

**FINDINGS AND DECISION
OF THE HEARING EXAMINER OF THE
CITY OF EVERETT**

IN THE MATTER OF THE APPLICATION
OF THE PORT OF EVERETT FOR
APPROVAL OF A SHORELINE SUB-
STANTIAL DEVELOPMENT PERMIT
"PORT GARDNER WHARF – PERMIT #1"

SMA #05-009

DECISION: **The Shoreline Substantial Development Permit for activity identified herein is granted subject to the conditions as set forth in this document. This Shoreline Permit is for a mixed-use 65-acre development of residential, retail, office, restaurants, lodging, and marina support uses on the Port Gardner Wharf on the west side of West Marine View Drive (1100-1600 Blocks) in Everett Washington.**

INTRODUCTION

The Port of Everett (Applicant)¹ is proposing a mixed-use 65-acre development of residential, retail, office, restaurants, lodging, and marina support uses on the Port Gardner Wharf on the west side of West Marine View Drive (1100-1600 Blocks) in Everett Washington. At total build-out, the project would include 660 residential units and have approximately 1,558,900 square feet which would include the above named uses. In addition, 1.5 miles of esplanade around the perimeter of the site would be developed, an outdoor amphitheater, marina parking and services, and public parking.

The proposed application will be the first of several Shoreline Substantial Development Permits. Because all the activity would occur within the threshold distance of a significant shoreline within the State of Washington (Puget Sound) and because the cost of the activity would exceed the threshold amount of \$5,000.00, a Shoreline Permit is required. The first Shoreline Substantial Development Permit (Shoreline Permit) requested by the Applicant includes:

- A. Site preparation including the demolition of nearly 50 buildings (20 which are located within the 200' shoreline jurisdiction); the implementation of a voluntary clean-up plan for the soils; and general ground improvements.
- B. Construction of public improvements, including a waterfront amphitheater/plaza and a 15-20 foot wide esplanade along the entire shoreline perimeter; public walkway connections to the esplanade; and vehicular and utility infrastructure.
- C. Marina support facilities of: an 8,000 square foot boating club with 6,000 square feet of services/retail for boaters and 2,000 square feet of restrooms; reconfiguration, landscaping, and securing of parking for marina slip tenants; relocation of a fuel storage tank; construction of two new restroom and shower facilities along 14th Street walkway for boater and public use; and two 11,200

¹ The Port District of Everett was formed in 1918 and encompasses most of the city of Everett and portions of the city of Mukilteo and city of Marysville. The District is governed by three elected Port Commissioners.

square foot commercial buildings along the 14th Street walkway to serve the marina.

- D. Infrastructure improvements, including roads and utilities to serve the site at build-out.
- E. Craftsmen District improvements including: a boatyard with 66,000 square feet of space for boat repair; a boat wash-down facility; marina operations office; public restrooms; and boat trailer drop-off area. Other improvements would be renovation and expansion of the MSRC building from 36,000 to 46,500 square feet to accommodate boat repair businesses, and three sales and service buildings (3,000 - 4,000 square feet) south and southeast of the MSRC building.
- F. Parking dedicated to marina slip holders (300 spaces), and a mix of on-site parking and on-street parking.
- G. Retail and office buildings to be located west of the Craftsmen District providing up to 27,000 square feet of floor area.

Although all stated activities would be permitted by the instant Shoreline Permit, the improvements would be completed in phases. The order in which the improvements are completed would be discretionary on the part of the Applicant.

A hearing was held before the Hearing Examiner of the City of Everett on December 1, 2005. At the hearing the following presented testimony and evidence:

John Jimerson, City of Everett Planning Department

Gerry Ervine, City of Everett Planning Department

Brad Cattle, Attorney
2707 Colby Avenue #1001, Everett, WA 98201

Eric Russell, Port of Everett
PO Box 538, Everett, WA 98206

Ken Olsen, Maritime Trust
1620 W. marine View Drive, Everett, WA 98201

Dennis Derickson, David Evans
1620 W. Marine View Drive, Everett, WA 98201

Jeff LaLone, Bayside Marine
1001 - 14th Street, Everett, WA 98201

Dan Hatch, Bayside Marine
1001 - 14th Street, Everett, WA 98201

At the hearing the following exhibits were submitted and were admitted as part of the official record of these proceedings:

- 1. Staff Report
- 2. JARPA Application
- 3. Applicant Summary of Project

4. Applicant Consistency Analysis on Auto Courts
5. Proposed Parking Management Plan
6. SSDP #1 Conceptual Parking Plan
7. Notice of Application and Hearing
8. Planned Development Overlay Zoning Resolution/Ordinance and Development Agreement
9. PDO Design Standards and Guidelines (on file with the Planning Department)
10. Port Gardner Wharf Design Guidelines (on file with the Planning Department)
11. Final Environmental Impact Statement for the North Marina Redevelopment Project (on file with the Planning Department)
12. Shoreline Permit #1 Plan Set Consisting of Drawings A0, A1.1, A1.2, A2.1, A2.2, A3.1, A4.1, A4.2, A4.3, A5.1, A5.2, A6.1, A6.2, A6.3, A6.4, A6.5, B-1 through B-16, C-1, C-2.
13. City of Everett Shoreline Public Access Plan Figure (Section 3)
14. Agency Comments:
 - 14a. Public Works Comments
 - 14b. Fire Department Comments
 - 14c. Parks Department Comments
 - 14d. Snohomish County PUD Comments
15. Public Comments:
 - 15a. Kim Ratliff
16. Shoreline Permit Key Plan
17. Hard Copy of Planning Department Power Point Presentation
18. Hard Copy of Port of Everett Power Point Presentation
19. Revised Parking Management Plan dated November 30, 2005

Subsequent to the hearing, the following exhibit was submitted and admitted as part of the official record of this proceeding:

20. Modified Conditions submitted by the Applicant dated December 5, 2005

All of the exhibits are available for inspection at the Hearing Examiner's Office located at 2930 Wetmore Avenue, 8th floor, Everett, Washington.

After due consideration of the testimony and evidence presented by the Applicant and testimony and evidence elicited during the public hearing, the following Findings of Fact and Conclusions constitute the basis of the decision of the Everett Hearing Examiner.

FINDINGS OF FACT

1. The Applicant requested approval of a Shoreline Permit for the development of Phase #1 of a mixed-use development project commonly known as the Port Gardner Wharf. The Port Gardner Wharf proposal is part of the Applicant's North Marina redevelopment project that consists of residential, retail, office, restaurants, lodging, and marina support uses. The wharf project would also consist of a 1.5 mile pedestrian esplanade, an outdoor amphitheater, marina parking and services, and public parking. The 65-acre project is projected to be developed on the west of West Marine View Drive (between the 1000 and 1600 Blocks) in the City of Everett, Washington. The project is a joint public/private effort that includes participation with the Applicant and the Maritime Trust which

is the Applicant's development partner². The Applicant would develop the site in stages and phases, and separate Shoreline Permits will be required for all of the development. The instant project is subject to the Washington State Shoreline Act because of the close proximity to a significant shoreline within the State of Washington (Puget Sound) and because the cost exceeds the threshold of \$5,000.00. (*exhibit 1-staff report*)

The entire project is a public and private effort that includes cooperation of private enterprise with the Applicant and its development partner, Maritime Trust. It is anticipated that the interior portions of the site would be sold to Maritime Trust for residential development. The Applicant, however, would retain ownership of the commercial properties, public roads, amphitheater and esplanade. (*exhibit 1-staff report; Jimerson testimony*)

2. The Applicant is proposing with the initial application improvements as follows:
- A. Site preparation including the demolition of nearly 50 buildings (20 which are located within the 200' shoreline jurisdiction); the implementation of a voluntary clean-up plan for the soils; and general ground improvements.
 - B. Construction of public improvements, including a waterfront amphitheater/plaza and a 15-20 foot wide esplanade along the entire shoreline perimeter; public walkway connections to the esplanade; and vehicular and utility infrastructure.
 - C. Marina support facilities of: an 8,000 square foot boating club with 6,000 square feet of services/retail for boaters and 2,000 square feet of restrooms; reconfiguration, landscaping, and securing of parking for marina slip tenants; relocation of a fuel storage tank; construction of two new restroom and shower facilities along 14th Street walkway for boater and public use; and two 11,200 square foot commercial buildings along the 14th Street walkway to serve the marina.
 - D. Infrastructure improvements, including roads and utilities to serve the site at build-out.
 - E. Craftsmen District improvements including: a boatyard with 66,000 square feet of space for boat repair; a boat wash-down facility; marina operations office; public restrooms; and boat trailer drop-off area. Other improvements would be renovation and expansion of the MSRC building from 36,000 to 46,500 square feet to accommodate boat repair businesses, and three sales and service buildings (3,000 - 4,000 square feet) south and southeast of the MSRC building.
 - F. Parking dedicated to marina slip holders (300 spaces), and a mix of on-site parking and on-street parking.
 - G. Retail and office buildings to be located west of the Craftsmen District providing up to 27,000 square feet of floor area.
- (*exhibit 1-staff report*)

² The hearing pertained to the approval of a Shoreline Permit. The Shoreline Permit application is represented by the Joint Aquatic Resources Permit application (JARPA) which was admitted as exhibit #2.

3. The subject property is zoned as Waterfront Commercial (WC) with Planned Development Overlay (PDO). The WC zone encourages waterfront commercial activity, and marine shipping and transportation facilities are permitted uses in this zone. Because the subject property is in the shoreline, it has been reviewed as part of the Everett Shoreline Master Program (ESMP). The shoreline designation for the site is Urban Maritime. The proposed uses are permitted uses in this designation. The site is bordered by an existing marina to the south, the Snohomish River to the west, and a new marina and boat yard to the north. The site is currently used for a variety of marina related uses and water and non-water related industrial and commercial uses. (*exhibit 1-staff report; exhibit 2-JARPA Application, page 2; exhibit 17-City's Power Point, pages 10, 26, 28*)
4. Pursuant to the State Environmental Policy Act (SEPA) (RCW 43.21C), the Applicant was designated as lead agency for the identification of environmental impacts resulting from the proposed project. The Applicant issued a notice of adoption of an existing Environmental Impact Statement (EIS) for the North Marina Redevelopment Project. The EIS was originally issued on May 27, 2005, and examined the environmental impacts of the project and included studies of: Collins Building Adaptive Reuse Study, Geotechnical Report; Air Quality Report; Biological Evaluation; Phase #1 Environmental Site Assessment, Phase #2 Environmental Site Assessment, Historic and Cultural Resources Assessment, and Collins Building Economic and Financial Analysis of Development Scenarios. The EIS was independently reviewed upon its issuance and was determined to be an adequate review of the environmental issues relating to the project. There have been no appeals of the EIS, and there were no appeals of the Applicant's adoption of the EIS as the environmental document for this project. (*exhibit 7-notice of the adoption of the EIS*)
5. The project site is within the jurisdiction of the ESMP for the City of Everett and is subject to the provisions of the Shoreline Management Act (SMA) RCW 90.56. SMA policies are provided in RCW 90.58.020 and include allowances for all reasonable and appropriate uses, development that promotes or enhances the public interest, and protection against adverse impacts. The primary goal of the SMA is to protect the public's interest at a statewide level in the State's shorelines through a coordinated management and development process. The SMA allows for all reasonable and appropriate uses of the shoreline in a manner that would promote and enhance the public interest. Permitted uses in the shoreline are to be designed and developed in a manner that would minimize any resulting damage to the ecology and environment of the shoreline and any interference with the public's use of the water. The ESMP envisions development of the urbanized parts of the City's shoreline. (*ESMP*)
6. The subject property has been the subject of previous Shoreline Permits. In 2004 a Shoreline Permit was issued to authorize replacement of a failing bulkhead along the south shoreline of the site. In 2005, a Shoreline Permit was issued for the 12th Street Marina to the north which included a portion of the esplanade improvements. (*exhibit 1-staff report; Jimerson testimony*)
7. In 2003, the Everett City Council approved the PDO rezone for the subject property. The PDO zone permits commercial, industrial, and mixed-use developments which are of a unique character and desirable quality and are beneficial to the area in which the property is located and to the community in general. (*EMC 19.1.0509(F)(8); exhibit 8-Zoning Resolution/Development*)

Agreement, pages 4 & 5) The overlay and the Development Agreement provide parameters and guidelines for development of the site and include emphasis on what are permitted uses, mass and dimensional standards for the development that is to occur on-site, public access requirements, and parking requirements. *(exhibit 1-staff report, Jimerson testimony)* In 2005, the Everett City Council approved modifications to the PDO, including increasing building heights, modifying residential parking requirements, and requiring public access improvements through the initial phase. *(exhibit 1-staff report, page 2; exhibit 8-Zoning Resolution/Development Agreement, page 5)* The specifics of these changes include:

- A. Narrowing the alternative site plans down to one which is the preferred alternative that has been adopted by the Applicant and its Port Commission.
- B. Increasing the building height maximum for certain residential areas by as much as ten feet and clarifying permitted rooftop appurtenances.
- C. Adding a 95-foot high "Fisherman Tribute Tower" as part of the development.
- D. Clarifying permitted encroachments into the view corridors along water's edge and the 13th and 14th Street rights-of-way.
- E. Modifying the residential parking requirements based on the number of bedrooms and required residential parking shall be located within enclosed structures.
- F. Requiring parking management plans at each phase prior to building permits being issued. These plans must include parking provisions to accommodate the public for normal weekend and peak season activities.
- G. Requiring substantial public access improvements during the initial phase. *(exhibit 1-staff report; exhibit 8-Zoning Resolution/Development Agreement)*

- 8. Cleanup activities for the project would consist of a voluntary cleanup plan for containment and/or removal of contaminated soil pursuant to Washington's Toxic Control Act, RCW 70.150.D, and WAC 173-340. The Applicant estimates that approximately 1,600 cubic yards of contaminated soil are located within the proposed Craftsmen District area and that approximately 36,000 cubic yards of additional contaminated soil may necessitate further environmental cleanup. The cleanup would contain the contaminated soil on-site or dispose it at a licensed water disposal facility. The Applicant would not locate any contaminated soil within any residential area or within 25 feet of the shoreline or under any public right-of-way. Further, the Applicant would not place contaminated soil lower than one foot above estimated maximum ground water elevations. Some of the contaminated soil would be stored in temporary locations, no closer than 100 feet from the shoreline. While in the temporary locations, the Applicant would underlay the soil with plastic sheeting or geotextile fabric sheeting, covering it during the wet season. The Applicant may also want to ensure the site has a perimeter fence. *(exhibit 1-staff report; exhibit 3-Applicant's Narrative; exhibit 12-contaminated soil location & excavation plan, pages 33 & 34)*

9. Pursuant to the ESMP, the subject property is designated as Urban Maritime and is a shoreline of statewide significance. The ESMP envisions development of urbanized parts of the City's shoreline that promotes a balance between economic diversification, recreational opportunities, and environmental protection restoration of the shoreline. (*ESMP Section 1.1-Community Vision*) The purpose of the Urban Maritime designation is to provide areas for intense development of maritime activities while protecting and restoring ecological functions. Permitted maritime activities include marinas, businesses servicing boating and fishing communities, heavy commercial and industrial uses, compatible water oriented commercial and recreational uses, and public access. (*ESMP Section 4.4; ESMP Figure 4.1; Shoreline Use Designation Map; ESMP Figure 4.3; exhibit 1-staff report, page 2; exhibit 17-Applicant's Power Point, page 6*)
10. The ESMP provides general and specific regulations to which proposed projects must comply. Section 3 of the ESMP provides general regulations/restrictions that all development within the shoreline jurisdiction must adhere to such as noise and lighting (*ESMP Section 3.2*), cultural and archeological preservation (*ESMP Section 3.5*), public access (*ESMP Section 3.7*), and environmental protection and conservation (*ESMP Section 3.9*). Section 5 of the ESMP addresses regulations for activities within the shoreline jurisdictions such as commercial development (*ESMP Section 5.5*), industrial development (*ESMP Section 5.7*), parking (*ESMP Section 5.12*), recreation (*ESMP Section 5.13*), signage (*ESMP Section 5.15*), solid waste (*ESMP Section 5.16*), and utilities (*ESMP Section 5.18*)
11. Shoreline Use Requirements are established in Section III of the ESMP. The Shoreline Use Element includes a provision that all exterior lighting and lighting of signs be directed downward onto the site and away from other shoreline properties in the neighborhood. The City staff in its review implemented this requirement as part of its recommendation (*conditions 29 and 30*). These conditions require the exterior lighting be designed to shield and focus light within the project site and minimize light and glare impacts to nearby residences. Also, the project must comply with lighting mitigation measures that are part of the Final EIS issued by the Applicant. These include use of non-reflective building materials and locating, orienting, and designing buildings to minimize glare and shadow impacts on sensitive areas. (*exhibit 1-staff report*)
12. The Cultural Resource Element is required for review of all Shoreline Permits for Urban Maritime projects. The City has recommended a condition that requires the Applicant or its developers to stop work and notify the City and the Tulalip Tribes if anything of possible archaeological interest is uncovered during excavation or development. The Applicant would be required to consult a professional archaeologist to inspect and evaluate the site and comply with this requirement. (*exhibit 1-staff report*)
13. Within the City of Everett sites, landscaping plans must be included which are in scale and harmony with the proposed structures and provide screening and buffering of activities, if appropriate. The City in reviewing the Applicant's plans indicated that the landscaping should be consistent with the urban character of the development. The landscaping would provide shade, augment the aesthetics of the development, and provide a unified character for the project. It would also buffer portions of the boatyard area from other areas. The landscaping design guidelines and standards were part of the City Council's agreement in this project

and are identified in the Development Agreement. (*exhibit 8-Zoning Resolution/Development Agreement*)

14. The site is included in the adopted Shoreline Public Access Plan of the City of Everett. (*see exhibit 12*) The access proposed with this project, as well as the entire development, is consistent with the Public Access Plan and includes continuous access along the shoreline and along West Marine View Drive frontage. It also provides pedestrian linkages that connect the southern and northern esplanades throughout the interior of the development. The primary goal of ESMP, Section 3.7-Public Access Element, is to "achieve safe, convenient, and diversified access for the public to the shorelines of Everett". Part of the review requires identification of public accesses. The Applicant proposed construction of an amphitheater/plaza and an esplanade. Compliance with the Development Agreement and conditions of approval would ensure that placement and design of structures would be the least detrimental to the shoreline views. (*exhibit 1-staff report; ESMP Section 3.7; Derickson testimony; Cattle testimony*)
15. In addition to the proposed physical access, a plaza/amphitheater would be located at the west end of 13th Street and would provide a water's edge venue for recreation. The plaza would be approximately 200 feet wide, extending east from the pedestrian esplanade, and would provide informal seating with capability for temporary seating during events. The plaza would be landscaped with trees, shrubs, and a grassy area to provide additional seating and would include water features, viewing areas, and bench seating. Noise generated from events at the amphitheater would be directed away from residential areas. Parking facilities would be adjacent to the area. (*exhibit 1-staff report; exhibit 3-Applicant's Narrative; exhibit 12-amphitheater plan, pages 1, 7-9*)
16. A 1.5³ pedestrian esplanade, to be constructed along the shoreline perimeter of the project area, would be 15-20 feet in width and be landscaped. It would be accented by lighting with seating and viewing areas. As noted, access to parking areas would be provided. Portions of the esplanade have already received Shoreline Permits from the City of Everett³. Additional public walkways/plazas would be constructed throughout the project to ensure access to the esplanade. (*exhibit 1-staff report; exhibit 3-Applicant's Narrative; exhibit 12-esplanade plans, pages 1, 12-16; Derickson testimony*)
17. Phase #1 of the Port Gardner Wharf project would consist of several public area improvements, including: an outdoor amphitheater/waterfront plaza, marina support services, pedestrian esplanade, roadway and parking improvements, restaurant facilities, and commercial buildings. (*exhibit 1-staff report; exhibit 3-Applicant's Narrative, pages 3-4*)
18. In addition to the esplanade, public access would be provided by shoreline street ends. Public utilities and public right-of-ways would not be diminished by the proposed project. The public access requirements of the City include provisions that roads and railroads along the public shoreline areas provide safe pedestrian and bicycle circulation throughout the shoreline. The public access to the

³ The two permits that have been issued are: (1) 14th Street Bulkhead Replacement Project 2004; (2) 12th Street Marina Project 2005. The 14th Street project provided for a 13' wide public walkway, while the current proposal would provide for a 7' wide walkway addition to the previously approved walkway.

shoreline is provided off 13th and 14th Streets. 13th Street terminates at the edge of the shoreline at the west end of the site. 14th Street extends parallel to the shoreline. (*exhibit 1-staff report*)

There is a "0" foot setback for water-dependent uses located on the shoreline. The water-dependent uses of the proposed project include the marina and boat repair. A portion of this project would extend to the shoreline in limited locations in order to provide a direct access for the marina boat launch. With that exception, the shoreline would be dedicated for public access, and all setbacks would be satisfied. (*exhibit 1-staff report*)

19. The PDO zoning and Development Agreement adopted height restrictions specific to the project. The original Development Agreement identified two height zones in various blocks of West Marine View Drive. The majority of buildings would be 35 feet or less, and the maximum building height would be 95 feet. In the November 2005 Amendment, the Everett City Council approved an increase in the allowable building heights at certain locations of the site. However, all Phase #1 structures would be constructed between 16 to 35 feet in height. (*exhibit 1-staff report, page 6; Resolution 5703; exhibit 17-Applicant's Power Point, page 27; Russell testimony*)
20. The project would consist of improvements in marina support facilities along the 12th Street Marina and adjacent to the marina's guest float access gate. The Applicant proposed construction of a two-story, 16,000 square foot structure that would provide retail/marine services and boating club/guest float services. The first level of the building would be for retail/marine services and would include restrooms, showers, and laundry facilities for the public boating use. The second level would be used for boating club meetings and social events. (*exhibit 3-Applicant's Narrative; exhibit 12, page 6; exhibit 17-Applicant's Power Point pages 20 & 21*)
21. Marine support facilities would be provided along the 14th Street walkway. The Applicant proposed to construct two commercial buildings (each which would be 11,200 square feet), and an administrative service building, court storage areas, and two public restrooms/shower/laundry facilities would be located near the main gate/pier access from the 14th Street marina. Development of this area would necessitate relocation of a fuel storage tank and the installation of new underground utilities. (*exhibit 1-staff report; exhibit 3-Applicant's Narrative, page 4; exhibit 12, pages 10 & 11; exhibit 17-Applicant's Power Point, pages 12-14*)
22. The proposed Craftsmen District is an area that would provide open and covered workspace for repair of boats that extend to 75 feet in length. It would also provide boat wash-down facilities, a boat trailer drop-off area, marina operations office, and public restrooms. The existing 36,000 square foot structure on-site would be renovated and expanded to 46,500 square feet to accommodate potential marine oriented businesses. Three additional sales/service buildings that would be constructed would provide space for marine operations and public restrooms⁴. Water treatment facilities would be installed to accommodate boat yard activities and protect water quality. (*exhibit 1-staff report; exhibit 3-Applicant's Narrative, page 3; exhibit 12, pages 4&5; exhibit 17-Applicant's Power Point, pages 24&25; Russell testimony*)

⁴ A total of 4,000 square feet.

23. West of the Craftsmen District, the Applicant proposed construction of three structures for approximately 27,000 square feet of office, retail, and commercial space⁵. The plaza area north of the buildings would be a "semi-public" area and provide access to the esplanade. (*exhibit 1-staff report, page 2; exhibit 3-Applicant's Narrative, page 6; exhibit 12, pages 2&3; exhibit 17-Applicant's Power Point, pages 21& 22; Russell testimony*)
24. A primary goal of ESMP, Section 3.2, is to "plan and foster all reasonable and appropriate uses while protecting and enhancing the quality of the shorelines". With compliance with the Development Agreement, PDO Design Standards, Port Gardner Wharf Design Guidelines, the EMC, and conditions of approval, lighting and noise impacts should be mitigated. (*exhibit 1-staff report, ESMP Section 3.2*)
25. The Applicant submitted a Phase #1 Parking Management Plan (management plan) and a conceptual parking plan (parking plan). (*exhibits 5 & 6*) The provisions for parking were based on observations, standards issued by the Institute of Transportation Engineers, EMC, and accepted transit oriented developmental planning principles. The management plan contained elements that addressed various parking demands, including: temporary parking for the amphitheater; dedicated marina slip holder parking; 12th Street and 14th Street parking; the Craftsmen District parking; retention of a professional parking management operator; signage and traffic controls; preferred parking for carpools; and shared use parking. (*exhibit 5-proposed parking management plan*) The parking plan called for over 800 permanent on-street and off-street parking spaces, including 300 dedicated for boaters. The parking plan also required 185 temporary amphitheater parking spaces and several interim parking spaces. (*exhibit 5-proposed parking management plan; exhibit 6-conceptual parking plan; exhibit 1-staff report; exhibit 12, pages 8, 12 & 17; exhibit 15-public comment letter*)
26. The Applicant proposed parking facilities which would not be located over water. It includes "auto courts" adjacent, rather than upland, to buildings along the 12th Street Marina. The Applicant stated that these auto courts would enhance public use and enjoyment of the shoreline by creating north/south visual and physical access corridors to the esplanade and businesses, and thus providing for shoreline in-car view parking. Such a design would also lessen conflict between pedestrian and vehicular traffic. As part of its recommendation, the City submitted that some of the parking spaces must be dedicated as handicap accessible to allow for in-car viewing. (*exhibit 1-staff report, page 10; exhibit 4-Applicant's Auto Courts Analysis; exhibit 12, page 6; ESMP, Section 3.12; Derickson testimony; Jimerson testimony*)
27. The Applicant's proposal would require construction and/or improvement to roadways and the reconfiguration of existing parking areas. The proposal included reconfiguration and reconstruction of all existing parking bays and drive aisles along 14th Street Marina. On-street parking would be provided. The Applicant would improve an 1,800' section of 13th Street, extending westward

⁵ The Applicant's illustrative plan, exhibit 12 (page 2, sheet A 1.1) depicts 4 buildings totaling 31,000 square feet. These plans do not appear to be consistent with the testimony and other exhibits which indicate 3 buildings at 27,000 square feet.

from the intersection with West Marine View Drive. With such a design, improvements would include installation of a center median, wider lanes, pullouts for buses, curbs, gutters, sidewalks, and street lighting. There would also be improvements of a 1,500' northern section and an 800' southern section starting at the western edge of the improved section of 13th Street. These improvements would create a loop road. (*exhibit 3-Applicant's Narrative, pages 4&5; exhibit 12, page 17; exhibit 17-Applicant's Power Point, page 9*)

28. The Applicant proposed a design that includes replacement of all existing on-site utilities including water, sanitary sewer, natural gas, stormwater drainage, and electrical and communication utilities. All utilities on-site, except for the electrical and communication system cabinets, would be underground. Those cabinets would remain above ground for easy access. Stormwater control improvements would include installation of three 24" diameter stormwater outfalls (the 14th Street bulkhead) and installation of a 30" diameter stormwater outfall (the North Marina basin bulkhead). The outfalls would be coordinated with those that were approved in 2005 with the 12th Street Marina Shoreline Permit. An existing 15' combined sewer overflow outfall would be located at the Applicant's existing boat haul-out facility near the Craftsmen District. The integrated stormwater system would collect, treat, and convey stormwater from a designated sub-basin. It would include water quality treatment vaults installed in each sub-basin. The stormwater treatment would be designed to satisfy the City's Stormwater Manual, and conditions of approval would ensure such compliance. The Best Management Practices (BMP's) would be implemented, and the Applicant must obtain a National Pollution Discharge Elimination System Permit. (*exhibit 1-staff report, pages 6, 8, 13; exhibit 2-JARPA Application, page 3; exhibit 3-Applicant's Narrative, page 5; exhibit 12, pages 19-24; ESMP, Sections 3.9 & 5.7*)
29. As part of the final EIS adopted in this matter, environmental impacts of the project were reviewed and addressed. They included the following studies: the Building Adoptive Re-Use Study; the Geotechnical Report; the Air Quality Report; the Biological Evaluation; Phase #1-Environmental Site Assessment; the Historic and Cultural Resource Assessment; and the Building, Economic, and Financial Analysis of the Development's Scenarios. The EIS was independently reviewed and determined to provide an adequate analysis of all environmental issues related to the proposal. (*exhibit 7-Notice of Adoption of EIS; exhibit 11-Final EIS; Jimerson testimony; Cattle testimony*)
30. The Biological Evaluation that was prepared in conjunction with the EIS determined that the proposal most likely would not adversely affect any endangered species. (*exhibit 1-staff report, page 6; exhibit 11-Final EIS*)
31. The City of Everett Public Works Department reviewed the proposal and determined that 23 conditions that have been recommended by the Everett Planning Department as part of this project are reasonable and can be satisfied. These conditions include payment of Traffic Mitigation Fees; special charges for connection to the sewer and water systems; upgrades to sewer systems; emergency vehicular access provisions; fire sprinklers and hydrants; performance bonds for public improvements; warranties/guaranties for public improvements and drainage facilities; stormwater control and treatment; adequate parking provisions; and compliance with the BMP's during and after construction. (*exhibit 14a-Comments by Public Works*)

32. As part of the review, the City of Everett Fire Department considered the proposal and determined that the conditions, as recommended, are reasonable and applicable. The Fire Department's participation included review of conditions for fire lanes being provided and properly identified; Fire Department access being ensured during construction periods; buildings being clearly identified and visible and legible from access roads; placement of fire hydrants with fire hydrants having adequate water pressure; fire hydrants being located in a manner consistent with the EMC and International Fire Codes; approved automatic fire detention systems and fire suppressions (sprinkler systems) in all buildings; Fire Department access roads and hydrants being in service prior to construction; limitations on hazardous materials; and restrictions on commercial cooking operations. (*exhibit 14b-Comments by Fire Department*)
33. The City of Everett Parks and Recreation Department reviewed the proposal and recommended that an handicap accessible restroom be incorporated into the amphitheater/plaza facility and the restroom be located as close as possible to the site⁶. The Parks and Recreation Department noted some discrepancies of design: (1) that the current site plan layout encouraged pedestrians to cross traffic in order to access both parking and restroom facilities; (2) that there was no storage for chairs; and (3) that access to stage areas for trucks had not been incorporated into the plan. (*exhibit 14c-Comments by Parks and Recreation Department*)
34. The Snohomish County PUD Utility District submitted that at full build-out the project would create a demand of approximately 4 MW. The PUD has sufficient system capacity to provide up to 4 MW, but may not have the system capacity for the projects of other new developments commencing operation prior to the development of the Port Gardner Wharf. The PUD would require the Applicant to provide suitable sites and easements for any electrical facilities that maybe required, and the Applicant would be responsible for all portions of the costs of infrastructure necessary to serve the proposed project. (*exhibit 14d-Comments by Snohomish County PUD*)
35. Written and oral comments were submitted from the public on the requested Shoreline Permit. Most of the comments supported the North Marina Redevelopment project. There were comments, however, that parking may be a problem with the availability of public parking versus the parking reserved for the marina slip holders. Also, the density of the proposed condominium development was questioned, as were impacts on view corridors. (*exhibit 15a-Public Comment Letter by Kim Ratliff*) In addition, testimony was given at the hearing supporting the proposal, including the plans for providing for a craftsmen work area, a mixture of uses, and public access. (*LaLone testimony; Hatch testimony*)
36. The Applicant must secure other permits from State and Federal jurisdictions. Those permits are identified in exhibit 2, JARPA application, page 3.
37. Adequate public notice was given prior to the public hearing. (*EMC 15.24.110; Jimerson testimony*)

⁶ This is consistent with the Disability Act (ADA, Title 3, 42 U.S.C, Section 12181-89 and Title 3 Regulations of the Department of Justice.

Jurisdiction: *The Hearing Examiner of the City of Everett has jurisdictional authority to hold a hearing and to issue the decision. That authority is set forth in EMC 15.16.100. Based on the above Findings of Fact, the Hearing Examiner enters the following Conclusions:*

CONCLUSIONS

1. The Applicant requested approval of a Shoreline Permit for the development of Phase #1 of a mixed use development project commonly known as the Port Gardner Wharf. The Port Gardner Wharf proposal is part of the Applicant's North Marina redevelopment project that consists of residential, retail, office, restaurants, lodging, and marina support uses. The wharf project would also consist of a 1.5 mile pedestrian esplanade, an outdoor amphitheater, marina parking and services, and public parking. The 65-acre project is projected to be developed on the west of West Marine View Drive (between the 1000 and 1600 Blocks) in the City of Everett, Washington. The project is a joint public/private effort that includes participation with the Applicant and the Maritime Trust which is the Applicant's development partner. The Applicant would develop the site in stages and phases, and separate Shoreline Permits will be required for all of the development. The instant project is subject to the Washington State Shoreline Act because of the close proximity to a significant shoreline within the State of Washington (Puget Sound) and because the cost exceeds the threshold of \$5,000.00.

The entire project is a public and private effort that includes cooperation of private enterprise with the Applicant and its development partner, Maritime Trust. It is anticipated that the interior portions of the site would be sold to Maritime Trust for residential development. The Applicant, however, would retain ownership of the commercial properties, public roads, amphitheater and esplanade. (*finding 1*)

2. The Applicant is proposing with the initial application improvements as follows:
 - A. Site preparation including the demolition of nearly 50 buildings (20 which are located within the 200' shoreline jurisdiction); the implementation of a voluntary clean-up plan for the soils; and general ground improvements.
 - B. Construction of public improvements, including a waterfront amphitheater/plaza and a 15-20 foot wide esplanade along the entire shoreline perimeter; public walkway connections to the esplanade; and vehicular and utility infrastructure.
 - C. Marina support facilities of: an 8,000 square foot boating club with 6,000 square feet of services/retail for boaters and 2,000 square feet of restrooms; reconfiguration, landscaping, and securing of parking for marina slip tenants; relocation of a fuel storage tank; construction of two new restroom and shower facilities along 14th Street walkway for boater and public use; and two 11,200 square foot commercial buildings along the 14th Street walkway to serve the marina.
 - D. Infrastructure improvements, including roads and utilities to serve the site at build-out.

- E. Craftsmen District improvements including: a boatyard with 66,000 square feet of space for boat repair; a boat wash-down facility; marina operations office; public restrooms; and boat trailer drop-off area. Other improvements would be renovation and expansion of the MSRC building from 36,000 to 46,500 square feet to accommodate boat repair businesses, and three sales and service buildings (3,000 - 4,000 square feet) south and southeast of the MSRC building.
- F. Parking dedicated to marina slip holders (300 spaces), and a mix of on-site parking and on-street parking.
- G. Retail and office buildings to be located west of the Craftsmen District providing up to 27,000 square feet of floor area.

(finding 2)

- 3. The City of Everett Hearing Examiner may approve a Shoreline Permit only if the following criteria of EMC 19.33.D.030(A) and the ESMP Section 2.3 are satisfied:
 - (1) Policies and Procedures of the Shoreline Act of 1971, RCW 90.58, as amended,
 - (2) ESMP, EMC 19.33.D, and
 - (3) State Environmental Policy Act, RCW 43.21.C
- 4. The proposal is consistent with the provisions of the Washington State Shoreline Management Act, RCW 90.58. It is a cooperative program of shoreline management between the City of Everett and the State of Washington. The City of Everett has the primary responsibility of initiating the planning as required by this chapter for the waterfront of the City, and the ESMP provides goals and policies for ensuring the development within the shorelines, including the Puget Sound, is consistent with the policies and provisions of EMC 90.58. The project has been reviewed pursuant to these requirements, and the project, as proposed by the Applicant, is consistent with the Shoreline Act. *(findings 3-5, 9-29)*
- 5. The proposal is consistent with the policies of the Shoreline Management Act because it provides for industrial and commercial development while facilitating public access with social, cultural, and recreational activities. The proposal is adjacent to, and will provide services to, marinas, but would not impede navigable waters. *(findings 14-18)*
- 6. The Biological Evaluation of the area in which the project is to be done has determined that no endangered species are adversely impacted. The City and the Applicant through the Development Agreement and the EIS have ensured that no significant adverse environmental impacts would be associated with the proposal. *(findings 4, 29, 30)*
- 7. The proposal is consistent with the applicable shoreline regulations of the State of Washington, as well as the City of Everett. The project is being reviewed pursuant to the criteria of WAC 173-27-150. The proposed project would be consistent with the approved ESMP. *(findings 3-5, 9-29)*
- 8. Phase #1 of the proposed project is consistent with the goals of ESMP because it seeks to promote a balance between economic development, public access, and environmental protection. With conditions of the Development Agreement and the conditions of this Shoreline Permit, the proposal would comply with the goals,

objectives, policies, and regulations of the ESMP. The proposal is consistent with the zoning of the subject property, WC with PDO; the Urban Maritime shoreline designation; the ESMP; and with zoning standards as set forth in EMC, Chapter 19. The uses, as proposed, are allowed in the Urban Maritime shoreline designated areas. (*findings 3-5, 7, 9, 11-34*)

9. The proposal has been reviewed subject to the State Environmental Policy Act (RCW 43.21.C). An EIS was prepared, and it analyzed the probable adverse environmental impacts. It was adopted by the City after an independent review. It was determined that the project and environmental issues had been adequately reviewed. The EIS provides for sufficient measures to ensure impacts to the environment were mitigated so as not to rise above the level of significance. With adherence to the conditions of approval, as set forth herein, as well as the Development Agreement and all requirements of the EIS, the project would not adversely impact the environment. (*findings 4, 29, 30*)

DECISION

Based upon the preceding Findings of Fact and Conclusions and testimony and evidence submitted at the public hearing, it is hereby ordered that the Shoreline Substantial Development Permit (SMA #05-009) for activity identified herein is granted subject to the conditions as set forth below. This Shoreline Permit is for a mixed-use 65-acre development of residential, retail, office, restaurants, lodging, and marina support uses on the Port Gardner Wharf on the west side of West Marine View Drive (1100-1600 Blocks) in Everett Washington. The conditions as listed herein are consistent with the numbered conditions as recommended by the City or submitted by the Applicant. There have been some minor edits for clarity purposes.

General

1. The proposal must comply with all City code and ordinance requirements not specifically set forth herein.
2. Construction, or substantial progress toward construction, of a project in reliance of this Shoreline Permit must be undertaken within two years after final approval of the permit, and completed within ten year. An extension may be allowed with State and/or City shoreline regulations.
3. The construction plans must be designed from a site survey performed by a licensed State of Washington land surveyor.
4. A Public Works Permit is required for this project. Detailed drawings in accordance with City Design and Construction Standards shall be submitted to the Public Works Department, showing site parking layout, landscaping, utilities, storm drainage, temporary construction erosion control, and all required improvements in the public right-of-way. Public Works Department approval of these drawings is required prior to (any) permits being issued. (All) improvements shall be completed, approved, and warranted before the Occupancy Permit is issued/final approval is granted, except as noted in Condition #5 and Condition #25 below.
5. The build out of Shoreline Permit #1 may be phased. Certificates of occupancy/final inspection may be issued for individual buildings and facilities prior to completion of all improvements authorized by the Shoreline Permit,

provided that the improvements necessary to support the particular building or facility are completed to the City's satisfaction. Those improvements include, but are not limited to, parking, utilities, fire access, and landscaping. Phasing requirements of public access improvements are addressed in Condition #25 below.

6. Prior to issuance of a building permit, the location of property lines shall be provided to the City to ensure buildings satisfy minimum setback and construction standards.
7. Prior to issuance of a building permit, the Applicant, or its agents, shall provide calculations in square feet of each use category identified in Section 3.5 of the Development Agreement. These calculations shall be updated with each building permit to ensure that the parameters set forth in Section 3.5 are not exceeded.

Construction Impacts and Grading (applies to facility construction and any future maintenance)

8. City streets and alleys are to be kept clear of dirt and debris at all times during construction. Dust suppression and street cleaning must occur as directed by the Public Works Inspector.
9. Temporary erosion control measures for construction activity must be operational prior to commencement of any clearing or earthwork.

Stormwater and Water Quality

10. Prior to discharge of the stormwater from the site, treatment of stormwater runoff from paved areas is required per City standards. Stormwater treatment is required if 5,000 square feet or more of pavement is created and/or redeveloped by a project.
11. All stormwater facilities shall be designed in accordance with applicable City standards and/or design policies.
12. The project should utilize the Best Management Practices listed in Section 2.2 Pollutant Source-Specific Best Management Practices for the repair and maintenance of boats and ships, found in the 2001 DOE Stormwater Management Manual for Western Washington.
13. The options for storm water treatment for this project are:
 - a) an infiltration basin, if suitable soils exist on the site
 - b) a wetpond
 - c) a constructed wetland
 - d) a SMI StormFilter, with stormwater pretreatment
14. All chemicals or products of a hazardous or toxic nature that may be used or stored on the site must be stored under cover and isolated from the storm drainage system. The Applicant must develop operational procedures to address the handling and storage of fuel, chemicals, oil and other substances with potential for spillage into adjacent waters. The Applicant, or its agents, shall develop operational procedures to handle potential spills into adjacent waters. In addition, physical structures, which would contain any potential spills, shall be

provided. Procedures meeting State or Federal requirements shall be acceptable. The proposed operational procedures must be reviewed and approved by the City prior to the issuance of construction permits for any uses subject to these procedures.

15. The Applicant, or its agents involved in the industrial activity in the Craftsmen District, shall employ Best Management Practices concerning the various services and activities they perform. The Best Management Practices shall also apply for the control of impacts on the surrounding water quality. Operators shall take all actions necessary to ensure that contaminants do not enter the water or storm drainage system. Development and operations shall comply with the City's Drainage Ordinance and Stormwater Management Manual.

Noise, Dust, Odors and Air

16. Boat painting and sanding area(s) shall be screened/fenced and landscaped (wind blocking foliage) so drifting spray and debris are substantially contained within the work yard area.
17. All shoreline activity shall comply with the City's noise ordinance (EMC 20.08), during and after construction. Backup alarms may be eliminated if equipment can satisfy all Federal and State safety regulations without the alarms. Otherwise efforts should be made to minimize the frequency and duration that equipment is backed up.
18. The following measures identified in the project EIS shall be taken to mitigate noise impacts during construction of the project:
 - a. Ensure all equipment has properly sized and maintained mufflers.
 - b. Use engine enclosures and intake silencers.
 - c. Use standard construction site noise reduction techniques including use of electric or hydraulic impact tools.
 - d. Use alternatives to impact pile driving where feasible.
 - e. Use pile driving sound absorbing barriers and/or other sound reducing measures.
 - f. Implement a phone/web hotline to field noise questions and complaints.
19. Plans for public works construction and/or building permit approvals shall show all solid waste collection facilities, which shall be located, constructed, and screened to prevent impacts related to health and sanitation, water quality, odor, aesthetics, and public safety. Containers shall be covered, and stormwater runoff shall be treated per City standards.

Parking and On-site Vehicular Circulation

20. Prior to issuance of a building permit, the Applicant, or its agents, shall provide calculations which demonstrate that parking requirements of the zoning code and PDO overlay for that particular use are met. In addition, the Phase #1 Parking Management Plan must meet the satisfaction of the Planning Director and City Engineer prior to the issuance of a building permit. Required parking may be located in an interim lot located within reasonable walking distance of the building or use that the parking supports, provided that construction permits for subsequent conversion of the interim lot to another use shall not be issued until

new interim or permanent parking is created to replace required parking spaces that are eliminated as a result of the conversion.

21. Of the 60 parking spaces in the 14th Street parking area proposed for general access, at least four shall be located to provide direct viewing opportunities of the water. One of the spaces shall be reserved for handicap accessible vehicles.
22. Design of permanent parking areas shall meet City Zoning Code and Design and Construction Standards. Temporary parking areas used for construction worker parking and other short-term needs (less than 12 month time periods) will typically be gravel surfaced. The interim parking for plaza/amphitheater and other early phase uses that are utilized during time periods greater than 12 months, but are not permanent, will be paved with 2-inch minimum compacted depth of class B asphalt over a sufficient subgrade and striped. The interim parking will not be required to satisfy City Zoning Code and Design and Construction Standards. All required ADA accessible parking stalls shall comply with ADA regulations whether intended to be permanent, interim, or temporary. The number of ADA accessible parking stalls shall be determined consistent with Federal standards.
23. Shuttle service and/or other methods of accommodating transportation needs shall be provided for events at the amphitheater which otherwise would require more parking than is available.
24. Fire vehicle access geometry shall meet Everett Fire Department standards.

Public Shoreline Access

25. Non-motorized public access improvements shall be completed pursuant to Section 4.3 of the City/Port Development Agreement.
26. The Applicant shall submit for Planning and Public Works approval details and specifications for benches, interpretive signs and other improvements associated with the five shoreline viewpoints. The standard State approved logo or other signs approved by the Planning and Community Development Director that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the Applicant. Signs shall not control or restrict public access except as required.

Cultural Resources

27. If any possible archaeological interest is uncovered during excavations or development, the Applicant must immediately stop work and notify the City and the Tulalip Tribes, and consult with a professional archaeologist to inspect and evaluate the site. In the event that ground disturbing or other constructing activities result in the inadvertent discovery of the archaeological resources, work shall be halted in the immediate area, and contact made with the City of Everett, the office of the State Archaeologist (OAHP), and cultural resources office of the affected Tribes. Work must be halted until such time as further investigation and appropriate consultation are concluded. In the unlikely event of the inadvertent discovery of human remains, work shall be immediately halted in the discovery area, the remains covered and secured against further disturbance, and communication established with project administrative personnel, local law enforcement, OAHP, and authorized Tribal representatives.

Landscaping

28. Prior to issuance of building permits or Public Works construction plan approval, the Applicant shall provide a detailed landscaping plan consistent with the document titled Design Standards and Guidelines and the Port Gardner Wharf Design Guidelines, adopted by City Council and referenced in the Development Agreement, for review and approval by the Planning Department. The plan shall be at an appropriate scale and identify species, size, quantity, location and planting details and shall clearly demonstrate how the standards and guidelines are met.

Visual Impacts

29. Site lighting shall be designed to shield and focus light within the project site and minimize light and glare impacts to residences on off-site properties.
30. The project shall comply with the mitigation measures adopted by the Applicant in the EIS, including use of non-reflective building materials and locating, orienting and designing buildings to minimize glare and shadow impacts on sensitive areas such as shoreline walkways and public open spaces.
31. Plans submitted for building permits shall ensure that all commercial loading and service areas are located on the upland side of the commercial activity unless approved provisions are made to screen the loading and service area from the shoreline.

Utilities

32. As-builts of storm sewer, sanitary sewer, and water systems will be required to be submitted per City Design and Construction Standards and Specifications for Development.
33. On-site water and sewer mains shall be staked within an easement given to the City. The easement shall be submitted to the City and recorded prior to issuance of permits.
34. All new utilities shall be placed underground. All existing above ground utilities shall be placed underground during normal replacement processes. If necessary, certain utilities, as identified by the City, may remain above ground on an interim basis. As development progresses, the approved above ground utilities shall be placed underground.
35. Above ground utility appurtenances shall be avoided where feasible. When not feasible, they shall be designed, located, landscaped and/or screened to reduce their visual impact.
36. An existing City owned 18" combined sewer overflow and outfall is located in the 13th Street right-of-way. Portions of this facility will have to be replaced, upgraded and/or relocated due to the proposed development activity. All such work shall be at the expense of the Applicant, and it shall be the Applicant's obligation to obtain required permits relating to any relocation of the existing outfall.

Environmental Health

37. Best Available Management Practices and Procedures shall be employed for safe handling of fuels and toxic or hazardous materials.
38. Temporary restroom and handwash facilities shall be provided for amphitheater events. The temporary facilities shall include ADA accessible facilities. The number of units shall be as recommended by the restroom purveyor for the type, duration, and attendance levels for the event. The number of facilities may be reduced if the conference center restrooms are made available during the event. ADA accessible facilities may be reduced if the conference center restrooms are made available, but, an appropriate number of temporary units shall be provided for at the amphitheater location.

Fees/Assurances/Guarantees

39. A one year warranty is required on the public improvement for an amount not less than 10% of the cost of construction and shall run for one year from the date of final approval/issuance of the first Occupancy Permit.
40. Prior to issuance of a building permit, the following financial assurance, in forms and amounts acceptable to the City, shall be provided:
 - a. A two-year guarantee for private retention/detention or other drainage treatment/abatement facilities serving areas larger than one acre;
 - b. A Performance Guarantee is required for public improvements.
 - c. A ten percent (10%) financial assurance to ensure proper maintenance of all landscaped areas.
41. The Applicant shall pay Traffic Mitigation fees as required by the City's Traffic Mitigation Ordinance. Traffic Mitigation Fees shall be paid at the beginning of each phase, pursuant to City code, based on a phasing plan to be provided by the Applicant subject to approval by the City Engineer.
42. Special charges for connection to the sewer and water systems in accordance with Ordinance 1998-94 and subsequent revision are applicable. These charges are based on projected water usage and can be substantial. Applicant is encouraged to obtain a copy of the Ordinance and determine estimated charges prior to building permit application. The actual charges shall be computed by the Public Works Department per the ordinance in effect at the time and according to the information on the approved plans at the time of building permit issuance.

Building and Fire Code and Fire Prevention

43. This project must comply with the current City of Everett Building Code and Sprinkler Ordinance.
44. In situations in which access to or within a structure or an area of the Phase #1 development is unduly difficult because of secured openings, or if immediate access is necessary for life saving or fire-fighting purposes, the Fire Department is authorized to require a key box to be installed in an accessible location. A

rapid entry system may also be desirable in order to avoid unnecessary damage while making entry to any building during an emergency situation.

45. Fire lanes shall be provided as required in Everett Municipal Code 46.44. Fire lanes shall be identified by red curbs with white stenciling stating "NO PARKING - FIRE LANE" and vertical signs stating "NO PARKING - FIRE LANE - TOW AWAY ZONE." Location shall be approved by the Fire Marshal.
46. Any security fence erected around the construction site shall be located so as to not obstruct any existing hydrant, fire protection equipment, or Fire Department access. If Fire Department access is obstructed, gates or other openings shall be provided for access.
47. Premises shall be clearly identified by the correct address at the street entry. Buildings shall be clearly identified so as to be visible and legible from the access road. Individual apartments and suites, where applicable, shall be clearly and legibly identified from the access road.
48. Premise identification and all required Fire Department access roads and fire hydrants shall be in service prior to commencement of construction.
49. The Everett Municipal Code and the International Fire Code require that fire hydrants be provided within a maximum distance and of sufficient number and spacing to all new construction. The distance and number of hydrants varies based on type of construction and occupancy of the structure.
50. A fire hydrant is required within 200 driving feet, but not closer than 50 feet, of every structure. Location of the hydrant(s) shall be approved by the Fire Marshal.
51. MSRC Building - When the required fire flow is over 2,500 gpm, the fire hydrant shall be served by a main that loops around the building or complex of buildings and reconnects back into a distribution supply main.
52. Based upon 56,500 square feet of Type V-5, sprinklered construction, the fire flow requirement is 3,250 gpm.
53. A portable fire extinguisher with a minimum U.L. rating of 2-A:10-B:C shall be provided within 75 feet of travel on all floors of each building during construction and prior to occupancy.
54. Garages (MSRC Building) - Install a portable fire extinguisher with a minimum U.L. rating of 2-A:40-B:C within 30 feet travel distance of all portions of this building.
55. An approved automatic fire detection system shall be provided in all buildings as required by City Ordinance No. 1902-92, Chapter 16.76, of the Everett Municipal Code. Plans for such system shall be submitted to the Fire Marshal for review and approval prior to installation. Submittal shall include cut sheets of all equipment intended for use. Appropriate trip tests, witnessed by a Fire Department inspector, shall be performed, along with a certificate of completion, prior to final acceptance of the system. Fire alarm systems shall be installed according to NFPA Standard 72. Installation of fire alarm components, including

basic wiring, may not commence before plans are approved by the Fire Department Plan Reviewer.

Fire alarm drawings must be professionally rendered, in sufficient detail, and must be internally consistent. Riser diagrams must match installation plans and load calculations. Components must be listed and approved for use together. Changes to plans must include new drawings and calculations and must be approved by the Fire Department Plan Reviewer prior to installation.

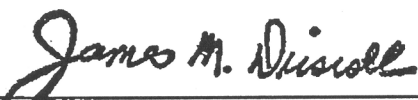
Fire alarm installation is subject to field inspection by a Fire Department Inspector. An approved set of plans and the Building Department electrical permit must be present for any installation inspection.

Fire alarm systems shall be installed under permit of the City of Everett Building Department. Electrical inspections and approval are required prior to calling for acceptance tests. Call (425) 257-8810 for permit information. The absence of working phone lines for the alarm system will be cause for postponing fire department inspection and testing and shall result in denial of occupancy.

56. An approved automatic suppression system shall be provided as required by City Ordinance No. 1902-92, Chapter 16.76, of the Everett Municipal Code. The system must include a mechanical water gong bell. Plans for any such system shall be submitted to the Building Department for examination and approval. Such plans shall include plans for the underground mains that will supply the sprinkler system. The type of sprinkler to be installed will be determined by the Building Official. It may be an NFPA 13, NFPA 13R, or NFPA 13D system depending upon several factors. Sprinkler installation shall not begin without an approved and stamped set of plans from the Building Department. The Fire Department will also review the plans and shall field inspect the installation based only on approved plans that must be on site. Changes to plans must be approved by both the Building and Fire Departments. Aboveground sprinkler piping shall be hydrostatically tested as established in NFPA Standard 13. Underground piping shall be hydrostatically tested and flushed as established in NFPA Standard 24 for private fire mains. (Below-ground piping must be installed by Washington State Patrol Licensed Underground Sprinkler line certified "U" installers. For further information, contact the State Fire Marshal's Office at (360) 570-3134 or contact the Everett Fire Department at (425) 257-8123.) All such tests shall be witnessed by a Fire Department inspector. Call (425) 257-8124 to make an appointment for inspection. Contractors' materials and test certificates shall be submitted to the Everett Fire Department prior to issuance of any Certificates of Occupancy.
57. A ventilating hood and duct system with an approved automatic fire-extinguishing system shall be provided in accordance with the Mechanical Code for commercial-type food heat-processing equipment that produces grease-laden vapor.
58. For commercial cooking occupancies, a K-type fire extinguisher must be installed within 30 feet of the grill and deep fryer.
59. Standpipe systems shall comply with NFPA 14.
60. Construction and demolition of buildings shall be in compliance with the provisions of the 2003 International Fire Code, Chapter 14.

61. Buildings containing high-piled combustible storage shall be in accordance with Chapter 23 of the 2003 International Fire Code and NFPA 13. A Fire Department permit is required for high-piled storage.
62. In order to expedite plan review, a hazardous materials inventory list shall be provided as a part of the submittal for building permit. The storage, handling and use of hazardous materials shall be in compliance with Chapter 27 of the International Fire Code, 2003 Edition.
63. In the Craftsman District, the storage, handling, and use of flammable or combustible liquids shall comply with Chapter 34 of the International Fire Code, 2003 Edition.
64. All fire alarm control panels (FACP) and sprinkler valves shall be in heated rooms or closets with standard man door access. Locations shall be approved by the Fire Marshal's Office.
65. Dumpsters over 1.5 cubic yards capacity shall be located a minimum of 5 feet from the building.
66. For further information of fire safety requirements, contact the Fire Department at (425) 257-8123.
67. The Applicant shall satisfy all requirements as set forth in exhibit 14a (Agency Comments "Public Works Comments").
68. The Applicant shall satisfy all requirements as set forth in exhibit 14c (Agency Comments "Parks Department Comments").
69. The Applicant shall satisfy all requirements as set forth in exhibit 14d (Agency Comments "Snohomish County PUD Comments").
70. The Applicant shall satisfy all conditions as required in the Environmental Impact Statement that has been issued for this project.

Done and dated this 5th day of January, 2006.



James M. Driscoll
Hearing Examiner