e. Pervious materials should be used rather than pavement. Establish where pavement is required and revise plans to pervious materials elsewhere or demonstrate how permeability is not relevant in this setting.	d. All uses except public access paths have been removed from VCA yup e. Public access pathways cannot be fully pervious if required to be accessible per 18.20.460.A.8. yup
Geotechnical Assessment	Revision / Additional info	Previous revision request was for an addendum to the Geologic Hazard Assessment Memo (2021) supplemented the Preliminary Geotechnical Recommendation Memo (2020). This submittal included a Restoration Design Report by Moffat Nichol that further elaborated on various issues including geotechnical concerns. The report indicates it was done in partnership with Grette Associates, j.a. brennan, and Sage consulting firms but not Landau. It is unclear which consulting team wrote the section on geotechnical engineering (section 4.5). The questions asked in the last review were not specifically answered and remain applicable. They include: 1. How far does the GI is intended to extend towards the shoreline area and existing riprap. Is the GI intended to support the pathway and other features within the VCA? Are deep foundations and GI intended to be used for beach access paths? 2. The 2021 memo addresses three alternatives related to safety factors. 1) existing conditions with riprap, 2) existing conditions without riprap and 3) proposed conditions riprap and beach creation. A 4th alternative needs to be addressed, removal of riprap and beach creation and a 5th which would be partial removal plus beach. Analysis needs to address the safety factors of beach installation without riprap. If beach creation without riprap is unsafe further assessment on alternatives should be provided. This is particularly relevant because such an alternative is listed in the Restoration Design Report (and was suggested by the Department of Ecology) and was not selected in part because of the findings of the geotechnical report. Such findings regarding the safety factor cannot be located and need to be provided. 3. Clarification is needed to better understand what is meant by riprap in the context of these reports. Is it the rocks lying on the beach, typically intended to alleviate erosion by wave action? Or is this a term mean to indicate something different and more significant? It is unclear how the rocks that appear to have been dumped on the beach can be providing such significant structural integrity to the site. 4. How are the riprap rocks on the beach tied into the greater GI/deep foundations planned? Why are they so instrumental in the site stability? 5. The geotechnical report (or addendum) needs to address minimum necessary/ mitigation sequencing as it relates to the shoreline restoration project proposed. The code is asking for an assessment of restoration alternatives that would reduce the amount of fill being proposed. Such an alternative is discussed in various documents (Including the Restoration Assessment) but is dismissed because of cost and safety issues. Such issues need to be further elaborated upon. It has not been demonstrated that any amount of cut into the existing undocumented fill is unworkable nor that doing so would be unsafe. 6. Further assessment of currently proposed removal and modification to the riprap is needed. If removal of riprap is unsafe, additional information on how the kayak launch, access ramps, ~~decks~~, debris removal, stormwater outfalls etc. are viable. It is unclear why this work is safe but minor removal of top portion of rocks is unsafe. Please clarify.	See Sage Geotechnical Response to Comments dated November 22, 2024. Fine. They never provide a response to safety factor question, but rely on during construction safety. Responses in other documents over-sell the issue.
12) Vehicular Parking	Revision / Additional info	Consider reduced parking to make room for other site features. Parking is calculated with an option to increase or decrease by up to 10% automatically and to reduce by up to 40% administratively. Significant reductions in parking are available should additional space be wanted. Parking reductions should be exhausted before site amenities are placed in the VCA.	With the revised design, no site amenities have been placed in the VCA.
13) Agency Comment	Revision	Please respond to agency comments. Their comment letters are provided, and are summarized as follows: Squaxin Tribe: • Cultural Resources. Excel spreadsheet with suggested modifications to cultural resource report. City requests a response to comments. This may not be a revised report, rather a response / strategy to address issues is acceptable. Emphasis on items listed as moderate or high importance. Revisions to the report are likely required when the report is submitted to DAHP for their permitting. • Environmental: none • Leadership: none	Tribe: See responses to comments in spreadsheet from Aqua Terra and Amendment 1 to Cultural Resources Assessment. ECY Shorelines: the Applicant believes these comments are no longer relevant with revisions to restoration project. Comments regarding stabilization are addressed above.

		Ecology Shorelines: • Email submitted with several comments. Please provide a detailed response to each comment when resubmitting. Ecology Toxics: • General information provided. Project is no longer in the voluntary program and is now beginning permitting through MTCA process. WDFW: • Email request to provide further information about what structure/bioengineering strategy will replace the groin/drift sill. DAHP: • A permit will be required before site disturbing activities. If USACE takes jurisdiction for upland site disturbances the review process could be conducted through the USACE process rather than an independent DAHP permit. Land Use Condition of approval suggested to clarify / ensure applicant knows next steps. USACE: • Project does not have an active permit on file, previous permit expired due to lack of applicant action. New application would be required.	ECY Toxics: see prior response; the Applicant anticipates entering into an Agreed Order with Ecology addressing upland and sediment cleanup. WDFW: bioengineering strategies, such as use of large woody debris as implemented at Samish Indian Nation and described in WDFW's Design of Marine Shoreline Guidelines (see photo below) may be developed at later phases of design, if needed. At the current phase, use of medium to coarse pebbles intended to remain hidden under the beach surface has been implemented/shown on the drawings.  c) North Beach, Orcas Island; western drift sill at end of 510-ft-long project, eastern sill at opposite end (Appendix A). d) Weaverling Spit, Samish Indian Reservation; 1 of 4 large log drift sills within a 500-ft-long project in a highly degraded net shore-drift cell. **Figure 7.1-9.** Examples of drift sill installation at beach nourishment sites. Samish Island is summarized in Zelo et al. (2000) and Gerstel and Brown (2006). North Orcas is in Appendix A. DAHP: Comment noted. The Applicant understands it is unlikely that USACE will assume jurisdiction over the upland areas. USACE: please see prior response, the Applicant anticipates submitting an individual Corps permit application following this land use resubmittal.
14) Engineering – Solid Waste	Revision	Applicant's drawings to not match for solid waste. The Design Review Set shows only two compactors on pages 5 and 10. The Site Plan review and Solid Waste Exhibit sets show three compactors. All plan sets must show the same concept and design for solid waste a. The solid waste exhibit set shows a rear load truck, not drop box truck. A drop box truck is used to service compactors. The characteristics are found in Table 3 in Chapter 8 of the EDDS. The turning movements need corrected. b. The compactors do not have enough space and the exact dimensions for the units and clearances need to be shown on the site plan. Also clearly show where the container tipper units are position on the compactors. Do they tip at the front or side? c. The drop box truck requires a straight approach to load. Not angled as shown in the solid waste exhibit. d. Any location where a truck drivers under a roof or overhead obstruction requires a minimum 14' clearance for passage with no speed bumps. Loading height is 25'. e. Applicant will need to plan space for the compactor power units and show them on the plans.	Design review set, Site Plan review set and Solid waste Exhibit have been updated to show three compactors. a. Refuse truck exhibit shows auto-turn diagrams for dropbox truck. b. The solid waste exhibit has been updated to reflect the requested changes. The exact compactor model has not been finalized therefore the dimensions are rough for preliminary design to show required operation clearance around equipment per manufacturer standards. See Sheet A20. Refuse truck exhibit shows container tipper that tip at the front. c. All dropbox approaches have been revised to be straight. d. More than 25' height clearance is provided for solid waste compactor location. See Sheet A20. e. Location and clearance for power units shown on plans per manufacturer recommendations. Nope. Without a known compactor type – cant say for sure this minimum approach will work.
15) TIA	Revision/request	Although TIA is acceptable for land use – additional comments were made and discussed with applicant previously – these comments shall be incorporated in the engineering permit set. Incorporating them now for a cleaner application/review would be appreciated but not required.	Comment noted; revisions shall be incorporated in the engineering permit set.

16) Recreational Amenity Assessment.	Revision	1. If trail is proposed on southern property line to be partially on adjacent reliable steel site when it develops in the future – confirm proposed project scope will not create grade issues making trail creation non-viable. Plans indicate 3' of fill across the site. It is unclear what occurs at the project edges. If a retaining wall is proposed for example, it will be difficult to construct the other half of the trail. 2. Shoreline Restoration Design indicates fill under the pathway is unknown/undocumented. Without further geotechnical assessment, how is it known that the land under the trail (to be dedicated) is stable? Or, is 3' of fill proposed under the trail?	1. Owner is coordinating with adjacent property owner to set up a shared access easement to be constructed on both parcels that will equally share the width of both the vehicular as well as pedestrian access. 2. Geotech coordination of fill under trail will be address load requirements including emergency response vehicles. Did not find it.
17) Historic Preservation	Additional Information	Reply/ respond to tribal comments identified above.	See attached Aqua Terra response and Amendment No. 1 to Cultural Resources Assessment.