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BEFORE THE HEARING EXAMINER
FOR THE CITY OF MEDINA

CITY OF MEDINA

In the Matter of the Application of)	No. CUP 277 / SDP 2011-03
)	
Kerry Ruth, on behalf of the)	SR 520 Bridge Replacement
Washington State Department of)	and East Approach
Transportation)	
)	
For a Shoreline Conditional Use Permit)	FINDINGS, CONCLUSIONS,
And Shoreline Substantial)	AND DECISIONS
<u>Development Permit</u>)	

SUMMARY OF DECISIONS

The request for a Shoreline Conditional Use Permit to establish a state highway and bridge within the shoreline jurisdiction of Medina, Washington is **APPROVED**. Conditions of approval are necessary to address specific impacts of the proposed development.

An associated Shoreline Substantial Development Permit request for replacement of the existing SR 520 highway floating bridge with a larger bridge, construction of a new east approach to the floating bridge, construction of a new stormwater treatment facility, and construction of a new pedestrian overlook within the shoreline jurisdiction of Medina, Washington, is **APPROVED**. Conditions of approval are necessary to address specific impacts of the proposed development.

BACKGROUND

Legislative

There is a long history of legislative involvement in the SR 520, I-5 to Medina: Bridge Replacement and HOV Project, which has shaped replacement bridge design and funding. The 2006 Washington State Legislature directed the Washington State Department of Transportation (WSDOT) to form an Expert Review Panel to review finance and implementation plans for the Alaskan Way Viaduct and Seawall Replacement and SR 520 Bridge Replacement and HOV projects to determine if both projects could move forward. This panel recommended both projects move forward in August of 2006.¹

In 2007, the Legislature stated that “the replacement of the vulnerable state route number 520 corridor is a matter of urgency for the safety of Washington's traveling public and the needs of the transportation system in central Puget Sound” and that “the state must take the necessary steps to move forward with a state route number 520 bridge replacement project design that provides six total lanes, with four general purpose lanes and two lanes that are for high occupancy vehicle travel that could also accommodate high capacity transportation, and the

¹See SHB 2871 (2006).

bridge shall also be designed to accommodate light rail in the future”.² In that same statute, the Legislature directed that mitigation should occur to meet specific SR 520 legislative goals, including a project that would:

- (1) Minimize the total footprint and width of the bridge, and seek appropriate federal design variances to safety and mobility standards, while complying with other federal laws;
- (2) Minimize the project impact on surrounding neighborhoods, including incorporation of green lids and connectors, and minimize any increases in additional traffic volumes through the Washington park arboretum and other adjacent neighborhoods;
- (3) Incorporate the recommendations of a health impact assessment to calculate the project's impact on air quality, carbon emissions, and other public health issues, conducted by the Puget Sound clean air agency and King county public health;
- (4) Ensure that the ultimate project configuration effectively prioritizes maintaining travel time, speed, and reliability on the two high occupancy vehicle lanes; and
- (5) Clearly articulate in required environmental documents the alignment of the selected preferred alternative for the state route number 520 bridge replacement and HOV project and the footprint of the project and the affected areas.³

Further design directives were given by the Legislature in 2008 when it stated that the “project shall be designed to provide six total lanes, with two lanes that are for transit and high occupancy vehicle travel and four general purpose lanes” and shall “accommodate effective connections for transit, including high capacity transit, to the light rail station at the University of Washington.”⁴

The Legislature created SR 520 Bridge Replacement Working Groups in 2007 and in 2009 to help design the proposed project and to find ways to fund it. Reports of these Working Groups were submitted to the Governor and Legislature in December of 2008 and 2010.⁵ Another Working Group was convened in response to legislation adopted in 2010.⁶ Although that section of law deals mostly with tolls, Section 4 (b)(vi) directs that:

A work group convened by the department to include the mayor of the city of Seattle, the Seattle city council, the Seattle department of transportation, and other persons or organizations as designated by the Seattle city council and mayor to study and make recommendations regarding design refinements to the preferred alternative selected by the department in the supplemental

²See Section 1 of Chapter 517 Laws of 2007, (uncodified, effective May 15, 2007).

³RCW 47.01.406.

⁴RCW 47.01.408.

⁵RCW 47.01.410 (2007) and RCW 47.01.418 (2009).

⁶ESSB 6392 (2010). This became Chapter 48, Laws of 2010 and was codified as amendments to RCW 47.56.870.

draft environmental impact statement process for the state route number 520 bridge replacement and HOV program. To accommodate a timely progression of the state route number 520 bridge replacement and HOV program, the design refinements recommended by the work group must be consistent with the current environmental documents prepared by the department for the supplemental draft environmental impact statement. The department shall submit the recommendations to the legislature and governor by December 31, 2010, and the recommendations must inform the final environmental impact statement prepared by the department.

This final study was completed and submitted as required, and the Final Environmental Impact Statement was issued in June 2011.

Growth Management Act

State and regional transportation facilities are classified as essential public facilities (EPF) by the Growth Management Act. *RCW 36.70A.200(1)*; *Washington Administrative Code (WAC) 365-196-550(1)(d)(iii)*. The State Growth Management Act (GMA), Chapter 36.70A RCW, requires local comprehensive plans to include a process for identifying and siting EPFs. *RCW 36.70A.200(1)*. Classification as an EPF affects how a county or city is allowed to regulate the use. While a county or city may impose reasonable permitting requirements and require mitigation of adverse effects of an EPF, a city or county land use review process cannot deny the EPF or impose regulations or conditions that make EPF siting, development or operation impossible or impractical. *WAC 365-196-550(6)(e)*; *WAC 365-196-550(3)(b)*; *WAC 365-196-550(6)(d)*.

The Medina City Comprehensive Plan Policy LU-P-13 sets out a process to site proposed new EPFs or expansions to existing EPFs:

- a. An inventory of similar existing essential public facilities, including their locations and capacities;
- b. A forecast of the future needs for the essential public facility;
- c. An analysis of the potential social and economic impacts and benefits to jurisdictions receiving or surrounding the facilities;
- d. An analysis of the proposals consistence with County and City policies;
- e. An analysis of alternatives to the facility, including decentralization, conservation, demand management and other strategies;
- f. An analysis of alternative sites based on siting criteria developed through an inter-jurisdictional process;
- g. An analysis of environmental impacts and mitigation; and
- h. Extensive public involvement.

City Comprehensive Plan (Adopted May 9, 1994; Amended March 14, 2005), Sec. 1, pages 15-16. The City Comprehensive Plan designates the SR 520 highway as an EPF. *City Comprehensive Plan, Section 1 Land Use Element, page 14.*

SUMMARY OF RECORD

Request:

Kerry Ruth, on behalf of the Washington State Department of Transportation, requests a Shoreline Conditional Use Permit to replace and expand the existing SR 520 highway floating bridge and construct a new east approach to the bridge, stormwater treatment facility, and pedestrian overlook within the shoreline jurisdiction of Medina, Washington.

Kerry Ruth also requests a Shoreline Substantial Development Permit to replace and expand the existing SR 520 highway floating bridge and construct a new east approach to the bridge, stormwater treatment facility, and pedestrian overlook within the shoreline jurisdiction of Medina, Washington.

Hearing Date:

The City of Medina Hearing Examiner held an open record hearing on the request on January 25, 2012. The Hearing Examiner kept the record open until 12:00 PM on January 26, 2012 to receive comment letters from the Muckleshoot Indian Tribe (see Exhibits 40 and 41).

Testimony:

The following individuals presented testimony under oath at the open record hearing:

John White, P.E., WSDOT Project Director, Applicant Representative
Scott White, WSDOT Regulatory Compliance Manager, Applicant Representative
Kristen Clem Kissinger, City Planning Consultant

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated January 10, 2012
2. Application for Substantial Development Permit and Conditional Use Permit Application, received August 11, 2011
3. Additional Information for Shoreline and Critical Areas Applications, I-5 to Medina: SR 520 Bridge Replacement and HOV Project Bridge and Approach Structure Elements, dated November 15, 2011
4. Photographs of Site Existing Conditions (7 of 7 Photographs), dated September 14, 2010
5. Notice Documents
 - a. Determination of Complete Applications, dated November 22, 2011
 - b. Declaration of Mailing of Notice of Application, dated November 23, 2011; Mailing List; Declaration of Posting, dated November 23, 2011; and Affidavit of Publication, dated November 28, 2011
 - c. Declaration of Mailing of Notice of Hearing, dated December 30, 2011; Mailing List; Declaration of Posting, dated December 30, 2011; and Affidavit of Publication, dated January 2, 2012

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6. Email from Palvi Mehta to Robert Grumbach, dated December 16, 2011, with email string
7. Email from Karen Walter, Muckleshoot Indian Tribe Fisheries Division, to Kristen Clem Kissinger, dated December 27, 2011, with email string
8. Letter from Scott White, WSDOT, to Robert Grumbach, City of Medina, dated July 26, 2011
9. WSDOT Final Environmental Impact Statement, dated June 2011 (*provided electronically*)
10. SEPA Addendum, dated November 18, 2011 (*provided electronically*)
11. SEPA Addendum, Attachment 1: Description of Changed Conditions and Effects, undated (Draft Document provided)
12. City of Medina Critical Areas Report, dated November 2011
13. Supplemental Critical Areas Report, dated November 3, 2011
14. Additional Geotechnical Information (*provided electronically*)
 - a. Seismic Ground Motion Recommendations, Phase 2 Technical Memorandum, Shannon & Wilson, Inc., dated September 25, 2009
 - b. FEIS, Geology and Soils Discipline Report, Addendum and Errata, Parametrix, Inc., et al., dated May 2011
 - c. Geotechnical Data Report, Shannon & Wilson, Inc., dated October 29, 2010
 - d. Geotechnical Data Report Addendum, East Approach Piers 1 and 2, Shannon & Wilson, Inc., dated December 14, 2010
 - e. Geotechnical Data Report Addendum, Floating Bridge Anchors, Shannon & Wilson, Inc., dated January 19, 2011
 - f. Geotechnical Data Report Addendum, Groundwater Measurements at Observation Well H-104p-09, Shannon & Wilson, Inc., dated January 20, 2011 (Revised April 19, 2011)
 - g. Geotechnical Data Report Addendum, Floating Bridge Anchors, Laboratory Testing and Revised Boring Logs, Shannon & Wilson, Inc., March 3, 2011
 - h. Geotechnical Data Report Addendum, Floating Bridge Anchors, Supplemental Laboratory Consolidation Test Information, Shannon & Wilson, Inc., March 24, 2011
 - i. JARPA Attachment L, Biological Assessment, SR 520, 1-5 to Medina: Bridge Replacement and HOV Project, Confluence Environmental Company, HDR Engineering, Inc., Parametrix, Inc., dated November 2010
 - j. Draft Aquatic Mitigation Plan, Parametrix, Inc., HDR Engineering, Inc., Confluence Environmental Company, dated August 2011 (*Same as Ex. 24*)
 - k. Draft Geotechnical Engineering Report, Evergreen Point Road Lid, Shannon & Wilson, Inc., dated June 15, 2010
 - l. Draft Wetland Mitigation Report, HRD Engineering, Inc., dated August 2011
 - m. Evergreen Point Floating Bridge and Landings, Seismic Ground Motion Design Criteria, Shannon & Wilson, Inc., dated October 27, 2010 (Revised March 30, 2011)
 - n. City of Medina, Critical Areas Report, HDR Engineering, Inc., Parametrix, Inc., Confluence Environmental Company, dated August 2011
 - o. Supplemental draft EIS, Geology and Soils Discipline Report, CH2M Hill, dated December 2009

- p. Info from Dave Phelps, dated November 16, 2011
 - q. Geotechnical Baseline Report, Shannon & Wilson, Inc., dated November 29, 2010 (Revised March 3, 2011)
 - r. Geotechnical Report, Floating Bridge Replacement Project, Shannon & Wilson, Inc., dated November 9, 2010
 - s. Maintenance Facility Building Groundwater Technical Memorandum, Shannon & Wilson, Inc., dated March 28, 2011
 - t. Geotechnical Assessment Submittal, WSDOT, dated August 29, 2011
 - u. Final Wetland Vegetation Response to Shade Special Study, Technical Memorandum, Parametrix, Inc., dated August 27, 2009
 - v. Final Stream Assessment Report, Technical Memorandum, Parametrix, Inc., dated April 13, 2009
 - w. Supplemental Geotechnical Engineering Report, East Approach Piers 1 and 2 and Maintenance Dock, Shannon & Wilson, Inc., December 21, 2010
 - x. Existing Geotechnical Data Report, Volume 5 – Existing Explorations and Geotechnical Laboratory Test Data for West Side Projects 1182 to 1227, prepared by Shannon & Wilson, Inc., December 19, 2006
15. Review of Critical Area Reports and Documents, ABPB Consulting, dated January 6, 2012
 16. Best Management Practices and WSDOT Construction Standards (*provided electronically*)
 - a. WSDOT Fish Exclusion Protocols and Standards, dated June 25, 2009
 - b. Construction Manual, Chapter 2, dated July 2008
 - c. Highway Runoff Manual, Chapter 6, dated June 2008
 - d. WSDOT Environmental Procedures Manual, dated June 2011
 - e. Standards and Specifications for Road, Bridge and Municipal Construction, dated 2012
 17. SR 520, I-5 to Medina Project Agency Coordination Summary, dated January 6, 2012
 18. Bridge Site Plan, dated November 15, 2011
 19. Roadway Site Plan, dated November 15, 2011
 20. Floating Bridge and Roadway Package Temporary Impacts, dated November 15, 2011
 21. Bridge Elevation and Section, dated November 15, 2011
 22. East Approach Elevation and Section, dated November 15, 2011
 23. Anchor Details, dated November 15, 2011
 24. Pontoon Anchors Drilled Shaft Anchor Details, dated November 23, 2011
 25. Maintenance Facility and Dock Landscape Plan, dated November 15, 2011
 26. Stormwater Facility K Plan, dated November 15, 2011
 27. All Known, Available and Reasonable Technologies and Water Quality Study Approval, dated June 30, 2010 (*provided electronically*)
 28. Letter from Kevin C. Fitzpatrick, Washington Department of Ecology, to John White, WSDOT, dated June 30, 2010
 29. Work Bridge Details, dated November 15, 2011
 30. View Simulation – From Adjacent Shoreline, Construction, dated November 15, 2011

31. View Simulation – Bridge and Approach View 1, dated November 15, 2011
32. Draft Aquatic Mitigation Plan, dated August 2011 (*provided electronically*)
33. Additional Information for Shoreline and Critical Areas Applications, I-5 to Medina: SR 520 Bridge Replacement and HOV Project Maintenance Facility and Bridge Approach and Structure Elements, dated December 20, 2011
34. WSDOT Public Meeting Summary, dated December 21, 2011
35. Lake Washington Wind and Wave Climatology and Load Analysis Reports (*provided electronically*)
36. Applicant Correspondence
 - a. Email message from Scott White to Kristen Clem Kissinger and Jesse Halsted, dated January 3, 2012, with email string
 - b. Email message from Jesse Halsted to Robert Grumbach, dated December 30, 2011, with email string
 - c. Email message from Jesse Halsted to Kristen Clem Kissinger, dated January 4, 2012, with email string
 - d. Email message from Jesse Halsted to Kristen Clem Kissinger and Scott White, dated December 23, 2011, with email string
37. City of Medina Declaration of Mailing – Notice of Hearing Postponement, dated January 17, 2012
38. SR 520 Bridge Replacement and HOV Program PowerPoint Slides, WSDOT, dated January 18, 2012
39. SR 520 Bridge Replacement, City of Medina PowerPoint Slides, received January 25, 2012
40. Letter from the Muckleshoot Indian Tribe to Randall Overton, U.S. Coast Guard Bridge Administrator, dated January 11, 2012
41. Letter from the Muckleshoot Indian Tribe to the U.S. Army Corps of Engineers, dated January 11, 2012

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Applications and Notice

1. Kerry Ruth, Engineering Manager, on behalf of the Washington State Department of Transportation (WSDOT) (Applicant),⁷ requests a Shoreline Conditional Use Permit to establish a state highway and bridge within the shoreline jurisdiction of Medina, Washington. The proposed use would include replacement and expansion of the existing SR-520 highway floating bridge; construction and operation of a new east approach to the bridge; construction and operation of a new stormwater treatment facility; construction of retaining walls; construction of noise walls; and construction and use of a regional shared use path and shoreline viewpoint trail. The Applicant also requests a

⁷ An Owner's Declaration of Agency is included within the applications. *Exhibit 2.*

Shoreline Substantial Development Permit (SDP) to replace and expand the existing SR 520 highway floating bridge and construct the new east approach to the bridge, stormwater treatment facility, retaining walls, noise walls, and shoreline viewpoint trail within the shoreline jurisdiction of Medina, Washington.⁸ *Exhibit 2; Exhibit 18; Exhibit 19; Exhibit 20; Exhibit 38.*

2. The City of Medina (City) determined the application was complete on November 22, 2011. On November 23, 2011, the City mailed notice of the application to owners of surrounding property, agencies and parties of record, and posted notice of the application at City Hall, on the City website, at the City Post Office, on the Medina Park Northeast 12th Street public notice board, and within the SR 520 ROW. The City published notice of the application in The Seattle Times on November 28, 2011. On December 30, 2011, the City mailed notice of the open record hearing to owners of surrounding property, agencies and parties of record, and posted notice of the application at City Hall, on the City website, at the City Post Office, on the Medina Park Northeast 12th Street public notice board, and within the SR 520 ROW.⁹ The City published notice of the hearing in the Seattle Times on January 2, 2012. The January 18, 2012 open record hearing was postponed due to snow and rescheduled for January 25, 2012. The City mailed notice of hearing postponement to parties of record on January 17, 2012. *Exhibit 1, Staff Report, pages 6 – 7; Exhibit 5.a – .c; Exhibit 37.*

Proposal

3. The proposal to locate a state highway and bridge within the City of Medina shoreline jurisdiction of Lake Washington and within SR-520 highway ROW is one portion of the SR 520, I-5 to Medina: Bridge Replacement and HOV Project (Project). The SR 520, I-5 to Medina: Bridge Replacement and HOV Project is one of four elements of the overall SR 520 Bridge Replacement and HOV Program (SR 520 Program).¹⁰ Related but

⁸ The property subject to the application is State Route (SR) 520 rights-of-way and areas of Lake Washington and adjacent shoreline under the jurisdiction of the City of Medina. Five parcels identified by Parcel Nos. 242504-9072, 242504-9181, 242504-9071, 242504-9259, and 242504-9177 were purchased by WSDOT for the project and have since been converted to state highway right-of-way. A legal description of each of the parcels is found within the City staff report. *Exhibit 1, Staff Report, pages 1 – 2; Exhibit 2.*

⁹ The Applicant also hosted a public open house at St. Thomas Episcopal Church in Medina on December 8, 2011 to solicit comments on the applications. Questions raised at the open house focused on project design; project scope; permitting; proposed viewpoint trail; proposed maintenance building; transit services; and community involvement. *Exhibit 34.*

¹⁰ According to the Applicant, implementation of the SR 520 Bridge Replacement and HOV Program would replace the Portage Bay and Evergreen Point bridges across Lake Washington and would improve the existing SR 520 highway roadway between I-5 in Seattle and SR 202 near Redmond, Washington. The SR 520 Bridge Replacement and HOV Program consists of four elements: I-5 to Medina: Bridge Replacement and HOV Project, replacing the SR 520 floating bridge and landings, and interchanges and roadway between I-5 and the east shore of Lake Washington; the Medina to SR 202: Eastside Transit and HOV Project, completing and improving the transit and HOV system from Evergreen Point Road in Medina to the SR 202 interchange in Redmond; the Lake Washington

separate permit applications submitted by the Applicant would authorize construction of a maintenance building, pier, and associated improvements to support operation of the replaced bridge and new east approach to the bridge. *Exhibit 38.*

4. The Project is proceeding under a “design-build” contracting method, under which WSDOT completes a preliminary design and a design-builder finishes the design during project construction. Kiewit-General-Manson (KGM) will complete remaining design work and build the project. Thirty percent of the project engineering was complete when WSDOT released the project for design-build bids. Final designs for the bridge replacement and east approach have not been completed. Significant design deviations or additional impacts would require permit modification. *WAC 173-27-100; Exhibit 1, Staff Report, pages 8 and 11.*
5. Scott White, WSDOT Regulatory Compliance Manager, testified that the existing SR 520 floating bridge is proposed for replacement because the existing bridge was not designed for the traffic volumes it has incurred over time, and the bridge is at the end of its useful life given construction materials and methods. According to preliminary Project plans, the proposed replacement bridge would consist of a roadway on top of a superstructure elevated above the water by means of pier posts placed over floating concrete pontoons. Pontoons would be positioned longitudinally, running the length of the replacement bridge, and positioned perpendicular to the bridge as supplemental stability pontoons. The roadway would contain two shoulders, two vehicle lanes and an HOV lane in both directions, and a pedestrian/bike lane on the south side of the bridge. The bridge would be secured by in-water gravity anchors with rock ballast, fluke anchors with rock ballast, and shaft anchors. Shaft anchors would be drilled into the lake bed. Fluke and gravity anchors would be secured on and within the lake bed by sand, gravel and rock fill as ballast. Overall, approximately 32,500 cubic yards of soil would be excavated and approximately 24,000 cubic yards of soil would be used as in-water fill for installing the east approach and bridge anchors. *Exhibit 1, Staff Report, page 2; Exhibit 18; Exhibit 21; Exhibit 23; Exhibit 24; Exhibit 38; Testimony of Mr. White.*
6. The proposed replacement bridge span would be constructed over Lake Washington adjacent to the north of the existing SR 520 bridge. John White, WSDOT Project Director, testified that the Project would be constructed between April 2012 and July 2015, and subject to weather events during construction, would be open to vehicle traffic in November 2014. Mr. White added that the contractor is contractually obligated to open the bridge to traffic by July 2015. Mr. White testified that the contractor is also

Congestion Management Project, implementing tolls on the existing SR 520 floating bridge and activating Smarter Highways features from I-5 to I-405; and the Pontoon Construction Project, advancing pontoon construction to restore the floating section of the SR 520 bridge in the event of catastrophic failure and storing the pontoons until needed. Proposed construction of a maintenance building and pier to serve the replacement floating bridge will be reviewed under City permit applications SDP 2011-04/CUP 278. *Exhibit 19; Exhibit 38.*

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contractually obligated to demolish the existing bridge within 300 days of opening the replacement bridge to vehicle traffic. Mr. White added the existing bridge would only be demolished after the replacement bridge is opened to traffic. *Exhibit 38; Testimony of Mr. White.*

7. Scott White testified that a staging area would be used by the Applicant to place equipment on the exterior and interior of concrete pontoons and to connect pontoons before floating them over to attach as part of the replacement bridge. The staging area would be a floating platform adjacent to the north of the replacement bridge span. The staging area would be secured by lines attached to mooring dolphins. The staging area would be accessed by a walkway attached to the south side of the existing SR 520 east approach with a stairway down to the east-most cross pontoon. A walkway for workers from the cross pontoon would connect to the staging area. *Exhibit 1, Staff Report, page 15; Exhibit 18; Exhibit 38; Testimony of Mr. White.*
8. A worker walkway consisting of a plywood platform would be constructed on the north side of the existing bridge to aid in construction of the replacement bridge. The worker walkway would be separated from existing bridge traffic by chain link fencing. Walkway protrusions would extend north to provide access to the replacement bridge platform as it is built. A 2,500 foot long concrete delivery system would be integrated within the access walkway to reduce spill risk and process water. *Exhibit 1, Staff Report, page 15; Exhibit 29; Exhibit 38.*
9. The proposed east approach would be an elevated structure constructed over Lake Washington and the shoreline to connect the replacement bridge span to the west with the existing SR 520 highway roadway to the east. According to preliminary Project plans, the approach would be supported by pier posts on spread footings on the shoreline and on the lake bed below the lake surface. The approach would be split into two over-water platforms, each supported by a pier post over one spread footing. One platform would contain a pedestrian/bicycle lane, two shoulders, two vehicle lanes, and two HOV lanes. The other platform would contain two shoulders, two vehicle lanes, and one HOV lane.¹¹ A noise wall would be constructed on either side of east approach roadway. Lighting would be placed on top of the noise wall. A temporary cofferdam would be placed in the water at the west end of the work bridge to enable footings to be poured. A regional shared use path located on the north side of the proposed east approach would extend east from Evergreen Point Road to connect with the pedestrian/bicycle lane within the approach. The connection would occur east of the Medina shoreline jurisdiction. *Exhibit 11; Exhibit 18; Exhibit 19; Exhibit 22; Exhibit 38.*

¹¹ Exhibit 22 depicts a cross-section of the proposed east approach, entitled "Typical Section-6 Lane". Although the cross-section appears to depict four vehicle lanes and three HOV lanes, the preponderance of the evidence describes a 6 lane approach. *Exhibit 22.*

10. A temporary bridge would be constructed adjacent to the north of the proposed east approach to aid in construction of the replacement bridge. The temporary bridge would extend west from upland area above the Lake Washington ordinary high water mark (OHWM) over the water. The temporary bridge would consist of a timber bullrail platform supported over water by timber decking, girders, and pipe pilings. The bridge would be approximately 30 feet wide and 275 feet long, with up to 40 pile supports. Equipment would be housed on the temporary bridge during replacement bridge construction. *Exhibit 1, Staff Report, page 15; Exhibit 29; Exhibit 38.*
11. Scott White testified that retaining walls would be erected to support construction of the east approach. As shown on preliminary Project plans, one retaining wall would be constructed adjacent to the south of the east approach roadway, landward of the portion of the structure elevated over shoreline and water, and another retaining wall would be constructed adjacent to the north of the roadway. Six additional retaining walls would be constructed to hold back the existing slope from a shoreline viewpoint trail that would extend from Evergreen Point Road to a point overlooking Lake Washington inside the City. Only the west terminus area of the shoreline viewpoint trail would be located within the City's shoreline jurisdiction. The trail would be five feet wide, ADA accessible, and located adjacent to the south of the proposed east approach. The trail would include a 120 square foot overlook area in the shoreline jurisdiction, near the top of a bluff. The overlook area and trail would connect to the Evergreen Point lid over a portion of SR 520 highway to the east, which in turn connects to Fairweather Park. There would be no access to the water due to steep slopes. *Exhibit 1, Staff Report, page 8 and 16; Exhibit 18; Exhibit 19; Exhibit 38; Testimony of Mr. White.*
12. Retaining walls would be constructed to support a temporary construction access road. As shown on preliminary Project plans, the temporary construction access road would extend west from Evergreen Point Road into the City shoreline jurisdiction. The road would loop to the north and south within the site of the proposed east approach. Two retaining walls would be placed on either side of the south loop. *Exhibit 20.*
13. The proposed viewpoint trail would be surrounded by Type 2 Native Community Corridor landscaping. According to preliminary landscape plans, Community Corridor landscaping would consist of native species arranged in natural swaths, with vines softening walls where possible. According to plans, landscaping would soften hard surfaces, provide continuity and screening, restore existing vegetation and habitat, and provide erosion control. Portions of the east approach would be surrounded by Transitional/Guidance Planting, providing transition into communities at lid approaches and local streets while safely directing and guiding drivers to these destinations. Transitional/Guidance Planting would contain native and non-native species to blend into existing and planted surroundings. According to preliminary landscape plans, this landscaping would soften hard surfaces, provide transition in roadway approaches and

streetscapes to lid landscapes and communities, consider sight distance, and provide positive driver guidance and navigation. *Exhibit 25; Exhibit 38.*

Comprehensive Plan and Zoning

14. The property proposed for development is designated SR 520 and Single Family Residential under the City Comprehensive Plan. *City Comprehensive Plan, Land Use Element, Figure 2: Land Use Plan, page 19 (May 19, 1994, as amended).* Under the Comprehensive Plan, it is the policy of the City to retain and promote the high-quality residential setting that has become the hallmark of the Medina community. *Comprehensive Plan, Land Use Element, page 14.* Comprehensive Plan goals and policies relevant to the proposal include: maintaining Medina's high quality residential setting and character; achieving a well-balanced relationship between the built and natural environments; reducing water quality impacts; enhancing pedestrian and bicycle access; minimizing transportation-related impacts of impacts of public facilities and uses on adjacent residential uses; and minimizing impacts of regional transportation facilities.¹² *Comprehensive Plan, Land Use Element, pages 14 to 16; Natural Environment Element, pages 22 and 23; and Transportation & Circulation Element, pages 43 and 44; Exhibit 1, Staff Report, pages 4 - 5.*

15. The Comprehensive Plan recognizes SR 520 as an Essential Public Facility that may not be prohibited by the Comprehensive Plan or development regulations. The Comprehensive Plan also designates the SR 520 ROW within the City, including the existing SR 520 bridge to mid-span, as the SR 520 Corridor Special Planning Area. The Comprehensive Plan Land Use Element states that development of Special Planning Areas is guided by the need to limit or mitigate the impact of such development on surrounding areas and the City as a whole, seeking a balance between needs of a growing population, environmental preservation, and maintaining a high standard of living. According to the Comprehensive Plan, any consideration of facilities to be sited within Special Planning Areas or expansion of existing facilities within these areas must apply and integrate, to the extent applicable, the policies and requirements of: the City Comprehensive Plan; the City's Shoreline Management Master Program (SMP); the City's SEPA ordinance; the City's Critical Areas Ordinance; the City's Construction Mitigation Ordinance; City Tree Preservation and Landscaping Requirements; environmental assessments and studies procured by the City concerning drainage and water quality, wildlife habitat, noise, City's shoreline and aquatic habitat, and air quality; state and regional plans and studies; and reports and studies generated by the Towns of Hunts Point and Yarrow Point and the City of Clyde Hill on issues common to the Points

¹² City staff identified the following Comprehensive Plan goals and policies as particularly relevant to the proposal: Land Use Goal LU-G1, Policy LU-P7, LU-P10, LU-P12, LU-P13; Natural Environment Goals NE-G1, NE-G2, Policy NE-P2, NE-P5; and Transportation and Circulation Goals T-G2, T-G3, T-G4, Policy T-P3, T-P7, T-P8, T-P9. *Exhibit 1, Staff Report, pages 4 and 5.*

communities. Ms. Kissinger testified that the proposed Project is consistent with neighboring community plans and studies. *Comprehensive Plan, Land Use Element, page 13; Testimony of Ms. Kissinger.*

16. The subject property is located within the City's Single Family Residential (R-20) zoning district and within SR 520 ROW. Kristen Clem Kissinger, City Planning Consultant, testified that WSDOT purchased five residential lots on the Lake Washington shoreline adjacent to the north of the existing SR 520 roadway and converted them to state highway ROW to provide for construction of the proposed east approach. Ms. Kissinger testified that homes formerly on these lots have been demolished, and that two existing piers associated with these lots would also be demolished. According to the City staff report, the five lots are located in the City's Single Family Residential (R-20) zoning district, but Washington Administrative Code (WAC) 365-196-550(3)(a)¹³ supersedes local zoning codes such that the SR 520 Essential Public Facility (EPF) may be located on these lots. *Exhibit 1, Staff Report, page 2; Testimony of Ms. Clem Kissinger.*

Environmental Review

17. WSDOT acted as lead agency and analyzed environmental impacts of the proposal under the State Environmental Policy Act (SEPA); the Federal Highway Administration (FHWA) acted as lead agency and analyzed impacts under the National Environmental Policy Act (NEPA). Both agencies issued a joint NEPA-SEPA Final Environmental Impact Statement (FEIS) for the SR 520, I-5 to Medina: Bridge Replacement and HOV Project (Project) on June 7, 2011. *Exhibit 10.* Parametrix, Inc., and HRD Engineering, Inc. prepared a Conceptual Aquatic Mitigation Plan, which proposed off-site mitigation for impacts. The FHWA issued a federal Record of Decision (ROD) on August 4, 2011. WSDOT issued two SEPA Addenda.¹⁴ Neither the ROD nor the FEIS was appealed. *Exhibit 10, Attachment 9, pages ES-5, 25, 26, 34; Exhibit 11; Exhibit 12.*
18. Confluence Environmental Company prepared a Biological Assessment (BA), dated November 2010, for the SR 520 Program under the federal Endangered Species Act (ESA). The BA addresses three ESA threatened fish species likely to be affected by the SR 520 Program, including Chinook salmon (*Oncorhynchus tshawytscha*), steelhead trout (*Oncorhynchus mykiss*), and bull trout (*Salvelinus confluentus*). The BA also addresses designated critical habitat for Chinook salmon and bull trout. The federal government has designated Lake Washington as

¹³ Washington Administrative Code (WAC) 365-196-550(3)(a) provides "Cities and counties may not use their comprehensive plan or development regulations to preclude the siting of essential public facilities. Comprehensive plan provisions or development regulations preclude the siting of an essential public facility if their combined effects would make the siting of an essential public facility impossible or impracticable."

¹⁴ One SEPA Addendum, *Attachment 1: Description of Changed Conditions and Effects*, contained an environmental re-evaluation for the SR 520, I-5 to Medina: Bridge Replacement and HOV Project, describing changed conditions and effects from those described and evaluated in the FEIS and ROD due to proposed changes to Project design. The other SEPA Addendum, dated November 18, 2011, described proposed changes to floating bridge design and planned construction techniques. *Exhibit 10; Exhibit 11.*

critical habitat for Chinook salmon and bull trout, but has not designated critical habitat for steelhead trout. The BA also addresses Essential Fish Habitat (EFH). The BA concluded that the entire SR 520 project would be likely to adversely affect Chinook salmon, steelhead trout, and bull trout and would be likely to adversely affect Chinook salmon and steelhead trout critical habitat. *Exhibit 10, Attachment 18, Biological Assessment, page ES-2.*

19. The National Marine Fisheries Service (NMFS) issued a Biological Opinion (BO) and Incidental Take Statement on March 20, 2011. The NMFS concluded that the proposed action is not likely to jeopardize the continued existence of Puget Sound Chinook salmon or Puget Sound steelhead or destroy or adversely modify Puget Sound Chinook salmon designated critical habitat. The NMFS determined that the proposed action would adversely affect designated Essential Fish Habitat (EFH) for Chinook salmon and Coho salmon by temporarily elevating levels of sediment suspended in the water, increasing over-water shading, and discharging stormwater. *Exhibit 10, Attachment 18, NMFS Biological Opinion, pages 50-51, 63, and 70.*
20. Lake Washington and its tributaries provide Foraging, Migration and Overwintering (FMO) habitat for anadromous sub-adult and adult bull trout. The U.S. Fish and Wildlife Service (USFWS) issued a Biological Opinion and determined that the SR 520 Program is not likely to jeopardize the continued existence of the bull trout in its coterminous range or destroy or adversely modify bull trout critical habitat. *Exhibit 10, Attachment 18, USFWS Biological Opinion, pages 24, 113 and 114.*
21. The Applicant would mitigate impacts of the proposed SR 520 project at various sites within the region. One mitigation site would be located in Medina near the proposed pier. The Applicant would improve the Medina shoreline in this area by removing two existing docks, wood and rock bulkheads, and restoring the shoreline area. Approximately 3,484 square feet of shoreline area would be enhanced, approximately 2,614 square feet of riparian area would be restored, and approximately 32,670 square feet of off-shore habitat would receive gravel suitable for sockeye spawning. *Exhibit 1, Staff Report, page 17; Exhibit 13, page 29, Figure 5.*
22. The Applicant has prepared a Draft Aquatic Mitigation plan and proposes to mitigate unavoidable impacts from the SR 520 Bridge Replacement project at various regional locations, including the Medina shoreline. The Applicant would remove wood and rock bulkheads and riprap in the City shoreline area. Approximately 0.08 acre of shoreline enhancement and 0.06 acre of riparian area restoration would occur. Gravel suitable for sockeye spawning would be placed on approximately 32,670 square feet of off-shore habitat. *Exhibit 1, Staff Report, page 17; Exhibit 13, pages 29 and 33; Exhibit 24; Exhibit 25.*
23. Kristen Clem Kissinger, City Planning Consultant, testified that WSDOT would remove significant trees on the site. *Testimony of Ms. Kissinger.* The Applicant has agreed to apply for an administrative tree removal permit pursuant to Chapter 20.80 MMC for final

tree removal and mitigation, pending final design work. *Table 20.80.060(A); Exhibit 9 page 5; Exhibit 25.*

Shoreline Permit Review

24. The State Shoreline Management Act (SMA) and the Medina Shoreline Master Program (City SMP) govern work within 200 feet of the Lake Washington ordinary high water mark. *City of Medina SMP (last amended 1990); RCW 90.58.030(2)(f)*. Under RCW 35A.21.090 and RCW 35.21.160, the City's Lake Washington jurisdiction extends to the mid-point of the lake. *RCW 35A.21.090; RCW 35.21.160*. Any "substantial development" within the shoreline requires approval of a substantial development permit. Substantial development is any development in which the total cost or fair market value exceeds \$5,718.00, or any development that materially interferes with the normal public use of the water or shorelines of the state. *RCW 90.58.030(3)(e)*.¹⁵ Proposed Project cost exceeds \$5,718.00. *Exhibit 1, Staff Report, page 10.*
25. The primary goal of the City SMP is to "preserve the City's shoreline for single family residential use in a manner that also protects and preserves the natural features along the shoreline and the quality of Lake Washington." *City SMP, Section II.A, page 7.*
26. The City SMP designates all of the City's shorelines as an Urban environment. *Exhibit 1, Staff Report, pages 2 and 10.* The Urban environment is designated for low-density single-family urban residential development. *City SMP, Section III, page 10.* The City Director of Development Services has determined that SR 520 ROW is also designated as an Urban environment under the City SMP.¹⁶ *Exhibit 1, Staff Report, page 10.*
27. The existing SR 520 bridge and highway opened in August 1963, before adoption of the state SMA. *Exhibit 1, Staff Report, page 10.* Bridges and highway uses are not listed as permitted uses within the City's SMP shoreline use regulations. *City SMP, Section IV.* Section II.C of the City's SMP contains goals and policies concerning the existing bridge. Additional cross-lake bridges beyond the existing bridge are prohibited by City SMP Section II.C(2), but the existing bridge and highway use is not specifically prohibited by the City SMP. *City SMP, Section II.C.*
28. The existing bridge and SR 520 highway use are currently defined as a nonconforming development under the City SMP. City SMP Section V.C(1) allows nonconforming

¹⁵ "Development" includes construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals, bulkheading; driving of pilings; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level. *RCW 90.58.030(3)(d)*.

¹⁶ According to the City staff report, the City Director's determination is based on the fact that the shoreline area of the SR 520 ROW is not open for general public use and the ROW is not listed as one of the public locations for Recreation Conservancy under the City SMP. *Exhibit 1, Staff Report, page 10.*

shoreline use if the use is not enlarged, intensified, increased, or altered in a way that increases the nonconformity. *City SMP, Section V.C(1)*. The existing bridge is 7,580 feet long; as proposed, the replacement bridge would be approximately 7,700 feet long. The existing bridge results in 6.31 acres of overwater coverage; as proposed, the replacement bridge would result in approximately 15 acres of overwater coverage. *Exhibit 1, Staff Report, page 14*. Under WAC 173-27-160(3) and (4), uses not classified or set forth within a SMP may be authorized as a conditional use if the SMP does not specifically prohibit such use. *WAC 173-27-160(3) and (4)*.

29. Under Section IV.B.2 of the City SMP, development is discouraged in environmentally sensitive areas unless it can be shown that measures can be taken to mitigate all related adverse impacts. Lake Washington is designated a fish and wildlife habitat conservation area. *MMC 18.12.400.A.5*. Construction of the proposed east approach, stormwater facility, and viewpoint trail would occur within geologically hazardous areas. Final design work has not been completed. The Applicant would provide a final geotechnical report prior to submittal of a building permit application. The City SMP use regulations encourage landscaping as a method of retaining a sense of nature in developed shoreline areas and to control the entry of contaminants into Lake Washington. *City SMP, Sec. IV.B.8, -10*. A proposed condition requires extreme care to ensure that no toxic or deleterious materials are allowed to enter or leach into surface waters. *Exhibit 1, Staff Report, pages 11 and 23-24; Exhibit 9; Exhibit 12; Exhibit 13; Exhibit 14*.
30. The City SMP use regulations discourage removal of vegetation and groundcover on steep slopes; require land surface modification to be minimized; require that no direct or indirect adverse impacts occur to adjoining property or Lake Washington; and require exposed surfaces to be re-vegetated or otherwise covered. *City SMP, Section IV.C and D*.

Surrounding Property

31. Surrounding property to the north and south of the proposed Project site is located in the City's Single Family Residential (R-20) zoning district, and currently contains residential uses. The SR 520 roadway lies adjacent to the east of the site, and Lake Washington is located west of the site. *Exhibit 1, Staff Report, page 3*.
32. John White testified that the Applicant is attempting to purchase easements from two owners of parcels adjacent to the north of the project site. One is a shoreline parcel and one is an upland parcel.¹⁷ The proposed development requires a construction easement over both parcels and a permanent airspace easement over one parcel. Mr. White testified that the Applicants' offers for the easements had not been accepted by the parcel owners. Mr. White added that if the Applicant's offers are unsuccessful, the Applicant would likely seek to obtain these easements through eminent domain. *Testimony of Mr. White*.

¹⁷ John White testified the parcels are identified by tax assessor parcel numbers 242504-3201 and 242504-3207. *Testimony of Mr. White*.

33. A navigation channel exists under the existing SR 520 east approach, approximately 270 feet from the shoreline. John White testified that the U.S. Coast Guard would allow for temporary navigation channel closures associated with Project construction, as long as the drawbridge on the east end of the existing SR 520 bridge span could be opened and as long as at least one navigation channel through Lake Washington– the east or west channel- remained open if the other was temporarily closed. Scott White testified that several local, state, and federal agencies were given notice and commented on the proposed project, and coordination between agencies occurred during project environmental review. According to preliminary Project plans, construction of the proposed east approach would result in a maximum navigation channel opening of 255 feet, with a vertical clearance between 70 and 75 feet. *Exhibit 1, Staff Report, pages 15 - 16; Testimony of Mr. John White; Testimony of Mr. Scott White.*
34. Letters dated January 11, 2012 from the Muckleshoot Indian Tribe to the U.S. Coast Guard and the U.S. Army Corps of Engineers state that the Tribe does not oppose issuance of Public Notice (01-12) (U.S. Coast Guard) and Permit NWS-2008-1246 (U.S. Army Corps of Engineers), which are necessary for Project approval. *Exhibit 40; Exhibit 41.*

Critical Areas

35. The City's Critical Area Ordinance identifies critical areas including wetlands, geologically hazardous areas, and fish and wildlife habitat conservation areas. *MCC 18.12.010*. HDR Engineer, Inc., Parametrix, Inc., and Confluence Environmental Company prepared a Critical Areas Report for the Applicant dated November 2011. The Critical Areas Report identified Lake Washington as a Fish and Wildlife Habitat Conservation Area. *MMC 18.12.400.A.5*. The City's Critical Areas Ordinance does not include a buffer from Lake Washington. The Critical Areas Report states the proposed Project would have the following permanent impacts: placement of new in-water structures and fill, substrate displacement and shading from new structures, stormwater discharge, and bridge lighting. The proposed Project would also have the following temporary construction impacts: in-water noise, temporary lighting, in-water turbidity and contaminants, and barge operation and moorage. The replacement bridge would cause permanent impact to 0.52 acres of lake bottom and add 8.69 acres of new overwater coverage. Construction of the work bridge and staging areas would result in temporary impacts to 0.19 acres of lake bottom and create 0.19 acres of temporary overwater coverage. *MMC 18.12.400; Exhibit 1, Staff Report, page 13; Exhibit 12.*
36. GeoEngineers prepared a Supplemental Critical Areas Report for the Applicant, dated November 3, 2011, which evaluated possible impacts to critical areas due to the construction of the proposed east approach. Erosion Hazard Areas, as defined by *MMC 18.12.340.A*, and slopes greater than 40-percent grade are located along the Lake Washington shoreline on the site of the proposed east approach. Many of the slopes

steeper than 40 percent meet MMC 18.12.340.B Landslide Hazard Area criteria. Portions of the existing slopes may also be within a Seismic Hazard Area. MMC 18.12.240.C. Geologically hazardous area impacts would be mitigated and addressed through design work, avoidance and minimization measures, and best management practices. As design work is finalized, additional geotechnical analysis would be required at the time a building permit application is submitted for the maintenance building. The City's Critical Areas Ordinance prohibits essential facilities from being placed within geologically hazardous areas, unless no other practical alternative is available. MMC 18.12.380.B. *Exhibit 1, Staff Report, pages 11 to 13; Exhibit 13.*

37. ABPB reviewed the geological hazard documents as a third-party consultant to the City and determined that the intent and requirements of Chapter 18.12 MMC are met. *Exhibit 15.*

Stormwater Management and Water Quality

38. The Applicant prepared a report describing stormwater impacts and potential remedies entitled *All Known, Available and Reasonable Technologies (AKART) and Water Quality Studies*. The Washington State Department of Ecology, with primary responsibility for approving measures to ensure stormwater quality for SR 520, approved the report on June 30, 2010. *Exhibit 27; Exhibit 28.*
39. A stormwater facility is proposed to collect and manage stormwater runoff from the roadway within the proposed east approach. The facility would be shaped like a horseshoe opening to the northwest. A portion of the northwest prong of the facility would extend into the City's shoreline jurisdiction. The facility would be located adjacent to the south of the proposed east approach, and would be designed as a bioswale meeting WSDOT Highway Runoff Manual standards. Scott White testified the facility would be constructed with a low permeability liner to limit erosion of the existing slope but improve water quality. The facility would also include a flow splitter to direct a portion of flow directly to Lake Washington during periods of extreme stormwater volume, to prevent over-topping and potential slope erosion. Stormwater from the proposed facility would outlet into a high-density polyethylene (HDPE) pipe running down the slope to the Lake Washington shoreline. The pipe would outlet into a ditch – a gabion padded outfall- constructed at the shoreline. Any runoff from the ditch would flow into Lake Washington. *Exhibit 1, Staff Report, pages 12 and 15; Exhibit 26; Exhibit 38; Testimony of Mr. White.*
40. Stormwater runoff from the proposed replacement bridge would be routed to catch basins on the bridge, which would collect and discharge stormwater to control lagoons located inside each of the stability pontoons used to support the bridge. Scott White testified water quality of stormwater runoff would improve through residence time and settling within the lagoons. Scott White also testified high-efficiency street sweeping would be used to collect debris and sediment that would otherwise enter the catch basins. According to *Additional Information for Shoreline and Critical Areas Applications, I-5 to Medina: SR 520 Bridge Replacement and HOV Project Bridge and Approach Structure*

Elements, dated November 15, 2011, and proposed bridge plans, pontoon lagoons would isolate spills for more effective clean up, and would dilute remaining stormwater to accepted state water quality standards before mixing with lake water. *Exhibit 1, Staff Report, page 14; Exhibit 3; Exhibit 21; Testimony of Mr. White.*

Noise and Privacy Impacts

41. A November 17, 2011 email from Palvi Mehta expressed concern about screening the path from surrounding residential properties to limit noise and closing the path at dusk to ensure security. Robert Grumbach, City Planning Director, responded in a December 18, 2011 email that planting faster growing rather than more mature trees would ensure screening plantings survive and become established on the site. Mr. Grumbach also responded that it is not practical to move the viewpoint trail to the north of the proposed east approach, and that the proposed viewpoint trail meets SMP requirements for shoreline access by utilizing available views. Scott White testified for the Applicant that extending the proposed trail to the water's edge would not meet ADA requirements. Ms. Kissinger testified for the City that the proposed Project would be conditioned to limit the hours of the trail for security purposes, and specific screening strategies would be coordinated between property owners and the City. *Exhibit 6; Testimony of Mr. White; Testimony of Ms. Kissinger.*
42. The November 17, 2011 email from Ms. Mehta also expressed concern about noise from the proposed construction. *Exhibit 6.* The City has adopted the King County noise code (Chapter 12.86 KCC) based on the state's noise regulations (WAC 173-60). The Applicant would comply with the City's noise code (Chapter 8.06 MCC), which could include a request for a technical noise variance during construction from the Hearing Examiner at a later date. *MCC 8.06.010.B.5.*

Staff Recommendation and Applicant Response

43. Ms. Kissinger testified that City staff recommends approval of the applications with conditions. Proposed conditions of SDP approval include compliance with all recommendations and conditions of a final geotechnical report as conditions of SDP approval; monitoring and a certification by a licensed geotechnical engineer that the project complies with all Ch. 18.12 MMC and final geotechnical report requirements; coordination with local residents to finalize landscaping and screening; compliance with state and federal agency approvals; adoption of WSDOT-City agreement for trail and viewing area security, maintenance and hours; and use of stormwater and erosion control best management practices. Proposed conditions of approval for the SCUP and SDP include substantial compliance with submitted design drawings; substantial compliance with submitted drawings; procedure for SCUP revisions, if needed; identification of a point of contact for construction; landscaping; mitigation in accord with the *Draft Aquatic Mitigation Plan*; clearing limits; notice of start of construction; and time limits for construction. A proposed condition of approval specific to the SCUP would condition

SCUP approval on removal of the existing floating bridge and east approach. *Exhibit 1, Staff Report, pages 22 – 24; Testimony of Ms. Kissinger.*

44. John White testified that the Applicant has read, understands, and agrees with all proposed conditions of SCUP and SDP approval. *Testimony of Mr. White.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide Shoreline Conditional Use Permit requests. *Medina Municipal Code (MMC) 2.78.070.E; MMC Table 20.80.060(C); RCW 90.58.140 (10).*¹⁸ The Hearing Examiner also has jurisdiction to hear and decide requests for Substantial Development Permits. *Medina Municipal Code (MMC) 2.78.070; MMC Table 20.80.060(C).*

Criteria for Review

Shoreline Conditional Use Permit

The objective of the conditional use provision of the City Shoreline Management Master Program (SMP) is “to provide control and flexibility in the implementation of [the] Master Program.” *City SMP, Section V.B.2, page 22.* The Hearing Examiner shall grant a shoreline conditional use request if the Hearing Examiner finds after public hearing that all of the following conditions exist:

- a. The use will cause no unreasonable adverse effects on the environment or other uses;
- b. The use will not interfere with public use of public shorelines;
- c. Design of the site will be compatible with the surroundings and the requirements of this Master Program; [and]
- d. The proposed use will not be contrary to the general intent of the [Shoreline Management] Act and this Master Program.

City SMP, Section V.B.2, page 22; Medina Municipal Code (MMC) Table 20.80.060(C).

Thus, the Hearing Examiner must examine the general intent of the Shoreline Management Act (SMA) and the City SMP.

Shoreline Management Act and Regulations

The Shoreline Management Act is codified at RCW 90.58.020. Applicable policies of RCW 90.58.020 include those to foster “all reasonable and appropriate uses;” protect against adverse effects to the public health, the land and its vegetation and wildlife; and give priority to single family residences and appurtenant structures in authorizing alternations to the natural condition

¹⁸ RCW 90.58.140(10) provides “Any permit for a variance or a conditional use issued with approval by a local government under their approved master program must be submitted to the department for its approval or disapproval.” The City ordinance reflects the state law by noting that Ecology must review a SCUP prior to it being considered a final decision.

of the shoreline. Permitted shoreline uses must be designed to “minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public’s use of the water.” *RCW 90.58.020*.

In promulgating the Shoreline Management Act of 1971, the legislature recognized that “ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development” of the state’s shorelines. *RCW 90.58.020*. The legislature also determined that “unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest.” *RCW 90.58.020*. Accordingly, the Shoreline Management Act requires local governments to develop a master program to regulate shoreline uses consistent with its guidelines. *RCW 90.58.080(1)*.

Shoreline Management Act regulations provide:

Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.

WAC 173-27-160(3).

Conditional use requirements within the Shoreline Management Act Regulations are as follows:

- a. That the proposed use is consistent with the policies of *RCW 90.58.020* and the master program;
- b. That the proposed use will not interfere with the normal public use of public shorelines;
- c. 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 master program;
- d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
- e. That the public interest suffers no substantial detrimental effect.

WAC 173-27-160(1).

In addition, consideration shall be given to the cumulative impact of additional requests for like actions in the area. *WAC 173-27-160(2)*.

City Shoreline Master Program

The primary goal of the City SMP is “[t]o preserve Medina’s shoreline for single family residential use, in a manner that also protects and preserves the natural features along the shoreline and the quality of Lake Washington.” *City SMP, Section II.A., page 7*. Medina’s shoreline is classified into two categories, Urban and Recreation Conservancy. The intent of the Urban classification is to indicate that the City’s shoreline, except for public areas and private recreation areas, has been designated for low-density single-family urban residential development. *City SMP, Section III, page 10*.

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The City SMP Shoreline Conservation Goal is to preserve and protect the resources and amenities of Lake Washington for use and enjoyment by present and future Medina citizens consistent with property rights. Shoreline Conservation Policy 2 provides that future substantial development of the shoreline shall be designed and constructed to minimize adverse effects on the natural systems, including aquatic habitats. *City SMP, Section II.B, page 7.*

The City SMP Circulation Goal is to maintain the present transportation system within Medina's shoreline and minimize any expansion. Policy 1 states "additional transportation systems must be designed to minimize any increases in noise, air, and water pollution above existing levels. In addition, the expansion of existing facilities (i.e. Evergreen Point Bridge) must reduce to the maximum extent, and mitigate any possible associated impacts from upgrading or improvements." Policy 3 states "provisions for METRO Public Transit or other mass transit should be implemented in all transportation facilities crossing Lake Washington," and Policy 4 provides "pedestrian and bicycle pathways should be included in any expansion of the Evergreen Point Bridge." *City SMP, Section II.B, page 8.*

The City SMP Public Access Goal is to assure access to Medina's public shoreline. The Recreation Goal supports water dependent recreation activities. *City SMP, Section II.D and E.*

Shoreline Substantial Development Permit

The Department of Ecology shoreline regulations are located in Chapters 173-26 and 173-27 of the Washington Administrative Code (WAC). Chapter 173-26 sets forth procedures and guidelines for local adoption of shoreline master programs that are not applicable to the Applicant's permit request. Chapter 173-27 sets forth permitting procedures and permit criteria:

- (1) A substantial development permit shall be granted only when the development proposed is consistent with:
 - (a) The policies and procedures of the act.
 - (b) The provisions of this regulation; and
 - (c) The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.
- (2) Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

WAC 173-27-150.

State law requires that construction shall not begin until 21 days from the date of filing of the decision with the Department of Ecology or until the review proceedings have been terminated. *WAC 173-27-190(1)*. Thus, the Hearing Examiner must also review the relevant City Shoreline Master Program (City

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SMP) goals, policies and regulations in deciding whether to grant a shoreline substantial development permit when deciding these permit requests.

The criteria for review adopted by the Medina City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings
Shoreline Conditional Use Permit

1. With conditions, the proposal meets the WAC 173-27-160(1) criteria and City SMP criteria for a Shoreline Conditional Use Permit:

- a. The proposal is consistent with the policies of RCW 90.58.020 and consistent with the master program. WAC 173-27-160(1)(a); City SMP, Section V.B.2.c.** The proposal would replace and expand the existing SR 520 bridge and highway use, an Essential Public Facility and water-dependent use. The use provides for vehicle, pedestrian, and bicycle circulation and transport across Lake Washington. The Applicant has coordinated with federal, state, and local agencies in environmental review of the proposed Project and in developing proposed Project plans. The Muckleshoot Tribe does not object to permit issue for the proposed Project by the U.S. Army Corps of Engineers and U.S. Coast Guard. Construction and operation of the proposal would not unreasonably restrict navigation on Lake Washington, in accordance with U.S. Coast Guard standards.

The existing SR 520 bridge and highway use is currently classified as a nonconforming use under the City SMP. Nonconforming uses may continue in accordance with the City SMP as long as the use is not enlarged, intensified, increased, or altered in a way that increases the nonconformity. The proposed use would increase bridge size and overwater coverage. However, the bridge and highway use is not classified as a permitted use in the City SMP; existing bridge construction pre-dates City SMP adoption. Shoreline Management Act (SMA) regulations allow authorization of uses not classified or set forth within a SMP as a conditional use, if the SMP does not specifically prohibit the use. While the City SMP prohibits additional bridges across Lake Washington beyond the existing bridge, it does not specifically prohibit the existing bridge and highway use. Thus, authorizing the proposed SR 520 bridge and highway use as a conditional use is consistent with the City SMP.

Construction and operation of the proposed use would result in critical areas, stormwater, noise, and privacy impacts, among other impacts. Conditions of approval are necessary to ensure protection against adverse public health, land,

vegetation and wildlife effects. Conditions of approval are also necessary to minimize ecological and environmental damage to the shoreline area. Conditions of approval require removal of the existing floating bridge and east approach and concern landscaping for screening purposes; mitigation in accord with the *Draft Aquatic Mitigation Plan*; clearing limits; notice of start of construction; and time limits for construction. *Findings 1, 3 – 13, 16 – 44.*

- b. The proposal will not interfere with the normal public use of public shorelines. WAC 173-27-160(1)(b); City SMP Section V.B.2.b.** The Muckleshoot Tribe does not object to the proposed Project. Construction and operation of the proposed Project would not unreasonably restrict navigation on Lake Washington, in accord with U.S. Coast Guard standards. WSDOT has purchased five formerly-residential parcels for development of the proposed use; two existing piers associated with the parcels will be demolished by WSDOT. The proposed viewpoint trail and overlook will provide views of the shoreline, but steep slopes down the adjacent bluff will prevent public access to the shoreline from the overlook. *Findings 1, 11, 13, 16, 33, 34.*
- c. 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 master program. WAC 173-27-160(1)(c). Design of the site will be compatible with the surroundings and the requirements of this Master Program. City SMP Section V.B.2.c.** WSDOT has purchased five residential parcels for development of the proposed use, and has converted the five parcels to state highway ROW. In addition, two existing piers associated with the parcels will be demolished by WSDOT. WSDOT will also obtain necessary construction and air easements on additional parcels by purchase or condemnation. Proposed Project design provides for a navigation channel under the replacement bridge, and for vehicle, HOV, pedestrian and bicycle lanes within the roadway of the replacement bridge. The replacement SR 520 bridge and highway use would provide access to residential areas in the City, similar to the existing bridge and highway use. Conditions of approval are necessary to ensure removal of the existing floating bridge and east approach. Conditions of approval are also necessary to require landscaping for screening purposes; mitigation in accord with the *Draft Aquatic Mitigation Plan*; provide for clearing limits; provide notice of start of construction; and provide time limits for construction. *Findings 1, 5 - 23, 33 – 44.*
- d. The proposal will cause no significant adverse effects to the shoreline environment in which it is to be located. WAC 173-27-160(1)(d); City SMP V.B.2.a.** WSDOT acted as lead agency and analyzed environmental impacts of the proposal under the State Environmental Policy Act (SEPA); the Federal Highway Administration (FHWA) acted as lead agency and analyzed impacts under the National Environmental Policy Act (NEPA). Both agencies issued a joint NEPA-SEPA Final Environmental Impact Statement (FEIS) for the SR 520, I-5 to Medina:

Bridge Replacement and HOV Project (Project). The Applicant's Biological Assessment, the National Marine Fisheries Service's Biological Opinion, and the U.S. Fish and Wildlife Service's Biological Opinion also addressed environmental impacts. The Applicant has listed proposed on-site and off-site mitigation for impacts in its *Draft Aquatic Mitigation Plan*. Conditions of approval are necessary to ensure mitigation is implemented in accord with the *Draft Plan*. The Applicant would also apply for an administrative tree removal permit pursuant to Chapter 20.80 MMC for final tree removal and mitigation, pending final design work. Conditions of approval are necessary to require landscaping for screening purposes; provide for clearing limits; provide notice of start of construction; and provide time limits for construction. *Findings 1, 17 – 23, 41 – 44.*

- e. **The public interest would suffer no substantial detrimental effect. WAC 173-27-160(1)(e).** The City provided notice of the application and the open record hearing on the proposal. The replacement bridge and east approach would provide a safer means of vehicle, HOV, pedestrian and bicycle travel across Lake Washington as the existing bridge was not designed for the traffic volumes it has incurred over time, and the bridge is at the end of its useful life given construction materials and methods. *Findings 1, 2, and 5.*
- f. **Consideration has been given to the cumulative impact of additional requests for like actions in the area. WAC 173-27-160(2).** There are no requests for like actions in the area. The City SMP prohibits additional cross-lake bridges beyond the SR 520 bridge across Lake Washington. *Findings 1 and 27.*

Shoreline Substantial Development Permit

- 1. **With conditions, the proposal is consistent with the Shoreline Management Act policies and procedures.** The City provided notice of the application and open record hearing on the proposal. Construction of the proposed SR 520 replacement bridge, east approach and associated infrastructure is necessary to provide a safer means of transport across Lake Washington. The SR 520 highway is an Essential Public Facility, which may not be prohibited by local development regulations. With a conditional use permit, the proposed use is consistent with SMA policies and procedures. Conditions of approval are necessary to ensure any damage to shoreline ecology and environment is minimized, including conditions requiring compliance with recommendations and conditions of a final geotechnical report; require monitoring and a certification by a licensed geotechnical engineer that the project complies with all Ch. 18.12 MMC and final geotechnical report requirements; require coordination with local residents to finalize landscaping and screening; require compliance with state and federal agency approvals; require adoption of a WSDOT-City agreement for trail and viewing area security, maintenance and hours; and to ensure use of stormwater and erosion control best management practices. *Findings 1, 2 – 13, 17 – 22, 24 – 30, 35 – 44.*

2. **With conditions, the proposal is consistent with applicable SMA regulations.** The Department of Ecology shoreline regulations are located in Chapters 173-26 and 173-27 of the Washington Administrative Code (WAC). Chapter 173-26 sets forth procedures and guidelines for local adoption of shoreline master programs that are not applicable to the Applicant's permit request. Chapter 173-27 sets forth permitting procedures and permit criteria. The proposal is being reviewed under the criteria set forth in WAC 173-27-150. These criteria are intended to implement the policies of the SMA, which requires that all shoreline projects be consistent with the SMA and an approved local Shoreline Master Program. Conditions of approval are necessary to ensure that the Applicant obtains all necessary state and federal agency approvals; that the final design substantially complies with drawings provided; and that there is a procedure for possible permit modifications. *Findings 1, 43, and 44.*

3. **With conditions, the proposal is consistent with the City SMP and applicable regulations.** The existing SR 520 bridge and highway use is currently classified as a nonconforming use under the City SMP. Nonconforming uses may continue in accord with the City SMP as long as the use is not enlarged, intensified, increased, or altered in a way that increases the nonconformity. The proposal would increase bridge size and overwater coverage. However, the bridge and highway use is listed as a permitted use in the City SMP and the existing bridge pre-dates City SMP adoption. Shoreline Management Act (SMA) regulations within the Washington Administrative Code (WAC) allow authorization of uses not classified or set forth within a SMP as a conditional use, if the SMP does not prohibit the use. While the City SMP prohibits additional bridges across Lake Washington beyond the existing bridge, it does not specifically prohibit the existing bridge and highway use. Thus, a shoreline conditional use permit is required to authorize the proposed SR 520 bridge and highway as a permitted use under the City SMP. With approval of the shoreline conditional use permit and associated conditions of approval, the proposal is consistent with the City SMP. *Findings 1, 3 – 13, 16, 24 – 30, 43 and 44.*

DECISION

Shoreline Conditional Use Permit

Based on the preceding Findings and Conclusions, the request for a Shoreline Conditional Use Permit to establish a state highway use and bridge within the shoreline jurisdiction of Lake Washington and within SR 520 highway right-of-way, in Medina, Washington, is **APPROVED**, with the following conditions:¹⁹

1. Final design of the floating bridge and east approach shall substantially comply with the drawings provided in Exhibits 18, 21 and 22.

¹⁹This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by City Code. Conditions 1 – 14 of the Shoreline Conditional Use Permit (SCUP) are identical to conditions 1 – 14 of the Shoreline Substantial Development Permit (SDP). The SDP is approved only if the Washington State Department of Ecology (DOE) approves the SCUP, in accord with Ch. 90.58 RCW.

2. Final design of the viewing area and trail shall substantially comply with the drawings provided in Exhibit 19.
3. Final design of the stormwater facility shall comply with the drawings provided in Exhibit 19 and 26. Substantive revisions to the design of the stormwater facility are permitted provided the revisions are approved by the Medina City manager or designee and the revisions are consistent with the original scope of work.
4. Revisions to this approval shall be reviewed pursuant to WAC 173-27-100. Substantial revisions of the substantial development permit shall require approval by the hearing examiner subject to the review procedures of a Type 2 or Type 3 decision, except as noted in Condition 3. Determination of the need for this review process shall be made by the City manager or designee pursuant to MMC 20.80.050. Substantial revisions to the conditional use permit shall require approval by the Department of Ecology.
5. A point of contact relating to construction shall be provided prior to the start of construction work. The point of contact shall be available to both City staff and the public in resolving issues during construction.
6. Landscaping shall be provided that substantially complies with the landscaping plan set forth in Exhibit 25. Landscaping shall be provided prior to project completion and as soon as reasonably possible. WSDOT or the contractor shall notify the City upon completion of the landscaping.
7. Mitigation shall be provided that substantially complies with the *Draft Aquatic Mitigation Plan* set forth in Exhibit 32. Mitigation within Medina shall include, but not be limited to removal of bulkheads and riprap and re-grade and replant the shoreline and riparian area to provide a naturally functioning habitat and removal of the two existing residential piers.
8. If clearing activity shall occur between Oct 1 and May 1 of each year of the project, a request to perform clearing activity shall be submitted to the City manager or designee for approval or denial. The City manager or designee shall decide the request consistent with MMC 18.12.390(E). This condition shall not apply to non-clearing activity.
9. The applicant or the contractor shall provide written notice on the start of construction to the City and property owners within 1,000 feet of the site at least seven calendar days before commencement of construction.

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10. The permit is granted pursuant to the Shoreline Management Act of 1971 and nothing in this permit shall excuse the applicant from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project, but not inconsistent with Shoreline Management Act (RCW 90.58).
11. Construction pursuant to this permit will not begin or is not authorized until twenty-one (21) days from the date the permit decision was filed pursuant to RCW 90.58.140(6), except as provided for in RCW 90.58.140(5).
12. This permit may be rescinded pursuant to RCW 90.58.140(8) in the event the permittee fails to comply with the terms or condition thereof.
13. Construction activities shall be commenced within two years of the effective date as set forth in RCW 90.58.143. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to the Department of Ecology.
14. Authorization to conduct construction activities shall terminate five years after the effective date as set forth in RCW 90.58.143. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the Department of Ecology.
15. Approval of the new floating bridge and east approach is conditioned upon the existing floating bridge and east approach being removed consistent with the submitted plans set forth in Exhibit 3, 18, and 32. Only one cross-lake floating bridge is authorized within Medina's jurisdiction.

Shoreline Substantial Development Permit

The associated Shoreline Substantial Development Permit request to replace the existing SR 520 highway floating bridge with a larger bridge, construct a new east approach to the floating bridge, construct a new stormwater treatment facility, and construct a new pedestrian overlook within the shoreline jurisdiction of Lake Washington and within SR 520 highway right-of-way, in Medina, Washington, is **APPROVED**, with the following conditions:²⁰

²⁰This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by City Code. Conditions 1 – 14 of the Shoreline Conditional Use Permit (SCUP) are identical to conditions 1 – 14 of the Shoreline Substantial Development Permit (SDP). The SDP is approved only if the Washington State Department of Ecology (DOE) approves the SCUP, in accord with Ch. 90.58 RCW.

1. Final design of the floating bridge and east approach shall substantially comply with the drawings provided in Exhibits 18, 21 and 22.
2. Final design of the viewing area and trail shall substantially comply with the drawings provided in Exhibit 19.
3. Final design of the stormwater facility shall comply with the drawings provided in Exhibit 19 and 26. Substantive revisions to the design of the stormwater facility are permitted provided the revisions are approved by the Medina City manager or designee and the revisions are consistent with the original scope of work.
4. Revisions to this approval shall be reviewed pursuant to WAC 173-27-100. Substantial revisions of the substantial development permit shall require approval by the hearing examiner subject to the review procedures of a Type 2 or Type 3 decision, except as noted in Condition 3. Determination of the need for this review process shall be made by the City manager or designee pursuant to MMC 20.80.050. Substantial revisions to the conditional use permit shall require approval by the Department of Ecology.
5. A point of contact relating to construction shall be provided prior to the start of construction work. The point of contact shall be available to both City staff and the public in resolving issues during construction.
6. Landscaping shall be provided that substantially complies with the landscaping plan set forth in Exhibit 25. Landscaping shall be provided prior to project completion and as soon as reasonably possible. WSDOT or the contractor shall notify the City upon completion of the landscaping.
7. Mitigation shall be provided that substantially complies with the *Draft Aquatic Mitigation Plan* set forth in Exhibit 32. Mitigation within Medina shall include, but not be limited to removal of bulkheads and riprap and re-grade and replant the shoreline and riparian area to provide a naturally functioning habitat and removal of the two existing residential piers.
8. If clearing activity shall occur between Oct 1 and May 1 of each year of the project, a request to perform clearing activity shall be submitted to the City manager or designee for approval or denial. The City manager or designee shall decide the request consistent with MMC 18.12.390(E). This condition shall not apply to non-clearing activity.
9. The applicant or the contractor shall provide written notice on the start of construction to the City and property owners within 1,000 feet of the site at least seven calendar days before commencement of construction.
10. The permit is granted pursuant to the Shoreline Management Act of 1971 and nothing in this permit shall excuse the applicant from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project, but not inconsistent with Shoreline Management Act (RCW 90.58).

11. Construction pursuant to this permit will not begin or is not authorized until twenty-one (21) days from the date the permit decision was filed pursuant to RCW 90.58.140(6), except as provided for in RCW 90.58.140(5).
12. This permit may be rescinded pursuant to RCW 90.58.140(8) in the event the permittee fails to comply with the terms or condition thereof.
13. Construction activities shall be commenced within two years of the effective date as set forth in RCW 90.58.143. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to the Department of Ecology.
14. Authorization to conduct construction activities shall terminate five years after the effective date as set forth in RCW 90.58.143. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the Department of Ecology.
15. A final geotechnical report shall be completed for the east approach, stormwater facility and viewing area and trail. A copy of the final geotechnical report shall be submitted to the City. All recommendations and conditions set forth in the geotechnical report shall be included as conditions for approving the shoreline substantial development permit.
16. The contractor shall utilize qualified and licensed geotechnical personnel to monitor construction activity and confirm that all appropriate mitigation measures are properly undertaken with the project. WSDOT and/ or the contractor shall submit at the conclusion of construction a certification by a qualified and licensed geotechnical person that the project complies with all applicable geotechnical requirements set forth in Chapter 18.12 MMC and the final geotechnical report.
17. Prior to completion of the project, WSDOT shall secure an agreement with the City to establish trail and viewing area security, maintenance and hours of operation. A sign containing the hours the trail is open to the public shall be posted and maintained at the entrance to the trail.
18. WSDOT or the contractor shall coordinate with local residents to finalize the landscaping and other view-obscuring measures to be implemented for the viewing area and pedestrian trail. Evidence of this coordination shall be provided to the City prior to and during such coordination efforts.
19. Required approvals from state and federal agencies must be obtained prior to issuance of building permits for the maintenance facility and dock. Copies of these approvals shall be submitted to the City. Any conditions set forth in state and federal approvals shall be included as conditions for approving the substantial development permit.
20. Stormwater best management practices shall be employed at all times during construction work. Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, or any other

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toxic or deleterious materials are allowed to enter or leach into surface waters. The permittee shall report all spill immediately to the Washington Department of Ecology (425 849-7000) and the City of Medina.

21. Any soils exposed during construction shall be appropriately re-vegetated consistent with the proposed best management practices. A copy of the temporary erosion and sediment control (TESC) plan and spill preventions, control, and countermeasures (SPCC) plan shall be provided to the City prior to the start of construction work.
22. Proposal for adding future high capacity transit (light rail) to the floating bridge shall require approval of new shoreline permits.
23. Use of City right-of-way for construction purposes shall require obtaining a right-of-way permit from the City. The City Engineer may impose conditions pursuant to MMC 12.08.005, as amended by Ordinance No. 876.

Decided this 15th day of February 2012.


KIMBERLY A. ALLEN
Hearing Examiner
Sound Law Center