



## AGENDA –Monday, March 4, 2024

6:15 p.m. Workshop

7:00 p.m. City Council Meeting

In-Person and Zoom Webinar

Meeting ID: 829 2381 4826

Password: 123456

### 6:15 WORKSHOP

WS 24-05

Long Beach Merchants Association – TAB A

### 7:00 p.m. CALL TO ORDER; PLEDGE OF ALLEGIANCE; AND ROLL CALL

Call to order

Mayor Svendsen, Council Member Perez, Council Member Phelps,

And roll call

Council Member Provenzano, Council Member Reddy & Council Member Coleman

### PUBLIC COMMENT

At this time, the Mayor will call for any comments from the public on any subject whether it is on the agenda for any item(s) the public may wish to bring forward and discuss. Preference will be given to those who must travel. **Please limit your comments to three minutes. The City Council does not take any action or make any decisions during public comment.** To request Council action during the Business portion of a Council meeting, contact the City Administrator at least one week in advance of a meeting.

### MINUTES AND WARRANTS

- Minutes, February 20, 2024 Regular Meeting – TAB B
- Payment Approval List for Warrant Registers –92134-92175 for \$258,239.16 – TAB C

### BUSINESS

- None

### ORAL REPORTS

#### CORRESPONDENCE AND WRITTEN REPORTS – TAB D

- Decision on CAO V 2024-01
- Well City Recognition

### FUTURE CITY COUNCIL MEETING SCHEDULE

The Regular City Council meetings are held the 1<sup>st</sup> and 3<sup>rd</sup> Monday of each month at 7:00 PM and may be preceded by a workshop.  
March 18, 2024, April 1, 2024 & April 15, 2024

### ADJOURNMENT

American with Disabilities Act Notice: The City Council Meeting room is accessible to persons with disabilities. If you need assistance, contact the City Clerk at (360) 642-4421 or advise City Administrator at the meeting.

**TAB - A**



**CITY COUNCIL  
WORKSHOP BILL  
WS 24-05**

**Meeting Date: March 4, 2024**

AGENDA ITEM INFORMATION		
<b>SUBJECT: Long Beach Merchants Association Agreement for the Use of Public Facilities</b>	<i>Originator:</i>	
	Mayor	
	City Council	
	City Administrator	DG
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	
	Events Coordinator	
	Finance Director	
	Police Chief	
	PW Director	
<b>COST:</b>		
<b>SUMMARY STATEMENT:</b> Discuss possible changes to the LBMA facilities agreement as it expires in June of 2024.		

Workshops are public meetings with the purpose of allowing the City Council to discuss topics. No formal decisions are made at workshops. While almost every meeting when a majority of the city council is present is considered a public meeting, that doesn't necessitate the Council allowing public comment. If the Mayor and Council request more information or clarification they may seek input from the audience.

**AGREEMENT BETWEEN THE CITY OF LONG BEACH AND THE LONG BEACH  
MERCHANTS ASSOCIATION REGARDING THE USE OF PUBLIC FACILITIES**

This agreement is made and entered into this 21<sup>st</sup> day of May 2021, by The City of Long Beach, (City), a municipal corporation, and the Long Beach Merchants Association, (Association), a non-profit organization.

**WHEREAS**, the Association desires to use the City's building at 212 Pacific Ave S to provide tourism information, as an office space and merchant support for the Long Beach Merchants Association; and

**WHEREAS**, the City and Association desire to set forth their agreement regarding the consideration the Association must pay for the use of the City's facilities; and

**WHEREAS**, no separate entity will be created pursuant to this agreement; and

**WHEREAS**, no jointly owned property will be acquired pursuant to this agreement;

**NOW THEREFORE**, in consideration of the mutual benefits to be derived hereby and the terms, conditions and covenants contained herein, City and Association agree as follows:

1. Commencing on June 1, 2021 and continuing through June 30, 2024, Association shall pay City the sum of one dollar (\$1) on or before December 1, 2021 for use of the city building. Each year thereafter that this agreement is in effect, the City shall send an invoice to Association on or before the first of June, stating the amount due for the following year. Unless Association terminates this agreement within sixty (60) days following the receipt of this invoice, the agreement shall continue for an additional year with the payment due to the City in the amount of the invoice and payable on or before the 1st day of June each year.
2. The City agrees to provide the building, utilities, and some financial support in exchange for tourism support, visitor center staffing and local marketing. The City also agrees to pay \$20,000 per year for the term of this contract for the aforementioned services.
3. This contract will be in effect for three (3) years. In that time, the Association needs to prove financial sustainability through annual financial reports to the City. The City needs to see proof of growth while lessening the financial demand on the City. The City will plan to pull all financial assistance at the end of year three with the expectation that the Association is self-sustaining.



3. If the Association is not self-sustaining the City has the authority to terminate the use agreement and ask the Association to leave the property. This decision will be made by the city four months prior to the end of this agreement.
4. The City Administrator will act as the administrator of this agreement.
5. This agreement will not result in a separate agency being created.
6. This agreement will not result in the acquisition of property.
7. The Association will indemnify, defend and hold harmless the City, its agents, officers, and employees from and against any and all liability, expense, including defense costs and attorney fees, and claims for damages of any nature whatsoever including, but not limited to, bodily injury, death, personal injury or property damage arising out of or in any manner connected with the sole negligence or sole intentional misconduct of the Association connected with the Association's use of the City's facility.

The City will indemnify, defend and hold harmless the Association, its agents, officers, and employees from and against any and all liability, expense, including defense costs and attorney fees, and claims for damages of any nature whatsoever including, but not limited to, bodily injury, death, personal injury or property damage arising out of or in any manner connected with the sole negligence or sole intentional misconduct of the City as owner of the facility.

As between the parties, each party specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51, RCW. The indemnification obligations under this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under Workers' Compensation Acts, disability benefits acts, or other employee benefits acts; provided that each party's waiver of immunity by the provisions of this paragraph extend only to claims against the negligent party by the non-negligent party, and does not include, or extend to, any claims by the negligent party's employees directly against the negligent party. The parties have mutually negotiated this waiver. The provisions of this paragraph survive the expiration or termination of this Agreement.

8. Each party shall secure, and continuously carry in effect, with an insurance company or companies reasonably acceptable to the other, the following insurance policies:

Each party shall maintain insurance for bodily injury and property damage. Such insurance shall include provisions or endorsements naming the other party and its elected

officials, officers, agents, employees, and volunteers as additional insureds; provisions that such insurance is primary insurance with respect to the interest of each party, and that any insurance maintained by the party is excess and not contributory insurance with insurance required hereunder; and provisions or endorsements to include broad-form comprehensive liability and blanket contractual liability. Initial limits of liability for all requirements under this paragraph shall be \$1,000,000 each occurrence and \$2,000,000 general aggregate.

All insurance policies required hereunder shall contain provisions that such policies shall not be canceled, or their limits of liability reduced without thirty (30) days prior written notice to the other party. Each party shall provide the other with a Certificate of Liability Insurance naming the other, and its elected officials, officers, agents, employees, and volunteers as additional insureds. Each party shall secure a waiver and release of all subrogation rights, as to the other party, which may be available under such insurance policies.

9. The terms and conditions of this agreement shall be interpreted under the laws of the State of Washington and any action brought to enforce this agreement shall be brought in Pacific County Superior Court.
10. This agreement may be amended or modified only by written agreement duly executed by the parties hereto. This agreement shall be executed in duplicate originals. One original shall go to each party.
11. NOTICE: All notices, requests, demands and other communications required by or permitted under this Agreement shall be reduced in writing and deemed to have been duly given when received by the party to whom directed. Provided, however, that notice shall be deemed conclusively given at the time of its deposit when sent by Certified or Registered Mail, Return Receipt Requested, at the address as set forth below, or such other address as is hereafter designed by either party by written notice thereof to the other party.

CITY: City of Long Beach  
115 Bolstad Ave W  
Long Beach, WA 98631  
Attn: City Clerk  
(360) 642-4421

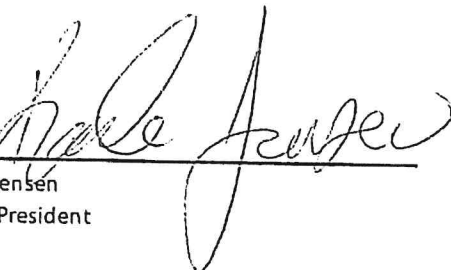
ASSOCIATION: Long Beach Merchants Association  
PO Box 896  
Long Beach, WA 98631  
Attn: Karla Jensen  
(360) 642-2600

City of Long Beach by:

X   
\_\_\_\_\_  
Jerry Phillips  
Mayor

Attest:

X   
\_\_\_\_\_  
Jessie Hermers  
City Clerk

X   
\_\_\_\_\_  
Karla Jensen  
LBMA President

TAB - B

## **LONG BEACH CITY COUNCIL MEETING**

**February 20, 2024**

### **6:15 COUNCIL WORKSHOP**

Mayor Svendsen, C. Perez, C. Phelps, C. Provenzano, C. Reddy, and C. Coleman were all in attendance.

#### **WS 24-03 Council Rules and Procedures**

David Glasson, City Administrator, presented the workshop bill. This is a continuation of the previous workshops on the Council Rules and Procedures.

- **No decisions or motions were made at this time.**

### **7:00 CALL TO ORDER**

Mayor Svendsen called the meeting to order.

### **ROLL CALL**

David Glasson, City Administrator, called roll with Mayor Svendsen, C. Perez, C. Phelps, C. Provenzano, C. Reddy, and C. Coleman in attendance.

### **PUBLIC COMMENT**

No public comments were made.

### **PRESENTATION - Pacific County Tourism Bureau: Presenter- Katja Spitz**

### **MINUTES & WARRANTS**

Minutes, February 5, 2024, Regular Meeting

**C. Perez made the motion to approve the minutes of February 5, 2024, C. Phelps seconded the motion; 5 Ayes, motion passed.**

Payment Approval List for Warrant Registers – 92082-92133 for \$177,409.03

**C. Perez made the motion to approve the warrants. C. Coleman seconded the motion; 5 Ayes, motion passed.**

### **BUSINESS**

#### **AB 24-10 – Shoeboxes of Joy Fee Waiver Request**

David Glasson, City Administrator presented the agenda bill. Shoe Boxes of Joy is requesting that the city council reduce or waive the fees associated with the rental of the Train Depot. The dates they are requesting are attached to their proposal.

**C. Phelps made the motion to approve the fee waiver for Shoe Boxes of Joy for the dates (2024 & 2025) listed in their request). C. Perez seconded the motion; 5 Ayes, motion passed.**



### **AB 24-11– Contract with Coastal AG LLC for Landscaping Services**

David Glasson, City Administrator, presented the agenda bill. Coastal AG LLC currently provides the city with services related to treating nuisance vegetation. Since Skyler and Allan have retired, the city has sought out other options and Coastal AG LLC has the qualifications required for this position.

**C. Coleman made the motion to authorize the Mayor to execute the agreement with Coastal AG LCC for landscaping services. C. Provenzano seconded the motion; 5 Ayes, motion passed.**

### **ORAL REPORTS**

#### **CORRESPONDENCE AND WRITTEN REPORTS**

- PPR Correspondence
- Long Beach Merchants Association Contract
- Thank You Note
- Ocean Beach Realignment Memo

### **ADJOURNMENT**

**C. Perez moved to adjourn the meeting. C. Coleman seconded the motion; 5 Ayes, motion passed.**

**Time of adjournment: 7:40 p.m.**

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Mayor

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City Clerk

TAB - C



## Warrant Register

Check Periods: 2024 - February - Second

I, THE UNDERSIGNED DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF LONG BEACH, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.

Council Member	Council Member	Council Member	Clerk/Treasurer
Number	Name	Print Date	Clearing Date
92134	Melling, Casey	2/20/2024	Amount
92135	Natsiopoulous, Anthony	2/20/2024	\$395.00
92136	Postmaster	2/29/2024	\$395.00
92137	Public Utility District 2	2/29/2024	\$965.76
92138	A Round 2 It Services	2/29/2024	\$12,860.00
92139	A-1 Redi Mix	2/29/2024	\$269.32
92140	Active Enterprises, Inc.	2/29/2024	\$625.90
92141	Allen, Jordan	2/29/2024	\$412.42
92142	Astoria Janitor & Paper Supply	2/29/2024	\$89.08
92143	Backflow Management Inc	2/29/2024	\$116.96
92144	Cascade Columbia Distribution CO	2/29/2024	\$1,500.00
92145	Chinook Observer	2/29/2024	\$2,650.76
92146	City of Long Beach	2/29/2024	\$508.23
92147	Coastal Community Action Program	2/29/2024	\$2,082.47
92148	Department of Health	2/29/2024	\$732.49
92149	Dept of Ecology	2/29/2024	\$3,159.50
92150	Eradipest LLC	2/29/2024	\$141,685.26
92151	Evergreen Septic Inc	2/29/2024	\$81.23
92152	Evergreen Septic Pumping LLC	2/29/2024	\$3,870.00
92153	Ford Electric	2/29/2024	\$1,621.50
92154	Furrow Pump	2/29/2024	\$325.55
92155	GRAINGER	2/29/2024	\$969.78
92156	Granich Engineering Products, Inc	2/29/2024	\$2,399.75
92157	Hill, Ian	2/29/2024	\$5,409.59
92158	Jacoby, Rich	2/29/2024	\$286.00
92159	L.N. Curtis & Sons	2/29/2024	\$135.98
92160	Lawson Products, Inc.	2/29/2024	\$1,850.15
92161	Long Beach Towing and Recovery LLP	2/29/2024	\$346.91
92162	Oglesby, Julia	2/29/2024	\$369.70
			\$200.00

Execution Time: 7 second(s)

Number	Name	Print Date	Cleaning Date	
92163	OpenGov, Inc.	2/29/2024		\$9,860.61
92164	Pacific County Auditor	2/29/2024		\$54.00
92165	Pacific County Sheriff's	2/29/2024		\$1,400.00
92166	Public Utility District 2	2/29/2024		\$12,951.79
92167	SagaCity Custom Publishing	2/29/2024		\$9,742.00
92168	Sea Western Fire	2/29/2024		\$946.20
92169	Solutions Yes	2/29/2024		\$384.90
92170	Systems Interface Inc.	2/29/2024		\$28,113.76
92171	Traffic Safety Supply Co.	2/29/2024		\$1,527.19
92172	Verizon Wireless	2/29/2024		\$1,183.73
92173	Wex Bank	2/29/2024		\$2,500.00
92174	Wilcox & Flegel Oil Co.	2/29/2024		\$2,648.79
92175	Wirkkala Construction	2/29/2024		\$611.90
Total			Check	\$258,239.16
Grand Total				\$258,239.16

TAB - D



**BEFORE THE LAND USE HEARINGS EXAMINER  
FOR THE CITY OF LONG BEACH, WASHINGTON**

Regarding an application by Stephanie Marsh for approval of a Critical Areas Variance to allow construction of a single-family residence in the wetland buffer on a 1.31-acre parcel at 1606 Idaho Avenue S. in the City of Long Beach, Washington ) **FINAL ORDER**  
 ) **V2024-01**  
 ) **(Marsh Critical**  
 ) **Area Variance)**

**A. SUMMARY**

1. The applicant, Stephanie Marsh, requests approval of a Critical Areas Variance to allow for construction of a single-family residence on a 1.31-acre parcel located at 1606 Idaho Avenue S. in the City of Long Beach, Washington (the “site”). The site is located on the east side of Idaho Avenue S. The site is zoned R3 (Multi-Family Residential).

a. The majority of the site is covered in trees and brush. The western portion of the site, abutting Idaho Avenue S., consists of mown grass with one or more trees in or near the right-of-way. A “canal” runs north-south through the eastern portion of the site. (See Figure 1 of the applicant’s Bank Use Plan).

b. There is a Category II wetland in the forested east portion the of the site. The western boundary of the wetland roughly aligns with the western edge of the forested area on the site. (See the applicant’s Bank Use Plan). Table 13-4.1 of the Long Beach City Code requires a 110-foot buffer measured from the outer edge of the wetland. The west boundary of the buffer extends to or beyond the west boundary of the site. (See page 6 of the applicant’s Bank Use Plan). The majority of the buffer is currently mown grass.

b. The applicant proposes to construct a single-family residence in the upland buffer on the west portion of the site. The proposed residence will impact approximately 2,760 square feet of the wetland buffer on the site.

2. City of Long Beach Hearing Examiner Joe Turner (the “examiner”) conducted a public hearing to receive testimony and evidence about the application. City staff recommended that the examiner approve the application subject to conditions. See the Staff Report to the Hearings Examiner dated February 23, 2024, (the “Staff Report”). The applicant did not appear at the hearing. One person testified orally and three persons testified in writing in opposition to the application.

3. Based on the findings provided or incorporated herein, the examiner approves the application, subject to the conditions at the conclusion of this final order.

**B. HEARING AND RECORD HIGHLIGHTS**

1. The examiner received testimony at a public hearing about this application on February 23, 2024. All exhibits and records of testimony are filed at the City of Long Beach. At the beginning of the hearing, the examiner described how the hearing would be

conducted and how interested persons could participate. The examiner disclaimed any *ex parte* contacts, bias, or conflicts of interest. The following is a summary by the examiner of selected testimony and evidence offered at the public hearing.

2. City planner Ariel Smith summarized the Staff Report and the proposed conditions of approval. She noted that the site is located within the City's Urban Growth Area ("UGA") and is zoned for residential development. The applicant proposed to construct a single-family dwelling on the site. However, nearly the entire site is wetland or wetland buffer and therefore subject to the City's critical areas ordinance. There are wetlands in the forested eastern portion of the site and the wetland buffer extends to the east boundary of the site, abutting Idaho Avenue S. Any development on the site will impact the wetland buffer. The proposed variance is necessary to allow residential development on the site consistent with the City's comprehensive plan and zoning.

3. Debbie Lynn appeared at the hearing and objected to the proposed impacts to the wetland and wildlife habitat on the site.

4. Jeanne & Don Schmidt testified in writing, noting that a number of wildlife species rely on wetlands, including two species of frogs that are listed as threatened or endangered in Washington state. They questioned whether approval of this application will set a precedent for similar development on properties north of the site.

5. Don Boland also testified in writing, objecting to further loss of wetland habitat in the region. He noted that the wetlands on and near the site are used for flood control and harvesting of cranberries.

6. At the conclusion of the hearing the examiner closed the record and announced his intention to approve the application subject to the findings and conditions of approval in the Staff Report.

### **C. ANALYSIS**

1. City staff recommended approval of the application, based on the affirmative findings and subject to conditions of approval in the Staff Report.

2. The examiner finds that the Staff Report identifies all of the applicable approval standards for the application and contains sufficient findings showing the application does or can comply with those standards, subject to conditions of approval.

3. The examiner understands neighbors' concerns with the impacts to wetland habitat. However, the proposed development will not directly impact the wetlands on the site. The proposed development will be located on the upland portion of the site, within the 110 foot wide wetland buffer which currently consists of mown grasses. No development is proposed within the forested wetland area on the east portion of the site. The proposed development will impact roughly 2,760 square feet of the 57,295 square foot (1.31 acre) site. Development in the buffer does result in indirect wetland impacts; locating structures and activity in proximity to the wetland itself. The applicant will mitigate these indirect wetland impacts by purchasing credits at a wetland mitigation bank on the Long Beach peninsula. The proposed mitigation is sufficient to demonstrate

as a matter of law that the proposed development will result in no net-loss of critical area functions.

4. Critical area impacts are unavoidable in this case, as strict compliance with the City's Critical Areas regulations would prevent the applicant from constructing a single-family residence on the site, a right that is enjoyed by the owners of other properties in the City's residential zones. As noted above, the applicant will mitigate all impacts of the development.

5. Approval of this application will not create a precedent for future applicants. Similar environmental constraints appear to apply to abutting properties north of the site and the owners of those properties are entitled to request approval of variances on those properties. However, such future applications would be subject to the applicable zoning and approval criteria in effect when an application is submitted and review of the applications would be dependent on the conditions of the property at issue and the development proposed. Such applications must be approved if the applicants demonstrate that the proposals comply with the applicable approval criteria. Approval or denial of this application would not make it any more or less likely that such applications will be submitted or approved. Each property and applicant is unique and must be reviewed on its own merits. In any case, the potential precedential effect of this development is not relevant to the applicable approval criteria.

6. The City's critical areas regulations that are adopted by ordinance, regulate development, and are intended to: minimize adverse impacts of development, avoid flooding, erosion, and soil subsidence, protect critical area functions and values, including best available science in development near critical areas. "Critical areas" are aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands. The proposed project is proximate to and/or has the potential to affect wetland buffers, and the following evaluation of the proposed project's conformance to the goals of the critical areas regulations focuses on wetlands:

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13-3-9: EXEMPTIONS: The following developments, activities, or associated uses are exempt from provisions of the critical areas regulations, provided they are consistent with provisions of other applicable local, state, and federal laws and requirements: emergencies; vegetation management; maintenance, repair, or operation; modification, expansion, or replacement of a pre July 1, 1990 residence; passive recreation, navigational aids or boundary markers; site investigation or data collection; or agricultural operations.

*The proposed project has none of the exempt developments, activities, or associated uses listed above, and is therefore not exempt from the requirements of the critical areas' regulations.*

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13-3-10: EXCEPTIONS: Certain developments, activities, or associated uses not exempted from provisions of this title may nevertheless be excepted from its

provisions under specific conditions and circumstances, provided they are consistent with the provisions of other applicable local, state, and federal laws and requirements.

13-3-10(A): The Director of Community Development may except construction of a new residential structure where construction and associated disturbance does not increase the footprint of any existing structure, and which is not located within a designated Wetlands, Fish and Wildlife Habitat Conservation, or Frequently Flooded critical area or its buffer.

*The proposed project site encompasses wetland buffers. Therefore the Director has no authority to except this development from the critical areas regulations.*

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13-3-10(B): After holding a public hearing pursuant to **section 11-2C-11** of the City's unified development regulations, the Hearing Examiner may grant one of several exceptions, including a variance. Where unavoidable adverse impacts to wetlands, streams, fish and wildlife habitat or critical aquifer recharge areas occur, a variance shall be obtained to permit the impact. Variances will be granted based on a finding of consistency with all [seven] criteria listed below. The Hearing Examiner shall not consider the fact that the property may be utilized more profitably.

*As demonstrated by the following analysis, a variance is the appropriate type of exception for single-family development under these circumstances.*

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Criterion 1: The variance shall not constitute a grant of special privilege inconsistent with the limitation on use of other properties similarly affected by the code provision for which a variance is requested.

*The applicant is seeking a variance to allow construction of a single-family dwelling on the site. Single-family homes are consistent with City plans, codes, and regulations. The variance would not grant a special privilege that others with similar properties and circumstances would not or currently do not enjoy. To the contrary, the variance is necessary to allow the applicant to construct a single-family dwelling on the site, a privilege that all other property owners in the R3 zone enjoy. Granting of the subject variance is consistent with this criterion.*

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Criterion 2: The variance is necessary because of special circumstances and/or conditions relating to the size, shape, topography, environmentally sensitive areas, location, or surroundings of the subject property, to provide it with those relative rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located. The phrase "relative rights and privileges" is to ensure that the property rights and privileges for the subject

property are considered primarily in relation to current City land-use regulations.

*The variance is necessary to allow a reasonable development consistent with surrounding and similarly situated developments, construction of a single-family residence, a permitted use in the R3 zone and a right enjoyed by other properties in the vicinity. The variance is necessary because the entire site is subject to critical areas, wetlands or buffers and strict compliance with the critical areas ordinance would preclude construction of a home on the site. Granting of the subject variance is consistent with this criterion.*

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Criterion 3: Special conditions and/or circumstances identified (described immediately above) giving rise to the variance application do not result from the actions of the Applicant, property owner, or recent prior owner(s) of the subject property.

*The special conditions (wetland and buffer) are natural conditions that have developed over time as the property remained in an undeveloped state. These conditions were not caused by actions of the applicant or prior owners of the site. Granting of the subject variance is consistent with this criterion.*

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Criterion 4: Granting of the variance will not be materially detrimental to the public welfare or injurious to the property, neighborhood, or improvements in the vicinity and zone in which subject property is situated.

*Granting of the variance will allow development of a project that would follow long range City planning and the Comprehensive Plan, as well as zoning, unified development, and critical areas regulations. These plans and regulations were developed to protect the public's health, safety, and welfare. They also took into consideration the entire City, general vicinity, and neighborhoods during their development. The proposed use is allowed in the Multi-Family Residential zone where this property is located. Implementation of the proposed mitigation will ensure that the development results in no net-loss of critical areas functions and values. Granting of the subject variance is consistent with this criterion.*

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Criterion 5: Reasons set forth in the application and the official record justify the granting of the variance, and that the variance is the minimum variance necessary to grant relief to the Applicant.

*The reason for the variance is to allow development in a portion of a wetland buffer in order to achieve a project in line with the City's vision for the property. The impacts would be fully mitigated by purchase of compensatory credits in a wetland mitigation bank located on the Long Beach Peninsula. The*



*variance is the minimum necessary to grant relief to the applicant. Granting of the subject variance is consistent with this criterion.*

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Criterion 6: Alternative development concepts in compliance with applicable codes have been evaluated, and that undue hardship would result if strict adherence to the applicable codes is required.

*The applicant and her consultant have placed the building envelope in an area that creates the least amount of impact. There is no other way to orient the proposed building site to reduce critical area impacts. The applicant also plans to leave all of the existing natural vegetation on the east side of the site undisturbed. Granting of the subject variance is consistent with this criterion.*

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Criterion 7: Granting of the variance will not adversely affect implementation of the comprehensive plan or policies adopted thereto and the general purpose and intent of the zoning title or other applicable regulations.

*Granting of the variance will in fact help to implement the Comprehensive Plan and City regulations, guidelines, and standards. The project as proposed implements them. Granting of the subject variance is consistent with this criterion.*

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13-3-10(C): Any authorized alteration to a wetland or stream or its associated buffer, or alteration to a fish and wildlife habitat conservation area, as allowed under an exception [in this case a variance] granted under this section, shall be subject to conditions established by the City and shall require mitigation under an approved mitigation plan pursuant to the critical areas regulations.

*The application includes a Wetland Buffer Mitigation Plan that examines the impacts and options for their mitigation and recommends a program that thoroughly mitigates the residual impacts to the wetland and the wetland buffers. The project as proposed complies with this regulation.*

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13-4-2: DESIGNATION: Determination of wetland ratings will be based on the entire extent of wetlands, unrelated to property lines or ownership patterns. For the purpose of categorization, wetlands shall be designated according to the *Washington State Wetland Rating System for Western Washington* (Washington State Department of Ecology, 2014 or as may be amended).

*A qualified professional determined the wetland ratings based on the entire extent of wetlands, unrelated to property lines or ownership patterns using the required system. The project as proposed complies with this regulation.*

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13-4-3: IDENTIFICATION: Wetlands shall be delineated using the Washington State Department of Ecology Manual titled *Washington State Wetland Identification and Delineation Manual* (Ecology publication No. 96-94, adopted under WAC 173-22-080 or as revised).

*A qualified professional delineated the wetlands using the required manual as well as other manuals of wetland regulatory agencies using the Routine Determination Method. The project as proposed complies with this regulation.*

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13-4-4(D): WETLAND BUFFERS: Standard buffer widths shall be based upon wetland category, wetland functions or special characteristics, and/or the intensity of proposed adjacent land use and the level of wetland impact likely to result from that land use intensity.

*Required standard wetland buffers for Category II (Habitat function level moderate) wetlands with a moderate habitat function require a buffer of 110 feet.*

*The proposed project would result in residential use of one, single-family. The project proposed complies with this regulation.*

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13-4-7: WETLAND MITIGATION REQUIREMENTS: No net loss of wetland functions and values shall occur as a result of any project. If a wetland alteration is allowed, associated impacts shall be mitigated.

*The 0.063 acres of wetland buffer impacts will be mitigated via mitigation banking at a ratio of 1:2 with a multiplier of 0.3. This will require the applicant to purchase 0.023 credits from the Long Beach Mitigation Bank. The project proposed complies with this regulation.*

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13-4-9(A): WETLAND MITIGATION BANKING: Impacts that can be mitigated via bank. Loss of Category I, Category II, Category III or Category IV wetland buffer, and loss of Category II, Category III, or Category IV wetland may be mitigated via purchasing of rights in an approved wetland mitigation bank.

*See analysis under 13-4-7 above. The project as proposed complies with this regulation.*

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#### **D. FINDINGS OF FACT**

The examiner adopts the following findings of fact as his own, If any findings of fact herein are deemed conclusions of law, they are incorporated into the Conclusions of Law for this decision:

1. **Application.** The Hearing Examiner finds the application comprises the following:
  - 1.1 Application forms prepared and submitted by the applicant.
  - 1.2 All other information contained in Case File No. V 2024-01.
2. **Procedures.** The Hearing Examiner finds the following procedures were followed:
  - 2.1 On January 9, 2024, the City received the application.
  - 2.2 On February 2, 2024, the City issued a determination of completeness.
  - 2.3 On February 2, 2024, the City issued a Notice of Application and Public Hearing to all property owners located within 300 feet of the subject property pursuant to the records of the Pacific County Assessor.
  - 2.4 The City established a public comment period between February 2 and February 21, 2024.
  - 2.5 The subject property was posted with the public notice on or about February 5, 2024.
  - 2.6 Public notice was published in the Chinook Observer on February 7 and 14, 2024.
  - 2.7 The Hearing Examiner conducted a public hearing on Case No. V 2024-01 on February 23, 2024.
3. **Project.** The Hearing Examiner finds the following regarding the proposed project:
  - 3.1 The applicant requests a critical areas variance to allow alteration of approximately 2,760 square feet (0.063 acres) of wetland buffer impacts associated with onsite Category II wetlands.
4. **Property characteristics.** The Hearing Examiner finds the following regarding the subject property:
  - 4.1 The property is located along the east side of Idaho Avenue South, City of Long Beach, Pacific County, Washington. It includes Tax Parcel 74008022004.
  - 4.2 Characteristics of the subject property are as follows:
    - 4.2.1 The subject property is approximately 57,295 SF (1.31 acre).
    - 4.2.2 The subject property is undeveloped.

4.2.3 The subject property is relatively flat.

4.2.4 Indirect wetland impacts are proposed.

5. **Subject property land use and zoning.** The Hearing Examiner finds the following regarding the land use and zoning of the subject property:

5.1 The subject property is in the R3– Multi-Family Residential zone pursuant to the City’s zoning regulations.

5.2 The subject property is designated Multi-Family Residential on the future land use map of the Long Beach Comprehensive Plan.

5.3 The current land use of the subject property is undeveloped.

6. **Surrounding property land use and zoning.** The Hearing Examiner finds the following regarding the land use and zoning of surrounding property:

AREA	LAND USE PLAN	ZONING	EXISTING CONDITIONS
NORTH	Residential	R3	Vacant
SOUTH	Residential	R2	Residential
EAST	County Land		Vacant
WEST	Residential	R2	Residential

7. **Services.** The Hearing Examiner finds the following regarding services and utilities available to serve the proposed project:

7.1 Water is available from the City of Long Beach.

7.2 Sewer is available from the City of Long Beach.

7.3 Transportation:

7.3.1 Idaho Avenue South.

7.4 Public education is provided by the Ocean Beach School District.

7.5 Electricity is available from Pacific County PUD No. 2, with service located on or near Ocean Beach Boulevard S.

7.6 Solid Waste is available from Peninsula Sanitation, and service is already provided on Ocean Beach Boulevard S.

7.7 Police and Fire are provided by the City of Long Beach Police and City of Long Beach Fire Departments.

7.8 Medical and emergency services are provided by Long Beach EMS, Medix Ambulance Service, and Ocean Beach Hospital District No. 3.

7.9 Public Parks and Recreation Area(s): There are numerous park and recreation areas within the City of Long Beach and within Pacific County.

8. **City's Critical Areas Regulations.** The Hearing Examiner finds the proposed project complies with the following relevant portions of the City's Critical Areas regulations:
- 8.1 13-3-9: Exemptions.
  - 8.2 13-3-10: Exceptions, including all seven criteria for a variance.
    - 8.2.1 The variance does not constitute a grant of special privilege inconsistent with the limitation on use of other properties similarly affected by the code provision for which a variance is requested.
    - 8.2.2 The variance is necessary because of special conditions relating to environmentally sensitive areas of the subject property, to provide it with those relative rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located.
    - 8.2.3 The special conditions giving rise to the variance application do not result from the actions of the applicant, property owner, or recent prior owner(s) of the subject property.
    - 8.2.4 Granting the variance will not be materially detrimental to the public welfare or injurious to the property, neighborhood, or improvements in the vicinity and zone in which the subject property is situated.
    - 8.2.5 Reasons set forth in the application and the official record justify granting the variance. The variance is the minimum variance necessary to grant relief to the applicant.
    - 8.2.6 Alternative development concepts in compliance with applicable codes have been evaluated and undue hardship would result if strict adherence to the applicable codes is required.
    - 8.2.7 Granting the variance will not adversely affect implementation of the comprehensive plan or policies adopted thereto and the general purpose and intent of the zoning title or other applicable regulations.
  - 8.3 13-3-10(C): Mitigation Required.
  - 8.4 13-4-2: Designation (of wetlands).
  - 8.5 13-4-3: Identification (of wetlands).
  - 8.6 13-4-4(D): Wetland buffers.
  - 8.7 13-4-7: Wetland mitigation requirements.
  - 8.8 13-4-9(A): Wetland mitigation banking.



#### **D. CONCLUSIONS OF LAW**

The examiner adopts the following conclusions of law regarding Case No. V 2024-01. The conclusions of law herein are made in reliance upon and with specific reference to the findings of fact stated above. If any conclusions of law herein are deemed findings of fact, they are incorporated into the findings of fact for this decision.

The City of Long Beach, Washington, Hearing Examiner concludes the following regarding Case No. V 2024-01:

1. Case No. V 2024-01 complies with relevant portions of the City's Critical Areas Regulations, adopted via Ordinance 985, in effect at the time the application was filed.

#### **E. CONCLUSION**

Based on the above findings and discussion, the examiner concludes that V2024-01 (Marsh Critical Area Variance) should be approved, because it does or can comply with the applicable standards of the Long Beach Municipal Code and the Revised Code of the State of Washington, subject to conditions of approval necessary to ensure the final plat and resulting development will comply with the Code.

#### **F. DECISION**

Based on the findings, discussion, and conclusions provided or incorporated herein and the public record in this case, the examiner hereby approves V2024-01 (Marsh Critical Area Variance), subject to the following conditions of approval:

##### **Conditions of Approval**

1. The development, including any development by other than the applicant, shall comply in all respects with the applicable sections of the City of Long Beach Unified Development regulations.
2. The development, including any development by other than the applicant, shall comply in all respects with the applicable sections of the City of Long Beach Zoning regulations.
3. The development, including any development by other than the applicant, shall comply in all respects with the applicable sections of the City of Long Beach Building regulations.
4. The development, including any development by other than the applicant, shall comply in all respects with the requirements of the City of Long Beach Critical Areas regulations.
5. Any needed new utility systems, such as power, cable TV, telephone, etc. shall be buried underground. Design and installation of the systems shall be conducted by the franchised utility company and the design shall be submitted to the City Engineer for review and approval prior to installation.
6. The applicant or any other developer of the subject property shall be bound by conditions of any other conditioned City approval, if any.

7. The conditions of this and any other conditioned City approvals for Case No. V 2024-01 are mandatory requirements. Failure to comply with conditions of any City approval may result in the approval being rescinded, and possibly the applicant or subsequent developers or owners being cited and fined under the Long Beach City Code.

DATED this \_\_ day of February 2024.

A handwritten signature in black ink, appearing to be 'Joe Turner', written over a horizontal line.

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Joe Turner, AICP  
City of Long Beach Land Use Hearings Examiner

