



PLANNING COMMISSION STAFF REPORT  
DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION:

File Number: SDP-2014-0003

Project Title: Guemes Channel Trail, Phase VII

Location: In a portion of Sections 22 & 23, Township 35 North, Range 01 East, Willamette Meridian.  
  
Guemes Channel, from approximately east of Edwards Way to Lovric's Marina, Anacortes, WA 98221

Applicant/Owner: City of Anacortes  
Public Works Department  
P.O. Box 547  
Anacortes, WA 98221

Agent /Contact: Ross Widener  
Widener & Associates  
10108 32<sup>nd</sup> Avenue West, Suite D  
Everett, WA 98204

Open-Record Public Hearing Date: Wednesday, July 23, 2014, @ 7:00 PM

Subject Proposal: Shoreline Substantial Development permit, Shoreline Conditional-Use Permit, and Shoreline Variance to construct Phase VII (7) of the Guemes Channel Trail within the existing right-of-way of an abandoned railroad bed, beginning from the existing trail terminus east of the Edwards Way cul-de-sac and running 3,250 ± lineal feet to the east. Additionally, 888 ± lineal feet of gravel access will be constructed from Lovric's Marina to the west. The trail will be 12 feet wide (or less in areas) and have a setback ranging from 0 to 15 ± feet as measured from the Ordinary High Water Mark. Once complete, the final grade will average about 5 feet above the ordinary high water mark.

Existing Land Use: Undeveloped brushy hillsides within an abandoned railroad right-of-way.

Current Zoning & Comp. Plan Designation: Commercial Marine (CM), Light Manufacturing, & Residential Low Density (R2)

2010 Shoreline Master Plan Designation: Conservancy Shoreline Environment /Designation

Date of PC Decision: July 23, 2014

**FINDINGS OF FACT:**

**I. GENERAL BACKGROUND:**

- 1.1 On June 3, 2014, the City of Anacortes’ Planning, Community, and Economic Development Department received an application from the City of Anacortes’ Public Works Department for a Shoreline Substantial Development Permit, Shoreline Conditional-Use Permit, and Shoreline Variance for the construction of Phase VII (7) of the Guemes Channel Trail – a non-motorized pedestrian and bicycle trail to be located within the abandoned railroad bed described above. This portion of the trail is part of the larger trail system that will ultimately connect the Washington State Ferries to Washington Park and the Tommy Thompson Trail.
- 1.2 The subject application was deemed complete on June 13, 2014.
- 1.3 The project site is located in the City of Anacortes’ Commercial Marine, Light Manufacturing, and Residential Low Density (R2) Zoning Districts.
- 1.4 Currently, there are no existing land use(s) on the subject property. The land consists of an abandoned railroad bed with a riprap bank waterward toward Guemes Channel.
- 1.5 The zoning and land uses surrounding the project site are as follows:

<b>Zoning:</b>		<b>Land-Use:</b>
<b>North:</b>	N/A	Guemes Channel
<b>South:</b>	Commercial Marine & Residential Low Density (R2)	Commercial and Residential
<b>East:</b>	Light Manufacturing, Residential Low Density (R2)	Commercial, Industrial, and Residential
<b>West:</b>	Commercial Marine & Residential Low Density (R2)	Commercial and Residential

- 1.6 The proposed construction of Phase 7 of the Guemes Channel Trail is located within the shoreline jurisdiction of the Washington State's Shoreline Management Act, RCW 90.58. According to the City of Anacortes' 2010, Shoreline Master Program, the subject site is located within the Conservancy Shoreline Environment /Designation.
- 1.7 The trail was designed to limit the construction of hard surfaces to that necessary for the successful operation of the trail, including provision of emergency services. It will not involve the placement of structures or storage other than interpretive signage. The proposed trail will be the same width as the existing trail and will connect directly to it.
- 1.8 Sections of the proposed trail were purposely designed to be slightly narrower in order to avoid tree removal and thus minimize the total amount of vegetative disturbance to that required to install a trail at this location. A Tree Inventory and Removal Plan prepared by Herrigstad Engineering & Surveying was submitted on June 13, 2014, and shows those trees within the proposed trail designated for removal (**See Exhibit 20**). Trail grading will require the removal of 72 deciduous trees (mostly alders) ranging from 6 inches to 24 inches in diameter (DBH). The majority are 8 to 12 inches DBH. No trees will be removed from outside of the existing right-of-way. Removed trees will be replaced by native conifers & deciduous trees at a 1:1 ratio (**See Exhibit 7**).
- 1.9 The site plan associated with the proposed trail is marked as **Exhibit 22**.
- 1.10 Pursuant to AMC Chapter 17.70, the subject development was reviewed for proximity to Environmentally Sensitive / Critical Areas.
- A Cultural Resource Survey dated July 9, 2013, was prepared by Drayton Archaeology of Bellingham, WA (**See Exhibit 9**).
- A Geologically Hazardous Area Assessment dated May 16, 2014, was prepared by GeoEngineers of Bellingham, WA (**See Exhibit 10**).
- A Biological Assessment / Critical Areas Report dated April 2014, was prepared by Alicia Yabu, B.S., of Widener & Associates of Everett, WA to document project consistency with the City's environmental and Shoreline Master Program regulations (**See Exhibit 8**). In addition, FHWC completed their consultation responsibilities as the lead federal agency through concurrence and a no effect determination that was prepared as part of their NEPA review process (**See Exhibit 11**).
- 1.11 The project involves the installation of six (6) storm-drains ranging from 12" to 36" in diameter to improve runoff conveyance. These drains will be located

under the new trail and outfall on the existing /restored riprap embankment. The project will not result in the installation of outfalls that discharge runoff from new pollution generating sources. The new discharge pipes will not convey runoff beyond quantities that currently exist at the site. Overall, the discharge pipes will convey runoff from the existing storm drainage network and will provide a more organized approach to the existing informal network. Long-term, the project will minimize the total number of outfall structures required in the project corridor by allowing runoff from multiple existing structures of upslope properties. The pipes are sized to accommodate drainage from existing developments (**See Exhibits 7 & 10**).

- 1.12 The proposed trail seeks to utilize the former Great Northern Railroad grade as a base for the pedestrian trail.

## **II. NOTICE OF APPLICATION & PUBLIC HEARING:**

- 2.1 The type of public notice required for shoreline substantial development permits, shoreline conditional-use permits, and shoreline variance applications are outlined in AMC § 18.16.050, Table 1. Notice of the application and hearing is required to be mailed to property owners within 300-feet, posted on-site and published in the newspaper. Notice of Application and Hearing was published in the Anacortes American on June 18, 2014. The subject property was posted with Public Notice Signage in 3 areas on June 16, 2014. Property owners within 300 feet of the project site and agencies /departments of jurisdiction were solicited comment on June 16, 2014. Notice of the application and public hearing was provided consistent with these requirements (**See Exhibits 12 & 13**).
- 2.2 Several members of the Planning Department met members of the Planning Commission during a site visit conducted at 9:00 AM on Wednesday July 23, 2014, to familiarize themselves with the project site.
- 2.3 The project application was routed to City staff and other agencies with jurisdiction and comments were received and are incorporated into these findings and conditions as appropriate. It is noted that additional issues will be addressed in City staff's review of the Building and other Permit Applications that will follow on from approval, if granted, of this application.
- 2.4 The 30-day public comment period for the project application ended on July 18, 2014. Any comments received from agencies of jurisdiction and/or the public are referenced in the attached exhibit list.
- 2.5 Pursuant to AMC § 18.16.070, "Requests for multiple shoreline permits, including conditional use and variance permits, required for a single project shall be processed simultaneously."

- 2.6 According to AMC § 18.16.100(B)(2) “For each shoreline substantial development/conditional use/variance permit application an open-record public hearing shall be held before the planning commission. For project improvements valued at less than one million dollars on project sites less than three acres in size, the planning commission may approve, approve with conditions, or deny the permit unless an appeal of the planning commission’s action is filed.” The total cost or fair market value of the project is estimated to be \$837,500.00 in value on less than 3-acres, therefore, the Planning Commission has decision-making authority for this application.
- 2.7 The Planning Commission held an open-record public hearing on July 23, 2014, at 7:00 PM. Planning, Community and Economic Development (PCED) was represented by Libby Grage, Senior Planner while the applicant was represented by Matt Reynolds, PE, of the Public Works Department.
- 2.8 At the conclusion of the public hearing the Planning Commission deliberated and voted to **approve, approve subject to conditions, or deny** the project permit application.

### III. **STATE ENVIRONMENTAL POLICY ACT:**

- 3.1 Pursuant to WAC 197.11.800 SEPA environmental review was required for the subject proposal. The City of Anacortes’ Planning, Community, & Economic Development Department was the SEPA lead agency and issued a Mitigated Determination of Non-Significance (MDNS) on July 7, 2014, with eight (8) conditions listed therein (**See Exhibit 5**).

### IV. **SHORELINE MASTER PROGRAM:**

- 4.1 The subject property is in a shoreline area designated “Conservancy” by the 2010, Shoreline Master Program for the City of Anacortes. According to Section 5.8 of the Shoreline Master Program, the purpose of the “Conservancy designation is intended to protect and restore the public benefits and ecological functions of open space, floodplain, natural areas and other sensitive lands (e.g., valuable historic, educational, or scientific research areas, areas of high scenic value) where they exist within the City, while allowing a variety of compatible uses. It is the most suitable designation for shoreline areas that possess a specific resource or value that can be protected without excluding or severely restricting all other uses. It should be applied to those areas that could most benefit the public if their existing character is maintained, but which are also able to tolerate limited or carefully planned development or resource use. Permitted uses may include recreational, cultural, and historic uses provided these activities are in keeping with the goals of protection and restoration stated herein.”

- 4.2 The proposed pedestrian and bicycle trail is not exempt from obtaining a shoreline substantial development permit (SSDP) pursuant WAC 173.27.040.
- 4.3 The subject proposal was typed as a “Water-enjoyment (e.g., pedestrian trails) Recreational Facility” and according to Table 5.1 of the City of Anacortes’ 2010, Shoreline Master Program, it is a permitted use within the Conservancy shoreline environment /designation. However according to Table 5.1 since some upland fill is associated with the creation of the proposed trail, a shoreline Conditional-Use Permit is required.
- 4.4 According to DR-5.8.3 and Table 5.2 of the City of Anacortes’ 2010, Shoreline Master Program, the Conservancy shoreline environment /designation requires a 100-foot setback from the ordinary high water mark. However, since the proposed trail will be between 0 to 15 feet from the ordinary high water mark, the setback requirement will not be met. Therefore, a shoreline Variance is required to deviate from this setback requirement pursuant to DR-5.8.4 of the Shoreline Master Program.
- 4.5 Chapter 5 – Shoreline Environments & Associated Policies and Regulations:

*Section 5.8(E). Development Regulations* -Applicable Development Regulations including but not limited to are as follows:

*Ecological Functions & Habitat Enhancements:*

DR-5.8.2 “Uses that result in restoration of ecological functions and/or enhance fish and wildlife habitat are permitted if the use is otherwise compatible with the character of the area.”

*Setbacks:*

DR-5.8.3(b) According to DR-5.8.3(b) of the 2010, Shoreline Master Program, “Developments consisting of public access and low-moderate intensity<sup>6</sup> water-oriented recreational uses are not required to meet the one hundred (100) foot setback, but shall be approved through the Shoreline Variance process. However. Where such development may be approved within the setback, the placement of structures, storage, and hard surface shall be limited to the minimum necessary for the successful operation of the use.”

*Vegetation Conservation:*

DR-5.8.5 Within the Conservancy designation, removal of vegetation and topsoil is strictly regulated under the Vegetation Conservation Provisions of Section 6.5.

*Height Limitations:*

According to Table 5.2 of the 2010, Shoreline Master Program, new or expanded structures shall be limited to maximum height of 25 feet.

Lot Coverage:

According to Table 5.2 of the 2010, Shoreline Master Program, lot coverage is limited to 25%.

4.5.1 As proposed, the subject application **is/is not** consistent with the above development regulations.

4.6 Chapter 6 – Environmental Protection General Regulations:

*Chapter 6 Development Regulations* -Applicable Development Regulations including but not limited to are as follows:

Impacts, Mitigation, and Bonding:

DR-6.3.1 All shoreline development and activity shall be located, designed, constructed, and managed in a manner that avoids, minimizes and/or mitigates adverse impacts to the environment...

DR-6.3.2 In approving shoreline development, the City of Anacortes shall ensure that shoreline development, use, and/or activities will result in no net loss of ecological functions necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time to the extent consistent with constitutional and statutory limitations on the regulation of private property...

Archaeological /Historic/ Cultural Impacts:

DR-6.4.2 All shoreline permits shall contain provisions that require developers to comply with all applicable state law requirements regarding preservation of archaeological and historic resources, including provisions to stop work and notify the appropriate agencies should protected resources be uncovered during excavation.

DR-6.4.3 Archaeological sites located both in and outside shoreline jurisdiction are potentially subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 (Archaeological excavation and removal permits) as well as the provisions of this section.

Earth:

DR-6.4.7 An erosion and sedimentation control plan shall be submitted with a permit application for activities that involve the removal of vegetation, stockpiling of earth or other materials, or any activity that could result in shoreline erosion or siltation. Said program shall conform to the City of Anacortes' Engineering Design Standards and shall at a minimum, utilize Best Management Practices (BMPs) to prevent shoreline erosion and siltation.

Public Health & Safety:

DR-6.4.15 All shoreline developments shall be located, designed, constructed, and operated so as not to be a hazard to public health and safety.

View Protection/Aesthetics:

DR-6.4.17 New development shall be located and designed to mitigate adverse impacts to views from public vista points.

Water Quality:

DR-6.4.22 All development approved under [the] Shoreline Master Program shall be designed and maintained consistent with the City's Stormwater Management Plan and Engineering Design Standards.

4.6.1 As conditioned, the proposal **is/is not** consistent with the above development regulations. No structure is proposed as part of the construction of Phase 7 of the Guemes Channel Trail. However, a few interpretive signs are proposed as part of the trail construction. The subject site is the former railroad right-of-way of the Great Northern Railroad. The construction of the proposed trail is required to meet all City and Department of Ecology stormwater management standards. Consistency with applicable requirements will also be reviewed during construction plan and/or building permit application review.

4.7 Chapter 7 – Shoreline Public Access Development Regulations:

*Chapter 7 Development Regulations* -Applicable Development Regulations including but not limited to are as follows:

General Requirements:

DR-7.4.1 Developments, uses, and activities shall be designed and operated to avoid significantly blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the shorelines.

4.7.1 The proposal **is/is not** consistent with the above regulations. The development will not block, reduce, or adversely interfere with the public's visual or physical access to the water and shoreline.

4.8 Chapter 8 – Specific Use Policies and Development Regulations

*Chapter 8 Specific Use Policies and Development Regulations including but not limited to are as follows:*

**Section 8.10 Recreational Facilities:**

DR-8.10.1 Table 5.1 generally identifies allowed and prohibited recreation developments by environment designation.

DR-8.10.2 Recreational facilities shall make adequate provisions for:

- a. Vehicular and pedestrian access, both on-site and off-site;
- b. Vehicular traffic, both inside and outside the facility;
- c. Vehicular parking;
- d. Water supply, sewage disposal, and garbage collection;
- e. The control of fires both within recreational facilities and between recreational facilities and adjacent private or public lands;
- f. The preservation of overflows and trespasses onto adjacent properties;
- g. Screening, planting strips, fences, and signs to prevent park overflow and to protect the value and enjoyment of adjacent or nearby private or public properties;
- h. Enforcement of laws and regulations associated with use of the facilities being proposed;
- i. Security;
- j. Maintenance.

DR-8.10.3 Valuable shoreline resources and fragile or unique areas such as wetlands and accretion shore forms, shall be used only for non-intensive recreation activities.

DR-8.10.4 Waterward of the ordinary high water mark, no recreational buildings or structures shall be built, except water-dependent and/or water enjoyment structures as follows: docks, bridges, piers, public boat launches, marinas, and viewing platforms.

DR-8.10.6 Encourage recreational facilities to provide signage and enforce regulations that prohibit tree cutting and limit the taking of marine life, driftwood, and the like.

DR-8.10.7 Signs associated with recreational facilities shall be kept to a minimum in number and size and shall be erected as informational or directional aids.

4.8.1 The subject proposal **is/is not** consistent with the above regulations. The applicant will be required to obtain a grading and/or building permit and meet all applicable building and fire code requirements, as determined by the Building Official and Fire Marshal.

4.9 Chapter 9, Specific Shoreline Modification Policies and Development Regulations:

*Chapter 9– Specific Shoreline Modification Policies and Development Regulations –Applicable Development Regulations including but not limited to are as follows:*

DR-9.7.1 Fill for water-dependent uses and for public use shall be given priority.

DR-9.7.2 Fill shall be permitted only when in conjunction with a proposal or activity otherwise permitted under the SMP.

DR-9.7.3 Fill waterward of the ordinary high water mark is permitted by Shoreline Conditional Use Permit only when necessary to accommodate water-dependent uses, and for maintenance and repair of existing structures; expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible; a transportation facility, utility, or navigational structure with no feasible alternative; cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material considered suitable under and conducted in accordance with the Dredged Material Management Program of the Department of Natural Resources; mitigation or compensation actions and ecological restoration including beach nourishment or enhancement projects when significant impacts can be mitigated; and public access.

DR-9.7.4 Projects shall be located and designed to minimize the area of fill necessary to accommodate the use.

4.9.1 The subject proposal **is/is not** consistent with the above regulations. The applicant will be required to obtain a grading and/or building permit and meet all applicable building and fire code requirements, as determined by the Building Official and Fire Marshal. The fill waterward of the ordinary high water mark is necessary to repair an existing structure to accommodate public access.

## **V. SHORELINE VARIANCES & ANALYSIS:**

The Guemes Trail is considered to be a “Water-enjoyment” land use within the “Recreational Facility” category. According to Section 5.8 of the Shoreline Master Program, a 100-foot setback is required in the Conservancy shoreline environment/designation. Therefore, a variance is required in order for the trail to function along the existing railroad corridor. The railroad corridor is more than 100 years old and has been non-operational since around the 1960’s. The City of Anacortes intends to utilize the existing railroad bed for a multi-functional trail corridor, which will connect Washington Park to the existing Tommy Thompson trail in the future.

An analysis of the Shorelines Variance criteria is provided below. Pursuant to Section 32.2(C) of the City of Anacortes’ 2010, Shoreline Master Program, the following criteria shall be used in evaluating Shoreline Variance application requests:

**5.1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable Master Program precludes a reasonable use of the property not otherwise prohibited by the Master Program;**

The applicant is requesting relief from the minimum setback requirement of 100-feet for a non-water dependent use within the Conservancy environment /designation of the Shorelines Master Program. The trail encroaches into the 100-foot setback. If the variance is not allowed, then the trail would need to shift to the south. This would cause the design of the trail to be changed and require the design to take in to account cutting into the hillside. Currently, the design has minimal disturbance to the hillside and if the trail is redesigned by moving the trail towards the hillside, significant cuts would need to occur. This could cause slope instability and increase the likelihood of slope failure during storm events.

**5.2 That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant’s own action;**

The proposed Guemes Trail will be constructed along the existing railroad bed, which has been in existence for more than 100 years. The railroad corridor was constructed at the base of the hill slope along the Guemes Channels southern border and the northern boundary of Fidalgo Island. The existing railroad property is approximately 40-feet in width and the actual railroad bed was 15-20 feet in width along this section of the proposed Guemes Trail, which consist of existing railroad ties and near shore riprap. The irregular shape of the railroad corridor provides the ideal condition for a trail and will have no direct impacts on the surrounding properties. Also, abandoned rail corridors throughout Washington State have long been used as trail corridors. Great examples of these are the City of Anacortes Tommy Thompson trail and the Snohomish County Centennial Trail.

**5.3 That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment;**

Phase VII of the Guemes Channel Trail is compatible with other permitted activities in the area. The reconstruction of the existing trail corridor to the Guemes Trail will not have any direct impact to adjacent properties. The trail will be built along the existing railroad corridor, which sits at the base of a hill between the Guemes Channel and the northern boundary of the City of Anacortes and does not interfere with properties in the surrounding area. The construction of the proposed trail will result in several improvements to the shoreline environment. There are existing creosote railroad ties located within the trail corridor. As part of the trail construction, these railroad ties will be removed and disposed of safely. Also, the existing riprap has been damaged over the years and portions of the riprap have fallen and dispersed along the shore. The riprap will be repaired and the existing materials along the shorelines will be removed and placed back within the riprap.

**5.4 That the requested variance will not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum to afford relief; and**

The proposed construction of Guemes Trail does not constitute a grant of special privilege for the applicant. The construction of the trail has been designed to afford the minimum necessary to accommodate the anticipated use of the trail users along this portion of the trail. The paved trail will be 12-feet (or less) in certain locations. The trail will be provided with a one-foot gravel shoulder on either side. The trail width takes into account the need for emergency vehicle access along the trail corridor and the width of the trail has been adjusted to ensure safe movement of these vehicles. The 12-foot width is provided in those areas to ensure safe emergency vehicle movement. If the trail cannot be designed to accommodate emergency vehicle use and there is an incident along the trail, a delayed response to victims will occur.

**5.5. That the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.**

The public rights of navigation and use of the shorelines will not be adversely affected by the granting of this variance. The granting of this variance will only improve access for the public to navigate and use the shorelines of the Guemes Channel and Fidalgo Island north shore marine. The final constructed trail will not provide any barrier to the general public and will also provide the opportunity for individuals with disabilities to utilize the Guemes Trail and enjoy the opportunities the trail has to offer the City of Anacortes community.

**VI. SHORELINE CONDITIONAL USE PERMITS & ANALYSIS:**

Per DR-9.7.3 fill waterward of the ordinary high water mark is permitted by shoreline conditional use permit when necessary for maintenance and repair of existing structures and for public access. According to Section 3.1(C) of the 2010, Shoreline Master Program, Shoreline

Conditional Use Permits will be processed subject to the public notice, comment, and a public hearing pursuant to Anacortes Municipal Code.

Pursuant to Section 3.1(D) of the 2010, Shoreline Master Program, land uses classified as conditional uses may be authorized provided that the applicant can demonstrate all of the following approval criteria:

**6.1 That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Master Program;**

The State of Washington Department of Ecology reviewed and approved the 2010 update and amendment to the City's Shoreline Master Program and thus complies with 90.58 RCW. Additionally, the subject proposal was typed as a "Water-enjoyment (e.g., pedestrian trails) Recreational Facility" and pursuant to Table 5.1 of the Shoreline Master Program, it is a permitted use within the underlying Conservancy shoreline environment /designation.

**6.2 That the proposed use will not interfere with the normal public use of public shorelines;**

Phase 7 of the Guemes Channel Trail is part of the larger trail system that will ultimately connect the Washington State Ferries to Washington Park and the Tommy Thompson Trail. This subject trail lies within land owned by the City of Anacortes. The multi-use pedestrian and bicycle trail is intended for public use of public shorelines.

**6.3 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 existing and proposed trail complies with the (R2), (CM), & (LM) underlying zoning districts; Comprehensive Plan Designations & policies; and policies, goals, and development regulations of the Shoreline Master Program for the Conservancy Shoreline Environment.

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

The project is designed to avoid significant adverse effects by avoiding removal of trees as possible, replanting of trees at a 1:1 ratio, and incorporation of planting pockets on the waterward side of the trail as feasible. The project also includes removal of creosote railroad ties which will benefit the shoreline environment.

**6.5 That the public interest will suffer no substantial detrimental effect.**

The construction of the Guemes Channel Trail is being constructed with the public interest in mind. There will be no substantial detrimental effect by constructing Phase VII of the Guemes

Channel Trail. Conversely, constructing Phase VII of the proposed trail will have a positive effect on the public that live, work, and play in the City of Anacortes along with the environment.

**VII. 2012 COMPREHENSIVE PLAN:**

7.1 *The following Comprehensive Plan goals appear to be applicable to the proposal:*

General City Goal 1: Create and maintain a high quality of life and environment that maximizes the opportunity for all citizens to share the social, psychological, physical, and economic benefits of Anacortes /Fidalgo Island; aesthetics and health are key components of quality of life.

General City Goal 2: Improve the image of Anacortes as a marine oriented City by encouraging, protecting and enhancing marine views from public places, public access, and marine habitats and resources by encouraging marine water-dependent and water-related businesses and activities.

General City Goal 3: Promote compatible land uses and improve visual appearance in each and every zoning district.

Transportation Goal 1: Encourage planning for public transportation which will link the most highly frequented destinations, i.e. ferry, downtown, medical facilities, and recreational facilities.

Transportation Goal 5: Develop the City as a pedestrian friendly community and improve non-motorized circulation patterns.

Transportation Goal 6: Encourage a physically active community by allowing people of all ages to incorporate physical activity into their lives by walking, bicycling, exercising and using public transit as part of everyday living.

Parks & Recreation Goal 1: Provide a range of quality and accessible park and recreational areas, facilities, and opportunities that will attract all age groups and interests.

Parks & Recreation Goal 4: Increase the opportunities for public access to and enjoyment of the shorelines of Anacortes.

Conservation Goal 4: Public access to shorelines and tidelands should be maintained, enhanced, and increased.

Conservation Goal 11: Enhance and preserve the City's marine resources.

- 7.1.1 The subject proposal **is/is not** consistent with the goals of the Comprehensive Plan listed above.

**VIII. ZONING ORDINANCE:**

- 8.1 The City Zoning Map establishes zone boundaries and the City Zoning Ordinance establishes (1) the permitted use of land in the various zones, and (2) development standards.

- 8.2 The subject property is located in the Commercial Marine (CM), Light Manufacturing (LM), & Residential Low Density (R2).

8.2.1 Pursuant to AMC § 17.18.010, the purpose of the LM zone “is intended to accommodate those businesses which are not compatible with uses found in the central business district, and industrial and other uses which do not create noise, smoke, odors, or other objectionable nuisances or hazards detrimental to uses in the LM district or surrounding districts.”

8.2.2 According to AMC § 17.18.020, “Parks” are permitted land uses within the LM Zoning District. The proposed multi-use pedestrian and bicycle trails is a type of “Park” per se. Maximum land coverage is limited in the zone to 60%. Since no structure is proposed, setbacks are a moot point.

8.2.3 The subject proposal **is/is not** consistent with the above development regulations. The proposed land use is permitted in the underlying zoning district. No structure is proposed. Setbacks and minimum number of off-street parking is a moot point as the subject proposal involves the construction of a multi-use pedestrian and bicycle trail.

- 8.3 Pursuant to AMC § 17.21.010, the purpose of the “CM” zone is “established in recognition of the unique and irreplaceable nature of certain marine sites within Anacortes, and creates a special commercial district providing for the establishment of such uses as marinas, boat docking facilities, and other commercial enterprises where orientation to navigable waterways and tourism trade is of prime importance. Uses in this district are intended to serve the needs of marine oriented and tourist activity, and not to create large scale commercial centers providing basic goods and services to the entire community.”

8.3.1 According to AMC § 17.21.020, “public and private recreational facilities” along with “parks” are permitted land uses within the “CM” Zoning District. The proposed multi-use pedestrian and bicycle trails is a type of “Park” per se. Maximum land coverage is limited in the zone to 50%. Since no structure is proposed, setbacks are a moot point.

8.3.2 The subject proposal **is/is not** consistent with the above development regulations. The proposed land use is permitted in the underlying zoning district. No structure is proposed. Setbacks and minimum number of off-

street parking is a moot point as the subject proposal involves the construction of a multi-use pedestrian and bicycle trail.

8.4 Pursuant to AMC § 17.36.010, the purpose of the R2 zone is “to maintain and create an environment which meets the standards for single-family residential development, by restricting uses within the district, and by requiring a minimum lot size and maximum density.”

8.4.1 According to AMC § 17.36.020, “Necessary public uses, parks, and playgrounds” are permitted land uses within the R2 Zoning District. The proposed multi-use pedestrian and bicycle trails is a type of “Park” or “Public Use” per se. Maximum land coverage is limited in the zone to 35%. Since no structure is proposed, setbacks are a moot point.

8.4.2 The subject proposal **is/is not** consistent with the above development regulations. The proposed land use is permitted in the underlying zoning district. No structure is proposed. Setbacks and minimum number of off-street parking is a moot point as the subject proposal involves the construction of a multi-use pedestrian and bicycle trail.

**IX. CONCLUSIONS:**

1. The requirements of the State Environmental Policy Act have been complied with.
2. The Public Notice requirements of the Shoreline Management Act have been complied with.
3. The project **is/is not** consistent with the shoreline designation and general goals, policies and development regulations of the Anacortes Shoreline Master Program, the Shoreline Management Act, the general purposes of the city comprehensive plan, the city’s planning standards and specifications of the zoning ordinance, the and other ordinances applicable to the proposal.
4. The Planning Commission bases its Findings of Fact, Conclusions of Law & Decision on the entire record, including all testimony and exhibits. Any finding which would be deemed a Conclusion of Law, and any Conclusion of Law which should be deemed a finding is hereby adopted as such.

**X. DECISION:**

Based on the foregoing information and analysis, the environmental documents submitted by the applicant, and the City regulatory authority to implement the policies, standards, and the regulations of the Shoreline Master Plan, Comprehensive Plan, and the Anacortes Municipal Code (AMC), the Planning Commission **approves/approves with conditions/denies the shoreline substantial development permit, shoreline conditional-use permit, and shoreline variance**, subject to the following conditions of approval:

1. The scope of the project shall not exceed that as set-out in the shoreline substantial development permit application, shoreline conditional-use permit, and shoreline variance (including attachments), except as amended through the final conditions of approval.
2. The project shall comply with all applicable Shoreline Master Program regulations, including but not limited to, Chapter 5, *Shoreline Environments & Associated Policies and Regulations*, Chapter 6, *Environmental Protection General Regulations*, and Chapter 8, *Specific Use Policies and Development Regulations*.
3. Development shall comply with the eight (8) conditions of approval as listed in the SEPA Mitigated Determination of Non-Significance issued on July 7, 2014, and as follows:
  - a) All applicable state, federal, and local permits shall be secured prior to work taking place onsite (MDNS #1)
  - b) Site activities shall comply with Northwest Clean Air Agency requirements and erosion control, dust control and best management practices shall be employed as required by the building and public works department during construction (MDNS #2).
  - c) A Large Parcel Stormwater Plan and Water Quality Plan shall be developed by the applicant, if applicable, and approved by the Public Works Director and implemented (MDNS #3).
  - d) Existing railroad ties shall be removed and disposed of in an appropriate manner (MDNS #4).
  - e) Near-shore enhancement shall include the removal of invasive plant species such as English Ivy and Himalayan Blackberry, as determined by the project biologist (MDNS #5).
  - f) The project biologist shall monitor construction and determine trees, shrubs and other vegetation that need not be impacted by the trail construction. This may include narrowing the trail in some areas to avoid impacts as determined by the project biologist and Parks Director (MDNS #6)
  - g) Native shoreline vegetation pockets shall be provided as feasible along the trail. The consulting project biologist in conjunction with WDFW shall determine planting area location, type and amount of vegetation (MDNS #7).
  - h) A consulting archeologist shall be available and contacted in the event artifacts are discovered during construction. Work crews shall obtain appropriate cultural resource training prior to ground disturbing activities and all applicable state law and tribal guidelines shall be followed (MDNS #8).
4. The design and construction of the proposed trail and retaining wall(s) shall comply with the recommendations and suggestions of the Geologically Hazardous Area Assessment prepared by GeoEngineers dated May 16, 2014. GeoEngineers will monitor the construction of the proposed trail and retaining wall for conformance with their

recommendations and suggestions contained in their Geologically Hazardous Area Assessment and final report provided to the City of Anacortes' Building Department.

5. Best Management Practices shall be implemented at all times during the proposed maintenance and repairs activities. Once complete, any disturbed shoreline areas shall be restored to pre-existing or better conditions.
6. A building permit(s) and/or clearing & grading permit with the City of Anacortes' shall be secured prior to work.
7. An erosion and sedimentation control plan shall be submitted to the City with a permit application for activities that involve the removal of vegetation, stockpiling of earth or other materials, or any activity that could result in shoreline erosion or siltation. Said program shall conform to the City of Anacortes' Engineering Design Standards and shall at a minimum, utilize Best Management Practices (BMPs) to prevent shoreline erosion and siltation.
8. Trees proposed for removal shall be replaced at a minimum of a 1:1 ratio with preference given to native conifers and deciduous species of the Pacific Northwest. The applicant shall coordinate with the Washington State Department of Fish and Wildlife (WDFW) the location of replacement trees along the trail corridor that will have the most beneficial impact. Said replacement of trees shall be replanted within six (6) months of completion of the trail.
9. Prior to commencing clearing and grading, clearing limits shall be marked in the field. The project biologist in conjunction with city staff, the project engineer and appropriate agencies shall conduct a site visit to identify opportunities to minimize impacts to riparian vegetation through trail location and design, which may include meandering the trail to increase space for vegetation retention or re-planting between the trail and the top of bank. The trail alignment shall maximize, to the greatest extent possible, the setback between the shoreline and the trail while remaining within the existing available right-of-way and avoiding impacts to slope stability.
10. Riparian vegetation shall be planted in selected locations along the existing and new sections of trail to increase beach shading as determined by the project biologist, WDFW, and the Parks Department. A vegetation monitoring plan shall be prepared and implemented consistent with city and WDFW standards.
11. Beach nourishment shall be provided consistent with WDFW requirements on a continuing basis. If deemed appropriate, project excavation material shall be utilized for nourishment. Monitoring shall be conducted on a yearly basis consistent with WDFW standards.

These Findings of Fact, Conclusions of Law and Recommendation were adopted by the Anacortes Planning Commission on \_\_\_\_\_.

**CITY OF ANACORTES, WASHINGTON  
PLANNING COMMISSION**

By \_\_\_\_\_  
Marty Laumbattus, Planning Commission Chair

**APPEALS:**

Appeals shall be filed in accordance with AMC § 18.16.100 and/or § 18.16.110, as applicable.

EXHIBITS:

<b>EXHIBIT NUMBER:</b>	<b>NAME OF EXHIBIT:</b>
Exhibit #1	Staff Report
Exhibit #2	Master Application
Exhibit #3	JARPA Application
Exhibit #4	SEPA Environmental Checklist
Exhibit #5	SEPA Mitigated Determination of Non-Significance (MDNS)
Exhibit #6	Notice of Application & Hearing
Exhibit #7	Project Narrative
Exhibit #8	Biological Assessment
Exhibit #9	Cultural Resource Survey
Exhibit #10	Geologically Hazardous Area Assessment
Exhibit #11	WSDOT Local Agency Environmental Classification
Exhibit #12	Agency Comments Received
Exhibit #13	Public Comments Received
Exhibit #14	Department of Archaeology and Historic Preservation Letter
Exhibit #15	Email from Fred Buckenmeyer, Director, Public Works Department
Exhibit #16	Vicinity Map
Exhibit #17	Project Area Map
Exhibit #18	Map 1 of Cross Island Connections –Guemes Channel Trail to Tommy Thompson Trail –Map #1
Exhibit #19	Map 2 of Cross Island Connections –Guemes Channel Trail to Tommy Thompson Trail
Exhibit #20	Tree Removal Plan
Exhibit #21	Site Photos
Exhibit #22	Site Plan of Phase VII, Guemes Channel Trail
Exhibit #23	Samish Indian Nation Comment Letter
Exhibit #24	John Crawford Howell Comment Letter
Exhibit #25	Skagit Cooperative email to Libby Grage
Exhibit #26	Planning, Community, & Economic Development Department PowerPoint Presentation