COMMUNITY DEVELOPMENT
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CITY OF MARYSVILLE
PLANNING DEPARTMENT
STAFF REPORT & DECISION

File No:	PA 10013
Reference Tax Account No.:	Multiple
Date of Report:	July 15, 2011
Nature of Request:	Approval of a Shoreline Substantial Development Permit to prepare staging areas; excavate connection to Allen & Jones Creek(s); creation of internal berms for protection from wave energy; stockpiling of material; cathodic protection of sewer trunk line; construct water quality treatment wetland; excavation of outlet channel; raise portion of city trail; private drainage system adjustments; and Phase 1 Christofferson grading project
Applicant(s):	Tulalip Tribes of Washington Kurt Nelson 7515 Totem Beach Road Tulalip, WA 98271 Sound Transit Barry Alavi Union Station 401 S Jackson St Seattle, WA 98104
Location:	North of Ebey Slough, south and west of Sunnyside Blvd, east of the WWTP
Current Zoning:	Open Space
Comprehensive Plan Land Use Designation:	Open Space
Shoreline Management Master Program Designation:	Urban Conservancy/High Intensity
DECISION:	APPROVE with conditions

I. EVALUATION

A. Project Description

The project goal is to restore tidal processes to 341.5 acres on a 360 acre site. This will be accomplished by breaching the existing dike at Ebey slough to reestablish tidal inundation and reconnect the site to Ebey Slough. The project is being constructed in phases. Earlier site preparation activities were approved and performed in prior years and included additional site preparation, excavation of drainage channels and stockpiling activities. The current request is to receive a Shoreline Substantial Development Permit to allow Phase 1 construction as follows:

1) Prepare staging areas on 47th Avenue NE;
2) Excavate connection to Allen and Jones Creek;
3) Contour work within shoreline area to create berms for protection against wave energy;
4) Cathodic protection of sewer lines within the restoration area;
5) Temporary stockpiling of materials along 47th Avenue NE;
6) Construction of a water quality treatment wetland to treat existing runoff from the Brashler Industrial Park during a 25-year storm event;
7) Excavation of outlet channel;
8) Raise a portion of the Harborview trail;
9) Make adjustments to portions of the Harbor View Village and Westview at Sunnyside drainage systems; and
10) Phase 1 of Christofferson grading project.

(Future Phase 2 work is subject to a Conditional Shoreline Substantial Development permit due to shoreline modification of dikes and levees and fill within the floodway areas).

The Phase 1 project as proposed will excavate approximately 1,340 lineal feet along Allen Creek; 550 lineal feet for the new Allen-Jones connector channel; and between 700-1,000 lineal feet of the new outlet channel. The total cumulative stream work consists of approximately 21,500 cubic yards of cut. The project also proposes to excavate material for the proposed detention pond (2,200 cubic yards); total excavation of material within the designated floodway will be approximately 23,700 cubic yards. The applicant is also proposing to do some contour work within the floodway to create berms for protection against wave energy, as well as construct Phase 1 of the Christofferson grading project. The proposed grading quantities are approximately (19,500 cy for berms & 4,200 cy for Christofferson grading) = 23,700 cubic yards allowing for a balanced cut/fill project. The applicant is also proposing to temporarily stockpile approximately 30,000 cubic yards of material along 47th Ave NE right-of-way. Additionally, an approximately 120 lineal foot section of existing trail along the eastern boundary of the site is proposed to be raised to prevent tidal inundation post dike breach. The applicant is also proposing to make drainage adjustments to the drainage systems within the Harbor View Village and Westview at Sunnyside developments. The proposed improvements will consist of removing level spreaders that have been installed within the tide range, and installing a headwall with outfall. Installation of cathodic protection of the City's sewer trunk line to prevent salt water corrosion is also being proposed.

B. Site Description

The property is undeveloped agricultural land which has remained fallow for a number of years and has reverted back to a Category III, freshwater wetland. The topography is predominately flat and is surrounded by levees and short steep slopes. According to the *Soil Survey of Snohomish County,* soils are predominately classified as Puget silty clay loam, with some inclusions of Snohomish silt loam and Mukilteo muck. All three soil types are considered hydric. These soil types are characterized by low permeability with a high available water capacity, and are primarily found in depressional areas on floodplains. The eastern edge of the site has several distinct soil types including Mukilteo muck and Snohomish, Pastik, and Tokul silt loam.

C. Consistency with Shoreline Master Program:

The subject property is located within the 100-year FEMA designated floodplain and the majority of the site (east of Allen Creek) is located in the FEMA designated floodway. The applicable shoreline designation for the majority of the property is Urban Conservancy, with a small portion within the High Intensity designation along 47th Ave NE.

The goals of this restoration effort are to restore more natural drainage features to the site in preparation for tidal inundation. The project is Phase 1 of the QWULOOLT Estuarine Restoration Plan which is identified as the number 1 priority in Chapter 9 of the SMP Restoration Plan. This work will continue to set the stage for the introduction of tidal influence onto the site from the larger QWULOOLT dike breach project.

Shoreline: Development goals and policies contained in the City of Marysville Shoreline Master Program which are directly applicable to this proposal are as follows:

Chapter 2, Section B(1) Shoreline Use Element

Goal 6(e), Increase public access to publicly owned areas of the shorelines.

> ***Comment:*** *The applicant is proposing to raise a section of existing trail along the eastern boundary of the site as part of Phase 1 construction. Future recreation/trail access easements will be addressed further in the Phase 2 conditional shoreline permit review.*

Chapter 3, Section (B)(3)(c) Urban Conservancy Environment Management Policies

- During development and redevelopment, all reasonable efforts should be taken to restore ecological functions. Where feasible, restoration and public access should be required of all non-water dependent development on previously developed shorelines.
- Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the urban conservancy designation to ensure that new development does not further degrade the shoreline and is consistent with an overall goal to improve ecological functions and habitat for priority species.

- Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- Water oriented uses should be given priority over non-water oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
- Derelict, unsafe and unlawful structures should be removed or brought into conformance of this SMP.

Comment: *The restoration project is consistent with the main purpose of the Urban Conservancy Environment, which is to protect and restore ecological functions in urban and developed settings. The project would benefit wildlife by enhancing habitat in the area, creating approximately 340 acres of intertidal habitat that would benefit fish, amphibians, reptiles, shorebirds, waterfowl, and other birds. Non-water oriented uses are not provided by this project.*

Chapter 5, Section 7(b) - Policies:

2) All shoreline restoration and/or enhancement projects should protect the integrity of adjacent natural resources including aquatic habitats and water quality.

Comment: *The channels of Jones and Allen Creek are being restored to more natural configurations, thereby improving fish passage. The high berms internal to the property and perimeter of the site (between 9 and 13 feet NAVD 88) will be planted with native vegetation and invasive species will be controlled in these areas.*

4) The City will pursue the recommendations in the shoreline restoration plan prepared as part of this SMP update. The City will give priority to projects consistent with this plan.

Comment: *The Qwuloolt Estuary Restoration Project is identified as a priority restoration project in the City's Shoreline Ecological Restoration Plan. The project is identified as a priority project because it will provide the City with the most ecological benefit.*

Chapter 5, Section 7(c) - Regulations:

2) Shoreline restoration and/or enhancement projects shall use best available science and management practices.

Comment: *Phase 1 construction is proposing to utilize 'best available science' and best management practices.*

4) Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided:

   a. The project's purpose is the restoration of natural character and ecological functions of the shoreline, and

b. It is consistent with the implementation of a comprehensive restoration plan approved by the City , or the City finds that the project provides an ecological benefit and is consistent with this master program.

Comment: *The Qwuloolt Estuary Restoration Project is identified as a priority restoration project in the City's Shoreline Ecological Restoration Plan. The project is identified as a priority project because it will provide the City with the most ecological benefit.*

D. Critical Areas

The entire restoration site has been classified by NOAA as a Category 3, freshwater, depressional wetland. The site also contains fish and wildlife habitat, geologic hazards, and frequently flooded areas. Both Jones and Allen Creeks are classified as Type F streams under Marysville Municipal Code (MMC) because they are used by salmonids. According to the Washington State Department of Natural Resources, the site has moderate to high susceptibility to liquefaction, which classifies the site as a geologic hazard areas according to MMC. The entire project is located in the 100-year floodplain and the majority of the site is located within the FEMA designated floodway for Ebey Slough.

The project is a restoration project which will improve wetland and fish and wildlife habitat conditions. The project is considered self-mitigating and permanent adverse impacts will not result from the activities outlined in this Phase. No mitigation for impacts to wetlands/streams is required as a result of this project.

The US Department of the Army, Seattle District, Corps of Engineers performed a zero-rise analysis for the proposed setback levee along Ebey Slough. The zero-rise analysis was completed on 3/29/11 The analysis identified a .1 ft rise in the unencroached flood level within the restoration site and potential .2 ft rise at points south of the site.

The City of Marysville met with staff from FEMA, US Army Corps of Engineers, Tulalip Tribes and Department of Ecology to discuss the results. FEMA has issued a policy on fish enhancement structures within the floodway. In the meeting FEMA staff described the policy as it relates to restoration projects, such as the Qwuloolt Restoration. The policy identifies that rather than "no-rise", the community official should certify that the project was designed to keep the rise within the floodplain as close to zero as practically possible and that no structures are impacted by the rise. DOE staff also contacted Snohomish County staff to share this data and they did not indicate concern.

E. Conformance with SEPA

After evaluation of the applicant's environmental checklist submitted with the application, a Mitigated Determination of Non-Significance (MDNS) was issued on June 29, 2011, there were no appeals. The threshold determination is adopted by reference into this report.

F. CONCLUSIONS

1. The proposal as conditioned is consistent with the City of Marysville Shoreline Management Master Program map designation and development policies.
2. A Mitigated Determination of Non-Significance was issued on June 29, 2011, there were no appeals.
3. The applicant is still in the process of obtaining construction/flood easements over certain properties within the project boundaries. Construction activities will not be allowed to commence on those properties (including City-owned lands) until the properties are secured and/or proper easements have been obtained.
4. In 2006 the City was contacted by Foley Cleveland regarding a BLA that was recorded after the sale of 29050300200100 to the Tulalip Tribes. The then owners Peter Poortinga and Marty Loberg sold the property to the Tribes with the understanding that the existing property line had been revised to exclude the existing house through the BLA process. Mr. Foley indicated that they believed that the BLA was recorded after the sale of the property and therefore the BLA was invalid. The city concurred with that conclusion. As the existing home has been sold to a private individual there appears to be an issue with title.
5. This proposal as conditioned is consistent with the City's Critical Areas Ordinance.
6. This proposal as conditioned is consistent with the City's Floodplain Ordinance.

III. STAFF RECOMMENDATION

Based upon the above stated findings and conclusions, the Community Development Department recommends approval of the Shoreline Substantial Development Permit subject to the following conditions:

1. Prior to commencement of construction activities, the applicant will need to either secure ownership of all parcels within the project work area and/or obtain construction/flood easements over the affected properties. Prior to commencement of construction activity on City-owned property, a *Memorandum of Agreement* between the City of Marysville and the Tulalip Tribes will need to be executed. Also, the title issue related to BLA 98-004 recorded under AF# 9808035010 will need to be resolved prior to any activity occurring on parcel 29050300200100.
2. The applicant shall employ specific *Best Management Practices* (BMPs) to control pollutants in stormwater discharges during project construction.
3. The applicant is subject to the eight (8) conditions established in the SEPA threshold determination dated June 29, 2011.
4. The City will need to review the engineered drawings for the cathodic protection prior to installation. The plans will need to be stamped by a licensed engineer.

The applicant must complete all proposed improvements within five (5) years following the date of this approval, after which time this shoreline permit expires.

APPROVED: Gloria Hirashima **DATE:** 7/20/11

Gloria Hirashima, CDD/CAO