

BEFORE THE HEARING EXAMINER  
FOR CITY OF VANCOUVER



In the Matter of the Application of ) NO. PRJ-153187/LUP-58917  
)  
)  
**Port of Vancouver** ) **Port Terminal 1 Waterfront Development**  
) **Master Plan**  
)  
For Conceptual Master Plan Approval ) FINDINGS, CONCLUSIONS,  
) AND RECOMMENDATIONS  
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**SUMMARY OF RECOMMENDATIONS**

The Hearing Examiner recommends to the Vancouver City Council that the requested concept development master plan and shoreline substantial development permit should be **APPROVED**, and that that City Council forward the requested shoreline conditional use permit to the Washington State Department of Ecology for approval, subject to the conditions recommended by reviewing staff.

**SUMMARY OF RECORD**

**Request:**

The Port of Vancouver requests approval of a concept development plan/master plan, shoreline substantial development permit, and shoreline conditional use permit to develop the Terminal 1 Waterfront Master Plan on 10.37 acres on the northern bank of the Columbia River within the Columbia River Renaissance District of the Vancouver City Center Vision and subarea plan.

**Hearing Date:**

The Vancouver Hearing Examiner held an open record hearing on the application on May 4, 2017.

**Testimony:**

At the open record hearing, the following individuals presented testimony under oath:

Jon Wagner, Senior Planner  
Brian Carrico, BergerABAM, Applicant Representative  
Matt Harding, Port of Vancouver, Applicant Representative  
Steve Morasch, Attorney, Applicant Representative

**Exhibits:**

At the open record hearing the following exhibits were admitted in the record:

1. Staff Report, dated April 21, 2017
2. Vicinity Map
3. Master Plan Application

4. Narrative
5. Applicant memorandum in response to City comments, dated March 22, 2017
6. Concept Development Plans
7. Concept Engineering Plans
8. Proposed Port of Vancouver Terminal 1 Design Standards
9. Notice of application, public hearing, and SEPA planned action, dated February 15, 2017
10. SEPA Checklist, dated December 23, 2016
11. Tree Inventory
12. Critical Areas Report, BergerABAM, December 2016
13. Transportation Compliance Letter prepared by Kittleson & Associates, dated December 19, 2016
14. Determination of No Hazard to Air Navigation from FAA for each of the blocks within the development
15. Trip and Traffic Impact Calculations worksheet, dated April 11, 2017
16. Planning Staff's PowerPoint presentation (10 slides)

Upon consideration of the testimony and exhibits admitted in the record, the Hearing Examiner enters the following findings and conclusions:

## FINDINGS

### *Proposal*

1. The Port of Vancouver (Applicant) requests approval of a concept development plan/master plan, shoreline substantial development permit, and shoreline conditional use permit to develop the Terminal 1 Waterfront Master Plan on 10.37 acres on the northern bank of the Columbia River within the Columbia River Renaissance District of the Vancouver City Center Vision subarea plan. The property subject to the application is comprised of portions of seven tax parcels, all owned by the Port, and aquatic land that is owned by the state and managed by the Port through a port management agreement with the Washington State Department of Natural Resources.<sup>1</sup> The aquatic lands include an existing overwater pier structure and shoreline areas. The site is located south of the railroad berm between Columbia Street to the east and the 21-block Vancouver Waterfront Development to the west. Because of the scope and complexity of the project, the Applicant has requested that all planning-related approvals be granted for a duration of 20 years. *Exhibits 1 and 4.*
  
2. The conceptual master plan (plan) is organized around four blocks, each fronting Columbia Way, with modifications to the existing pier to develop a retail-oriented "marketplace" use. The plan would create: approximately 355 residential units (apartments and/or live/work units); 62,000 square feet of retail space; 200,000 square feet of commercial office space; a 160-room hotel (including retail, restaurant, and event and support office space); an extension of the Columbia River Renaissance Trail; and

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<sup>1</sup> The subject property includes portions of Tax Lots 48843000, 48841000, 48844000, 502240000, 502245000, 502246000 and 502250000, which are located in the SW Quarter of Section 27, Township 2 North, Range 1 East and SE Quarter of Section 28, Township 2 North, Range 1 East, W.M. *Exhibits 1 and 4.*

enhancement of the existing pier to add new civic open spaces and amenities. The proposed improvements are spelled out in detail in the Applicant's project narrative, in the record at Exhibit 4, pages 9 through 18 and in the concept development plans at Exhibit 6. For the purposes of this document, a brief description of the improvements is inserted from the Staff Report:

**Block A** is proposed as a mixed-use development that may include ground-level retail (a combination of shops, restaurants, and retail services), ground-level and second-level residential apartments, and/or live/work units, commercial office above the retail, and a combination of underground and aboveground parking. The parking uses are intended to be part of a project-wide shared use program that supports a 24 hours-a-day, seven days-a-week mix of uses. The ground-level uses that front Columbia Street, a primary access to the project from the downtown business district, and Columbia Way are intended to activate the pedestrian experience for both Columbia Street and Columbia Way. Block A's building and uses are envisioned to be physically separated from Block C by a pedestrian breezeway corridor fronted by residential units, and/or ground-level retail.

**Block B** is oriented toward the Columbia River, has primary access off of Columbia Way, and is viewable from Columbia Street from the north. This primary block is envisioned as a notable architectural centerpiece that responds appropriately to the Terminal 1 building marketplace across from the Columbia River Waterfront Renaissance Trail to the south and the future retail space to the west. Block B is proposed as a mixed-use development that may include flexible, multipurpose uses, such as public/community gathering space, ground-level retail and makers work space (regional craft and small production retail uses), live/work and/or workforce apartments, aboveground office, and potentially underground parking with access to Columbia Way.

**Block C** contains a mix of uses that center on a residential function and ground-level retail (shops, restaurants, and retail services). Block C is the largest block and, therefore, provides for the greatest density as well as taller structures. Block C is envisioned to include a combination of underground and aboveground structured parking and possibly up to two residential towers to accommodate up to 300 residential units. The parking structure will support a 24-hour-a-day, 7-days-a-week shared-use parking program design to accommodate residential units on the block as well as other uses for the project.

**Block D** is designated for hospitality uses that may include a hotel with an estimated 160 guest rooms, small-event space, restaurant, ground-level retail fronting the Daniels Way pedestrian corridor, and support office uses. This block may also accommodate underground or aboveground structured parking and possible valet drop off and parking. The Block D hotel use will contain primary access from Columbia Way or Access Way 5 and strong orientation of uses fronting the Daniels Way pedestrian feature, the Renaissance Trail, and the Columbia River to the south.

**The Waterfront Pier** encompasses the existing overwater wood pier and piling structure, waterfront shoreline areas, and the upland Columbia River Waterfront Renaissance Trail and adjacent open spaces connecting the trail to upland street rights of way (Access Way 5, Daniels Way, and Columbia Street). The Waterfront Pier is the entertainment and recreational destination for the Waterfront Development. This public access and civic space is proposed for multiple programmed outdoor spaces and activities, with a focus on providing overwater public access to the shoreline of the Columbia River. ...The Waterfront Pier area will use the original 1920s Terminal 1 building as an adaptive-use marketplace with water-related uses, retail, restaurant, event space and a visitor center supporting the American Empress tours and other water-related visitor attractions.

...The open pier areas include outdoor civic and entertainment spaces, landscape areas, the lower floating dock access improvements, Columbia River Waterfront Renaissance Trail and waterfront park connections, and emergency service access areas. The existing amphitheater located on the west end of the pier is envisioned to be renovated as outdoor space supporting passive waterfront uses and activities. Another proposed outdoor space may be located directly west of the Block D hotel site. A planned flexible outdoor area is proposed to the east will also serve as flexible use space for events.

*Exhibits 1 (pages 4-5) and 4.*

3. The plan is proposed to be built in phases. Initial phases would address the short-term maintenance needs of the existing pier and long-term pier and structural piling replacement, as well as new infrastructure including street rights-of-way, utilities, interim surface parking, the Columbia River Renaissance Trail, and small park areas. Subsequent phases would address specific planned development uses for upland the blocks including development hospitality, office, retail, and residential uses and the Terminal 1 marketplace on the pier structure. Timing of phases would be linked to the pier structural maintenance and repair program and any required pier replacement. Phasing is detailed in the narrative, Exhibit 4 pages 19 through 23. *Exhibit 4.*

*Process*

4. In 2015, as part of the effort to improve and revitalize the Columbia River waterfront in downtown Vancouver, the Port prepared a master plan for the subject property defining the vision for development of the site. Conducted over eight months, the planning process included discussions with the Port Commission and Port staff, City staff, Columbia Waterfront LLC, other stakeholders, and the general public. Several Port Commission workshops were held to explore ideas and values for future development. Since then, the Port has developed the necessary site information, including planning-level geotechnical and soils assessments, site survey boundary and topographical data, and structural data for the Terminal 1 building and the existing pier structure. This information resulted in adjustments to the planned uses and intensities based on accurate

assessment of site constraints and development potential, and finally, in the instant proposal. *Exhibit 4.*

5. Pursuant to VMC 20.260.030.C, when a proposal involves more than one application for a given development and those applications are subject to different types of procedure, then all related applications are processed according to the highest type of procedure that applies to any of them. Because the concept master plan is a Type IV permit type decided by City Council, and because the subject property is 25 acres or less, the City's Hearing Examiner has conducted the initial hearing, allowing an opportunity for public testimony, and in this document submits recommendations to Council as to the appropriate outcome for each of the required approvals, which include: planned development approval with concept development plan, shoreline substantial development permit (SSDP), and shoreline conditional use permit (SCUP). Other required approvals have been administratively reviewed and approved by appropriate City staff, including: critical areas permit (frequently flooded areas, fish and wildlife habitat conservation areas, and geologic hazard areas), State Environmental Policy Act (SEPA) planned action concurrence, archaeological predetermination survey, tree plan/tree removal, and concurrency certificate. It is anticipated that the Applicant would enter into a development agreement with the City consistent with VMC Chapter 20.250; that agreement would be handled in a separate process. Future construction of the detailed phases would undergo site plan review under VMC 20.270 to ensure substantial compliance with both the approved concept development plan and all applicable development standards, building and mechanical codes, and other requirements of the Vancouver Municipal Code. *Exhibits 1 and 4.*

#### *Existing Site Conditions*

6. The Vancouver Comprehensive Plan 2011–2030 designates the subject as Commercial. It is located in the Vancouver City Center Vision (VCCV) subarea and is included in the Columbia West Renaissance subdistrict. The VCCV was adopted in 2007 and the area was established as a Planned Action. The Columbia West Renaissance subdistrict was adopted to facilitate the development of public access along the Columbia River shoreline and to encourage the development of shoreline priority uses (water-dependent, water-related, water enjoyment, and/or environmental protection). *Exhibits 1 and 4.*
7. The subject property has a City Center (CX) zoning designation. The purpose of the CX designation is to promote a mix of uses in a dense urban neighborhood; it prohibits industrial uses and encourages primarily office, service, mixed-use, and single-use residential buildings and accessory parking, with limitations on surface lots. The site is also included in the Columbia River Shoreline Enhancement Plan District (VMC 20.620) and is within the Airport Height Overlay District (VMC 20.570). *Exhibit 1.*
8. The site abuts the Columbia River, a Type S shoreline of the state. On-site areas within 200 feet of the ordinary high water mark (OHWM) of the Columbia River are subject to the Washington State Shoreline Management Act as implemented through the City's shoreline master program (SMP). Site area waterward of the OHWM is designated as

- Aquatic shoreline environment and areas landward of the OHWM are designated Urban High Intensity shoreline environment. *Exhibits 1 and 4.*
9. At the project site, the Columbia River is approximately 2,600 feet wide and is maintained as a navigation channel to a minimum depth of 35 feet by the US Army Corps of Engineers (ACOE). The river is known to support resident and anadromous fish species, marine mammals, and a variety of bird species. Aquatic habitat on-site is limited due to shading and piles associated with the existing pier and to the rip-rapped shoreline. From the OHWM, the riverbed drops off quickly to deep water, providing limited shallow-water habitat and no aquatic vegetation. Existing shoreline development has also limited upland habitat on-site, which is comprised of vegetation along river upstream and downstream of the pier. Above the shoreline, vegetation consists of landscaping and perimeter plantings around existing structures and parking lots. There are no wetlands on-site. Areas approximately 10 feet landward of the OHWM are designated as Floodway. The Floodway includes the river channel and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation. According to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Panel 53011C0481D, the 100-year floodplain extends 50 feet landward of the OHWM, meaning this area has a 1% annual chance of a flood event. Portions of the project site include the 500-year floodplain, meaning they have 0.2% annual chance of a flood event. The site includes potential seismic hazard areas with B-C and C ratings. *Exhibit 4.*
  10. Currently, the site is comprised of 2.36 acres of street rights-of-way, 4.41 acres of developable block area, 1.52 acres of upland open space, 0.26 acres of shoreline area (including 269 linear feet of open shoreline edge, and 680 linear feet of shoreline under the pier). Existing structures include two Red Lion Hotel buildings, the Terminal 1 building and pier, and the Columbia Business Center. The site contains 283 parking spaces. Columbia Way, constructed through the site in 2015, divides the site roughly in half from east to west and connects Columbia Street to Esther Street and extends west to Grant Street. The Terminal 1 pier and warehouse were built in 1926. The pier is constructed of wooden piles with concrete and wood decking, with areas of steel piles at mooring points. The amphitheater at the west end of the pier was built in 1991, and the float for small boats was added in 1993. The amphitheater is constructed of steel piles with a concrete deck. Today, the pier is used for various marine purposes, including moorage by river cruise ships. No historic landmarks are known to exist on the subject property. *Exhibit 4.*
  11. The subject property is bordered to the south by the Columbia River, across which lies the state of Oregon. To the east is Columbia Street and the existing I-5 bridge; land uses between Columbia Street and I-5 include open space and an asphalt parking lot. Also to the east is the City's Columbia River Waterfront Renaissance Trail, which provides public access along the Columbia River. The proposal includes extending this trail through the site and connecting it to the west with the portion of the trail that is currently being built by the City as part of the Waterfront Park project. North of the subject property is the BNSF railroad right-of-way, beyond which is the core of downtown Vancouver; the nearest adjacent uses include City Hall, Esther Short Park, vacant

properties planned for future development, and the Hilton hotel and convention center. Exhibits, 2, 4, and 16.

*Vancouver City Center Vision Plan*

12. The Vancouver City Center Vision (VCCV) subarea plan established capacity estimates for various development types in the VCCV subarea by district and overall, and established preferred uses within the various districts.<sup>2</sup> The subject property is within the Columbia West Renaissance district. The capacity goals for each district were not intended to be limits; one district can absorb other districts' development goals. This table depicts the overall capacity estimate of the VCCV, the capacity proposed to be used by the project, and the remaining capacity after accounting for the cumulative capacity usage of constructed and approved projects.<sup>3</sup>

	<b>Retail (SF)</b>	<b>Office (SF)</b>	<b>Residential Units</b>	<b>Institutional (SF)</b>	<b>Hotel Rooms</b>	<b>Light Industrial (SF)</b>
<b>Total Capacity per VCCV</b>	401,000	2,425,000	4,551	591,000	260	100,000
<b>Capacity Used by Other Projects</b>	282,796	1,147,433	4,301	76,373	160	0
<b>Port Concept Development Plan Proposed Capacity Use</b>	73,000*	200,000	355	0	160**	0
<b>Remaining Capacity</b>	45,204	1,077,567	-105	514,627	100	100,000

*Exhibit 1, page 8; Exhibit 4, page 32.*

13. The project is consistent with the uses identified by and remaining capacity available in the VCCV, except that the proposed 355 residential units would exceed overall residential capacity projections by 105 units. Per the VCCV and Ordinance M-3833, capacity may be transferred from the office category to other categories with additional analysis of the potential impacts from the transfer.<sup>4</sup> In order to determine whether the impact characteristics would exceed district goals, an analysis was conducted of the specific categories where there are differences in impacts between the two uses: transportation, schools, and parks and recreation. Exhibits 1 and 4.
14. With regard to traffic, the VCCV impact estimates contain adequate capacity for the proposal to use up and exceed the remaining resident residential units due to remaining

<sup>2</sup> The districts established by the VCCV include the Uptown Village, Mill Plain Couplet, Central Downtown, West Government, Esther Short, and Columbia West Renaissance districts. *Exhibit 1.*

<sup>3</sup> \* Excludes 25,000 square feet of existing Terminal 1 marketplace that is to remain. \*\* Existing on-site hotel (which will be demolished) contains 160 rooms; therefore, no additional hotel rooms will be counted against the remaining capacity.

<sup>4</sup> VCCV, Page 16: "...the flexibility to respond to market trends may result in a shift from the residential use category to the office use category or vice versa as long as the impact characteristics are similar and the overall impacts do not exceed plan targets."

office capacity. The staff report notes that per the ITE Trip Generation Manual, 9th Edition, the weekday PM peak hour trip generation of 2.40 (apartment units) would be equivalent to the weekday PM peak hour trip generation of 1,000 square feet of general office space. The proposed 105 residential units beyond VCCV goals would be the equivalent of approximately 44,000 square feet of office space. As seen in the table, more than one million square feet of office capacity remains available in the VCCV. The transportation impacts can be absorbed. *Exhibit 1, page 9; Exhibit 4, pages 32-33.*

15. Regarding school impacts, based on school student occupancy rates used in the final supplemental environmental impact statement (FSEIS) for the planned action, the proposed 355 residential units would generate approximately 51 elementary school students, 21 middle-school students, and 23 high school students. This is an increase of 15 elementary, six middle school, and seven high school students over the totals projected in the FSEIS. The FSEIS noted that the total of students within the VCCV could be accommodated by Discovery Middle School, but that both Hough Elementary and Hudson's Bay High School were over capacity. The mitigation document of the FSEIS for the planned action included such mitigation measures as cooperative City/School District efforts to identify innovative approaches to provide additional school capacity in the VCCV subarea, including the use of portable classrooms, adjusting school attendance boundaries, or building additional school volumes. The number of additional students from the 105 "excess" residential units is minor in comparison with the anticipated overall increase anticipated in the VCCV. Each residential unit would pay school impact fees. The assertion by the Applicant and Planning Staff that this number of additional students would not require mitigation beyond that previously identified in the VCCV is reasonable. *Exhibit 1, page 9; Exhibit 4, pages 33, 40.*
16. Similarly, the increased park impacts resulting from converting office capacity to residential was reviewed. The site is located in the City's Park District #1. As determined in the FSEIS, residential units increase demand on parks and recreation resources and non-residential uses do not. The project's "excess" 105 residential units would increase population within the VCCV by between 168 (FSEIS occupancy projection) to 231 (most recent census occupancy data) persons. The City's parks and recreation standard is five acres of neighborhood or community park land and one acre of open space land for each 1,000 residents, an increase of 2.2 to 3.1%. According to the current Vancouver Comprehensive Parks, Recreation & Natural Areas Plan inventory of park land by district, District #1 contains 49.36 acres of Neighborhood Parks, 141.8 acres of community parks, and 164 acres of urban natural area. The anticipated population increase from the 105 excess residential units would not cause the City to fall below adopted level of service standards for parks consistent with the FSEIS and planned action mitigation document. The increase in demand for parks and recreation beyond that planned for would be further offset both by park impact fees paid per unit and by the project's significant recreational amenities, which include extension of the trail and other open space. *Exhibit 1, page 10; Exhibit 4, pages 33-34.*

#### *Concept Development Plan*

17. Pursuant to VMC 20.260.030, proposals for development (other than public facilities)

*Findings, Conclusions, and Recommendations*

*Vancouver Hearing Examiner*

*Port Terminal 1 Waterfront Development, PRJ-153187/LUP-58917*

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within the Columbia River Shoreline Enhancement Plan District are required to submit a master development plan. Master plans are decided through the planned development process, which requires approval of a concept development plan. The concept development plan addresses existing site conditions, architectural and site design elements, transportation system capacity, the availability of public services, protection of City-designated resources such as historic landmarks, significant trees, and sensitive natural resources, compatibility with adjacent uses, and mitigation of off-site impacts. The Applicant's submittal thoroughly examined each of these elements. *Exhibits 4, 6, and 7.* Some aspects of the proposed concept development plan are highlighted in the following findings.

18. The overall project site design extends the adjacent downtown street grid from north of the BNSF rail berm and connects to the west to the street grid approved in the adjacent Waterfront Development. The proposed streets would provide access to the development, and also to the pier and proposed trail extension, enhancing public shoreline access and promoting pedestrian and bicycle access through the site. The proposed buildings step down from north to south and are arranged to provide corridors to the Columbia River for both visual and physical access. The project is designed to preserve historical elements of the Terminal 1 building. The Port adopted design standards to provide a framework for development of the site intended to: implement the VCCV subarea plan; build the highest density financially viable within the allowable height restrictions; create an urban high activity waterfront character; create tangible connections to the waterfront; design streets that serve vehicular access and are pedestrian friendly; extend the trail through the site connecting to the east and west; encourage water-oriented use of the waterfront; secure public access to the shoreline; and utilize environmentally friendly site design and construction. *Exhibits 4 and 8.*
19. The Applicant provided a professionally prepared transportation compliance letter describing the anticipated transportation impacts from the full buildout; the letter included trip generation and trip distribution estimates, concurrency corridor trip assignment, VCCV threshold analysis, operational assessment of study intersections, and driveway safety analysis. Anticipated trip generation from full buildout falls within the VCCV threshold of 6,610 weekday PM peak hour trips, leaving 1,608 estimated trips for future development. The transportation letter concluded that “[t]he study area intersections were all forecast to operate acceptably through the year 2035, and no capacity-based mitigation needs were identified.” *Exhibit 13, quote from page 15.*
20. All proposed development would connect to municipal water and sewer. As shown in the Applicant's preliminary engineering plans, development proposed under this concept development plan can be served adequately with water and sanitary sewer connections. Connections consistent with the standards established in VMC Chapter 14.04 would be required and ensured through site plan entitlement and/or building permit review. *Exhibits 4 and 7.*
21. Based on anticipated increases in residential units by approximately 4,551, in residents by approximately 7,281, and in employees by 9,305, the VCCV FSEIS analyzed impacts on

police, fire services, schools, and public health care resources. The increases in residents and employees that would result from the instant proposal are within the scope of the increases identified and addressed by the FSEIS. *Exhibit 4.*

22. Consistent with the planned action ordinance mitigation document, impacts to police and fire response would be mitigated by the following schedule. Fire: When the population increases by 29,153 and 1,218 businesses are added, the Fire Marshal's Office will need an additional Deputy Fire Marshal to maintain current service levels. One firefighter would be required for every 1,311-person population increase. These mitigation measures are the responsibility of the City and not of an individual development. Police: The City anticipates hiring 1.3 officers and 0.4 civilian employees per 1,000 new residents within the district. To improve site security and help prevent crime in the area, building designs are to include adequate lighting and other safety features. *Exhibit 4, pages 39-40.*
23. The subject property contains sensitive areas regulated by the City's critical areas ordinance, VMC Chapter 20.740, including fish and wildlife habitat conservation areas (VMC 20.740.110), frequently flooded areas (VMC 20.740.120) and geologic hazards areas (VMC 20.740.130). The project requires critical area permit approval. The proposal would redevelop an extensively altered urban site previously used for heavy industry. The existing condition of the riparian habitat at the site is degraded. The Applicant submitted a critical area report addressing CAO requirements. As noted in the critical areas report, the concept development plan is designed to avoid impacts to critical areas to the maximum extent possible. No expansion of overwater coverage is proposed, resulting in no impact to aquatic habitat. Proposed improvements include the removal of existing structures and invasive plant species from the riparian area and revegetation with native plant species, which actions are expected to enhance habitat functions and values in the riparian management area. The majority of improvements would be outside of the 100-year floodplain. The critical areas report included a no net rise analysis, which concluded that the project would not result in an increase in the base flood elevations. All structures proposed in liquefaction or dynamic settlement hazard areas would comply with the seismic hazard requirements of VMC Title 17 (Building and Construction). *Exhibits 1, 4, and 12.*
24. Where impacts to critical areas cannot be avoided, the project would implement best management practices (BMPs) intended to minimize impacts to critical areas. The proposed BMPs include those typically associated with in, over, and near water work relating to pile removal, pile installation, and overwater concrete installation. The proposal includes compensatory mitigation for all impacts, such that there would be no net loss of critical area function. Impacts to fish and wildlife conservation areas would consist of minor, temporary construction effects. The proposal is expected to result in no reduction in benthic habitat and a net gain in riparian habitat function. As noted previously, there would be no net rise in base flood elevations and no impact to frequently flooded areas. Site specific geotechnical evaluation would be required for all project components within geologic hazard areas. *Exhibits 1, 4, and 12.*

25. Addressing off-site impacts, the Applicant noted that long-term impacts to adjacent uses from noise are not anticipated, because the proposed uses are of the same nature as the surrounding existing uses; noise generated would be typical of the existing urban area, primarily ambient traffic noise. Construction noise would be required to comply with VMC 20.935.030. Outdoor lighting throughout the plan would be designed to direct light downward, with full cut-off fixtures consistent with the project specific design standards. The proposal is not projected to generate off-site transportation impacts that warrant off-site mitigation. *Exhibit 4.*
26. The Port proposes to retain the existing rooftop sign on the Terminal 1 building.<sup>5</sup> The sign is an iconic image, one of the first/last views seen by travelers crossing the state line between Oregon and Washington; the Applicant characterized the sign as a landmark. Rooftop signs are no longer allowed; the existing sign predates regulations currently in effect. Making any modifications to the sign is prohibited by VMC 20.960.250; however the sign continues to advertise the business that used to occupy the site. The Port requests a modification to the adopted development standards pursuant to VMC 20.260.050.B to allow for the change in lettering and logo -with no change in size - to allow the sign to remain in place. *Exhibit 4.* Planning Staff agreed that the requested modification satisfies the criteria of VMC 20.260.050.B and recommended approval of the modification subject to condition that restricts the types of changes allowed and requires a City-issued sign permit. *Exhibit 1.*

*Project Compliance with Applicable Zoning and Overlay District Regulations*

27. Again, the planned development is zoned City Center (CX). Pursuant to VMC 20.260.060, a planned development applicant is allowed to apply modified bulk dimensional development standards from those of the underlying zoning district, such as lot coverage and setbacks. The instant Applicant has not proposed modifications from zoning standards. *Exhibits 1 and 4.*
28. All of the proposed uses are permitted in the CX zone. *VMC 20.430.030.* With the exception of maximum building height, there are no minimum bulk dimensional standards that apply in the CX zone. *VMC 20.430.040.* Although all proposed structures and uses are required to conform with the dimensional standards of VMC Chapter 20.430, its provisions relating to maximum building heights are superseded by the provisions of VMC Chapter 20.630 due to the site's location within the Downtown District. Pursuant to VMC 20.630.050, the site is subject to two separate height standards, with the eastern portion (Buildings A and B) allowed a maximum height range from 60 to 120 feet and the western portion (Buildings C and D) allowed a maximum height range from 80 to 160 feet. As noted above, FAA notification is required and was provided. The record includes an FAA Determination of No Hazard to Air Navigation for each building. The submitted materials demonstrate compliance of the concept development plan with the Downtown District's maximum building height standards. *Exhibits 1, 4, 6, and 14.*

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<sup>5</sup> VMC 20.150.040.E defines a rooftop sign is a "sign erected upon the roof of a building, the entire face of which is situated above the roof line of the building to which it is attached, and which is wholly or partially supported by said building."

29. With regard to parking, the Downtown Plan District establishes three separate parking control areas downtown, including structural parking with limited access, structural parking, and limited surface parking areas. The subject property is designated as a limited surface parking area per VMC 20.630.0060.E. Surface parking lots would be developed and used during the phased development, but at full buildout, all parking except would be within structures except on-street parking and potentially one ADA-accessible surface parking lot adjacent to/north of the east end of the Renaissance Trail on-site. Proposed structured parking at the ground level would be set back from Columbia Way and Columbia Street consistent with VMC 20.630.060(C)(2). Remaining Downtown Plan District design standards, including building lines, blank walls, rain protection, and parking control, would be reviewed for compliance with the requirements established in VMC Chapter 20.630 during site plan entitlement approval. *Exhibits 1, 4, and 6.*
30. The subject property is within the City's design review area; however, the instant concept plan is not subject to design review. When future land use approvals are sought, each application would be reviewed for conformance with applicable design review provisions in VMC Chapter 20.265. The proposal includes Port of Vancouver Terminal 1 Design Standards that would be implemented in addition to the City's Downtown Design Standards. At the time development is proposed, plans would be reviewed by both City Staff and the City Center Redevelopment Authority for compliance with the adopted design guidelines. *Exhibits 1, 4, and 8.*
31. The subject property is located in the Noise Impact District established at VMC Chapter 20.520. The regulations of this district apply to all new residential structures, which apply to applications for three or more residential units at the time of site plan review and requires regulated structures to provide sound insulation or other means to meet a specified sound volume threshold. Planning Staff recommended a condition to address this requirement. *Exhibit 1.*
32. The site is located within the approach surface area of the Airport Height Overlay District established at VMC Chapter 20.570. The Applicant has obtained FAA Determinations of No Hazard to Air Navigation for the separate points covering each corner of the proposed blocks. Planning Staff recommended a condition requiring compliance with the conditions of the FAA determinations. *Exhibits 1 and 14.*
33. The subject property is within the Columbia River Shoreline Enhancement Plan District established at VMC Chapter 20.620, which district requires master planned development. As detailed previously, the Applicant submitted a conceptual master plan encompassing the entire site designed to comply with the planned development standards in VMC Chapter 20.260. The proposal's consistency with the applicable provisions of the Vancouver City Center Vision subarea plan and the underlying CX zoning designation are addressed above. The Columbia River Waterfront Renaissance Trail would connect to the east and west through the proposal providing and promoting shoreline access. Shoreline permits including substantial development and shoreline conditional use are

being concurrently reviewed (addressed in findings 52 - 57), ensuring compliance with the Shoreline Management Master Program. The application materials address all requirements of the Columbia River Shoreline Enhancement Plan District. *Exhibits 1, 4, and 6.*

34. The subject property is also within the City Center Waterfront design standards of the Downtown District, as established in VMC 20.630.080, which are designed to: implement the Vancouver City Center Vision subarea plan; build to the highest density that is financially viable and consistent with height restrictions and grid dimensions; create a high activity waterfront; overcome the perception that the railroad berm is a boundary for downtown; create tangible connections to the waterfront; and result in pedestrian-friendly urban development with shoreline access (among other goals). The City Center Waterfront design standards create specific requirements relating to the design of the street grid, traffic calming, sidewalk widths, street lighting, parking, linkages to the downtown center, pathways and open space, landscaping, building design, view protection, and sustainable design. The proposal identifies proposed traffic calming devices consisting of on-street parking, wide crosswalks of contrasting materials, street trees, and other features designed to satisfy these requirements. Compliance with the City Center Waterfront design requirements would be reviewed at the time of site plan entitlement and/or building permit. Of note, because the site is not rectangular, the blocks are not square, causing some blocks to exceed the 200 foot length standard. However, all of the blocks meet the 300 foot length, except Block B which is approximately 350 feet in the east-west direction and includes a mid-block pedestrian alley. The Applicant asserted and Planning Staff agreed that due to the site's shape and proximity to the waterfront, the proposed longer Block B is warranted. The Planning Official administratively approved the longer Block B based on the site and the environmental constraints. *Exhibits 1 and 4.*
35. The concept plan includes a new vehicle-oriented corridor (North Access Way) and a new secondary corridor (Access Way 5). Another deviation from the City Center Waterfront design standards is proposed relating to a portion of the sidewalk adjacent to North Access Way that is proposed to be eight feet wide, rather than the 12-foot sidewalks the standards require. The reason for the eight-foot sidewalk is to provide better continuity with the cross section approved for the adjacent Vancouver Waterfront development. Pursuant to VMC 20.630.080.E, modifications from the City Center Waterfront design guidelines may be granted for a master plan proposal where site conditions warrant, if the proposed modification provides equal or better design than the standards, and where any impacts can be mitigated. The sidewalks have been reviewed and accepted by City Transportation Services as satisfying the intent of the City Center Waterfront design standards with the one deviation. *Exhibits 1, 4, and 6.*
36. The concept development plan proposes all permanent parking as either structured or on-street. All surface parking lots would be replaced with buildings or other site improvements. Structured parking would be integrated into the buildings of Blocks A and C, and potentially Blocks B and D; no stand-alone parking structures are proposed. Interim surface parking is expected be developed to meet parking demand until the

proposed structured parking is built. Compliance with the City Center Waterfront parking design standards would be reviewed during site plan entitlement, building, and other permit processes. *Exhibits 1, 4, and 6.*

37. The concept development plan proposes to separate the upland urban waterfront and the river shoreline with open spaces and plazas. All of the blocks (the proposed buildings) are upland of the river. The plan proposes to incorporate the history of the waterfront and to highlight natural resources and cultural history through public art, interpretive and educational opportunities, and way-finding and informational elements. Open space and hardscaped pedestrian paths are proposed along and over the river, and the Columbia River Waterfront Renaissance Trail extends through the project site. The pedestrian paths connect the proposed improvements with existing recreation amenities including Esther Short Park, Vancouver Waterfront Park, and the Columbia River Renaissance Trail, consistent with the City Center Waterfront design standards at VMC 20.630.080.D.7. *Exhibits 1, 4, and 6.*
38. The buildings and streets are oriented to maximize views of the shoreline. Each of the four blocks includes ground floor retail and it is anticipated that retail uses would enhance pedestrian interest through display windows, openings, and other architectural elements. Proposed landscaping includes native and adaptive plant species selected and maintained with low impact development strategies. Non-native invasive species would be removed from the shoreline areas and replaced with appropriate native riparian species. Building design, landscaping, view corridor, sustainable site and development, and other specifics including street signage would be reviewed for compliance with City Center Waterfront, Downtown Design Guidelines, and the Port of Vancouver Terminal 1 Design Standards as part of future site plan approvals. *Exhibits 1, 4, 6, and 8.*

#### *Compliance with Other Development Regulations*

39. The subject property is located within an area designated Predictive Model Probability Level A as shown in VMC Chapter 20.710, Figure 1, meaning archeological predetermination is required. The Applicant submitted an archaeological survey of the waterfront site prepared by qualified professionals on March 7, 2016. The City's contract archaeologist reviewed the Applicant consultant's survey and concurred that monitoring during construction is required to prevent construction impacts to archeological resources. The City's contract archaeologist recommended that prior to any construction activities, archaeological protocols need to be established addressing: possible cultural resource types that may be found during the project; monitoring protocols; potential testing and data recovery investigations if cultural resources are found; and an inadvertent discovery plan. Planning Staff incorporated the recommendations of the contract archeologist into recommended conditions of approval requiring City approval of archaeological protocols prior to construction. Additional recommended conditions of approval would require notes added to the grading plans alerting contractors to the necessary protocols. As conditioned, Planning Staff stated that the requirements of VMC Chapter 20.710 would be satisfied. In addition to City Code requirements, the Applicant is aware of and has indicated that development would proceed in accordance with state requirements established in RCW Chapter 27.53 (Archaeological Sites and Resources),

RCW 27.44.020 (Indian Graves and Records), and in Washington State Department of Archaeology and Historic Preservation (DAHP) regulations. *Exhibits 1 and 4.*

40. Regarding tree conservation regulated pursuant to VMC Chapter 20.770, the CX zone has no minimum tree density standards. The Applicant submitted a tree report that inventories 67 trees on-site measuring at least six inches diameter at breast height. Proposed development would require removal of all 67 trees. Street trees and other trees proposed would be reviewed during individual site plan review. The City's Urban Forester reviewed the proposed concept development plan and submitted comments about an optimal tree retention and planting/replacement plan. Planning Staff recommended a condition requiring the Applicant's landscape architect to consult with the City's urban forester regarding tree selection to help guide overall design and placement, and requiring approval of the project's tree plan by the City's urban forester. *Exhibits 1, 4, and 11.*
41. With regard to required review of the plan pursuant to the State Environmental Policy Act (SEPA) established in VMC Chapter 20.790, the Vancouver City Center Vision (VCCV) subarea plan and associated environmental impact statement (EIS) were prepared by the City addressing the probable, significant, adverse environmental impacts of development in the downtown subarea and identifying mitigation for those impacts. As noted previously, the subject property is located within the VCCV subarea and is subject to an adopted planned action ordinance, which identified mitigation measures to be employed as certain impact thresholds are exceeded. Projects in the VCCV that are determined to be within the range of impacts described in the EIS do not require issuance of a separate SEPA determination. As required by VMC Chapter 20.790, the Applicant submitted a SEPA checklist. As discussed above, proposed residential units would exceed the capacity threshold stipulated in the VCCV. Refer to findings 12 - 16 for the analysis of the proposed conversion from office capacity to residential capacity to address the 105 "excess" residential units. Planning Staff concluded that the project falls within the range of impacts reviewed during the EIS and qualifies as a planned action. *Exhibits 1, 9, and 10.*
42. Future development in the concept development plan would be subject to applicable impact fees. Traffic impact fees are required for residential and commercial development, with the fee amount based upon the approved traffic study and paid at building permit issuance. Located in the Columbia traffic impact fee district, the fee per average daily trip is \$163. School impact fees of \$2,381.93 and park impact fees of \$1,639 per residential unit are also required prior to building permit issuance. The Applicant intends to seek impact fee credits for eligible improvements, dedications, and other qualifying actions either consistent with VMC 20.915.090.A or as established in the anticipated development agreement. *Exhibits 1, 4, and 15.*
43. In addition to compliance with City Center Waterfront design guidelines, proposed landscaping throughout the concept development plan would be required to comply with the standards established in VMC Chapter 20.925. Detailed landscape plans would be submitted and reviewed with each site plan entitlement process. Street trees are required on public streets at a rate of one two-inch caliper deciduous tree for every 30 feet of

frontage. As referenced above, recommended conditions of approval would require the Applicant to consult with the City's Urban Forester regarding selection and placement of street trees. Additionally, landscaping in the sight distance triangles at all intersections and site access points would be required to be maintained to City standards. *Exhibits 1 and 4.*

44. In addition to compliance with City Center Waterfront design guidelines, the plan would be required to provide parking consistent with the requirements in VMC Chapter 20.945. In the CX district, residential uses require one parking space per dwelling unit, while office, retail, and restaurant uses require one space per 1,000 square feet of floor area. Compliance with the parking and loading standards would be reviewed during site plan and building permit review for each building. *Exhibit 1.*
45. The plan is required to provide solid waste disposal and recycling facilities consistent with the standards established in VMC Chapter 20.970. The City's Solid Waste Department reviewed the plan and noted that it does not include either loading docks or access roads to all zones, which would result in challenges for solid waste services. Department Staff submitted comments on possible provision of waste collection facilities. Compliance with standards would be reviewed at site plan entitlement and/or building permit issuance. *Exhibit 1.*
46. As noted in finding 19 above, the Applicant submitted a transportation compliance letter that projected trip generation rates based on the Institute of Transportation Engineers (ITE) Trip Generation Manual utilizing Land Use Codes 710 – General Office, 310 – Hotel, 220 – Apartments, 826 – Specialty Retail, and 820 - Retail. Applying credit for pre-existing trips, the letter determined that full buildout of the concept development plan would generate 5,430 new average daily trips including 390 AM and 539 PM peak hour trips. The submitted documentation fulfills the City's requirements for concurrency analysis at VMC Chapter 11.70. The Vancouver City Center Vision subarea plan includes an allocation of 6,610 PM peak hour trips. The transportation letter indicated that the project would not exceed the available vested trip allotment within the VCCV. Trip generation would be reviewed at the time of site plan entitlement. *Exhibits 1, 13, and 15.*
47. Proposed new streets within the plan would be required to comply with the street development standards in VMC Chapter 11.80, including right-of-way dedication, minimum paved street width, and frontage improvements such as curb, gutter, detached sidewalks, street lighting, and storm drainage. Columbia Way was dedicated to the City in 2016 and remains under a street cut prohibition through 2021 pursuant to VMC 11.80.100 B. Road modification approval would be required for street cuts within Columbia Way. Civil plans have been submitted for the construction of the public improvements within the Vancouver Waterfront development (ENG-44421) including portions of Access Road north and Access 5 along the project frontage. Planning Staff incorporated Transportation Staff's review comments into recommended conditions of approval addressing such features as street lighting, prohibition against direct driveway access to arterials, provision of temporary asphalt pedestrian ramps per City standards for



transition to the street pavement at termination points of sidewalks, pedestrian connections between including the existing Renaissance Trail and the proposed Waterfront Park Trail currently under construction, and bicycle parking. *Exhibit 1.*

48. The majority of the 10.37-acre site would be disturbed during construction, and proximity to the Columbia River triggers additional erosion control measures during construction to prevent sediment from reaching the river through direct runoff or stormdrains. Grading quantities would not be determined until plans for individual blocks are developed. Excavation for any underground parking would require hauling material off-site. The project would be required to obtain a construction general stormwater permit from the Department of Ecology and to maintain it throughout construction of each phase. Compliance with the erosion control standards established in VMC Chapter 14.24 would be reviewed at time of site plan entitlement and/or building permit issuance. *Exhibit 1.*
49. The application materials included a stormwater technical information report addressing stormwater management for the proposed development. When civil plans for individual blocks are submitted, technical information report updates would be required to confirm the original assumptions and justify any revisions to the storm system, including calculations. All construction conducted pursuant to the concept development plan would be required to follow the redevelopment standards of the municipal stormwater permit, including meeting minimum requirements 1 through 9 as determined by the permit. Because the Columbia River is a flow control exempt water body, the project would not be required to meet the flow duration standard of the permit. Water quality treatment would be required for all pollution generating surfaces on-site. Runoff volumes would not be allowed to increase beyond the existing condition. Compliance with the requirements of VMC Chapter 14.25 would be ensured prior to building permit issuance. *Exhibits 1 and 4.*
50. The Vancouver Fire Department reviewed the concept development plan proposal and determined that the concept development plan is capable of meeting all requirements of VMC Title 16 and the International Fire Code. The Fire Department submitted recommended conditions of approval addressing required improvements that must be on the civil plans, infrastructure that must be in place prior to combustible construction, items required during construction, and requirements that must be satisfied prior to certificate of occupancy issuance. Planning Staff incorporated the Fire Department comments into recommended conditions of approval for the instant permits. *Exhibit 1.*
51. All construction pursuant to the concept development plan would be required to conform to the City's current Building Code (VMC Title 17) and the International Building Code. When applications are submitted for each phase and building, complete plans demonstrating compliance with accessibility and other building code requirements would be required. *Exhibit 1.*

#### *Shoreline Permits*

52. As noted previously, the subject property includes areas designated Urban High-Intensity shoreline environment and Aquatic shoreline environment that are subject to the

Vancouver Shoreline Management Master Program (SMP). Substantial development as defined in the City’s SMP shall not be undertaken within 200 feet of shorelines of the state without first obtaining a substantial development permit (SSDP). The proposal calls for mixed-use waterfront development featuring hospitality, office, retail, and residential uses, and pedestrian circulation facilities, in the Urban High Intensity shoreline environment; modifications to an existing overwater pier and the Terminal 1 building are proposed in the Aquatic shoreline environment. The concept development plan would not change existing uses in the Aquatic shoreline; no new structures are proposed over the water. All but one proposed use in the Urban High Intensity environment are classified by the SMP as water-enjoyment uses because they provide for recreation or aesthetic access to the shoreline. The proposed office uses on Blocks B and D are classified as non-water-oriented commercial uses. *Exhibits 1, 4, and 5.*

53. The Applicant's narrative contains the following table which depicts the classification of each proposed use within the shoreline jurisdiction.

Shoreline Use (per Table 6-1)	Proposed Uses	Aquatic	Urban High Intensity
Recreational Use - water-dependent/water-enjoyment	<ul style="list-style-type: none"> <li>• Modifications to an existing pier</li> <li>• Waterfront Trail extension</li> </ul>	Permitted	Permitted
Commercial Use - water-enjoyment	<ul style="list-style-type: none"> <li>• Retail</li> <li>• Hospitality</li> </ul>	Non-conforming use/Conforming structure* <sup>6</sup>	Permitted
Commercial use – non-water-enjoyment	<ul style="list-style-type: none"> <li>• Office</li> </ul>	N/A	Conditional
Parking	<ul style="list-style-type: none"> <li>• Accessory (optional) underground parking</li> <li>• Accessory ADA parking</li> </ul>	N/A	Permitted
Residential	<ul style="list-style-type: none"> <li>• Multi-family residential</li> </ul>	N/A	Permitted
Transportation Uses (secondary road perpendicular to OHWM)	<ul style="list-style-type: none"> <li>• Secondary road (Access Way 5)</li> </ul>	N/A	Permitted
Signs	<ul style="list-style-type: none"> <li>• Informational/wayfinding</li> </ul>	Permitted	Permitted
Shoreline Restoration	<ul style="list-style-type: none"> <li>• Shoreline restoration</li> </ul>	Permitted	Permitted

*Exhibit 4, page 76.*

54. The footnote in the table addresses the fact that the existing Terminal 1 building predates the City’s adoption of the SMP, meaning it is considered a conforming *structure*. The

<sup>6</sup> The Terminal 1 building is located in the aquatic designation. Per Table 6-1 of the SMP, only water-dependent commercial uses are allowed in the aquatic zone. Per SMP Section 2.5.1, existing uses legally established prior to adoption of the SMP are allowed to continue as nonconforming uses. In addition, SMP Section 2.5.3(3) specifies that existing structures between Wintler Park and the rail bridge are considered conforming.

existing commercial *use* of the structure is considered nonconforming. No change to the nonconforming commercial use is proposed. In review of the proposal, City Planning Staff determined that proposed alterations to the Terminal 1 building, including reducing its footprint and replacing windows, siding, and roofing, etc., does not constitute development for the purposes of the SMP. *Exhibits 1 and 4.*

55. A shoreline substantial development permit is required for the following aspects of the proposed development:

- Restructuring the existing pier's concrete amphitheater into terraces;
- Rehabilitating the existing small boat moorage connected to the pier;
- Extension of the Columbia River Waterfront Renaissance Trail (segments located at least 20 feet landward of the OHWM);
- Construction of the pedestrian overlook feature at the terminus of proposed Access Way 5;
- Accessory ADA surface parking and optional accessory structured parking;
- Access roads perpendicular to the shoreline;
- Habitat restoration;
- Upland ground improvements; and
- Water-oriented commercial and residential uses constructed in mixed use buildings upland of the OHWM.

No shoreline stabilization is proposed or needed. *Exhibits 1, 3, 4, and 5.*

56. Blocks B and D are within shoreline jurisdiction. In Block B, a shoreline conditional use permit is required for non-water-oriented commercial use. In Block D, SCUP approval is required for office and commercial uses. *Exhibits 1, 3, and 4.*

57. The Applicant's narrative contains thorough discussion of the facts pertinent to SCUP review on pages 79-80 and discussion of facts relevant to SSDP review on pages 80-102. The City reviewed the Applicant's shoreline narrative on pages 29-35 of the staff report, concurring with the facts and analysis as presented. *Exhibit 4.* The Applicant's shoreline narrative discussion at Exhibit 4 pages 79-102 is adopted and incorporated into these findings of fact.

#### *Findings Related to Public Hearing Process*

58. After pre-application conference on August 25, 2016, the application was submitted January 3, 2017 and deemed fully complete on February 1, 2017. Notice of application and public hearing was issued on February 15, 2017. The City received no public comment on the proposed concept development plan. *Exhibits 1 and 2; Jon Wagner Testimony.*

59. Upon review of the complete application packet and after opportunity for public comment at hearing, Planning Staff recommended approval of the concept development plan. *Jon Wagner Testimony; Exhibit 1.* The Applicant waived objection to the

conditions in the staff report. *John Harding Testimony.*

## CONCLUSIONS

### **Jurisdiction:**

Per Vancouver Municipal Code 20.260.030.B.1, the Hearing Examiner is the body to conduct public hearings in applications for planned developments of 25 acres or less in area, and the City Council is the body to render the final decision following a recommendation from the Examiner.

Pursuant to Vancouver Municipal Code 20.210.060, Table 20.210.020-1, the Hearing Examiner has jurisdiction to conduct open record hearings and make recommendations to the Washington State Department of Ecology on applications for shoreline conditional use permit, and has jurisdiction to conduct an open record hearing and decide applications for shoreline substantial development permit.

### **Criteria for Review:**

#### *Planned Development*

Pursuant to VMC 20.260.050.A, to receive approval for a planned development, an applicant shall demonstrate compliance with all of the following criteria:

1. Content. The concept plan contains all of the components required in Section 20.260.070. Compliance with all applicable standards. The proposed development and uses comply with all applicable standards of the Title, except where adjustments are being approved as part of the concept plan application, pursuant to Section 20.260.030 (D)(2).
2. Architectural and site design. The proposed development demonstrates the use of innovative, aesthetic, energy-efficient and environmentally-friendly architectural and site design.
3. Transportation system capacity. There is either sufficient capacity in the transportation system to safely support the development proposed in all future phases or there will be adequate capacity by the time each phase of development is completed.
4. Availability of public services. There is either sufficient capacity within public services such as water supply, police and fire services, and sanitary waste and storm water disposal, to adequately serve the development proposed in all future phases, or there will be adequate capacity available by the time each phase of development is completed.
5. Protection of designated resources. City-designated resources such as historic landmarks, significant trees and sensitive natural resources are protected in compliance with the standards in this and other Titles of the VMC.
6. Compatibility with adjacent uses. The concept plan contains design, landscaping, parking/traffic management and multi-modal transportation elements that limit conflicts between the planned development and adjacent uses. If zoning districts are

shifted per Section 20.260.020(C) VMC, there shall be a demonstration that the reconfiguration of uses is compatible with surrounding uses by means of appropriate setbacks, design features or other techniques.

7. Mitigation of off-site impacts. All potential off-site impacts including litter, noise, shading, glare and traffic, will be identified and mitigated to the extent practicable.

Pursuant to VMC 20.260.050.B, adjustments to numerical development standards may be processed as part of the request for concept if the applicant can demonstrate compliance with all of the following approval criteria:

1. The adjustment(s) is warranted given site conditions and/or characteristics of the design.
2. The benefits accruing from the implementation of the adjustment outweigh any potential adverse impacts.
3. Any impacts resulting from the adjustment are mitigated to the extent practical.

#### *Shoreline Conditional Use Permit*

Pursuant to the City's Shoreline Master Program at Section xx.xx.100.E (at page 151-52), for uses that are listed in this SMP as conditional uses in the environment in which they are proposed to be located, the Hearings Examiner may approve or approve with conditions an application for shoreline conditional use, any approval being subject to approval by Ecology, if the decision maker finds the applicant has demonstrated the development proposal is consistent with all of the following criteria:

1. The policies of RCW 90.58.020 and the policies of the SMP: provided, that conditional use permits should also be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020.
2. The proposed use or activity would not interfere with the normal public use of public shorelines.
3. The proposed use of the site and design of the project is compatible with other allowed uses within the area.
4. That the proposed use would cause no unreasonably adverse effects to the shoreline environment in which it is to be located.
5. The public interest would suffer no substantial detrimental effect.
6. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in

the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

7. The proposal complies with all other applicable requirements, criteria and standards of the City.

#### *Shoreline Substantial Development Permit*

Pursuant to the City's Shoreline Master Program at Section xx.xx.100.D (at page 151), the Hearings Examiner may approve or approve with conditions or modifications an application for a major shoreline substantial development permit if the Hearings Examiner finds the proposal is consistent with all of the following criteria:

1. The policies and procedures of the Shoreline Management Act of 1971, as amended.
2. The provisions of WAC 173-27 or its successor.
3. The City of Vancouver Shoreline Master Program.
4. The cumulative impact of additional past and future requests for like actions in the area would not result in substantial adverse effects on the shoreline environment and shoreline resources.
5. The proposal complies with all other applicable requirements, criteria and standards of the City.

#### **Applicable Shoreline Provisions**

##### *Vancouver Shoreline Management Master Program*

Applicable policies and regulations of the Vancouver Shoreline Management Master Program include the following sections: Shorelines of Statewide Significance (Section 3.2); General Shoreline Use and Development Regulations (Section 5.1); Archaeological, Cultural and Historic Resources (Section 5.2); Critical Areas Protection (Section 5.3); Critical Areas Protection (Section 5.3); Public Access (Section 5.4); Restoration (Section 5.5); Site Planning and Development – General (Section 5.6.1); Clearing, Grading, Fill and Excavation (Section 5.6.2); Building Design (Section 5.6.3); Vegetation Conservation (Section 5.7); Views and Aesthetics (Section 5.8); Water Quality and Quantity (Section 5.9); Critical Area Regulations (Chapter 5A); Specific Shoreline Use Regulations (Chapter 6); Shoreline Use, Modification and Development Standards (Section 6.2); Commercial Uses (Section 6.3.4); Parking (Section 6.3.9); Recreational Uses (Section 6.3.10); Signs (Section 6.3.12); and Shoreline Restoration and Enhancement (Section 6.4.4).

#### **Conclusions Based on Findings:**

##### *A. Concept Development Plan*

1. The submitted application package was prepared to address the required components outlined in VMC 20.260.070. The Applicant narrative, at Exhibit 4, pages 45 - 47

includes narrative details about how the application meets submission requirements and applicable provisions of Title 20. The proposal does not request any adjustments of development standards in terms of density and zoning bulk dimensional standards. *Findings 1, 2, 3, 4, 5, 17, 27, 58, and 59.*

2. The proposed concept development plan incorporates shoreline restoration activities, reducing current ongoing environmental impacts, while extending the downtown street grid from north of the railway berm, integrating with the adjacent Waterfront Development project, and connecting Columbia River Renaissance Trail through the site. The design promotes pedestrian and bicycle access to the proposed uses and through the site, removes surface parking uses, provides active and passive open spaces connecting to the waterfront, and preserves historical elements of the Terminal 1 building. The proposed design standards (Exhibit 8) provide a framework for development of the site in an aesthetically pleasing, environmentally/energy-efficient manner. *Findings 1, 2, 3, 8, 10, 18, 23, 24, 25, 34, 35, 36, 37, 47, 48, 49, 54, 58, and 59.*
3. The submitted traffic study was accepted as satisfying City requirements for traffic assessment. Plan traffic volumes of full buildout are not projected to cause affected intersections to drop below the City's adopted level of service. The application materials demonstrate compliance with concurrency requirements. No transportation improvements are necessary to ensure sufficient capacity of the existing transportation system. Based on the record submitted, transportation impact fees collected at time of building permit issuance would adequately mitigate the impacts of the proposal's traffic. *Findings 10, 18, 19, 34, 35, 41, 42, 46, 47, 58, and 59.*
4. Both municipal water and sewer are available at the site and have sufficient capacity to serve full buildout of the concept development plan. The VCCV FSEIS analyzed the impacts on police, fire services, schools, and health care from all development within the subarea. The proposal does not significantly exceed the capacities projected in the FSEIS with the exception of proposing 105 more residential units than the plan contemplated. Consistent with provisions included in the VCCV that expressly allow for the conversion of projected office capacity to residential capacity, the materials submitted demonstrate that the plan as proposed is fully addressed as to public services impacts. The FSEIS included mitigation measures for public services impacts, under which the proposed development is included and is considered a planned action. The record demonstrates that adequate public services including water, sewer, fire, police, schools, and parks are available to serve the plan. In addition, school, parks, and transportation impact fees would be paid in accordance with the impact fee ordinance, mitigating the project's increased demand for services. *Findings 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 24, 25, 41, 42, 46, 47, 58, and 59.*
5. No designated historic landmarks would be impacted by the proposed development. As conditioned, tree retention, removal, and replacement would be consistent with the requirements of the City's tree preservation ordinance. The record, including site-specific study, demonstrates that the proposed work within regulated habitat and floodplain along the Columbia River can be conducted in accordance with the protections required in the

City's critical areas ordinance and that the project would result in no net loss of ecological function or flood capacity. Site specific geotechnical investigation in areas of designated seismic hazard prior to construction would be ensured by conditions of approval. No sensitive areas or natural resources would be adversely impacted by the plan. *Findings 8, 9, 10, 23, 24, 40, 41, 43, 48, 58, and 59.*

6. The proposed development would be compatible with existing and planned surrounding development and natural areas. The proposed plan uses are consistent with the existing downtown uses. The plan would effectively extend the downtown core to the waterfront, connecting with the adjacent 21-block Vancouver Waterfront Development and the Waterfront Park project to the west and constituting redeveloped infill of the land to the east between those projects and I-5. The project would extend the Columbia River Renaissance Trail through the subject property and create vehicular and pedestrian connections to Esther Short Park and the existing downtown. Proposed waterfront portions of the plan would repair and extend the life of the existing pier and Terminal 1 building while improving riparian habitat along the shoreline and create an active, engaging area of retail and open space that would draw people to the waterfront where historically there has been no or very limited shoreline access. Overall, the project is pedestrian and bicycle friendly and would provide structured parking for all new uses consistent with the applicable zoning. *Findings 1, 2, 10, 11, 18, 23, 24, 37, 53, 54, 57, 58, and 59.*
7. All proposed land uses were included in the VCCV subarea plan, with impacts and mitigation in the FSEIS. As conditioned and because all construction would be required to comply with applicable regulations, no long-term off-site impacts from noise, lighting, erosion, traffic, or other sources are anticipated. *Findings 1, 6, 12, 13, 14, 15, 16, 18, 21, 22, 25, 41, 58, and 59.*
8. With regard to the request for a 20 year duration of concept development plan approval, VMC 20.260.090 authorizes the Applicant to implement the planned development under the zoning, development, and land use ordinances in effect at the time of the City's review in the planned development application. While VMC 20.260.040.C.1 requires all construction pursuant to an approved concept development plan to be completed within seven years, a 20 year duration for construction of a project of such scope is foreseeably necessary and should be approved. It is likely that the future contemplated development agreement would be intended to address this discrepancy and to vest the plan to the codes in effect at the time of its approval. *Findings 1, 2, 42, and 59.*

#### *B. Shoreline Conditional Use Permit*

1. The proposal would be consistent with the policy of the Shoreline Management Act, which is to "provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses." The SMA "contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto." *RCW 90.58.020.*



The SMA establishes a list of a preferred list of priorities with the adoption of a local shoreline master program:

- Recognize and protect the statewide interest over local interest;
- Preserve the natural character of the shoreline;
- Result in long term over short term benefit;
- Protect the resources and ecology of the shoreline;
- Increase public access to publicly owned areas of the shorelines;
- Increase recreational opportunities for the public in the shoreline;
- Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

*RCW 90.58.020.* The Applicant has demonstrated compliance with the intent and policies of the SMA. The project as a whole is designed to promote and enhance shoreline access and to activate an underused Columbia River shoreline while enhancing and protecting ecological functions, and retaining the historic Terminal 1 building. The proposed office/commercial uses would be provided together with increased recreation and public access opportunities within the shoreline, directly benefiting economic development. *Findings 1, 2, 3, 8, 9, 10, 11, 18, 37, 52, 53, 54, 56, 57, 58, and 59.*

2. The proposed office and retail uses would be incorporated into two upland mixed-use buildings built landward of the existing public access. Public access to the Columbia River shoreline would be enhanced through the provision of updated pedestrian amenities, rehabilitation of an existing dock for small boat moorage, and extension of the Columbia River Waterfront Renaissance Trail through the site. Inclusion of office/commercial uses upland of these enhanced shoreline amenities would not interfere with the public use of the shoreline. *Findings 2, 8, 9, 10, 18, 52, 53, 54, 56, 57, 58, and 59.*
3. The proposed non-water-oriented uses are allowed in the CX zone and planned for in the VCCV subarea plan and are therefore consistent with the SMP. The concept development plan is also compatible with adjacent land uses. *Findings 6, 7, 11, 12, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 57, 58, and 59.*
4. The proposed non-water-oriented uses within shoreline jurisdiction would have no significant adverse effect on the Urban High Intensity shoreline environment. The proposed non-water-oriented uses would be established in two buildings designed and constructed in accordance with all applicable City Code provisions. As demonstrated in the critical areas report, the project was designed to achieve no net loss in shoreline ecological function or flood storage capacity. *Findings 2, 8, 9, 22, 23, 24, 48, 49, 50, 51, 57, 58, and 59.*
5. The proposed non-water-oriented uses in the shoreline jurisdiction are a part of an overall plan that would extend the Columbia River Waterfront Renaissance Trail through the site, restore riparian habitat, rehabilitate a dock used for small boat moorage, and increase overwater public open space. The public amenities and shoreline access provided by the

overall project would exceed any potential adverse impact of the proposed non-water-oriented uses within the shoreline on the public interest. *Findings 2, 8, 9, 10, 17, 18, 19, 20, 21, 22, 23, 24, 57, 58, and 59.*

6. The property west of the subject property is permitted for a mixed-use waterfront development similar to the proposal. The Vancouver Waterfront development would also contain office uses. Cumulatively, as determined in the FSEIS, the two mixed use developments including office would not adversely impact shoreline ecological functions and values or public access to the shoreline. There are no further properties for additional office uses. Cumulative impacts were reviewed and addressed in the FSEIS. *Findings 8, 9, 10, 11, 12, 16, 23, 24, 41, 57, 58, and 59.*

### C. Shoreline Substantial Development Permit

1. The proposal's actions subject to substantial shoreline development permit approval, including redevelopment of the pier's concrete amphitheater into terraces, rehabilitating the existing small boat moorage, extension of the Columbia River Waterfront Renaissance Trail, construction of a pedestrian overlook feature at the end of proposed Access Way 5, accessory ADA surface parking and optional accessory structured parking, access roads, habitat restoration, and water-oriented commercial and residential uses, would be consistent with the purpose of the Shoreline Management Act as noted in conclusion B.1 above. As a whole, the concept development plan would increase recreation and public access opportunities within the shoreline, improve riparian shoreline function, and benefit economic development. *Findings 1, 2, 3, 8, 9, 10, 11, 18, 37, 52, 53, 54, 55, 56, 57, 58, and 59.*
2. The project would be consistent with WAC 173-27. The DOE regulations contained in WAC 173-27 address the procedures and permitting requirements applicable to the various types of shoreline permits. The instant proposal was reviewed under the criteria for approval for shoreline substantial development permits set forth in WAC 173-27-150. Additional regulations applicable to shoreline substantial development are as follows:

#### WAC 173-27-140 Review criteria for all development.

(1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.

(2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that would obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest would be served.

WAC 173-27-190 Permits for substantial development, conditional use, or variance.

(1) Each permit for a substantial development, conditional use or variance, issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

The requirement of WAC 173-27-140(1) is addressed through the SSDP review criteria; specific review for compliance with SMP provisions is in the following conclusion. The requirement of WAC 173-27-190 is addressed through a condition of approval. While proposed Blocks B and D would exceed the 35-foot height restriction of this provision, there are no abutting residential uses with views capable of being obstructed. *Findings 2, 11, 17, 18, 19, 20, 21, 22, 23, 24, 25, 32, 52, 53, 54, 55, 56, 57, and 59.*

3. The submitted materials demonstrate compliance with the following policies and regulations of the shoreline master program:
  - a) Section 3.2, Shorelines of Statewide Significance: The subject property is a shoreline developed and historically used for commercial purposes. The proposal is consistent with the SMP goal of providing opportunities for the public to enjoy the physical and aesthetic qualities of the state's shorelines while supporting economic development in a sustainable manner. Project actions would benefit the shoreline by removing existing structures and invasive species, and replanting with native vegetation, resulting in a net benefit to shoreline ecological function and improving the natural character of the shoreline. The extension of the Columbia River Waterfront Renaissance Trail, alterations to the existing pier structure to accommodate public uses, and maintaining the existing dock used for small boat moorage would enhance public shoreline access. The overall mixed-use plan would create local jobs and result in taxes. *Findings 8, 9, 23, 24, 57, 58, and 59.*
  - b) Section 5.1, General Shoreline Use and Development Regulations: The proposal includes features that meet the definitions of both water-oriented and water-dependent facilities and has priority for development within the shoreline jurisdiction. With the exception of the office use proposed within a mixed-use building, all project elements proposed in the Urban High Intensity shoreline environment are either water-enjoyment or water-oriented. The project has been designed to result in no net loss of habitat functions, and compensatory mitigation is not required; however, the proposal would remove existing structures along the shoreline and restore areas up and downstream of the existing pier. No shoreline stabilization measures are proposed or required. Project activities would not commence until permits have been issued. The proposed non-water-oriented use (office) would be included in a larger mixed-use building that would contain other water-oriented uses; it would not adversely impact

or displace other water-oriented uses. No single-family residential development is proposed, and no new uses would be located on navigable water. The pier is located outside the navigation channel and would not be expanded with this project. Public views would be enhanced through the creation of continual access along the shoreline with perpendicular connections to the shoreline from downtown. Contaminated soil removal/remediation would occur as appropriate with the development of individual blocks and supporting infrastructure, with any contaminated soils properly disposed of. In-water work would occur during the approved in-water work window established by the USACE and the Washington Department of Fish and Wildlife (WDFW). Removal of structures on the shoreline and restoration activities may occur outside the work window to coincide with low water levels and reduce the amount of in-water work required. The site is not used for commercial fishing. Construction would be conducted close to the river bank on existing structures; fishing activities on the river would not be affected. No new uses are proposed in bank margin habitat. The Columbia River does not have a channel migration zones as the channel is maintained in the current location by the USACE. The no net rise analysis in the record demonstrated the proposal would have no impact on flood elevations. Project activities, including shoreline restoration, pier rehabilitation, and alterations to the existing surface of the pier and integrated amphitheater, would occur in shallow water areas from 0 to -15 feet Columbia River Datum (CRD); however, no additional overwater coverage or impacts to aquatic habitat is proposed within these shallow water areas. *Findings 2, 8, 9, 10, 23, 24, 57, 58, and 59.*

- c) Section 5.2, Archaeological, Cultural and Historic Resources: The application materials demonstrate awareness of and ability to comply with the requirements of RCW Chapter 27.53 (Archaeological Sites and Resources), RCW 27.44.020 (Indian Graves and Records), Washington State Department of Archaeology and Historic Preservation (DAHP) regulations, and all applicable requirements of VMC 20.710 (Archaeological Resource Protection), including the submission of an archaeological predetermination report. The Applicant submitted a completed archaeological predetermination for the project site, which reported that no evidence of a pre-contact or historic-period archaeological site was observed during the pedestrian survey or during monitoring of geotechnical bore holes within the project area. The report recommended that (a) project-specific archaeological monitoring plan(s) should be developed when the nature and extent of specific ground-disturbing activities have been identified for the master plan or subsequent designs, to address when and where archaeological monitoring should occur as well as where monitoring is not needed during construction. Conditions of approval would require (a) project specific inadvertent discovery plan(s) to be developed and followed during ground disturbing activities, including provisions addressing the potential discovery of burials. *Findings 2, 39, 57, and 59.*
- d) Section 5.3, Critical Areas Protection: As proposed, the project would improve the natural condition of the shoreline and increase habitat values by enhancing and expanding riparian habitat. Appropriate avoidance, minimization, and restoration measures were addressed in the critical areas report and in the proposal. The

proposed shoreline activities were designed to achieve no net loss in shoreline ecological function, and no net rise in flood elevations, without compensatory mitigation; however, the project includes voluntary restoration activities up- and downstream of the existing pier. *Findings 2, 8, 9, 23, 24, 57, and 59.*

- e) Section 5.4, Public Access: The proposed shoreline activities would improve public access and recreational opportunities on-site, consistent with public access regulations established in the SMP through development of trails/paths, public open space/park, and maintenance of the existing floating dock for small boat moorage. Future wayfinding signs and appropriate design are proposed to indicate public access ways. No future actions are anticipated that would affect the public access provided at the site. *Findings 2, 18, 57, and 59.*
  
- f) Section 5.5, Restoration: While the project is not a shoreline restoration project, the design includes shoreline restoration activities that would result in exceeding the no net loss requirement for shoreline ecological functions on-site. *Findings 23, 24, 57, and 59.*
  
- g) Section 5.6.1, Site Planning and Development – General: Best management practices would be implemented during ground disturbing activities on the site in accordance with an approved erosion control plan, ensuring compliance with City and state regulations. All of the trees on-site would likely be removed to accommodate the proposed development, so the project would not create hazard trees. The proposal would not significantly alter the extent of impervious surfaces on-site. Approximately 15,000 square feet of riparian habitat enhancement would be provided around the existing dock. No existing transportation corridors would be impacted. New pedestrian connections between the shoreline and downtown would be provided in the Columbia River Waterfront Renaissance Trail, Daniels Way, a pedestrian alley east of Daniels Way, and the proposed street system. Pedestrian facilities would incorporate pathways, lighting, and signage. ADA parking is proposed within shoreline jurisdiction as an accessory use to the existing Terminal 1 building, consistent with SMP public access provisions. Presently, the project site is highly urbanized and does not provide habitat for wildlife other than for small terrestrial and avian species; the proposed activities would not impact wildlife movement. Modifications to the dock are expected to reduce the number of piles, reducing existing impacts to wildlife movement. Minimal grading is required for the buildout of proposed Access Way 5, Daniels Way, Pedestrian Alley, and the extension of the Columbia River Waterfront Renaissance Trail. Except for the Renaissance Trail, these facilities are designed to be perpendicular to the river to minimize the amount of grading proposed within shoreline jurisdiction. All non-water-dependent accessory structures or uses would be located landward from the OHWM of the river. The proposed ADA surface parking lot, as an accessory use to the Terminal 1 building, would be located landward of the primary use and set back approximately 50 feet from the OHWM. The continuation of the Renaissance Trail and the various open space/park elements are designed to enhance visual access to the water. There are no existing adjacent dissimilar uses or scenic areas that trigger visual buffering

requirements, and no sensitive areas that require elevated walkways. The proposed design standards address lighting, and all development in the shoreline jurisdiction would be subject to detailed site plan review including specific lighting plans. All utilities within shoreline jurisdiction are proposed within road rights-of-way except the relocation of the existing transformer serving the re-use of the Terminal 1 building, where separate meter service is required for power, and direct utility connections to buildings at Block B and Block D. These facilities would be underground. *Findings 2, 10, 11, 18, 23, 24, 37, 40, 41, 44, 46, 49, 57, and 59.*

- h) Section 5.6.2, Clearing, Grading, Fill and Excavation: Clearing, grading, fill, and excavation activities are designed to minimize erosion and sedimentation. In its present condition, the site is entirely composed of fill and does not contain any native vegetation. The site does not contain habitat that cannot be restored or replaced in 20 years. Grading not associated with a building foundation or street would obtain grading permits as required by the VMC. Implementation of appropriate BMPs would minimize adverse impacts to water quality and aquatic life. No grading, excavation or fill are proposed below the OHWM. The project would not interrupt existing on-site or adjacent natural surface water drainage patterns. Stormwater from proposed improvements be collected, treated as required, and disposed of through existing outfalls to Columbia River without impacting adjacent properties. No fill is anticipated to be placed within shoreline jurisdiction. Any earth or aggregate material used in the shoreline would be free of deleterious materials and subject to the Port's screening standards. *Findings 2, 9, 10, 23, 24, 48, 49, 57, and 59.*
- i) Section 5.6.3, Building Design: The concept development plan proposed specific urban design standards consistent with the City Center Waterfront design and development standards that include use of building materials that prevent significant reflected light. Determination of compliance with design requirements would be made at the detailed site plan review stage. Accessory uses, including parking, are proposed as far from the OHWM as feasible. *Findings 2, 18, 29, 30, 34, 36, 57, and 59.*
- j) Section 5.7, Vegetation Conservation: In its existing condition, site vegetation is limited to a narrow strip along the bank of the Columbia River, upland planter strips, and parking lot landscaping comprised of primarily non-native vegetation. The site's shorelands do not contain mature vegetation, multi-storied plant communities, or mature tree stands. Limited aquatic vegetation is present below the OHWM. A group of trees near the existing ramp to the amphitheater would be removed along with non-native vegetation in the area. All exposed bank would be replanted with native vegetation. Upland vegetation, including street trees, would be provided after consultation with the Urban Forester. *Findings 10, 23, 24, 34, 40, 43, 57, and 59.*
- k) Section 5.8, Views and Aesthetics: Currently there are no existing streets or utility rights-of-way that provide access to the shoreline, either visually or directly. The Port currently allows public access to the amphitheater and dock. The instant proposal is designed to enhance and preserve visual access to the shoreline from

various points within the upland and overwater portion of the proposed project. Pedestrian ways would be perpendicular to the shoreline, providing visual and physical access to the shoreline. The project includes overwater open space/parks which would provide significant visual access to the shoreline. No new structures over the water are proposed. The decking and concrete amphitheater of the existing pier structure would be modified to enhance public access, resulting in no change to the current views. Proposed modifications to the Terminal 1 building would not alter its height. Proposed Blocks B and D would exceed 35 feet in height; however, no existing residential uses abut the project site the proposal development would not obstruct views of existing residential development adjoining the shorelines. *Findings 1, 2, 10, 11, 18, 28, 32, 34, 35, 37, 47, 57, and 59.*

- l) Section 5.9, Water Quality and Quantity: During construction, the project could affect water quality by increasing turbidity and suspended sediment concentrations and, if present, sediment-conveyed contaminants; however, with through implementation of BMPs and compliance with required local and state stormwater control permits, no significant impacts are anticipated. Proposed BMPs include but are not limited to construction entrance wheel wash, soils stabilization through covering or seeding, inlet protection, silt fences, and sediment ponds. Potentially harmful materials associated with the normal operation of uses proposed within the shoreline could only enter adjacent the river in the form of stormwater runoff, and stormwater would be managed according to all state and local requirements. The use of any fertilizers or pesticides for the open spaces/parks and landscaping proposed within shoreline jurisdiction would be conducted by a qualified professional in accordance with City standards, manufacturer requirements, and federal and state laws. Proposed alterations to the existing pier structure would include installation of new steel piles and concrete decking, which as proposed would not affect water quality or aquatic plants and animals adversely. The stormwater system would be constructed consistent with the provisions of VMC 14.26. *Findings 2, 34, 37, 40, 43, 48, 49, 57, and 59.*
  
- m) Section 6.3.4, Commercial Uses: On Blocks B and D within shoreline jurisdiction, the plan includes construction of two upland mixed-use buildings featuring hospitality, retail, and office commercial uses. Of these, retail and hospitality uses are considered water-oriented commercial uses that are economically connected with the shoreline amenities provided by the project, rendering them “water-enjoyment.” The proposed office space in Blocks B and D is a non-water-oriented commercial use. Per provision 6.3.4(4) of the SMP, non-water-oriented uses are allowed if they are part of a mixed-use development, provided that the non-water-oriented use does not utilize more than 85% of a building’s frontage space. The project was designed to meet this standard. As designed, including restoration activities up- and downstream of the existing dock, the project would result in no net loss of shoreline or critical area functions, and in fact is expected to benefit shoreline habitat function due to the developed nature of the site. The required loading and service area for the proposed hospitality use at Block D would be located landward of the commercial use. The proposed ADA parking/loading area would be located north of and adjacent to the

eastern portion of the Columbia River Waterfront Renaissance Trail extension. This parking/loading area is necessary to serve the needs of the Terminal 1 building when Block B is developed. Without this area, parking and loading would be located a significant distance from the building and create a hardship for disabled visitors and those servicing the building and its uses. If underground parking is provided in Block B, the surface ADA parking would not be constructed and any Block B underground parking and loading would be required to meet shoreline setbacks. Office uses in Blocks B and D would not be considered water-oriented, but would be allowed as part of a master plan for mixed use development. Significant public shoreline access amenities along or over the Columbia River and shoreline restoration on the east and west ends of the proposed development area are consistent with the SMP and would compensate for any impacts of the non-water-enjoyment uses. Site area between the OHWM and Blocks B and D would be devoted to public access and open spaces, exceeding the standard of this policy. *Findings 2, 18, 23, 24, 29, 37, 44, 45, 57, and 59.*

- n) Section 6.3.9, Parking: Parking as a primary use is not proposed within shoreline jurisdiction. Parking as accessory use to the Terminal 1 building and Blocks B and D is addressed above. *Findings 29, 36, 44, 57, and 59.*
- o) Section 6.3.10, Recreational Uses: The proposal would extend the Columbia River Waterfront Renaissance Trail through the site, providing shoreline access for pedestrians and cyclists. Alterations to the pier deck and the amphitheater integrated in the existing pier structure would enhance public access with views of the river and direct access to the river for boats. Two pedestrian circulation routes (Daniels Way and Pedestrian Alley) would allow access to the shoreline from upland areas. The Port intends to allow public access to these facilities and the open space on the pier. All parking has been proposed as far from the shoreline as feasible. The existing pier is and must be located in the floodway by definition; maintenance, repair, and reconfiguration would occur in the floodway. No new recreational sites with active uses are proposed or required. Because the subject property is not adjacent to private properties or upland natural areas, no protective measures are proposed. The areas of the riverbank to be restored are not designated natural areas; the plantings would discourage trespass and shoreline impacts. Again, all fertilizers and pesticides within the shoreline would be applied in accordance with their manufacturers' guidelines and local and state regulations to prevent their surface runoff into the Columbia River. The extension of the Renaissance Trail would be located within already developed areas resulting in no net loss of shoreline ecological function. *Findings 2, 10, 11, 18, 23, 24, 37, 57, and 59.*
- p) Section 6.3.12, Signs: No signs are proposed except for modification of the existing rooftop sign. Proposed alterations are limited to changing the lettering and logo to reflect the current use; the size, height, and other physical dimensions of the sign would not be changed. Any future signs proposed within shoreline jurisdiction would be required to comply with the applicable sign regulations in Section 6.3.12 of the SMP and would require approval of a City sign permit. *Findings 26, 57, and 59.*



- q) Section 6.4.4, Shoreline Restoration and Enhancement: Proposed shoreline restoration activities would benefit the shoreline by removing existing structures and invasive species and replanting native species. These actions would improve riparian habitat for fish and wildlife species and would be completed in accordance with an approved site and landscape plan consistent with the SMP. Detailed landscape plans would be submitted during the site plan entitlement process. *Findings 10, 23, 24, 57, and 59.*
4. As noted in Conclusion B.6 above, property west of the subject property is permitted for a mixed-use waterfront development similar to the proposal. All improvements proposed under both projects were included in the total waterfront development contemplated in the Vancouver City Center Vision subarea planning process and the associated environmental impact statement (FSEIS). Cumulatively, as determined in the FSEIS, the two mixed use developments would not adversely impact shoreline ecological functions and values or harm public access to the shoreline. There are no further properties for additional office uses. While future similar projects redeveloping other shoreline in Vancouver are unlikely in the immediate vicinity, the cumulative impacts of such proposals, if designed and conditioned consistent with the instant project and subject to all local, state, and federal requirements, would be a net benefit to the shoreline. *Findings 2, 12, 13, 14, 18, 23, 24, 57, and 59.*
5. The proposal's compliance with all other applicable requirements, criteria, and standards of the City is addressed in Conclusion A above. Compliance with each component of the project with all applicable elements of the Vancouver Municipal Code would be assured at the time of site plan entitlement prior to any ground disturbing activity. *Findings 1, 2, 3, 4, 5, 6, 7, 8, 12, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 57, and 59.*

### **RECOMMENDATIONS**

Based on the foregoing findings and conclusions, the Hearing Examiner recommends to the Vancouver City Council that the requested concept development plan/master plan and shoreline substantial development permit should be **APPROVED**, and that that City Council forward the requested shoreline conditional use permit to the Washington State Department of Ecology for approval, subject to the following conditions:

#### **Prior to Site Plan Approval for each building**

1. Submit all necessary documentation and development plans for site plan review and approval
2. Provide the City with an updated transportation compliance letter that reflects the proposed use and trip generation at the time of site plan application for each building.

**Prior to Civil Plan Approval for each phase**

3. Submit for civil plan review with ten (10) new sets of checkprints showing all the revisions requested, two (2) sets of all necessary reports (geotechnical, hydrology, traffic analysis, road modification, etc.), and any redlined documents that were returned during the preliminary review process. Submit these to the Community & Economic Development Department Permit Center; request engineering staff for counter assistance. For questions on these requirements please contact 360-487-7804.

Please note: Grading plan review fees will be due upon submittal of civil plans for review. Contact Permit Center staff at 360-487-7802 to obtain a fee quote.

4. Add the following notes to any grading plans that are submitted for development on the site:
  - On-site archaeological monitoring shall be performed during construction excavations in accordance with the Archaeological Monitoring Plan and Inadvertent Discovery Plan dated April 6, 2017.
  - Construction activities shall be halted in the vicinity if potentially significant archaeological deposits or features are encountered, or if human remains (or potential human remains), funerary items or sacred objects are encountered. Construction work shall not resume until the consulting parties agree on a course of action.
  - If human remains are suspected, the archaeological monitor, or Port project manager, or Port representative, shall contact the Clark County Medical Examiner; other agency contacts may be needed. All work must stop in the area where human remains are found or are suspected; work may continue after all consultation regarding the human remains has been completed and required steps have been done.
  - A summary report shall be prepared detailing the activities that were monitored, and describing any resources or inadvertent discoveries and steps taken as a result of a discovery, as outlined in the monitoring plan. Copies of the monitoring report shall be provided to the City, DAHP, Tribes and other appropriate parties.
5. Street lighting is required on public streets per VMC 11.80.090. The applicant will need to ensure the street lighting for the site meets the requirements of city standard plan T21-01A and B. Any substandard street lighting shall be required to be upgraded to current city standards as part of this project.
6. No direct driveway access shall be allowed on Columbia Street, an Arterial per VMC 11.80.110(A), unless no other access to the site is available. All driveway access shall be taken from the proposed streets within the development.
7. Termination points of sidewalks shall have a temporary asphalt pedestrian ramp per city standard plan T02-10, for transition to the street pavement.
8. Pedestrian circulation shall be addressed by providing Trail connections between the existing Renaissance Trail and the proposed Waterfront Park Trail currently under construction.

9. As a part of future site plan approvals within the CDP, the applicant will be required to make changes to the project frontage along Columbia Street to accommodate the proposed cycle track. These changes are likely to include widening the existing sidewalk along Columbia Street to accommodate an approximately 10-foot wide, two-way cycle track.
10. Fire apparatus access roads (Fire Lanes) will need to be demonstrated on a site plan which includes minimum widths, marking, turning radius, dead-ends, aerial fire apparatus access roads and fire hose access to the exterior of all buildings within 150 feet of the fire apparatus access road. Two separate fire apparatus access roads will be required from two different directions.
11. Mains and fire hydrants shall be shown with minimum fire flow provided as required by 2015 International Fire Code Appendix B, B105.2 and Table B105.1. A fire hydrant will be required to be located no farther than 150 feet from the Fire Department Connection for the buildings fire sprinkler system, along an approved route along a fire apparatus access road.
12. Underground fire sprinkler supply mains and connections shall be installed only by contractors in compliance with WAC 212-80 and endorsed in accordance with VMC 16.04.095 under separate permit. Add a note confirming compliance with this requirement to the utility plans.
13. Fire lane parking restriction signage location(s) and details shall be shown on the civil plans.

**Prior to Final Site Plan Approval for each phase**

14. Submit a final site plan application along with two (2) full size site plan sets and one reduced 8 ½ x 11 copy. Site plan sets include the following: site plans, landscape/tree plan, grading/tree protection/erosion control plan, lighting plan, and architectural elevations. Applications can be found under Building, Planning and Environment on the city of Vancouver website, [www.cityofvancouver.us](http://www.cityofvancouver.us).
15. Show all easements on the final site plan.
16. All proposed tree species and placement must be reviewed and approved by the City's Urban Forester.
17. Include the following note on development plans:  

Trees and Shrubs in Sight Distance Triangles: All shrubs within sight distance triangles shall be maintained so the foliage height above pavement does not exceed 2.5 feet. Street trees within sight distance triangles shall be limbed up to a height of 10 feet consistent with ANSI A300 standards to provide for sight distance visibility.

**Prior to Issuance of Building Permits for each phase**

- 18. All required fee including transportation, school and park impact fees, as applicable, shall be paid.
- 19. If residential units are proposed, a Washington licensed professional engineer or registered architect, knowledgeable in acoustical engineering or design, shall provide written certification that the building plans are adequate to reduce interior noise levels to 45 Ldn or less.
- 20. If residential units are proposed, the applicant shall sign and record a disclosure statement in a form provided by the city consistent with City’s Noise Impact Overlay District. Such statement shall clearly document that the premises may be adversely affected by noise. The statement shall also reference any Noise Impact Reduction Plan applicable to the property, and the applicant shall agree to provide a copy of this statement to all prospective purchasers or tenants of the property who intend to occupy the structure as a dwelling. A signed copy of such statement and proof it has been recorded with the County Auditor must be presented to the planning official prior to issuance of any such permit.

**Prior to combustible construction**

- 21. Fire hydrants for emergency use shall be installed, approved and maintained.
- 22. Fire apparatus access shall be provided and maintained.

**During construction**

- 23. Temporary address signage shall be visible and legible from the street fronting the property for emergency response during construction.
- 24. A fire sprinkler system and fire alarm system compliant with NFPA and 2015 International Fire Code shall be installed prior to occupancy.
- 25. Fire stand pipes shall be installed prior to construction reaching 40 feet in height and shall be extended with each additional floor.

**Prior to Issuance of Certificate of Occupancy**

- 26. All fire protection features identified during construction plan review and/or fire inspection shall be installed and approved under appropriate permits.
- 27. A Knox-Box shall be installed at an approved location to provide emergency access to the fire protection features and for general emergency access through the structure. The Knox-Box shall be sized to accommodate a minimum of four sets of keys, codes, cards and/or fobs.

**Prior to revisions to the existing rooftop sign**

- 28. The existing rooftop sign may be modified, irrespective of the specific prohibition of rooftop signs in VMC 20.960 Signs, to change the existing logo and type and address any structural items that are necessary for safety and the structural integrity of the sign and to

maintain compliance with the adopted building code. Prior to undertaking any modification, the applicant will obtain a sign permit per the provisions of VMC 20.960.

Issued May 23, 2017.

By:

A handwritten signature in blue ink, appearing to read "Sharon A. Rice", written over a horizontal line.

Sharon A. Rice  
City of Vancouver Hearing Examiner