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Shoreline Master Program Compliance Document

Nevin's Dock, Camas, Washington

October 18, 2021

Proposed project

Robert and Susan Nevin propose to install a 6′ wide by 32′ long floating dock to moor their recreational boat. The dock will be constructed elsewhere, floated to their property, then secured by two 12-inch diameter hollow steel pilings that are emplaced by a crane and vibratory hammer from a barge in the river.

This project requires a variance because it is located within ¼-mile from a public moorage, that operated by the Port of Camas-Washougal.

Property location and description

The dock will be located at Columbia River mile 121.6 on the property address 2462 SE 11th Ave, Camas, WA (parcel #87280000).The upland slopes gently towards the river and is landscaped with mature trees, shrubs, and lawn grass. The steep bank between the upland and the river's riparian zone is covered with English ivy. The riparian zone is a gentle slope towards the river. Its soil is HoA–Hillsboro silt loam and this zone is vegetated with water smartweed and scattered narrowleaf willow trees. The project will not generate additional terrestrial vehicular traffic or require parking areas. The adjacent properties are single family residences (Figure 1).

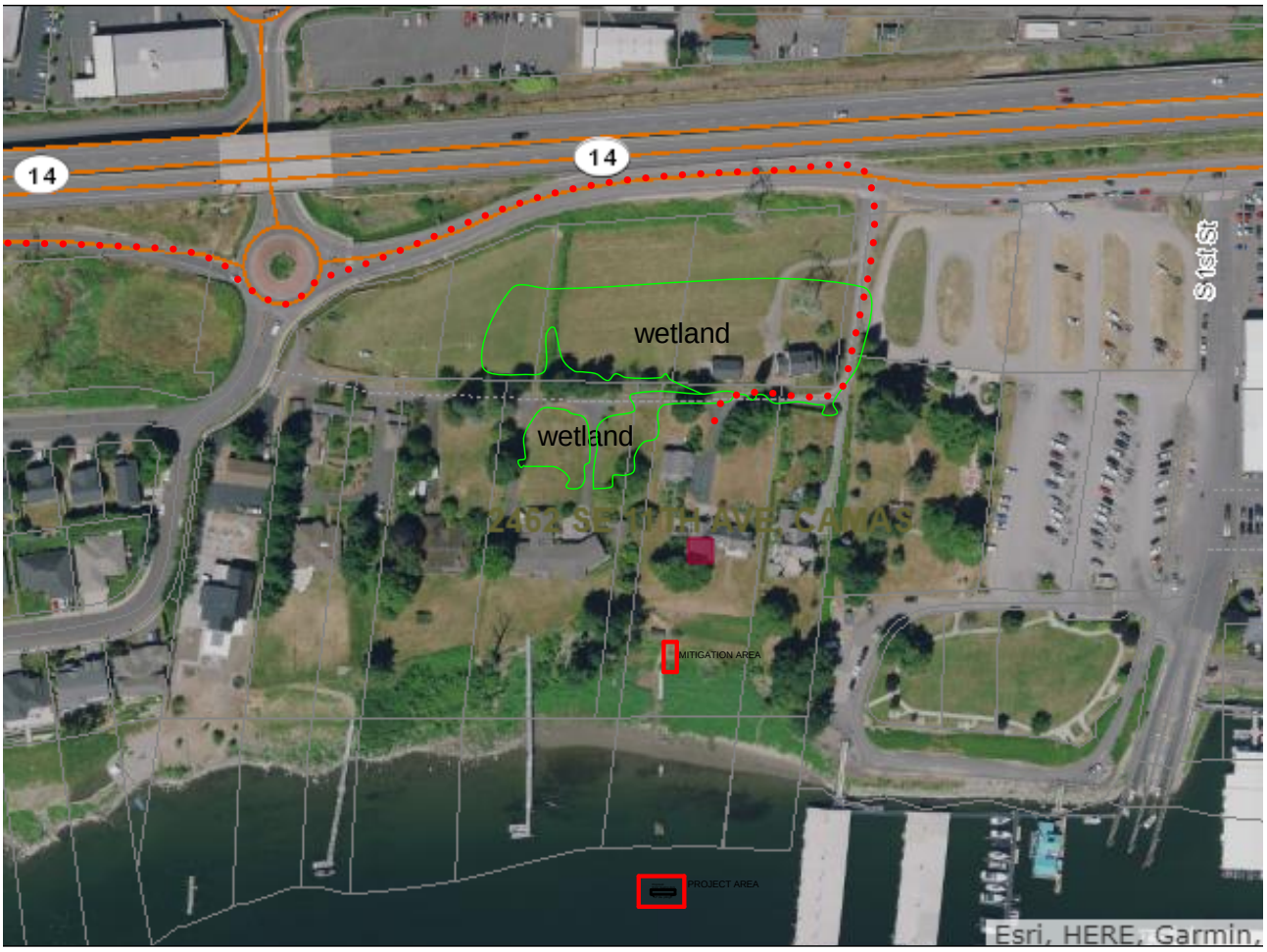

Figure 1: Location of the Nevin's property where a recreational boat dock will be installed. The upper red rectangle is the old, degrading dock to be removed as mitigation; the lower red rectangle is off the southern end of the new dock.

§2.6: Shoreline variance

The project's applicant requests relief from the distance standard of the Shoreline Master Program which does not allow new docks if moorage is available within ¼-mile. The marina operated by the Port of Camas Washougal is within that buffer zone.

The variance applicant has been on a waiting list at the marina since April 30, 2019. The port moorage capacity remains at 100% occupancy, and is expected to remain fully rented into the foreseeable future.

§5.10: Water quality and quantity

1. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site.

The proposed dock is located from uplands above the bank into the Columbia River. Because it will be constructed off-site and floated into place it will not affect the quantity or quality of surface or ground waters at, or near, the applicant's property.

5. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a waterbody, 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 sixty (60) feet for ground applications or within three hundred (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.

No herbicide, fungicide, fertilizer, or pesticide applications are associated with this project.

§6.3.3.1: General requirements

1.All boating uses, development and facilities shall protect the rights of navigation.

The proposed project is located perpendicular to the river's bank and well outside the navigational channel of the river. It will not affect the navigational rights of others (Figure 2).

16. Boating facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff. Wood treated with creosote, copper chromium, arsenic, pentachlorophenol or other similarly toxic materials is prohibited for use in moorage facilities.

The dock will be constructed of aluminum and steel with fiberglass grating on the surface and encapsulated floats. The pilings will be steel. No wood will be used.

17. Vessels shall be restricted from extended mooring on waters of the state except as allowed by state regulations and a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

The applicant will obtain a letter of permission from Washington DNR. There will be no impacts to navigation, and public access is not permitted on this private residential property. Nothing about the project would require mitigation.

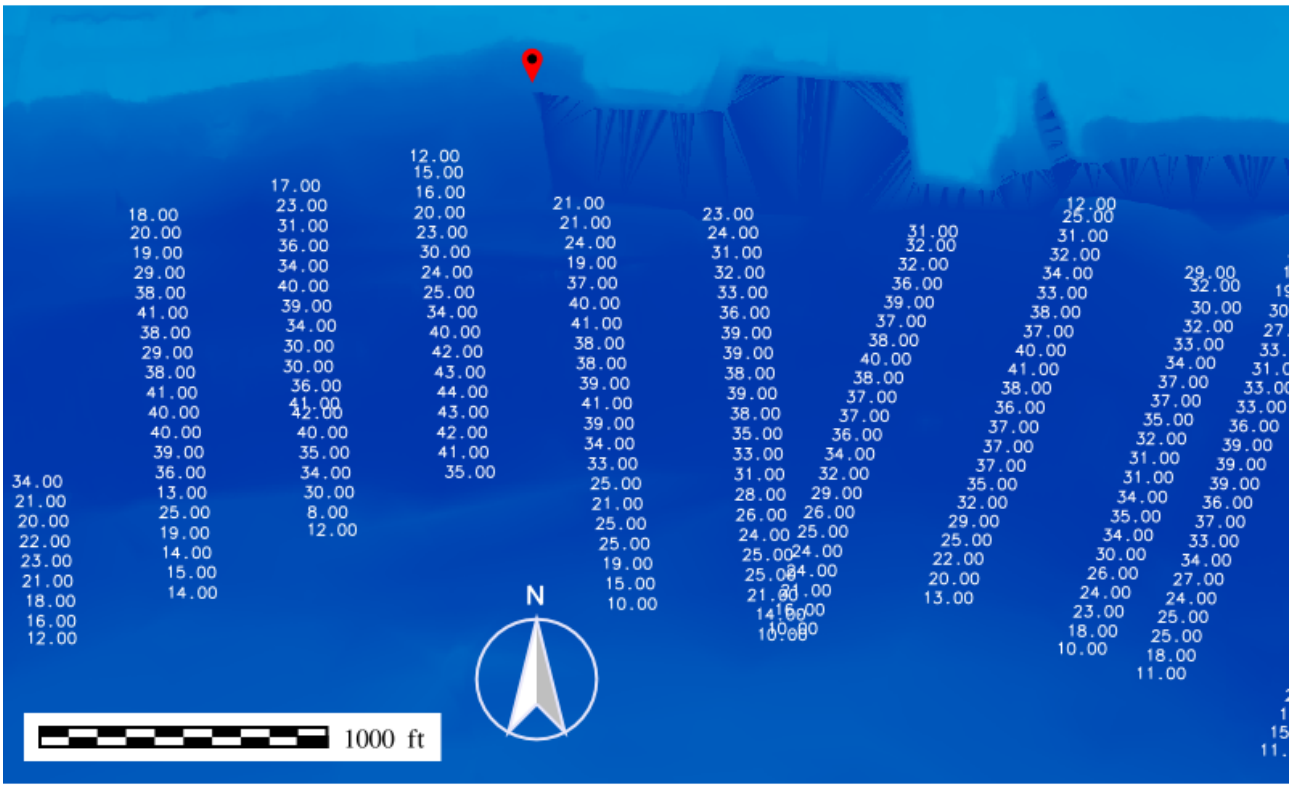

Figure 2: Columbia River water depths in the vicinity of the proposed dock (red dotted point). The navigation channel is in the darkest blue area and several hundred feet from the river bank.

§6.3.3.4 Moorage Facilities: Docks, Piers, and Mooring Buoys

1. Moorage facilities shall be located so as to minimize interference with the use of navigable waters.

The proposed dock at the river bank will not interfere with the use of navigational waters for recreational or commercial river traffic.

2. Mooring buoys shall be used instead of docks and piers whenever feasible.

The size and configuration of the recreational boat makes it unsafe to access if it is moored to a buoy.

6. Moorage facilities should not be located in areas with important bank margin habitat for aquatic species or where wave action caused by boating use would increase bank erosion rates.

The location of the recreational boat dock is between the Port of Camas-Washougal's marina immediately to the east and the two adjacent residential properties with existing boat docks extending into the Columbia River. Therefore, the marginal habitat for fish and wildlife is extremely limited if it is at all present. Boating wave action in the vicinity of the proposed dock will not increase by its presence.

7. Piles or other in-water portions of the moorage structure shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ACZA piling are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. Any paint, stain, or preservative applied to the overwater structure shall be completely dried or cured prior to installation.

The pilings securing the dock in place are 12-inch diameter hollow steel pipes. There will be no wooden pilings installed.

9. Covered moorage shall be prohibited.

The dock will be uncovered.

10. Moorage facilities in waters providing a public drinking water supply shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete, or steel.

The Columbia River is not a public drinking water supply source for either private residencies or municipalities.

11. Existing residential moorage facilities shall be allowed as follows:

a. Existing, legally-established, private recreational docks and floats for individual lots in existing subdivisions and for existing individual single-family developments are considered conforming uses and structures.

b. If an existing dock or float is abandoned, becomes hazardous, or is removed for any reason, then a new dock or float must meet the requirements of this section, which may include provisions for use of mooring buoys or to share the new dock (e.g. Locate along property lines for future expansion), and are consistent with other policies and regulations of this Program.

The proposed new dock fulfills the requirements of this section.

12. One new private recreational moorage facility, non-commercial dock, or mooring buoy is allowed as follows (e.g.: one facility not a combination of options):

a. For individual residential lots, the applicant shall demonstrate that existing facilities such as marinas and shared moorage are not adequate or not available for use.

b. For each shoreline lot, or parcel, or contiguous group of lots or parcels in a single ownership that existed on the effective date of this Program (regardless of zoning), if shared moorage is unavailable within one-quarter (1/4) mile of proposed facility (shoreline distance).

The proposed dock is within ¼-mile of the marina operated by the Port of Camas/Washougal. However, there is no available moorage at the port. The applicant has been on a waiting list for a slip for more than 2 years and the Port does not anticipate this fully-occupied condition to change in the foreseeable future.

15. All moorage facilities shall be constructed and maintained in a safe and sound condition. Those that are abandoned or unsafe shall be removed or repaired promptly by the moorage owner or lessee.

The proposed dock will be constructed in a safe and sound condition and maintained by the owner.

16. Overwater structures shall be located in water sufficiently deep to prevent the structure from grounding out at the lowest low water or stoppers should be installed to prevent grounding out on state-owned aquatic lands.

The proposed dock will be located where there is 8 feet of water at low water events.

18. Docks and piers shall be located to avoid fish spawning locations to the extent practicable.

The proposed dock is located in an area that is not a known fish spawning location. There is a large marina immediately to the east and two adjacent existing recreational boat docks to the west (Figure 1) which make it unlikely that any fish will build redds there.

20. Docks for residential use on a river shall be securely anchored to pilings to allow for changes in river level, and shall be designed to withstand the one-hundred (100) year flood or be seasonably removable.

The proposed dock will be secured by two 12-inch diameter steel pilings designed to withstand the 100 year flood.

21. All docks shall include stops that serve to keep the floats off the lake or river beds at low water levels. If a bulkhead-like base is proposed for a fixed pier or dock where there is net positive littoral drift, the base shall be built landward of the OHWM or protective berms. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.

The proposed dock will be located in an area where the floats will not ground out at low water levels. All floats will be encapsulated to ensure containment.

24. The maximum dimensions of a dock or pier shall be no greater than necessary but may be adjusted only to protect sensitive shoreline resources.

The proposed dock dimensions are no greater than necessary to safely moor and access the dock owner's boat.

a. A dock or pier (gangway and floating structure combined) shall be long enough to obtain a depth as required by WDFW at its landward edge. A dock may be extended until the water depth reaches a minimum of eight (8) feet in depth at ordinary low water, or as otherwise required by WDFW, or to a maximum of three-hundred (300) feet, whichever is reached first.

The proposed dock will be located in an area that is has a minimum of 8 feet depth at ordinary low water. There is no gangway proposed to be used.

b. To prevent damage to shallow water habitat, piers and/or ramps shall extend at leas twenty (20) feet perpendicular from the OHWM.

c. Piers and ramps shall be no more than four feet (4) in width. Wider width is allowed for public piers and ramps per WAC 220-660-140.

d. The bottom of the fascia boards on the pier or bottom of the landward edge of the ramp shall be elevated at least two (2) feet above the horizontal plane of the OHWM.

e. Grating or clear translucent material shall cover the entire surface area of the pier and ramp. The open area of grating shall have a minimum of sixty percent (60%) open. Clear translucent material shall have greater than ninety percent (90%) light transmittance as rated by the manufacturer.

f. Docks and piers shall be set back a minimum of ten (10) feet from side property lines, except that joint-use facilities may be located closer to or upon a side property line when agreed to by contract or covenant with the owners of the affected properties. This agreement shall be recorded with the County Auditor and a copy filed with the shoreline permit application.

g. The Administrator may adjust the dimension in this section by equal to or less than ten (10) percent on a case-by-case basis if there are factors such as safety, ADA accessibility, or potential environmental damage. If the proposal requires more than a ten (10) percent deviation, than a Shoreline Variance permit will be required.

Subsections *a–e* and *g* are not applicable because the proposed dock does not include piers or ramps. Subsection *f* is met because the dock's position exceeds 10' setback from side property lines.

25. Docks used for motor boats should be located where the water will be deeper than seven (7) feet at the lowest low water to avoid prop scour.

The proposed dock will be located in a minimum of 8 feet of water at the lowest water level.

27. Pilings shall be constructed as follows:

a. Piling diameter shall be minimized to meet the structural requirements of expected loads. In lakes, the piling shall not exceed four (4) inches in diameter. If a piling is encased in a sleeve, the piling plus sleeve diameter shall not exceed five (5) inches. In rivers, the piling shall not exceed twelve (12) inches in diameter with sleeve.

The proposed dock is in the Columbia River and will use 12-inch diameter pilings.

b. Pile spacing shall be the maximum feasible to minimize shading and avoid a "wall" effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment. Minimum pile spacing is eighteen (18) feet on the same side of any component of the overwater structure.

The proposed dock has been designed to use the minimum number of pilings necessary to secure it. Pile spacing is greater than 18 feet.

28. Bulk storage (non-portable storage in fixed tanks) for gasoline, oil and other petroleum products for any use or purpose is prohibited on docks and piers.

There will be no bulk storage of gasoline, oil and other petroleum products.

29. Overhead wiring or plumbing shall not be permitted on docks or piers.

There is no wiring or plumbing associated with this project.

VIII: Variances

The purpose of the shoreline variance permit is strictly limited to granting relief from specific bulk, dimensional or performance criteria where, owing to extraordinary conditions pertaining to a specific piece of property, the

literal interpretation and strict application of the criteria would cause undue and unnecessary hardship or thwart the policies set forth in the Act. Variances shall not be granted from the use regulations of this Program.

A. A request for a shoreline variance to a development may be authorized when the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property; The fact that there is the possibility that the property might make a greater profit by using the property in a manner contrary to the intent of the Program is not a sufficient reason for a variance;

The strict application of the dimensional standards prohibiting private docks within ¼-mile of available shared moorage significantly interferes with reasonable use of the property that is enjoyed by other properties in the vicinity. Moorage at the nearby port is unavailable.

2. That the hardship is specifically related to unique conditions of the property (e.g. irregular lot shape, size or natural features) and not, for example, from deed restrictions or the applicant's own actions;

The hardship is related to the unique conditions of the property due to location and not the applicants own actions.

3. That the design of the project is compatible with the other authorized uses in the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the environment;

The project has been designed to be compatible with the other authorized uses and planned for the area under the comprehensive and shoreline master program. It has been designed and located to avoid adverse impacts to the environment.

4. That the variance will not constitute a grant of special privilege not enjoyed by other properties in the area;

The variance will not grant special privilege not enjoyed by other properties in the area. The variance will allow the applicant to enjoy the same use that several nearby properties enjoy.

5. That the variance requested is the minimum necessary to afford relief;

The requested variance is the minimum necessary to afford relief.

6. That the public welfare and interest will suffer no substantial detrimental effect.

The requested variance will not cause substantial detrimental effects to public welfare or interest.

7. If proposed development is waterward of the OHWM, or within any wetland as defined by RCW 90.58.030(2)(h), it may be authorized provided the applicant can demonstrate all of the criteria of this subsection (1-7) can be met and that the public rights of navigation and use will not be adversely affected.

The proposed project is waterward of OHWM. All criteria of this subsection can be met and public rights of navigation and use will not be adversely affected.

B. If the proposed variance is granted, then the hearings examiner shall also include findings in regard to the cumulative impact of additional requests for like actions in the vicinity of the proposed use.

C. Final approval of variances is the authority of Ecology. The city shall send its decision to Ecology and shall forward that decision pursuant to Appendix B, XI (B and C) of this Program, for Ecology to render Final Approval.

About the preparer

Dr. Richard Shepard is an stream ecologist and fluvial geomorphologist with 40 years of professional experience.

Since starting his sole consultancy practice in 1993 (to assure that all work products are technically sound and legally defensible) he has addressed Columbia River fish issues when obtaining commercial dredging permits in the navigation channel and Sandy River delta. He also served a term on Oregon's Independent Multidisciplinay Science Team (IMST) which provides scientific guidance in the state's implementation of its Salmon Plan. IMST members are appointed by the Governor and approved by the Senate.