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COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

Creating Solutions for Our Future

Joshua Cummings, Director

THURSTON COUNTY COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT LAND USE & ENVIRONMENTAL REVIEW SECTION REPORT

HEARING EXAMINER HEARING

March 12, 2024

PROJECT NO: 2021100996 Centralia Hydro Dam Adult salmon trap

SEQUENCE NO: 21-102552 XC; 21-102553 XA; 21-102554 XI

APPLICANT: Nisqually Indian Tribe
4820 She-Nah-Num Drive SE, Olympia, WA 98513

OWNER: City of Centralia
1100 N Tower Ave, Centralia, WA 98531

REQUEST:

The applicant requests approval of a Shoreline Substantial Development, Reasonable Use Exception, and associated floodplain permit to construct an adult salmon trap within the existing fish ladder at Centralia Diversion Dam on the Nisqually River.

GENERAL INFORMATION

- A. Applicant: Nisqually Indian Tribe
4820 She-Nah-Num Drive SE, Olympia, WA 98513
- B. Location: 20000 Cook Rd SE, Yelm, WA 98597
Parcel 22601210100
- C. Legal Description: 1-16-2E L3 LY W OF RIVER LESS 10A SE-NWLY W OF RIVER LESS
1 8.18A L
- D. Area: 133.35 acre parcel

PROJECT DESCRIPTION

The applicant requests approval of a Shoreline Substantial Development, Reasonable Use Exception, and associated floodplain permit to construct an adult salmon trap within the existing fish ladder at Centralia Diversion Dam on the Nisqually River. This project is a key element of the Salmon Recovery Plan from the

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TTY/TDD call 711 or 1-800-833-6388 Website: <https://www.thurstoncountywa.gov/departments/community-planning-and-economic-development>

Nisqually Tribe and Washington Department of Fish and Wildlife. The trap will be made of aluminum frames with pickets with proper fish spacing of 1": two gates will block the passage up the fish ladder directing fish into the trap area. The trap area will have a floor that lifts 5 feet to allow staff to capture the fish with nets by hand and put them into a cable lift system to move the fish to an unwalled, roofed 17 foot by 14 foot sorting facility on a cement slab. Stairs will connect the trap area to the sorting facility. The sorting area includes fish troughs for handling, enumerating, scientific sampling, and tagging. There will be return pipes back to the fish ladder for returning fish upstream. River water will be pumped from the fish ladder area up to the sampling area to keep the fish in moving water and this water will return back to the fish ladder. Within the existing trap and ladder footprint, grated walkways and platform for lift hydraulics will be added. A screen suction intake will be placed to supply water via pump to the facility. A return pipe will allow water to return to the ladder. A bypass pipe will also be installed near the lower end of the trap. New slide gates will be installed in the existing guides. In a previously disturbed area, a small 10 foot by 20 foot mobile office, portable toilet, hand washing station, and gravel parking area for up to 6 vehicles will be installed. Other existing structures are all associated with the diversion dam and are not a part of the proposal. The underlying zoning is Rural Residential Resource (RRR 1/5) in rural Thurston County and the project is located in a Conservancy Shoreline Environment as designated by the Shoreline Master Program for the Thurston Region (SMPTR) and is within the FEMA flood zone for the Nisqually River. Applicant submitted application materials on March 3, 2021 (Attachments b, c, d, e, and f).

Vicinity Map



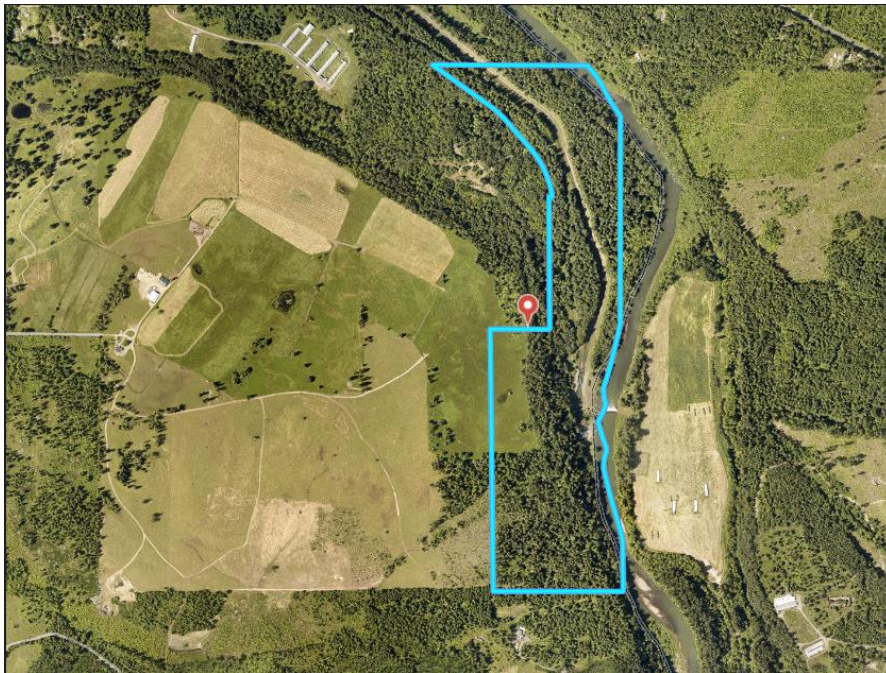
BACKGROUND

This project is a key element of the Salmon Recovery Plan from the Nisqually Tribe and Washington Department of Fish and Wildlife. The fish ladder at the Centralia Diversion Dam is the best location for a trap because it is a resilient structure and already funnels the fish through the ladder. On June 29, 2021, the Nisqually Tribe requested Thurston County to grant emergency authorization to construct the adult salmon trap in the summer of 2021 in order to meet the 2021 fish migration window (Attachment s). Thurston County granted approval of the emergency authorization, with several subsequent emergency approval extensions, the last of which shall expire on July 2, 2024 (Attachment t).

In 1999, the Puget Sound Chinook salmon was listed as threatened under the Endangered Species Act (ESA). Salmon biologists and geneticists from the National Oceanic and Atmospheric Administration, Washington Department of Fish and Wildlife, the Northwest Indian Fisheries Commission, and the Nisqually Indian Tribe developed a multi-phased recovery approach to reintroduce a unique Nisqually Chinook population. One of the key components of the plan is to operate an adult salmon trap within the existing fish ladder at the Centralia Diversion Dam at river mile 26.2 of the Nisqually River. The implementation of the Nisqually Stock Management Plan is essential to the recovery of a naturally self-sustaining population of Nisqually Chinook. (Attachment s). The adult salmon trap will be used to:

- Count all Chinook utilizing the high-quality spawning habitat upstream. Enumeration in the wild is nearly impossible due to the glacier origin of the Nisqually River.
- Remove stray hatchery Chinook in order to reduce competition on the spawning ground and eliminate the ability of hatchery strays to spawn with naturally produced Chinook in order to promote local adaptation of natural Chinook.
- Collect a small number of natural origin Chinook to supply brood stock for a small integrated hatchery program that will boost the recovery of the natural stock.
- Conduct monitoring crucial to reporting on the success of the program. This includes genetic parentage research to determine how many offspring Chinook are producing.

2022 Aerial Photo



Close up of Centralia Diversion Dam and adult salmon trap project area



NOTIFICATION

Written notice of the public hearing was sent to all property owners within 500 feet of the site, and notice was published in The Olympian on March 1, 2024 at least ten (10) days prior to the hearing (Attachment a). The Notice of Application was sent on May 28, 2021 (Attachment l).

ENVIRONMENTAL EVALUATION

The Thurston County Community Planning and Economic Development Department (CPED) is the issuing authority for the State Environmental Policy Act (SEPA) threshold determination for the proposal.

The application was reviewed pursuant to SEPA requirements. A Determination of Non Significance (DNS) was issued on July 14, 2021 (Attachment j) with a 14-day comment period. The DNS became final on August 4, 2021 and was not appealed.

DEPARTMENT ANALYSIS

A. Underlying Property:

The subject property is 133.35 acres and located at 20000 Cook Rd, Yelm, WA 98597. The parcel contains a hydro diversion dam, fish ladder, and associated buildings that are managed by the City of Centralia. The zoning is Rural Residential Resource (RRR 1/5) in rural Thurston County. The parcel is located in a Conservancy Shoreline Environment as designated by the SMPTR. The proposed salmon trap and associated development on the diversion dam are partially located within the 100 year flood zone and a special flood hazard area (SFHA), and are also located within a Category II wetland buffer. The development site has been previously altered and impacted with landscaping, including mowing and an access road. The grounds are primarily grass with portions of forested area outside of the hydro dam facility, and the wetland borders the Nisqually River on the east side of the property. Surrounding land uses consist of RRR 1/5, Long Term Agriculture, and Rural-one dwelling unit per 10 acres (R 1/10).

Wetlands in proximity to the proposal were delineated by qualified WDFW staff. The on-site wetland is a Category II, riverine wetland, with a standard wetland buffer of 280 feet (Attachment g). According to the applicant's Wetland Delineation Report, the on-site wetland "is not listed as a wetland of high conservation value on the Washington State Department of Natural Resources (DNR) Wetlands of High Conservation Value Map Viewer. The adjacent Nisqually River is listed on the DNR Forest Practices Water Typing Mapper as Type S, a shoreline of the state. The adjacent Centralia Canal is listed on the DNR Forest Practices Water Typing Mapper as Type N, a non-fish bearing stream. According to the WDFW Priority Habitat and Species database, the project area is mapped as priority habitat due to the presence of freshwater forested/shrub wetland, riverine aquatic habitat, and terrestrial habitat biodiversity areas and corridors. According to the WDFW SalmonScape fish distribution database, Fall Chinook Salmon, Coho Salmon, Winter Chum Salmon, Sockeye Salmon, Dolly Varden/Bull Trout, Resident Coastal Cutthroat Trout, Winter Steelhead, and Pink Odd Year Salmon are listed as documented in the Nisqually River. According to the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) database, the Nisqually River is mapped as essential fish habitat for Chinook Salmon, Coho Salmon, and Puget Sound Pink Salmon. The Nisqually River is designated as critical habitat by the NOAA Fisheries Protected Resources App for Chinook and Steelhead" (Attachments g and r).

The eastern portion of the subject parcel is in the FEMA regulated flood zone (100 year floodplain of the Nisqually River). The parcel is also mapped within a 1996 flood of record, or SFHA. The proposal is partially within the 100 year FEMA flood zone triggering review per FEMA flood standards. Applicant provided site

plan details, engineering assessment, and Bi-Op habitat assessment to comply with flood review standards per Thurston County Code (TCC) 14.38 and FEMA flood standards (Attachments e, h, i, and q).

For existing lots and structures where the standards of the CAO would not allow development, the Existing Nonconforming Uses, Structures and Lots chapter applies (TCC 24.50). Chapter 24.50.030 would allow alteration, repair, and maintenance of a legally established nonconforming structure within the existing structural footprint through a Critical Area Review permit and applicable standards. The proposal impacts additional flood zone outside the existing footprint of the fish ladder, as well as a small portion of the inner 50% of the on-site wetland buffer, and as such will require a Reasonable Use Exception (RUE).

The project is also mapped within a critical aquifer recharge area Category I, which are characterized by extreme aquifer sensitivity. No impacts to the critical aquifer recharge area are anticipated from the project.

B. Shoreline Master Program:

The SMPTR designates the shoreline jurisdiction on the subject property as Conservancy. The Shoreline Management Act currently defines “substantial development” as any development of which the total cost or fair market value exceeds \$8,504.00. The Act lists several activities that are exempt from the permit process. The adult salmon trap is not considered a customary accessory use and has a fair market value over \$8,504.00; therefore, a Shoreline Substantial Development Permit (SSDP) is required to be reviewed by the Hearing Examiner. The total project value for the proposal listed in the JARPA application is \$500,000 (Attachment c).

Listed below are the specific applicable shoreline regulations of the Landfill and Aquaculture chapters of the SMPTR, along with staff analysis of this project’s compliance.

Review criteria for all development (WAC 173-27-140)

(1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.

Staff comments: Staff finds the project to be consistent with the policy and provisions of the Shoreline Management Act and the master program.

(2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

Staff comments: There will be no structures over 35 feet in height or other structures which would impact views.

Review criteria for substantial development permits (WAC 173-27-150)

(1) A substantial development permit shall be granted only when the development proposed is consistent with:

- (a) The policies and procedures of the act;
- (b) The provisions of this regulation; and
- (c) The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the

provisions of chapter [173-26](#) WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.

Staff comments: Staff finds the project to be consistent with the above criteria, the Shoreline Management Act and SMPTR. Consistency with applicable policies is discussed below.

(2) Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

Staff comments: Noted. Conditions are attached.

SMPTR Section Three, Chapter IX, Landfilling Part B. Policies

1. Shoreline fills or cuts should be designed and located so that significant damage to existing ecological values or natural resources, or alteration of local currents will not occur which create a hazard or a risk of significant injury to life, adjacent property and natural resource systems.

Staff comment: The location of the proposed adult salmon trap is within the existing fish ladder at Centralia Diversion Dam. The addition of the salmon trap will not damage existing ecological values or natural resources, nor will it create a hazard or risk significant injury to life and adjacent property. There will be no excavation or filling activities in wetlands. Fill associated with grading will only occur in the floodplain and wetland buffer, and not within the waterbody of the Nisqually River, and there will be no net increase of fill for the project. Fill material will be locally sourced where possible to meet the grade required for the sampling facility slab to be poured per project drawings.

2. All fills should be accomplished with suitable safeguards for erosion control.

Staff comment: No impacts to shoreline banks are proposed from the construction of the adult salmon trap. The Applicant will utilize erosion control and best management construction techniques to prevent sediments from reaching any water body (Attachments c, e, j, and k).

3. Fill material should be of such quality that it will not cause water quality degradation beyond the limits of adopted water quality standards defined by the Department of Ecology.

Staff comment: As conditioned, the project will comply with this standard. Fill material will be locally sourced where possible to meet the grade required for the sampling facility slab to be poured per project drawings. Applicant is responsible for compliance with Department of Ecology water quality permit standards.

4. Priority should be given to landfills for water-dependent uses.

Staff comment: The proposed use is for a water-dependent use associated with the existing fish ladder and hydro dam.

5. The size of landfills should be limited by the consideration of such factors as total water surface reduction, navigation restriction, impediment to water flow and circulation, reduction of water quality and destruction of habitat.

Staff comment: The project will not impact navigation, water quality, or habitat, and will not impede water flow and circulation, when completed per submitted design plans (Attachments c, e, j, and k).

SMPTR Section Three, Chapter IX, Landfilling Part C. General Regulations

1. Disposal of solid wastes is not considered landfilling for the purposes of this section.

Staff comment: There is no solid waste proposed for the project.

2. Landfills shall consist of clean materials including such earth materials as clay, sand, and gravel, and also may include oyster or clam shells. In addition, concrete may be included in fill material if it is not liable to pollute groundwater and is approved by the Administrator. Organic debris, such as wood and other vegetative materials shall not be used as fill material.

Staff comment: Only clean fill will be used for the project. Fill material will be locally sourced where possible to meet the grade required for the sampling facility slab to be poured per project drawings.

3. Landfills, except for beach feeding, shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.

Staff comment: The project has been designed to meet these criteria. There will be no excavation or filling activities in wetlands. Fill associated with site construction will only exist in the floodplain and wetland buffer, and not within the waterbody of the Nisqually River. The Applicant will utilize erosion control and best management construction techniques to prevent sediments from reaching any water body (Attachments c, e, j, and k).

4. Landfill areas shall be covered with sufficient earth material to support indigenous vegetative ground cover and replanted with vegetation to blend with the surrounding environment.

Staff comment: The landfill area will be adjacent to the existing fish ladder at the dam, associated with proposed structures. Proper soil and erosion control best practices shall be implemented.

5. Prior to issuance of any permit for landfilling in or along a stream, it must be demonstrated that the fill will not cause any detrimental change in flood elevations, or restrict stream flow or velocity. No fill which adversely affects the capability of a stream to carry 100-year flood flows will be allowed.

Staff comment: It has been demonstrated to the satisfaction of Thurston County Flood Reviewer Tim Rubert, that there will be no detrimental change in flood elevations. A no net rise analysis was provided by the applicant's engineer and approved by Thurston County (Attachment h).

6. Artificial beach maintenance may be allowed by Substantial Development Permit in any environment, notwithstanding other regulations of this section. Provided, such maintenance shall be by "beach feeding" only, with both the quality and quantity of material to be approved by the Administrator. Habitat protection is a primary concern for any beach feeding operation and must be a consideration in permit approval.

Staff comment: Not applicable. Beach feeding is not proposed.

7. Landfill which will interfere with public rights of navigation and rights corollary thereto shall not be permitted unless there is an overriding public interest.

Staff comment: Landfill will not interfere with public rights of navigation. The project is within the existing hydro dam and fish ladder.

8. Landfill placed for the purpose of providing land to ensure required distances for septic tank drainfields is prohibited.

Staff comment: Not applicable. Landfill is not being placed for the purpose of providing required distances for drainfields.

9. Permits for landfilling shall be granted only if the project proposed is consistent with the zoning of the jurisdiction in which the operation would be located.

Staff comment: The proposed project is consistent with the zoning in which the operation is located. The landfilling is not inconsistent with zoning.

SMPTR Section Three, Chapter II, Aquacultural Activities:

Scope and Definition: “Aquaculture involves the culture and farming of food fish, shellfish, and other aquatic plants and animals in lakes, streams, inlets, bays and estuaries. Aquacultural practices include the hatching, cultivating, planting, feeding, raising, harvesting and processing of aquatic plants and animals, and the maintenance and construction of necessary equipment, buildings and growing areas. Methods of aquaculture include but are not limited to fish hatcheries, fish pens, shellfish rafts, racks and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas” (SMPTR, page 39).

Staff Comments: The proposed adult salmon trap is an aquacultural operation, which is an allowable shoreline use. The SMPTR in Section One, Part II specifies the approval process for allowable uses.

SMPTR Section Three, Chapter II, Aquaculture Part B. Policies

1. The Region should strengthen and diversify the local economy by encouraging aquacultural uses.

Staff comments: The proposed project is aimed at ensuring critical salmon recovery. Pursuant to RCW 15.85.010: "The legislature finds that many areas of the State of Washington are scientifically and biologically suitable for aquaculture development, and therefore the legislature encourages promotion of aquacultural activities, programs, and development with the same status as other agricultural activities, programs, and development within the state." This declaration by the Legislature makes it clear to local jurisdictions that aquaculture has a preferred status similar to agriculture and is a desirable land use.

2. Aquacultural use of areas with high aquacultural potential should be encouraged.

Staff comments: Per the applicant: “The National Marine Fisheries Service (NMFS) identified the Nisqually Chinook salmon population as being the primary population for recovery south of the Snohomish River and concluded that the Nisqually population is among those that would have the best chance of recovery because of habitat conditions. According to the WDFW Priority Habitat and Species database, the proposed project area is mapped as priority habitat due to the presence of freshwater forested/shrub wetland, riverine aquatic habitat, and terrestrial habitat biodiversity areas and corridors. According to the WDFW SalmonScape fish distribution database, Fall Chinook Salmon, Coho Salmon, Winter Chum Salmon, Sockeye Salmon, Dolly Varden/Bull Trout, Resident Coastal Cutthroat Trout, Winter Steelhead, and Pink Odd Year Salmon are listed as documented in the Nisqually River. According to the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) database, the Nisqually River is mapped as essential fish habitat for Chinook Salmon, Coho Salmon, and Puget Sound Pink Salmon. The Nisqually River is designated as critical habitat by the NOAA Fisheries Protected Resources App for Chinook and Steelhead” (Attachments g, and s). Staff concurs that the proposal meets this criteria.

3. Flexibility to experiment with new aquaculture techniques should be allowed.

Staff comments: Per the applicant, “while the potential utility of the adult salmon trap is far reaching for all the salmonid species in the Nisqually River, its operation is absolutely essential to the recovery of Nisqually Chinook. The adult salmon trap will be used specifically to:

- Count all Chinook utilizing the high-quality spawning habitat upstream. Enumeration in the wild is nearly impossible due to the glacier origin of the Nisqually River.
- Remove stray hatchery Chinook in order to reduce competition on the spawning ground and eliminate the ability of hatchery strays to spawn with naturally produced Chinook in order to promote local adaptation of natural Chinook.
- Collect a small number of natural origin Chinook to supply brood stock for a small integrated hatchery program that will boost the recovery of the natural stock.
- Conduct monitoring crucial to reporting on the success of the program. This includes genetic parentage research to determine how many offspring Chinook are producing.” (Attachment s).

Staff concurs the proposal provides numerous potential benefits for aquaculture operations in the Nisqually River, and that the proposal meets this criteria.

4. Aquacultural enterprises should be operated in a manner that allows navigational access of shoreline owners and commercial traffic.

Staff comments: Not applicable. The Centralia Diversion Dam intentionally obstructs navigation of the waterway.

5. Aquacultural development should consider and minimize the detrimental impact it might have on views from upland property.

Staff comments: The proposal only affects the property in question and the work area is within the active dam usage area. There will be no impact to other properties views.

6. Proposed surface installations should be reviewed for conflicts with other uses in areas that are utilized for moorage, recreational boating, sport fishing, commercial fishing or commercial navigation. Such surface installations should incorporate features to reduce use conflicts. Unlimited recreational boating should not be construed as normal public use.

Staff comments: Not applicable. The Centralia Diversion Dam intentionally obstructs navigation of the waterway.

7. Areas with high potential for aquacultural activities should be protected from degradation by other types of uses which may locate on the adjacent upland.

Staff comments: The proposed salmon trap will be installed on the Centralia Diversion Dam and will not impact or degrade other types of uses on adjacent uplands.

8. Proposed aquacultural activities should be reviewed for impacts on the existing plants, animals and physical characteristics of the shorelines.

Staff comments: The environmental impact of the proposed adult salmon trap was reviewed via SEPA, resulting in the DNS (Attachment j). The proposal is within a critical area buffer for a wetland and is also within the floodplain. The mitigation plan prepared by WDFW dated September 12, 2022, mitigates for the small square footage of new impact to the wetland buffer (Attachment r), and the habitat assessment determined the project “may affect, not likely to adversely affect” pertinent listed ESA species (Attachment i).

9. Proposed uses located adjacent to existing aquaculture areas which are found to be incompatible should not be allowed.

Staff comments: The County is not aware of any nearby development proposals that would be incompatible to the proposed adult salmon trap.

SMPTR Section Three, Chapter II, Aquaculture Part C. General Regulations

1. Aquaculture development shall not cause extensive erosion or accretion along adjacent shorelines.

Staff comments: Erosion and accretion will not occur as a result of this proposal as the salmon trap will be affixed to side of the diversion dam, utilizing the existing fish ladder. The Applicant will utilize erosion control and best management construction techniques to prevent sediments from reaching any water body (Attachments c, e, j, and k).

2. Aquacultural structures and activities that are not shoreline dependent (e.g. warehouses for storage of products, parking lots) shall be located to minimize the detrimental impact to the shoreline.

Staff comments: A temporary job trailer, parking, portable toilet and handwashing station will be placed on the site above the 100-year floodplain, situated to minimize detrimental impact to the shoreline. A minimal portion of the processing facility is within the 100 year floodplain, necessitated by the proximity to the fish ladder for efficient fish handling.

3. Proposed aquaculture processing plants shall provide adequate buffers to screen operations from adjacent residential uses.

Staff comments: Not applicable, there is no processing plant proposed in association with the proposed adult salmon trap at the dam.

4. Proposed residential and other developments in the vicinity of aquaculture operations shall install drainage and waste water treatment facilities to prevent any adverse water quality impacts to aquaculture operations.

Staff comments: There are no new proposed developments in the vicinity. If any are subsequently proposed, the County's Drainage Design and Erosion Control Manual and the Sewerage General Plan would require mitigation to prevent adverse water quality impacts.

5. Land clearing in the vicinity of aquaculture operations shall not result in offsite erosion, siltation or other reductions in water quality.

Staff comments: This project will not result in land clearing activity. Additionally, no known land clearing activity is proposed in the vicinity of the subject parcel. If any are subsequently proposed, the County's Drainage Design and Erosion Control Manual, Critical Areas Ordinance, and the Shoreline Master Program would require mitigations to prevent adverse water quality impacts from erosion or siltation.

6. For nonaquacultural development or uses proposed within or adjacent to an Aquacultural District, or which may be adversely affected by the aquaculture operation, restrictive covenants shall be filed which will inform prospective buyers of the proximity of the Aquacultural District.

Staff comments: Not applicable.

SMPTR Section Two, Chapter V. REGIONAL CRITERIA

The Shoreline Master Program for the Thurston Region contains regional criteria that apply to the proposal. All development within the jurisdiction of this Master Program shall demonstrate compliance with the following criteria:

A. Public access to shorelines shall be permitted only in a manner which preserves or enhances the characteristics of the shoreline which existed prior to establishment of public access.

Staff comment: The underlying property is an existing dam. The proposed project will not create new access nor interfere with existing public access to the shoreline.

B. Protection of water quality and aquatic habitat is recognized as a primary goal. All applications for development of shorelines and use of public waters shall be closely analyzed for their effect on the aquatic environment. Of particular concern will be the preservation of the larger ecological system when a change is proposed to a lesser part of the system, like a marshland or tideland.

Staff comment: The project is not expected to impact water quality or aquatic habitat. The Applicant will utilize erosion control construction techniques to prevent sediments from reaching the waterbody during the temporary ground disturbance. There shall be no additional impacts to the existing water body.

C. Future water-dependent or water-related industrial uses shall be channeled into shoreline areas already so utilized or into those shoreline areas which lend themselves to suitable industrial development. Where industry is now located in shoreline areas that are more suited to other uses, it is the policy of this Master Program to minimize expansion of such industry.

Staff comment: The proposal is not an industrial activity, as defined by the SMPTR.

D. Residential development shall be undertaken in a manner that will maintain existing public access to the publicly-owned shorelines and not interfere with the public use of water areas fronting such shorelines, nor shall it adversely affect aquatic habitat.

Staff comment: This criteria is not pertinent to the subject application.

E. Governmental units shall be bound by the same requirements as private interests.

Staff comment: The proposal is being reviewed to the pertinent SMPTR standards and regulations. This criteria is noted.

F. Applicants for permits shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a Permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.18.180 (1), the person requesting the review shall have the burden of proof.

Staff comment: This criterion is noted.

G. Shorelines of this Region which are notable for their aesthetic, scenic, historic or ecological qualities shall be preserved. Any private or public development which would degrade such shoreline qualities shall be discouraged. Inappropriate shoreline uses and poor quality shoreline conditions shall be eliminated when a new shoreline development or activity is authorized.

Staff comment: The proposed adult salmon trap is within the existing dam facility, and is not expected to obstruct or destroy scenic views or aesthetic qualities of the shoreline area.

H. Protection of public health is recognized as a primary goal. All applications for development or use of shorelines shall be closely analyzed for their effect on the public health.

Staff comment: This application has been reviewed by the Thurston County Public Health and Social Services Department for public health issues. No health issues have been identified and the County Health Department recommends approval (Attachment p).

C. Critical Area Ordinances (TCC 24)

TCC 24.20 Frequently Flooded areas

Frequently flooded areas are protected under the Critical Area Ordinance, TCC Title 24. Per TCC 24.03.010, "Frequently flooded areas" means lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year or areas within the highest known recorded flood elevation, or within areas subject to flooding due to high ground water... Frequently flooded areas may include special flood hazard areas as defined in Chapter 14.38 TCC."

TCC Section 24.20.100 and Table 24.20.1 for restrictions of the use of fill in the special flood hazard area:

- a. **No fill is allowed within the special flood hazard area unless a qualified professional engineer licensed in the State of Washington and a qualified wildlife habitat biologist demonstrate that there is no other alternative method for constructing an approved use listed in Table 24.20-1 TCC or to provide access to essential public facilities and that such grading and filling will not block stream side channels, increase flood hazards, water velocity, or flood elevations, inhibit channel migration, or degrade important habitats (see Chapter 24.25 TCC) and the proposed cut and fill activity meets all other requirements of Chapter 14.38 TCC including, but not limited to, the zero rise and compensatory storage requirements stated below:**

Staff comment: The applicant submitted engineered flood analysis, documenting there will be no net rise in flood elevations (Attachment h), which was reviewed and accepted by the County Floodplain Manager. The applicant submitted habitat assessment, which determined the project "may affect, not likely to adversely affect" listed pertinent ESA species (Attachment i). The proposal will be reviewed for compliance with TCC 14.38 at the time of building or construction permit submittal.

- b. **No fill may be allowed which acting alone or in concert with other conditions may increase flood hazards to other property, water velocities, flood elevations, or adversely impact floodplain functions. A certification by a registered professional engineer shall be provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the analysis will result in zero rise during the occurrence of the base flood discharge or event. The certification must include all calculations.**

Staff comment: The applicant submitted engineered flood analysis, documenting there will be no net rise in flood elevations (Attachment h), which was reviewed and accepted by the County Floodplain Manager.

- c. **In addition to meeting the requirements for zero rise, any permitted fill shall meet compensatory storage requirements to provide hydrologically equivalent compensatory storage within the one-hundred-year floodplain.**

Staff comment: The applicant submitted engineered flood analysis, documenting there will be no net rise in flood elevations (Attachment h), which was reviewed and accepted by the County Floodplain Manager. Per the applicant's engineer, "Considering the minimal overall material quantities for the project site within the 100-year floodplain, Centralia City Light's ability to regulate flow and water levels in the immediate vicinity, and that the project will be constructed in the hydraulic shadow (ineffective flow area) of the existing dam and intake structure for the Centralia City Light dam and diversion canal; Net result of project will not create a rise in flow elevations during a 100 year event." (Attachment h). Compensatory storage is not proposed.

- i. **New excavated storage volume shall be equivalent to the flood storage capacity eliminated by filling or grading within the one-hundred-year floodplain.**

Staff comment: Not applicable for this project. The applicant submitted engineered flood analysis, documenting there will be no net rise in flood elevations (Attachment h), which was reviewed and accepted by the County Floodplain Manager.

- ii. **Equivalent shall mean that the storage removed shall be replaced by equal live storage volume between corresponding one-foot contour intervals that are hydraulically connected to the floodplain through their entire depth.**

Staff comment: Not applicable for this project. The applicant submitted engineered flood analysis, documenting there will be no net rise in flood elevations (Attachment h), which was reviewed and accepted by the County Floodplain Manager.

- d. **Applications for balanced cut and fill with compensatory flood storage shall include a winter water study (refer to Chapter 24.20 TCC.)**

Staff comment: Not applicable.

- e. **Fill or other materials shall be protected against erosions by rip rap or vegetative cover.**

Staff comment: The Applicant will utilize erosion control and best management construction techniques to prevent sediments from reaching any water body (Attachments c, e, j, and k).

TCC 24.25 Fish and Wildlife Habitat Conservation Areas

The Nisqually River is a Type S stream, which are designated "shorelines of the state" as defined in RCW 90.58.030. A Type S stream requires a riparian habitat area width of 250 feet, measured from the edge of ordinary high water line (TCC 24.25.020).

TCC 24.25.190 - Hatcheries. State and federal fish hatcheries are permitted if the applicant demonstrates to the approval authority's satisfaction that there is not an alternative location with less adverse impact on the critical area and associated buffer than the proposed location and that the operation will not reduce water quality or increase water temperature to the detriment of native or planted game fish occupying the affected water body. The hatchery shall be consistent with the Shoreline Master Program for the Thurston Region (1990) and employ BMPs to avoid adverse impacts to the important habitat area and associated buffer.

Staff comments: The proposed project will not reduce water quality or increase water temperature to the detriment of the native or game fish. There is no proposed alternative location with less adverse impact on the critical areas or associated buffers.

Per TCC Table 24.25-3. Approvable Uses and Restrictions Within Fish and Wildlife Habitat Conservation Areas, "fish hatchery – Construction and Maintenance" is allowed when there are Important Species and Habitats, subject to a Critical Area Review Permit. Per TCC 24.40.020, a Critical Area Review permit is

not required for RUE's in Chapter 24.45 TCC, initial emergency authorizations in Chapter 24.90 TCC, and Critical Area Determinations in TCC Section 24.05.070.

TCC 24.25.065: Important animal and plant species, their habitats of primary association, and other important habitats protected under this chapter are:

A. Federally Listed Species and Associated Habitats. Animal and plant species listed under the federal Endangered Species Act (64 FR 14307) as endangered, threatened, or candidates for listing and their habitats of primary association. (Consult the U.S. Fish and Wildlife Service and National Marine Fisheries Service for current listings.)

Staff comment: In 1999, Puget Sound Chinook salmon was listed as threatened under the ESA. The project area contains "important habitats and species".

TCC 24.30 Wetlands

Per TCC Table 24.30-4- Nonconforming use/structures, alteration and expansion, defers to TCC 24.50.

Staff comment: The proposal exceeds the allowances for critical area review under the nonconforming chapter, thus a RUE is required for portions of the project within the wetland buffer.

D. Reasonable Use Exception standards:

The Critical Areas Ordinance (CAO) sets out the process and criteria for any property owner to apply for a Reasonable Use Exception to carry out a land use or activity that is prohibited by the Ordinance (TCC 24.45). The CAO states that, "along with a recommendation made by the department, the application shall be heard by the hearing examiner." Chapter 24.45.030 provides eight criteria that must be met in order to approve a use within a critical area or its buffer. The eight criteria are listed below along with a staff analysis of each:

1. No other reasonable use of the property as a whole is permitted by this title.

Staff comments: The property has an existing diversion dam with a fish ladder. For salmon recovery efforts, the adult salmon trap must be located on the diversion dam in the floodplain where salmon currently travel.

2. No reasonable use with less impact on the critical area or buffer is possible. At minimum, the alternatives reviewed shall include a change in use, reduction in the size of the use, a change in the timing of the activity, a revision in the project design.

Staff comments: The proposal is within a critical area buffer for a wetland and is also within the 100 year floodplain. The wetland buffers are partially impacted and the area proposed for development has been previously altered and impacted with landscaping, mowing, and access road. The proposed use is consistent with the current use of the site and will have minimal impact on the floodplain or the wetland buffer. The adult salmon trap platform has been kept at a small footprint with no walls to allow for other floodplain rules to be met. The portable office and toilet are located in a wetland buffer that has already been disturbed with regular mowing and maintenance.

3. The requested use or activity will not result in any damage to other property and will not threaten the public health, safety or welfare on or off the development proposal site or increase public safety risks on or off the subject property.

Staff comments: As proposed and conditioned, the proposal will have no effect on public health, safety, or welfare. Per the applicant, "The facility is behind a locked gate and the public are not permitted to

access this area. There will be no chemicals used that may contaminate water sources.”

4. **The proposed reasonable use is limited to the minimum encroachment into the critical area and/or buffer necessary to prevent the denial of all reasonable use of the property.**

Staff comments: The proposed platform and stairs for the adult salmon trap is limited in scope and size. The platform has been kept at a small footprint with no walls to allow for other floodplain rules to be met. The portable office and toilet facilities minimally encroach on an already disturbed wetland buffer.

5. **The proposed reasonable use shall result in minimal alteration of the critical area including but not limited to impacts on vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions.**

Staff comments: As proposed, the project should have minimal to no impact on critical areas, including impacts to vegetation, fish and wildlife resources, hydrological conditions and geologic conditions. The area proposed for development already has a diversion dam and a disturbed wetland buffer regularly mowed and maintained.

6. **A proposal for a reasonable use exception shall ensure no net loss of critical area functions and values. The proposal shall include a mitigation plan consistent with this title and best available science. Mitigation measures shall address unavoidable impacts and shall occur on-site first, or if necessary, off-site.**

Staff comments: The mitigation measures in a frequently flooded area pertain to building construction standards, which have been addressed in the conditions of approval. The wetland mitigation plan compensates for the minor impervious surface increases within the wetland buffer, to meet no net loss (Attachment r). There should be no net loss of critical area functions and values.

7. **The reasonable use shall not result in the unmitigated adverse impacts to species of concern.**

Staff comments: The project is designed such that there are no known impacts to species of concern which requires mitigation.

8. **The location and scale of existing development on surrounding properties shall not be the sole basis for granting or determining a reasonable use exception.**

Staff comments: The location and scale of development on surrounding properties was not the sole basis for determining approval of the reasonable use exception.

E. Review Agency Comments:

Staff from Thurston County Environmental Health has completed review and has no objection to the SSDP and RUE request (Attachment p).

Staff from Thurston County Public Works closed their review with no comments.

Thurston County Floodplain Manager, Tim Rubert, provided the following final review comment: *“The Engineered letter dated 10/14/2022 was changed from the previous letter and the balanced cut and fill has been removed and also reference the engineers reviewing the NOAA Hec-Ras model. This revised letter meets the zero rise requirement.”*

The Washington State Department of Ecology provided comments regarding the project (Attachment o).

The Squaxin Island Tribe (Attachment n) and Nisqually Indian Tribe (Attachment m) submitted comment

letters. There were no substantive concerns from the reviewing agencies.

F. Public Comments:

No comments were received in response to the public noticing for this project.

DEPARTMENT RECOMMENDATION

If the Hearing Examiner grants approval of this Shoreline Substantial Development and Reasonable Use Exception Permit, then based on the above analysis, the Community Planning & Economic Development Department recommends the following conditions:

1. The project must comply with all other Local, State, and Federal regulations and acquire all applicable permits prior to any work. The property owner is responsible for obtaining permits and approvals from other agencies, as they apply.
2. Best management practices shall be employed, and there shall be no additional disturbance within the critical area without approval from Thurston County Community Planning and Economic Development. Erosion control shall be placed alongside proposed development areas. All activities shall fully comply with the Thurston County Stormwater Drainage Design and Erosion Control Manual (TCC 15.05) throughout all phases of the proposed project. This erosion control shall be inspected or verified via photos prior to building or construction permit issuance.
3. The Applicant shall complete all mitigation as proposed within the WDFW Mitigation Plan report dated September 12, 2022 prior to final building permit or construction permit inspection. A surety will be required in place of mitigation completion prior to final building permit inspection, per TCC 24.70.
4. Mitigation/enhancement shall be maintained and monitored for five years per TCC 24.35.017(B.6.).
5. The applicant must obtain a building and/or construction permit from the Thurston County Community Planning and Economic Development Department for the proposal, at which time flood review standards shall be met.
6. The Applicant and subsequent property owners must comply with all requirements of state and/or federal law to avoid disturbance and alteration of artifacts, remains, or other cultural resources on site during development. In the event of inadvertent disturbance or alteration, the Applicant must immediately stop work and contact the Tribe and the State Department of Archaeology and Historic Preservation.
7. All on-site construction activities shall fully comply with noise limitations outlined in WAC 173-60.
8. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit and the application can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. **It is the applicant's responsibility to obtain this permit if required.**
9. All activities shall be in substantial compliance with the submitted plans, and the SEPA Determination of Non-Significance (21-102553 XA) findings and conditions issued on July 14, 2021 (Attachments j).

Heather Tschaekofske

Heather Tschaekofske, MES
Associate Planner/Biologist

LIST OF EXHIBITS

EXHIBIT 1 Community Planning & Economic Development Staff Report including the following attachments:

Attachment a	Notice of Public Hearing, dated March 1, 2024
Attachment b	Master Application, resubmitted November 8, 2023
Attachment c	JARPA Application, resubmitted November 8, 2023
Attachment d	Reasonable Use Exception Application, resubmitted November 8, 2023
Attachment e	Revised Site Plan, dated October 17, 2023, submitted November 8, 2023; plus existing historic site plans from 1985
Attachment f	Project Narrative, received March 3, 2021
Attachment g	Wetland Delineation, resubmitted November 8, 2023
Attachment h	Revised No-Rise Certification, submitted February 28, 2024
Attachment i	Floodplain Habitat Assessment, resubmitted November 8, 2023
Attachment j	SEPA Determination of Non-Significance, dated July 14, 2021
Attachment k	Environmental Checklist, resubmitted November 8, 2023
Attachment l	Notice of Application, dated May 28, 2021
Attachment m	Comment letters from Brad Beach of the Nisqually Indian Tribe, dated March 25, 2021, and July 14, 2021
Attachment n	Comment email from Shaun Dinubilo of the Squaxin Island Tribe, dated June 7, 2021
Attachment o	Department of Ecology comment letter, dated July 28, 2021
Attachment p	Comment Memorandum from Dawn Peebles, Environmental Health Division, July 12, 2021
Attachment q	City of Centralia memo, dated August 1, 2022
Attachment r	Mitigation Plan, resubmitted November 8, 2023
Attachment s	Nisqually Indian Tribe emergency approval request email, dated June 16, 2021, and letter dated June 29, 2021
Attachment t	Emergency Approval letter from Thurston County, dated July 2, 2021; and extension emails dated July 13, 2022, and June 21, 2023