



CITY OF WEST RICHLAND

SHORELINE MANAGEMENT CONDITIONAL USE PERMIT APPLICATION NO. SH2015-41 MOTION, FINDINGS OF FACT, CONCLUSIONS OF LAW AND CONDITIONS OF APPROVAL

The West Richland City Council acted at its meeting of November 17, 2015 as follows:

Byron Martin moved to APPROVE and Gail Brown seconded the following Motion, Findings of Fact, Conclusions of Law, and Conditions of Approval.

The Mayor called for the vote: 6 YEA 0 Nay 0 ABSTAIN (Council member Benegas was absent)
The motion carried by majority voice vote.

MOTION

I move to approve Shoreline Management Conditional Use Permit No. SH 2015-41 (Yakima River Gateway Project) subject to the findings and conclusions of the Planning Commission, and the conditions of approval as recommended by the Planning Commission (with the exception of Condition of Approval No. 5 which shall be modified to read as follows:

FINDINGS OF FACT

1. The City of West Richland is proposing to construct a recreational trail and trailhead from just south of the Van Giesen Bridge to near 38th Ave. Features of the project include a paved trail, an overlook, parking areas, trailhead, bathroom, dumpster enclosure, and non-motorized water craft access, as well as interpretive signage, landscaping, storm water treatment and signage.
2. The project site is located along the west bank of the Yakima River near the Van Giesen Bridge on SR 224 (W. Van Giesen St.) within the City of West Richland. The project will be located upon multiple parcels within Section 5, Township 9 North, Range 28 East, W.M., Benton County, Washington.
3. Notice of the public hearing was mailed to affected agencies and to property owners within 600 feet of the project site on September 2, 2015. Public Notice was displayed at the project site and notice was posted on the City website and posted at the three official places on September 2, 2015.
4. The City of West Richland issued a SEPA Threshold Determination of Non-Significance (DNS) for the proposal on September 2, 2015. The end of the comment period was October 2, 2015.
5. Four (4) written letters containing comments regarding the SEPA Threshold Determination or Shoreline Management Conditional Use Permit were received.
6. The project site is zoned Public Use District (PP & PC), Residential Medium Density (RM-10), Commercial General (CG) and Multi-Family Residential (MR-3). Public Parks and governmental facilities are allowed uses in these zoning districts.
7. The proposed project will occur upon lands that are located within the Public, Commercial and Medium Density Land Use designations.
8. Several elements of the City's Comprehensive Plan contain language regarding the establishment of the Yakima River Gateway entrance into downtown West Richland.
9. The project site contains, or is adjacent to, the following Critical Areas; Wetlands, Streams and Fish and

wildlife habitat conservation areas.

10. The project, as proposed, complies with the requirements of the City's Critical Areas regulations.
11. A Habitat Management/Mitigation Plan for Wetland buffer and Shoreline buffer impacts has been submitted to the City and was provided to all local, state and federal agencies with jurisdiction over the project.
12. The proposal is being reviewed under the current City of West Richland Shoreline Master Program (SMP), which was adopted in 1974.
13. All shorelines within the City of West Richland have been designated as "shorelines of state-wide significance" by the Shoreline Management Act (RCW 90.58).
14. The city's master program gives preference to uses which meet the following principles:
 - Recognize and protect the statewide interest over local interest.
 - Preserve the natural character of the shoreline.
 - Result in long-term over short-term benefits.
 - Protect the ecology and resources of the shorelines.
 - Increase public access to publicly owned shorelines.
 - Increase recreational opportunities for the public on the shorelines.
15. The proposed Yakima River Gateway Project is located within both the Rural Environmental Designation and the Urban Environmental Designation.
16. The Rural Environmental Designation encompasses the flood-plain of the Yakima River and the narrow strip of land between Fallon Drive and the normal high water mark of the Yakima River. The Urban Environment consists of the area west of Fallon Drive to the line which marks 200 horizontal feet from the normal high water mark of the Yakima River.
17. The proposed development shall be consistent with the requirements/regulations contained within the West Richland Shoreline Master Program.
18. The Landfill section of the West Richland SMP regulates all landfill activities within shoreline jurisdiction.
19. The Roads and Railroad section of the SMP regulates all road and transportation activities within shoreline jurisdiction.
20. The SMP indicates that hiking paths and bicycle paths are outright permitted uses in both the Rural Environment and Urban Environment.
21. The recreation regulations of the SMP indicate that all recreation activities need to conform with West Richland Zoning Ordinance No. 167, adopted August 6, 1973. Ordinance No. 167 was repealed in 1979 and is no longer in effect. The Ordinance No. 167 regulations indicate that those uses listed in Sections 3.00, 2.12 and 4.00 of the West Richland Zoning Ordinance No. 167 are outright permitted uses in the Rural and Urban Shoreline Environments.
22. The proposed Yakima River Gateway Project is consistent with the intent of the 1973 zoning ordinance, as well as the current zoning regulations contained within the current Municipal Code.
23. Uses classified as conditional uses in the West Richland SMP can be permitted only after consideration by the local government and by meeting such performance standards that make the use compatible with other permitted uses in the area. Conditional use permits will be granted only after the applicant can demonstrate all of the following:
 - The use will cause no adverse effects on the environment or other uses;
 - The use will in no way interfere with public use of the shorelines;
 - Design of the site will be compatible with the surroundings; and
 - The proposed use will not be contrary to the general intent of the master program.
24. The project will be consistent with the requirements of the SMP.
25. The project will avoid in-water work and impacts to wetlands. There will be impacts to the buffers, vegetation, fish or wildlife habitat, but harm will be minimized by minimizing tree and vegetation removal and by implementing compensatory mitigation as outlined in the Habitat/Mitigation Plan. There will be no net loss of ecological function and no adverse effects to the environment.
26. The project will not interfere with the public use of the shoreline. The project will ultimately improve the access and use of the shorelines for pedestrians and non-motorized boats and will better accommodate disabled persons. The paved trail, parking, restrooms, overlook, and interpretive signage will enhance the

user experience.

27. The design will use a combination of formal and natural landscaping consistent with the rural and urban designations and setting of the project area.
28. The proposed use is consistent with the general intent of the SMP because recreation and public access are two of the seven SMP goals.
29. WAC 173-27-160 contains review criteria for Shoreline Management Conditional Use Permits.
30. The proposed Yakima River Gateway Project is consistent with the review criteria contained within WAC 173-27-160.
31. The Yakima River Gateway Project will be located upon City-owned property and City easements primarily within the footprint of the old Fallon Drive/Butte Court rights-of-way.
32. The project will construct approximately 1,800 lineal feet of multi-use pathway (10'-12' wide) from just south of the Van Giesen Bridge/SR 224 along the west shoreline of the Yakima River north to the intersection of 38th Avenue.
33. A trailhead will be constructed south of the Van Giesen Bridge providing 52 parking spaces, a restroom (approximately 780 s.f.), dumpster enclosure, and storm water treatment.
34. An overlook and non-motorized river access will be located immediately north of the Van Giesen Bridge.
35. Riprap will be placed for bank protection and additional features including lighting, interpretive signage, resting areas, entry monument signage, and passive open areas will be provided.
36. Landscaping and mitigation plantings will be installed along the trail and in areas along the shoreline.
37. The project will result in approximately 14,325 square feet of disturbance to existing vegetated areas.
38. Excavation or grading of 4,100 square feet of land and the excavation of approximately 30 cubic yards of existing riprap and 400 cubic yards of soil will occur in order to construct the sidewalk, stairs, and ramps to the non-motorized water craft access.
39. 510 cubic yards of existing asphalt and topsoil will be stripped from trail, parking lot, and proposed landscape areas (including the storm pond).
40. Approximately 2,200 cubic yards of structure fill (from on-site excavation) will be placed and compacted to construct the parking lot, trail, and landscape areas (including storm pond).
41. The project will avoid in-water work and impacts to wetlands. Work near the water will be during the in-water work window to protect fish and aquatic species. This will also be during low rainfall periods which will minimize the risk of erosion and sedimentation.
42. There will be work to construct a concrete wall on the levee, but it will be landward of the ordinary high water mark.
43. The shoreline buffer will be planted with native trees and shrubs suited to the conditions.
44. A storm water Pollution Prevention Plan will be prepared and BMP's (i.e. silt fence, fiber wattles, reseeding, and soil stabilization) will be implemented. Storm water treatment areas will be placed outside of the wetland/shoreline buffer south of the bridge.
45. The project will be reviewed by various state and federal entities. Specifically, the Washington State Departments of Fish and Wildlife, Ecology and Transportation, as well as the U.S. Army Corps of Engineers and U.S. Department of Fish and Wildlife.
46. The project will be required to comply with the National Environmental Policy Act (NEPA) given the fact that the project will require a 408 Permit from the U.S. Army Corps of Engineers.
47. A Joint Aquatic Resource Protection Application (JARPA) will be submitted to the State Departments of Fish and Wildlife and Ecology, as well as a National Pollution Discharge Elimination System (NPDES) permit to Ecology.

CONCLUSIONS OF LAW

1. The use will cause no adverse effects on the environment or other uses.
2. The use will in no way interfere with public use of the shorelines.
3. Design of the site will be compatible with the surroundings.
4. The proposed use will not be contrary to the general intent of the master program.
5. The Planning Commission has jurisdiction to hold an open record public hearing and make a

recommendation to City Council.

6. The proposed project is not in conflict with the health and safety of the community, nor detrimental to the public interest.

CONDITIONS OF APPROVAL

1. All necessary local, state and federal permits shall be obtained prior to initiating work.
2. A Construction General Storm Water Permit shall be obtained from the Department of Ecology and submitted to the City prior to initiating work.
3. Best Management Practices (BMP's) shall be implemented and shall consist of, but not limited to, silt fencing, fiber wattles, reseeding disturbed areas and soil stabilization.
4. Storm water treatment for the parking lot and restroom facility shall occur entirely outside of the wetland/shoreline buffer area.
5. The area under the bridge shall be illuminated from dusk-dawn.

REMINDER: The City Council's decision will be forwarded to the Washington State Department of Ecology for their review and approval. Should the Department of Ecology approve the permit, their decision is final and conclusive unless an appeal is filed to the Shorelines Hearings Board as outlined in RCW 90.58.180. If the Department of Ecology has approved the permit and no appeal is filed within the appeal period, you may proceed once all other permits have been obtained.

DECLARATION OF MAILING

Mike Stevens, Senior Planner, declares and states as follows:

On November 18, 2015, I delivered the foregoing Motion, Findings of Fact, Conclusions of Law, and Conditions of Approval to:

Roscoe Slade, Public Works Director
3801 W. Van Giesen St.
West Richland, WA 99353

I declare under penalty of perjury, under the laws of the State of Washington, that the foregoing is true and correct to the best of my knowledge.

Dated: November 18, 2015, at West Richland, Washington.



Mike Stevens
Senior Planner

C: Parties of Record