



**SHORELINE
COMMUNITY DEVELOPMENT**

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Criteria for granting a Shoreline Substantial Development Permit

Applicant must respond to the following criteria per MMC 19.01.110(B).

1. Explain how this project is consistent with the policies and procedures of the Shoreline Management Act.

Please See Shoreline Code and Master
Program Compliance Narrative, Attached

2. Explain how this project complies with the provisions of MMC 19.01.110.

Please See Shoreline Code and Master
Program Compliance Narrative, Attached

3. Explain how this project complies with the approved Master Program.

Please See Shoreline Code and Master
Program Compliance Narrative, Attached

Shoreline Code and Master Program Compliance Narrative

Supplement to the City of Monroe Shoreline Application Form

19.01.110 Review process and criteria for substantial development permits.

A. The hearing examiner shall hold a public hearing on the proposed substantial development permit and approve, approve with conditions, or deny the application.

B. A substantial development permit shall be granted only when the development proposed is consistent with:

1. The policies and procedures of the Shoreline Management Act;

The purpose of the State Shoreline Master Program is well articulated in the City's Shoreline Master Program. From the City's Shoreline Mater Program:

A. Requirements of the Shoreline Management Act

In 1971, the State of Washington legislature enacted the Shoreline Management Act (SMA) in order to address growing concern about the quality of the state's shoreline environments. The Act (RCW 90.58) recognizes that "shorelines are among the most valuable and fragile" of the state's resources. The Act, and the City of Monroe, recognize and protect private property rights along the shorelines, while aiming to preserve the quality of this unique resource for all state residents.

The primary purpose of the Act is to provide the management and protection of the state's shoreline resources by planning for their reasonable and appropriate use. A citizen's initiative in 1972 designated the area to be regulated under the Act, and includes lands within two hundred (200) feet of the shoreline

The State Law (SMA) requires every local permitting jurisdiction (Towns, Cities and Counties) to adopt a Shoreline Master Program (SMP) and the State Department of Ecology is charged with reviewing and approving these plans. The City has adopted a SMP in accordance with the State Law, and that SMP has been approved by the Department of Ecology as implementing the purposes of the SMA. Therefore, if the applicant demonstrates compliance with the City's SMP, the applicant has, by default, demonstrated compliance with the State SMA.

2. The provisions of this regulation; and

MMC 19.01 contains the criteria listed here, and also contains the criteria for a Shoreline Variance and for a Shoreline Conditional Use Permit. The applicant is not proposing a use that requires either a variance or a conditional use permit. Therefore, only the three criteria listed here from MMC 19.01.110 are applicable to this project.

3. The approved Master Program.

The SMP

Chapter 1,

Section D The Monroe Shoreline Master Program

Section 3. Monroe Shoreline Jurisdiction

Monroe Shoreline Map

Designation of the site as Tye Stormwater Facility Shoreline Designation.

Chapter 2.

B. Designations

7. Tye Stormwater Facility Shoreline Designation purpose and policies.

Purpose:

“to encourage and enhance recreational uses, public access, and appropriate development while accomplishing the water body’s primary function: storing and treating storm water runoff from nearby lands”

The polies followed by the applicant’s response to each are listed below:

1. In regulating uses in the “Tye Stormwater Facility” environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water enjoyment uses. Nonwater-oriented uses may also be allowed.

The applicant is proposing nonwatery-oriented uses which may also be allowed.

2. Policies and regulations shall assure no net loss of shoreline ecological functions relevant to the facility’s primary purpose of holding and treating stormwater as a result of new development. Any loss of ecological functions as a result of maintaining the facility’s primary purpose, expanding and improving recreational and public access uses, or constructing new developments shall be mitigated.

The applicant has submitted a Critical Areas Report and a Stormwater Plan that address these issues

3. The City will encourage conservation and/or restoration projects, such as conserving and enhancing shoreline vegetation.

The applicant has submitted a Critical Areas Report and a Stormwater Plan that address these issues

4. The City will encourage water-oriented recreational activities, such as swimming, angling, strolling, and small, non-motorized and electric motor boating.

The subject site is located at the north end of Lake Tye where commercial activities are permitted by the Zoning code and allowed under other sections of the SMP. The primary access for swimming and boating are on the south side of the lake, while

angling access may be found all around the lake. The proposal will not interfere with these water-based activities

5. Where feasible, visual and/or physical public access should be required.

An access trail is located between the subject proposal and lake Tye. The proposal will not reduce or interfere with this physical access point. The removal of the building(s) on site should improve visual access.

Chapter 2, Section C

Shoreline use matrix for the subject site.

This section allows both Non water based commercial and non-water based industrial activities as permitted uses. The subject site is currently developed with Non-water based industrial buildings. The applicant is proposing to remove the buildings and provide stormwater treatment on the site allowing for non-water based commercial and industrial uses to continue on site.

Chapter 2, Section D

Shoreline Bulk Standards matrix.

The Site is Zoned LI and is in the Tye Stormwater Facility Designation. The matrix indicates a 200' buffer with footnotes b and c. Footnote c states:

"In the Tye Stormwater Facility environment designation, the OHWM setback/buffer is 25 feet."

Approximately 77,588 sf of the proposed demolition and grading will occur within the 200-ft Shoreline Management Zone for Lake Tye. The Shoreline Management Program requires a 25-foot buffer measured landward from the ordinary high water mark. At no point does this setback extend onto the subject site.

Chapter 3 General Provisions

B. General

1. Applicability

The following regulations describe the requirements for all shoreline uses and modifications in all environment designation:

3. Regulations

1. All proposed uses and developments, including those that do not require a shoreline permit, occurring within shoreline jurisdiction, must conform to Chapter 90.58 RCW Shoreline Management Act and this Shoreline Master Program.

The proposed development does require a Shoreline Permit and this application demonstrates compliance with the SMA and the City's SMP

2. Shoreline uses, modifications, and conditions listed as “prohibited” shall not be eligible for consideration as a shoreline Variance or shoreline Conditional Use Permit.

The applicant does not propose a prohibited use.

3. The “policies” listed in this Shoreline Master Program will provide broad guidance and direction and will be used by the City in applying the “regulations.”

Understood

4. Where provisions of this Shoreline Master Program conflict, the provisions most directly implementing the objectives of the Shoreline Management Act, as determined by the City, shall apply unless specifically stated otherwise.

Understood

5. All uses and development shall result in no net loss of ecological functions to the greatest extent feasible.

The applicant proposes to remove a derelict building, provide stormwater treatment where non currently exists and to provide enhancement for impacted critical areas. Thus, this project should result in a net benefit.

C. Archaeological and Historic Resources

1. Applicability

The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian graves and records) and Chapter 27.53 RCW (Archaeological sites and records) and shall comply with Chapter 25-48 WAC (Archeological excavation and removal permit) as well as the provisions of this chapter

There are no known archeological resources on this site. The State Department of Archeology and Historic Preservation on line predictive model indicates a high probability of archeological resources on this site based on the location and proximity to French Slough. However, the Snohomish County tax records indicate the on site building(s) were constructed in 1926, so we can assume that this site has been graded and filled and otherwise modified for at least 93 years. Therefore it is unlikely that the soil containing archeological resources remains intact. Furthermore, the applicant is proposing filling, not excavating the site, reducing the probability of discovering archeological resources. If, however, any archeological resources are discovered on the site during development activities, the applicant will comply with RCW 27.53, ceasing work and notifying local, state and tribal officials immediately if any resources are discovered.

D. Critical Areas

The applicant has submitted a complete critical areas report which addresses the relationship between the critical areas requirements and the SMP.

E. SEPA Compliance

The applicant has submitted a SEPA checklist and will comply with the SEPA regulations as listed.

F. Riparian Corridor Management and Flood Hazard Reduction

The submitted Critical Areas Checklist addresses the Riparian Corridor requirements. The grading permit address the Flood Hazard Reduction Requirements.

G. Parking:

No parking is proposed.

H. Public Access:

3. Regulations

1. Development, uses and activities on public lands shall be designed and operated to avoid blocking, reducing or adversely interfering with the public's physical access to the water and shorelines, unless such access would cause ecological impacts.

The proposal will not block or interfere with public access.

2. Public access provided by shoreline street ends, public utilities, rights-of-way, and other public lands shall not be diminished. RCW 35.79.035 and RCW 36.87.130 restrict the City from vacating right-of-way which abuts on a body of fresh water unless the purpose of the vacation is to enable the public authority to acquire the vacated property for boat launching sites, or for park, viewpoint, recreational, and educational or other public purposes.

Not applicable to this project.

3. Shoreline development, uses and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual access to the water and shorelines, except that vegetation conservation and shoreline restoration activities may intrude into view corridors where necessary to protect or restore ecological functions. The City may require the development proposal to be relocated or reconfigured to reduce view blockage.

The proposal will not block or interfere with public access.

4. Public lands, such as street ends, rights-of-way, and utilities, shall provide, maintain, enhance, and preserve visual access to the water and shoreline in accordance with RCW 35.79.035 and RCW 36.87.130 (see above).

The proposal will not block or interfere with public access.

5. Development on the water shall be constructed of non-reflective materials that are compatible in terms of color and texture with the surrounding area.

The proposal will not block or interfere with public access.

6. The dedication and improvement of public access shall be required as part of developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access is required except:

Not applicable to this project.

7. The City will work with project proponents to ensure that public access policies and priorities are implemented, especially in ensuring that the opportunities for continuous trails, linear parks and reclamation areas are not lost.

A trail access exists between the subject property and the ordinary high water line of Lake Tye. The proposed development will not impact this public access.

8. Shoreline development by public entities, including local governments, state agencies, and public utility districts, shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment or where the City determines that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations.

Not applicable to this project.

I. Shorelines of Statewide Significance

The policies contained in this section apply to the City in developing new regulations and pertain to the rest of the SMP. No regulator section is found.

J. Signage:

No Signage is proposed.

K. Utilities:

No utility installation is proposed with this application.

L. Vegetation Conservation

There is no significant vegetation on the subject property. The applicant is proposing to remove derelict buildings and to provide new vegetation to enhance the critical area buffers. Please see Critical Rea Report submitted with this application.

M. Water Quality

Chapter 3 – General Provisions

Section M. Water Quality

3. Regulations

1. All shoreline development, both during and after construction, shall avoid or minimize ecological impacts, including any increase in surface runoff, through control, treatment, and release of surface water runoff so that the receiving water quality and shoreline properties and features are not adversely affected. Control measures include, but are not limited to, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, fugitive dust controls, or best available technologies as directed by the City.

The proposed project will implement a TESC plan to define the area of work and to prevent untreated and undetained stormwater from leaving the Site. The TESC plan will utilize best available technologies, such as silt fences, straw bales, temporary stormwater ponds, check dams, or any other best management practice (BMP) approved by the City of Monroe and the Washington Department of Ecology. The work area shall be periodically watered during dry season work to prevent fugitive dust emissions. Rock pads or wheel washing structures will be installed to ensure that work vehicles leaving the Site do not transport soils offsite on their tires.

2. All development shall adhere to all required setbacks, buffers, and standard in this Shoreline Master Program. (Refer to Shoreline Use Provisions, Environment Designation Provisions, and the Critical Areas Regulations in Appendix A for specific limits.)

The required setback/buffer for Lake Tye is 25-ft measured landward from the OHWM. This setback/buffer does not extend onto the Site at any point. Additionally, there will be no impacts to Wetland B or its buffer, which are located within the shoreline management zone. The proposed demolition and grading plan will not affect any critical areas or their buffers within the shoreline management zone.

3. All development shall conform to local, state, and federal water quality regulations, provided the regulations do not conflict with this Shoreline Master Program. Where there is a conflict, provisions most protective of the natural ecology shall apply. The City of Monroe adopts the latest version of the Department of Ecology Stormwater Management Manual for Western Washington to regulate stormwater discharge and management.

The proposed demolition and grading plan will conform to all required water quality regulations. The purpose of the proposed fill is to create topographical conditions whereby all stormwater falling onto the demolition and grading area will flow inward towards a temporary stormwater pond and not directly to any critical area or buffer. The site currently does allow some untreated and undetained stormwater to flow offsite into critical areas and their associated buffer.

4. The above regulations apply to the Tye Stormwater Facility environment and its associated Aquatic environment only as they are consistent with maintaining the primary purpose of the human-made Tye Stormwater Facility, collecting and treating stormwater runoff from existing and future developments within its catchment area. Any loss of ecological functions must be mitigated.

The proposed demolition and grading plan will not alter the primary purpose of the Tye Stormwater Facility. All stormwater collected within the demolition and grading area

will be detained and treated prior to release into an existing grass-lined swale connected to Lake Tye.

Chapter 4: Shoreline Modification

D. Fill

1. Applicability

A fill means the addition of soil, sand, rock, gravel, sediment, earth retaining structure or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. Most fills destroy the existing natural character of a shoreline and can result in erosion and silting problems, impacts to habitat, along with diminishing of the water surface area. (Note: the placement of fill to replace shoreline areas that have been removed by normal erosion processes is covered under Shoreline Stabilization.

2. Fill policies

1) Fill should be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes and public access to the shoreline.

A paved path exists between Lake Tye and the Site. All demolition and grading work will occur on the Site and within a demarcated construction limit boundary. The worksite will be bounded by silt fencing and other stormwater BMPs. There will be no impacts to the shoreline setback/buffer for Lake Tye or its ecological functioning.

2) Where permitted, fills should be the minimum necessary to provide for the proposed use and should be permitted only when tied to a specific development proposal that is permitted by the Master Program. Speculative fill is prohibited.

The proposed demolition and grading plan is designed to create a site topography after removal of the existing buildings that will direct all stormwater on the Site to a temporary stormwater pond. The temporary stormwater pond will detain, treat, and slowly release stormwater collected onsite to a grass-lined swale that drains into Lake Tye. The desired slope of the graded area will be no greater than one percent leading to the temporary stormwater pond. Increasing the slope of the site by adding additional fill would increase the slope leading to the temporary stormwater pond and could result in increased erosion or rilling of the fill material.

3) Fills landward of the ordinary high water mark should be permitted only when necessary to accommodate uses listed as permitted in Chapter 2.c (Shoreline Use and Modification Matrix) of the Master Program, and when significant impacts can be avoided or mitigated.

The proposed demolition and grading plan will not require any modification of the 25-ft shoreline setback/buffer for Lake Tye or require the addition of fill material waterward of the ordinary high water mark of Lake Tye.

4) Fills waterward of the ordinary high water mark should be discouraged and only allowed through a Conditional Use Permit when necessary to facilitate water dependent uses consistent with the Master Program, for necessary river crossings, and for projects beneficial to the environment.

See response to Item #3 above.

5) The perimeter of fills should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time.

The proposed fill will not exceed the limits of the construction footprint, as defined onsite by construction fencing and silt fencing. The fill will be hydroseeded after completion of demolition and grading work to help stabilize the soil and prevent erosion and sedimentation.

6) Mitigation for Wetland impacts must be implemented pursuant to the Critical Areas Regulations contained in Appendix A.

Not applicable. There will be no direct impacts to any onsite wetlands or streams within the shoreline management zone resulting from the proposed demolition and grading plan.

7) Fills should not adversely impact navigation.”

Not applicable. No fill will be placed within a navigable water. The following regulations apply to fill material placed within the shoreline zone. The regulations are provided verbatim in Times New Roman text. Our responses to each numbered item follow immediately in italic Times New Roman text.

3. Fill Regulations

1) Applications for fills shall include the following:

- a) Proposed use of the fill area;
- b) Physical, chemical, and biological characteristics of the fill material;
- c) Source of the fill material;
- d) Method of placement and compaction;
- e) Location of fill relative to natural and/or existing drainage patterns;
- f) Location of the fill perimeter relative to the floodway;
- g) Perimeter erosion control and stabilization means;
- h) Type of surfacing and runoff control devices; and
- i) Location of wetlands and other sensitive areas.

The proposed use of the fill is to provide positive drainage towards a temporary stormwater pond to be constructed in the center of the Site. The proposed fill will prevent untreated and

undetained stormwater from flowing offsite and into sensitive areas (Cripple Creek, wetlands, and Lake Tye). Currently, stormwater is able to leave the site untreated and undetained.

2) Fill waterward of the ordinary high water mark shall be permitted as a conditional use only:

- a) In conjunction with a water-dependent use permitted under this Master Program.
- b) In conjunction with a bridge, utility, or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist.
- c) As part of an approved restoration project; or
- d) For fishing or wildlife habitat enhancement projects.

Not applicable. No fill will be placed waterward of the ordinary high water mark on Lake Tye.

3) Pier or pile supports shall be utilized in preference to fills. Fills for approved road development in floodplains or wetlands shall be permitted only if pile or pier supports are proven structurally infeasible.

Not applicable. Development will not occur within any aquatic lands. Fills shall only be permitted in conjunction with a specific development already permitted by the Master Program or proposed simultaneously as part of a Conditional Use Permit application. The proposed demolition and grading plan will be appropriately permitted by the City of Monroe.

5) Speculative fills are prohibited.

The proposed fill is necessary to create a site topography that directs stormwater runoff towards a centrally-located temporary stormwater pond. This pond will detain and treat stormwater prior to release into an existing grass-lined swale that drains into Lake Tye.

6) Fills shall be permitted only where it is demonstrated that the proposed action will not:

- a) Result in significant adverse impacts to water quality, fish and/or wildlife habitat.

The proposed fill is meant to prevent significant adverse impact to water quality, fish habitat, or wildlife habitat by collecting, detaining, and treating stormwater runoff prior to being released into a grass-lined swale that drains into Lake Tye.

- b) Result in significant adverse impacts to natural drainage and current patterns or floodwater capacities.

The Site currently does not detain or treat any stormwater onsite. There should be no significant adverse impacts to natural drainages or floodplain capacities (Lake Tye was created to provide flood capacity for the business development located east of Frylands Boulevard).

7) Where fills are permitted, the fill shall be the minimum necessary to accommodate the proposed use.

The proposed demolition and grading plan will be the minimum necessary to remove all existing onsite buildings and debris and to create a shallow gradient from the edges of the proposed work area to the temporary stormwater pond. Any additional fill material placed within the work area would likely increase the possibility of sediment mobilization and rilling of the fill material.

8) Fill shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation for the affected area. Fill perimeters shall be designed and constructed with silt curtains, vegetation, retaining walls, or other mechanisms to prevent material movement. In addition the sides of the fill shall be appropriately sloped to prevent erosion and sedimentation, both during initial fill activities and afterwards.

The area of work onsite will be surrounded by both construction fencing and silt fencing. The final grade of the edges of the fill will be within the silt fence boundary. At the conclusion of the proposed site grading work, the Site will be hydroseeded to help stabilize soils and slopes. The silt fencing will not be removed until the property is redeveloped.

9) Fill materials shall be clean sand, gravel, soil, rock, or similar material. Use of polluted dredge spoils and sanitary fill materials are prohibited. The developer shall provide evidence that the material has been obtained from a clean source prior to fill placement.

The fill material will be locally-sourced, free of contaminants, and of a texture sufficient to prevent future erosion or rilling. The particulars of the fill material (source and cleanliness) will be provided to the City of Monroe prior to onsite any grading work.

10) Fills shall be designed to allow surface water penetration into aquifers, if such conditions existed prior to the fill.”

Not applicable. The site is currently developed and composed of mostly impermeable surfaces. There is no existing ability to provide aquifer recharge onsite. The proposed demolition and grading plan will not alter the Site’s ability to recharge aquifers.