

Lewis County Community Development Staff Report: Findings, Conclusions and Recommendations for: Shoreline Substantial Development Permit and Shoreline Conditional Use Permit (SHD20-0002)

Project Applicant: Washington State Parks and Recreation Commission (Chelsea Hamer)

Project Description: This proposed project will remove the existing at-grade trail crossing of the Willapa Hills Trail across State Route 6 (SR-6) and will replace it with an ADA-accessible, S-shaped, three-span weathering steel truss overpass with a concrete deck and 10-foot-wide trail surface. The objective of this project is to separate pedestrians, bicyclists, and equestrian trail users from vehicular traffic. The existing at-grade crosswalk across SR-6 is dangerous due to a bend of the road with limited sight distance at the current crossing. The intent of the proposal is to provide a safer crossing for both trail users and motorists. The project as proposed requires approvals of Shoreline Substantial Development and Shoreline Conditional Use Permits.

Project Location: The project is located at the intersection of State Route 6 (SR 6) and Stearns Road approximately five miles west of Chehalis, Washington where the Willapa Hills Trail crosses SR 6. The project will occur within State Parks owned property and the existing County-owned right-of-way along SR 6 in Lewis County, WA – Section 03, Township 13N, Range 03W, WM. Shoreline application file number SHD20-0002.

Project Parcel Number: 018758002000

Shoreline Stream: Mill Creek, a tributary to the Chehalis River

Shoreline Environment: Rural Conservancy

Comprehensive Plan Designation: Resource Lands

Zoning Classification: Agricultural Resource Lands (ARL)

Background Information:

The application packet and underlying permits were submitted on June 4, 2020 and June 8, 2020, and the applicant submitted the burden of proof statement on August 7, 2020. The application packet and underlying permits including the JARPA, application Burden of Proof Statement, site plan 11 x 17 (11 pages), SEPA documentation, wetland report, geotechnical engineering report, floodplain engineering memo, flood development permit, MSR application, building permit application, Building Plans (74 pages) and grading permit application. (Staff Exhibit 1 –

<https://lewiscountywa.gov/departments/community-development/current-planning-applications/willapa-trail-bridge-crossing/> located under the Subheading "Application Documents" for a total of twelve document files on the webpage). The application packet was determine complete on August 17, 2020 for the purpose of beginning the internal review (Staff Exhibit 2).

A Master Site Review (MSR20-0351) for critical areas and resource lands was approved on September 14, 2020 (Staff Exhibit 3). The following **Condition of Approval** should be included on the shoreline permit:

- The applicant/ property owner shall comply with the conditions of development identified in the Master Site Review file number MSR20-0351 issued on September 14, 2020 (Staff Exhibit 3). If there is a conflict between and the MSR conditions of approval and another permit's conditions of approval, the more restrictive conditions of approval shall apply.

Washington State Parks & Recreation Commission (State Parks) is SEPA Lead Agency for this proposal. A Mitigated Determination of Non-Significance (MDNS) was issued for the project on January 8, 2020 providing a comment period until January 24, 2020. (Staff Exhibit 1 – SEPA Determination). No appeals were filed, the threshold determination was retained, and the SEPA review process is complete for this project.

The proposed project was reviewed under the Lewis County 2017 Shoreline Master Program (SMP) and other applicable Lewis County Codes (LCC) in effect at the time of complete application. The Shoreline Notice of Application was published on December 29, 2020 providing a 30-day comment period (Staff Exhibit 4), and the Shoreline Notice of Public Hearing was published on February 2, 2021 meeting the minimum 15-day noticing requirements (Staff Exhibit 5). The application requirements, notice requirements and hearing notice requirements of Chapter 7 of the SMP have been met. The applicable provisions of the SMP and staff's findings for compliance with the provisions are listed below.

2017 Lewis County Shoreline Master Program Findings:

SMP Chapter 1:

Applicability: The project is located within the Shoreline Jurisdiction of Mill Creek and/or its associated wetlands. Mill Creek is a Type F (Fish) Water within the shoreline jurisdiction and a tributary to the Chehalis River. The SMP applies to the project and as proposed, the project is required to meet the regulations of shoreline substantial development and shoreline conditional use.

Shoreline Jurisdiction: Yes, Rural Conservancy Environment

Shoreline of Statewide Significance: No, Mill Creek is not listed as Shoreline of Statewide Significance.

SMP Chapter 3:
Shoreline Environment Designations:

Rural Conservancy Management Policies:

1. Uses in the Rural Conservancy shoreline environment designation should include those that sustain the shoreline area's physical and biological resources and do not substantially degrade ecological functions or the rural or natural character of the shoreline area.
2. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating and water access facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated.
3. Agriculture, aquaculture, forest practices, and low-intensity residential development when consistent with provisions of the SMP are preferred uses.
4. Low-intensity, water-oriented commercial and industrial uses are limited to areas where those uses have located in the past or at sites that possess conditions and services to support the development.
5. Mining and related uses may be appropriate within the rural conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-241(3)(h) and when located consistent with mineral resource lands designation criteria in accordance with RCW 36.70A.170 and WAC 365-190-070.
6. Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.
7. Construction of new structural shoreline stabilization and flood control works should be allowed when the documented need exists to protect an existing primary structure or ecological functions. Mitigation may be necessary for such construction. New development should be designed and located to preclude the need for such work. Shoreline stabilization measures shall infringe on private property rights to the minimum extent necessary.
8. Proposed residential development should be designed to ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline.

Staff Response: The proposed trail crossing bridge over SR 6 is located within the Rural Conservancy Environment and within the 150-foot buffer of Mill Creek, a Type F water, but is not located within the 150-foot shoreline buffer of the Chehalis River.

The Willapa Hills Trail is a 56-mile-long trail that follows a former rail corridor and serves as an Americans with Disabilities Act (ADA) accessible, multi-use trail for pedestrians, bicyclists, and equestrian trail users. Originally acquired by State

Parks from the Burlington Northern Railroad in 1993, the trail is aligned east/west between Chehalis in Lewis County and South Bend in Pacific County. State Parks is proposing to construct an overpass (bridge) within the Willapa Hills Trail right-of-way where the trail crosses State Route 6 (SR 6) at the intersection with Stearns Road to improve public safety.

The project will include clearing, grading and tree removal to tie the existing trail to the proposed bridge. The application burden of proof statement (Staff Exhibit 1 – Application Burden of Proof Statement) indicates all vegetation clearing will occur in the trail right-of-way and include replanting with native plant species. Although the multi-use trail does not access the water directly, one of its functions is a water-enjoyment recreation facility as a wildlife viewing trail. As proposed and further conditioned in this report, the proposal would not substantially degrade ecological functions of the shoreline. As conditioned in this report, the project is consistent with these policies.

SMP Chapter 4: **General Regulations:**

SMP 4.02 Archaeological and Historic Resources:

Regulations:

- A. Permits issued in areas documented to contain archaeological resources shall require a site inspection or evaluation by a professional archaeologist in coordination with affected tribes and DAHP prior to any ground disturbance. Failure to complete a site survey shall be considered a violation of the shoreline permit.
- B. Where a professional archaeologist has identified an area or site as having significant value, or where an area or site is listed in local, State, or Federal historical registers, the Shoreline Administrator may condition the development approval to preserve the features. Potential conditions may include measures to preserve or retrieve the resources, modify the site development plan to reduce impacts, or mitigate the impacts as authorized through the State Environmental Policy Act (SEPA), or other County, State, or Federal laws.
- C. The applicant shall stop work immediately and contact the County, the DAHP, and affected tribes if any archaeological resources are uncovered during work within shoreline jurisdiction.

Staff Response: There are no known or mapped archaeological or historic sites within or near the project area. The SEPA Checklist indicates the trail corridor, formerly the Chehalis to South Bend Branch of the Northern Pacific Railroad, was systematically surveyed and recorded in the Washington State Department of Archaeology and Historic Preservation (DAHP) database under DAHP Log Number 2016-02-01013 and the rail grade (the current trail surface) was determined to be ineligible for listing and no archaeological sites were found (Staff Exhibit 1 – SEPA

Documents). During the Notice of Application the project documents were submitted to DAHP and the potentially affected tribes on December 23, 2020 (Staff Exhibit 4) for a 30-day comment period. The Cowlitz Indian Tribe submitted comments (Staff Exhibit 6) stating:

“Given that the above-referenced project is within the Cowlitz Tribe's area of concern, the Cultural Resources Program (CRP) of the Cowlitz Indian Tribe would like to state its interest. The Cowlitz Indian Tribe recommends an Inadvertent Discovery Plan be attached to the permit; we have included language for your consideration. In addition, we recommend Consultation with additional interested Tribes.”

No comments, concerns or recommended conditions were submitted from DAHP or the other potentially affected Tribes. As conditioned below these criteria have been met. The following **Conditions of Approval** shall be listed on the shoreline permit:

- In the event any archaeological or historic materials are encountered during project activity, work in the immediate area (initially allowing for a 100 foot buffer) must stop and the following actions taken: 1) Implement reasonable measures to protect the discovery site, including any appropriate stabilization or covering; 2) Take reasonable steps to ensure the confidentiality of the discovery site; and 3) Take reasonable steps to restrict access to the site of discovery.
- The project proponents will notify the concerned Tribes and all appropriate county, state, and federal agencies, including the Department of Archaeology and Historic Preservation (DAHP). The agencies and Tribe(s) will discuss possible measures to remove or avoid cultural materials, and will reach an agreement with the project proponent regarding actions to be taken and disposition of material.
- If human remains are uncovered, appropriate law enforcement agencies shall be notified first, and the above steps will be followed. If the remains are determined to be Native, consultation with the affected Tribes will take place in order to mitigate the final disposition of said remains.

SMP 4.03 Environmental Impacts and Mitigation:

Regulations:

- A. The environmental impacts of development proposals shall be analyzed and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the SMP and other applicable regulations.
- B. Mitigation measures shall be considered and applied in the following sequence of steps, listed in order of priority:
 - 1. Avoiding the impact altogether by not taking a certain action or parts of an action;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 4. Reducing or eliminating the impact over time by preservation and maintenance operations;
 5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
- C. In determining appropriate mitigation measures applicable to development in shoreline jurisdiction, lower priority measures should be applied only where higher priority measures are determined to be infeasible or inapplicable.
- D. Mitigation shall not be required that exceeds what is necessary to assure the development will result in no net loss of ecological functions in shoreline jurisdiction.
- E. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation measures that have been identified within a watershed plan, and address limiting factors or other critical resource conservation needs in the shoreline jurisdiction may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

Staff Response: The project is located within the shoreline jurisdiction and within the 150-foot buffer of Mill Creek, a Type F Stream and tributary to the Chehalis River. Mill Creek is located north of SR 6 and is ditched and bermed in this area and outflows through a culvert under Stearns Road. According to the SEPA documents and the Wetland and Stream Delineation Report, Mill Creek within the project location lacks stream characteristics such as streambed gravels, wracking, or changes in vegetation and has been converted to vegetated wetland habitat (Staff Exhibit 1 – SEPA documents and Wetland and Stream Delineation Report). The project site is located approximately 1,300 feet from the Chehalis River and outside of its shoreline buffer.

The project is designed to minimize the wetland buffer and stream buffer impacts (Staff Exhibit 1 – Application Burden of Proof Statement and Wetland and Stream Delineation Report). Minimization includes limiting wetland buffer vegetation clearing to areas of invasive and non-native Himalayan blackberry and limiting the clearing to within the existing disturbed trail right-of-way. Wetland buffer impacts and cleared areas will be replanted with native species, except on the trail surface.

Project design will include two-years of irrigation for installed plants and wetland buffer plantings. As conditioned in this report these criteria have been met.

SMP 4.04 Critical Areas and Shoreline Vegetation Conservation:

SMP 4.04.02 Regulations:

A. Critical Areas Ordinance Adopted and Modified.

1. Whether or not a shoreline permit or written statement of exemption is required, the provisions of this section shall apply to all uses, alterations, or developments within shoreline jurisdiction or shoreline buffers. All shoreline uses and activities shall be located, designed, constructed, and managed to protect the ecological functions and ecosystem wide processes provided by critical areas and shoreline vegetation.
2. The Critical Areas Regulations in effect on the 16th day of October, 2017, which are contained in the Lewis County Critical Areas Ordinance (CAO), LCC Chapters 17.35 and 17.35A, and include LCC 15.35 (Flood Damage Prevention) by reference, are integral and applicable to the SMP, and are hereby adopted by reference. All uses and development occurring within critical areas or their buffers within shoreline jurisdiction shall comply with these regulations except as modified in SMP Section 4.04.02(A)(5) below.
4. If there are any conflicts or unclear distinctions between the provisions in LCC Chapters 17.35 and 17.35A, and this section, the requirements most consistent with the SMA shall apply, as determined by the Shoreline Administrator.
5. To ensure consistency with the SMA, exceptions to the applicability of the regulations in LCC Chapter 17.35 and 17.35A in shoreline jurisdiction are listed below:
 - h. LCC 17.35A.600 – Allowable activities in wetlands and buffers. In shoreline jurisdiction, the uses outlined in LCC 17.35A.600(1)(a) through (1)(c) and LCC 17.35A.600(1)(e) through (1)(g) shall be limited to the outer 25% of Category III and IV wetland buffers, unless there is no other feasible option. These activities are prohibited in the buffer for Category I wetlands, and prohibited in the buffer for Category II wetlands unless there is no other feasible option. In such cases, activities shall be limited to the outer 25% of the Category II wetland buffer.
 - p. LCC 17.35A.690 – Mitigating conditions. In shoreline jurisdiction, on-site mitigation activities (LCC 17.35A.690(3)) may include, but are not limited to, planting native vegetation, installing low impact development (LID) facilities such as rain gardens to mitigate stormwater impacts, installing large woody debris, and removing bulkheads or other hard shoreline stabilization structures. Mitigation projects involving instream work such as the installation of large woody debris shall be designed to ensure there are no adverse effects to upstream or downstream properties. Off-site mitigation (LCC 17.35A.690(4)) shall occur in a similar habitat type as the project impact and in a location that will provide the greatest

ecological benefit to affected species or habitats and have the greatest likelihood of success.

6. The provisions of the County's critical areas regulations do not extend shoreline jurisdiction beyond the limits specified in SMP Section 1.06.01.

Staff Response: The applicant submitted the burden of proof statement, wetland report, floodplain engineering memo and geotechnical engineering report (Staff Exhibit 1) as evidence the proposed project is located and designed to protect the ecological functions and ecosystem wide processes provided by critical area and shoreline vegetation.

The SMP specifically amends the list of allowable uses in wetlands and buffers listed under LCC 17.35A.600 as noted in SMP 4.04.02(A)(5)(h) above. LCC 17.35A.600 lists eight uses that are allowed with mitigation requirements and an additional two uses that are allowed without any mitigation requirements. SMP 4.04.02(A)(5)(h) modifies six of the eight uses by changing where the uses are allowed within the wetland buffer depending on the wetland category. In the proposed project the impacts are related to Category II (Wetland A) and Category III (Wetland B) wetlands as discussed further in this report.

The proposed project includes the removal of an existing ground level road crossing of an existing recreational trail at SR 6, the construction of a new overhead pedestrian bridge crossing of SR 6 and preservation and enhancement of the project area vegetation. From the list of allowable uses in the wetlands identified in LCC 17.35A.600, this project could be considered (1)(b): public and private roadways and railroad facilities, including bridge construction and culvert installation; (1)(d): maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modifications of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions; and (1)(h): conservation, preservation or enhancement projects that protect functions and values of the critical area systems, including activities and mitigation, are allowed pursuant to the mitigation priorities identified in LCC 17.35A.030(4).

Of these three use types, only (1)(b) is modified by this SMP provision to be limited to the outer 25% of Category III and IV wetland buffers, unless there is no other feasible option. These activities are prohibited in the buffer for Category I wetlands, and prohibited in the buffer for Category II wetlands unless there is no other feasible option. In such cases, activities shall be limited to the outer 25% of the Category II wetland buffer. A portion of the west side pedestrian bridge approach is located in the outer 25% of the Category II wetland buffer, and there is no other feasible option as the bridge approach is required in that location to link the existing trail system with the S-curved pedestrian bridge spans to accommodate the 5% grade to meet the ADA accessibility requirements.

The applicant has provided a no-net loss report for ecological functions (Staff Exhibit 1 – Wetland and Stream Delineation Report). As proposed and further conditioned in this report, the project meets these regulations.

B. Shoreline Buffers.

1. The required critical area buffers for Type S streams, as established in LCC 17.35A.680 and modified by SMP Table 4-1: Shoreline Buffers, shall be considered shoreline buffers.
3. The buffers for all other critical areas shall be established in accordance with the standards of LCC Chapters 17.35 or 17.35A, except as modified by SMP Section 4.04.02(A).
4. New uses and development that are not water-dependent, water-related, or water-enjoyment, accessory to water-dependent, water-related, or water-enjoyment uses or development, or that do not facilitate public access to waters of the State generally will not be authorized in shoreline buffers. Some uses or developments not meeting the criteria above may be authorized through buffer averaging or through issuance of a shoreline variance.
5. SMP Table 4-1: Shoreline Buffers establishes shoreline buffers by shoreline environment designation.
9. Building setbacks of 15 feet are required from the landward edge of the shoreline buffer in accordance with LCC 17.35A.574(4). Building setbacks are used to protect the shoreline buffer from disturbance during construction and from the impacts related to use of a structure. Where no shoreline buffer is required in Table 4-1, no building setback shall be required.

Staff Response: The project area is not located within a shoreline buffer, but is located within the buffer of Wetland A and Wetland B, which are located within the relict channel of Mill Creek. According to the Wetland and Stream Delineation Report (Staff Exhibit 1 – Wetland and Stream Delineation Report) Wetland A is classified as a Category II Wetland with a 100 foot buffer and Wetland B is classified as a Category IV Wetland with a 50 foot buffer.

The project will require work adjacent to the two delineated wetlands. The wetlands will not be impacted by the project, but the buffers to each of the wetlands will be impacted. The impacted area will be under the fill area of the trail approach to the bridge crossing. The location of Wetland A & B and their buffers are shown on Figure 2 of Appendix C in the Wetland and Stream Delineation Report in Staff Exhibit 1. The mitigation will include replanting along the new trail embankment slopes and in the flat areas outside of the trail surface and is located in the outer 25% of the wetland buffer. The fill required for the trail prism and abutments within buffers of Wetland A & B is approximately 8,000 cubic yards of fill which will be finished with topsoil and native vegetation plantings following construction. The amount of impervious surface of the compacted trail within the

buffers for Wetland A & B will increase from 3,666 square feet to 3,720 square feet for a net increase of 54 square feet. Due to the increase of slopes of the trail prism/ abutment, the vegetated area within the wetland buffers will increase from 9,393 square feet to 9,745 square feet for a net increase of 352 square feet (Staff Exhibit 1 – JARPA and Building Plans document pages 67-69). The modification of the existing recreational trail will result in a wetland buffer impact of 54 square feet and a net increase of vegetated area within the buffer of 352 square feet.

As conditioned below and within in this report, these criteria have been met. The following **Conditions of Approval** shall be listed on the shoreline permit:

- The applicant shall complete the planting mitigation as shown in the planting plan on pages 67-69 of the Building Plans document (Staff Exhibit 1) prior to final approval of the building permit for the bridge (B20-00347) and final approval of the grading permit (G20-00013).
- The disturbance of the wetland buffer is limited to the outer 25% of the wetland buffer.

C. Buffer Width Reduction Options.

4. Interrupted Buffer Provisions:

- a. The Shoreline Administrator may allow a reduced buffer where a legally established substantial improvement such as a road, railroad, or structure serves to eliminate or greatly reduce the impact of the proposed activity upon a wetland or shoreline buffer.
- b. Where such a substantial improvement exists, the buffer may be reduced to the waterward edge of the existing substantial improvement.
- c. If a project has the potential to impact the functions of a shoreline or wetland, or its buffer, even though such an improvement exists, the Shoreline Administrator shall require the applicant to submit a critical area report to ensure that no-net loss of shoreline ecological functions will occur.
- d. As used within this section only, substantial improvements shall include developed public infrastructure such as roads and railroads, and private improvements such as homes or commercial structures. Substantial improvements shall not include sidewalks, private driveways, parking areas, or accessory buildings that do not require a building permit.

Staff Response: The project area is located on a converted railroad bed at the intersection of two public roads/highways (Stearns Road and SR 6). The former railroad bed (Willapa Hills Trail), Stearns Road and SR 6 all qualify as legally established substantial improvements that qualify for wetland buffer reduction. The 100-foot buffer on Wetland A would terminate at the northern edge former

railroad bed (Willapa Hills Trail) and the 50-foot buffer on Wetland B would terminate at the western edge of Stearns Road and the northwesterly edge of SR 6. The applicant has provided a no-net loss report through the Wetland and Stream Delineation Report in Staff Exhibit 1.

The mitigation will include replanting along the new trail embankment slopes and in the flat areas outside of the trail surface and is located in the outer 25% of the wetland buffer. The fill required for the trail prism and abutments within buffers of Wetland A & B is approximately 8,000 cubic yards of fill which will be finished with topsoil and native vegetation plantings following construction. The amount of impervious surface of the compacted trail within the buffers for Wetland A & B will increase from 3,666 square feet to 3,720 square feet for a net increase of 54 square feet. Due to the increase of slopes of the trail prism/ abutment, the vegetated area within the wetland buffers will increase from 9,393 square feet to 9,745 square feet for a net increase of 352 square feet. The modification of the existing recreational trail will result in a wetland buffer impact of 54 square feet and a net increase of vegetated area within the buffer of 352 square feet. The existing conditions and demolition plan pages 3 – 5 of the Building Plans, the overall site plan page 18 of the Building Plans, the planting plan pages 67 – 69 of the Building Plans and Figure 2 of Appendix C of the Wetland and Stream Delineation Report in Staff Exhibit 1 have been extracted into Staff Exhibit 7 for ease of use to identify the areas of existing and proposed development within the wetland buffers. As conditioned in this staff report these criteria have been met.

D. General Buffer Regulations.

2. Critical Area Buffers:

The uses and activities allowed within critical areas buffers in LCC Chapter 17.35A, including the uses permitted in wetland buffers per LCC 17.35A.600 as modified in 4.04.02(A)(5)(h), and riparian buffers for waters that are not Shorelines of the State per LCC 17.35A.670, may be allowed without a shoreline variance, when located, constructed, and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and in compliance with the SMP.

Staff Response: The proposed use is listed in LCC 17.35A.600 as a use permitted in wetland buffers and was reviewed under SMP 4.04.02(A). The proposed project does not require a Shoreline Variance. As proposed, the project meets these criteria.

E. Vegetation Conservation Standards.

1. Shoreline buffers protect the ecological functions of the shoreline, help to reduce the impacts of land uses on the water body or aquatic resource, and provide a transition between aquatic and upland areas.
2. Authorized uses shall be designed to avoid removing existing native vegetation to the maximum extent feasible within shoreline and critical areas buffers

consistent with safe construction practices, and other provisions of this section. Any impacts to existing native vegetation must follow the mitigation sequence in SMP Section 4.03 above and comply with any applicable critical area regulations, as modified in SMP Section 4.04.02(A) above.

3. Removal of vegetation within shoreline and critical area buffers shall require a critical area report and/or a mitigation plan in coordination with the requirements of the applicable critical area regulations. The Shoreline Administrator may require a critical area report for CAO-exempt activities if necessary to document compliance with the provisions in the SMP.
4. Removal of native vegetation from shoreline buffers must be compensated at a minimum 1:1 ratio, which the Shoreline Administrator may increase if necessary to assure no net loss of shoreline ecological functions. Increases may be necessary to compensate for temporal losses, uncertainty of performance, and differences in ecological functions and values.
7. Clearing of invasive, noxious non-native vegetation in shoreline buffers is allowed by hand labor or with light equipment. Removal of noxious weeds as listed by the State in Chapter 16-750 WAC is allowed in a manner consistent with State Noxious Weed Control Board regulations. Native vegetation shall be promptly reestablished in the disturbed area.

Staff Response: The Wetland and Stream Delineation Report in Staff Exhibit 1 was provided to demonstrate compliance with the requirements of no-net loss of ecological functions in the shoreline and critical areas. The project is not located within a shoreline buffer. Native vegetation will be removed in the project area and was reviewed above in SMP 4.03 and SMP 4.04. As conditioned in this report, these criteria have been met.

F. Revegetation.

1. Surfaces that are cleared of vegetation in shoreline or critical area buffers, aside from normal maintenance described in SMP Section 4.04.02(E)(6), and are not developed must be replanted within one year. Replanted areas shall be planted and maintained such that within three years the vegetation cover is at least 90% reestablished.
2. Vegetation shall be planted in similar quantities and species to what existed previously on the site to achieve no net loss of ecological function. Disturbed ornamental landscapes, including grass, may be replaced with similar species, unless mitigation is necessary to address project impacts.
3. Native plants are preferred for all revegetation. Non-native species on the County's list of invasive species shall not be allowed.

Staff Response: The planting plan on pages 67 – 69 of the Building Plans (Staff Exhibit 1) is provided to ensure the use of native plants for the revegetation of all disturbed areas. It also indicates all plantings will receive a minimum of two years establishment irrigation. As conditioned below and within in this report, these

criteria have been met. The following **Conditions of Approval** shall be listed on the shoreline permit:

- Replanted areas shall be planted and maintained such that within three years the vegetation cover is at least 90% reestablished.

SMP 4.05 Flood Hazard Management:

Regulations:

- A. All proposed flood hazard management measures shall comply with the County's Comprehensive Flood Hazard Management Plan.
- B. Development in floodplains shall not increase flood hazards.
- C. No development is allowed within the SMP flood course or floodway in shoreline jurisdiction, unless a hydraulics and hydrology study (H & H Study) shows that it is:
 1. Not in the SMP flood course or floodway; or
 2. will not impact the pre-project base flood elevation, floodway elevations, or floodway data widths.
- D. Within the CMZ, SMP flood course or floodway, new development or uses, including subdivision of land, shall not be established when it would be reasonably foreseeable that the development or use would require new structural flood hazard reduction measures.
- E. New development within floodways, the SMP flood course, and the CMZ shall not interfere with the process of channel migration or cause a net loss of ecological functions. If existing CMZ studies are not available for an area of known channel migration, a site analysis may be required to ensure that development does not interfere with the process of channel migration. Areas of known channel migration are shown in the SMP Map Folio Figure 28 in the Shoreline Inventory and Characterization.
- F. Development in the CMZ, SMP flood course, and floodways, is limited to:
 1. Actions that protect or restore ecosystem-wide processes or ecological functions;
 2. Forest practices in compliance with the FPA;
 3. Existing and ongoing agricultural practices, provided no new restrictions to channel movement occur;
 4. Mining uses conducted consistent with the shoreline environment designation and the provisions of WAC 173-26-241(3)(h);
 5. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in an unreasonable and disproportionate cost;
 6. Repair and maintenance of an existing legal use, provided that the repair and maintenance does not cause significant ecological impacts or increase flood hazards to other uses;

7. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions;
 8. Development in UGAs, as defined in Chapter 36.70A RCW, where existing structures prevent active channel movement and flooding; or
 9. Measures to reduce shoreline erosion, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.
- G. New structural flood hazard management measures may be permitted if consistent with the applicable provisions in SMP Chapter 6: Shoreline Modification Policies & Regulations.
- H. New publicly-funded structural flood hazard management measures, including dikes and levees, shall dedicate and improve public access except in those instances as listed in SMP Section 4.06.02(B).
- I. Removal of gravel for flood management purposes shall be permitted only after a biological and geomorphological study demonstrates that the extraction:
1. Provides a long-term benefit to flood hazard management;
 2. Does not result in a net loss of ecological functions; and
 3. It is part of a comprehensive flood management solution.

Staff Response: The bridge approach on the east side of the project is partially located within the 100-year floodplain of the Chehalis River. According to the floodplain memorandum (Staff Exhibit 1) provided by the applicant, the bridge superstructure is located above the 100-year flood elevation of the Chehalis River; however, the bridge approach will require fill below the 100-year flood elevation. The applicant's calculations indicate that the proposed fill within the floodplain will be approximately 486 cubic yards and due to the proposed detention pond there will be approximately 22 cubic yards of cut. This will result in a net fill of approximately 464 cubic yards within the 100-year floodplain. A flood development permit for the project is required and has been submitted by the applicant (Staff Exhibit 1 – Flood Development Permit). The flood development permit application has been assigned permit number FD20-00033.

The project is not located in any mapped floodway or Channel Migration Zone (CMZ). No shoreline stabilization or flood control devices are proposed as part of this application. Additionally, no gravel removal within the floodplain is proposed as part of this application. As conditioned below and within in this report, these criteria have been met. The following **Conditions of Approval** shall be listed on the shoreline permit:

- The project development shall be in compliance with the conditions of approval of the flood development permit (FD20-00033) and the fill/grading permit (G20-00013).

SMP 4.06 Public Access:

Regulations:

- A. Shoreline public access shall be required for the following shoreline developments and uses:
1. Shoreline recreation in accordance with SMP Section 5.13;
 2. New structural public flood hazard reduction measures, such as dikes and levees;
 3. Shoreline development by public entities, including the County, port districts, State agencies, and public utility districts;
 4. New marinas when water-enjoyment uses are associated with the marina; and
 5. All other development and use types that are required to incorporate shoreline public access as identified in the SMP, or other State or Federal requirements.

Staff Response: The proposed project is a public access project and is intended to improve safety and access for the Willapa Hills Trail users. The project will improve public access within the shoreline environment, but will not provide access directly to a shoreline waterbody (Chehalis River) which is over 1,300 feet away and separated by from the Willapa Hills Trail by privately held parcels. As proposed, the project provides public access within the shoreline environment.

SMP 4.07 Water Quality:

Regulations:

- A. All development in shoreline jurisdiction shall comply with the appropriate requirements of the SMP and the latest edition of the Stormwater Management Manual as prepared by Ecology.
- B. Septic systems should be located as far landward of the OHWM and flood course as feasible. Where the systems cannot be located outside of a shoreline or critical area buffer, the system may be sited in accordance with the requirements in 4.04.02(D).
- C. Uses in Critical Aquifer Recharge Areas shall meet the applicable requirements in LCC 17.35 or 17.35A.
- D. Potentially harmful materials, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or be discharged onto the land in shoreline jurisdiction. Potentially harmful materials should be stored outside of shoreline jurisdiction if feasible, and shall be maintained in safe and leak-proof containers.
- E. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within 25 feet of a water body, except by a qualified professional in accordance with State and Federal laws. Further, pesticides subject to the final ruling in Washington Toxics

Coalition, et al., v. EPA shall not be applied within 60 feet for ground applications or within 300 feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with State and Federal law.

Staff Response: The application materials indicate temporary erosion control measures will be put into place prior to construction and post construction conditions will comply with SMP 4.07.02(D) (Staff Exhibit 1 – Building Plans pages 6 through 8 and pages 13 through 17). The project will also contain stormwater management facilities as shown in Staff Exhibit 1 – Building Plans pages 9 through 12. The project does not propose septic system installation, is not located within a mapped critical aquifer recharge area, does not propose storage of potentially harmful materials. The project and subsequent maintenance activities do not involve application of herbicides, fungicides, fertilizers, or pesticides within 25 feet of a water body.

As conditioned below these criteria have been met. The following are required to be listed as **Conditions of Approval** for the shoreline permit:

- The temporary erosion and sedimentation control measures will be implemented at the beginning of the construction process and the stormwater management features will be installed during project construction (Staff Exhibit 1 – Building Plans pages 6 through 17).
- BMPs will include covering of exposed soils, managing runoff, and revegetating temporary disturbed soils as soon as possible following the onset of construction.
- Potentially harmful materials, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or be discharged onto the land in shoreline jurisdiction, including any ditch, swale or other non-impervious surfaced area where migration to the aquifer is a reasonable likelihood. Potentially harmful materials should be stored outside of shoreline jurisdiction if feasible, and shall be maintained in safe and leak-proof containers.
- Herbicides, fungicides, fertilizers, and pesticides shall not be applied within 25 feet of a water body, except by a qualified professional in accordance with State and Federal laws. Further, pesticides subject to the final ruling in Washington Toxics Coalition, et al., v. EPA shall not be applied within 60 feet for ground applications or within 300 feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with State and Federal law.

SMP Chapter 5:
Specific Shoreline Use Regulations:

SMP 5.02 General Shoreline Use:

Regulations:

- A. Use and development standards shall not apply retroactively to existing, legally established structures, or uses and developments in place at the time of the adoption of the SMP update. Existing structures, uses and developments, including residential appurtenances, may be maintained, repaired, and operated within shoreline jurisdiction and the shoreline buffers established in the SMP.
- B. Development shall comply with the most restrictive bulk and dimensional requirements in LCC Title 17 or SMP Section 5.04.
- C. Accessory uses, such as parking, stormwater management facilities, and utilities shall be located outside of shoreline and critical area buffers, and associated building setbacks, unless authorized in SMP Section 4.04.02(D).
- D. Shoreline uses and developments shall be designed to complement the setting of the property and minimize glare. Shoreline applicants shall demonstrate efforts to minimize potential impacts to the extent feasible.

Staff Response: The Willapa Hills Trail is an existing recreational use and the proposal is to replace the existing at-ground crossing of SR 6 with an above ground pedestrian bridge crossing. The tallest height of the bridge structure will be the top of the protective screen at approximately 33 feet from the top of the pavement on SR 6. The principal materials for the bridge construction will be concrete and weathering steel. The guardrails and protective screens will be galvanized steel mesh with brown powder coating with pressure treated wood rub rails. Natural stone will be used to face the abutment wing walls and along the edges of the overlook. There will be two retaining walls that will be constructed with rock faced gabion baskets, but will mostly be obscured from view by the trail users. According to the SEPA documents (Staff Exhibit 1 – SEPA documents) State Parks submitted the bridge plans to Washington State Department of Transportation (WSDOT) for review and approval to meet all State and Federal highway guidelines. As conditioned in this staff report, the proposed project meets the general shoreline use regulations.

SMP 5.03 Allowed Shoreline Uses:

Staff Response: As shown in SMP Table 5-1 of the Lewis County Shoreline Master Program; Recreational Development – Trails is listed as a permitted use in the Rural Conservancy Environment and Transportation Facilities – Bridges for motorized or non-motorized uses is listed as a Conditional Use in the Rural Conservancy Environment. The project requires a shoreline conditional use permit.

SMP 5.04 Development Standards:

Shoreline Height:

- A. To limit the obstruction of views from public property or residences, the SMP Table 5-2: Shoreline Height Regulations sets the maximum height for new or expanded buildings or structures above average grade level in shoreline jurisdiction.
- B. The following structures are exempt from the shoreline height standard requirements: dams, shipping cranes or other freight moving equipment, power or light poles, bridges, chimneys, tanks, towers, cupolas, steeples, flagpoles, smokestacks, silos, elevators, fire or parapet walls, open railings, and/or similar necessary building appurtenances. These structures may exceed the shoreline height limit provided all other requirements of the County are met and no usable floor space above the shoreline height limit is added.

Staff Response: Bridges are exempt from the shoreline height requirements.

SMP 5.13 Recreational Development:

Regulations:

- A. Recreational uses and facilities proposed within the shoreline jurisdiction shall be primarily designed to promote access, enjoyment, and use of the water and Shorelines of the State. Non-water-related recreational uses shall predominantly be located outside of the shoreline jurisdiction.
- B. Where recreation facilities include overwater structures designed for public access to shorelines, such as public viewing or fishing platforms, the structures shall comply with the relevant requirements of SMP Section 5.07.
- C. Where applicable, an applicant shall submit plans that demonstrate the BMPs and methods to be used to prevent chemical applications and resultant leachate from entering adjacent waterbodies.
- D. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences, and signs, to minimize impacts to neighbors and prevent the overflow of pedestrians onto adjacent private properties.
- E. Wildlife viewing structures and permeable trails or raised boardwalks are allowed within shoreline and wetland buffers in accordance with the mitigation sequence in SMP Section 4.03 and the critical area regulations in SMP Section 4.04.
- F. Trails shall be planted or landscaped to provide a visual buffer for adjoining dissimilar uses or scenic areas. The Shoreline Administrator may condition proposals to:
 - 1. Select species that are suitable for the local climate and have minimal demands for water, minimal vulnerability to pests, and minimal demands for fertilizers; and
 - 2. Incorporate native species.
- G. Recreational development proposals shall include facilities for water supply, wastewater, and garbage disposal in conformance with County standards.
- H. Recreational development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

Staff Response: The Willapa Hills Trail is a 56-mile-long existing multi-use recreational trail that follows a former railroad corridor and serves as an Americans with Disabilities Act (ADA) accessible, multi-use trail for pedestrians, bicyclists and equestrian trail users. Originally acquired by State Parks from the Burlington Northern Railroad in 1993, the trail is aligned east/west between Chehalis in Lewis County and South Bend in Pacific County. State Parks is proposing to construct an overpass (bridge) within the Willapa Hills Trail right-of-way where the trail crosses State Route 6 (SR 6) at the intersection with Stearns Road to improve public safety. The bridge includes an overlook with benches for wildlife viewing and visual access of the surrounding shoreline environment, but it is not an overwater crossing.

The project will include the installation of native plants and boulders along the trail within the project area which will also serve to as a vegetative buffer and trail edge markers between public access and adjacent properties. The proposed project is located within the existing trail right-of-way and is a modification to the existing trail. No land acquisitions are proposed as part of the project. As conditioned in this staff report, the proposed project meets the regulations.

SMP 5.16 Transportation Facilities:

Regulations:

- A. New transportation facilities shall only be placed within shoreline jurisdiction, when no other option for the location of the facility exists.
- B. When located within the shoreline jurisdiction, new and expanded transportation facilities shall:
 1. Be set back from the OHWM as far as feasible and locate any new water crossings as near to perpendicular with the waterbody as feasible, unless an alternate path would minimize the disturbance of native vegetation or result in the avoidance of critical areas;
 2. Be designed with the minimum pavement area required;
 3. Minimize adverse effects to unique or fragile shoreline features;
 4. Implement the mitigation sequence in SMP Section 4.03 and ensure no net loss of shoreline ecological functions;
 5. Include a mitigation plan prepared by a qualified professional consistent with the provisions of Section 4.04;
 6. Avoid adverse impacts on existing or planned water-dependent uses;
 7. Allow the joint use of the right-of-way with nonmotorized uses and existing or planned primary utility facilities to consolidate the crossings of waterbodies and minimize adverse impacts to shoreline jurisdiction, where feasible; and
 8. Provide and/or maintain visual access to scenic vistas on public roads, where feasible. Visual access may include, but is not limited to turnouts, rest areas, and picnic areas.

- C. Crossings of waterbodies, such as bridges, shall be designed to minimize impacts to aquatic habitat, allow for fish passage, and permit the passage of flood debris.
- D. Existing roads that are of a non-paved surface, such as gravel, may be paved, if the facilities comply with all applicable mitigation, water quality, stormwater, and landscaping standards, as well as other requirements of the SMP and local regulations.
- E. Seasonal work windows may be required for construction projects to minimize impacts to shoreline functions.
- F. Where public access to shorelines across transportation facilities is intended, facility designs must provide safe pedestrian and non-motorized vehicular crossings.

Staff Response: The proposed bridge crossing of SR 6 does not cross over a waterbody. The project is intended to improve public safety for pedestrian, bicycle and equestrian users and is designed to meet federal, state and local transportation standards. State Parks developed the proposed bridge design in consultation with Washington Department of Transportation (WSDOT), and it adheres to all state and federal highway requirements. The proposed bridge will be an S-shaped, three-span weathering steel truss with a concrete deck, and a 10-foot-wide trail surface meeting ADA accessibility standards.

An overlook area at the east end of the bridge has been incorporated into the design to provide for wildlife viewing and views of the surrounding areas (scenic vistas and the surrounding shoreline environment). The bridge approaches will be approximately 400 feet long to accommodate a 5% grade to meet ADA accessibility standards. Safety railing/fencing will be installed along the bridge and the tops of the approach walls to serve as fall protection. Natural stone will be used to face the abutment wing walls and along the edges of the overlook area, and embankments for the trail approaches will be landscaped with native vegetation.

The S-shaped bridge spans (three spans) total approximately 250 feet in length. The application documents include a subset of site plans (Staff Exhibit 1 – Site Plan 11 x 17) which include the trail plan and profile of the trail approaches and bridge span elevation layout. As discussed above in this staff report, the project is consistent with the provisions of SMP Section 4.03 and SMP Section 4.04. As conditioned in this staff report, the proposed project meets the regulations.

SMP Chapter 6:
Shoreline Modification Regulations:

SMP 6.01 Shoreline Modification Table:

Staff Response: Table 6-1 of the SMP lists clearing and grading activities, the placement of fill landward of the OHWM as permitted uses in the rural conservancy environment. These activities will be reviewed below.

SMP 6.02 Shoreline Modification Provisions:

Regulations:

- A. Structural shoreline modifications may be allowed if they are demonstrated to be necessary to support or protect a legally permitted shoreline structure or use that is in danger of loss or substantial damage or are necessary for mitigation or enhancement.
- B. Shoreline modifications shall be limited in number and extent.
- C. The Shoreline Administrator shall base all decisions regarding shoreline modification on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant.
- D. Shoreline modifications must be designed and located to ensure that they will not result in a net loss of shoreline ecological functions and will not have significant adverse impacts to shoreline uses, resources, and values provided for in RCW 90.58.020.
- E. Shoreline modifications and uses shall be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- F. Shoreline modification standards shall not apply retroactively to existing, legally established shoreline modifications. Existing structures may be maintained, repaired, and operated within shoreline jurisdiction and within the shoreline buffers established in the SMP. Repair and replacement provisions in later sections of this chapter may apply to specific modifications.
- G. All disturbed upland areas shall be restored and protected from erosion by using native vegetation or other means.
- H. All shoreline modifications are subject to the mitigation sequence in SMP Section 4.03, with appropriate mitigation required for unavoidable impacts to ecological functions. If critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of SMP Section 4.04.

Staff Response: The project includes shoreline modifications for the construction of the bridge crossing. The applicant has provided documentation of no-net loss of ecologic functions, geotechnical analysis, floodplain evaluation and project design in building plans (Staff Exhibit 1). All disturbed upland areas will be replanted with native vegetation as previously discussed and reviewed in SMP Section 4.03 and SMP Section 4.04. As conditioned in this staff report, the project meets these regulations.

SMP 6.03 Clearing, Grading and Fill:

Regulations:

- A. Clearing, grading, and the placement of fill shall be minimized to the extent feasible and only allowed when necessary to accommodate an approved shoreline use or development.
- B. All clearing, grading, and the placement of fill shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.
- C. Speculative clearing, grading, and the placement of fill are prohibited.
- D. When clearing, grading, or the placement of fill will cause adverse impacts to ecological functions, a mitigation plan, prepared by a qualified professional, must be completed consistent with the provisions of SMP Section 4.04.
- E. Clearing, grading, and the placement of fill within wetlands, floodways, or CMZs, and/or the placement of fill waterward of the OHWM, is only allowed when:
 - 1. Due consideration has been given to the site specific conditions;
 - 2. All impacts have been mitigated;
 - 3. All required State and Federal permits, and necessary approvals from WDNR for State-owned aquatic lands, have been obtained; and
 - 4. The shoreline use or development is one of the following:
 - a. A water-dependent use or public access to the shoreline;
 - b. The cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
 - c. The disposal of dredged material considered suitable under, and conducted in accordance with, the WDNR's Dredged Material Management Program and the United States Army Corps of Engineers' (USACE) Dredged Material Management Office. See also SMP Section 6.04;
 - d. The expansion or alteration of transportation facilities of statewide significance that are currently located in the shoreline, where alternatives to fill are infeasible;
 - e. Ecological enhancement, restoration or mitigation, when consistent with an approved plan; or
 - f. The protection of historic or cultural resources when fill is the most feasible method to avoid continued degradation, disturbance, or erosion of a site. Such fill must be coordinated with any affected tribes and comply with applicable provisions of SMP Section 4.02.
- F. Upland clearing, grading and the placement of fill outside of wetlands, floodways, and CMZs is permitted provided it:
 - 1. Is the minimum necessary to implement the approved use or modification;
 - 2. Does not significantly change the topography of the landscape in a manner that affects hydrology or increases the risk of slope failure, consistent with the applicable provisions of SMP Section 4.04; and

3. Is conducted outside required shoreline buffers, unless specifically authorized by the SMP, or is necessary to provide protection to historic or cultural resources.
- G. Grading, the placement of fill, and beach nourishment shall be designed to blend physically and visually with the existing topography whenever feasible, so as not to interfere with lawful access and enjoyment of scenery.
 - H. Clearing, grading, and the placement of fill shall not be located where shoreline stabilization will be necessary to protect the materials placed or removed, except when part of an approved plan for the protection of historic or cultural resources, or as part of an approved environmental cleanup plan or project.
 - I. Cut and fill slopes shall generally be sloped no steeper than one foot vertical for every two feet horizontal (1:2) unless a specific engineering analysis has been provided that demonstrates the stability of a steeper slope.
 - J. A temporary erosion and sediment control plan, including BMPs, consistent with the County's stormwater manual, shall be submitted to and approved by the Shoreline Administrator prior to commencement of all clearing, grading, and fill activities.
 - K. To prevent a loss of flood storage, compensatory storage shall be provided commensurate with the amount of fill placed in the floodway per SMP Section 4.05.
 - L. The placement of fill on State-owned aquatic lands must comply with WDNR and WDFW standards and regulations.

Staff Response: Recreational use is a permitted shoreline use within the Rural Conservancy environment designation and the proposed clearing, grading and placement of fill materials are the minimum necessary to accommodate the bridge design to link with the existing trail system while continuing to provide ADA accessibility. Impacts for vegetation clearing and fill material in the wetland buffer were reviewed under SMP Section 4.03 and SMP Section 4.04. The application materials also contain a geotechnical engineering report for the proposed bridge structure (Staff Exhibit 1 – Geotechnical Engineering Report) and for the placement requirements of the structural fill material of the bridge approaches.

Structural fill material will be used to construct the east and west bridge approaches from the existing trail to the bridge crossing. Each of the approach embankments will be approximately 400 feet long and up to 20 feet tall. Structural earth and gabion retaining walls will be used to support portions of the embankment. Approximately 13,354 cubic yards of fill material will be used for the total project, but only 464 cubic yards will be located within the 100-year floodplain. The portion of the fill in the 100-year floodplain was reviewed and conditioned under SMP Section 4.05. No fill material would be placed waterward of any ordinary high water mark, within a floodway or within state-owned aquatic lands.

Disturbed portions of the project area, including fill slopes and stockpiles, would be susceptible to erosion during staging and construction prior to re-establishment of permanent ground cover. A temporary erosion control and sediment control plan including BMPs are provided in on pages 6 through 8 and pages 13 through 17 of the Building Plans (Staff Exhibit 1 – Building Plan), and it was reviewed and conditioned under SMP Section 4.07. As conditioned in this staff report, the project meets these regulations.

SMP Chapter 7:
Shoreline Administration:

SMP 7.02 Permit Processing – General:
Shoreline Administrator

- A. The Shoreline Administrator shall be responsible for the administration of the permit system in accordance with the requirements of the SMA and regulations adopted as part of the SMP as it pertains to the County. This shall include, but not be limited to, determinations of whether a development is exempt or requires a shoreline substantial development permit, conditional use permit, or variance.
- B. The Shoreline Administrator shall ensure that administrative provisions are in place so that SMP permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property.
- C. Administrative Interpretations
 - 1. The Shoreline Administrator shall have authority to interpret this SMP when such interpretation is clearly consistent with the goals and policies of the SMP and the SMA.
 - 2. As part of this process, the Shoreline Administrator shall consult with Ecology to insure that formal written interpretations are consistent with the purpose and intent of the SMA and Chapter 173-26 WAC.
 - 3. Formal interpretations shall be kept on file by the County and shall be available for public review, and shall periodically be incorporated into the SMP during required update processes.
- D. The Shoreline Administrator shall review every application that is submitted and determine if the application is complete based upon the information required by this section.
- E. The Shoreline Administrator may recommend conditions to the Hearing Examiner for the approval of permits as necessary to ensure consistency of the project with the SMA and the SMP.

Staff Response: The application packet and supplemental materials have been reviewed. This staff report provides recommended conditions to the Hearing Examiner for the approval of permits to ensure consistency of the project with both the SMA and the County’s SMP. As conditioned in this report, the project will meet these regulations.

SMP 7.02.02 Provisions Applicable to all Shoreline Permits

- A. Unless specifically exempted by statute (see RCW 90.58.355), all proposed uses and development occurring within shoreline jurisdiction must conform to the development standards in the LCC, Chapter 90.58 RCW, the SMA, and this SMP, whether or not a permit is required.
- B. No authorization to undertake a use or development on Shorelines of the State shall be granted by the County, unless, upon review, the use or development is determined to be consistent with the policy and provisions of the SMP.
- C. Applications for shoreline substantial development permits, conditional use permits, and variances shall be processed in accordance with the provisions of this SMP.
- D. The applicant shall meet all of the review criteria for all development found in WAC 173-27-140.
- E. A shoreline substantial development shall not be undertaken within the County unless a shoreline substantial development permit has been obtained, the appeal period has been completed, and any appeals have been resolved.
- F. All purchasers or transferees of property shall comply with the provisions of the SMA, the SMP, and any shoreline substantial development permit, conditional use permit, variance, permit revision, or letter of exemption.

Staff Response: As conditioned in this report, the project will meet these regulations.

SMP 7.02.03 Application Requirements

Applications for shoreline permits or letters of exemptions shall be made on forms provided by the Shoreline Administrator. An applicant for a shoreline substantial development permit, who wishes to request a shoreline conditional use permit or variance, shall submit the shoreline conditional use permit or variance application(s) and the shoreline substantial development permit application simultaneously. Applications shall be substantially consistent with the information required by WAC 173-27-180 and include any additional submittals deemed necessary by the Shoreline Administrator for proper review of the proposal.

Staff Response: The application form requirements have been met. The JARPA application was submitted for the appropriate applications (Staff Exhibit 1 - JARPA).

SMP 7.03 Application – Notices:

The following is applicable for the notice requirements of all notices related to actions under the SMP:

- A. Within 14 days from making a determination of complete application, the Shoreline Administrator shall provide public notice of the application. Notice of environmental review under SEPA (Chapter 43.21C RCW) may be combined with the application notice.

- B. The public notice shall include:
 - 1. The date the application was made and the date the application was determined to be complete;
 - 2. A description of the proposed project action and a list of the project permits included in the subject application;
 - 3. The identification of other permits not included in the subject application, if known;
 - 4. The identification of existing environmental documents that evaluate the proposed project and where such documents may be reviewed;
 - 5. A statement of the public comment period, which shall be at least 30 days;
 - 6. The date, time, and place of the public hearing, if any;
 - 7. A statement of preliminary determination, if one has been made; and
 - 8. Any other information determined appropriate by the Shoreline Administrator.
- C. The Shoreline Administrator shall provide notice by at least one of the following noticing methods:
 - 1. Mailing the notice to the most recent real property owners within 300 feet of the property boundary of the subject proposal as shown by the records of the Lewis County Assessor;
 - 2. Posting the notice in a conspicuous manner on the property upon which the project is to be undertaken; or
 - 3. Publishing the notice in the local newspaper.
 - 4. Any other manner deemed appropriate by the Shoreline Administrator to accomplish the objectives of reasonable notice to adjacent landowners and the public.
- D. The notification system shall also provide notice to all agencies with jurisdiction in the proposal per Chapter 43.21C RCW and to all other agencies that request in writing any such notice.
- E. The Shoreline Administrator shall give notice of the application no less than 30 days prior to permit issuance.
- F. When a public hearing is required, public notice shall be given at least 15 days before the public hearing. The notice shall include a statement that a person desiring to present his/her views may do so orally or in writing at the public hearing, or may submit written comments prior to the public hearing which will be provided to the Hearing Examiner.
- G. The public notice shall also state that a person interested in the Hearing Examiner action on an application for a permit may notify the Shoreline Administrator of his/her interest in writing within 30 days of the last date of publication of the notice. Such notification to the Shoreline Administrator or the submission of views to the Hearing Examiner shall entitle said persons to a copy of the action taken on the application.

Staff Response: Notice of complete application (Staff Exhibit 2), shoreline notice of application (Staff Exhibit 4) and shoreline notice of public hearing (Staff Exhibit 5) were all issued meeting the notice requirements for this project.

SMP 7.04 Shoreline Permits and Approvals:

SMP 7.04.01 Shoreline Substantial Development Permits

- A. An applicant shall meet all of the review criteria for a shoreline substantial development permit listed in WAC 173-27-150.
- B. A shoreline substantial development permit shall be granted by the Shoreline Administrator without a public hearing unless the Shoreline Administrator determines that the proposed development is one of broad public significance and requires a public hearing before the Hearing Examiner.
- C. If a public hearing is required, the Hearing Examiner shall grant a shoreline substantial development permit with conditions after the Shoreline Administrator completes a recommendation to the examiner that may contain conditions for the approval of permits as necessary to assure consistency of the proposal with the above criteria.

Staff Response: As reviewed and conditioned above, the shoreline substantial development permit portion of the project will meet these criteria. Since a shoreline conditional use permit is also required, the entire project will be issued through the public hearing process.

SMP 7.04.02 Shoreline Conditional Use Permits

- A. The criteria in WAC 173-27-140 and WAC 173-27-160 shall constitute the minimum criteria for review and approval of a shoreline conditional use permit. Additional criteria may be considered when deemed necessary by the Shoreline Administrator in accordance with WAC 173-27-210.
- B. Uses that are not classified or set forth in the SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the SMP.
- C. Uses that are specifically prohibited may not be authorized.
- D. The Hearing Examiner may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.
- E. The decision of the Hearing Examiner shall be the final decision of the County. Ecology shall be the final authority authorizing a shoreline conditional use permit consistent with WAC 173-27-200.

Staff Response: The WAC for conditional use permit review criteria is provided below.

WAC 173-27-160 Review criteria for conditional use permits. The purpose of a conditional use permit is to provide a system within the master program which allows

flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.

(1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

(a) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;

(b) That the proposed use will not interfere with the normal public use of public shorelines;

(c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

(d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

(e) That the public interest suffers no substantial detrimental effect.

(2) 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.

(3) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.

(4) Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.

Transportation Facilities – Bridges for motorized and non-motorized uses is listed as a shoreline conditional use permit, and not a prohibited use. As reviewed in SMP Section 4.06, SMP Section 5.13, SMP Section 5.14, the design of the project is compatible with the surrounding area and the SMP. The project is a public use, but does not have direct access to a public shoreline or waterbody. As reviewed in SMP Section 4.03 and SMP Section 4.04 the proposal will not cause significant adverse effects to the shoreline environment. As reviewed in SMP Section 4.06 and SMP Section 4.07 the public interest suffers no substantial detrimental effect from this project. The adoption of the 2017 Lewis County Shoreline Master Program was found to be consistent with the policies of RCW 90.58.020. As reviewed and conditioned in this staff report, the shoreline conditional use permit portion of the project will meet these criteria.

SMP 7.05 Public Hearings and Decisions:

SMP 7.05.01 Burden of Proof For Development Conformance

- A. The burden of proving that the proposed development is consistent with the criteria set forth in the SMP, as well as the requirements of the SMA shall be on the applicant.

Staff Response: The applicant submitted the SMP Burden of Proof Statement on August 10, 2020 (Staff Exhibit 1).

SMP 7.05.02 Public Hearing Process

- A. The Hearing Examiner shall hold a single open record public hearing for each application that requires a public hearing. This open record hearing shall combine any hearings for a shoreline conditional use permit or variance, and each substantial development permit where the conditions of SMP Section 7.04.01(A) are met. The Hearing Examiner will make the final decision on the proposal at a closed record hearing.
- B. If, for any reason, testimony on a matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the Hearing Examiner may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing and no further notice is required.
- C. When the Hearing Examiner renders the final decision, the Hearing Examiner shall make and enter written findings from the record and conclusions thereof, which support the decision. The findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in the SMA and County regulations.

Staff Response: The open record hearing before the Lewis County Hearing Examiner is scheduled for March 26, 2021 at 9:00 am as docket item 1. Once the decision is issued, it will be transmitted to Ecology in the appropriate format meeting these criteria.

Staff Report Conclusions:

After review of the shoreline permit application, its drawings, site plans, designs, reports, studies and mitigation plans, the following are staff conclusions regarding the proposed project.

The project complies with the State Environmental Policy Act, the Lewis County Code (LCC) Chapter 17.35A (Critical Areas), the applicable provisions of the 2017 Lewis County Shoreline Master Program, RCW 90.58 and WAC 173-27.

Shoreline Permit Recommendation:

The staff recommendation is the Hearing Examiner approve the shoreline substantial development permit and shoreline conditional use permit with appropriate conditions citing specific regulations from the above referenced master program provisions and forward the local approval to the Washington State Department of Ecology with the

recommendation of final approval. The following are recommended permit development terms and conditions (**Conditions of Approval**):

1. The applicant/ property owner shall comply with the conditions of development identified in the Master Site Review file number MSR20-0351 issued on September 14, 2020 (Staff Exhibit 3). If there is a conflict between and the MSR conditions of approval and another permit's conditions of approval, the more restrictive conditions of approval shall apply.
2. In the event any archaeological or historic materials are encountered during project activity, work in the immediate area (initially allowing for a 100 foot buffer) must stop and the following actions taken: 1) Implement reasonable measures to protect the discovery site, including any appropriate stabilization or covering; 2) Take reasonable steps to ensure the confidentiality of the discovery site; and 3) Take reasonable steps to restrict access to the site of discovery.
3. The project proponents will notify the concerned Tribes and all appropriate county, state, and federal agencies, including the Department of Archaeology and Historic Preservation (DAHP). The agencies and Tribe(s) will discuss possible measures to remove or avoid cultural materials, and will reach an agreement with the project proponent regarding actions to be taken and disposition of material.
4. If human remains are uncovered, appropriate law enforcement agencies shall be notified first, and the above steps will be followed. If the remains are determined to be Native, consultation with the affected Tribes will take place in order to mitigate the final disposition of said remains.
5. The applicant shall complete the planting mitigation as shown in the planting plan on pages 67-69 of the Building Plans document (Staff Exhibit 1) prior to final approval of the building permit for the bridge (B20-00347) and final approval of the grading permit (G20-00013).
6. The disturbance of the wetland buffer is limited to the outer 25% of the wetland buffer.
7. Replanted areas shall be planted and maintained such that within three years the vegetation cover is at least 90% reestablished.
8. The project development shall be in compliance with the conditions of approval of the flood development permit (FD20-00033) and the fill/grading permit (G20-00013).
9. The temporary erosion and sedimentation control measures will be implemented at the beginning of the construction process and the stormwater management features will be installed during project construction (Staff Exhibit 1 – Building Plans pages 6 through 17).
10. BMPs will include covering of exposed soils, managing runoff, and revegetating temporary disturbed soils as soon as possible following the onset of construction.
11. Potentially harmful materials, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or be discharged onto the land in shoreline jurisdiction, including any ditch, swale

or other non-impervious surfaced area where migration to the aquifer is a reasonable likelihood. Potentially harmful materials should be stored outside of shoreline jurisdiction if feasible, and shall be maintained in safe and leak-proof containers.

12. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within 25 feet of a water body, except by a qualified professional in accordance with State and Federal laws. Further, pesticides subject to the final ruling in Washington Toxics Coalition, et al., v. EPA shall not be applied within 60 feet for ground applications or within 300 feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with State and Federal law.

Staff Report Exhibit List:

- Staff Exhibit 1: Subheading – “Application Documents” which include twelve documents: JARPA, application Burden of Proof Statement, site plan 11 x 17 (11 pages), SEPA documentation, wetland report, geotechnical engineering report, floodplain engineering memo, flood development permit, MSR application, building permit application, Building Plans (74 pages) and grading permit application.
<https://lewiscountywa.gov/departments/community-development/current-planning-applications/willapa-trail-bridge-crossing/>
- Staff Exhibit 2: Complete application letter
- Staff Exhibit 3: Master Site Review (MSR20-0351)
- Staff Exhibit 4: Shoreline Notice of Application
- Staff Exhibit 5: Shoreline Notice of Public Hearing
- Staff Exhibit 6: Comments from Cowlitz Indian Tribe
- Staff Exhibit 7: Extracted pages from Building Plans and Wetland Report