



**CITY OF BLAINE**

**COMMUNITY DEVELOPMENT SERVICES DEPARTMENT**

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# STAFF REPORT and RECOMMENDATION TO PLANNING COMMISSION Type II Quasi-Judicial Decision – Shoreline Substantial Development Permit

**To:** Planning Commission

**From:** Stacy Clauson, Project Planner

**Date of Report:** August 19, 2021

**Hearing Date:** August 26, 2021

**Files:** Permit #2021060

**Hearing Date and Place:** Thursday, August 26, 2021 at 6pm  
The meeting will be held in the City Council chambers located at 435 Martin Street, Suite 4000, Blaine, WA 98230 and via teleconference.

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## I. INTRODUCTION

**Applicant:** City of Blaine, c/o Alex Wenger

**File No.:** 2021060

**Site Location:** Marine Park, located in the 300 block of Marine Drive, Blaine, WA

**Application:** Shoreline Substantial Development Permit

**Review Process:** Quasi-Judicial, Type II-PC decision: Planning Commission shall hold the public hearing and makes a decision.

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### III. RECOMMENDATIONS

Based on Findings and Conclusions (**Section VI.D**) and Attachments in this report, the Community Development Services Department (CDS or “the Department”) recommends that the Planning Commission approve the Shoreline Substantial Development Permit for the City of Blaine, subject to the following five conditions:

1. Construction pursuant to a substantial development shall not begin and is not authorized until 21 days from the date of filing, or until all review proceedings initiated within the 21 days from the date of such filing have terminated.
2. Work must be accomplished per plans and specifications submitted with the application (Attachment B), except as modified by this Shoreline Substantial development Permit or by other required state and federal permit authorizations (e.g., Washington State Department of Fish and Wildlife Hydraulic Project Approval, Washington State Department of Ecology Section 401 Water Quality Certification, United States Department of the Army Section 10, etc.).
3. The applicant is responsible for complying with any other federal, state or local statutes, ordinances, or regulations applicable to this project and obtaining other necessary permits or approvals. The applicant shall provide a copy of state and federal required authorizations to the City of Blaine prior to conducting work on site.
4. Prior to the start of work, the applicant shall:
  - a. Submit a land disturbance permit for review and approval.
  - b. Submit final landscape plans for review and approval by the Shoreline Administrator. Revegetation as depicted on Sections A - C of Attachment B.2 shall be substantially consistent with the Landscape Plan designed for Lighthouse Park (Attachment I), or an alternative acceptable to the Shoreline Administrator, based on an evaluation of the plans with the Development Guidelines for Planning Area 5 contained within the Wharf District Master Plan.
  - c. Obtain a Flood Area Development Permit and demonstrate compliance with the applicable provisions of Chapter 17.86 BMC.
  - d. Submit final construction plans prepared by a licensed professional engineer.
5. The following Inadvertent Discovery Plan (IDP) shall be maintained on-site and followed should archaeological resources or human remains be encountered:

**Inadvertent Discovery of Archaeological Resources:**

Should archaeological resources (e.g. shell midden, animal remains, stone tools) be observed during project activities, all work in the immediate vicinity should stop, and the area should be secured. The Washington State Department of Archaeology and Historic Preservation (Stephanie Jolivette, Local Government Archaeologist 360-628-2755) and the Lummi Nation Tribal Historic Preservation Office (Lena Tso, THPO 360-961-7752; Tamela Smart, Deputy THPO 360-927-2944) should be contacted immediately in order to help assess the situation and to determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.

**Inadvertent Discovery of Human Skeletal Remains on Non-Federal and Non-Tribal Land in the State of Washington (RCWs 68.50.645, 27.44.055, and 68.60.055)**

"If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the State provides notice to proceed. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains" (DAHP).

**IV. PROJECT DESCRIPTION AND REQUEST**

Shoreline Substantial Development Permit to remove concrete debris and restore approximately 1,000 lineal feet of shoreline in Marine Park. (**Attachment A**). The proposed improvements would include the construction of four headlands to supply beach sediment to four pocket beaches within the Project Area.

**A. GENERAL INFORMATION**

1. Date of Application: June 14, 2021
2. Determination of Completion: July 9, 2021

3. Applicant: Community Development Services, City of Blaine
4. Primary Contact: Alex Wenger
5. Property Owners: City of Blaine Community Development Services
6. Property Location: Marine Park, located in the approximately 300 block of Marine Drive, Blaine, WA
7. Assessor Parcel Number (APN): 4151362630080000 and 4151362460310000
8. Comprehensive Plan Land Use Designations, Zoning Classifications and Existing Land Uses of the Site and Surrounding Area:

Marine Park is a public park with walking trails, picnic shelters, a playground and the Lighthouse Point Water Reclamation Facility. Marine Park is in the City's Central Business Wharf District. To the south is Blaine Harbor. To the east is the Central Business District. To the west is Jorgensen Pier.

## **V. BACKGROUND**

In 2014, a Shoreline Substantial Development Permit (Permit # SMP-2-14) and SEPA Review (SEP-4-14) was issued for Phase 1 of the shoreline restoration along Marine Park, to reconstruct approximately 400 lineal feet located to the east of the proposed area of restoration for Phase 2. This phase 1 restoration project has been completed.



Figure 1: Phase 1 completed shoreline restoration improvements, Marine Park

The applicant has submitted and received federal and state authorizations for Phase 2 work that is the subject of this permit, including the following:

- Washington State 401 Water Quality Certification (**Attachment H.1**);
- Coastal Zone Management Act Consistency (**Attachment H.1**);
- Clean Water Act Section 404 (**Attachment H.2**);
- Section 10 of the Rivers and Harbors Act permit (**Attachment H.2**); and
- Hydraulic Project Approval (**Attachment H.3**).

The Hydraulic Project approval appears to have expired. The applicant shall submit current permit approvals prior to the start of work.

## VI. ANALYSIS<sup>1</sup>

### A. APPLICATION PROCESS

1. The city received the Shoreline Substantial Development Permit application and supporting materials on June 14, 2021 (**Attachment B**). The materials included an

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<sup>1</sup> Project analysis includes CDS findings and conclusions based on a review of current materials applicable to the project.

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application, site plan, SEPA Review for the project (Permit 2018101), as well as state and federal permits for the project (e.g., Washington State 401 Water Quality Certification, Coastal Zone Management Act Consistency, Clean Water Act Section 404 and Section 10 of the Rivers and Harbors Act permit).

2. BMC 17.81.030.D describes what constitutes a complete application for a Shoreline Substantial Development Permit.
3. The city issued a Notice of Complete Application on July 9, 2021 (**Attachment C**).
4. Per BMC 17.81.030.A, the Planning Commission has the power and duty to authorize a Shoreline Substantial Development Permit application. Pursuant to BMC [17.02.050.D.1.a](#) and WAC 173-27-110, notice of hearing is required and the Planning Commission is required to hold an open record hearing addressing the Shoreline Substantial Development Permit request.
5. An open public record hearing is scheduled before the Planning Commission on August 26, 2021.

**CONCLUSION: The application is being processed in accordance with the procedural requirements for Type II-PC applications established in Chapter 17.81 and 17.06 of the BMC, as well as WAC 173-27.**

## **B. PUBLIC NOTICE AND COMMENT**

1. Notice of Application and Hearing (**Attachment D**):
  - a. The applicant published a combined Notice of Application and Public Hearing per BMC 17.06.100 and .110 in the Bellingham Herald; mailed it to property owners within 300 feet of the site; and posted it on the subject property on or before July 18, 2021 (**Attachment D.1-3**).
2. As of the issuance of this staff report, two public comments were received regarding this project (**Attachment E.1 and 2**). Both comments request that the City not disturb or remove the last remaining wooden picnic shelter which is within the proposed construction project area at Marine Park.

**Discussion:** The comments raise issues related to parks planning and operations, and do not address issues related to the permit review and consistency with the approval criteria. The comments have been forwarded to City staff involved in parks planning for response. **Attachment K** includes a response, noting that the City of Blaine will evaluate the subject picnic shelter in Marine Park as part of the final engineering and design process. Provided there are no structural or life safety issues, and the structure will not be compromised by future shoreline erosion, the City will make a good faith effort to retain the covered picnic shelter in its current location.

**CONCLUSION: The application meets the noticing requirements for Type II applications established in BMC Chapter 17.06. The public comments do not address items related to the project proposal’s consistency with applicable approval criteria.**

**C. ENVIRONMENTAL REVIEW**

1. The city acted as lead agency and analyzed the environmental impact of the proposed use as required by the State Environmental Policy Act (SEPA) Chapter 43.21 RCW.
2. A SEPA MDNS for the project in 2018 (#2018009) (**Attachment F**).
3. Notice of the SEPA threshold determination was provided to agencies with potential jurisdiction and/or interest, as well as published in the Bellingham Herald and posted at City Hall.
4. The City received one comment from the Lummi Tribe, recommending consultation with Department of Archaeology & Historic Preservation (DAHP) and that the project follow an Inadvertent Discovery Plan (IDP) if archaeological resources or human remains are encountered (**Attachment G**). Consultation with DAHP is addressed in Section D. 6 below.
5. No appeals of the SEPA MDNS Determination were filed.

**CONCLUSION: The application meets the SEPA standards of the Chapter 17.80 BMC and Chapter 197-11 WAC. The recommendation for an Inadvertent Discovery Plan has been incorporated into the recommended conditions of approval for the project.**

**D. SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT DECISION CRITERIA**

The project is located in the High Intensity, Shoreline Management Area – Wharf, and Aquatic Environmental Designations of the Shoreline Management Master Program.

BMC 17.81.040 establishes that a shoreline substantial development permit shall be granted only if the development is consistent with the intent of the Shoreline Management Act and determined consistency with the Blaine Shoreline Master Program.



1. Shoreline Management Act (SMA). There are three basic SMA policy areas: Shoreline use, environmental protection, and public access. The proposal, as conditioned, is consistent with the intent established through these three policy areas.
  - a. *Shoreline Use*. The SMA establishes the concept of preferred shoreline uses. These uses are consistent with controlling pollution, preventing damage to the natural environment, or are unique to or dependent upon use of Washington's shorelines. Preferred uses include shoreline recreational uses and developments providing public access opportunities. One of the primary objectives of the proposal is to improve the shoreline for public recreational enjoyment by improving access, aesthetics, and safety, which is consistent with the SMA intent for shoreline uses.
  - b. *Environmental Protection*. The SMA is intended to protect shoreline natural resources including the land, vegetation, wildlife, and aquatic habitats against adverse environmental effects. All allowed uses are required to offset adverse environmental impacts as much as possible and preserve the natural character and aesthetics of the shoreline. As further discussed below, the proposal is a planned restoration project identified in the City's Shoreline Master Program Restoration Plan.
  - c. *Public access*. The SMA emphasizes protecting public access to the State's shorelines, including increasing public access to publicly-owned shoreline areas and expanding recreational shoreline opportunities for the public. The proposal to restore the shoreline and improve public access at this shoreline recreational park is consistent with this intent.

Consistency with the City of Blaine [Shoreline Master Program](#) (SMP) includes an evaluation of applicable goals, policies, and regulations contained in the SMP. The following sections analyze these applicable goals, policies, and regulations.

2. Shoreline Environment. The proposal, as conditioned, is consistent with the shoreline environment regulations.
  - a. The site is located in the High Intensity, Special Management Area – Wharf and Aquatic shoreline environments<sup>2</sup>.
  - b. Shoreline restoration and recreational development are permitted uses in High Intensity, and Aquatic shoreline environments<sup>3</sup>. Shoreline stabilization, except as

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<sup>2</sup> Blaine SMP [Shoreline Environment Designation Map](#)

<sup>3</sup> The Shoreline Master Program defines RESTORE, RESTORATION, OR ECOLOGICAL RESTORATION as “the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-connecting fragmented habitat, re-vegetation, removing invasive species and enhancing habitat, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.”

restricted in Sec. 7.6.5, is also a permitted use. Section 7.6.5 requires Conditional Use Permit for shoreline protection, which is further defined in Section 10.9 to refer to flood protection to avoid flood inundation, which may include dikes and stabilization of erosion, primarily along streamways but may include marine shorelines. The proposal has not been designed as protection for flood inundation and, as such, does not fall within the provisions for shoreline protection. As a result, the proposed shoreline stabilization would be considered a permitted use.

- c. Development within the Special Management Area – Wharf must be consistent with the Wharf District Master Plan and approved through a Shoreline Substantial Development Permit.
- d. The site is located within Planned Area 5 in the [Wharf District Master Plan](#). Within this planned area, the Wharf District Plan envisions parks, pier, boardwalk, and trails dedicated for public access to the shoreline with a particular emphasis on viewing its rich seasonal wildlife. Planned Area 5 contains four different focus areas, and this site is located within Planned Area 5C, which is anticipated to develop as an "active park" designed to encourage physical access to the water. As part of this active park, the Plan identifies development of pocket beaches that will allow for enhanced access to the water. The proposal includes creation of pocket beaches, consistent with the Plan.
- e. In the Development Guidelines for the Master Plan Planning Area 5, landscaping is addressed, noting that a) “landscaping in this area should consist of low lying vegetation and grass. Open space and views of the water should take priority over tree plantings and structures”. In addition, the plan notes that a landscape plan shall be development for each of the four subareas in Planning Area 5. Consistent with the Master Plan, a landscape plan has been designed for this park (Attachment I). This landscape plan depicts a number of native and shoreline appropriate plants along the shoreline edge, to be incorporated into the pocket beaches and upland and nearshore areas.



Figure 2: Planning Area 5, Wharf District Master Plan, depicting Active Shoreline Area

3. Recreation. SMP Section 4.3 contains Goals and Policies addressing Recreation. The proposal, as conditioned, is consistent with these provisions.
  - a. Access to the shoreline edge is presently limited because the site and most of the shoreline is armored with rocks and concrete, which creates a safety hazard for children and adults trying to access the water. These conditions also impact natural shoreline processes and wildlife habitat.



Figure 3: Aerial Photograph of Project Site, May 8, 2020

- b. The proposal would improve the existing access to the shoreline edge by creating a series of pocket beaches, where a cobble/gravel and sand mixture cap will be created, providing a shallower and more accessible point for shoreline access (see Section Drawing A and C of Attachment B.2). Further, the new headland features are proposed to be faced with rounded stones to facilitate public use and mimic natural shoreline structure access (see Section Drawing B of Attachment B.2).
    - c. The proposal is also designed to enhance ecological processes by restoring natural physical sediment transport processes. The proposal incorporates bio-engineering techniques, as well as native plantings that will provide wildlife habitat enhancement.
4. Restoration and Enhancement. SMP Section 4.9 contains Goals and Policies addressing Restoration and Enhancement. The proposal, as conditioned, is consistent with these provisions.
  - a. As described in the [Shoreline Inventory Analysis](#), the hydrologic function within this reach (Reach 2) has been altered due to existing shoreline modifications. Further, the shoreline vegetation and terrestrial habitat is impaired. The proposal is intended to

address these existing impacts by removing concrete debris, restoring natural shoreline sediment transport processes by constructing four headlands to supply beach sediment to four pocket beaches, and install new shoreline vegetation.

- b. The area of work is located within Reach 2 of the City of Blaine’s [Shoreline Restoration Plan](#). This plan identifies removal of asphalt and refuse rip-rap and, where conditions allow, establishment of a more natural intertidal environment including gravel and sand beaches that benefit wildlife as a priority restoration opportunity within this Reach<sup>4</sup>. Further, overall City-wide priority projects include Marine Park shoreline restoration<sup>5</sup>. The proposal is consistent with these planned restoration activities.
  - c. The applicant has submitted the results of a Biological Assessment (**Attachment B.3**) that identifies existing ecological conditions, and ways in which the proposal will preserve, restore and enhance ecological functions and processes, and provide for wildlife habitat enhancement, consistent with the goals and policies of this section.
  - d. A Nationwide Permit (NWP) for Aquatic Habitat Restoration, Establishment, and Enhancement Activities has been issued by the Army Corps of Engineers authorizing the proposal (**Attachment H.2**). Further, the U.S. Fish and Wildlife Service (USFWS) has concurred with a finding from the Biological Assessment that the proposal “may affect, not likely to adversely affect” (USFWS Reference Number OIEWFW00-2019-1-0852).
5. No Net Loss. SMP Section 6.1 contains Goals and Policies addressing Not Net Loss. The proposal, as conditioned, is consistent with these provisions.
- a. The applicant has submitted the results of a Biological Assessment (**Attachment B.3**) that identifies existing ecological conditions, and ways in which the proposal will preserve, restore and enhance ecological functions and processes, and provide for wildlife habitat enhancement, consistent with the goals and policies of this section. The Biological Assessment also describes conservation measures proposed to avoid, minimize, or otherwise offset potential adverse effects from the proposed project, consistent with policies that require mitigation sequencing to be incorporated into the project design and construction (see Section 2.5 for specific discussion).
  - b. A Nationwide Permit (NWP) for Aquatic Habitat Restoration, Establishment, and Enhancement Activities has been issued by the Army Corps of Engineers authorizing the proposal (**Attachment H.2**). Further, the U.S. Fish and Wildlife Service (USFWS) has concurred with a finding from the Biological Assessment that the proposal “may

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<sup>4</sup> Section 4.2, [Blaine Shoreline Master Program Restoration Plan](#)

<sup>5</sup> Section 4.18, [Blaine Shoreline Master Program Restoration Plan](#)

affect, not likely to adversely affect” (USFWS Reference Number OIEWFW00-2019-1-0852).

6. Archaeological Areas and Historic Sites. SMP Section 8.1 contains Goals, Policies, and Regulations addressing Archaeological Areas and Historic Sites. The proposal, as conditioned, is consistent with these provisions.
  - a. Representatives from the Department of Archaeology & Historic Preservation (DAHP) have been consulted (see **Attachment J**). DAHP representatives did not identify an archeological resource site within 500 feet of the area of work. DAHP representatives have noted that because the project is not taking place on the original shoreline and the project will have minimal ground disturbance, DAHP does NOT recommend direct archaeological supervision of the project. Instead, the DAHP representatives recommend that the project move forward following a standard Inadvertent Discovery Plan.
  - b. Further, as part of the SEPA review of the project, the City received one comment from the Lummi Tribe, recommending consultation with Department of Archaeology & Historic Preservation (DAHP) and that the project follow an Inadvertent Discovery Plan (IDP) if archaeological resources or human remains are encountered (**Attachment G**).
7. Critical Areas: Fish and Wildlife Conservation Areas. SMP Section 8.2.2 contains Goals, Policies, and Regulations addressing Fish and Wildlife Conservation Areas. The proposal, as conditioned, is consistent with these provisions.
  - a. The proposed work is occurring within a critical saltwater habitat.
  - b. Work is proposed within buffer areas but is limited to restoration work as permitted in this section.
  - c. The proposal includes addition of sand and gravel to critical saltwater habitats. The proposed beach nourishment has been approved as a restoration project, under the Nationwide Permit (NWP) for Aquatic Habitat Restoration, Establishment, and Enhancement Activities (**Attachment H.2**), consistent with standards in this section.
8. Flood Hazard Reduction. SMP Section 8.3 contains Goals, Policies, and Regulations addressing Flood Hazard Reduction. The proposal, as conditioned, is consistent with these provisions.
  - a. Prior to the start of work, the applicant shall obtain a Flood Area Development Permit and demonstrate compliance with the applicable provisions of Chapter 17.86 BMC.
  - b. There is presently no comprehensive flood hazard management plan developed pursuant to RCW 86.12. However, consistent with RCW 86.12.200, the City has adopted flood hazard regulations that designate areas susceptible to periodic flooding and established land use regulations, construction restrictions, and land clearing restrictions within Chapter 17.86 BMC.

- c. The proposal does not include new structural flood hazard reduction measures.
9. Shoreline Stabilization. SMP Section 10.9 contains Goals, Policies, and Regulations addressing shoreline stabilization.
- a. This reach of the shoreline in Marine Park has existing concrete, rip rap and other materials that stabilize and harden the shoreline. As noted in the City of Blaine’s [Shoreline Restoration Plan](#), a rip-rap bulkhead begins at the western end of park, in the area of the proposed restoration, and continues to the end of spit.
  - b. The proposal would remove existing concrete, rubble and other stabilization materials. Replacement shoreline stabilization would be installed, as follows:
    - i. As depicted in Section B of Attachment B.2, in the area of the 4 proposed headlands, clean rip-rap would be installed. This replacement shoreline stabilization would be installed at a shallower angle and capped with boulder and cobble materials to minimize impacts associated with the replacement shoreline stabilization, providing a low-relief structure designed to resemble a natural armored beach.
    - ii. As depicted in Section A and C of Attachment B.2, in the area of the proposed pocket beaches, rip-rap revetment structures would be installed beneath the proposed pocket beaches to prevent erosion if a major storm washes out all of the fine sediment.
    - iii. Both these designs avoid use of bulkheads or other vertical wall-like stabilization structures that can have adverse impacts to shoreline processes and ecological functions<sup>6</sup>. The replacement activity also proposes use of softer solutions rather than in-kind replacement to improve the ecological conditions at the site by:
      - 1. Enhancing sediment transport and natural erosion and accretion cycles<sup>7</sup>;
      - 2. Enhancing terrestrial and aquatic connectivity<sup>8</sup>; and
      - 3. Enhancing intertidal habitat<sup>9</sup>;

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<sup>6</sup> Page 2, [Soft Shoreline Stabilization: Shoreline Master Program Planning and Implementation Guidance](#) discusses the impacts associated with shoreline stabilization.

<sup>7</sup> Page 62-63, [Soft Shoreline Stabilization: Shoreline Master Program Planning and Implementation Guidance](#) discusses these processes

<sup>8</sup> Page 64-65, [Soft Shoreline Stabilization: Shoreline Master Program Planning and Implementation Guidance](#) discusses these processes

<sup>9</sup> Page 67, [Soft Shoreline Stabilization: Shoreline Master Program Planning and Implementation Guidance](#) discusses these processes

- c. As described in sections above, the new design incorporates opportunities for public access and provides for restoration of ecological functions and ecosystem-wide processes, consistent with the provisions in this Section.
- d. The proposed work is designed to largely occur within the area of former shoreline development footprint, except for Headland #2, whose toe would extend waterward of the former footprint. This waterward encroachment is associated with shoreline stabilization measures designed to provide restoration of ecological functions, consistent with the allowances provided in this Section.
- e. Pursuant to SMP Section 10.10.1.C, the structure is required to be designed and constructed based on approved plans prepared by a licensed professional engineer. The submitted plans do not meet this requirement. As a result, prior to start of construction the applicant shall submit plans meeting these requirements.
- f. A geotechnical analysis is not required, since the proposal is for replacement, not new or expanded shoreline stabilization.

**CONCLUSION: The proposal, as conditioned, is consistent with the criteria for a Shoreline Substantial Development Permit pursuant to BMC 17.81.040.**

#### **E. ZONING REVIEW**

The subject property is in the Public Zoning District, which is regulated under BMC Chapter 17.45.

1. Purpose. The proposal is consistent with the purpose statement of the Public Zoning District<sup>10</sup> by maintaining and enhancing public access in Marine Park.
2. Permitted Uses. The use of the property as a public park is also consistent with the permitted uses of the Public Zoning District. The beach reconstruction project should enhance the benefits available to the public in Marine Park and allow the City to continue to utilize the land for community purposes.
3. Bulk and Dimensional Standards. As a beach reconstruction project, typical development standards such as setbacks, height limits and lot coverage are not applicable.

**CONCLUSION: The proposal, as conditioned, is consistent is consistent with the purpose statement and permitted uses as defined in the Public Zoning District.**

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<sup>10</sup> The purpose statement of the Public District (BMC 17.45.010) is “to provide adequate land for public facilities and open spaces, preventing the acquisition of such land through adverse possession as required in Chapter 36.70A RCW, and permitting continued use of such public facilities and preservation of community open spaces and greenbelts.”

## F. FLOOD DEVELOPMENT PERMIT

- a. The Project is located within Zone VE<sup>11</sup>, a special flood hazard area with a listed base flood elevation (BFE) of +20.0 feet North American Vertical Datum of 1988 (NAVD88) (see FEMA FIRM Map 53073C0635E).
- b. Pursuant to BMC 17.86.050, a flood development permit must be obtained before development within a special flood hazard area. Prior to the start of work, the applicant shall obtain a Flood Area Development Permit and demonstrate compliance with the applicable provisions of Chapter 17.86 BMC.

**CONCLUSION: The proposal, as conditioned, is consistent with the requirements for Flood Hazards as contained in Chapter 17.86 BMC.**

## VII. APPEALS

### Appeal to Shoreline Hearings Board:

Pursuant to BMC 17.81.080, any person aggrieved by the granting, denying or rescinding by the city of Blaine of a shoreline substantial development permit may appeal the action of the city to the State Shoreline Hearings Board by filing a request for review within 21 days of the date of filing of the permit. The date of filing is defined in RCW 90.58.140(6). The procedure for filing a request for review is set forth in RCW 90.58.180.

## VIII. LAPSE OF APPROVAL

### Shoreline Substantial Development Permit

Pursuant to BMC 17.81.070.C, construction authorized pursuant to a shoreline permit of any type shall be commenced or, where no construction is involved, the use or activity shall be commenced within two years from the effective date of the permit as defined in WAC 173-27-090(4) and shall be completed within five years from the effective date; provided, the city council may authorize a one-year extension to either or both of these timing requirements based on reasonable factors, and if the request for extension has been filed before the expiration date, and notice of the proposed extension is given to parties of record on the permit and to the Department of Ecology.

## IX. MODIFICATION

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<sup>11</sup> Zone VE is the flood insurance rate zone that corresponds to areas within the 1-percent annual chance coastal floodplain that have additional hazards associated with storm waves.



Pursuant to WAC 173-27-100, a permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.

**X. ATTACHMENTS**

- A. Vicinity Map
- B. Application Materials
  - 1. Shoreline Substantial Development Permit Application Form
  - 2. Project Drawings
  - 3. Biological Assessment for City of Blaine Marine Park Shoreline Restoration Phase II, Element Solutions (December 3, 2018)
- C. Notice of Complete Application
- D. Notice of Application and Hearing
  - a. Notice
  - b. Certified Mailings
  - c. Herald Publication
- E. Public Comments
  - a. Correspondence from Mr. Sturgill
  - b. Correspondence from Ms. Sturgill
- F. SEPA MDNS
- G. SEPA Comment from Deputy THPO/Compliance Officer, Culture Department, Lummi Nation
- H. State and Federal Authorizations
  - 1. Washington State Department of Ecology 401 Water Quality Certification and Coastal Zone Management Act Consistency
  - 2. US Army Corps of Engineers Nationwide permit #27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities
  - 3. Hydraulic Project Approval
- I. Landscape Plan
- J. Correspondence from Department of Archaeology & Historic Preservation (DAHP)
- K. Response to Public Comments

Distributed to the Following Parties:

- Applicant
- Parties of Record

- Richard Sturgill
- Sue Sturgill
- Tamela S. Smart, MA
- Stephanie Jolivette, DAHP