



STAFF REPORT TO THE HEARING EXAMINER
COMMUNITY DEVELOPMENT DEPARTMENT

Date of Hearing: June 9, 2016

Project Number: Shoreline SSDP: PLN-2016-0006, Shoreline CUP: PLN-2016-0039

Project Location: XXX Fryar Avenue, Sumner WA (Parcel: 0420242030)

Project Components: Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, SEPA environmental review, clearing/grading and building permits, and Administrative Design Review approval.

Project Description: Construct a new building for Cummins Northwest totaling approximately 56,000 square feet on a 7.14-acre undeveloped site, including paved parking areas and landscaping. A portion of the area to be developed is located within the shoreline jurisdiction of the White River.

Applicant: Terra Vall-Spinosa
Panattoni Development Company
900 S.W. 16th Street, Suite 330
Renton, WA 98057

Project Representative: Dan Balmelli
Barghausen Consulting Engineers
18215 72nd Avenue South
Kent, WA 98032

Related Permits: SEPA: PLN-2016-0005

Staff Representative: Ann Siegenthaler – Associate Planner

Staff Recommendation: Conditionally approve

Attachments:

1. Staff report
2. Project Plans (Exhibits A-F)
3. SEPA Checklist
4. SEPA Determination – MDNS
5. Habitat Management Plan
6. Applicant response to the SMP Industrial Development and CUP Criteria
7. Public and Agency Comments
8. Notice of Application and Public Hearing

I. BACKGROUND INFORMATION

A. SITE LOCATION

The site is located on Fryar Avenue, north of Main Street, near the intersection of Fryar Avenue and Zehnder Street. The parcel number is 0420242030.



B. PROPOSAL DESCRIPTION

The proposal is to construct a new building for Cummins Northwest totaling approximately 56,000 square feet on a 7.14-acre undeveloped site located within the industrial area of the City of Sumner. The building will include approximately 33,300 square feet of truck service space, 10,400 square feet of office space, 8,000 square feet for a parts department, and 4,250 square feet for a quick-serve facility. The project will include clearing and grading activities, building construction, landscaping, paved parking and truck maneuvering areas, extension of water and sanitary sewer utilities to serve the buildings, stormwater system, extension of utilities, and a public multi-use trail along Fryar Avenue connecting to the Sumner multi-use regional trail system. Access to the site will be via two new driveways to Fryar Avenue.

A portion of the project is located within the shoreline jurisdiction of the White River; therefore, a Shoreline Substantial Development Permit is required. Per Chapter 4, Table 4-7 of the Shoreline Master Program (SMP), because the proposal is for a non-water-oriented use in the Urban Conservancy shoreline environment, a Shoreline Conditional Use Permit is also required. State Environmental Policy Act (SEPA) review is also required for the project.

C. SITE DESCRIPTION

The site is generally flat, consisting of a grassy, upland field with a fringe of riparian vegetation along the river bank. It is currently vacant. A portion of the site lies within the shoreline jurisdiction of the White River, and a portion of the site is located within the 100-year floodplain.

The proposal is in the vicinity of the following land uses:

- North: The north side of the site is bounded by the White River; across the river, zoning and land uses are M-1 Light Industrial.
- West: The west side is bounded by the White River; across the river, zoning and uses are M-1 Light Industrial.
- South: Zoning and uses are M-1 Light Industrial.
- East: Zoning and uses are M-2 Heavy Industrial.

D. PHYSICAL FEATURES and SOCIAL FEATURES

1. Topography and hydrology

The site has a 2% slope and less. Portions of the site are within designated shorelines as defined by the Sumner Shoreline Master Program

2. Vegetation/soils

The site is a cleared meadow. The Natural Resource Conservation Services Web Soil Survey identifies the type of soil on the site as Sultan silt loam (42A), with typical valley soils that are a mixture of prior lahar flows and alluvial deposition from the river system. The site, like most of the valley, is considered a seismic hazard area due to the potential for soil liquefaction. The site is also within a volcanic hazard area and groundwater recharge area. At the time of building permits, the project will be required to record notices at Pierce County that indicate the presence of these critical areas on the site.

3. Access and utilities

Proposed access is from Fryar Avenue. There is public infrastructure located near the site. Service providers are as follows:

- Sewer: City of Sumner
Water: City of Sumner
Electricity: Puget Sound Energy
Natural Gas: Puget Sound Energy
Telephone: Century Link Communication

E. ZONING

The subject site is zoned Light Industrial (M-1). The proposed use is allowed as an outright permitted use in the M-1 zone (Sumner Municipal Code 18.18.020). The proposal meets the development standards of the M-1 zone (SMC 18.18.050), including building setbacks, landscaping and parking. Required setbacks are 20 feet on front, rear and side yards. The maximum building height within 100 feet of any street is 35 feet. The project is subject to the commercial and office use parking requirements of SMC 18.42.0401, and complies with those standards.

Per SMC 18.40.020, the project will require Administrative Design Review under the Sumner Design and Development Guidelines. Compliance with the Design Guidelines, including landscaping, parking design and architectural design, will be determined by the Director of Community Development through this separate process.

Additional design and development standards from the Shoreline Master Program are discussed in Section III below, Review Criteria and Discussion.

F. COMPREHENSIVE PLAN

The Comprehensive Plan designation of the site is Light Industrial, with the same designation to the north and south. To the east is a designation of Heavy Industrial.

F. ENVIRONMENTAL REVIEW

The applicant submitted a State Environmental Policy Act (SEPA) application and checklist on March 31, 2016. Notices of the SEPA application with due dates for comment were published in the official City newspaper, the Tacoma News Tribune, posted on the subject site and at Sumner City Hall, and mailed to interested agencies and all property owners within 500 feet of the subject site on May 3, 2016. Comments are summarized in Section II below.

A SEPA Mitigated Determination of Non-Significance (MDNS) was issued by the Sumner Environmental Official on May 24, 2016.

G. DEPARTMENTAL COMMENTS

Various City of Sumner Departments, including Public Works, Fire Department, Community Development Department, and the Building Department, reviewed the proposal. Their comments have been integrated into this report.

II. PUBLIC NOTICE AND COMMENT

A. PUBLIC NOTICE

Notice of the application and public hearing for the Shoreline Substantial Development Permit and the Shoreline Conditional Use Permit was published in the official City newspaper, the Tacoma

News Tribune, posted on site, posted at Sumner City Hall and mailed to interested agencies and all property owners within 500 feet of the subject site on May 3 and May 10, 2016.

B. PUBLIC/AGENCY COMMENTS

Comments have been received by interested parties; below is a summary of comments and how/whether they are addressed in the report. See Attachment 7 for the full written public/agency comments.

1. Public Comments

No public comments received.

2. Agency Comments

Comments received from Karen Walter, Muckleshoot Indian Tribe, letter of 5/18/16:

Summary: *Project will eliminate the opportunity to restore tall native trees along the White River; the project should be modified to reduce the proposed building footprint in the shoreline zone; more native trees should be planted.*

Response: The setback along this reach of the river is 100 feet from the o.h.w.m., which complies with the setbacks required by the Shoreline Master Program. The City of Sumner will be acquiring an easement in the buffer/setback area to provide future restoration. When no encroachment of the buffer is proposed, enhancement is not required. However, the proposal is removing 5 large cottonwood trees outside of the buffer, and replacing these trees at a ratio of 3:1 in the buffer where no trees currently exist.

Summary: *Project will remove 5 large cottonwoods in the shoreline zone; these should be placed back into the river as large wood debris.*

Response: These trees will be required to be felled towards/into the river.

Summary: *Project may not accurately depict flood hazard zones as mapped by FEMA for the County's preliminary DFIRM. Project may be vulnerable to flooding under future conditions according to Corps' GI study. Plans do not show where floodplain compensatory storage is to be created.*

Response: The proposed DFIRM and DRAFT GI study have not been finalized and adopted. City staff has found significant errors in both documents that result in misrepresentation of the floodplain in Sumner. Therefore, at this time Sumner will continue to use the adopted and current floodplain analysis. At this time the location has not been determined for the mitigation work. The applicant is seeking conceptual approval prior to getting 100% engineered drawings to address all SEPA mitigating measures. From the information provided, the floodplain mitigation will occur landward of the 100-foot shoreline buffer.

Summary: *More information is needed regarding how stormwater will be managed; stormwater should be treated using enhanced methods and infiltrated to the fullest extent possible avoiding discharge to the river.*

Response: Full details of stormwater collection, discharge and location are typically not finalized prior to SEPA determination. However, Sumner has adopted the 2005 Department of

Ecology Stormwater Manual, and stormwater treatment for this site will be required to meet or exceed the Ecology Manual, which currently represents Best Available Science for stormwater treatment.

Summary: *More information is needed regarding the location and type of artificial lighting; artificial lighting can impact juvenile salmon, and there is not adequate vegetation between the development and the river to shield lighting.*

Response: As a condition of approval, all lighting will be required to be downward directional and shielded away from the river. In addition, the development includes perimeter landscaping with trees and shrubs, and replacement trees in the buffer where none exist, which will help screen lighting from the development.

Summary: *Project needs to ensure that tribal members' federally protected access to fishing sites along the river is maintained.*

Response: The City will be acquiring a public access easement for the 100-foot buffer, which is a requirement of the Shoreline Master Program. The 100-foot buffer can be accessed from the public right-of-way, which would allow for the tribe and public to access the river for multiple purposes, including fishing.

III. REVIEW CRITERIA AND DISCUSSION – SHORELINE SUBSTANTIAL DEVEL. PERMIT

In accordance with SMC 18.56.030(H), Shoreline Substantial Development and Conditional Use Permits are Type V decisions which require a public hearing and decision by the Hearing Examiner (subject to appeal to the city council), followed by written findings and conclusions. Per the Sumner Shoreline Master Program (SMP), no permit shall be granted unless the proposed development is consistent with the provisions of the Shoreline Master Program, the Shoreline Management Act of 1971, and the rules and regulations adopted by the Department of Ecology thereunder (SMP Chapter 8, Section II (F)(10)). The burden of proving that the proposed development is consistent with the approval criteria shall be on the applicant. The Hearing Examiner shall be guided by the criteria listed below in granting a Shoreline Substantial Development Permit.

A. SHORELINES OF STATEWIDE SIGNIFICANCE– Chapter 3

Per the SMP general policies and regulations at Chapter 6: *...All proposed developments must be consistent with the policies for shorelines of statewide significance (Chapter 3). Under Chapter 3: Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to ecological functions and processes of the shoreline areas and interference with the public's use of the water.*

Chapter 3 describes the importance of Riparian Management Zones, Floodplain Management, Environmental Impact Mitigation, Critical Areas Protection, and Public Access and Recreation in meeting statewide goals for the shoreline area. Development regulations in Chapters 4, 6 and 7 implement statewide goals related to these areas.

Therefore, to the extent that the proposal complies with Chapter 4 and the general and specific use regulations (Chapters 6 and 7) below, the proposal is consistent with the goals and objectives of Chapter 3.

B. SHORELINE ENVIRONMENTS – Chapter 4

The subject site is located in the White River’s Urban Conservancy shoreline environment, with a 100-foot buffer required from the ordinary high water mark (SMP Chapter 4, Table 4-2).

1. Purpose of the Urban Conservancy Environment:

The purpose of the Urban Conservancy environment is: “...*To protect and restore ecological functions, including properly functioning conditions for threatened and endangered species under state and federal regulations, and ecological functions in urban and developed settings, while allowing a variety of water-oriented uses...*”

The proposed industrial/commercial use is non-water oriented; therefore it may only be allowed through a conditional use permit (SMP Chapter 4, Table 4-7). The project also will include enhancement of the riparian buffer, including planting native trees where none now exist. The discussions below at Section III. C. and D., shoreline policies and regulations, is herein incorporated by reference as evidence that the proposed use of the site is consistent with the purpose of the Urban Conservancy Environment.

2. Management Policies of the Urban Conservancy Environment:

- 1) *Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.*
- 2) *Public access should be required of all non-water-dependent development on previously developed shorelines.*
- 3) *Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Urban Conservancy designation to ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.*
- 4) *Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.*
- 5) *Water-oriented uses should be given priority over non-water-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.*
- 6) *The City should encourage conservation and/or restoration projects, such as conserving and enhancing riparian forest, re-creating off-channel habitat for salmonids, or establishing setback levees in those opportunity areas referenced in the City of Sumner Shoreline Restoration Plan Element (see Appendix B).*
- 7) *Publicly-owned lands in this designation may offer protection and/or restoration opportunities, such as conserving and enhancing riparian forest, re-creating off-channel habitat for salmonids, and constructing levee setbacks.*

The proposal is partially located within the shoreline jurisdiction, and includes filling a relatively small portion of the 100-year floodplain (990 cubic yards), paving the outer 100 feet of the shoreline jurisdiction, and removal of several native trees. However, the project includes compensatory flood storage, restoration of the riparian buffer (removal of invasive shrubs), and mitigation plantings of native trees and shrubs in the shoreline buffer.

Regarding public access, the proposal does not provide direct access to the shoreline. A connection to the Sumner Link regional trail is desirable at this location; however, a trail is not allowed within the shoreline buffer, per the 2004 United State Fish and Wildlife and National Oceanic and Atmospheric Administration's 24th Street FEMA Biological Opinion, and the proposal maximizes the developable area on the site. Moreover, Public Works staff has determined that there is, at present, no feasible connection between a shoreline trail along the site and a shoreline trail to the south of the property. Therefore, the multi-use trail at this site will be located along Fryar Avenue, and the applicant is providing a public trail (easement) along the site's street frontage. In addition, the applicant has indicated intent to dedicate the 100-foot shoreline buffer and an access easement to the City to accommodate future buffer restoration and public access.

While the use is a non-water related use, the proposal is compatible with the underlying zoning and purpose of the urban environment, and complies with the above policies.

3. Urban Conservancy Environment Development Standards (SMP Chapter 4, page 4-8):

- A. **Riparian Management Zone (3).** Land within the one hundred (100) or two hundred (200) foot setback from the OHWM is considered the Urban Conservancy "Riparian Management Zone." Within this zone, removal of vegetation and topsoil is strictly regulated under Vegetation Conservation standards of this Master Program (see Chapter 6: General Shoreline Policies and Regulations, Section III).*
- B. **Required Mitigation (4).** Shoreline areas with an Urban Conservancy designation with a one hundred (100) foot setback are required to provide mitigation for impacts to ecological functions and processes as set forth in Chapter 6: General Shoreline Policies and Regulations, Section V, Regulation #7. Public access shall also be provided pursuant to Chapter 6 and Chapter 7.*
- C. **Critical Area Regulations (5).** Development in the Urban Conservancy environment shall comply with critical areas regulations (see Chapter 6: General Shoreline Policies and Regulations, Section VII, Critical Areas Protection).*

The discussions below at Section III. C. and D., shoreline policies and regulations, are herein incorporated by reference as evidence of the proposal's compliance with the Urban Conservancy development standards.

- D. **Bulk dimensional and vegetation standards (SMC Chapter 4, Table 4-8).** This chart establishes the building height limit, lot coverage and buffer management zone for each environment.*

The 100-foot riparian vegetation management zone is proposed to be protected. The remaining 100 feet of the shoreline jurisdiction is primarily parking areas with numerous pockets of landscaping. Based on this, the proposal appears to meet the 40% maximum lot coverage for the shoreline area. Although the final building design has yet to be completed, the proposal complies with the 35-foot height limit.

B. SHORELINE MASTER PROGRAM GOALS – Chapter 5

Per the SMP development regulations at Chapter 7, all shoreline modifications and uses must be consistent with the goals and objectives of Chapter 5. The SMP establishes goals and objectives for the following shoreline elements: Economic Development, Public Access, Circulation, Recreation, Shoreline Use, Conservation, and Historical/Cultural Resources:

The goals and objectives established for these elements are the basis for policies and regulations included under the general and specific use requirements of this Master Program.

To the extent that the proposal complies with the general and specific use regulations (Chapters 6 and 7) below, the proposal is consistent with the goals and objectives of Chapter 5.

C. GENERAL POLICIES AND REGULATIONS – Chapter 6

Per the SMP Chapter 6: *In addition to the general policies and regulations listed below, all proposed developments must comply with the policies for shorelines of statewide significance (see Chapter 3: Shorelines of Statewide Significance) and the policies and regulations for specific uses and modifications (see Chapter 7: Specific Shoreline Development Policies and Regulations).*

1. VEGETATION CONSERVATION (SMP Chapter 6 Section III pg. 6-3)

A. Vegetation Conservation Regulations – General

- 1) *Outside of riparian management zones, normal non-destructive pruning and trimming of vegetation for maintenance purposes shall be permitted. Techniques shall include selective pruning, winnowing and other measures that preserve native plant composition, particularly tree form and structure. Limbing and crown thinning may be appropriate if sufficient crown is retained to preserve the trees fullness, health, and function.*
- 2) *Clearing invasive non-native shoreline vegetation listed on the Pierce County Noxious Weed List is permitted, provided hand held equipment is used and native vegetation is promptly reestablished in the disturbed area.*
- 3) *Should a development propose unavoidable impacts adverse to native shoreline vegetation located within the shoreline jurisdiction, mitigation shall be required. Mitigation shall ensure that there will be no net loss in the amount of vegetated area or the ecological functions performed by the disturbed vegetation. On-site and in-kind mitigation is preferred. Mitigation plans shall be completed before initiation of permitted activities, unless a phased or concurrent schedule that assures completion prior to occupancy has been approved by the Shoreline Administrator.*
- 4) *When restoring or enhancing shoreline vegetation, proponents shall use native species that are of a similar diversity, density, and type to that occurring in the general vicinity of the site prior to any shoreline alteration. The vegetation shall be a mix of native species from each vegetation class of ground cover, shrubs and trees nurtured and maintained to ensure establishment of a healthy and sustainable native plant community over time.*

B. Vegetation Conservation Regulations - Riparian Management Zone

- 1) *The riparian management zone should be established by a permanent protective easement or a public or private land trust dedication. An easement shall also be provided by the underlying property owner that grants the City access to the buffer for the placement of further conservation/restoration measures.*

- 2) *In order to maintain riparian corridors along both sides of the White (Stuck) and Puyallup Rivers and along Lake Tapps, the City of Sumner shall regulate the cutting, trimming, and clearing of vegetation within the riparian management zone, as follows:*
 - a) *Topping of trees and trimming of vegetation may be permitted within the riparian management zone, provided all of the following conditions are met:*
 - i. *This provision is not interpreted to allow clearing of vegetation,*
 - ii. *A certified arborist reviews the tree and states that no alternative to the topping or trimming of trees is appropriate or that work will not harm the vitality of these trees; and*
 - iii. *The Shoreline Administrator determines, after consultation with the Washington Department of Fish and Wildlife, that such topping and trimming is not detrimental to the riparian functions and values.*
- 3) *Vegetation removal within the riparian management zone is regulated as follows:*
 - a) *For water-dependent uses, water-dependent modifications, water-related recreational development and public access, vegetation removal shall be limited to the minimum necessary for the successful operation of the use, subject to the requirements of this section and Clearing and Grading provisions in Chapter 7: Specific Shoreline Development Policies and Regulations.*
 - b) *Vegetation removal is permitted for public access provided that it meets the requirements for public access as set forth Section VIII, Public Access section.*
- 4) *In all cases where vegetation removal may be approved pursuant to Section III, Vegetation Conservation Regulations – Riparian Management Zone, Regulation #3, exposed soils shall be immediately developed or revegetated to prevent erosion. Unless it would interfere with river access or the successful operation of a water-dependent use, cleared land within twenty-five (25) feet of the ordinary high water mark shall be revegetated with plants that benefit ecological functions and processes, such as native trees, shrubs and groundcover.*
- 5) *In all cases where clearing is allowed pursuant to Section III, Vegetation Conservation Regulations – Riparian Management Zone, Regulation #3, it shall be followed by revegetation; native plants shall be required, and cut trees larger than 9 inches caliper, as measured one (1) foot above grade, shall be retained in the vegetation management zone for habitat value.*
- 6) *Revegetation shall involve the placement of groundcover, shrubs, or trees and the following regulations shall apply:*
 - a) *At the time of planting, groundcover must be planted such that complete coverage is attained within one growing season.*
 - b) *At the time of planting, shrubs must be a minimum of twelve (12) inches high. Shrubs should be planted such that within two years the shrubs will cover at least sixty percent (60%) of the area that would be covered when the shrubs have attained a mature size.*
 - c) *For every tree greater than four (4) inches caliper, as measured one (1) foot above grade, removed for clearing, a minimum of two trees shall be planted for compensation.*
 - d) *Plants native to western Washington shall be used.*
 - e) *A mix of vegetation classes (i.e. ground cover, shrubs, and trees) shall be used. Minimally, trees shall be planted 20 feet on center.*
- 7) *The applicant shall install and implement a temporary irrigation system to ensure survival of vegetation planted in compliance with the riparian management provisions of this Master Program. Once the planted vegetation has been properly established, the irrigation system shall be removed.*
- 8) *For a period of two (2) years after initial planting, the applicant shall replace any unhealthy or dead vegetation planted as part of an approved landscape plan.*
- 9) *The Shoreline Administrator may require an applicant to submit a financial guarantee to the city to guarantee compliance with the riparian management zone regulations as a condition of permit approval. The permit shall not be issued until the appropriate financial guarantee is received by the Shoreline Administrator. Financial guarantees shall be in the amount of 120 percent of the estimate of the cost of compliance with the riparian management zone regulations to allow for inflation and administration should the City have to complete the mitigation or monitoring.*

The site is primarily an open field with no trees in the upland area. However, there is extensive native riparian vegetation along the river bank, within the 100-foot buffer zone. This vegetation is proposed to be protected. In addition, the riparian buffer is proposed to be enhanced through the removal on non-native species, such as reed-canary grass and blackberry. Willows will be planted in a low ditch area in the buffer at the southwest corner. Elsewhere, no shrubs are proposed for the buffer; however, the remainder of the buffer on site is primarily upland, and will not be disturbed. Native trees, such as Douglas-fir and alder, will be planted in this remaining area. The project HMP provides for a 10-year monitoring program to ensure the survival of mitigation plantings.

The proposal minimizes impacts to shoreline vegetation to the extent possible, given the allowed use of the site. A portion of the parking lot at the west edge extends into the 100-year floodplain at the edge of the protected buffer. This area of floodplain is proposed to be filled (990 cu. yds.) to construct the parking lot. To prevent encroachment into the protected buffer, a retaining wall is proposed at this edge of the parking lot. Other potential impacts and mitigation measures are noted below.

1. At the west edge of the site, within the shoreline jurisdiction but outside of the buffer, there are 5 large cottonwood trees proposed for removal. These large trees are particularly important habitat trees, providing shade, perch areas, and large woody debris recruitment in the shoreline area. The proposal includes mitigation of tree removal by planting replacement native trees, including conifers, at a ratio of 3:1, which exceeds the SMP requirement of a 2:1 ratio. To mitigate the loss of large woody debris, as a condition of approval the applicant will be required to leave all downed trees in the buffer area.
2. Along the west edge of the parking lot, construction of a proposed 5- to 10-foot high retaining wall and dispersion trench may impact the critical root area of several large cottonwood trees in the shoreline zone at the buffer edge. These are important habitat trees in the shoreline and should be protected. As conditions of approval, the applicant will be required to: a) Install 4-foot tall orange construction fencing at the edge of the western buffer and extending around the driplines of protected native trees ; and to b) Evaluate the condition of these trees in the buffer post-construction. Replacement at a 3:1 ratio will be required for native trees over 6 inches d.b.h. that are damaged by construction and no longer viable.
3. Per Section B(1) above, the SMP calls for protection of the riparian management zone area in a public easement or dedication. The applicant has indicated intent to provide such an easement, since the project provides no other shoreline access. As a condition of approval, the applicant will be required to dedicate the 100-foot shoreline buffer and an access easement to the City to accommodate future buffer restoration and public access.

As conditioned, the proposal complies with the regulations in Chapter 6 Section III.

2. WATER QUALITY (SMP Chapter 6, Section IV, pg. 6-6)

- 1) *Shoreline development and activity shall avoid any alteration of natural river flow or floodway capacity and shall comply with the applicable requirements of Section 6.11, Flood Hazard Area.*

- 2) *Shoreline development and activity shall minimize impacts to hydro-geomorphic processes, surface water drainage, and groundwater recharge and shall comply with the applicable requirements of the City of Sumner Development Specifications and Standard Details, Chapter 5.*
- 3) *All practicable measures shall be taken to protect waterbodies and wetlands from all sources of pollution, including, but not limited to sedimentation and siltation, petrochemical use and spillage, and storage of wastes and spoils. Developments shall comply with SMC 16.05, Control of Erosion and Sedimentation of Waterways.*
- 4) *Adequate provisions to prevent water runoff from contaminating surface and groundwater shall be included in shoreline development design.*
- 5) *Hazardous and/or toxic materials shall be prohibited within shoreline jurisdiction. In addition, emergency methods shall be available to prevent hazardous and/or toxic materials from entering the Puyallup or White (Stuck) Rivers or Lake Tapps and their associated wetlands, if these substances are used or stored in a portion of a shoreline development that extends outside of shoreline jurisdiction.*
- 6) *The release of oil, chemical, or hazardous materials onto or into the water is prohibited. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected. During construction in shoreline areas, the exclusion of vehicle refueling or vehicle maintenance from shoreline areas shall be the preferred BMP. The bulk storage of oil, fuel, chemical, or hazardous materials, on either a temporary or a permanent basis, shall not occur in the shoreline jurisdiction without adequate secondary containment.*
- 7) *The use of herbicides and pesticides shall be prohibited to remove noxious and invasive plants in the riparian management zones of rivers, streams, and wetland areas, except where no reasonable alternatives exist and it is demonstrated that such activity is in the public interest. A Conditional Use shall be required in such cases. Mechanical removal of noxious and invasive weeds shall be timed and carried out in a manner to minimize any disruption of wildlife or habitat.*
- 8) *For lawns and other vegetation maintained within shoreline jurisdiction, alternatives to the use of chemical fertilizers, herbicides, and pesticides shall be a preferred BMP. Where chemical fertilizer, herbicide, or pesticide use is necessary for protecting existing natural vegetation or establishing new vegetation in shoreline areas as part of an erosion control or mitigation plan, the use of time release fertilizer and herbicides shall be preferred over liquid or concentrate application.*
- 9) *Stormwater facilities that are designed to treat surface water runoff for the purpose of maintaining and/or enhancing water quality shall be located outside of shoreline jurisdiction whenever feasible. When located within shoreline jurisdiction, all measures for the treatment of surface water shall be conducted on-site, unless off-site options can be demonstrated to be more beneficial for shoreline ecological functions and processes. Treatment facilities shall not be allowed within the required riparian management zone, unless the Shoreline Administrator determines there would be a benefit to shoreline functions.*

The proposal does not include any alteration of river flows, in-water work, or clearing of the shoreline buffer. The development includes an area of fill in the floodplain (990 cubic yards), in order to level a drop in grade where a portion of the parking lot is to be constructed. To compensate for storage volume in the floodplain, the applicant will excavate a minimum of 990 cubic yards on site. The proposed storage area, on the north edge of the parking lot (see Civil plans) will be narrowly connected to the floodplain. Based on this, the proposal will not increase the base flood elevation at the site or have adverse effect on floodplain storage capacity.

While final engineering drawings are not yet complete, the development will include stormwater facilities to collect and treat runoff from impervious surfaces, including a dispersion trench at the riverbank, prior to discharge to the river. Early engineering drawings show a dispersion trench encroaching into the riparian buffer. As a condition of approval, no stormwater facilities construction will be allowed within the 100-foot buffer.

The 100-foot vegetated buffer is to be retained, which will help provide protection of water quality. As noted in the HMP, a temporary sedimentation and erosion control plan will be created and in place prior to approval of any grading activity within the shoreline area. A spill and response plan will also be developed to ensure there is not pollution resulting from construction activity. The project will comply with the City of Sumner adopted erosion control measures and stormwater treatment standards, which require treatment of stormwater prior to discharge. Sumner has adopted the 2005 Department of Ecology Stormwater Manual which is considered the Best Available Science for stormwater treatment.

The proposal includes an outdoor storage area of 9400 square feet for parking of mobile equipment and generators. No hazardous materials are proposed to be stored outside at the site. As a requirement of building permits, all hazardous materials will be required to be stored with secondary containment in accordance with the City's Fire Department requirements.

As conditioned, the proposal includes adequate provisions to protect water quality at the site.

3. ENVIRONMENTAL IMPACT MITIGATION (SMP Chapter 6, Section V pg. 6-7).

- 1) *All shoreline development and activity shall be located, designed, constructed, and managed in a manner that mitigates adverse impacts to the environment. When required, mitigation measures shall be applied in the in the following sequence of steps listed in order of priority, with 1a of this subsection being top priority:*
 - a) *Avoiding the impact altogether by not taking a certain action or parts of an action;*
 - b) *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;*
 - c) *Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;*
 - d) *Reducing or eliminating the impact over time by preservation and maintenance operations;*
 - e) *Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and*
 - f) *Monitoring the impact and the compensation projects and taking appropriate corrective measures.*
- 2) *In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.*
- 3) *All shoreline development and activity shall be located, designed, constructed, operated, and managed to minimize interference with beneficial natural shoreline processes, such as, but not limited to, water circulation, sand and gravel movement, erosion, and accretion.*
- 4) *All shoreline development and activity shall recognize the primacy of preserving the natural character of the White (Stuck) and Puyallup Rivers and Lake Tapps and the fish and wildlife supported by these shorelines, as required for shorelines of statewide significance.*

- 5) *In approving shoreline developments, the City of Sumner shall ensure that the development will maintain, enhance, or restore desirable shoreline features, as well as protect ecological functions and processes. To this end, the City will adjust and/or prescribe project dimensions, location of project components on the site, intensity of use, and screening as deemed appropriate.*
- 6) *Projects shall be designed to avoid the removal of trees in shorelines, wherever practicable and to minimize the removal of other woody vegetation. Where riparian vegetation is removed, measures to mitigate the loss of vegetation shall be implemented to assure no net loss in ecological function and processes.*
- 7) *Mitigation shall be required of the proponent for the loss of ecological functions and processes, including fish and wildlife resources, natural systems, riparian vegetation, wetlands and other critical areas. The mitigation required shall be commensurate to the value and type of resource or system impacted by development and activity in the shoreline. On-site compensatory mitigation shall be the preferred mitigation option, except where off-site mitigation can be demonstrated to be more beneficial to ecological functions and processes. If on-site compensatory mitigation is not feasible or if off-site mitigation is demonstrated to be more beneficial to the shoreline environment, participation in a publicly sponsored restoration or enhancement program or credits from a state certified mitigation in accordance with chapter 90.84 RCW shall be the preferred option.*
- 8) *Enhancement and/or restoration of coniferous riparian forest or deciduous riparian forest shall be the preferred mitigation for impacts to riparian vegetation when avoidance is not possible. Where mitigation for loss of or impact to ecological function and processes is required, a habitat management plan shall be required. Habitat management plans shall be prepared by a professional wildlife biologist or fisheries biologist as determined appropriate by the Shoreline Administrator. The habitat management plan shall contain at a minimum:*
 - a) *A discussion of the project's effects on ecological functions and processes;*
 - b) *A discussion of any federal, state, or local special management recommendations which have been developed for species or habitats located on the site;*
 - c) *A discussion of measures to preserve existing habitats and restore habitats which were degraded prior to the proposed land use activity. Restoration plans shall include at a minimum: planting and soil specifications; success standards; and contingency plans;*
 - d) *A discussion of proposed measures which mitigate the impacts of the project;*
 - e) *An evaluation of the effectiveness of the proposed mitigation and restoration measures;*
 - f) *A discussion of ongoing management practices which will protect ecological functions and processes after the project site has been fully developed, including proposed monitoring and maintenance programs;*
 - g) *An assessment of habitat recommendations proposed by resource agencies and their applicability to the proposal; and*
 - h) *Any additional information necessary to determine the impacts of a proposal and mitigation of the impacts.*
 - i) *Habitat management plans shall be forwarded to the appropriate state and/or federal resource agencies for review and comment.*
- 9) *Annual monitoring reports shall be provided to the City by the property owner until the mitigation and/or restoration has been in place for at least 10 years and the success standards have been met. The City shall forward the monitoring reports annually to the appropriate federal agencies along with the following:*
 - a) *A list and map of the location of development permits issued in the last calendar year;*
 - b) *The implementation status of Habitat Management Plans; and*

c) *The status of the habitat improvements.*

- 10) *Based on the habitat management plan, and comments from other agencies, the Shoreline Administrator may require mitigating measures to reduce the impacts of the proposal on critical habitat and/or wildlife areas. Mitigating measures must demonstrate that no net loss of ecological functions has been achieved through the habitat management plan and may include, but are not limited to, increased buffers, building setbacks, enhanced buffers, reduced project scope, limitations on construction hours, limitations on hours of operation, and relocation of access. Projects may be denied if the proposal will result in net loss of ecological functions.*
- 11) *Mitigation activities shall be monitored to determine effectiveness of the habitat management plan. Monitoring shall be accomplished by a third party, subject to the approval of the Shoreline Administrator, and shall have the concurrence of the U.S. Fish and Wildlife Service, National Marine Fisheries Service, FEMA, Washington Department of Fish and Wildlife, and, where applicable, the Washington Department of Ecology. Monitoring shall occur over ten (10) years following implementation of the plan. Results of the monitoring shall be publicly available and reported to the U.S. Fish and Wildlife Service and National Marine Fisheries Service. Reports shall contain the following information:*
- a) *A list of parcels subject to this requirement;*
 - b) *The implementation status of the habitat management plans;*
 - c) *Status of the improvements (e.g. update if success standards are being met, what types of remedial actions have been implemented.)*
- 12) *If mitigation is found to be ineffective, corrective action will be required of the proponent, which satisfies the mitigation objectives.*
- 13) *If mitigation is found to be inadequate or if adequate mitigation is determined to be impossible, the application shall be denied.*
- 14) *Timing of in-water construction, development, or activity shall be determined by Washington Department of Fish and Wildlife.*

The proposal is an allowed industrial use in the Light Industrial zone, which has one of the highest allowable maximum lot coverages (next to Heavy Industrial). While maximizing the developable area, the project attempts to avoid any adverse environmental impacts by maintaining the 100-foot riparian buffer. In instances where impacts to the shoreline jurisdiction cannot be avoided, such as the removal of large cottonwood trees outside of the buffer, and an area of fill in the floodplain, these impacts are proposed to be mitigated through mitigation plantings and excavation of compensatory flood storage capacity in areas with virtually no existing riparian vegetation. The project will not impact shoreline processes, as all development will be set back 100 feet from the o.h.w.m.

As noted at Section III.C.1., Vegetation Conservation, the project will remove 5 large cottonwood trees in the shoreline area. These will be replaced at a 3:1 ratio in the buffer and, as a condition of approval, will be required to be felled into the river or buffer. All mitigation will be on-site. To minimize impacts to wildlife, as a condition of approval, the applicant will be required to coordinate with WDFW on timing of tree removal.

The application includes a Habitat Management Plan (HMP) that addresses the requirements of this Section. It includes mitigation measures and recommendations and provisions for a

monitoring period of 10 years. As a condition of approval, the project will be required to follow the Habitat Management Plan, which addresses mitigation and restoration measures. As a condition of approval, monitoring will be conducted by a third party, subject to approval by the City.

As conditioned, the proposal includes adequate provisions to mitigate environmental impacts, consistent with Chapter 6, Section V.

4. HISTORICAL AND CULTURAL (SMP Chapter 6, Section VI pg. 6-10)

- 1) *Wherever possible, public or private developments shall be prevented from destroying or destructively altering potential or recognizable sites having historic, cultural, scientific, or educational value as identified by appropriate authorities.*
- 2) *All shoreline permits and statements of exemption shall contain provisions that require developers to immediately stop work and notify the City of Sumner, the State Department of Archaeology and Historic Preservation (DAHP), the Puyallup Tribe of Indians, and the Muckleshoot Tribe if any artifacts of possible historic, cultural, or archaeological value are uncovered during excavation. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist or historic preservation professional, as applicable, in coordination with the state and/or affected tribes to ensure that all possible valuable historic, cultural, or archaeological artifacts is properly protected or salvaged.*
- 3) *Upon receipt of an application for a shoreline permit or request for a statement of exemption for development on properties known to contain an historic, cultural or archaeological resource(s), the City shall require a site inspection, evaluation, and written report by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of cultural, historic or archaeological resource(s). If it is determined that a site has a significant resource(s), shoreline permits or a statement of exemption shall not be issued until protection or mitigation is developed to the satisfaction of both DAHP and affected tribes.*
- 4) *Where provision of public access for purposes of public education related to an identified historic, cultural, or archaeological site is desired by the property owner and the City, then the City, DAHP, Muckleshoot Indian Tribe, Puyallup Tribe of Indians and/or other agencies, as appropriate, shall be consulted and approvals obtained prior to providing public access to the site. Public access shall be consistent with the provisions for public access and shall not damage or reduce the cultural value of the site. A public access management plan shall be developed in consultation with DAHP, affected tribes and/or other agencies to address the following:*
 - a) *The type and/or level of public access that is consistent with the long term protection of both historic resource values and shoreline ecological functions and processes; and*
 - b) *Types and location of interpretative signs, displays and other educational materials; and*
 - c) *Site - and resource-specific conditions, including hours of operation, interpretive and/or directional signage, lighting, pedestrian access, and/or traffic and parking.*

There are no known historical or cultural sites on the property. As a condition of approval, the project developer and contractors will be required to immediately stop work and notify the appropriate authorities if any artifacts of possible historic, cultural or archaeological value are uncovered, and to follow appropriate steps for site inspection and protection. With this condition, the proposal will be consistent with Chapter 6, Section VI.

5. CRITICAL AREAS PROTECTION (SMP Chapter 6, Section VII pg. 6-11)

A. Critical Areas Protection Regulations – General

- 1) *In general, this Master Program shall strive to protect and restore anadromous fisheries in the White (Stuck) and Puyallup Rivers.*
- 2) *Shoreline development and uses shall not adversely affect species that are federally-listed as threatened or endangered species under the Endangered Species Act.*
- 3) *Shoreline development and activity shall be located and conducted in a manner that minimizes impacts to existing ecological values and natural resources of the area, and conserves properly functioning conditions.*
- 4) *Shoreline development and activity shall be scheduled to protect biological productivity and to minimize interference with fish resources including salmonid migration, spawning, and rearing activity.*
- 5) *Shoreline activities and development projects shall minimize impacts to natural features of the shoreline as much as possible.*
- 6) *Shoreline development and activity shall maintain the unconstrained upstream and downstream migration of both adult and juvenile anadromous and resident fish, when applicable.*
- 7) *Gravel bars and other accretion shoreforms are valued for recreation and in some cases may provide fish spawning substrate. Therefore, developments that could disrupt these shoreforms shall be carefully evaluated and only allowed: when such disruption would not reduce shoreline ecological functions and processes; where there is a demonstrated public benefit; and where the Department of Fish and Wildlife determines there would be no significant impact to the fisheries resource.*

B. Critical Areas Protection Regulations – Natural Resource Lands and Critical Areas

- 1) *Protect areas of land with valuable and nonrenewable resources for future generations in a manner consistent with the current comprehensive plan until such time as a revised comprehensive plan determines the future use of such lands;*
- 2) *Regulate development on and around critical areas in order to protect lives, property and public infrastructure;*
- 3) *Prevent development which is incompatible with certain critical areas which are particularly susceptible to water quality, noise, and air quality impacts associated with nearby development;*
- 4) *Establish mechanisms to inform present and future landowners of their location on or near resource or critical lands.*

Regarding Section A, the proposal does not involve any in-water work, nor activities that would interfere with the migration, spawning or rearing activity of salmonids. Several large cottonwood trees located within the shoreline jurisdiction (but outside the 100-foot buffer) are proposed for removal. These trees will be replaced with new native plantings. Conditions of approval noted at Section V, below, will ensure that felling of these trees enhances large woody debris in the shoreline, and will require coordination of timing of felling with WDFW to minimize impacts to fish and wildlife.

Regarding Section B, the site lies within several Critical Areas, as discussed below:

- **Agricultural Resource Lands (6.2):** The site is not designated as agricultural resource land.
- **Wetlands Protection (6.4):** There are no wetlands on the site.
- **Aquifer Recharge Areas (6.5):** The site lies within an aquifer recharge area. The proposed use is not prohibited in this critical area; further, all operations will be required to comply with City of Sumner regulations for materials storage, containment, paved vehicle circulation areas, and stormwater treatment.
- **Landslide and Erosion Hazard Areas (6.6):** There are none of these areas on the site.
- **Seismic Hazard Area (6.7):** The site, as most of the river valley floor, is considered a Seismic Hazard Area, due to the potential for soil liquefaction.
- **Volcanic Hazard Area (6.8):** The site lies within the valley floor, which is considered a Volcanic Hazard Area, due to the potential for lahars and debris flows.
- **Wildlife Habitat Area (6.9):** Project impacts on fish and wildlife habitat, and mitigation measures, are discussed elsewhere in this report.
- **Flood Hazard Area (6.10):** A relatively small portion of the site (parking lot) will be located in the 100-year floodplain. Therefore, the property owner will be required to record a notice to the property title of the presence of this critical area.

As described elsewhere in this report, the proposal will have minimal to moderate impacts on the shoreline jurisdiction, floodplain and shoreline vegetation and also includes mitigation that adequately addresses these impacts. In addition, the property owner will be required to record a notice to the property title of the presence of each critical area (e.g. flood hazard area, aquifer recharge area, volcanic hazard area, seismic hazard area) on this site, as required by this Section. Based on this, the proposal is consistent with the critical areas protections established in Chapter 6, Section VII.

6. PUBLIC ACCESS (SMP Chapter 6, Section VIII pg. 6-50)

The proposal includes dedication of a public multi-use trail along Fryar Avenue. The existing Sumner Link multi-use trail is planned to pass in front of this project. The applicant and City explored options for locating the trail along the riverbank; however, the trail construction would result in impacts to riparian vegetation and, therefore, is required to be located outside of the riparian buffer is not allowed within the shoreline buffer, per the 2004 United State Fish and Wildlife and National Oceanic and Atmospheric Administration's 24th Street FEMA Biological Opinion. Further, there is at present no viable trail connection to the riverbank south of the parcel. Therefore, the project will provide a multi-use trail section along Fryar Avenue. This section will continue the Sumner Link trail consistent with the Sumner Trail Master Plan.

In addition, the applicant intends to dedicate the 100-foot shoreline buffer for public access, and to provide a public access easement to the buffer. Providing the dedication/easement for the 100-foot buffer will allow for public access and continued tribal use of the shoreline. See Conditions of Approval in Section V, below.

As conditioned, the proposal satisfies the requirements at Chapter 6, Section VIII.

D. SPECIFIC DEVELOPMENT POLICIES AND REGULATIONS – Chapter 7

Per the SMP Chapter 6: *All shoreline modifications and uses must also be consistent with the Shoreline Environmental Designations of Chapter 4, the Goals and Objectives of Chapter 5, and the General Shoreline Policies and Regulations of Chapter 6.*

1. CLEARING AND GRADING (SMP Chapter 7, Section V pg. 7-7)

- 1) *Clearing and grading activities shall only be allowed in association with a permitted shoreline development, use or restoration activity.*
- 2) *Clearing and grading activities shall comply with Sumner Municipal Code (SMC) Chapter 16.05, Control of Erosion and Sedimentation of Waterways.*
- 3) *All clearing and grading activities shall be limited to the minimum necessary for the intended development, including any clearing and grading approved as part of a landscape plan. Surfaces cleared of vegetation and not developed with structures or impervious surfaces must be replanted as soon as possible. Full groundcover must be reestablished within two (2) years.*
- 4) *Clearing and grading within the Riparian Management Zones established in Table 4-7 (see Chapter 4: Shoreline Environment Designations) shall comply with the requirements established in Chapter 6: General Shoreline Development Policies and Regulations, Section III, Vegetation Conservation .*
- 5) *If the area of clearing or grading totals one-acre or greater (43,560 square feet), located on site, in or outside of shoreline jurisdiction, then water quality and erosion control measures shall be established through the National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit and associated Stormwater Pollution Prevention Plan (SWPPP).*
- 6) *All shoreline development and activity shall use effective measures to minimize increases in surface water run off that may result from clearing and grading activity in compliance with the 2005 version of the Stormwater Management Manual for Western Washington issued by the Washington State Department of Ecology. The applicant must include in the proposal the methods that will be used to control, treat, and release runoff so that receiving water quality and shore properties and features shall not be adversely affected. Such measures may include but are not limited to dikes, berms, catch basins or settling ponds, installation and maintenance of oil/water separators, grassy swales interceptor drains, and landscaped buffers.*
- 7) *Stabilization of exposed erosional surfaces along shorelines shall, whenever feasible, utilize soil bioengineering techniques.*
- 8) *Developments in the floodplain that alter the topography of the shoreline shall be carefully evaluated to determine compliance with Chapter 6: General Shoreline Policies and Regulations, Section 6.11.*
- 9) *Developments that alter the topography of the shoreline shall be carefully evaluated to determine if such alteration would impact ecological functions and processes. Mitigation shall be required for projects to ensure no net loss of ecological functions and processes.*
- 10) *An erosion and sedimentation control program shall be submitted with a permit application that involves the removal of vegetation, stockpiling of earth or other materials, or any activity that could result in shoreline erosion and siltation of the Puyallup or White (Stuck) Rivers, Lake Tapps and their associated wetlands. Stockpiling of earth or other materials is only allowed as needed for a permitted development.*

- 11) *The proponent shall incorporate BMP measures into the erosion and sedimentation control program. The Shoreline Administrator shall determine what BMP measures are applicable for erosion and sedimentation control for projects in shorelines.*
- 12) *All debris, overburden, and other waste materials from construction shall be disposed of in such manner as to prevent their entry into a waterbody by erosion.*
- 13) *All disposal sites for soils and materials resulting from the shoreline development shall be identified and approved before permit issuance.*

The proposed development will minimize clearing/grading activities to the area needed for site development, and will maintain the 100-foot riparian buffer. The proposal includes a landscaping plan and a Habitat Management Plan that provide for replanting vegetation on disturbed ground.

As noted in Section C. 2. Water Quality, above, the development will be required to comply with the City's adopted erosion control measures. The project will be required to comply with several conditions of approval related to developing and implementing an erosion and sedimentation control program. At the time of site development permits, as a standard City requirement, the project will be required to demonstrate compliance with the required NPDES and SWPPP permits. All stormwater will be required to be collected, treated and released in compliance with the current Department of Ecology Stormwater Management Manual.

As conditioned, the proposal includes adequate provisions to mitigate clearing and grading impacts, consistent with Chapter 6, Section V.

2. INDUSTRIAL DEVELOPMENT (SMP Section XI pg. 7-23)

- 1) *Only water-dependent industrial development shall be permitted within the riparian management zone established by this Master Program (see Chapter 4: Shoreline Environment Designations, Bulk Dimensional and Vegetation Standards Table, Table 4-7).*
- 2) *Over- water construction of industrial uses is prohibited.*
- 3) *Non-water-oriented industrial uses are allowed in the shoreline jurisdiction provided significant public benefit in the form of public access and ecological restoration is provided and they meet one of the following criteria:*
 - a. *The site is physically separated from the shoreline by another property in separate ownership or public right of way; or*
 - b. *The use is part of a mixed use project that includes water-dependent uses and provides significant public benefit with respect to the city's Shoreline Master Program objectives; or*
 - c. *Navigability is severely limited at the proposed site.*
- 4) *When permitted pursuant to Section X, Industrial Development Regulations, Regulation #3 above, non-water-oriented uses shall provide public access (see Chapter 6: General Shoreline Policies and Regulations, Section VIII, Public Access) and restore shoreline ecological functions as follows:*
 - a. *When part of a mixed-use development – Eighty percent (80%) of the riparian management zone shall be restored or enhanced consistent with opportunities identified in the Restoration Plan or Inventory and Characterization report.*

- b. *When not part of a mixed-use development, the City shall determine the type and extent of restoration on a case-by-case basis according to the opportunities and constraints provided by the site.*
- 5) *Where on-site public access is appropriate, industrial development shall dedicate, improve, and provide maintenance for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for the general public. Public access easements shall be a minimum of twenty-five (25) feet in width and shall comply with the public access standards contained in this Master Program (see Chapter 6: General Shoreline Policies and Regulations, Public Access section).*
 - 6) *Off-site public access to the Sumner shoreline shall be required if on-site public access would pose an unacceptable risk to the public health, safety, and welfare. Off-site public access must meet the same standards and requirements as on-site public access.*
 - 7) *Accessory industrial development that does not require a shoreline location shall be located upland of the water-dependent portions of the development and setback from the OHWM as set forth in Chapter 4: Shoreline Environment Designations. Accessory development includes, but is not limited to, parking, warehousing, open-air storage, waste storage and treatment, storm runoff control facilities, utilities, and land transportation corridors.*
 - 8) *Sewage treatment and water reclamation may only be permitted by conditional use and shall be located where they do not interfere with and are compatible with recreational, residential, or other public uses of the water and shorelines.*
 - 9) *Storage and/or disposal of industrial wastes is prohibited within shoreline jurisdiction, provided that public wastewater treatment system may be allowed if alternate inland areas are unavailable.*
 - 10) *All new or expanded industrial development shall be set back and landscaped from adjacent shoreline properties that are used for nonindustrial purposes. Landscaped setbacks shall be of adequate width and height, to protect adjacent land uses from visual or noise intrusion and shall comply with SMC 18.18. New or expanded industrial development shall be set back from the shoreline (see Chapter 4: Shoreline Environment Designations, Bulk Dimensional and Vegetation Standards Table, Table 4-7) except those water-dependent portions of the development that require direct access to the water.*
 - 11) *Buffers shall not be used for storage of industrial equipment or materials, or for waste disposal. Buffers may be used for outdoor recreation if consistent with public access provisions.*
 - 12) *Display and other exterior lighting shall be designed, shielded, and operated to minimize glare, to avoid illuminating nearby properties, and to prevent hazards for public traffic.*
 - 13) *Unpaved storage areas underlain by permeable soils shall have at least a 4-foot separation between the ground surface and the highest seasonal water table.*
 - 14) *Berms, dikes, grassy swales, vegetated buffers, retention ponds, or other means shall be used to ensure that surface runoff is collected and discharged from the storage area at one point, if possible. It shall be demonstrated that water quality standards will not be violated by such runoff under any conditions of flow, leaving the site and entering into nearby watercourses.*
 - 15) *Industrial projects of statewide significance determined to be particularly dependent on a location on or requiring use of the shorelines of the state in Sumner shall be reviewed per the City's goals and policies addressing facilities of statewide significance contained within the City's comprehensive plan*

and shall be consistent with the provisions of this Master Program.

The proposal is for a non-water-oriented industrial use. No part of the project will be permitted in the riparian management zone, nor over water.

Relative to Subsections 3) and 5) above, the development will provide a significant public benefit by providing public access and shoreline ecological restoration.

- a. At present, there is no viable connection for a shoreline trail on this site to connect to the regional multi-use trail to the south of the site. Therefore, the City and applicant have agreed to locate a connection to the Sumner Link multi-use trail at the property frontage on Fryar Avenue. The applicant will provide the necessary right-of-way dedication and will construct this trail section.
- b. The property owner intends to dedicate the 100-foot riparian buffer for public access, and to provide an access easement to the City for future shoreline buffer conservation and public access. As a condition of approval, the owner will be required to record this dedication/easement on forms approved by the City. This will result in a site physically separated from the shoreline by a publicly owned tract.
- c. As discussed under Section C.6. Public Access, above, construction of a pedestrian trail along the shoreline at this site is not appropriate at present, since there is no viable trail connection at the south property line. Once the shoreline buffer and easement have been dedicated to the City for future public access, future trails and access can be developed in the future consistent with the access standards of the Shoreline Master Program.

Regarding Subsection 4) above, the use is not part of a mixed use development; the project maximizes the developable area of the site, consistent with an intense, light industrial use. As noted elsewhere in this report, the proposal maintains the protected 100-foot riparian buffer. In addition, the buffer will be enhanced through the removal of invasive species, and the planting of 18 new native trees in areas where no trees currently exist. This is an appropriate level of ecological restoration given the proposed use and anticipated impacts.

Regarding landscape buffers, the development includes a perimeter landscape strip between the parking/building area and the 100-foot buffer. This landscaping will have large-stature trees and shrubs. Between this landscaping and the top of bank, existing riparian vegetation in the buffer will be retained and additional trees will be planted by the applicant. The riverbank itself has dense riparian vegetation cover. As noted in comments from the Muckleshoot Indian Tribe, artificial lighting has been shown to cause impacts to salmonids and wildlife. The proposed landscaping will help screen the development and outdoor lighting from the shoreline. In addition, as a condition of approval, all lighting will be required to be down-shielded and directed away from the shoreline. As there are no non-industrial uses adjacent to the site, the proposed landscape buffers are adequate for the proposal.

3. PARKING (SMP Chapter 7, Section XIII pg. 7-28)

Parking for specific land use activities within the City of Sumner is subject to the requirements and standards set forth in the Sumner Zoning Code. In addition, the following parking requirements shall apply to all developments within shoreline jurisdiction.

- 1) *Parking as a primary use shall be prohibited within shoreline jurisdiction.*
- 2) *The location of parking areas in or over critical fish water habitat, wetlands, and the associated buffers shall be prohibited.*
- 3) *Parking or storage of recreational vehicles or travel trailers as a primary use shall be prohibited in all shoreline environment jurisdictions.*
- 4) *Parking in shoreline areas must directly serve an approved shoreline use.*
- 5) *Parking areas within shoreline jurisdiction shall be designed and landscaped to minimize adverse impacts upon adjacent shorelines and abutting properties. The landscaping shall preferably consist of native vegetation, to be planted within one (1) year after completion of construction and provide an effective screening three (3) years after planting. Adequate screening or landscaping for parking lots shall consist of one or more of the following:*
 - a. *A strip of land fifteen (15) feet wide landscaped with trees, shrubs, and groundcover.*
 - b. *A building or enclosed structure.*
 - c. *A strip of land not less than five (5) feet in width that is occupied by a continuous wall, fence, plant material, or combination of both; which shall be at least six (6) feet high at time of installation. The plant material shall be evergreen and spaced not more than three (3) feet on center if pyramidal in shape, or not more than five (5) feet if wider in branching habit. If the plant material is used in conjunction with a wall or fence meeting the minimum height requirements then said material may be of any kind and spacing.*

The requirement for screening may be waived by the Director of Community Development, where screening would obstruct a significant view of the river from public property or public roadway.
- 6) *All landscaping shall be designed to provide biofiltration functions for runoff from the parking area.*
- 7) *Alternatives to conventional storm water treatment, such as use of pervious materials, shall be considered in order to minimize impacts due to runoff and the need for storm water treatment.*
- 8) *All landscaping must be maintained in a neat and orderly manner. In no event shall such landscape areas be used for the storage of materials or parking of automobiles, or recreational or other vehicles.*
- 9) *Parking facilities shall not be permitted over the water.*
- 10) *Parking shall be located on the landward side of the development unless parking is contained within a permitted structure.*
- 11) *Where there is no available land area on the landward side of the development, parking shall extend no closer to the shoreline than a permitted structure.*

The proposed use involves the repair, installation and service of heavy vehicle engines and generators. Consequently, the development site includes incidental parking for semi-trucks, RVs, and passenger vehicles. Abutting properties are also in industrial uses; so the most important function of the project's landscaping is to screen it from the shoreline.

Regarding Subsection 5), the project provides perimeter landscaping that will screen the parking areas from the shoreline (see attached Landscape Plan). In most areas, the landscape strip will be 15-20 feet wide, with trees, shrubs, and groundcover. At several points in the perimeter landscape,

the width narrows to 5-10 feet, where proposed parking is pushed close to the edge of the 100-foot buffer. Along the northwest property line, where there are currently few trees in the upland area of the buffer, heavier landscaping is important to provide shade and screening. A wider landscape strip would help ensure the long-term viability of landscaping, especially large stature evergreen plantings. As a condition of approval, the applicant will be required to widen landscaping in this area of the site. Landscaping at the street front consists of primarily evergreen shrubs and canopy trees, which will screen the parking area. Although this landscaping is less than 10 feet wide, a portion of what would otherwise be landscaping will become a public multi-use trail.

Landscaping will be primarily native species, consistent with this subsection. As a standard condition of building permit approval, the City requires landscaping to be installed within 1 year with a subsequent 3-year maintenance bond. The project will require Administrative Design Review under the Sumner Design and Development Guidelines (per SMC 18.40.020). Additional details related to appropriate landscape widths and screening will be determined by the Director of Community Development through this separate process.

Based on the discussion above, the project will be landscaped to minimize adverse impacts upon adjacent shorelines and abutting properties.

IV. REVIEW CRITERIA AND DISCUSSION – SHORELINE CONDITIONAL USE PERMIT

Criteria for Granting Conditional Use Permits. Per Chapter 8, Section III of the SMP, uses which are classified or set forth in the Master Program as conditional uses may be authorized provided that the applicant demonstrates all compliance with all of the criteria below. 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.

A. Consistency with the Shoreline Master Program

That the proposed use is consistent with the policies of RCW 90.58.020 and the Master Program.

The proposed use is allowed as a Conditional Use in the SMP, as a non-water-oriented use. While the Shoreline Management Act and the SMP give preference to water-related uses, this industrial development is allowed by the SMP and is a permitted use in the underlying M-1 zone. The proposal protects the 100-foot riparian management zone (buffer) as required by the SMP. In the upland area, the project will remove several native trees outside of the buffer but in the shoreline jurisdiction. A relatively small area of the 100-year floodplain will be filled to accommodate construction of the west parking lot and retaining wall. Approximately 990 cubic yards of fill will be placed in this area, but outside of the buffer.

However, the proposal provides for mitigation of these impacts (see Habitat Management Plan). An equivalent area of floodplain storage will be excavated at the north edge of the parking to compensate for the 990 cu.yd. of floodplain fill. No excavation is proposed in the buffer. Five

native trees and one non-native tree are proposed for removal; these will be replaced at a 3:1 ratio throughout the riparian management zone. This buffer restoration will include removal of invasive plants and planting native trees in upland areas that currently have no trees. The development will include perimeter landscaping to minimize conflicts with habitat areas of the shoreline. Stormwater treatment will comply with City of Sumner stormwater regulations to ensure there are no impacts to water quality. The discussions under Section III above are herein incorporated by reference as further evidence of the proposal's consistency with the SMP.

In summary, the use is allowed by the SMP, the proposal provides adequate mitigation of anticipated impacts to the shoreline environment and, therefore, meets this criterion.

B. Public use of shorelines

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

Development on the site will be set back from the shoreline 100 feet. As noted in Section III, C.6. Public Access, above, the property owner intends to provide a dedication/easement over the 100-foot riparian buffer to provide for public access and buffer restoration, and that will be a condition of the Shoreline Substantial Development Permit approval. By maintaining the 100-foot setback, and providing a public access easement, the proposed use will not interfere with normal public use of the shoreline.

C. Other uses in the area, uses planned under the Comprehensive Plan and SMP

That the proposed use of the site and design of the project will be compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and Master Program.

The Comprehensive Plan has designated this site as Light Industrial/MIC Industrial Overlay. The use is an industrial use with commercial components (service of heavy machinery engines and generators, selling of parts). Therefore, it is consistent with the uses anticipated by the Comprehensive Plan.

The site is designated Urban Conservancy Environment in the SMP. This designation is defined as: An area of mixed land uses that include residential, commercial, and industrial developments, generally located in a floodplain with potential for ecological restoration. The purpose of the Urban Conservancy environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. Given that the proposal is for a use anticipated in the Urban Conservancy Environment, and that it incorporates ecological restoration of the shoreline, the proposal meets this criterion.

D. Adverse effects on the shoreline

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

As discussed in Section III above, related to the Shoreline Substantial Development Permit, the proposal (as conditioned) adequately addresses the potential impacts to the shoreline, such as: Protection of the 100-foot riparian management zone, restoration of the shoreline buffer commensurate with anticipated impacts, management of erosion and stormwater to protect water quality, perimeter landscape screening, and provision of a dedication/easement for public access and buffer restoration. Based on this, the proposal will not cause significant adverse effects to the shoreline. The discussions under Section III above are herein incorporated by reference as further evidence of the proposal's compliance with this criterion.

E. Effect on the public interest

That the public interest suffers no substantial detrimental effect.

As discussed under Section III above, the proposal adequately addresses potential ecological impacts to the shoreline. Further, it establishes an industrial use that is anticipated in the Comprehensive Plan and allowed under the adopted zoning designation, and that serves the broader community. The proposal will have no substantial detrimental effect on the public interest. The analysis of the proposal under Section III above is herein incorporated by reference as evidence of the consistency of the proposal with this criterion.

V. STAFF RECOMMENDATION

Project Number PLN-2016-0039 for a Shoreline Substantial Development Permit and Shoreline Conditional Use Permit to construct a new 56,000 square-foot building for Cummins Northwest, including paved parking areas and landscaping should be APPROVED by the Sumner Hearing Examiner, subject to the following conditions:

1. All conditions set forth in the Mitigated Determination of Significance dated May 25, 2016 shall be met.
2. Prior to commencement of clearing/grading, the contractor shall install 4-foot tall orange construction fencing at the edge of the buffer (west of the proposed building), and extending out around the driplines of protected native trees.
3. Prior to building occupancy, the applicant shall have a certified arborist evaluate the condition of native trees in the shoreline zone (west of the proposed building). Trees over 6 inches d.b.h. that are damaged by construction and no longer viable shall be replaced in the shoreline buffer at a ratio of 3:1.
4. All trees over 6 inches d.b.h. authorized to be removed in the shoreline zone shall be felled into the river or buffer. The applicant shall coordinate with WDFW on timing of tree removal.
5. The project shall comply with the project's approved Habitat Management Plan, dated March 2016. A final mitigation plan for the riparian buffer enhancement, including landscaping plans per SMC 18.41, shall be provided and approved prior to permit issuance.

6. Annual monitoring reports shall be provided to the City as set forth in the approved Habitat Management Plan, until the mitigation and/or restoration has been in place for at least 10 years and the success standards have been met.
7. Monitoring shall be accomplished by a third party, subject to the approval of the shoreline administrator.
8. No stormwater facilities construction will be allowed within the 100-foot buffer.
9. There shall be no storage of hazardous materials, chemicals or fuel within the riparian management zone.
10. An erosion and sedimentation control program shall be submitted if there is activity that could result in shoreline erosion and siltation of the White River. AKART (“all known, available and reasonable methods of prevention, control and treatment”) measures shall be incorporated into the erosion and sedimentation control program. The administrator shall determine what AKART measures are applicable for erosion and sedimentation control for projects in shorelines. A spill response and protection plan shall be developed for the site.
11. Temporary and emergency control drainage measures, such as silt curtains, berms, and stormwater catch basins, shall be utilized during construction to prevent shoreline erosion and siltation of the waterbody. All debris, overburden, and other waste materials from construction shall be disposed of in such manner as to prevent their entry into a waterbody by erosion.
12. All disposal sites for soils and materials resulting from the shoreline development shall be identified and approved by the City.
13. During construction in the shoreline areas, vehicle refueling and vehicle maintenance shall be prohibited in the shoreline areas.
14. The applicant shall immediately stop work and notify the City of Sumner if any items of archaeological interest are uncovered during excavation. In such cases, the applicant shall be required to allow site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data is properly salvaged. Where archaeological or historic sites have been identified, public access shall be required, provided the development is consistent with the provisions for public access and provided further it is determined that public access to the site will not damage or reduce the cultural value of the site.
15. Prior to building permit approval, the property owner shall be required to record a notice to the property title of the presence of the following critical areas, on a form established by the Sumner Shoreline Master Program: Aquifer Recharge Area, Seismic Hazard Area, Volcanic Hazard Area, and Flood Hazard Area.
16. The 100-foot shoreline buffer shall be dedicated to public use through a permanent deed or easement, on a form approved by the City.

17. A permanent easement for ingress/egress shall be provided by the property owner that grants the City access to the riparian buffer for future maintenance, conservation and restoration measures.
18. The applicant shall provide an easement for the public multi-use trail, and construction of the trail along the site's street frontage, pursuant to the conditions of SEPA approval.
19. Landscape plans shall be revised to show a minimum perimeter landscape width of 10 feet on the north, west and south, where there are no existing adjacent trees in the shoreline buffer.
20. All works shall be done in conformance with the policies and regulations of the Shoreline Master Program.
21. At the time of building permits, the applicant shall pay all applicable City parks and trails fees.

ATTACHMENT 2

PROJECT PLANS

EXHIBIT A: OVERALL SITE PLAN

EXHIBIT B: SHORELINE & FLOODPLAIN DIAGRAM (FROM HMP)

EXHIBIT C: VEGETATION MITIGATION PLAN (FROM HMP)

EXHIBIT D: BUILDING ELEVATIONS

EXHIBIT E: LANDSCAPE PLAN

EXHIBIT F: CIVIL PLANS

ATTACHMENT 3

SEPA CHECKLIST

ATTACHMENT 4

SEPA DETERMINATION – MDNS

ATTACHMENT 5

HABITAT MANAGEMENT PLAN

ATTACHMENT 6

APPLICANT RESPONSE TO THE SHORELINE PERMIT AND CUP CRITERIA

ATTACHMENT 7

PUBLIC AND AGENCY COMMENTS

ATTACHMENT 8

NOTICE OF APPLICATION AND PUBLIC HEARING