

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF RICHLAND**

In the Matter of a Shoreline Substantial )  
Development and Shoreline Special Use )  
Permit Applications filed by the City of )  
Richland, )

**File No. SMP2020-101 – Consolidated  
Shoreline Permits**

**PUBLIC WORKS DEPARTMENT,** )  
Applicant, )

**File No. EA2019-135 – Environmental  
Review**

for the )

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
DECISION APPROVING  
SHORELINE SUBSTANTIAL  
DEVELOPMENT and SPECIAL USE  
PERMITS**

**COLUMBIA PARK TRAIL  
RECONSTRUCTION PROJECT** )

*[Project: to reconstruct a 1.1-mile segment of  
Columbia Park Trail roadway and an existing  
parking lot on the north side of the road that  
serves the public visiting Bateman Island,  
including the addition of new stormwater  
management features, with portions of the  
project in the City’s shoreline jurisdiction upland  
from the Columbia River, in the City of Richland,  
Washington]* )

**I. SUMMARY OF DECISION.**

The consolidated Type 2 application for Shoreline Substantial Development and Special Use Permits submitted on behalf of the City of Richland, through its Public Works Department, to reconstruct a segment of the existing Columbia Park Trail and an adjacent parking lot, which will enhance public access to adjacent shoreline venues and improve stormwater facilities serving the project, is approved.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING TYPE 2 SHORELINE  
SUBSTANTIAL DEVELOPMENT AND SPECIAL USE  
PERMITS FOR THE COLUMBIA PARK TRAIL EAST  
RECONSTRUCTION PROJECT**

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1 The proposed project is subject to compliance with all applicable development,  
2 design, building code, engineering and other regulations, including without limitation those  
3 requiring verification of performance, inspections, and maintenance associated with  
4 conditions or mitigation measures that might be imposed consistent with this Decision or any  
5 subsequent approval issued by any state or federal agency or city department with jurisdiction  
6 over a particular aspect of the Project as the development review and possible construction  
7 processes unfold.

## 8 II. PROJECT DESCRIPTION.

9 The Project will reconstruct and upgrade an existing public roadway, a 1.1-mile  
10 segment of Columbia Park Trail. The Project will meet current standards and includes several  
11 environmental benefits in addition to the transportation system improvements that will  
12 benefit area residents, businesses, drivers and pedestrians. The Project also includes:  
13 reconstruction of an existing parking lot on the north side of the road, south of the Bateman  
14 Island access path; adding curbs and gutters along the roadway; sidewalks; multi-use paths;  
15 on-street bike lanes; new streetlights; pedestrian crossing locations; and a new stormwater  
16 collection system with on-site swales and underground infiltration features.

17 The project is located along Columbia Park Trail between Fowler Drive and the  
18 Hanford Reach Driveway, covering approximately 1.1 miles within Sections 29 and 30 of  
19 T9N R29E. This corridor services as a minor arterial and access point to Columbia Park  
20 West, Richland Marina, Bateman Island, along with businesses, residential homes, and  
21 business office complex. Parts of the Columbia Park Trail East corridor included in the  
22 project see over 5,000 average daily trips. A grant from the Department of Ecology will fund  
23 stormwater system upgrades that are included in the Project, which will allow for the  
24 treatment of stormwater prior to being discharged in the Columbia River along with the  
25 rehabilitation of the parking lots for the Wye Park to include a storm drainage collection  
26 system. (*Ex. 1, Application form, Description of Project*).

To protect the Columbia River during construction work, the City's contractor will  
be required to provide an erosion control plan prior to starting construction. Included in the  
erosion control plan will be Best Management Practices (BMPs) addressing how to  
prevent/control construction water runoff and tracking of dirt onto streets. (*Ex. 4, SEPA  
Checklist, at page 6*).

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1  
2 There is no dispute that portions of the project are located in the Columbia River  
3 shoreline area in the City of Richland and that the cost of the project is well in excess of  
4 values needed to trigger shoreline permitting requirements. (*See Staff Report, on pages 11*  
5 *and 12, discussion and citation to applicable regulations*). The Staff Report confirms that  
6 the proposed Project will occur within 200’ of the OHWM of the Columbia River. Given the  
7 project’s location within the city’s regulated shoreline area, and its estimated value (estimated  
8 to be from 4.5 to 5 million dollars), a Shoreline Substantial Development Permit is required.<sup>1</sup>  
9 And, because the Project is for a road with portions in the City’s Shoreline Recreation and  
10 Recreation Conservancy Environments, it also requires a Shoreline Special Use Permit.<sup>2</sup>

### 11 III. RELEVANT CODE PROVISIONS.

12 **Jurisdiction:** Under RMC 19.20.030, the Hearing Examiner is given the authority to hold  
13 public hearings and make decisions on certain applications, permits or approvals as described  
14 in the City’s municipal code and ordinances. RMC 19.25.010 expressly lists Substantial  
15 Development Permits among the types of applications that the city’s hearing examiner is  
16 granted jurisdiction to review and decide. Under RMC 19.20.010(B)(1), Shoreline  
17 Substantial Development Permit applications, such as that at issue in this proceeding, are  
18 deemed “Type II” applications/permits requiring an open-record public hearing (RMC  
19 19.60.010) and a decision by the Hearing Examiner under procedures explained in RMC  
20 Chapter 19.60, including RMC 19.60.070 and .080. The City’s Shoreline Master Program,  
21 codified in Title 26 of the City’s Municipal Code, expressly provides that the decision  
22 authority for shoreline substantial development permits classified as Type II permit  
23 applications and all special use permits shall rest with the hearing examiner. (*See RMC*  
24 *26.50.010(B)(2)*). Consistent with RMC 19.20.030, this Decision is not subject to appeal  
25 before the City Council. Instead, as provided in RMC 26.50.110, captioned “Appeals” – any  
26 person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state  
pursuant to RCW 90.58.140 may seek review from the Shorelines Hearings Board by filing  
a petition for review within 21 days of the date of receipt of the decision as provided for in  
RCW 90.58.140(6).

**Burden of Proof:** As explained in RMC 19.60.060, the burden of proof is on the  
applicant/proponent and the “project permit application must be supported by proof that it  
conforms to the applicable elements of the city’s development regulations, comprehensive  
plan and that any significant adverse environmental impacts have been adequately

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<sup>1</sup> RMC 26.50.020(B)(2); RCW 90.58.030(3)(e); WAC 173-27-040.

<sup>2</sup> RMC 26.30.011; Staff Report, Table 1, on page 15, with explanation on page 14.

1 addressed.”

2 ***Shoreline Regulations:*** The City’s Shoreline Master Plan/Program (SMP) and its  
3 municipal code provisions effectuating the SMP were updated several years ago, following  
4 review and approval by the Richland City Council, and subsequent approval by the  
5 Department of Ecology, all as required by applicable state law. This project was reviewed  
6 under these updated shoreline regulations. Current SMP provisions are now codified in RMC  
7 Title 26, known as the Richland Shoreline Master Program. RMC 26.01.010.

8 ***Requirement and Review Criteria for a Shoreline Substantial Development Permit:***  
9 “Substantial Development” is defined in RCW 90.58.030(3)(e), and means any development  
10 of which the total cost or fair market value exceeds \$7,047<sup>3</sup> or any development which  
11 materially interferes with the normal public use of the water or shorelines of the state.  
12 Substantial developments proposed in shoreline areas of Richland require a Substantial  
13 Development Permit from the City. RMC 26.50.010. The approval criteria for a Shoreline  
14 Substantial Development Permit application is set forth in RMC 26.50.040, which reads as  
15 follows:

16 **26.50.040 Approval Criteria**

17 In order to approve any development within SMP jurisdiction, the City must find that a proposal is  
18 consistent with the following criteria in addition to the requirements of RMC Title 19, Permit  
19 Administration.

20 A. Conformance with the Shoreline Management Act of 1971, as amended;

21 B. General conformance with the goals for the shoreline program, the general development policies  
22 for the plan elements, and the applicable policy statements for the use activity and the shoreline  
23 environment;

24 C. Compliance with use regulations of the Shoreline Master Program appropriate to the shoreline  
25 designation and the type of use or development proposed, particularly the preference for water-  
26 oriented uses, subject to liberal construction to give full effect to the objectives and purposes for  
which they have been enacted. If a non-water-oriented use is approved, the decision maker shall enter  
specific findings documenting why water-oriented uses are not feasible.

D. Compliance with bulk and dimensional regulations of the Shoreline Master Program appropriate  
to the shoreline designation and the type of use or development proposed, except those bulk and  
dimensional standards that have been modified by approval of a shoreline variance.

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<sup>3</sup> This figure is the current figure posted on the Department of Ecology’s Shoreline Program website, which is  
based upon the initial statutory \$5,000.00 threshold, adjusted for inflation by the state Office of Financial  
Management on a 5-year cycle, most recently adjusted in September of 2017.

1 E. Consideration of the recommendations and comments of the Richland parks and recreation  
2 commission, as the proposed development will affect and be affected by the goals and objectives of  
3 City plans for parks, trails, and open space;

4 F. General conformance with the provisions of the Richland comprehensive plan;

5 G. Consideration of provisions for facilities and improved designs to accommodate and encourage  
6 use by the physically handicapped;

7 H. Compliance with the State Environmental Policy Act (SEPA) RCW 43.21C; and

8 I. Compliance with applicable provisions of the Richland Municipal Code.

9 ***Requirement and Review Criteria for a Shoreline Special Use Permit:***

10 Portions of the Project work site are within the City's Shoreline Recreation and /or  
11 Recreation Conservancy Environment. Roads serving shoreline uses may be authorized in  
12 such shoreline areas through issuance of a Shoreline Special Use Permit. *RMC 26.30.011*.  
13 The parking lot aspect of this project does not require the additional Special Use Permit,  
14 because parking areas serving a primary use in the shoreline (i.e. adjacent shoreline parks and  
15 trails) are permitted outright in the affected shoreline areas. *RMC 26.30.011*.

16 RMC 26.50.050(A) explains that a "Special Use Permit" addressed in the City's  
17 Shoreline Master Program, Chapter 26 RMC, is the same as a "Conditional Use" Permit  
18 referenced in state Shoreline regulations, particularly WAC 172-27-160. The City's approval  
19 criteria for a shoreline Special Use Permit are set forth in RMC 26.50.050(D)(1) – (5), and  
20 read as follows:

- 21 1. That the proposed use is consistent with the policies, regulations and standards of RCW 90.58.020  
22 and this master program;
- 23 2. That the proposed use will not interfere with the normal public use of public shorelines;
- 24 3. That the proposed use of the site and design of the project is compatible with other authorized uses  
25 within the area and with uses planned for the area under the comprehensive plan and shoreline master  
26 program;
- 27 4. That the proposed use will cause no significant adverse effects to the shoreline environment in which  
28 it is to be located; and
- 29 5. That the public interest suffers no substantial detrimental effect.

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1  
2 ***Review Criteria for the Department of Ecology; no construction allowed until***  
3 ***appeal periods (and any appeals) have concluded:*** Finally, if the Examiner approves or  
4 denies the requested Shoreline Substantial Development and Special Use Permits, such  
5 decision must be forwarded to the Department of Ecology, for state review and any appeals  
6 of the Shoreline Permits, in accord with RMC 26.50.100 and Washington Shoreline  
7 Management regulations found in WAC 173-27-130 and -200. The Special Use Permit  
8 addressed in this Decision is subject to further review by the Department of Ecology, which  
9 has authority to approve, condition, or deny such permit. WAC 173-27-200. If approved,  
10 WAC 173-27-190 mandates that all shoreline permits for a substantial development,  
11 conditional use or variance, issued by local government shall contain a provision that  
12 construction pursuant to the permit shall not begin and is not authorized until twenty-one  
13 days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until  
14 all review proceedings initiated within twenty-one days from the date of such filing have  
15 been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

#### 11 **IV. RECORD AND EXHIBITS.**

12 Exhibits entered into evidence as part of the record, and an audio recording of the  
13 public hearing, are maintained by the City of Richland, and may be examined or reviewed by  
14 contacting the City Clerk's Office.

15 ***Hearing Testimony:*** The following individuals presented testimony under oath at the  
16 duly noticed open record public hearing held on May 11, 2020. Given the ongoing limits  
17 placed on public gatherings due to the Covid-19 health emergency, the Examiner conducted  
18 the public hearing via online communication means, including video images of most  
19 participants, with others speaking by telephone.

- 18 1. Shane O'Neill, Senior Planner, for the City of Richland, who prepared the Staff  
19 Report for the pending application, summarized the review process, and  
20 highlighted elements of the project that demonstrate compliance with applicable  
21 approval criteria; and
- 22 2. Sheldon Williamson, Project Engineer for the proposal, testified on behalf of the  
23 applicant-Public Works Department.

24 There were no members of the general public who asked to speak during the public  
25 hearing for this application. No one appeared at the hearing or submitted any written  
26 comments to oppose or question the project. Thus, no one offered any evidence to support

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1 denial of the pending application, or that would in any way rebut the preponderance of  
2 evidence included in the record showing that the application satisfies all approval criteria.

3 **Exhibits:** The following exhibits were accepted into the record as numbered,  
4 identified and described below:

5 A. Staff Report, dated May 11, 2020, prepared by O’Neill, for the consolidated  
6 shoreline permit applications;

7 1. Application materials for both requested Shoreline permits;

8 2. Plan details, illustrations;

9 3. Public Notices & Affidavits confirming same;

10 4. SEPA Checklist and DNS issued for the project;

11 5. Comment letters received from outside agencies and members of the general  
12 public, with none in opposition to the requested Shoreline permits and one public  
13 comment letter dated April 7, 2020, supporting the Project, signed by five individuals  
14 expressing excitement for the proposal to reconstruct Columbia Park Trail with  
15 sidewalks and other amenities;

16 6. Cultural Resources Survey report, dated March 25, 2020, which explains:

17 “Based on results of the historical research and the field observations, it is the professional  
18 opinion of NWA Principal Investigator Darby C. Stapp, Ph.D., RPA, that no historic  
19 properties will be disturbed (i.e., archaeological sites eligible for listing in the National  
20 Register of Historic Places) within the APE. However, due to the sensitivity of the area, as  
21 represented by the two known archaeological sites located within the APE, NWA  
22 recommends that cultural monitoring occur for all ground disturbing activities located within  
23 and east of the Wye Park/parking lot, Richland, Washington”.

24 7. Site photos;

25 8. Federal NEPA review documentation (electronic copies of materials made  
26 available to the Examiner via Box link on or about April 29, 2020, including about  
20 large PDF and Word files);

9. Richland City Council Resolution No. 02-20, adopted on January 7, 2020,  
amending the City’s Transportation Improvement Plan and adding secured grant  
funds to help finance several projects, including the Columbia Park Trail-East

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1 reconstruction project addressed in this Decision;

2 10. Post-hearing items to supplement the record, transmitted by Ms. Follette on  
3 behalf of City staff on the day after the public hearing, May 12<sup>th</sup>, as requested by the  
4 Examiner during the public hearing, confirming additional steps to provide public  
5 notice regarding items on the May 11<sup>th</sup> hearing agenda. Ms. Follette's  
6 correspondence explained that staff created an online sign up tool for members of the  
7 public to inform staff that they wished to participate in the public hearing; verified  
8 that no one utilized the sign up tool; and noted additional information about public  
9 participation options posted on the city's website prior to the public hearing.  
10 During the public hearing, staff described the extra steps undertaken to enhance public  
11 notice and awareness of participation options available to interested persons, given  
12 the ongoing Covid-19 impacts on government operations and public gatherings.

## 10 V. FINDINGS OF FACT.

11 Based on the record, the Examiner issues the following findings of fact:

- 12 1. Any statements in previous or following sections of this document that are deemed  
13 findings of fact are hereby adopted as such.
- 14 2. In this matter, the City's Public Works Department is seeking approval of shoreline  
15 substantial development and special use permits required under the City's Shoreline Master  
16 Program (SMP) to accomplish its Columbia Park Trail - East Project.
- 17 3. The 1.1-mile portion of Columbia Park Trail involved in this application is already  
18 developed as a busy 4-lane roadway roughly parallel to the Columbia River in the southeast  
19 portion of the City of Richland, south of Bateman Island, north of SR 240. The segment of  
20 roadway and parking area involved in this project is entirely within the Richland City limits.
- 21 4. Parts of the Columbia Park Trail - East corridor included in this Project see over  
22 5,000 vehicle trips per day. (*Ex. 1, Application materials, page 1*).
- 23 5. The Examiner has travelled along the road corridor at issue in this matter and visited  
24 the adjacent park areas multiple times over the last several years, while visiting area  
25 businesses, conducting site visits for other projects, or for personal reasons. The undersigned  
26 is familiar with and fully informed regarding current site conditions addressed throughout the  
record and City shoreline regulations at issue herein.

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1 6. The application materials from the Public Works Department and the Staff Report  
2 generally describe existing conditions, where the current roadway was not developed to  
3 include adequate storm drainage features that are commonly included under current  
4 regulations designed to protect water quality and other shoreline functions and values.

5 7. Most of the existing Columbia Park Trail corridor also lacks sidewalks and other  
6 pedestrian safety features, like marked crosswalks and ADA-compliant ramps.

7 8. The Project also includes redevelopment of a deteriorating parking lot area located  
8 north of the roadway, just below/south of the access path to Bateman Island, generally in the  
9 southeast corner of Wye Park. The parking lot has inadequate stormwater filtration facilities,  
10 so storm water can now run directly along a rough channel directly into the Columbia River.  
11 This Project will enhance, rather than harm water quality and the shoreline environment, by  
12 installing stormwater management facilities that meet current state and city regulations to  
13 handle runoff from impervious surfaces on the roadway and parking lot areas.

14 9. The Project will include a full reconstruction of the existing roadway including adding  
15 curb & gutter, sidewalks, multi-use paths, on-street bike lanes, new streetlights,  
16 undergrounding of existing power (removal of power poles) pedestrian crossing locations  
17 (including new ADA ramps), and a storm drainage collection system including on-site swales  
18 and storm drainage piping network (storm pipes, catch basins, storm manholes). (*Ex. 1,*  
19 *Application Materials, Description of Project*). Application materials explain that the City  
20 obtained a grant from the Department of Ecology to fund construction of a new stormwater  
21 treatment system for the Project – finally addressing the need to reduce, minimize, prevent,  
22 or filter stormwater that runs off impervious road and parking lot surfaces and is now  
23 discharged into the Columbia River.

24 10. The applicant-Public Works Department is requesting the consolidated shoreline  
25 permits to authorize work necessary to complete their Columbia Park Trail Reconstruction  
26 Project. No one disputes the need for the Project. In fact, comments from a local  
development group included in Exhibit 5 express full support and excitement for the long-  
awaited improvements.

11. The Project has been on the “drawing board” for many years now, with the City  
collecting payments-in-lieu of otherwise required road frontage and other right-of-way  
improvements along this segment of Columbia Park Trail from property owners and  
developers with private projects that have a quantifiable impact on roadway frontage or the  
surrounding transportation system. The funds were reserved until sufficient resources were  
on hand to construct the project at the same time instead of piece-meal, block to block, with  
the potential for early improvements to curbs, gutters, sidewalks and the like needing to be  
modified or removed to fit a more logical roadway prism design, such as that described in the

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1 application materials. (*Staff Report, pages 9 and 10; Testimony of Mr. O'Neill*).

2 12. There is no dispute that portions of the project are located in the Columbia River  
3 shoreline area in the City of Richland and that the cost of the project is well in excess of  
4 values needed to trigger shoreline permitting requirements. (*See Staff Report, on pages 11*  
5 *and 12, discussion and citation to applicable regulations*). The Staff Report confirms that  
6 the proposed Project will occur within 200' of the OHWM of the Columbia River. Given the  
7 project's location within the city's regulated shoreline area, and its estimated value (estimated  
8 to be from 4.5 to 5 million dollars), a Shoreline Substantial Development Permit is required.<sup>4</sup>  
9 And, because the Project is for a road with portions in the City's Shoreline Recreation and  
10 Recreation Conservancy Environments, it also requires a Shoreline Special Use Permit.<sup>5</sup>

11 13. Based on evidence in the record describing how the existing roadway and parking  
12 areas do not meet current city and state design standards for various aspects, including  
13 stormwater management, pedestrian safety, ADA compliant ramps, and an overall  
14 appearance and condition that is out-of-step with newer and redeveloped sites adjacent to the  
15 Project site and throughout other parts of the City of Richland, the Examiner concurs with  
16 the project proponent's stated need for the project. The Project is clearly in the public interest,  
17 and will result in environmental benefits, rather than adverse impacts, by reconstructing  
18 existing public facilities (a roadway and parking lot area) in a manner that will meet current  
19 regulations, including without limitation the city's updated Shoreline Master Program.

20 ***Public Notice.***

21 14. Public notice regarding the consolidated application for shoreline permits was  
22 provided in accord with law. (*Staff Report, pages 9, 11, and 25; Ex. 3, notice materials; Ex.*  
23 *10, additional public notice steps taken by Staff given the Covid-19 health emergency*). The  
24 public notice regarding the application and public hearing for this project expressly informed  
25 the public that:

26 Notice is hereby given that the City of Richland Public Works Department has applied for a  
Shoreline Management Substantial Development & Special Use Permit to fully reconstruct a 1.1-  
mile segment of Columbia Park Trail and to reconstruct an existing parking lot on the north side  
of Columbia Park Trail. Road work includes adding curb & gutter, sidewalks, multi-use paths,  
on-street bike lanes, new streetlights, pedestrian crossing locations, storm drainage collection  
system including on-site swales and underground infiltration systems. Work on the parking lot  
will be within the Corps of Engineers owned land, leased to the City of Richland. A SEPA DNS  
was issued for this project on Dec. 30, 2019 (EA2019-135). The proposal has been determined  
to be consistent with the City of Richland's Critical Areas regulations.

<sup>4</sup> RMC 26.50.020(B)(2); RCW 90.58.030(3)(e); WAC 173-27-040.

<sup>5</sup> RMC 26.30.011; Staff Report, Table 1, on page 15, with explanation on page 14.

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1 15. In fact, the opportunity for public comment was extended at least once when the  
2 hearing initially set for April was rescheduled for May, in light of the Covid-19 public health  
3 emergency. The invitation for written comments following each public notice, including the  
4 supplemental notices posted on the City’s website going beyond standard public outreach for  
5 such projects, and the public hearing itself provided an opportunity for interested parties to  
6 share their thoughts, support, questions, and concerns about the proposal. No one opposed  
7 the project or submitted comments or evidence that would warrant denial of the requested  
8 shoreline permits.

9 ***Environmental review.***

10 16. The City’s SEPA official considered the application materials, the SEPA checklist  
11 prepared for the project, and issued a Determination of Non-Significance (DNS) for the  
12 Project on December 30, 2019. (Ex. 4, SEPA Checklist and DNS).

13 17. The City’s DNS issued for the project stands unchallenged, as no one submitted  
14 comments questioning the City’s threshold determination, leaving no one with legal standing  
15 to appeal such decision.

16 ***The project has been designed or can be conditioned to comply with all applicable approval  
17 criteria.***

18 18. Based on the record, including all findings provided elsewhere in this Decision, the  
19 Examiner finds and concludes that the pending Shoreline Substantial Development and  
20 Special Use Permits for the Columbia Park Trail – East Project are both in the public interest.

21 19. The City’s Shoreline Master Program includes performance criteria for specific uses  
22 that must be satisfied in order to obtain permits for development in the City’s Shoreline  
23 jurisdiction. For this Project, some of the requirements for Transportation Facilities,  
24 specifically Roads, and Utility Facilities, apply. Transportation facility standards are found  
25 in RMC 26.30.100(A), which lists 12 items to consider for roads. While most of these  
26 standards only apply to new roads or substantially expanded existing roads – which this is  
not – the Project has been designed and can be conditioned to comply with all of the criteria  
for roads that could arguably apply.

20. For instance, the application materials fully demonstrate the need for reconstruction  
of the road and parking lot in their existing locations, even though portions are in the shoreline  
jurisdiction, because there is no feasible upland alternative upland, satisfying any applicable  
requirement found in RMC 26.30.100(A)(1). The parking lot and roadway cannot be easily  
moved, and to do so would create waste and run counter to providing convenient access to

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1 public recreation venues along the shoreline. The parking lot and the roadway segment  
2 included in the Project serve important shoreline recreation uses, including without limitation  
3 Wye Park and Bateman Island nature venues. The roadway provides access to public parks  
4 and trails along the shoreline.

5 21. The Project is designed to be within existing public right-of-way or public lease  
6 boundaries, and improves already existing public access and venues to enjoy shoreline  
7 amenities, avoiding expansion that could impact shoreline resources, wildlife, wetlands,  
8 streams, or other features that could be affected if the Project sought to enlarge the roadway.  
9 In fact, the Project includes improvements that will serve to enhance the shoreline  
10 environment, by providing up to date stormwater filtration among other things. These aspects  
11 of the Project establish consistency with any applicable requirements found in RMC  
12 26.30.100(A)(2-6). Nothing in the record shows that the language in RMC 26.30.100(A)(7-  
13 9) applies to this Project, but to the extent it might, the Project has been designed and will be  
14 constructed in a manner consistent with applicable Public Works road standards, and  
15 presumably relevant WSDOT Standards for Road Construction, including Best Management  
16 Practices (BMPs) for design and construction.

17 22. The Staff Report explains that only one of the 12 standards for Roads in the shoreline  
18 area should apply to this Project, specifically item 10, which mandates landscape planting  
19 along all shoreline roads and parking facilities. (*Staff Report, at page 17*). RMC  
20 26.30.100(A)(10) reads as follows:

- 21 10. Landscape planting is required along all shoreline roads, parking,  
22 and turnout facilities to:
- 23 a. Provide buffers between pedestrian and auto users;
  - 24 b. Enhance the shoreline driving experience; and
  - 25 c. Enhance and complement potential views of shoreline areas.

26 23. The Staff Report directs attention to Plan detail (Exhibit 2) sheets C-01 through C-11  
and sheets ST1 through ST6 to illustrate the applicant's intent to treat the riverward (north)  
side of Columbia Park Trail with street trees placed within a roadside stormwater swale. This  
proposed design feature satisfies the landscaping requirement(s) above each way listed in the  
code provision: it provides a physical buffer (by way of distance and vegetation) between  
pedestrian and auto users and the street trees will enhance and compliment the shoreline  
driving experience and potential views of the adjacent shoreline areas.

27 24. To the extent that any shoreline use standards for "nonmotorized" transportation  
28 facilities found in RMC 26.30.100(B) apply to the new multi-use path and sidewalk aspects  
29 of this project (which will improve access to adjacent park lands and public shoreline venues),  
30 the Record includes a preponderance of evidence, particularly the application materials and  
31 project design details, establishing that the Project is fully consistent with standards and

32 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
33 DECISION – APPROVING TYPE 2 SHORELINE  
34 SUBSTANTIAL DEVELOPMENT AND SPECIAL USE  
35 PERMITS FOR THE COLUMBIA PARK TRAIL EAST  
36 RECONSTRUCTION PROJECT**

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1 policies found therein.

2 25. The Staff Report, the Project design plans, and application materials demonstrate how  
3 the Project is consistent with city requirements for utility facilities located in its shoreline  
4 jurisdiction. (*Staff Report, pages 21-23*). For instance, undergrounding power lines and  
removing poles will serve to enhance the views of the shoreline in the surrounding area, and  
will not require disturbance of any shoreline habitat.

5 26. Compliance with recommendations included in the Cultural Resources Survey (*Ex.*  
6 *6*) will be required, thus satisfying City shoreline code provisions intended to protect  
7 significant archeological and cultural resources. (*See RMC 26.20.070*).

8 27. No part of the existing roadway or parking lot is in the river itself, instead, the  
facilities are located upland from the river.

9 28. No one presented evidence or information alleging that the Project will result in a net  
10 loss of shoreline ecological functions. In fact, the Project will help to prevent such loss,  
11 which could easily occur if the existing water runoff from the roadway and parking lot  
12 continues to flow directly into the river without filtration or pretreatment, moving toxic  
13 substances like petroleum products and other pollution generated by cars and large vehicles,  
14 into the Columbia River, resulting in harm to the environment and shoreline resources.  
15 Instead, the entire region will benefit from the stormwater treatment/filtration enhancements  
16 included as part of this project.

17 29. The roadway and parking lot are located in their current location to serve the needs  
18 of those who come to enjoy the shoreline environment. There do not appear to be any feasible  
19 upland alternatives. Relocating the roadway and parking lot that now serves regional visitors  
20 who drive by or visit the shoreline area around the Project site is not feasible or necessary.  
21 None of the public agencies asked to provide feedback regarding the proposed Project  
22 suggested any alternative location outside of the shoreline jurisdiction for this project.

23 30. After reviewing and considering the environmental information included in the  
24 Record, and all design features and impact minimization measures described in the  
25 application materials, the Examiner finds and concludes that the temporary and permanent  
26 impacts to the ecological functions of the shoreline should be minimal, and that NO NET  
LOSS of shoreline ecological functions or values will result from this project.

27 31. The Project design and construction plans have been prepared so as to avoid and  
28 minimize impacts to the Columbia River. The project includes features that will greatly  
29 reduce unfiltered stormwater runoff pollution into the river. As a result, temporary and  
30 permanent impacts to the ecological functions of the Columbia River shoreline are not

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING TYPE 2 SHORELINE  
SUBSTANTIAL DEVELOPMENT AND SPECIAL USE  
PERMITS FOR THE COLUMBIA PARK TRAIL EAST  
RECONSTRUCTION PROJECT

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1 anticipated, and long term, impacts should be reduced. In sum, no net loss of shoreline  
2 functions or values will result from this project, if it is developed in full compliance with  
3 applicable shoreline regulations and conditions of approval for this permit. Accordingly, the  
4 project satisfies the no net loss requirement found in RMC 26.20.020.

5 32. As a Shoreline of Statewide Significance, the Columbia River provides benefits to the  
6 entire state. As a result, projects proposed within the city's shoreline jurisdiction near the  
7 Columbia River must address decision criteria listed in RMC 26.20.010(B)(1-6) of the City's  
8 Shoreline Master Program. Each of those criteria are addressed below, with additional  
9 findings in italics:

10 1. Recognize and protect the statewide interest over local interests. *Consistent with this*  
11 *requirement, Staff reviewing the pending application solicited, considered, and incorporated*  
12 *input from other government agencies. The project has been designed and conditioned to protect*  
13 *and preserve natural resources and ecological functions. Again, no additional shoreline area*  
14 *will require disturbance, and no shoreline vegetation will be impacted. The project is exempt*  
15 *from NEPA review, largely because it is already required to comply with design and construction*  
16 *standards that were developed to effectuate federal laws and regulations, including those that*  
17 *protect water quality. The improved roadway access points and repaved parking area will*  
18 *enhance recreation use and public access to public shoreline areas. The Project will result in*  
19 *long-term benefits, i.e. improved water quality. The design enhances the aesthetic appearance of*  
20 *the roadway vistas and parking lot, providing more attractive views to and from the shoreline.*

21 *The Columbia River, Wye Park, Bateman Island and the marina nearby provide multiple benefits*  
22 *and public access to shorelines for both the local community and the entire State. This Project*  
23 *demonstrates how the city is working as a steward to preserve, protect, and improve valued*  
24 *shoreline resources deemed to be of statewide significance.*

25 2. Preserve the natural character of the shoreline. *The project site is already disturbed, and the*  
26 *roadway and parking lot reconstruction work will include up-to-date stormwater facilities that*  
*will serve to preserve and protect the natural character of the shoreline. See finding above.*

3. Result in long-term over short-term benefit. *The Project is confined to existing right-of-way*  
*and other previously disturbed areas. It preserves the natural character of the shoreline, and will*  
*result in long-term benefits, despite minimal short-term construction impacts. It will protect and*  
*enhance shoreline resources and ecology through installation of current stormwater management*  
*facilities. It will improve safety for visitors seeking access to publicly owned areas along the*  
*shoreline. The roadway serves as a key access road to several river-access points. All of these*  
*aspects of the project are in compliance with and promote the policies, regulations and standards*  
*in state statutes and the City's Shoreline Master Program.*

4. Protect the resources and ecology of the shoreline. *The proposed design protects the resources*  
*and ecology of the shoreline to the maximum extent practicable as the work will occur within*  
*already disturbed areas, and all construction work will have to be accomplished in strict*  
*compliance with applicable city, state and federal water quality regulations, including without*

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1 *limitation those addressing stormwater management. Again, the SEPA DNS issued for this Project*  
2 *was not questioned or challenged.*

3 5. Increase public access to public owned areas of the shoreline. *Better parking, safer streets, and*  
4 *more attractive venues are all part of this Project. All of these features should serve to promote,*  
5 *encourage and likely increase public access to the Columbia River and other publicly owned*  
6 *shoreline areas, like Wye Park and Bateman Island, as well as inviting new users to the multi-use*  
7 *path.*

8 6. Increase recreational opportunities. *Better pedestrian and non-motorized access will increase*  
9 *recreational opportunities for the public. Again, a more attractive parking area, safer access*  
10 *roadway, and new pedestrian, bicycle options, should all enhance, and likely increase, shoreline*  
11 *recreational opportunities and public use of existing public shoreline venues served by the*  
12 *Project.*

13 33. As discussed throughout this Decision, the Project has been designed to improve  
14 stormwater treatment and compliance with state and federal water quality standards,  
15 presumably a key reason the Department of Ecology provided some stormwater grant funding  
16 needed to complete the Project. Accordingly, the Examiner finds and concludes that the  
17 project is consistent with RMC 26.20.080, re: Water Quality, Stormwater, and Nonpoint  
18 Pollution, which mandates that all development activities approved under the City's  
19 Shoreline Master Program shall be designed and maintained in a manner consistent with the  
20 city's stormwater management plan and adopted engineering design standards. All proposed  
21 stormwater control and stormwater discharges shall be in compliance with the latest  
22 Department of Ecology Stormwater Manual for Eastern Washington. For emphasis on the  
23 importance of this mandate, it has been included as a specific Condition of Approval.

24 34. The Record includes far more than a preponderance of un rebutted testimony and  
25 evidence (*See Staff Report, Testimony of Mr. O'Neill and Mr. Williamson; Ex. 1, application*  
26 *materials*) to establish that the requested shoreline substantial development permit  
application satisfies the criteria for approval, found at RMC 26.50.040(A – I), as summarized  
below. Additional findings are highlighted using italics following the text from the City's  
approval criteria for Shoreline Substantial Development permits:

19 RMC 26.50.040 Approval Criteria

20 In order to approve any development within SMP jurisdiction, the City must find that a proposal  
21 is consistent with the following criteria in addition to the requirements of RMC Title 19, Permit  
Administration.

22 A. Conformance with the Shoreline Management Act of 1971, as amended; *-- By demonstrating*  
23 *compliance with applicable policies and requirements included in the City's Shoreline Master*  
24 *Program, this criteria is satisfied, especially given the fact that the City's SMP was recently*  
*reviewed and approved by the State for compliance and consistency with the SMA. Further, the*

25 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND**  
26 **DECISION – APPROVING TYPE 2 SHORELINE**  
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1 *City's decision criteria applicable to Shorelines of Statewide Significance – which includes the*  
2 *Columbia River – found in RMC 26.20.010, is identical to the Shoreline Management Act's*  
3 *Legislative Findings and State Policies enunciated in RCW 90.58.020, listing an order of*  
4 *preference for uses permitted in shoreline areas. The application materials and the Staff Report*  
5 *provide a credible explanation as to how the Columbia Park Trail reconstruction project will*  
6 *provide multiple benefits for state interests as well as the local community.*

7 *The application materials credibly explain that the proposed use of the project (minor arterial*  
8 *roadway) is the same as the current use of the project with several environmentally-beneficial*  
9 *and public safety enhancements, including new and greatly improved stormwater collection and*  
10 *treatment, pedestrian facilities (sidewalks, multi-use path, RRFB<sup>6</sup> crossing locations, ADA*  
11 *ramps), bike facilities (bike lanes, multi-use path), and streetlights (to current standards). The*  
12 *Wye Park parking lot repaving will enhance the entrance to Wye Park and Bateman island*  
13 *nature area. (See Ex. 1, on page 2, responses to questions re: compliance with Shoreline Master*  
14 *Program).*

15 B. General conformance with the goals for the shoreline program, the general development  
16 policies for the plan elements, and the applicable policy statements for the use activity and the  
17 shoreline environment; -- See discussion in Staff Report and application materials addressing  
18 shoreline policies and requirements applicable to the Project and shoreline designations  
19 affected by the proposal. Also see all findings in previous and following portions of this  
20 Decision.

21 C. Compliance with use regulations of the Shoreline Master Program appropriate to the  
22 shoreline designation and the type of use or development proposed, particularly the preference  
23 for water-oriented uses, subject to liberal construction to give full effect to the objectives and  
24 purposes for which they have been enacted. If a non-water-oriented use is approved, the decision  
25 maker shall enter specific findings documenting why water-oriented uses are not feasible. – See  
26 all findings in previous and following portions of this Decision. As a roadway and parking lot  
that both serve and provide convenient and safe access to shoreline parks and venues, the  
Project clearly qualifies as a water-oriented use. The Project's stormwater facility  
improvements will help reduce untreated pollution running directly into the Columbia River.

D. Compliance with bulk and dimensional regulations of the Shoreline Master Program  
appropriate to the shoreline designation and the type of use or development proposed, except  
those bulk and dimensional standards that have been modified by approval of a shoreline  
variance. – See all findings in previous and following portions of this Decision. The Project  
will improve and enhance existing facilities within an already-disturbed area, generating no  
additional impacts or disturbance of shoreline areas, and resulting in improved conditions and  
benefits for the environment and adjacent shoreline resources.

E. Consideration of the recommendations and comments of the Richland parks and recreation  
commission, as the proposed development will affect and be affected by the goals and objectives  
of City plans for parks, trails, and open space. – As explained in the Staff Report the Parks  
Department did not object to this project, and the City Council adopted a resolution and other

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<sup>6</sup> “Rectangular Rapid Flash Beacons” – as explained on the U.S. Federal Highway Administration website.

1 actions to accept grant funding to complete this Project, which will improve access to shoreline  
2 areas, including Wye Park and Bateman Island.

3 F. General conformance with the provisions of the Richland comprehensive plan. – *The City’s*  
4 *Comprehensive Plan expressly incorporates the City’s Shoreline Master Program (SMP) by*  
5 *reference, and explains that the SMP “aims to utilize Richland’s shoreline for various water-*  
6 *oriented uses and facilities while protecting the ecological functions and cultural and historic*  
7 *values of the shoreline.” (Comp. Plan, at page 30, discussion of Shoreline policies). By*  
8 *demonstrating compliance with the SMP in obtaining the requested Shoreline Substantial*  
9 *Development Permit, the applicant has demonstrated general conformance with the Richland*  
10 *Comprehensive Plan.*

11 G. Consideration of provisions for facilities and improved designs to accommodate and  
12 encourage use by the physically handicapped. – *This Project specifically includes new ADA*  
13 *pedestrian ramps, repaving of a worn-out parking surface area, a multi-use/non-motorized trail*  
14 *element, and other safety enhancements that will make the adjacent parks and shoreline areas*  
15 *safer and likely more attractive as destinations for people with physical disabilities. As with all*  
16 *public projects, this project must be developed and operated in accord with any applicable state*  
17 *and federal codes addressing access and accommodation for persons with physical limitations.*

18 H. Compliance with the State Environmental Policy Act (SEPA) RCW 43.21C. – *The SEPA*  
19 *DNS issued for the project was not challenged or questioned after public notice to numerous*  
20 *outside agencies and entities. See Ex. 4, SEPA DNS and checklist for the project.*

21 I. Compliance with applicable provisions of the Richland Municipal Code. – *The applicant*  
22 *followed the review process detailed in City codes for permits of this sort, including without*  
23 *limitation RMC 19.20.010(B)(1), re: Shoreline Substantial Development Permit applications,*  
24 *such as that at issue in this proceeding, which are deemed “Type II” applications/permits*  
25 *requiring an open-record public hearing (RMC 19.60.010) and a decision by the Hearing*  
26 *Examiner under procedures explained in RMC Chapter 19.60, including RMC 19.60.070 and*  
*.080.*

35. The record includes more than a preponderance of credible and un rebutted testimony  
and evidence to establish that the requested Shoreline Special Use Permit application satisfies  
the criteria for approval, found at RMC 26.50.050(1-5). (*Staff Report, pages 20-21;*  
*Testimony of city witnesses*). As explained in RMC 26.50.050, a Special Use Permit is the  
same as a conditional use permit in WAC 173-27-160. Uses which are classified in the City’s  
shoreline master program as “special uses” may be authorized provided the applicant  
demonstrates all of the following:

1. That the proposed use is consistent with the policies, regulations and standards of RCW  
90.58.020 and this shoreline program:

*The parking lot, which already serves visitors to adjacent shoreline parks and recreation areas,*

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RECONSTRUCTION PROJECT**

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1 is deemed a permitted use in the affected shoreline area where it is located. That portion of the  
2 Project does not require an additional Special Use Permit. However, portions of the roadway  
3 work also lie within the city's shoreline jurisdiction, and roads are allowed as a Special Use in  
4 the affected shoreline areas. (See RMC 26.30.011; Staff Report, Table 1, on page 15, with  
5 explanation on page 14).

6 The Project is confined to existing right-of-way and other previously disturbed areas. It preserves  
7 the natural character of the shoreline, and will result in long-term benefits, despite minimal short-  
8 term construction impacts. It will protect and enhance shoreline resources and ecology through  
9 installation of state-of-the-art stormwater management facilities. It will improve safety for  
10 visitors seeking access to publicly owned areas along the shoreline. The roadway serves as a key  
11 access road to several river-access points. All of these aspects of the project are in compliance  
12 with and promote the policies, regulations and standards in state statutes and the City's Shoreline  
13 Master Program.

14 2. That the proposed use will not interfere with the normal public use of public shorelines;

15 The reconstruction project will enhance access and usability of existing park / nature areas (i.e.  
16 shoreline) by providing a multi-use path, sidewalks, and / or bike lanes within the project area.  
17 Existing access to Bateman Island, Wye Park, Richland Marina will remain after the project is  
18 completed. Minor disruptions to access will be required during the construction project, but will  
19 be addressed through compliance with standard specifications, traffic control and public safety  
20 measures regularly imposed by the Public Works Department for construction work that impacts  
21 public rights of way.

22 3. That the proposed use of the site and design of the project is compatible with other authorized  
23 uses within the area and with uses planned for the area under Richland's comprehensive plan and  
24 shoreline master program;

25 The Project will occur on existing disturbed areas, where the roadway and parking lot are in need  
26 of improvement to better serve visitors and drivers. The Project is wholly compatible with  
adjacent uses in the area, especially because it will result in environmental benefits and public  
safety enhancements described in other portions of this Decision and the application materials.

4. That the proposed use will cause no significant adverse effects to the shoreline environment in  
which it is to be located;

The Project will occur within areas that have been previously disturbed, an existing roadway and  
parking lot. The reconstruction work will result in long-term benefits to the shoreline  
environment. The SEPA Determination of Non-Significance issued for this Project stands  
unquestioned and unchallenged.

5. That the public interest suffers no substantial detrimental effect.

The Project will greatly improve public safety and promote environmental stewardship. Safer  
streets, better pedestrian facilities, and current stormwater management facilities are all part of  
the Project. All of these are public benefits. Accordingly, this Project will not cause the public

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1 *interest to suffer any substantial detrimental effect.*

2 36. Except as modified herein, all statements of fact and findings included in the Staff  
3 Report are adopted herein as findings of fact supporting this Decision.

4  
5 **VI. CONCLUSIONS OF LAW.**

6 1. The record, particularly the City's recommendation of approval and the applicant's  
7 input as reflected in the Staff Report and supporting exhibits, includes substantive, credible  
8 and convincing proof that the pending Shoreline application satisfies all applicable approval  
9 criteria. The requested application merits approval, subject to conditions.

10 2. The state's Shoreline Management Act ("SMA") and the regulatory policies  
11 established thereunder, including those adopted by the City of Richland and approved by the  
12 Department of Ecology, does/do not prohibit all development in the shoreline. Rather, its  
13 purpose is to allow careful development of shorelines by balancing public access,  
14 preservation of shoreline habitat and private property rights through coordinated planning.  
15 *Overlake Fund v. Shoreline Hearings Bd. (State Report Title: Overlake Fund v. Shorelines*  
16 *Hearings Bd.), 90 Wash. App. 746, 761, 954 P.2d 304, 312 (1998).*

17 3. In this matter, the applicable Richland Shoreline Master Program code provisions  
18 found in RMC Chapter 26 contemplate and permit a full range of land uses even within a  
19 shoreline district, including roads and parking lots serving shoreline uses such as those  
20 addressed in the application materials. As noted above, the record includes a preponderance  
21 of evidence to demonstrate the application is in compliance with applicable shoreline codes  
22 and policies.

23 4. When it approved the Richland Shoreline Master Program, the Department of  
24 Ecology approved Richland's decision to permit roads and parking lots near the Columbia  
25 River. In so doing, both the City and DOE recognized that the area in which this proposal is  
26 located is an already-developed area within a city, which is suitable for necessary projects  
such as this. "In an ideal world, we might well choose to preserve all shorelines in a natural,  
undisturbed state. But the Shoreline Management Act, DOE and the City understand that, in  
a practical world, urban pressures exist and permitting a range of uses is necessary to  
accommodate those pressures. On the sliding scale of values contemplated by the Act and  
regulations, the natural condition of [a] portion of the site simply does not justify effectively  
denying a permit for an urban use in an urban area of the shoreline." *Overlake*, 90 Wash.  
App. 746, 762-63.

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1 5. Unlike many shoreline projects, the Examiner concludes that this is one Project with  
2 obvious long-term benefits to the surrounding shoreline environment, and the stormwater  
management facilities included as part of the Project are certainly in the public interest.

3 6. Any finding or other statement contained in a previous section of this Decision that is  
4 deemed to be a Conclusion of Law is hereby adopted as such and incorporated by reference.

5 **VII. DECISION, CONDITIONS OF APPROVAL.**

6 Based on the record, and for the reasons set forth above, the Shoreline Substantial  
7 Development and Special Use Permits for the Columbia Park Trail – East Reconstruction  
8 Project is approved, subject to the following conditions of approval:

9 1. The project shall include all elements and features described in, and  
10 shall be constructed in substantial compliance with, the project description  
11 and design details included in the application materials for this matter, File  
12 No. SMP2020-101, as revised or approved by the Planning Manager,  
13 including without limitation construction BMPs, timing and sequencing  
considerations, and all appropriate impact avoidance and minimization  
measures deemed necessary to comply with approval criteria addressed in this  
Decision.

14 2. Project activities affecting parking lots, as shown in Exhibit 2, are  
15 limited to the existing parking area and may not result in an expanded footprint  
beyond what was in existence as of the date of this Decision.

16 3. Construction equipment and materials staging areas shall not involve  
17 removal or disturbance of vegetation within the shoreline jurisdiction.

18 4. To help ensure that this Project will not result in a net loss of shoreline  
19 functions or values, and consistent with RMC 26.20.080, captioned “Water  
20 Quality, Stormwater, and Nonpoint Pollution,” all development activities  
21 associated with this Project shall be designed and maintained in a manner  
22 consistent with the city’s stormwater management plan and adopted  
engineering design standards, and all proposed stormwater control and  
stormwater discharges shall be in compliance with the latest Department of  
Ecology Stormwater Manual for Eastern Washington.

23 5. Throughout the construction process, the Public Works Director shall  
24 ensure that all contractors and employees performing work associated with

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1 this Project are fully advised regarding applicable Best Management Practices  
2 to be followed when performing such activities, including but not limited to  
3 those addressing stormwater management, dust control, and others deemed  
4 necessary and capable of accomplishment to prevent adverse impacts on the  
5 surrounding environment or shoreline resources. To protect the Columbia  
6 River during construction work, the City's contractor will be required to  
7 submit an erosion control plan subject to review and approval by the Public  
8 Works Director, prior to any notice to proceed. Among other topics, the  
9 erosion control plan must include Best Management Practices (BMPs)  
10 addressing how to prevent/control construction water runoff and tracking of  
11 dirt onto streets. (See Ex. 4, SEPA Checklist, at page 6).

12  
13 6. The applicant shall obtain any permit, license, lease, or similar  
14 approval required by a state, federal, or other regulatory body with jurisdiction  
15 or authority over any particular aspect of the project; any conditions of  
16 regulatory agency permits and approvals shall be considered conditions of  
17 approval for this Shoreline Substantial Development Permit.

18  
19 7. Any and all written permits or approvals required by any local, state,  
20 federal or other regulatory body with jurisdiction or authority over any aspect  
21 of the project must be obtained prior to initiating construction work; and  
22 copies of such permits or approvals issued in connection with this project shall  
23 be provided to the City of Richland Development Services Department  
24 (Planning Division) within 14 days of issuance.

25  
26 8. Based on the proximity of Project work to the Columbia River and the  
potential for discovering cultural resources in or near the work site, as  
described in the Cultural Resources Survey included in the record as Exhibit  
6, a qualified archaeological monitor must be present for all ground disturbing  
activities located within and east of the Wye Park parking lot. This condition  
can be satisfied if the City uses the services of a qualified monitor from the  
Confederated Tribes of the Umatilla Indian Reservation ("CTUIR") to provide  
on-site observation of ground-disturbing work associated with this Project and  
document any archaeological resources observed during such monitoring.  
(See MOU and Master Cultural Services Consulting Agreement between the  
City and the CTUIR, on file with the City Clerk).

9. As required by WAC 173-27-190 (which mandates that all shoreline  
substantial development permits issued by a local government shall contain a  
provision on this topic), construction activity pursuant to this permit shall not  
begin and is not authorized until twenty-one days from the date of filing as

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1 defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review  
2 proceedings initiated within twenty-one days from the date of such filing have  
3 been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

4 ISSUED this 28<sup>th</sup> Day of May, 2020

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8 Gary N. McLean  
9 Hearing Examiner  
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