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JEFFERSON COUNTY

DEPARTMENT OF COMMUNITY DEVELOPMENT

621 Sheridan Street
Port Townsend, WA 98368

DEVELOPMENT REVIEW DIVISION
STAFF REPORT
TO
JEFFERSON COUNTY HEARING EXAMINER

RE: Shoreline Conditional Use) PROPOSED FINDINGS,
Application) CONCLUSIONS, AND
) RECOMMENDATIONS

File No: MLA14-00061/SDP14-00017

Applicant: Bridgehaven Community Club (Don Williams)
351 N Beach Drive
Port Ludlow, Washington 98365

SUMMARY OF APPLICATION AND RECOMMENDATION

Application: Shoreline conditional use application to conduct maintenance dredging at the Bridgehaven Community Club Marina and to place dredge materials on the parcel to the north, which is owned by Admiral's Way. The proposal is to remove about 1,749 cubic yards of material from an approximately 34,848 square foot area. Barges mounted with a 50-foot-long reach excavator having a rotating hydraulic clam bucket attachment will be used. Excavated sediments will be placed north of the dredge area on an adjacent beach so that the dredge sediments will continue to nourish the drift cell. The dredge disposal area is approximately 10,019 square feet in size and the materials will be deposited to a depth of approximately four feet. This application was subject to review under SEPA.

Staff Comment: The shoreline designations for the marina property are aquatic below ordinary high water mark (OHWM) and high intensity above OHWM. The shoreline designations for the Admiral's Row property immediately to the north include both aquatic and priority aquatic below OHMW and shoreline residential above OHWM (Exhibit 23).

Dredging in the aquatic designation and dredge disposal in the aquatic and the priority aquatic designations are reviewed as a discretionary conditional use (JCC 18.25.220). Discretionary conditional use applications are reviewed using a Type II process (JCC 18.25.620(4)), which requires noticing the application. This section of the Jefferson County Code (JCC) also states that Type II discretionary conditional uses may be referred by the Administrator to the Hearing Examiner on a case-by-case basis. Due to comments received by this department during the notice of application, this case is being referred

to the Hearing Examiner. Therefore, the proposal has been processed as a Type III, which requires a public hearing with the Hearing Examiner making the final decision for Jefferson County.

Recommendation: Approval with Conditions

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BACKGROUND INFORMATION

Applicant: Bridgehaven Community Club (Don Williams), 351 N Beach Drive, Port Ludlow

Legal Description and Location: The marina dredge project area is legally described as S9 T27 R1E Lt5 (1s tx1,2,3,4,5,7,9&pltd&s150' of N470' btw hwy&pl(e of hwy). The parcel number is 721093002.

The adjacent parcel to the north will be used for placement of the dredged materials. That site is legally described as Admiral's Row Open Space Area V10/P26. The parcel number is 721095011.

Site Conditions: The project area consists of two parcels, one of which is currently used for the marina and the other is marine open space that will be used for placement of the dredged material.

The marina is 1.25-acre parcel, and is bounded to the north by the Admiral's Row open space area, to the west by South Point Road, to the south by the Bridgehaven subdivision, and to the east by Hood Canal. Much of this property is used as a marina parking lot. Along the edge of the water are rocks to help stabilize the slopes at the marina.

The Admiral's Row Open Space parcel is along Hood Canal and the portion of this parcel that is below OHWM will be used as the dredge disposal site to allow the dredge materials to continue through the marine drift cell. This is a narrow parcel immediately between Hood Canal and South Point Road. The parcel to the north is forested and the parcel to the south is developed as part of the Bridgehaven marina and parking lot. The forested area of the Admiral's Row Open Space property along South Point Road drops down to a grassy area immediately adjacent to Hood Canal. Some of the shoreline has been eroding from wave energy over time.

Shoreline Designation: Pursuant to the SMP, the marina parcel is designated as aquatic below OHWM and high intensity above OHWM. The dredge disposal property to the north is designated as aquatic and priority aquatic below OHWM and shoreline residential above OHWM.

Comprehensive Plan Designation: The *Jefferson County Comprehensive Plan* designates both the marina and the open space properties as rural residential one dwelling unit per five acres (RR 1:5).

Site Visit: Jefferson County Department of Community Development (DCD) staff conducted a site visit on Monday, May 18, 2015. Members of the Bridgehaven Community Club, a representative from Admiral's Row subdivision, and the project biologist were also present during the site visit. The purpose of the site visit was to review conditions in the project area based on comments received during the notice of application and the response to comments prepared by the project consultants.

Date of Application: A shoreline application was submitted to Jefferson County on August 6, 2014. The County did not review the application within the 28 days specified in JCC 18.40.110 to determine if the application is complete. Therefore, the application was deemed complete on September 3, 2014, per JCC 18.40.110(4). DCD notified the applicant of the determination on February 13, 2015 (Exhibit 6).

Application Review: Having reviewed this application, DCD has referred this shoreline application to the Hearing Examiner, as allowed under JCC 18.25.620(4). This referral is based on the conditional use review process of JCC 18.40.520(2) (Exhibit 29).

State Environmental Policy Act (SEPA): The proposal was subject to review under SEPA because the work will be conducted within marine water and more than 500 cubic yards of fill material will be moved. Jefferson County issued a Final Determination of Non-significance on September 15, 2015 (Exhibit 30).

Public Hearing Date: October 27, 2015

NOTICE REQUIREMENTS AND COMMENTS

Proposal Noticing:

Public Notice was published in the Port Townsend-Jefferson County Leader newspaper:

- Notice of Application and Pending SEPA Determination: February 18, 2015 (Exhibits 8 and 14)
- Notice of Public Hearing: October 14, 2015 (Exhibit 33)

Notice was posted on the property:

- Notice of Application and Pending SEPA Determination: February 17, 2015 (Exhibits 8 and 10)
- Notice of Public Hearing: October 14, 2015 (Exhibit 33)

The applicant, the project representative, the agencies, and all property owners within 300 feet were notified by mail:

- Notice of Application and Pending SEPA Determination: February 18, 2015 (Exhibit 8)
- Notice of Public Hearing: October 13, 2015 (Exhibit 33)

Public Comments:

Adjacent property owners were notified of the shoreline application and the scheduled public hearing on the proposal (Exhibits 8 and 33).

Notice of Application:

DCD received comments from two shellfish farms in the area: Rock Point Oyster Company and the O'Neil Family Investment, both of which are north of the project area.

Rock Point Oyster Company is concerned about increased turbidity in the area of the shellfish farm and increased sediment deposition at the shellfish farm. Rock Point Oyster Company considered the proposal to be a threat to the viability of a highly productive shellfish farm and wanted the project to be conditioned and/or mitigated to avoid impacts to the farm. A report prepared by Golder Associates and a copy of a NOAA National Shellfish Initiative, both of which were attached to the comment letter, were used as support for the concerns and issues expressed by Rock Point Oyster Company (Exhibit 11).

DCD received comments from Matthew Lind, an attorney for O'Neil Family Investment (OFI), who owns property that has been used for shellfish harvesting and is immediately north of the Admiral's Row property (Exhibit 12). OFI opposes approval of the application, due to concerns about sediments covering or contaminating the shellfish beds. OFI requested that sediments from the dredge area be tested for contamination.

Based on the above comments, the project biologist and the project engineering geologist provided responses to comments (Exhibit 19). This submittal stated that:

1. The Bridgehaven development was constructed in the 1960s, prior to current regulatory requirements;
2. The placement of the dredged materials is intended to address erosion of beaches, sand spits, and islands to the north of the project area (i.e., address sediments that are falling out at the marina) by allowing those sediments to continue moving through the drift cell;
3. The disposal area is at least 1,200 feet from the property immediately to the north and a back eddy at the disposal area will provide for short-term, localized sediment drift;
4. The applicant originally proposed placement of the dredged materials on a parcel farther to the north, but when the property owner passed away, the son refused to cooperate with an earlier verbal agreement;
5. The size and location of sediments within the drift cell indicated that sediments are not overtopping the spit, and this indicated that there is a misinterpretation of the shoreline processes in the report prepared by Golder;
6. The dredged materials will be placed in an area that has limited wave energy and consists mostly of very shallow flats, both of which indicate turbidity is not likely to be an issue at the shellfish farms; and
7. The amount of material to be excavated is negligible relative to the amount of material naturally transported through the drift cell.

The response to comments also included the following:

1. A memo prepared by the Corps of Engineers stating that sediments in the marina do not need to be tested for contaminants as part of the current application because previous tests from 2003 and 2004 showed that any chemicals of concern were either not detected or below screening levels; and
2. A letter prepared by NOAA Fisheries that concluded any increase in suspended sediments would be expected to be localized and of short duration, and would not occur for sufficient duration and at increased sediment levels as to injure listed species.

Notice of Public Hearing:

No comments were received from the public as of October 15, 2015.

Agency Comments:

Agencies, including tribes, were notified of the pending shoreline application and the scheduled public hearing on the proposal (Exhibits 8 and 33).

Notice of Application:

A letter from Washington Department of Ecology (Ecology) stated that Shorelands and Environmental Assistance was reviewing the application to determine if a Section 401 Water Quality Certificate was needed and any comments would be sent to the project biologist (Exhibit 13).

An email from Washington Department of Natural Resources (DNR) said that a portion of the proposal is on DNR-managed aquatic lands, that the proposal would require a use authorization, and that this was communicated to the applicant (Exhibit 9).

SEPA Threshold Determination:

Jefferson County DCD issued a Determination of Non-significance on September 17, 2015, and also notified agencies and parties of record that same day (Exhibit 31).

JEFFERSON COUNTY APPROVALS REQUIRED/APPLICABLE ORDINANCES

A Conditional Use Permit is required. As allowed under JCC 18.25.620(4), this discretionary conditional use application was referred to the Hearing Examiner, and is, therefore, subject to the Type III review process.

The proposal was reviewed against:

- Shoreline Master Program for Jefferson County, effective February 21, 2014;
- Jefferson County Unified Development Code, adopted December 18, 2000, effective January 16, 2001, as amended; and
- Jefferson County Comprehensive Plan, adopted August 28, 1998, as amended.

STAFF FINDINGS

The following presents staff findings regarding consistency of the application with the Jefferson County Comprehensive Plan, the Jefferson County Code, and the Jefferson County Shoreline Master Program. Based on the findings and conclusions presented below, staff conditions recommended for consideration by the Hearing Examiner are included at the end of this staff report. Any of the following findings may be adopted, rejected, or modified by the Hearing Examiner based on testimony or evidence presented during the course of review.

1. The applicant is proposing to dredge sediments that have built up in the marina over the years and to place the dredge sediments on a parcel immediately north of the marina. Some of the sediments moving north through the drift cell are trapped in the marina and the intent of placing the materials north of the marina is to allow the materials to continue being transported through the drift cell.
2. The proposed development is entirely within shoreline jurisdiction, and is subject to the critical areas regulations specified in the Jefferson County Code (Chapter 18.22 JCC). The following critical areas were identified on the subject property: fish and wildlife habitat areas (federally-listed species in marine water); geologically hazardous areas (seismic hazards); frequently flooded areas; aquifer recharge areas (susceptible); and seawater intrusion protection zones (coastal).

Staff Comment: The applicant submitted a Biological Evaluation to address dredging and dredge disposal. This report indicates that the proposal will have 'no effect' or 'may affect, not likely to adversely affect' federally-listed species. Jefferson County noticed the application to state agencies, tribes, and the Corps of Engineers (Corps), but did not receive any comments indicating that the project has the potential to impact fish, wildlife, or sensitive habitats in the project area. Therefore, it is assumed that listed fish species would not be adversely affected by the proposal. Development within a Federal Emergency Management Agency (FEMA) mapped flood boundary requires compliance with the FEMA Biological Opinion. To ensure that the FEMA requirement is met, a recommended condition of approval is that the applicant not begin any work on this project until the Corps issues a permit. Within the area mapped as a seismic hazard, a geotechnical report would only be required if facilities were being proposed that would attract the public to the shorelines. Since no public facilities were proposed waterward of OHWM, no geotechnical report was required of the applicant. The proposed project occurs within an aquifer recharge area and within a coastal seawater intrusion protection zone (SIPZ).

The type of project proposed, however, would not be expected to adversely affect the recharge area or the SIPZ.

3. Pursuant to JCC 18.30.070 (Stormwater Management Standards), any proposed development with stormwater runoff must comply with the minimum standards of the 2012 Ecology *Stormwater Management Manual for Western Washington*. This proposal is waterward of areas where surface water runoff occurs; therefore, the proposal is not required to comply with the Stormwater Management Manual for Western Washington (Ecology 2012).
4. **Jefferson County Comprehensive Plan:** The proposed shoreline development is subject to the goals and policies of the Jefferson County Comprehensive Plan. The following Plan goals and policies apply to the proposal:
 - a) **The Jefferson County Comprehensive Plan, 1998**, Environment Goal 5.0 (p. 8-24) states:
"Allow development along shorelines which is compatible with the protection of natural processes, natural conditions, and natural functions of the shore environment."
Staff Comment: The proposed development has undergone review under the Jefferson County Code, including the shoreline regulations (Chapter 18.25 JCC). As conditioned through existing Jefferson County regulations, the proposal is consistent with this policy.
 - b) **The Jefferson County Comprehensive Plan, 1998**, Environment Policy 5.1 (p. 8-24) states:
"Regulate shoreline land use activities based on the best available scientific information."
Staff Comment: The proposal was sent to resource agencies and tribes for review and comments. To encourage natural sediment transport processes to occur along the marine drift cell, the dredge materials will be placed north of the marina (rather than transported and stockpiled offsite).
 - c) **The Jefferson County Comprehensive Plan, 1998**, Environment Policy 5.2 (p.8-24) states:
"Protect nearby properties and the shoreline environment from the individual or cumulative effects of development that may interfere with the functions of sediment transport systems along the shoreline."
Staff Comment: The placement of the dredge sediments north of the marina is intended to support sediment transport functions. Based on information submitted by the applicant (and as conditioned), the proposal is not expected to adversely affect properties with shellfish farms farther to the north.
 - d) **The Jefferson County Comprehensive Plan, 1998**, Environmental Policy 5.6 (p.8-24):
"Manage shoreline hazard areas such as unstable bluffs and erosion and coastal flood hazard areas to protect public safety and public and private property."
Staff Comment: The placement of the dredge materials will temporarily help protect the Admiral's Row property to the north from further erosion. The proposal is not expected to increase the flood hazards in the area. Private property with shellfish farms are not expected to be adversely affected by the proposed project.
5. **Jefferson County Code:** The Jefferson County Code (Chapter 18.40 JCC) requires that one Public Hearing be held for each proposed project reviewed under the Type III process.
Staff Comment: The scheduled public hearing constitutes the single hearing for this project.
6. **Shoreline Master Program:** The proposal is subject to the policies and regulations of the Jefferson County Shoreline Master Program that went into effect on February 21, 2014.
Staff Comment: Dredging would be conducted within the aquatic designation (i.e., below OHWM), in an area immediately adjacent to a high intensity designation above OHWM. The

dredge sediments would be placed in an area designated as both aquatic and priority aquatic. The following sections of the SMP are specifically applicable to the proposal:

JCC 18.25.100(4)(p) and (q), *Definitions*
JCC 18.25.360 *Dredging and dredge disposal*
JCC 18.25.250 *Shorelines of statewide significance/use preferences*
JCC 18.25.270 through 320 (Article IV) *General policies and regulations*

The applicable policies and regulations for the SMP sections identified above are addressed in this staff report. In addition, DCD has reviewed and recommended approval of the proposal based on conditional use criteria specified in JCC 18.25.590 (Conditional use permit criteria).

7. **Shoreline Master Program** JCC 18.25.100(4)(p) defines dredge material disposal as: the depositing of dredged materials on land or into water bodies. JCC 18.25.100(4)(q) defines dredging as: the removal of earth from the bottom of a stream, river, lake, bay, or other water body.

Shoreline Master Program JCC 18.25.360(1) provides policies for dredging and dredge disposal:

(a) *Dredging, as defined in Article II of this chapter, and disposal of dredge material should only be allowed when alternatives are infeasible and when the dredging/dredge disposal is:*

- (i) *Necessary to support an existing legal use or a proposed water-dependent use or essential public infrastructure/facility; or*
- (ii) *Part of a clean-up program required under the Model Toxics Control Act or Comprehensive Environmental Response, Compensation and Liability Act; or*
- (iii) *Part of an approved ecological restoration or enhancement project; or*
- (iv) *Part of an approved beach nourishment project; or*
- (v) *Required to provide public access for a substantial number of people; or*
- (vi) *Required to provide water-oriented public recreation for a substantial number of people.*

Staff Comment: Dredging of the marina meets (i) and (vi) above. The marina and associated Bridgehaven subdivision are legally-established uses and the use of the marina provides water-oriented recreational opportunities for the residents of this subdivision. Also, the proposal allows for water-oriented public recreation opportunities to continue for some of the residents of the Bridgehaven plat.

(b) *When required to support an allowed use or development, dredging/dredge disposal should be the minimum needed to accommodate the allowed use or development for a reasonably foreseeable period of time.*

Staff Comment: It has been a number of years since the marina was dredged, and the proposal is intended to make marina navigation safer. While sediments will continue to build up in the marina and will need to be dredged again in the future, the proposal is intended to make the marina functional for a reasonable period of time in the future. The placement of dredge materials is intended to slowly continue moving north through the drift cell, and due to existing site conditions, it is not expected that a plume of sediments will move north. Placement of the dredge materials will provide temporary protection from the sediment-starved depositional area immediately north of the marina.

(c) *When allowed, dredging and disposal operations should be planned, timed and implemented to minimize:*

- (i) *Adverse impacts to shoreline ecology; and*
- (ii) *Adverse impacts to in-water and adjacent upland uses; and*

(iii) Interference with navigation.

Staff Comment: The application was noticed to state and federal regulatory agencies and the tribes. DCD did not receive any comments from agencies or tribes indicating that the proposal would have the potential to impact shoreline ecology. Therefore, the proposal is assumed to have no adverse impacts to shoreline ecology.

No adverse impacts to in-water and adjacent upland uses are anticipated. The applicant has responded to concerns expressed by shellfish farms to the north (Exhibit 19). Based on this response, a DCD site visit to the project area on May 18, 2015, and a recommended condition of approval (to limit work based on tidal water levels), sediments are not expected to negatively affect the shellfish farms to the north. The dredge placement is also intended to temporarily minimize erosion along the parcel immediately to the north.

The proposal will improve navigation within the marina, but would not be expected to have an effect on navigation outside of the marina.

(d) Dredging and dredge disposal should be consistent and coordinated with appropriate local, state and federal regulations to minimize duplication during the review process.

Staff Comment: The application was noticed to federal and state agencies. The approval will be conditioned to comply with the Washington Department of Fish and Wildlife (WDFW) Hydrologic Project Approval (HPA) and the Corps permit for compliance with federal requirements, including the FEMA Biological Opinion.

(e) Dredging and dredge disposal should not occur where they would interfere with existing or potential ecological restoration activities.

Staff Comment: There is no known restoration occurring in the vicinity of the proposal.

(f) Dredging and dredge disposal should occur where they will provide ecological benefits.

Staff Comment: Placement of the dredge materials to the parcel immediately north of the marina is intended to support sediment transport functions. Based on information submitted by the applicant, sediments are expected to slowly move through the drift cell (i.e., no plume of sediments is expected).

Shoreline Master Program JCC 18.25.360(2) provides the shoreline environment regulations for dredging and dredge disposal:

(a) Priority Aquatic. Dredging and dredge disposal may be permitted subject to a conditional use permit if allowed in the adjacent upland environment.

Staff Comment: The upland environment at the dredge disposal site is shoreline residential, and dredge disposal may be allowed with a conditional use permit in this designation.

(b) Aquatic. Dredging and dredge disposal may be permitted subject to a conditional use permit if allowed in the adjacent upland environment.

Staff Comment: The upland environment at the dredge disposal site is shoreline residential, and dredge disposal may be allowed with a conditional use permit in this designation.

Shoreline Master Program JCC 18.25.360(3) provides the following regulations for dredging:

(a) Proponents of new development shall locate and design such development to avoid or, if avoidance is not possible, to minimize the need for new dredging and maintenance dredging.

Staff Comment: New development is not proposed. The marina has been in existence for many decades and dredging is proposed only as necessary to maintain safe ingress and egress.

(b) The county may permit dredging only when the project proponent demonstrates the activity is consistent with this program and that there are no feasible alternatives to dredging.

Staff Comment: This application has been reviewed against all applicable SMP sections and has been determined to be consistent with the SMP. There is no feasible alternative to dredging.

(c) *Dredging shall only be allowed when necessary to support the following uses and developments:*

- (i) *Approved harbors, marinas, ports, and water-dependent industries;*
- (ii) *Development or maintenance of essential public infrastructure and facilities;*
- (iii) *Environmental clean-up activities required by the Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act;*
- (iv) *Underground utility installation requiring trenches when boring, directional drilling, and other installation methods are not feasible;*
- (v) *Maintenance dredging for the purposed of restoring a lawfully established use or development;*
- (vi) *Maintenance dredging for the purpose of restoring previously permitted or authorized hydraulic capacity of a stream or river;*
- (vii) *Maintenance of existing irrigation reservoirs, drains, canals, or ditches;*
- (viii) *Establishing, expanding, relocating or reconfiguring navigation channels and basins where necessary to assure the safety and efficiency of existing navigational uses;*
- (ix) *Ecological restoration and enhancement project benefiting water quality and/or fish and wildlife habitat; or*
- (x) *Public access and public water-oriented recreational developments/uses, including construction of public piers and docks that benefit substantial numbers of people.*

Staff Comment: The proposal meets: (i), which allows for marina dredging; (v), which allows for maintaining lawfully-established uses; and (x), which allows for maintaining water-oriented recreational uses for those residents living in the Bridgehaven plat.

(d) *The county may permit dredging for flood management purposes only when the project proponent demonstrates that:*

- (i) *The dredging is a required component of a county-approved comprehensive flood management plan; or*
- (ii) *The dredging has a long-term benefit to public health and safety and will not cause a net loss of ecological functions and processes.*

Staff Comment: Not applicable as flood management is not part of the proposal.

(e) *When conducting reviews of dredging proposals, the county shall first consider how the proposed activity has been regulated by other agencies, note same as a reference, and then establish what further information is needed for local review. The county may require information to ensure:*

- (i) *The project is designed, located, and timed to mitigate impacts on legally established neighboring uses and developments; and*
- (ii) *Appropriate measures are taken to ensure the activity will not interfere with fishing or shellfishing; and*
- (iii) *Appropriate measures are taken to minimize adverse effects on recreation, public access, and navigations; and*
- (iv) *The activity shall not adversely impact natural processes such as channel migration, marine bluff erosion and/or net-shoreline drift; and*
- (v) *Appropriate best management practices are employed to prevent water quality impacts or other forms of environmental degradation; and*
- (vi) *Upstream and upgradient sediment sources that create the need for dredging have been investigated and where feasible, mitigated; and*
- (vii) *Appropriate measures are employed to protect public safety and prevent adverse impacts on other approved shoreline uses; and*
- (viii) *The proposed activity complies with applicable federal, state, and other local regulations.*

Staff Comment: The county noticed this application to federal and state agencies and to the tribes, and did not receive any comments indicating any inconsistencies with other permitting requirements. The following are responses to (i) through (viii) above:

- (i) The proposal will put sediments that were deposited in the marina back into the drift cell. The proposal should not affect neighboring uses and developments.
 - (ii) The county received comments from two shellfish farms north of the project area expressing concerns about dredge sediments affecting their farms. The applicant provided responses to these comments (responses were prepared by the project biologist and the project engineer) that adequately addressed these concerns.
 - (iii) The dredge proposal is intended to increase recreational opportunities, public access to the marina, and navigational safety for boating ingress and egress.
 - (iv) The dredged materials will be placed back into the drift cell and will help prevent further erosion on the disposal site.
 - (v) The proposal will result in sediments being returned to the drift cell, but is not expected to negatively affect water quality or degrade the environment.
 - (vi) Movement of sediments through the drift cell are part of the normal environmental processes occurring in this location. No mitigation is feasible.
 - (vii) No impacts to public safety or shorelines uses are expected as a result of implementing this proposal.
 - (viii) A recommended condition of approval is that the applicant adhere to Corps and WDFW permitting requirements. This proposal will be reviewed by Ecology, with that agency providing the final decision for the project as part of the shoreline conditional use permitting process. As noted above, no comments were received that would indicate that this proposal would be inconsistent with other agency permits.
- (f) *Dredging for the primary purpose of obtaining material for landfill, upland construction, or beach nourishment shall be prohibited.*

Staff Comment: The purpose of the dredging is to improve navigation within the marina.

(g) *Maintenance dredging may not be approved under exemption except within the existing footprint in accordance with previous approved plans.*

Staff Comment: This proposal is not being reviewed as a shoreline exemption. Future dredge and dredge disposal may be permitted as a shoreline exemption if the proposed work would be completed within the same footprint as that under this current proposal.

Shoreline Master Program JCC 18.25.360(4) provides the following regulations for dredge disposal:

(a) *The county may permit disposal of dredge material only when the project proponent demonstrates the activity is consistent with this program and that there are no feasible alternatives to dredge disposal.*

Staff Comment: The proposal was reviewed against and is consistent with all applicable sections of the SMP. Since the marina traps sediments transported within the drift cell, the disposal is intended to place the sediments back within the drift cell. The disposal site is far enough from shellfish farms to the north that the disposal would not be expected to affect those shoreline uses. Also, disposal of the sediments will temporarily provide protection to the eroding shoreline bank at the disposal site. There is no other feasible alternative to dredge disposal within the drift cell.

(b) *When dredge material is deposited on land it shall be considered fill and subject to all applicable fill regulations.*

Staff Comment: Dredge material will be deposited waterward of the OHWM only; therefore, fill regulations do not apply.

(c) All unconfined, open water dredge disposal activities shall comply with the Puget Sound Dredged Disposal Analysis (PSDDA) criteria and guidelines and other applicable local, state and federal regulations.

Staff Comment: The Ecology website states that the PSDDA is now obsolete, and that department referred DCD to a Corps website pertaining dredge disposal (Exhibit x). The Corps Dredged Material Management Program (DMMP) User Document (2014) states that a complete application to the Corps includes DMMP Suitability Determination. Based on the DCD review of the dredge disposal information on the Corps website, this proposal does not appear to be in conflict with interagency dredge disposal programs. The application was noticed to other applicable local, state and federal regulatory agencies, and DCD did not receive any comments that would indicate the proposal would be inconsistent with other regulations. Since this proposal needs a Corps permit, a recommended condition of approval has been included at the end of this staff report that would require the applicant to adhere to Corps and WDFW permitting requirements, which would ensure that DMMP requirements are followed for this shoreline approval.

(d) When consistent with this program, disposal of dredged materials in water areas other than PSDDA sites may only be allowed for the following reasons:

- (i) To restore or enhance habitat; or*
- (ii) To reestablish substrates for fish and shellfish resources; or*
- (iii) To nourish beaches that are starved for sediment; or*
- (iv) To remediate contaminated sediments.*

Staff Comment: This proposal meets (iii) above as it is putting sediments back into the drift cell and will be providing temporary erosion control support for the eroding shoreline immediately to the north.

(e) Proposals for dredged material disposal shall be evaluated for their potential to cause adverse environmental impacts. Dredged material disposal shall be permitted only when the proponent demonstrates all of the following:

- (i) The proposed action will not cause significant and/or ongoing damage to water quality, fish, shellfish and/or other biological resources; and*
- (ii) The proposed action will not adversely alter natural drainage, water circulation, sediment transport, currents, or tidal flows or significantly reduce floodwater storage capacities; and*
- (iii) The proposed action includes all feasible mitigation measures to protect marine, estuarine, freshwater and terrestrials species and habitats.*

Staff Comment: The proposal is not expected to result in adverse environmental impacts, based on the following:

- (i) Shellfish farms to the north expressed concerns about the potential for the proposed dredge disposal to adversely affect their operations (Exhibits 11 and 12). The project biologist and the project geologist provided responses to these comments. The response to comments submitted by the project biologist and project engineer concluded that sediments entering the water column are expected to be of short duration and quickly return to background level; therefore, no measurable amount of sediment is expected to be transported to the shellfish farms to the north (Exhibit 19). Based on these responses, the distance to the nearest shellfish farm, and a site visit by DCD to review site conditions at low tide, it was determined that the proposal would not likely adversely affect shellfish or other biological resources.*
- (ii) The proposal is not expected to alter any natural shoreline functions and processes. It is intended to replace sediments back into the drift cell that drop out at the marina.*

(iii) Mitigation measures to be used include: (1) a barge-mounted excavator will be used to excavate sediments from the marina and the sediments will be temporarily held on the barge with filtering material to limit return of the sediments to the water column; (2) sediments will be placed down drift from the marina to restore sediment transport processes within the drift cell; and (3) the project will be conducted within applicable work windows to avoid affecting salmonids and forage fish.

8. Shoreline Master Program JCC 18.25.230(2) includes the follow for managing shoreline of statewide significance:

(a) Recognize and protect the statewide interest over local interest.

Staff Comment: The proposal meets the statewide interest of providing access to shorelines to lawfully established development and allows for sediments to continue being transported through the drift cell.

(b) Preserve the natural character of the shoreline.

Staff Comment: The natural character of the shoreline will not be affected by this proposal from that which exists in the lawfully established condition.

(c) Result in long-term over short-term benefit.

Staff Comment: The benefit is that the sediments will be replaced into the drift cell.

(d) Protect the resources and ecology of the shoreline.

Staff Comment: The proposed project is not expected alter the resources or ecology of the area.

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

Staff Comment: The proposal will allow for continued public access to the shoreline.

(f) Increase recreational opportunities of the public in the shorelines.

Staff Comment: The proposal will allow for continued recreational opportunities.

(g) Provide for any other element as defined in RCW 90.58.100.

Staff Comment: The proposal is consistent with this RCW.

Shoreline Master Program JCC 18.25.240 identifies shorelines designated as shorelines of statewide significance in Jefferson County as:

(1) Shorelines of natural rivers or segments thereof, including portions of the Bogachiel, Clearwater, Hoh, and Quinault Rivers, downstream from a point where the mean annual flow equals 1,000 cubic feet per second or more; and

(2) The waters of Hood Canal between the ordinary high water mark and the line of extreme low tide south of the line between Tala Point and Foulweather Bluff; and

(3) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide.

Staff Comment: This proposal is considered to be within a shoreline of statewide significance because it meets (2) above.

Shoreline Master Program JCC 18.25.250 provides use preferences, as follows, to ensure that statewide interests are protected over local interests:

(1) When shoreline development or redevelopment occurs, it shall include restoration and/or enhancement of ecological conditions if such opportunities exist.

Staff Comment: No restoration or enhancement is proposed beyond replacing sediments in the drift cell.

(2) State and federal resource agencies, co-managers, and tribes, shall be consulted for development proposals that affect anadromous fish, shellfish, marine birds, and other shoreline resources.

Staff Comment: This application was noticed to state and federal agencies as well as tribes. All were provided with a 30-day comment period for this application.

(3) *Areas that are subject to commercial timber harvest pursuant to the Forest Practices Act and RCW 90.58.150 should be reforested as soon as possible and in accordance with the Forest Practices Act and the Forest and Fish Report.*

Staff Comment: Not applicable – the proposal does not include commercial timber harvest.

(4) *Uses that are sustainable, that do not deplete natural resources, and that are compatible with other approved uses shall be preferred over uses that do not have these qualities.*

Staff Comment: The Bridgehaven marina is a lawfully-established development that traps sediments moving through the drift cell. The proposal is to dredge the marina and place the dredge materials on the parcel to the north, which results in sediments being placed back into the drift cell.

(5) *Uses that provide long-term benefits shall be preferred over uses that provide only short-term gains.*

Staff Comment: Not applicable. The Bridgehaven marina is a lawfully-established development that must maintain the marina. The proposal includes replacing the sediments back into the drift cell.

(6) *Uses that preserve aesthetic qualities shall be preferred over uses that impact aesthetic qualities.*

Staff Comment: Not applicable – the proposal is to maintain existing conditions at the marina; the proposal would not alter existing aesthetic conditions.

(7) *Uses that require a shoreline location shall be preferred over non-water-related uses. Non-water-related uses should be located outside the shoreline jurisdiction or in areas where they will not interfere with displace preferred uses or public access.*

Staff Comment: The proposal requires a shoreline location.

(8) *Commercial shellfish beds, areas that support recreation and tourism, and other economic resources or statewide importance shall be protected.*

Staff Comment: The applicant has submitted information that shows the proposal would not be expected to negatively affect shellfish farms to the north. A recommended condition of approval is included at the end of this staff report that is intended to address the shellfish farm concerns and to minimize the potential of shellfish farms being negatively affected once this proposal is implemented. This condition was taken from the response to comments document prepared by the project consultants (Exhibit 19).

(9) *Uses that have the potential to cause significant erosion and sedimentation due to excavation, land clearing, or other activities shall be strictly regulated to prevent adverse impacts to shoreline functions and processes.*

Staff Comment: This application has been reviewed against the dredge and dredge disposal regulations, and has also been reviewed by state and federal agencies. No impacts to shoreline functions and processes are expected.

(10) *All public access and recreation use and development shall be designed to protect the ecological resources upon which such activities depend.*

Staff Comment: The proposal includes placing the dredge sediments back into the drift cell. Maintaining the existing use of this area is not expected to further degrade the ecological resources.

(11) *Public and private development shall be encouraged to provide trails, viewpoints, water access points and water-related recreational opportunities where conditions are appropriate for such uses.*

Staff Comment: The dredging of the marina is intended to provide on-going access for water-related recreational opportunities.

9. **Shoreline Master Program**, Article VI General Policies and Regulations, includes policies and regulations for all uses and developments in all shoreline environments. The following addresses the general requirements of the SMP:

Shoreline Master Program JCC 18.25.270 addresses critical areas, shoreline buffers, and ecological protection.

Staff Comment: The proposal is consistent with all applicable policies and regulations in this section of the SMP.

Shoreline Master Program JCC 18.25.280 addresses historic, archaeological, cultural, scientific and educational resources.

Staff Comment: The application was sent to Washington Department of Archaeology and Historic Preservation (DAHP) and to tribes. Neither DAHP nor the tribes provided any comments indicating that a survey would be needed or that there was the potential for resources to be affected by the project. Based on this, the proposal is assumed to be in compliance with the protection policies and regulations. To ensure compliance with this section of the JCC, a recommended condition of approval has been added that requires the applicant to stop work if any inadvertent discovery is made during dredging operations.

Shoreline Master Program JCC 18.25.290 addresses public access.

Staff Comment: The proposal is consistent with public access policies and regulations.

Shoreline Master Program JCC 18.25.300 addresses shoreline setbacks and height.

Staff Comment: This section is not applicable as no structures or development landward of OHWM are proposed.

Shoreline Master Program JCC 18.25.310 addresses vegetation conservation.

Staff Comment: This section is not applicable as no development is proposed that would affect vegetation landward of OHWM (i.e., vegetation in the shoreline buffer).

Shoreline Master Program JCC 18.25.320 addresses water quality and quantity.

Staff Comment: This section addresses water quality and quantity for development landward of OHWM and is not applicable to this proposal. However, the proposal was reviewed against the dredge and disposal regulations to reduce the likelihood of any in-water work proposed affecting water quality. The proposal is not expected to affect water quantity in the marine environment.

STAFF RECOMMENDATIONS

Based on the preceding findings, DCD recommends **Approval** of the shoreline application. Staff found the proposal to be consistent with the applicable Code requirements and that the shoreline permit should be granted subject to conditions. Any of the staff recommended conditions of approval may be adopted, rejected, or modified by the Hearing Examiner based on testimony or evidence presented during the course of review. Also, any conditions recommended by DCD may be further modified by Ecology, who has final review and approval of this shoreline application.

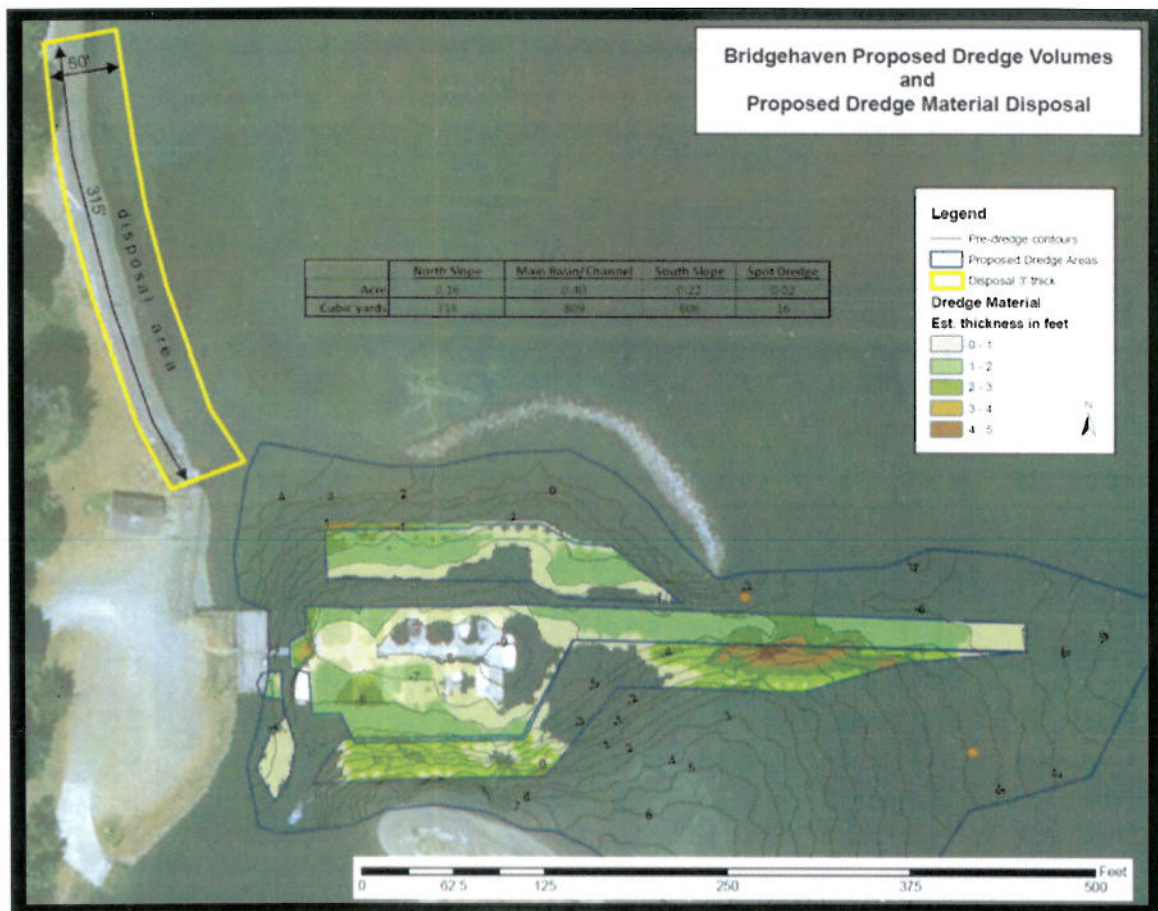
1. This is a conditional approval from Jefferson County that requires a conditional use permit from Washington Department of Ecology (Ecology). Marina dredge and dredge disposal shall not begin until Ecology has issued their approval of this shoreline application.

2. Substantial progress towards completion of the project shall be performed within two years of issuance of the permit.
3. The applicant shall adhere to all state approval requirements, including those for the Hydraulic Project Approval issued by WDFW.
4. The applicant shall contact Margie Schirato with Washington Department of Fish and Wildlife to ensure compliance with Hydraulic Project Approval requirements.
5. To comply with the Federal Emergency Management Agency Biological Opinion, the applicant shall not begin work on this project until the U.S. Army Corps of Engineers has issued a permit.
6. Work within the jurisdiction of the Shoreline Master Program other than as approved for this shoreline permit shall receive separate review by DCD.
7. If any possible historic, archaeological and/or cultural artifacts are inadvertently discovered, the applicant shall immediately stop all work on the project and shall notify Washington Department of Archaeology and Historic Preservation, Jefferson County Department of Community Development, and affected tribes.
8. For any inadvertent discovery of human remains, the applicant shall stop work on the project and shall immediately contact Washington Department of Archaeology and Historic Preservation, Jefferson County Department of Community Development, and affected tribes as well as the county sheriff and coroner.
9. Construction shall be in substantial compliance with the site plan submitted on August 6, 2014 as it exists now or is hereafter amended by Jefferson County and/or the Washington Department of Ecology.
10. Except for the materials and quantities of dredge and dredge disposal approved by the shoreline permit, no fill or other material may be placed in the waters or intertidal areas of Jefferson County.
11. Dredging and dredge disposal shall be limited to times when the tidal water level is below +9 feet MHHW, relative to +10.7 feet MLLW as MHHW.

Dated October 16, 2015

Prepared by Donna Frostholt, Associate Planner and project planner for this application to Jefferson County Department of Community Development.

Figure 4. Site Plan: Proposed Dredge Volumes and Dredge Material Disposal



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